

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

THE HON. KENT J. DAWSON, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Case No. CR-S-04-119-KJD(LRL)
)
 vs.)
)
 IRWIN SCHIFF, CYNTHIA NEUN,)
 and LAWRENCE COHEN,)
)
 Defendants.)
)

REPORTER'S TRANSCRIPT OF JURY TRIAL (DAY 1)

Monday, September 12, 2005

APPEARANCES: (See Page 2)

Court Reporter: Felicia Rene Zabin, RPR, CCR 478
Federal Certified Realtime Reporter
(702) 676-1087

1 APPEARANCES:

For the Plaintiff:

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JEFFREY A. NEIMAN
DAVID IGNALL
Trial Attorneys
U.S. Department of Justice
Southern Criminal Enforcement Section
Tax Division
P.O. Box 683, Ben Franklin Station
Washington, DC 20044-0683
(202) 307-6413

7

For the Defendant, Cynthia Neun:

8

MICHAEL V. CRISTALLI, ESQ.
Cristalli & Saggese
732 South Sixth Street, Suite 100
Las Vegas, Nevada 89101
(702) 386-2180

10

11

For the Defendant, Irwin A. Schiff:

12

IRWIN A. SCHIFF, PRO PER
444 East Sahara Avenue
Las Vegas, Nevada 89104
(702) 385-6920

13

14

15

TODD M. LEVENTHAL, ESQ.
Law Offices of Peter L. Flangas
600 South Third Street
Las Vegas, NV 89101
(702) 384-1990

16

17

18

For the Defendant, Lawrence Cohen:

19

CHAD A. BOWERS, ESQ.
Albert D. Massi, Ltd.
3202 West Charleston Boulevard
Las Vegas, Nevada 89102
(702) 878-8778

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21

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Also Present:

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Adam Steiner, Special Agent, IRS
Sam Holland, Special Agent, IRS
Gary Modafferri, J.D.
Cynthia Neun
Lawrence Cohen

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1 LAS VEGAS, NEVADA; MONDAY, SEPTEMBER 12, 2005; 9:06 A.M.

2 --oOo--

3 P R O C E E D I N G S

4 THE CLERK: All rise.

5 THE COURT: Thank you. Please be seated.

6 THE CLERK: CV-S-04-119 -- civil.

7 CR-S-04-119-KJD(LRL), United States of America vs. Irwin Schiff,
8 Cynthia Neun, and Lawrence Cohen. This is jury trial, day one.

9 Counsel, enter your appearances, please.

10 MR. IGNALL: Good morning, your Honor. David Ignall
11 and Jeffrey Neiman for the United States.

12 THE COURT: Thank you.

13 MR. NEIMAN: Good morning, your Honor.

14 MR. CRISTALLI: Good morning, your Honor. Michael
15 Cristalli and Gary Modafferri on behalf of Cynthia Neun.

16 THE COURT: Thank you.

17 MR. BOWERS: Good morning, your Honor. Chad Bowers on
18 behalf of Defendant Larry Cohen.

19 MR. LEVENTHAL: Good morning, your Honor. Todd
20 Leventhal advisory counsel with Mr. Schiff.

21 THE COURT: Thank you.

22 MR. SCHIFF: Good morning, Judge. This is Irwin Schiff
23 appearing for himself.

24 THE COURT: Thank you. Please be seated.

25 There are a few preliminary matters. The Motion to

1 Sever, the Court has reviewed that and believes that any
2 prejudicial effect of a joint trial can be overcome by
3 appropriate instruction to the jury. The Court -- because there
4 are commonalities of fact and law, the Court believes that
5 severance is not appropriate.

6 With respect to cameras in the courtroom, Motion for
7 Cameras in the Courtroom, there has been a long-standing policy
8 in the Federal Court not to allow photography or cameras in the
9 courtroom. This Court sees no reason to depart from that
10 policy. Accordingly, the motion to allow cameras in the
11 courtroom is denied.

12 MR. CRISTALLI: Your Honor, can I just interject? Can
13 I ask the Court -- with the Court who made that request?

14 THE COURT: I was informed that Mr. Schiff had made it.

15 MR. CRISTALLI: Okay.

16 THE COURT: Yes.

17 MR. CRISTALLI: Thank you.

18 THE COURT: Are there any other matters that need to be
19 addressed? Government?

20 MR. IGNALL: Your Honor, we have a couple things. The
21 first thing the Government would like to do is -- upon further
22 review of the evidence, we'd orally like to move to dismiss
23 Counts 30 and 31 of the Indictment. Those are two tax evasion
24 counts against Defendant Lawrence Cohen.

25 THE COURT: Is there any objection to that motion?

1 Hearing none, the motion to dismiss is granted as to Counts 30
2 and 31.

3 MR. NEIMAN: Another question that we had for your
4 Honor is the first witness that the Government intends to call
5 has indicated to us that she would not testify absent an
6 immunity order from the Court. We have gotten permission to do
7 that. And we have a motion and a prepared order for the Court.

8 Would you like us to file that now or should we wait
9 until closer to when this first witness is gonna be called?

10 THE COURT: You can certainly file now. I will take a
11 look at it during a break --

12 MR. IGNALL: Okay.

13 THE COURT: -- and then give you a ruling.

14 MR. IGNALL: All right.

15 And we had one other matter that we'd like to raise at
16 sidebar if we might.

17 THE COURT: You may. Let me -- let me see if there are
18 any other matters --

19 MR. IGNALL: Okay.

20 THE COURT: -- we can deal with in open court before we
21 got to sidebar so we cover all of them at once.

22 Let's start with Mr. Cristalli.

23 MR. CRISTALLI: Your Honor, I only have -- I only have
24 an issue as it relates to some, um -- some things pertaining to
25 opening statement. I know that we're not gonna probably get to

1 that right now. And I don't know whether or not the Court's
2 gonna have an opportunity to address some -- some issues prior
3 to that time. So I don't know what the Court wants to do with
4 regard to that.

5 THE COURT: What are the matters?

6 MR. CRISTALLI: Um, just because I'm gonna be using a
7 PowerPoint presentation in my opening statement, I wanna make
8 sure that everything that's up there is not going to raise an
9 objection, um, or if it is going to raise an objection, we cover
10 it beforehand. Um, the one --

11 THE COURT: How would -- how would the Government know
12 that unless they've seen your opening statement?

13 MR. CRISTALLI: Well, I'm gonna tell them right now.

14 THE COURT: Okay.

15 MR. CRISTALLI: Basically, they're -- as well -- they
16 know there is a, um, psychology consultation that was conducted,
17 by a -- a Mr. Hayes, a clinical psychologist of Mr. Irwin
18 Schiff. It was actually at the request of the Government. We
19 intend on, obviously, having Mr. Hayes testify in this
20 particular case as to, um, Mr. Schiff's beliefs and some of the
21 findings and conclusions that he arrived at, uh, in his
22 clinical, um, uh, consultation.

23 I want to make reference to his report during the
24 course of my opening statement. I have a good-faith belief that
25 that evidence is going to come into -- into -- in through

1 testimony of Mr. Hayes and so I believe it is permissible for me
2 to argue that during my opening statement -- or I'm sorry --
3 refer to it during my opening statement.

4 THE COURT: Government.

5 MR. IGNALL: Your Honor, we're gonna object to that.
6 The Government has not planned to call Dr. Hayes. None of
7 Dr. Hayes's testimony on how steadfast Mr. Schiff's belief --
8 beliefs are, we believe, is relevant to any issue in this case.
9 It doesn't have anything to do with his ability or not to form
10 specific intent.

11 And, beyond that, I have no idea how that would be
12 relevant to Ms. Neun's ability to form specific intent. So I
13 don't know how Dr. Hayes's testimony could be relevant to her at
14 all. And, indeed, we're gonna -- if Mr. Schiff were to subpoena
15 Dr. Hayes, we would in all likelihood move to exclude his
16 testimony, at least as we understand his testimony would be.

17 MR. CRISTALLI: Your Honor, it's incredibly important
18 to Ms. Neun. Ms. Neun met Mr. Schiff in 1998. During the
19 course of their meeting, she, um, began to be involved in his,
20 uh -- his movement. And he was the one that taught her; he was
21 the one that mentored her.

22 So in terms of, um, the clinical consultation which
23 goes directly to the issue of good faith and willfulness -- I
24 mean, I have two paragraphs here that I think are incredibly
25 relevant to support, um, the mind-set of Mr. Schiff which

1 inherently flows into the mind-set of Ms. Neun because of the
2 fact -- and -- and the testimony's gonna come in, we are gonna
3 have testimony of this. There's no question that Ms. Neun
4 supports Mr. Schiff's beliefs, believes Mr. Schiff. The
5 testimony is going to come out with regard to that.

6 So, if a clinical psychologist ordered by the
7 Government, who is completely neutral, says that Mr. Schiff
8 essentially believes no matter -- whether or not his beliefs are
9 well founded or not founded -- that's not the issue. I'm not
10 gonna argue to the jury that what he believes is true. The
11 central issue to this case, to my defense in this particular
12 case, is that he acted in good faith.

13 This clinical report, which I can submit to the
14 Court -- I'd like the Court to at least read the -- the -- the
15 last paragraph on page 7 and the first two paragraphs in -- in
16 page 8 -- are -- are central to my defense.

17 MR. BOWERS: Your Honor --

18 MR. CRISTALLI: And also, your Honor --

19 MR. BOWERS: I'm sorry.

20 MR. CRISTALLI: -- one -- I'm sorry.

21 MR. BOWERS: No, that's all right.

22 MR. CRISTALLI: The Government themselves refer to, um,
23 the good-faith belief of the defendant in terms of them being
24 able to sustain a conviction. In fact, on page 21 of their --
25 of their brief, trial brief, it specifically says, "...

1 defendant's good faith belief that he is not violating the tax
2 laws, however, no matter how objectively unreasonable, is a
3 defense in a tax prosecution."

4 The in fact that we have a clinical psychologist who
5 has examined Mr. Schiff and has spoke to that very issue is
6 absolutely relevant to this particular case. Whether or not
7 it's relevant to Ms. Neun or not, I believe it absolutely is
8 because of the testimony that you will have with regard to the
9 relationship between Ms. Neun and Mr. -- Mr. Schiff. There --
10 there is a absolute connection there.

11 MR. SCHIFF: Can I address --

12 THE COURT: No.

13 MR. SCHIFF: -- this issue?

14 THE COURT: We're going to do it in turn. We are going
15 to do it in turn. We are going around the room clockwise. So
16 you'll have your turn in a minute.

17 Uh, when -- if you have an extra copy of that --

18 MR. CRISTALLI: I do, your Honor. I can --

19 THE COURT: -- submit it to the clerk. I'll have an
20 opportunity to review it during a break.

21 MR. CRISTALLI: May I approach the clerk?

22 THE COURT: You may.

23 Mr. Bowers, did you wish to address this issue?

24 MR. BOWERS: Uh, your Honor, yes. Thank you. And I'll
25 be very belief. But I take the exact same position that

1 Mr. Cristalli does.

2 THE COURT: Okay.

3 MR. BOWERS: It's not totally relevant but critical to
4 the basis of the mental state of both our clients, or at least
5 mine.

6 THE COURT: Okay.

7 Mr. Schiff.

8 MR. SCHIFF: Yes.

9 THE COURT: You can address me from right there.

10 MR. SCHIFF: Oh. I can sit here? Okay. Yes.

11 Frankly -- can you hear me all right?

12 THE COURT: I can.

13 MR. SCHIFF: Okay.

14 Frankly, I assume from your order that you were gonna
15 deny Mr. Hayes and the other psychiatrist. I couldn't believe
16 it, frankly. But I was assured that that's not what your order
17 said.

18 You got two psychologists here, Ph.D. psychologist and
19 one psychiatrist, certifying that I suffer, unfortunately, from
20 a bipolar mental illness which they say manifests itself, two
21 people from -- in a dilution, because they can't believe what I
22 told them, of course, that there's no law that says you gotta
23 pay income taxes. So they interpret it.

24 But -- but Mr. Hayes, who is the Government's own
25 psychologist who -- who -- who's with me all day long, writes a

1 report saying that I hold my belief with such conviction even
2 the severe consequence of incarceration for the rest of his
3 natural life fails to shake his resolve. This does set him
4 apart from the average individual. And there are some --
5 certain degree of Mr. Schiff's focus on this topic being driven
6 by his mental illness which he interpreted as a mood disorder as
7 opposed to being delusional.

8 He adamantly feels that he has discovered something
9 that is very important to the American people regarding this
10 nation's economic and taxing practices and whereas others who
11 are not driven by a mood disorder might be more open minded to
12 arguments, weigh the personal consequences, and elect to not
13 pursue their campaign, Irwin Schiff has chosen a route fraught
14 with danger and possibly disastrous consequences.

15 And he also said that Mr. Schiff presents his beliefs
16 in a powerful and convincing manner, made even more powerful by
17 the years he has devoted to this subject. His research that he
18 believes that be in support of his beliefs and commitment,
19 passion which he holds his beliefs to be true.

20 Now, this is important. He appears to have extremely
21 rigid, fixed, inflexible, doggedly determined opinions and
22 beliefs that cannot be changed by others' reasoning. And in his
23 case even punishment has not had a corrective impact in his
24 thinking behaviors.

25 He appears impervious to any suggestion that he

1 consider his conclusions or his actions, uh, because he has
2 conducted and yielded evidence and facts to support his
3 conclusions.

4 The point I want to make is this: Throughout the
5 Government's Indictment, of course, the Government claims that
6 all my past convictions should have resulted in my knowing what
7 I'm doing is wrong. Dr. Hayes, who has examined me, says that
8 my beliefs are fixed and rigid.

9 Now I don't have -- I don't have your order. I don't
10 have -- because you said that they're only gonna testify as to
11 justify my actions. No. They are gonna put my actions in the
12 context of a mental condition. It's up to the jury to decide
13 what impact that might have on willfulness which is a jury
14 question.

15 And, frankly, I'm gonna tell ya: If you tell me that
16 you're not gonna let Dr. Hayes testify, then I -- I want a
17 lawyer. Then, if you're gonna tell me that you're not gonna let
18 Dr. Hayes, who is the Government's own lawyer [sic] who they can
19 cross-examine if they want to --

20 THE COURT: He's not the Government's lawyer. He's a
21 psychologist.

22 MR. SCHIFF: I mean, the Government's psychologist.
23 They brought him all the way from Idaho. I'll bet you if his
24 testimony was gonna help the Government's prosecution of this
25 case you'd have no trouble letting him in.

1 I believe, your Honor, because of the lateness in which
2 you answered my motions, especially the fact that you granted --
3 I have another motion that I filed, uh, with respect to the, uh,
4 Motion to Suppress. I mean, your reason for granting the
5 Government that motions [sic] are outrageous as far as I'm
6 concerned.

7 But, in any case, if you're --

8 THE COURT: Mr. Schiff --

9 MR. SCHIFF: -- gonna tell me --

10 THE COURT: Mr. Schiff --

11 MR. SCHIFF: I have a motion on this I'm gonna file.

12 THE COURT: Mr. Schiff, you do not interrupt the Court.

13 MR. SCHIFF: I'm sorry.

14 THE COURT: You do not characterize the Court's ruling
15 as outrageous.

16 MR. SCHIFF: Okay. I'm sorry.

17 All I'm gonna say is this: To me he's not gonna --
18 none of the psychologists are gonna justify my, um -- what I
19 did. They are simply gonna put it in the context of a mental
20 condition that they all agree to which affects a belief system
21 that I have.

22 Now, this to me from what -- my limited understanding
23 of court procedure is a factual issue. You -- I don't think you
24 can decide whether this or does [sic] not go to willfulness.
25 They're not gonna tell the jury I was right in doing what I did.

1 All they are gonna -- now, the jury does not understand manic
2 depression. They don't understand these factors which can have
3 a bearing and an impact on my belief system because the
4 Government keeps saying -- this is what the Government's gonna
5 do. The Government's gonna say, look. He was convicted in '85.
6 He was this in '85. And he should have known that he -- what he
7 was doing was wrong. And that's what the -- they are gonna
8 argue. But Dr. Hayes says it makes no difference what people
9 tell you. He is absolutely firm and rigid in his beliefs, not
10 that my beliefs are correct.

11 Now, to be perfectly honest, to me this is so simple an
12 issue -- it's such a factual question -- that if you tell me
13 that you're not gonna let Dr. Hayes testify, then I'm gonna --
14 then I can't deal with this Court. I'm gonna need a lawyer and
15 I'm gonna ask --

16 THE COURT: You've said that --

17 MR. SCHIFF: -- for a suspension --

18 THE COURT: You've said that already. So let's not --

19 MR. SCHIFF: Suspension.

20 THE COURT: -- repeat ourselves. We have -- we have a
21 jury panel waiting.

22 MR. SCHIFF: Well --

23 THE COURT: You're now starting to go over the same --
24 very same thing you said just --

25 MR. SCHIFF: Are you gonna --

1 THE COURT: -- a minute ago.

2 MR. SCHIFF: -- are you going to -- are you telling me
3 that you're not gonna allow me to use Dr. Hayes --

4 THE COURT: I'm telling you --

5 MR. SCHIFF: -- as a witness?

6 THE COURT: -- that I'm going to rule -- if you would
7 have listened earlier --

8 MR. SCHIFF: Okay.

9 THE COURT: -- I'm going to rule on it after we have a
10 break and after I have a chance to look at --

11 MR. SCHIFF: Okay. And --

12 THE COURT: -- the report.

13 MR. SCHIFF: -- I have one other motion I'm gonna file.
14 I already filed it this morning. It's -- take a moment.

15 THE COURT: What is it?

16 MR. SCHIFF: I filed a motion to suspend the trial
17 until the Court rules on the Bridges and Grubbs decisions, the
18 Ninth Circuit decisions, which you're sustaining the
19 Government's -- sustaining the, uh -- the Motion to Suppress.

20 According to my reading of Bridges and Grubbs, which
21 was -- which was Ninth Circuit decisions, after the raid on
22 Freedom Books, they dismissed -- they, uh, dismissed or -- or --
23 or they -- they -- suppressed evidence based upon the kind of
24 broad, um, uh, uh, search warrant that was used in my case.
25 The -- as a matter of fact, the elements are almost the same.

1 And I'm saying that until you amend -- give me findings
2 of facts and conclusions of law -- I have -- if I can -- this
3 has --

4 THE COURT: No.

5 MR. SCHIFF: -- already been filed.

6 THE COURT: No. You can't because --

7 MR. SCHIFF: As I said --

8 THE COURT: -- the motion --

9 MR. SCHIFF: -- until you supplement your Motion to
10 Suppress -- because I filed six months ago. I went over the
11 Bridges and Grubbs decision. And you're granting -- or you're
12 denying my Motion to Suppress did not include a discussion of
13 why my search warrant did not fall within the kind of search
14 warrant which was outlawed by Bridges and Grubbs.

15 THE COURT: The motion is denied.

16 MR. SCHIFF: Okay. But it's in here anyway.

17 MR. IGNALL: Your Honor, may I briefly address? I
18 think --

19 THE COURT: The motion -- the Court has not received
20 the motion. But, based on the argument, the Court denies it.
21 Go ahead.

22 MR. IGNALL: Your Honor, I think there are two separate
23 issues here that now have come up. One is whether Mr. Schiff
24 can call Dr. Hayes to testify in Mr. Schiff's defense. And I'm
25 not sure if that -- that issue is ripe for decision now. But we

1 have spoken to Dr. Hayes, who had not been subpoenaed yet -- I'm
2 not saying he won't be -- and from our discussion with him it
3 seems consistent with the report that he's given that his
4 testimony would be similar to the other practitioners who are
5 talking about either Mr. Schiff's bipolar disorder or
6 Mr. Cohen's narcissistic personality disorder, that neither one
7 of those caused any sort of inability to form specific intent.

8 And, indeed, Dr. Hayes has told us that Mr. Schiff's
9 rigid belief system is not the result of any mental disease or
10 defect. So we don't understand how that would be appropriate
11 for expert testimony in his defense. However, I don't think
12 that issue is ripe quite yet because Mr. Schiff could subpoena
13 Dr. Hayes and we could take him on voir dire and understand
14 whether or not that is an appropriate area for expert inquiry.

15 The second issue, however, has to do with Ms. Neun.
16 And Dr. Hayes had never met with her; she's never met with him.
17 So I really can't see how that's in any way relevant to any
18 good-faith defense she might have. He can't just say that she's
19 relying on anything nor could he opine on anything about how
20 she's able to form a belief or form specific intent or not. So
21 I think that's inappropriate to raise that in opening statement.

22 THE COURT: Thank you.

23 MR. IGNALL: Thank you, your Honor.

24 MR. CRISTALLI: Your Honor, just quickly in response to
25 the Government, um, it's -- it's -- Dr. Hayes or -- or

1 Mr. Hayes -- I don't know if he's a doctor. He's Ph.D. I don't
2 know if you refer to him as "doctor" or not -- but, in any
3 event, the language in his consultation and findings in the
4 consultation are so strong after his six-hour interview with
5 doc- -- with Mr. Schiff that it -- it is so intertwined into our
6 defense, um, that it absolutely is 100 percent relevant to the
7 essence of our defense. And I certainly think the Court
8 understands it.

9 THE COURT: Well, we're dealing with the issue right
10 now of whether you'll be allowed to --

11 MR. CRISTALLI: Right. And it's --

12 THE COURT: -- address it in your opening and not the
13 issue of whether Mr. Schiff can subpoena the witness --

14 MR. CRISTALLI: Correct.

15 THE COURT: -- and he can be presented on -- or tested
16 on voir dire.

17 MR. CRISTALLI: And, basically, the position is that
18 Mr. Schiff's beliefs are the reason why we're here today. Um,
19 it's Mr. Schiff who is the founder of Freedom Books. It is
20 Mr. Schiff who is the one who has put himself out there and has
21 taught these beliefs. It is Mr. Schiff who has written books.
22 It is Mr. Schiff who has been on television and news programs.

23 Through those sources, through Freedom Books, he met
24 Cynthia Neun, not -- Cynthia did not go specifically to Freedom
25 Books. They met actually at a Republican fund-raiser at some

1 particular -- I think it was for a governor fund-raiser and
2 that's how they met. It wasn't as if Cynthia had, um, been
3 teaching these practices or studying these practices prior to
4 her meeting Mr. Schiff. It was Mr. Schiff who was instrumental
5 in convincing her of these beliefs.

6 And so, therefore, it is Mr. Schiff who is -- who I am
7 going to direct attention to in terms of the belief structure.
8 And, therefore, because my client believes what he believes, it
9 is essential to my defense if I have a clinical psychologist who
10 says, through a six-hour examination of Mr. Schiff, that he
11 holds his beliefs true to himself.

12 Now, Cynthia will testify -- and I'm -- and the jury
13 certainly is not going to say, well, you know, there was a
14 clinical diagnosis of Mr. Schiff and, therefore, it's the same
15 clinical diagnosis of Ms. Neun. I'm not asking for that. But,
16 once you hear the testimony about the relationship and about how
17 Cindy was brought into Freedom Books and brought into the belief
18 system and brought into the ideology, you will then understand
19 why Mr. Schiff's beliefs are so integral to my defense of
20 Ms. Neun.

21 THE COURT: Okay.

22 MR. BOWERS: I'm sorry, your Honor. I'll be very
23 brief.

24 I'm not going to elaborate the specific differences
25 between why I would take the same position as Mr. Cristalli.

1 It's slightly different, but the general principal is the same,
2 which is that that report is important to us. Mr. Schiff's
3 mental state and -- and the comments of the psychologist in that
4 report affect Mr. Cohen's defense in this matter. And I won't
5 elaborate further.

6 THE COURT: Any other issues before we bring the jury
7 up?

8 MR. IGNALL: We had the one issue we wanted to raise at
9 sidebar, your Honor.

10 THE COURT: Okay.

11 MR. SCHIFF: I have one other comment. The
12 Constitution of the United States, Sixth Amendment, says I have
13 the right to call witnesses in my defense. I have a right to
14 call witnesses. The Government has a right to cross-examination
15 and impeach my witnesses.

16 This is a fact witness. I don't believe that this
17 Court can deny me the right to call the Government's own
18 psychologist. And I don't have your order. But, obviously,
19 Dr. Hayes -- because you said justify his behavior in your --
20 he's gonna explain -- he's not gonna justify my behavior.

21 Three psychologists -- I have -- I was hospitalized
22 three times, and once in a VA Hospital, with manic depression
23 which is a brain disorder; it's a chemical imbalance. Now, they
24 disagree on how that manifested itself. Two believe it
25 manifested itself in a delusional psychosis and Dr. Hayes said

1 it manifested itself in a behavior attitude which made my belief
2 system rigid.

3 Now, it's up to the jury to evaluate what impact that
4 has on willfulness and whether or not if I lost the case in
5 Federal Court I should drop all my beliefs and say, oh, yeah,
6 that judge, who I believe knows less about income taxes than I
7 know, is right. All I want to do is say the Constitution says I
8 have a right to call witnesses in my favor. And I don't believe
9 that you have a right to deny this witness who the Government
10 paid -- he didn't come cheap. He had all kinds of credentials,
11 came all the way from Idaho, prepared his report. If the
12 Government thinks that the report doesn't do anything, they can
13 argue that to the jury. We're not stopping them. But I don't
14 think you should be able to bar this witness because his
15 testimony might be favorable to me.

16 THE COURT: Well, the, uh -- the right to call
17 witnesses has been interpreted by the Supreme Court and the
18 Circuit Courts and the qualification is that the testimony be
19 relevant. The law of this country is composed not only of the
20 United States Constitution, it's composed of case law and
21 statutory law adopted by the Congress. And, uh, when this
22 Court, uh, decides whether a witness can be called, it has to be
23 relevant. Otherwise individuals could delay a trial by calling
24 everyone in the phone book. Of course, that wouldn't be
25 permitted; that's not reasonable. So I will rule on it later.

1 MR. BOWERS: I'm sorry, your Honor.

2 THE COURT: Go ahead.

3 MR. BOWERS: Just very briefly. I know the Court's in
4 a hurry. There's three pieces of housekeeping. One is -- for
5 the record, it's my understanding that the Government has agreed
6 to give at least a day's notice on witnesses that will be
7 called.

8 MR. IGNALL: We haven't agreed to that yet. We said
9 we'd talk to him about it.

10 THE COURT: Okay.

11 MR. BOWERS: Okay. Then I apologize. Then I didn't
12 understand the Government. I thought we resolved that.

13 The other issue is: With respect to your motion on --
14 denying the motion to sever, I assume -- I didn't like that.
15 I'll have time to prepare an adequate instruction and won't be
16 penalized for having not done so today. Thank you, your Honor.

17 THE COURT: Yes, I intend to give a instruction --

18 MR. BOWERS: And I --

19 THE COURT: -- on -- on -- not on severance but on the
20 issues that arise because the parties are being tried together.

21 MR. BOWERS: Sure. And I -- I guess I'm just saying
22 the instruction I proposed I was unsure if someone else may
23 bolster that. Thank you.

24 THE COURT: Okay. The sidebar matter is the remaining
25 issue.

1 (Sidebar conference was held as follows:)

2 THE COURT: Go ahead.

3 MR. IGNALL: All right. Your Honor, on Thursday -- I'm
4 sorry -- on Thursday we had a witness come into the
5 U.S. Attorney's office to meet with us for final preparation.
6 When she went outside to her car she told us that someone had
7 shot at her car with a B-B gun. We didn't give it too much
8 concern at that point. But on Saturday morning one of the IRS
9 special agents went out to his car and found that his driver's
10 side window had been shot out with a B-B gun.

11 We don't know if these are unrelated incidents. They
12 give us some concern about witness and jury security. So we
13 were -- had spoken to the courtroom deputy if there's some way
14 perhaps not to identify jurors by name or do something else that
15 might give an extra level of security at least to the jury. And
16 we can probably do other things about witnesses as the trial
17 progresses.

18 THE COURT: All right. I will note for the record at
19 this point that the Court has been receiving threats,
20 threatening letters and postcards. So that's the climate we're
21 in.

22 All right. Go ahead.

23 MR. CRISTALLI: Your Honor, there is just one final
24 issue I'd like to put on the --

25 THE COURT: Would you like to respond to --

1 MR. CRISTALLI: Sure.

2 THE COURT: -- to the request --

3 MR. CRISTALLI: I --

4 THE COURT: -- to protect jury identification?

5 MR. CRISTALLI: I apologize.

6 With regard -- I -- I didn't know that there was a
7 request on the table in terms of jury identification.

8 I don't think jury identification in this particular
9 case is appropriate. As the Court is aware, only in the rarest
10 of situations is jury identification, um, kept secretive. Um, I
11 think the first time that had been done in a long time was the
12 Jon Gotti case. In that particular case, there were actual, um,
13 physical, uh, threats and I believe they had a long, um, record
14 of things that were occurring and -- and possible things that
15 could occur.

16 I don't know what letters that were sent to the Court.
17 I have not seen them. Um, this is the first time I've heard
18 anything as it relates to any type of aggression towards
19 government officials. At this time, I would object to the
20 inability to identify jurors on the record. Um, um, unless it
21 appears to me that the activity is escalating, I would not be in
22 agreement at this time.

23 THE COURT: The problem with that argument is that by
24 then it'll be too late because we will know the identification
25 of the jurors as soon as they are called this morning to -- to

1 be seated.

2 MR. IGNALL: Your Honor, may I clarify one thing?

3 MR. CRISTALLI: Sure.

4 MR. IGNALL: The Government's not suggesting that any
5 of the parties had anything to do with this.

6 THE COURT: Um-hum.

7 MR. IGNALL: So I'm -- we don't necessarily object to
8 the list being given out to the parties and their lawyers. It's
9 just the identification of the jurors in open court that
10 concerns us.

11 MR. SCHIFF: Um, frankly, that's the first I've heard
12 about these threatening letters. I would apologize.

13 But I -- I would like to ask the Court something. The
14 Government has done a background check on all the potential
15 jurors on whether or not they've had problems with the IRS.

16 MR. IGNALL: That's not true.

17 MR. SCHIFF: Well, you didn't do it? Well, if you did
18 it, I would like to see a copy. That's all. You have a right
19 to do it.

20 THE COURT: You don't have to answer.

21 MR. SCHIFF: They normally do a background check.

22 THE COURT: If you -- if you have evidence they have
23 done a background check, then you can assert such. If you do
24 not have evidence that they have, then don't assert it.

25 MR. SCHIFF: I'm just saying that they -- the law

1 allows them to do that.

2 THE COURT: No. You said they did.

3 MR. SCHIFF: I know. Well, I -- I normally -- I say
4 sure. I'm takin' his word for it. If he said they didn't do
5 it --

6 THE COURT: What is your point?

7 MR. SCHIFF: -- then I'll -- all I said is if they did
8 it --

9 THE COURT: What's your point?

10 MR. SCHIFF: My point was that if they did it I would
11 like to see that background check. If they didn't do it, then
12 you -- you won't give it to me.

13 THE COURT: What's your point -- what's your position
14 on the motion to suppress the names --

15 MR. SCHIFF: Oh.

16 THE COURT: -- jurors?

17 MR. SCHIFF: I'll defer it to the lawyers. I don't --
18 I don't...

19 THE COURT: Mr. Bower [sic], what's your position?

20 MR. BOWERS: Again, I'm gonna join in Mr. Cristalli's
21 objection. And I hate to keep doing that. But, in the interest
22 of judicial economy, I share his concerns.

23 MR. CRISTALLI: The only additional thing that I would
24 bring up is, um, as I've indicated to the Court, this is the
25 first time I've heard anything with regard to letters being sent

1 to the Court. I don't know what the Court's feeling is with
2 regard to that. But certainly I'd like an opportunity to review
3 those letters, uh, I don't know what they say; I don't know what
4 the contents of those letters are; I don't know what the Court's
5 position is with regard to those letters.

6 THE COURT: I don't either because all I've been told
7 is that had they were of such a tone that they were sent to the
8 FBI.

9 MR. CRISTALLI: And I don't know whether or not that
10 type of letter and -- and -- would affect this Court's ability
11 to --

12 THE COURT: It would not --

13 MR. CRISTALLI: Okay. And --

14 THE COURT: -- because I haven't read them.

15 MR. CRISTALLI: All right.

16 THE COURT: All I'm aware is that things were received
17 that were of a content that the FBI came up and picked them up.

18 MR. CRISTALLI: And -- and basically, as counsel for
19 Ms. Neun, my biggest concern is that she be afforded a fair
20 trial. And that's my inherent concern here and that's what I'm
21 here to do, represent her; make sure that she's secured with a
22 fair trial.

23 THE COURT: And I'm completely capable of providing --

24 MR. CRISTALLI: Yes, sir.

25 THE COURT: -- each of the defendants a fair trial.

1 MR. CRISTALLI: Yes, sir.

2 THE COURT: They may not like the rulings, they may not
3 like the law, but I'm going to give them a fair trial.

4 MR. CRISTALLI: Yes, sir. That's it.

5 MR. BOWERS: Your Honor, I don't think it even needs to
6 be stated for the record. But we -- we deny that our clients
7 had anything to do with any of this.

8 THE COURT: I haven't suggested they did.

9 MR. BOWERS: I understand that and I don't want to
10 create a problem. I just think it's...

11 MR. CRISTALLI: And at a later date, your Honor, I may
12 request the Court to issue some order that, uh, makes those, uh,
13 documents part of the record.

14 THE COURT: They weren't filed. They are in the
15 possession of the FBI. They will not become a part of the
16 record because I didn't review them.

17 MR. CRISTALLI: Okay. Very good. Thank you.

18 MR. IGNALL: Thank you, your Honor.

19 THE COURT: All right.

20 Are we ready to call the jury up?

21 MR. CRISTALLI: Well, I have one issue that I wanted to
22 address which --

23 MR. BOWERS: We should do this on the record. I
24 think --

25 MR. CRISTALLI: Well, we're on the record. But I don't

1 know if the Court wants to do it in open court or not.

2 THE COURT: Is it a legal issue?

3 MR. CRISTALLI: It's legal issue.

4 THE COURT: If it's a legal issue, we'll --

5 MR. CRISTALLI: Yes.

6 (Sidebar conference concluded and the
7 following is held in open court:)

8 THE COURT: Go ahead, Mr. Cristalli, with your --

9 MR. CRISTALLI: Thank you --

10 THE COURT: -- legal issue.

11 MR. CRISTALLI: -- your Honor.

12 Um, your Honor, there is an issue that I'm concerned
13 with now because before opening statements begin I'm concerned
14 that the Government may make some statement to the -- to the
15 jury as it relates to the conspiracy and what is cited in their
16 trial brief, specifically by the Klein decision which basically
17 is contra -- basically contradicts the decision and the holding
18 in Cheeks [sic] v. [The] United States. And specifically on
19 page 6 of the Government's trial brief -- Court's indulgence.

20 (Discussion between Mr. Cristalli and
21 Mr. Modafferi.)

22 MR. CRISTALLI: Yeah. And I -- I believe what the
23 Government is going to try to do is argue that Cheeks doesn't
24 apply in this particular case. And Cheeks, obviously, is
25 essential to us in this particular case because our -- our

1 defense is the willfulness defense.

2 "The central issue in this case is whether defendants
3 willfully violated the law" -- the Government concedes to that
4 fact on page 21 of their trial brief -- "[and] Willfulness in a
5 tax case has special meaning. The Supreme Court has defined
6 willfulness as 'a voluntary, intentional violation of a known
7 legal duty.' United States v. Pomponia [sic]" -- "Pomponio [I
8 believe]... A defendant's good faith belief that he is not
9 violating the tax laws, however, no matter how objectively
10 unreasonable, is a" -- "is a defense in a tax prosecution. ...
11 Cheek[s] v. United States.... The good faith defense
12 encompasses misunderstanding of the law, not disagreement with
13 the law."

14 And, essentially, your Honor, as the Court is aware,
15 that is my defense in this particular case. I'm concerned that
16 the Government is going to, uh, try to distance themselves from
17 the -- from the Cheeks holding. Um, I know that, um -- what
18 is...

19 (Discussion between Mr. Cristalli and
20 Mr. Modafferi.)

21 MR. CRISTALLI: I know Mr. Bower [sic] has done some
22 research on this particular issue and I can defer to him with
23 regard to the recent case law that he has uncovered with regard
24 to this particular issue.

25 MR. BOWERS: Your Honor, with the Court's indulgence

1 just extremely briefly.

2 At page 6 of the Government's trial brief, the
3 Government cites circuit decisions -- and I'll just quote you --
4 they refer to the conspiracy type that's charged in this case as
5 a Klein conspiracy and some of the holdings they cite to say
6 "establishing a true Klein conspiracy under the 'defraud'
7 clause" -- which is one of the elements in the conspiracy
8 statute, uh, that our clients are all charged with -- "does not
9 generally require proof of [or knowledge]" -- "proof of
10 knowledge of illegality."

11 These decisions that the Government has brought to your
12 attention in their trial brief, I think, are incorrect law under
13 this Circuit. I'm certainly not accusing the Government of
14 misquoting those cases. I think what's controlling on this
15 issue most recently is United States v. Trevino, and I can give
16 the Court the cite as well as copies to the other lawyers. That
17 was decided as recently as August 16th, 2005. And, while
18 there's not an explicit statement in there, um, that the
19 willfulness element is interpreted for purposes of a tax
20 conspiracy the same way as interpreted for purposes of tax
21 evasion, uh, or aiding and abetting in -- in filing false
22 returns, it's clear from the language of that case, the Ninth
23 Circuit's intention is that willfulness is an element of this
24 kind of conspiracy.

25 And, you know, we don't have to fully litigate this

1 issue. We raise it only because of what's gonna happen in
2 opening. I had a brief on this that isn't extensive I can file
3 after court. We could address this issue later. But I think
4 that with even a modicum of research it's clear that in this
5 Circuit, uh, the Government's position is not accurate with
6 respect to whether willfulness as applied to Cheek, and the
7 other cases that Mr. Cristalli mentioned, is the standard with
8 reference to these conspiracies. I don't think there's really
9 enough for discussion.

10 And, like I say, we can brief that and handle it
11 however you want. I think for now I think we want it kept out
12 of opening. But --

13 THE COURT: What is the cite to U.S. v. Trevino?

14 MR. BOWERS: I apologize, your Honor. I didn't give
15 that to you. I said I would.

16 It -- because it was decided on August 16th, I'm gonna
17 have -- I can give the Court a Lexis number or the, uh, Ninth
18 Circuit number which I believe is fairly easy to pull the case
19 by the -- the Ninth Circuit number is 02-10545. Um, and I don't
20 know if the Court's interested in the Lexis number or not.

21 THE COURT: Go ahead.

22 MR. BOWERS: It's 2005 U.S. App LEXIS 17238.

23 And, again, your Honor, that -- that is not the only
24 authority that I'm citing to. I think this issue needed to be
25 briefed for a length. But that case is extremely fresh and

1 supports a rather lengthy, uh, history in the Ninth Circuit of
2 constructing -- allowing defense of willfulness instruction in
3 connection with these conspiracies which differs from the
4 Government's trial brief.

5 MR. CRISTALLI: I actually have a copy of the decision,
6 your Honor, if the Court wants me to provide the clerk with a
7 copy of it.

8 MR. BOWERS: We have several.

9 THE COURT: We'll do that during the break.

10 MR. CRISTALLI: Very good.

11 MR. NEIMAN: Your Honor, the Government does not intend
12 to get into it in opening at all. I don't think it would be an
13 appropriate place to get into it.

14 THE COURT: Thank you.

15 MR. NEIMAN: And, therefore, we could address the
16 merits of the arguments when the Court's sees fit.

17 THE COURT: If you wish to file a brief on it,
18 Mr. Bower [sic], you may do so.

19 MR. BOWERS: Yeah, I think absolutely we could. If the
20 Court would provide a schedule of the time it'd like to address
21 this, I could provide a more substantial document with respect
22 to this issue.

23 THE COURT: Well, as soon as possible.

24 MR. BOWERS: Okay.

25 THE COURT: Tomorrow morning.

1 MR. BOWERS: Okay. Thank you, your Honor.

2 MR. SCHIFF: Your Honor --

3 THE COURT: Yes.

4 MR. SCHIFF: -- I hoped to have time to answer the
5 Government's trial brief. I just didn't have time. The
6 Government keeps misstating my beliefs and my position. And I
7 want the record to be clear on this.

8 The Government states that Schiff's contention that the
9 imposition of a validly enacted income tax violates the
10 Constitution has been rejected repeatedly by the Supreme Court.
11 I do not say -- and they know -- that the laws enacted violate
12 the Constitution. I sell the Code. I believe that my actions
13 are in line with the Constitution and the laws.

14 And, as a matter of fact, they have the nerve to cite
15 the Brushaber v. Union Pac. R.R. as -- as the basis of their
16 claim. Now, in one of my motions I sent you, I sent you the
17 insert that was in -- taken from the United States Supreme Court
18 Digest. And they cite right in that first page the Brushaber
19 decision as saying that the authority -- that the Sixteenth
20 authorized an income tax was to exclude the source from which
21 the tax income tax was derived.

22 Now, when you determine my taxes, have you -- did you
23 exclude the source? No. The point --

24 THE COURT: You don't -- wait a minute.

25 MR. SCHIFF: -- I want to make is --

1 THE COURT: You don't ask --

2 MR. SCHIFF: I'm sorry. I'm sorry.

3 THE COURT: You don't ask opposing counsel --

4 MR. SCHIFF: All right.

5 THE COURT: -- questions --

6 MR. SCHIFF: I won't do it again.

7 THE COURT: -- and expect answers --

8 MR. SCHIFF: I'm just new at this.

9 THE COURT: -- in this courtroom.

10 MR. SCHIFF: The point is I find nothing wrong with the
11 law. I am saying that they haven't excluded the sources; they
12 are putting a tax on the source.

13 In addition -- I want the record clear on this about
14 who's breaking the law and who's not -- I have the House and
15 Senate Report, which was issued when the 54th code was
16 adopted --

17 THE COURT: Mr. Schiff --

18 MR. SCHIFF: I just --

19 THE COURT: -- the Court has already ruled on the law
20 in this case.

21 MR. SCHIFF: I -- I --

22 THE COURT: It has ruled on your motions. You are not
23 going to spend time arguing about the Government's brief, their
24 trial brief --

25 MR. SCHIFF: All right.

1 THE COURT: -- that is not a matter that is published
2 to the jury.

3 MR. SCHIFF: Okay.

4 I just want -- I just want you to know that they're
5 attributing to me beliefs that I don't have. And I think it's
6 unfair. It's un- -- the Government is not litigating in good
7 faith by attributing beliefs to me that they know I don't have.
8 They are litigating in bad faith. As a matter of fact, they
9 should be imposed Rule 11 changes because they know that
10 statement was false. They know it's false. I mean, my actions
11 are in line with the law and in line with every major Supreme
12 Court case on --

13 THE COURT: Sir --

14 MR. SCHIFF: -- this issue.

15 THE COURT: -- sir, let me warn you right now.

16 MR. SCHIFF: Pardon me?

17 THE COURT: You are not going to make that kind of
18 argument when the jury comes up here. I will shut you down.

19 MR. SCHIFF: I'm -- I'm making any argument. I'm
20 making it to you.

21 THE COURT: I'm telling you that you will not make
22 those kinds of arguments when we have the jury in here. You're
23 not going to get up and expound on your belief about the law
24 during the course of this trial. I've already made my rulings
25 on issues --

1 MR. SCHIFF: All right. But I want the record straight
2 to --

3 THE COURT: -- of law.

4 MR. SCHIFF: All I want is the record to point out that
5 they are litigating in bad faith. They are attributing
6 arguments to me that they know I don't espouse nor do I have.

7 THE COURT: You can -- you can refute --

8 MR. SCHIFF: Thank you.

9 THE COURT: -- anything that they present in your case.
10 You'll have that opportunity.

11 Are we ready to bring the jury up?

12 MR. IGNALL: Yes, your Honor.

13 THE COURT: All right.

14 MR. CRISTALLI: Yes, your Honor.

15 THE COURT: Thank you.

16 MR. BOWERS: I have nothing further, your Honor.

17 THE COURT: Thank you.

18 MR. IGNALL: Your Honor, may I approach the clerk to
19 file an amended order?

20 THE COURT: You may. Yes.

21 (Pause in the proceedings.)

22 (Discussion between the clerk and the Court.)

23 THE COURT: We will need to make room in the courtroom
24 for the jury panel which is, as I am informed, approximately 100
25 individuals.

1 The Marshals or Court Security Officers will determine
2 how many are allowed in after we seat the panel. They will do
3 that in the order that we normally do, which is the parties,
4 counsel, witnesses, government employees, press, and then any
5 additional room will be for the public. And the Marshals will
6 determine how many.

7 MR. IGNALL: Thank you, your Honor.

8 (Pause in the proceedings.)

9 (Prospective jury panel enters the
10 courtroom.)

11 THE CLERK: CR-S-04-119-KJD(LRL), United States of
12 America vs. Irwin A. Schiff, Cynthia Neun, and Lawrence Cohen.
13 This is jury trial, day one.

14 Counsel, please enter your appearances for the record.

15 MR. IGNALL: Good morning, your Honor. David Ignall
16 and Jeffrey Neiman for the United States.

17 MR. NEIMAN: Good morning again, your Honor.

18 MR. CRISTALLI: Good morning, your Honor. Michael
19 Cristalli and Gary Modafferri on behalf of Ms. Cynthia Neun.

20 THE COURT: Thank you.

21 MR. BOWERS: Good morning, your Honor. Chad Bowers on
22 behalf of Larry Cohen.

23 THE COURT: Thank you.

24 MR. LEVENTHAL: Good morning, your Honor. Todd
25 Leventhal, advisory counsel to Mr. Schiff.

1 MR. SCHIFF: Good morning, Judge. Irwin Schiff
2 representing himself.

3 THE COURT: Thank you.

4 Good morning, ladies and gentlemen. You have been
5 summoned to Court today to serve as a panel of perspective
6 jurors in the trial of a criminal case. On behalf of the Court
7 and the parties to this case, I want to thank you for appearing
8 hear in court this morning. I know that most of you have
9 families and jobs to tend to and that taking time out from your
10 busy schedules is not always convenient. However, I know that
11 you recognize as well that jury service is one of the highest
12 duties of citizenship. In addition to being an important
13 responsibility, I can assure you that it is also an interesting
14 experience.

15 Our system of justice depends upon good citizens, much
16 like yourselves, serving as jurors in courtrooms throughout the
17 country. And I know that if any of you were a party to this
18 case, or any other, you'd want a jury composed of citizens much
19 like yourself to decide your case.

20 In a moment, the clerk will administer an oath to each
21 of you to answer truthfully the questions that will be put to
22 you. Thereafter, the clerk will call 32 name and direct you to
23 seats inside of the bar of the court. Please listen carefully
24 to the oath and the names as they are called.

25 Ms. Clerk, will you be swear the panel?

1 THE CLERK: Yes.

2 Would the prospective panel please stand and raise your
3 right hands?

4 Do you and each of you do solemnly swear or affirm that
5 true answers you will make to such questions as are propounded
6 to you touching upon your qualification to act as jurors in this
7 case now pending before this court, so help you God? Please say
8 "I do."

9 PROSPECTIVE JURORS: I do.

10 THE COURT: Thank you. Please be seated.

11 I'd like to introduce the court personnel who will be
12 assisting in this case. To my left is Ms. Felicia Zabin, who is
13 the court reporter. To my right is Peggie Vannozzi, who is the
14 Deputy Court Clerk. To my far left is Mr. Chad Fears, who is
15 the law clerk in this department, and Leanne Hoskin, who is an
16 extern.

17 Ms. Clerk, will you please administer the oath to the
18 prospective jurors and draw --

19 THE CLERK: I did, your Honor.

20 THE COURT: -- 32 names from the jury wheel?

21 THE CLERK: I'll draw the 32 names.

22 THE COURT: You have already given the oath, so draw
23 the names.

24 THE CLERK: I sure have.

25 Eric Navarro Jacobo, J-a-c-o-b-o. Eric Jacobo, J-a --

1 please come forward.

2 Peter Duchon, D-u-c-h-o-n. Peter Duchon.

3 Annie Gooding. G-o-o-d-i-n-g. Annie Gooding.

4 Marco Castro, C-a-s-t-r-o. Marco Castro.

5 Victoria Dolan, D-o-l-a-n. Victoria Dolan.

6 Curtis Parish, Jr., P-a-r-i-s-h. Curtis Parish, Jr.

7 Diane Haworth, H-a-w-o-r-t-h. Diane Haworth.

8 Rodolfo Ojales Uy, U-y. Rodolfo Ojales Uy -- Uy.

9 Seth Manesse, M-a-n-e-s-s-e. Seth Manesse.

10 Randy Sharp, S-h-a-r-p. Randy Sharp.

11 Patrick Terry, Sr., T-e-r-r-y. Patrick Terry, Sr.

12 Lillie Wiggins, W-i-g-g-i-n-s. Lillie Wiggins.

13 Wendy Yozamp, Y-o-z-a-m-p. Wendy Yozamp.

14 Brenda Moulton, M-o-u-l-t-o-n. Brenda Moulton.

15 Paul Whiteman, W-h-i-t-e-m-a-n. Paul Whiteman.

16 Kenneth Byrns, B-y-r-n-s. Kenneth Byrns.

17 Dorothy Tucker, T-u-c-k-e-r. Dorothy Tucker.

18 Barney Vinson, V-i-n-s-o-n. Barney Vinson.

19 Eric Lombardo, L-o-m-b-a-r-d-o. Eric Lombardo.

20 David Matales- -- Matelske, M-a-t-e-l-s-k-e. David

21 Matelske.

22 Darrell Cunningham, C-u-n-n-i-n-g-h-a-m. Darrell

23 Cunningham.

24 Janice Mathews, M-a-t-h-e-w-s. Janice Mathews.

25 Katherine Doty, D-o-t-y. Katherine Doty.

1 Robert Upchurch, U-p-c-h-u-r-c-h. Robert Upchurch.

2 Judith Schaffer, S-c-h-a-f-f-e-r. Judith Schaffer.

3 Christina Steinagel, S-t-e-i-n-a-g-e-l. Christina

4 Steinagel.

5 Michael McKee, M-c-K-e-e. Michael McKee.

6 Brandon McFarlane, M-c-F-a-r-l-a-n-e. Brandon

7 McFarlane.

8 Chris Molano, M-o-l-a-n-o. Chris Molano.

9 Al Dishon, D-i-s-h-o-n. Al Dishon.

10 Joshua Smith, S-m-i-t-h. Joshua Smith.

11 Michael Martin, M-a-r-t-i-n. Michael Martin.

12 Your Honor, that is 32.

13 THE COURT: Thank you.

14 (Discussion between Mr. Fears and the Court.)

15 THE COURT: Ms. Clerk --

16 THE CLERK: Yes, sir.

17 THE COURT: -- could I have the name of number 8?

18 THE CLERK: Last name is spelled U-y.

19 THE COURT: U-y?

20 THE CLERK: Yes.

21 THE COURT: Thank you.

22 Why don't I...

23 (Discussion between the clerk and the Court.)

24 (Pause in the proceedings.)

25 THE COURT: Now, ladies and gentlemen, I'm going to

1 tell you a little bit about this case and ask certain questions
2 of each of you. These purposes -- the purpose of these
3 questions is to examine your qualifications to serve as jurors
4 in this case and to accord the parties a fair and impartial
5 trial. The questions are not designed to pry unnecessarily into
6 your personal lives. They are, however, designed to assist the
7 lawyers in choosing the fairest jury possible.

8 I would ask that all of the prospective jurors in this
9 courtroom pay close attention to the questions that I'm about to
10 ask since any of you may actually serve as jurors in this case.
11 If -- if you have not been called as part of the 32 and one of
12 the 32 is excused for any reason, then I will call one of you
13 through the -- through the clerk and the jury wheel to replace
14 the person who has been excused and at that time I will ask you
15 if you have a positive response to any of the questions that I
16 have already asked. So try to remember if you do have a
17 positive response to tell me, uh, that when you are called.

18 Please be straightforward and complete in your answers.
19 Do not answer in the way that you feel that I or the lawyers
20 might expect you to answer.

21 If at any time you would prefer to approach the bench
22 to answer a question rather than answering it publicly, please
23 let me know and I will give you an opportunity to answer at
24 sidebar out of the hearing of the -- the other individuals in
25 the courtroom, only the -- the court personnel and the attorneys

1 will be present at sidebar.

2 What I will say now is intended as an introduction of
3 the -- of the case. It is not a substitute for the detailed
4 instructions of law which I will give you at the close of the
5 case and the evidence which will be presented during the course
6 of the trial.

7 This is a criminal case commenced by the United States
8 of America, which I may sometimes refer to as the "prosecution"
9 or the "Government," against Irwin Schiff, Cynthia Neun, and
10 Lawrence Cohen, whom I may sometimes refer to as the "defendant"
11 or "defendants."

12 The defendants are charged in a document called an
13 "indictment." In this case, the defendants are charged with
14 several counts that I will summarize for you.

15 Count 1 charges the Defendants Irwin Schiff, Cynthia
16 Neun, and Lawrence Cohen, with Conspiracy to Defraud the United
17 States.

18 Counts 2 through 4 charge Irwin Schiff with aiding,
19 assisting -- and assisting in the filing of a false federal
20 income tax -- in the filing of false federal income tax returns.

21 Count 5 charges the Defendant Irwin Schiff with aiding
22 and assisting in the filing of a false -- of a false income tax
23 return.

24 Count 6 charges Irwin Schiff and Cynthia Neun with
25 aiding and assisting in the filing of a false federal income tax

1 return.

2 Counts 7 through 10 charge -- I'm sorry. Sir,
3 please -- Counts 7 through 10 charge Cynthia Neun with aiding
4 and assisting in the filing of false federal income tax returns.

5 Counts 11 through 12 charge Cynthia Neun with aiding
6 and assisting in the filing of false federal income tax returns.

7 Count 13 charges the Defendant Lawrence Cohen with
8 aiding and assisting in the filing of a false income tax return.

9 Counts 14 through 16 charge Defendant Lawrence Cohen
10 with aiding and assisting in the filing of false income tax
11 return -- federal income tax returns.

12 Count 17 charges Defendant Irwin Schiff with attempt to
13 evade and defeat tax payment -- payment of tax for tax years
14 1979 through 1985.

15 Counts 18 through 23 charge Defendant Irwin Schiff with
16 filing false federal income tax returns.

17 Counts 24 through 25 charge Cynthia Neun with aiding
18 and assisting in the filing of false federal income tax returns.

19 Count 26 charges the Defendant Cynthia Neun with
20 willful failure to file federal tax return.

21 Count 27 charges Defendant Cynthia Neun with willful
22 failure to file federal -- federal tax return.

23 Count 28 charges the Defendant Cynthia Neun with
24 willful failure to file federal tax return.

25 Count 29 charges Defendant Cynthia Neun with willful

1 failure to file federal tax return.

2 Count 32 charges Defendant Cynthia Neun with Social
3 Security disability fraud.

4 Count 33 charges Defendant Cynthia Neun with theft of
5 government property.

6 Now, ladies and gentlemen, you should understand that
7 the indictment just read is merely a charge and that it is not
8 in any sense evidence of the allegations it contains. It is
9 simply the formal means by which a criminal case is brought into
10 federal court for trial.

11 The defendants entered a plea of not guilty to each of
12 the charges set forth in the indictment and are presumed by law
13 to be innocent of the charges. The defendants, although
14 accused, start the trial with a clean slate with no evidence
15 against them and the law permits nothing but legal evidence
16 presented in court before the jury to be considered against the
17 accused.

18 The Government has the burden of proof of each of the
19 essential elements of the offenses charged beyond a reasonable
20 doubt. And the defendants are presumed to be innocent now and
21 throughout the trial unless and until the jury is persuaded that
22 the Government has, by the evidence, established the defendants'
23 guilt beyond a reasonable doubt. The purpose of this trial is
24 to determine whether the Government can meet this burden.

25 Remember that a defendant in a criminal case does not

1 have to prove his or her innocence; the Government must prove
2 his or her guilt. There is no burden on a defendant to
3 introduce any evidence. And the defendant must be acquitted if
4 the Government fails to prove his or her guilt beyond a
5 reasonable doubt.

6 Now, in a criminal trial the judge and the jury have
7 divided responsibilities. It is the duty of the judge to
8 preside over the trial, to decide questions of law that may
9 arise during the course of the presentation of evidence, and
10 after all the evidence has been presented to -- and the final
11 arguments of counsel have been made to instruct the jury as to
12 the law applicable to the case. On the other hand, it is the
13 duty of the jury to judge the facts and to pass upon the
14 question of innocence or guilt.

15 I will now ask each of the 32 jurors who have been
16 called and seated inside of the bar of the court a series of
17 questions. If the answer to any question I ask is yes, I ask
18 that you respond by raising your hand. The other prospective
19 jurors in the courtroom need not respond at this time. However,
20 as I indicated earlier, I ask that all of you pay close
21 attention as any of you may be called at a later time.

22 Ms. Reporter, unless one or more of the jurors raises
23 his or her hand, the record will show a negative response to my
24 questions.

25 I would like to -- as preparation for my first

1 question -- is to have those who are seated at counsel table
2 stand and introduce themselves. And the attorneys will
3 introduce their clients.

4 Start with the Government.

5 MR. IGNALL: Good morning, ladies and gentlemen. My
6 name is David Ignall. I'm a trial attorney with the Department
7 of Justice. I will be representing the United States in this
8 matter along with Jeffrey Neiman, my co-counsel in this matter.

9 MR. NEIMAN: Good morning.

10 MR. IGNALL: Also seated with us at counsel table are
11 Special Agents David Holland and Adam Steiner with the Internal
12 Revenue Service.

13 THE COURT: Thank you.

14 Do any of you know the Government attorneys or those
15 seated with them? Please show by raising your hand? (No hands
16 raised.)

17 Now, I will ask defense counsel to introduce themselves
18 and their client.

19 MR. CRISTALLI: Thank you, your Honor.

20 Ladies and gentlemen, my name is Michael Cristalli. I
21 am a defense lawyer and I represent Ms. Cynthia Neun. Also with
22 me at counsel table is my colleague, Mr. Gary Modafferri.

23 THE COURT: Do any of you know counsel or Ms. Neun?
24 Please raise your hand. (Hand raised.)

25 Who do you know?

1 PROSPECTIVE JUROR McFARLANE: I know Cynthia Neun.

2 THE COURT: All right.

3 How do you know her?

4 PROSPECTIVE JUROR McFARLANE: At my previous employer,
5 I installed their telephone equipment in their business.

6 THE COURT: All right.

7 And what business was that?

8 PROSPECTIVE JUROR McFARLANE: Poly Telecom,
9 Incorporated.

10 THE COURT: Okay.

11 And where did you install the equipment?

12 PROSPECTIVE JUROR McFARLANE: I don't recall the
13 address. It's on East Sahara.

14 THE COURT: Okay.

15 Could you identify yourself for the record, please?

16 PROSPECTIVE JUROR McFARLANE: My name is Brandon
17 McFarlane.

18 THE COURT: Hand him the microphone.

19 PROSPECTIVE JUROR McFARLANE: Brandon McFarlane.

20 THE COURT: Do you have any other association with
21 Defendant Neun?

22 PROSPECTIVE JUROR McFARLANE: No.

23 THE COURT: Would your -- that job that you performed
24 and the relationship that resulted from that have any influence
25 on your ability to be fair and impartial in this case?

1 PROSPECTIVE JUROR McFARLANE: No.

2 THE COURT: Thank you.

3 Next. Mr. Bower [sic].

4 MR. BOWERS: My name is Chad Bowers. I'm an attorney
5 here in Las Vegas. This is my client, Larry Cohen.

6 MR. COHEN: Good morning.

7 THE COURT: Thank you.

8 Do any of you know Mr. Bowers or Mr. Cohen? Please
9 respond by raising your hand. (No hands raised.) Thank you.

10 And Mr. Schiff.

11 MR. SCHIFF: Good morning, ladies and gentlemen. I'm
12 Irwin Schiff, and I'm representing myself. Hopefully well.

13 THE COURT: Thank you.

14 And, Mr. Leventhal, would you introduce yourself?

15 MR. LEVENTHAL: Good morning, ladies and gentlemen. My
16 name is Todd Leventhal. I am advisory counsel to Mr. Schiff.

17 THE COURT: Thank you.

18 Do any of you know Mr. Leventhal or Mr. Schiff? (Hand
19 raised.)

20 Again, identify yourself, please.

21 PROSPECTIVE JUROR McFARLANE: My name is Brandon
22 McFarlane.

23 THE COURT: Same answer?

24 PROSPECTIVE JUROR McFARLANE: Yes.

25 THE COURT: Would -- so you met Mr. Schiff at the same

1 place?

2 PROSPECTIVE JUROR McFARLANE: That's correct.

3 THE COURT: All right.

4 And would anything about that relationship with
5 Mr. Schiff interfere with your ability to be fair and impartial
6 to both sides in this case?

7 PROSPECTIVE JUROR McFARLANE: No, sir.

8 THE COURT: Thank you.

9 Do any of you know any of the court personnel who are
10 involved, that is, myself -- my name is Kent Dawson -- or any of
11 the others that I introduced already: Ms. Zabin, Ms. Vannozzi,
12 Mr. Fears, or Ms. Hoskin? (No hands raised.) Thank you.

13 Now, I want to determine whether any of you have any
14 prior knowledge about the facts of the case. If you do so,
15 again, please raise your hand without telling me what you know.

16 Except for what I've told you about this case in the
17 courtroom here this morning, have any of you heard this case
18 discussed or have you discussed this case with anyone else? If
19 so, please raise your hand. (No hands raised.)

20 Are there any of you who believe that you have read,
21 listened to or viewed any news accounts of this case in the
22 newspaper, on radio or on TV or other media? (Hand raised.)

23 All right. Thank you. Identify yourself.

24 PROSPECTIVE JUROR BYRNS: Ken Byrns.

25 THE COURT: Take the mic, please, Sir.

1 PROSPECTIVE JUROR BYRNS: Ken Byrns.

2 THE COURT: All right.

3 And where did you see the account or hear the account?

4 PROSPECTIVE JUROR BYRNS: Probably on the radio.

5 THE COURT: Okay.

6 Have you -- as a result of hearing something on the
7 radio, have you formed any opinion as to the innocence or guilt
8 of any of the defendants?

9 PROSPECTIVE JUROR BYRNS: No.

10 THE COURT: Thank you.

11 It is anticipated that the trial of this case will take
12 approximately five weeks. Trial will be conducted Monday
13 through Thursday from 9:00 a.m. to 4:30 p.m. We will take a
14 break mid-morning and mid-afternoon. We will take a lunch break
15 usually of an hour, minimum, to an hour and a half, and, as I
16 said, Monday through Thursday.

17 Now, as I indicated earlier, I recognize that jury
18 service is not always convenient. However, inconvenience alone
19 is not a justification for being excused as a juror. Some of
20 you have jobs. I realize that. Some of you have children
21 and -- and other responsibilities. One of the -- for those of
22 you who feel that -- that you would like to go back to the Jury
23 Commissioner -- if your reason is sufficient, I -- I can send
24 you back to the Jury Commissioner to be called at a later time
25 if it's a temporary situation that would interfere with your

1 ability to serve. If it is a situation that is always going to
2 be present, then I do permit community service, which can be
3 usually performed on your own schedule. And the way I usually
4 figure community service is half the time of the anticipated
5 trial to be -- to be done on jury service -- or on community
6 service rather than jury service.

7 If any of you feel that the time frame of this trial,
8 as I've just outlined it, will cause an extreme hardship if
9 you're selected to serve, I'd like you to show me by raising
10 your hand and then I will ask you the detail. (Hands raised.)

11 All right. We'll start with Mr. Jacobo. Please
12 identify yourself and tell me --

13 PROSPECTIVE JUROR JACOBO: My name is Eric Jacobo.

14 THE COURT: All right.

15 Why don't you take the microphone in your hand. Tell
16 me what your situation is.

17 PROSPECTIVE JUROR JACOBO: Well, this Friday I -- since
18 the trial's gonna take this long, Friday I've got, um, preop for
19 an operation. And so I won't be here Friday.

20 THE COURT: And when is the surgery to occur, next
21 week?

22 PROSPECTIVE JUROR JACOBO: They are gonna do a ERCP on
23 me for possible, uh, um, exploratory.

24 THE COURT: Okay.

25 And when would that happen?

1 PROSPECTIVE JUROR JACOBO: Um, when they get the
2 results of the ERCP.

3 THE COURT: Would that be within the five-week time
4 frame?

5 PROSPECTIVE JUROR JACOBO: Yes, sir.

6 THE COURT: And you could go into surgery immediately?

7 PROSPECTIVE JUROR JACOBO: Um, it's, um, up to the
8 doctors.

9 THE COURT: All right.

10 And is the situation something that requires surgery
11 immediately or --

12 PROSPECTIVE JUROR JACOBO: Yes, sir.

13 THE COURT: It is. Okay.

14 And so Friday is your preop?

15 PROSPECTIVE JUROR JACOBO: Yes. Uh, it's for the ERCP.
16 I don't know what that means, but it's some kind of test they
17 have to do.

18 THE COURT: All right. Thank you.

19 PROSPECTIVE JUROR JACOBO: You're welcome.

20 THE COURT: Next. Identify yourself first, sir.

21 PROSPECTIVE JUROR CASTRO: Marco Castro.

22 THE COURT: Go ahead.

23 PROSPECTIVE JUROR CASTRO: And, uh, due to the length
24 of the trial -- you say it's four weeks -- and, um, like
25 40 percent of my income is, um, uh, based on tips. I work in

1 the casino industry.

2 THE COURT: What do you do?

3 PROSPECTIVE JUROR CASTRO: I'm a food server.

4 THE COURT: Food server. Okay.

5 Which company do you work for?

6 PROSPECTIVE JUROR CASTRO: Caesar Palace.

7 THE COURT: Do they have a jury policy?

8 PROSPECTIVE JUROR CASTRO: They used to. But, uh, you
9 will be able to be excused before but not now.

10 THE COURT: They don't pay you while you're on jury
11 service?

12 PROSPECTIVE JUROR CASTRO: I would think they would pay
13 your salary but not your tips.

14 THE COURT: Okay.

15 And are you married?

16 PROSPECTIVE JUROR CASTRO: Yes.

17 THE COURT: Have children?

18 PROSPECTIVE JUROR CASTRO: Yes.

19 THE COURT: Does your wife work?

20 PROSPECTIVE JUROR CASTRO: Yes.

21 THE COURT: Okay.

22 What does she do?

23 PROSPECTIVE JUROR CASTRO: Uh, just some kinda a
24 sec- -- secretary.

25 THE COURT: Secretary?

1 PROSPECTIVE JUROR CASTRO: I don't know her title, but
2 something like that.

3 THE COURT: Secretarial?

4 PROSPECTIVE JUROR CASTRO: Yeah, like a clerk,
5 administrative clerk.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR DOLAN: My name is Victoria Dolan.

8 THE COURT: Yes.

9 PROSPECTIVE JUROR DOLAN: If I don't work, I don't get
10 paid.

11 THE COURT: Where do you work?

12 PROSPECTIVE JUROR DOLAN: Um, I work for an outsourcing
13 company.

14 THE COURT: Are you the sole income in your home?

15 PROSPECTIVE JUROR DOLAN: Yes.

16 THE COURT: Okay.

17 Next.

18 PROSPECTIVE JUROR YOZAMP: Wendy Yozamp.

19 THE COURT: Go ahead.

20 PROSPECTIVE JUROR YOZAMP: Um, I have a job offer which
21 would be a transfer out of state. And, um, it could, uh,
22 potentially not come through if I have to be on trial for five
23 weeks. They've told me they would like me to start in two weeks
24 should we settle on the terms.

25 THE COURT: Are you, um, the -- the sole income in your

1 household.

2 PROSPECTIVE JUROR YOZAMP: No, I'm not.

3 THE COURT: Your husband would be moving with you,
4 then, or your significant other?

5 PROSPECTIVE JUROR YOZAMP: Well, he's gonna be staying
6 here for -- finishing up for three months while I get us up in
7 the new location.

8 THE COURT: Okay.

9 And you have that job already?

10 PROSPECTIVE JUROR YOZAMP: It's -- I'll know definitely
11 this week.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR WHITEMAN: Paul Whiteman, your Honor.

14 THE COURT: Paul Whitman?

15 PROSPECTIVE JUROR WHITEMAN: Whiteman. Whiteman.

16 THE COURT: Yes, sir. Go ahead.

17 PROSPECTIVE JUROR WHITEMAN: I am the sole -- sole
18 means of support for my family. And a trial in the length of
19 five weeks I do not believe my employer will pay me for the
20 entire time, if at all.

21 THE COURT: Who do you work for?

22 PROSPECTIVE JUROR WHITEMAN: Cashman Professional.

23 THE COURT: Cashman Equipment?

24 PROSPECTIVE JUROR WHITEMAN: Cashman Professional.

25 THE COURT: And you don't know whether your employer

1 has a jury policy or not?

2 PROSPECTIVE JUROR WHITEMAN: I do -- I do not believe
3 we do.

4 THE COURT: Okay. Thank you, sir.

5 PROSPECTIVE JUROR BYRNS: Ken Byrns.

6 It would be a financial hardship. I am the principal
7 breadwinner. My job does not pay jury duty.

8 THE COURT: What do you do for a living?

9 PROSPECTIVE JUROR BYRNS: I drive a tour bus. And also
10 I have a court date in Kingman on September 23rd.

11 THE COURT: Friday, September 23rd?

12 PROSPECTIVE JUROR BYRNS: I think it's Friday. I don't
13 know.

14 THE COURT: That is a Friday.

15 PROSPECTIVE JUROR BYRNS: Thank you.

16 THE COURT: But we will not be sitting on a Friday.
17 What does your wife do?

18 PROSPECTIVE JUROR BYRNS: She is disabled.

19 THE COURT: Does she have an income?

20 PROSPECTIVE JUROR BYRNS: Social Security.

21 THE COURT: Does your company -- which company do you
22 work for?

23 PROSPECTIVE JUROR BYRNS: Grand Tours.

24 THE COURT: Do you know if they have a jury leave
25 policy?

1 PROSPECTIVE JUROR BYRNS: They do not.

2 THE COURT: Okay. Thank you.

3 PROSPECTIVE JUROR VINSON: Barney Vinson.

4 We have prepaid plane tickets for September 23rd for my
5 high school reunion in Texas and my wife's already taken her
6 vacation, uh, for that -- for that trip.

7 THE COURT: And it's when?

8 PROSPECTIVE JUROR VINSON: September 23rd.

9 THE COURT: That's a Friday?

10 PROSPECTIVE JUROR VINSON: Yes.

11 THE COURT: Okay. All right. Thank you.

12 PROSPECTIVE JUROR MATELSKE: My name's David Matelske.
13 Um, I work a hundred percent commission job and it would be a
14 hardship on my family.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR MATELSKE: I'm a field marketer.

17 THE COURT: For which company?

18 PROSPECTIVE JUROR MATELSKE: Uh, for the Marriott
19 Company.

20 THE COURT: Marriott -- does it have a jury leave
21 policy?

22 PROSPECTIVE JUROR MATELSKE: That I don't know. I
23 haven't worked with them long enough.

24 THE COURT: Okay. Thank you.

25 PROSPECTIVE JUROR CUNNINGHAM: I'm Darrell Cunningham.

1 And my wife and I have, uh, airplane tickets that we've
2 already bought for September the 22nd to fly to Omaha and back
3 Friday, September the 30th.

4 THE COURT: You return on the 30th?

5 PROSPECTIVE JUROR CUNNINGHAM: Of September, yes.

6 THE COURT: Is this a vacation or...

7 PROSPECTIVE JUROR CUNNINGHAM: Uh, it's to visit my,
8 um -- she's a sister-in-law. Her husband died about a year ago,
9 but she's having a real difficult time readjusting. So my wife
10 and I wanted to go visit her.

11 THE COURT: Are the tickets nonrefundable?

12 PROSPECTIVE JUROR CUNNINGHAM: I -- I don't think they
13 are refundable. They were bought on a special price.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR DOTY: Hi. My name is Katherine
16 Doty. I'm corporate treasurer of Classic Door and Trim. I
17 handle the daily operations of the business. I process payroll
18 for approximately a hundred employees on a weekly basis. I am
19 the only person that's done the payroll in almost 23 years,
20 except for my mom who did it for seven employees when I went on
21 our honeymoon 20 years ago.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR DOTY: I'm also the primary provider
24 for my family. My husband is employed, but I'm the primary
25 income. It's only the length of the trial that -- sorry. I'm

1 nervous. I've always wanted to do this. But five weeks -- I
2 do -- the jury policy is my company pays the first day off for a
3 day and after that there's no pay.

4 THE COURT: Okay. Thank you.

5 PROSPECTIVE JUROR UPCHURCH: Robert Upchurch.

6 I'm a heavy equipment operator with Diamond
7 Construction. They don't have a policy for paying for a jury.
8 And it would create a financial hardship for my family. I'm not
9 the sole -- my wife does work -- but I am the major breadwinner
10 of the family.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR SCHAFFER: My name's Judy Schaffer.
13 I have a prepaid vacation, plane tickets, to Virginia beginning
14 October 3rd through the 13th.

15 THE COURT: Nonrefundable?

16 PROSPECTIVE JUROR SCHAFFER: Nonrefundable.

17 THE COURT: Thank you.

18 Next.

19 PROSPECTIVE JUROR McFARLANE: Brandon McFarlane.

20 And I'm supposed to start employment with the U.S.
21 Postal Service on -- this coming Friday.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR MOLANO: My name's Chris Molano.

24 I work for, uh, Station Casinos and I think they only
25 pay up to two weeks. And I am the sole breadwinner of my home.

1 THE COURT: Okay. Thank you.

2 PROSPECTIVE JUROR MARTIN: Mike Martin.

3 Financial hardship. I'm the sole provider for my
4 family.

5 THE COURT: Where do you work?

6 PROSPECTIVE JUROR MARTIN: The Walters Group.

7 THE COURT: Say it again.

8 PROSPECTIVE JUROR MARTIN: The Walters Group.

9 THE COURT: Walters Group? Billy Walters?

10 PROSPECTIVE JUROR MARTIN: Excuse me?

11 THE COURT: Is it Billy Walters?

12 PROSPECTIVE JUROR MARTIN: Yes, sir.

13 THE COURT: Thank you.

14 What do you do there, sir?

15 PROSPECTIVE JUROR MARTIN: I am a systems technician
16 for computers.

17 THE COURT: Thank you.

18 Eric Jacobo is excused. Please return to the Jury
19 Commissioner on the first floor.

20 Victoria Dolan is excused. Same thing, report to the
21 Jury Commissioner on the first floor.

22 Wendy Yozamp is excused. Please report to the Jury
23 Commissioner on the first floor.

24 All those who are excused at this time please report.

25 Paul Whiteman, excused. Report to the Jury

1 Commissioner.

2 Kenneth Byrns, excused. Please report to the Jury
3 Commissioner.

4 Darrell Cunningham, excused. Please report to the Jury
5 Commissioner.

6 Katherine Doty, same.

7 Robert Upchurch, same.

8 Judy Schaffer, same.

9 Chris Molano, same.

10 Clerk will call names to fill the vacancies.

11 For those of you who have -- who have not been excused
12 who did state reasons, I will consider those again after we --
13 after we see how our panel is turning out.

14 THE CLERK: Jennifer Weiss, W-e-i-s-s. Jennifer Weiss.
15 Carolyn Salton, S-a-l-t-o-n.

16 THE COURT: Hold on just a minute.

17 THE CLERK: Carolyn Salton.

18 THE COURT: Let's -- before we -- let's ask: Do you
19 have a positive response to any of the questions that I asked
20 already, Ms. Weiss?

21 PROSPECTIVE JUROR WEISS: Um, yes. It would be a
22 financial burden on me.

23 THE COURT: Tell -- tell me of your situation.

24 PROSPECTIVE JUROR WEISS: Um, I -- I work full time and
25 I -- we are a double income family. We have nine children. I

1 have to pay child support, so I wouldn't be able to do that. If
2 I don't work, I don't get paid.

3 THE COURT: Where do you work?

4 PROSPECTIVE JUROR WEISS: Silver Lands, Incorporated.
5 It's a landscaping company.

6 THE COURT: What do you do there?

7 PROSPECTIVE JUROR WEISS: I'm the office manager.

8 THE COURT: You said you have nine children?

9 PROSPECTIVE JUROR WEISS: Between me and my husband,
10 yes.

11 THE COURT: Okay. And --

12 PROSPECTIVE JUROR WEISS: They don't live all with us
13 at the same time.

14 THE COURT: But you pay child support for those that --

15 PROSPECTIVE JUROR WEISS: Yes.

16 THE COURT: -- don't?

17 PROSPECTIVE JUROR WEISS: I -- I pay for mine and he
18 pays for his.

19 THE COURT: All right.

20 And what does he do?

21 PROSPECTIVE JUROR WEISS: He's a lineman.

22 THE COURT: For Nevada Power?

23 PROSPECTIVE JUROR WEISS: No. For Hampton Tedder
24 Electric Company.

25 THE COURT: All right. Thank you.

1 Now, the next one that you called, Ms. Clerk, to fill
2 Mr. --

3 THE CLERK: It's Carolyn Salton.

4 THE COURT: Yes. How do we spell that?

5 THE CLERK: S-a-l-t-o-n.

6 THE COURT: Do you have a positive response to any of
7 the questions I've already asked, Ms. Salton.

8 PROSPECTIVE JUROR SALTON: Yes.

9 THE COURT: All right. Tell us -- hand her the mic.
10 Tell us what it is.

11 PROSPECTIVE JUROR SALTON: Oh. I don't have a
12 response. I don't have...

13 THE COURT: I can't hear you.

14 PROSPECTIVE JUROR SALTON: I don't have a response.

15 THE COURT: Oh, you don't have a positive response.

16 PROSPECTIVE JUROR SALTON: Hum-um.

17 THE COURT: All right. Thank you. I'm sorry. I
18 misunderstood you.

19 Next.

20 THE CLERK: Luz Cruz-Vitaro, C-r-u-z hyphen
21 V-i-t-a-r-o. Luz Cruz-Vitaro.

22 THE COURT: Ms. Cruz-Vitaro, do you have a positive
23 response to any of the questions I have asked already?

24 PROSPECTIVE JUROR CRUZ-VITARO: Yes, sir.

25 THE COURT: Which one?

1 PROSPECTIVE JUROR CRUZ-VITARO: I work in Station
2 Casinos. They only pay me two weeks. After two weeks, it will
3 be unpaid. My husband, also, is having a procedure done on
4 September 20th that I need to take him to the hospital.

5 THE COURT: Do you mind telling me what the procedure
6 is or would you like to go to sidebar?

7 PROSPECTIVE JUROR CRUZ-VITARO: Is -- he lost his
8 voice. They cannot determine what is going on. It's been going
9 on for four months. They're gonna do something to determine how
10 much acid reflux is coming up and is burning his -- damaging his
11 vocal cord.

12 THE COURT: Okay.

13 When -- when does that procedure take place?

14 PROSPECTIVE JUROR CRUZ-VITARO: On September 20, next
15 Tuesday.

16 THE COURT: Is it an outpatient procedure?

17 PROSPECTIVE JUROR CRUZ-VITARO: That is correct.

18 THE COURT: Do you have anyone else that can take him
19 to that?

20 PROSPECTIVE JUROR CRUZ-VITARO: No, sir.

21 THE COURT: Okay. Thank you.

22 Hold on just a minute, Ms. Clerk.

23 THE CLERK: Jennifer Sudberry, S-u-d-b-e-r-r-y.
24 Jennifer Sudberry.

25 THE COURT: Ms. Sudberry, do you have a positive

1 response to any of the questions I have asked already?

2 PROSPECTIVE JUROR SUDBERRY: Yes. I'm a business
3 owner.

4 THE COURT: What's your business?

5 PROSPECTIVE JUROR SUDBERRY: Salon West. And I'm a
6 cosmetologist also. And five weeks I could stand a chance of
7 losing my business.

8 THE COURT: So you own the business?

9 PROSPECTIVE JUROR SUDBERRY: Yes.

10 THE COURT: Okay.

11 But you work there also; right?

12 PROSPECTIVE JUROR SUDBERRY: Yes.

13 THE COURT: Okay. Thank you.

14 Next, Ms. Clerk.

15 THE CLERK: Vanya Scott, S-c-o-t-t. Vanya Scott.

16 THE COURT: Do you have a positive response to any of
17 the questions I have asked already?

18 PROSPECTIVE JUROR V. SCOTT: No, sir, I don't.

19 THE COURT: What is it? Which one?

20 PROSPECTIVE JUROR V. SCOTT: I don't.

21 THE COURT: You said you do not?

22 PROSPECTIVE JUROR V. SCOTT: I don't have any yes
23 answers.

24 THE COURT: Okay. Thank you.

25 All right. Next.

1 THE CLERK: Stanley Ward, W-a-r-d. Stanley Ward.

2 THE COURT: And he's in -- number 21?

3 THE CLERK: Uh, yes, sir.

4 THE COURT: Okay.

5 Mr. Ward, do you have a positive response to any of the
6 questions I have already asked?

7 PROSPECTIVE JUROR WARD: None.

8 THE COURT: No. Thank you.

9 THE CLERK: Patricia Lopez, L-o-p-e-z. Patricia Lopez.

10 THE COURT: Is that number 23?

11 THE CLERK: Yes, sir.

12 THE COURT: Do you have a positive response to any of
13 the questions I've already asked, Ms. Lopez?

14 PROSPECTIVE JUROR P. LOPEZ: Yes. Um, I'm not -- I
15 work for JCPenny. And I don't know if, um, they, uh, pay for
16 jury duty.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR P. LOPEZ: Um, I am single and -- and
19 have my own home. So it would -- it would cause a financial
20 hardship for me.

21 THE COURT: What shift do you work at JCPenny?

22 PROSPECTIVE JUROR P. LOPEZ: I work -- I'm a pricing
23 associate. I go in at 5:00 a.m., uh, and work until, uh, 1:00
24 p.m.

25 THE COURT: Okay. Thank you. Thank you.

1 Next.

2 THE CLERK: Rena Maragos, M-a-r-a-g-o-s. Rena Maragos.

3 THE COURT: Do you have a positive response?

4 PROSPECTIVE JUROR P. LOPEZ: No.

5 THE COURT: Thank you.

6 THE CLERK: Leonard Lattin, L-a-t-t-i-n. Leonard
7 Lattin.

8 THE COURT: Mr. Lattin, do you have a positive
9 response?

10 PROSPECTIVE JUROR LATTIN: Yes, sir.

11 THE COURT: To which question?

12 PROSPECTIVE JUROR LATTIN: Um, the financial hardship.

13 THE COURT: Okay. Go ahead.

14 PROSPECTIVE JUROR LATTIN: Um, I require -- or I live
15 on my overtime and I'd miss out on about 15 to 20 hours a week.

16 THE COURT: You'd miss out on 15 to 20 hours of
17 overtime?

18 PROSPECTIVE JUROR LATTIN: Yes, sir. A week.

19 THE COURT: Per week.

20 Where do you work?

21 PROSPECTIVE JUROR LATTIN: Sunstate Equipment.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR LATTIN: Thank you.

24 THE CLERK: Stacey Bouchard, B-o-u-c-h-a-r-d. Stacey
25 Bouchard.

1 THE COURT: Is that number 29?

2 THE CLERK: Yes, sir.

3 THE COURT: Ms. Bouchard, do you have a positive
4 response?

5 PROSPECTIVE JUROR BOUCHARD: No.

6 THE COURT: Thank you.

7 Next.

8 THE CLERK: Your Honor, that's --

9 THE COURT: That's it.

10 THE CLERK: -- that's it.

11 THE COURT: Okay. Thank you.

12 Jennifer Weiss is excused.

13 THE CLERK: Lisa Green.

14 THE COURT: Hold on. Hold on just a minute.

15 THE CLERK: Oh, I'm sorry.

16 THE COURT: Who do we have in number 13?

17 THE CLERK: Number 13 is Cruz-Vitaro.

18 THE COURT: Cruz-Vitaro is excused.

19 Who do we have on number 14? Is this Sudberry,
20 Jennifer Sudberry?

21 THE CLERK: Sudberry is 15.

22 THE COURT: Who do we have on -- oh, the cosmetologist.
23 Okay. We still have Barbara Moulton here. Is that right?

24 THE CLERK: Yeah.

25 THE COURT: Okay.

1 THE CLERK: We should.

2 THE COURT: Yep. Okay.

3 Number 15, Jennifer Sudberry is excused.

4 Ms. Scott did not have a positive response.

5 THE CLERK: Ms. Moulton?

6 PROSPECTIVE JUROR MOULTON: Yes.

7 THE CLERK: Could you move over one seat because
8 we're -- that's what's -- that's what's confusing to us. Thank
9 you.

10 PROSPECTIVE JUROR MOULTON: Sorry.

11 THE COURT: Okay. Let's fill the vacancies in 1.

12 THE CLERK: Number 1 is Lisa Green-Wilson, G-r-e-e-n
13 hyphen W-i-l-s-o-n. Lisa Green-Wilson.

14 THE COURT: Ms. Green-Wilson --

15 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

16 THE COURT: -- do you have a positive response to any
17 of the questions that I have asked already?

18 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir. I have two
19 concerns. Uh, I'm not sure if my company will pay for five
20 weeks' jury duty.

21 THE COURT: What is the name of your company?

22 PROSPECTIVE JUROR GREEN-WILSON: Wells Fargo Financial.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR GREEN-WILSON: And -- excuse me --
25 second, I have a court date on October the 7.

1 THE COURT: A what?

2 PROSPECTIVE JUROR GREEN-WILSON: Court date.

3 THE COURT: Court date?

4 PROSPECTIVE JUROR GREEN-WILSON: Yes.

5 THE COURT: For?

6 PROSPECTIVE JUROR GREEN-WILSON: Small claims court.

7 THE COURT: Small claims?

8 PROSPECTIVE JUROR GREEN-WILSON: Yes.

9 THE COURT: Okay.

10 Are you a plaintiff or a defendant?

11 PROSPECTIVE JUROR GREEN-WILSON: Plaintiff.

12 THE COURT: Plaintiff. Okay. For October 2nd?

13 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

14 THE COURT: We can help you with that, with getting a
15 postponement, not with your case. All right. Thank you.

16 Next.

17 THE CLERK: Replacing 13.

18 THE COURT: 13.

19 THE CLERK: Sherry Osterwald, O-s-t-e-r-w-a-l-d.

20 Sherry Osterwald.

21 THE COURT: Go ahead.

22 PROSPECTIVE JUROR OSTERWALD: My name is Sherry
23 Osterwald.

24 THE COURT: All right.

25 Do you have a positive response to any of the questions

1 I have asked?

2 PROSPECTIVE JUROR OSTERWALD: Yes, sir.

3 THE COURT: Okay.

4 Which one?

5 PROSPECTIVE JUROR OSTERWALD: I work for Circus Circus.

6 I do have to be there tonight for a mandatory class. I, uh, am
7 taking job -- I am taking a training class tonight. I need to
8 be excused early if it's possible.

9 THE COURT: Thank you. Thank you.

10 THE CLERK: Replacing number 15, Gen Sicat, S-i-c-a-t.
11 Gen Sicat.

12 THE COURT: Is that the correct pronunciation of your
13 name?

14 PROSPECTIVE JUROR SICAT: Yes, sir.

15 THE COURT: Do you have a positive response?

16 PROSPECTIVE JUROR SICAT: Yes, sir.

17 THE COURT: To what?

18 PROSPECTIVE JUROR SICAT: Um, I go to school at UNLV
19 full time. I'm taking five classes. And I work part time at
20 MGM. And I can't miss school because we have a three-day
21 policy. If three days absent, they will automatically fail me.

22 THE COURT: Okay. Thank you.

23 Are those all of the blanks we have?

24 THE CLERK: Yes, sir.

25 THE COURT: Okay.

1 Ms. Osterwald is excused. Mr. Sicat is excused.

2 THE CLERK: Replacing 13, Annie Gilliard,
3 G-i-l-l-i-a-r-d. Annie Gill- -- Gilliard.

4 THE COURT: Go ahead, Ms. Gilliard.

5 PROSPECTIVE JUROR GILLIARD: I have no response.

6 THE COURT: Okay. Thank you.

7 THE CLERK: Jodie McDaugale, M-c-D-a-u-g-a-l-e. Jodie
8 McDaugale.

9 THE COURT: Okay.

10 Is that the correct pronunciation of your name?

11 PROSPECTIVE JUROR McDAUGALE: No, sir. It's McDaugale.

12 THE COURT: McDaugale.

13 Mr. McDaugale, do you have a positive response?

14 PROSPECTIVE JUROR McDAUGALE: No, sir.

15 THE COURT: Thank you.

16 I'll now take a brief moment with counsel at sidebar to
17 go over the remaining hardship requests.

18 (Sidebar conference was held as follows:)

19 THE CLERK: Judge, there is one little thing. Judge
20 Jones has denied Mr. Leventhal's request to continue his
21 sentencing set for 11:30. And so Judge Jones wants him
22 upstairs.

23 MR. LEVENTHAL: I've tried to continue it. I've
24 given --

25 THE COURT: Oh, okay.

1 MR. BOWERS: I, also, have a change of plea with him
2 for 1:00. I've tried to work around this just so you know.

3 THE COURT: Okay. All right.

4 Um, are you gonna need him as advisory counsel for a
5 few minutes while...

6 MR. SCHIFF: Well, if he has to go someplace --

7 THE COURT: We're in jury selection, but --

8 MR. SCHIFF: I gotta have my hearing aids adjusted. I
9 can't here anything --

10 THE COURT: Okay.

11 MR. SCHIFF: -- practically.

12 THE COURT: All right. Well, okay.

13 MR. SCHIFF: Well, I don't know anything about jury
14 selection. So I'm gonna leave it really up to the --

15 THE COURT: Okay. All right.

16 Green, Wells Fargo. They have a jury policy and they
17 are gonna get paid. That's a big company. I'm not going to
18 excuse her.

19 Marco Castro, his wife's employed. He's just gonna
20 lose tip income. So I'm not -- I'm not inclined to -- to let
21 him out on that, although I'll consider it if counsel feel that
22 he's gonna be a problem.

23 MR. BOWERS: Fine.

24 MR. IGNALL: We -- we have some concern. I don't know
25 how strapped they are. If they need that 40 percent of his

1 income as tips then --

2 THE COURT: Yeah. Well, we still have plenty in the
3 pool. So we can --

4 MR. CRISTALLI: He may -- there may be a language
5 problem there too.

6 MR. IGNALL: Well, that...

7 THE COURT: Yeah, you could be right on that. I
8 noticed it wasn't too good. We'll excuse Marco Castro.

9 Getting on down here, looks like this prepaid ticket on
10 September 23rd. That's a Friday.

11 MR. CRISTALLI: Where is that one, your Honor.

12 MR. IGNALL: I don't think we found out when he was
13 coming back.

14 THE COURT: It's a reunion. It can't -- can't last --
15 he's the class reunion.

16 MR. IGNALL: If he comes back that Sunday.

17 MR. CRISTALLI: That's number --

18 MR. BOWERS: Which one is that, your Honor?

19 THE COURT: Number 18, question.

20 MR. CRISTALLI: So we're not doing anything on that one
21 right now?

22 THE COURT: Not right now.

23 MR. CRISTALLI: Okay.

24 THE COURT: Uh, Matelske.

25 MR. CRISTALLI: Commission job, full commission.

1 THE COURT: Hundred percent commission. That's
2 number 20.

3 MR. BOWERS: Thank you.

4 THE COURT: What do you think?

5 MR. CRISTALLI: I think it's gonna be a problem for
6 him. I heard that.

7 MR. BOWERS: What does Marriott have. Marriott doesn't
8 pay him.

9 THE COURT: Oh, I'm sure they have something. But...

10 MR. CRISTALLI: I mean, if he's a hundred percent
11 commission --

12 MR. BOWERS: If he's not gettin' paid, it's not fair to
13 him.

14 THE COURT: Hundred percent commission. It might
15 not -- might not apply to him.

16 MR. BOWERS: Does he have to do two weeks of community
17 service then?

18 THE COURT: No.

19 MR. BOWERS: I'm teasing, Judge.

20 THE COURT: Cleaning up Marriott. Take more than two
21 weeks. All right.

22 MR. CRISTALLI: How --

23 MR. BOWERS: What about --

24 MR. CRISTALLI: Lopez?

25 THE COURT: Lopez, JCPenny.

1 MR. CRISTALLI: Single.

2 MR. BOWERS: It's up to you.

3 THE COURT: I think we still got plenty of pool out
4 there.

5 MR. BOWERS: They're out there.

6 Are we gonna leave number 32 around a little longer?

7 MR. CRISTALLI: What about 25?

8 THE COURT: 25.

9 MR. CRISTALLI: It's a hardship.

10 THE COURT: 15 to 20 hours. He's just losing overtime.

11 MR. CRISTALLI: That's fine.

12 MR. BOWERS: Can we follow up on that and see what --
13 if that's required or not? I got an impression that wasn't just
14 fun money for him.

15 MR. NEIMAN: Yeah. Also --

16 THE COURT: Well, it's required because his -- his
17 spending equals more than -- more than his standard income
18 obviously.

19 MR. BOWERS: Yeah.

20 THE COURT: That's what he's gonna tell us, so...
21 Do you want to let him go?

22 MR. BOWERS: Yeah.

23 MR. IGNALL: We don't object.

24 THE COURT: Okay.

25 MR. BOWERS: It's a long time to keep people here.

1 THE COURT: Yeah. All right.

2 The guy with the U.S. postal service job? I don't see
3 a problem there. Just leave him on.

4 MR. IGNALL: And that's Friday.

5 MR. CRISTALLI: There's one -- there's other one, I
6 think, that we didn't discuss yet and that was Martin.

7 MR. BOWERS: That's number 32.

8 MR. IGNALL: The Walters Group.

9 MR. CRISTALLI: The Walters Group.

10 MR. BOWERS: Do you know they have a good jury policy?
11 Is that why you left him there?

12 THE COURT: Oh. That's a very wealthy company. He's a
13 systems tech.

14 MR. CRISTALLI: That's fine. Leave him.

15 THE COURT: I'm pretty sure he's safe.

16 MR. BOWERS: All right. And we can clarify that if --

17 THE COURT: Yeah. Billy Walters is a guy that's very
18 community minded. I would be very surprised if he didn't --

19 MR. BOWERS: Help him out.

20 THE COURT: -- support his -- I don't think Billy wants
21 that kind of publicity. All right.

22 MR. IGNALL: So we'll confirm with Mr. Vinson that
23 he'll be back by Sunday?

24 THE COURT: We are. We're gonna confirm that he'll be
25 back by Sunday. So let's walk through those.

1 MR. IGNALL: Thank you, your Honor.

2 (Sidebar conference concluded and the
3 following is held in open court:)

4 THE COURT: Marco Castro is excused.

5 THE CLERK: Do you want me to call to replace
6 Mr. Castro?

7 THE COURT: Please.

8 THE CLERK: Uriel Samaniego, S-a-m-a-n-i-e-g-o. Uriel
9 Samaniego.

10 THE COURT: Mr. Samaniego, do you have a positive
11 response to any of the questions I have asked?

12 PROSPECTIVE JUROR SAMANIEGO: I probably -- I don't
13 know if my company will pay the whole five weeks of --

14 THE COURT: Who do you work for?

15 PROSPECTIVE JUROR SAMANIEGO: I work for The
16 Rio/Harrah's.

17 THE COURT: Rio. Okay.

18 PROSPECTIVE JUROR SAMANIEGO: And they do pay, but I
19 don't know if they'll pay for five weeks.

20 THE COURT: All right. Thank you.

21 Um, number 12. Who did we have -- Sherry -- who do you
22 have in number 12?

23 (Discussion between the clerk and the Court.)

24 THE COURT: Mr. Vinson, your class reunion. You leave
25 on a Friday. When's your return flight?

1 PROSPECTIVE JUROR VINSON: I'm coming back on October
2 the 3rd. We're takin' a week -- a week in Texas.

3 THE COURT: Oh. So it's not just your class reunion.

4 PROSPECTIVE JUROR VINSON: Well, it's a combination
5 class reunion/vacation.

6 THE COURT: Vacation. Okay.

7 I wouldn't think your wife would stay at a class
8 reunion for ten days. Okay.

9 Are those nonrefundable?

10 PROSPECTIVE JUROR VINSON: Nonrefundable.

11 THE COURT: All right.

12 Mr. Vinson is excused. Please report downstairs.

13 THE CLERK: To replace number 18, Laurel Stinar,
14 S-t-i-n-a-r. Laurel Stinar.

15 THE COURT: We were going to excuse Mr. Matelske --

16 THE CLERK: Okay.

17 THE COURT: -- is that correct?

18 THE CLERK: Yes.

19 THE COURT: Number 20, Mr. Matelske, is excused.
20 Replacement.

21 THE CLERK: Yes, sir.

22 Did you want to ask Ms. Stinar if she has any positive
23 responses?

24 THE COURT: Oh. Let's see: Yes.

25 Ms. Stinar.

1 PROSPECTIVE JUROR STINAR: Yeah. Mine is a hardship.
2 I work at the temporary assistance for domestic crisis, SafeNest
3 Domestic Violence Shelter. It's a nonprofit organization. They
4 do not offer, um, jury service pay as well as I am relief staff.
5 So, at this point, I'm basically taking whatever available hours
6 I can. And I'm currently in the process of getting a second job
7 and the interview was at 9:30 this morning, just to be able to
8 pay the bills.

9 THE COURT: Okay. Ms. Stinar is excused.

10 Replacement.

11 THE CLERK: Belisa Brownlee, B-r-o-w-n-l-e-e. Belisa
12 Brownlee.

13 THE COURT: Ms. Brownlee, do you have a positive
14 response to any of the questions?

15 PROSPECTIVE JUROR BROWNLEE: No, sir.

16 THE COURT: Thank you.

17 Number 20, Mr. Matelske.

18 THE CLERK: Number 20 is Travis Groft, G-r-o-f-t.
19 Travis Groft.

20 THE COURT: Mr. Groft, do you have a positive response
21 to any of the questions?

22 PROSPECTIVE JUROR GROFT: No, sir.

23 THE COURT: Thank you.

24 MR. CRISTALLI: Excuse me, Ms. Clerk. What number was
25 that? I'm sorry. I...

1 THE COURT: 20.

2 THE CLERK: 20.

3 MR. CRISTALLI: And the name again.

4 THE CLERK: Groft.

5 THE COURT: G-r-o-f-t.

6 THE CLERK: Travis Groft, G-r-o-f-t.

7 THE COURT: What did we decide with Ms. Lopez?

8 (Discussion between the clerk and the Court.)

9 THE COURT: Ms. Lopez is excused.

10 THE CLERK: Max Dyess, D-y-e-s-s, replacing number 23.

11 THE COURT: Mr. Dyess, do you have a positive response
12 to any of the questions?

13 PROSPECTIVE JUROR DYESS: I'm retired and my wife is
14 disabled. But I'll do the best I can, sir.

15 THE COURT: All right. Thank you.

16 And next was -- Mr. Lattin is excused.

17 THE CLERK: Replacing number 25, Stewart Craigie,
18 C-r-a-i-g-i-e. Stewart Craigie.

19 THE COURT: Mr. Craigie, do you have a positive
20 response to any of the questions?

21 PROSPECTIVE JUROR CRAIGIE: No, your Honor, I don't.

22 THE COURT: Thank you.

23 Okay. I think that's going to complete all of the ones
24 that we're going to replace for --

25 THE CLERK: Yes, sir.

1 THE COURT: -- hardship.

2 The next question: Do any of you have a health problem
3 which would make it difficult for you to serve as a juror?

4 (Hands raised.)

5 Raise your hand. Yes, sir. Identify yourself, please.

6 PROSPECTIVE JUROR McKEE: Yes, sir. My name is Michael
7 McKee.

8 Recently I've been having problems with vertigo and it
9 comes and goes.

10 THE COURT: Okay.

11 How often does that happen in a day?

12 PROSPECTIVE JUROR McKEE: Um, it's like this morning
13 I've already had a minor attack while we've been sitting here.
14 But I --

15 THE COURT: Okay.

16 Are you okay while you're sitting down or...

17 PROSPECTIVE JUROR McKEE: Sitting down, standing up,
18 um, sometimes even lying down I can have it.

19 THE COURT: Have you been treated?

20 PROSPECTIVE JUROR McKEE: Um, I'm seeing a doctor right
21 now and we're trying to figure out what the problem is.

22 THE COURT: Okay.

23 So does it happen several times a day?

24 PROSPECTIVE JUROR McKEE: Yes, sir, it can. There are
25 some days where it doesn't happen. Um, today, um, about 4:00

1 o'clock in the morning I had the problem; um, got relatively
2 dizzy and I've had a minor problem here this morning already.

3 THE COURT: All right. I think we'll go ahead and
4 excuse you.

5 Ms. Clerk.

6 THE CLERK: Yes, sir.

7 Richard Kaderlik, K-a-d-e-r-l-i-k. Richard Kaderlik.
8 That replaces 27.

9 THE COURT: Mr. Kaderlik, go ahead and be seated and
10 then tell me if you have a positive response.

11 PROSPECTIVE JUROR KADERLIK: Uh, no.

12 THE COURT: Thank you.

13 Now that you have heard the nature of the criminal
14 offense --

15 MR. IGNALL: Excuse me, your Honor.

16 THE COURT: I'm sorry. Yes.

17 MR. IGNALL: I think another gentleman had a positive
18 response --

19 THE COURT: Oh. All right.

20 MR. IGNALL: -- to the health question.

21 THE COURT: Yes.

22 Anyone else that has a positive response to the health
23 issue? (Hand raised.)

24 Go ahead.

25 PROSPECTIVE JUROR DYESS: I'm a cancer survivor, sir.

1 I've had radiation and I have to go to the bathroom pretty
2 often. It's kinda embarrassing.

3 THE COURT: All right. Well, you know, we take --
4 breaks --

5 PROSPECTIVE JUROR DYESS: Okay.

6 THE COURT: -- as I indicated, all the time. If you
7 raise your hand, I'll let you take a break.

8 PROSPECTIVE JUROR DYESS: Thank you.

9 THE COURT: We usually go -- the most we go is an hour
10 and a half without a break. Would that work for you?

11 PROSPECTIVE JUROR DYESS: Do the best I can.

12 THE COURT: All right. Well -- and, if you have a
13 problem, you raise your hand we'll take a recess. No problem
14 there.

15 Any others? (No hands raised.) Okay.

16 Now that you have heard the nature of the criminal
17 offenses with which the defendants are charged is there anything
18 about those particular offenses which would impair your ability
19 to serve as a fair juror in this case? (No hands raised.)

20 I'm going to call on the Government to read a list of
21 its potential witnesses; ask that you listen carefully and see
22 if you know any of the witnesses.

23 MR. IGNALL: Ladies and gentlemen, the witnesses that
24 the Government may call in this case are: Antoinette Mitchell,
25 Melvin Lewis, Kris Morgan, Ted Wethje, Ann Kennedy, Michelle

1 Desgrosseliers, Carol Branigan, William Thomas, Kay Irely, Doug
2 Malone, Jacqueline Eller, Virginia Olen, Phillip Parrinelli,
3 Matthew Diamond, Thomas Menaugh, Donna Fisher, Tony Aguiar, Greg
4 Cassidy, Charles Earnest, Nancy Driscoll, Brian Allin, Jason
5 Cardiff, James Dentice, Farooq Abdulla, Julie Baumstead, David
6 Holland, Michael Charterton, Susan Gerech, Rae Lynn Stockman,
7 Cheryl Napp, Luddie Talley, Norm Struss, Bill Waller, Lynn Rose,
8 Sara Brana, Peggy Moore, Bob Graham, Audrey Barger, Kathy Mead,
9 Gail Loschen, and Clint Lowder.

10 THE COURT: Do any of you know any of the Government's
11 potential witnesses just named?

12 PROSPECTIVE JUROR SICAT: I know someone by one of the
13 names.

14 THE COURT: Say the name.

15 PROSPECTIVE JUROR SICAT: I know someone by the name of
16 Kathy Mead.

17 THE COURT: Mead. All right.

18 And where does this person live?

19 PROSPECTIVE JUROR SICAT: I don't know where she lives.
20 I -- she's a coworker. I imagine it's probably not the same
21 person.

22 THE COURT: Coworker at --

23 PROSPECTIVE JUROR SICAT: MGM.

24 THE COURT: MGM. Okay.

25 MR. IGNALL: That would not be the same witness, your

1 Honor.

2 THE COURT: Not the same person. Okay. Thank you.

3 Now, defendants can read their potential witnesses if
4 they wish. If they do not wish, I will not require it.

5 MR. CRISTALLI: No, your Honor, we will not --

6 THE COURT: All right.

7 MR. CRISTALLI: -- on behalf of Ms. Neun.

8 THE COURT: Mr. Bower [sic].

9 MR. BOWERS: I apologize, your Honor.

10 THE COURT: Yeah. The question is: Defendants can
11 read their list of potential witnesses if they wish.

12 MR. BOWERS: I would prefer not to at this point in
13 time.

14 THE COURT: All right.

15 Mr. Schiff.

16 MR. SCHIFF: I didn't hear the question.

17 THE COURT: The question is: Do you want to identify
18 any of your potential witnesses for the jury?

19 MR. SCHIFF: I'm not sure who they are gonna be. No.

20 THE COURT: All right. Thank you.

21 Do any of you know any of the other members of the jury
22 panel? Do any of you know each other? (No hands raised.)

23 Have any of you or your immediate family had any formal
24 legal training? And by that I am referring to immediate family
25 being father, mother, children, brothers, or sisters.

1 Only those who are in the panel will -- will answer at
2 this time.

3 PROSPECTIVE JUROR TERRY: Two of my children are
4 paralegals and --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR TERRY: -- I think that's about it.

7 THE COURT: All right.

8 And -- and you are Mr. Terry?

9 THE DEFENDANT: Patrick Terry, yes.

10 THE COURT: Mr. Terry, where do they work?

11 PROSPECTIVE JUROR TERRY: One in Los Angeles and other
12 in, um, Rancho Cucamonga --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR TERRY: -- in California.

15 THE COURT: Do you know which -- what kind of a law
16 firm they work for, whether it's a civil or criminal law firm or
17 a --

18 PROSPECTIVE JUROR TERRY: Civil.

19 THE COURT: -- general practice? Civil firm. Okay.

20 PROSPECTIVE JUROR TERRY: (Nods head affirmatively.)

21 THE COURT: Is there anything about that that would
22 interfere with your ability to judge this case --

23 PROSPECTIVE JUROR TERRY: Not at all.

24 THE COURT: -- only on the evidence presented here in
25 court?

1 PROSPECTIVE JUROR TERRY: Not at all.

2 THE COURT: All right. Thank you.

3 Any others?

4 PROSPECTIVE JUROR BROWNLEE: My name is Belisa
5 Brownlee. I've graduated from law school, but I do not
6 practice.

7 THE COURT: Okay.

8 You are number -- let's see. I'm trying to get your
9 juror number here.

10 MR. CRISTALLI: 18, your Honor.

11 THE COURT: 18. Yes.

12 Is there anything about your training that would --
13 would prevent you from following the instructions of law I give
14 to you whether you agree with the law or not?

15 PROSPECTIVE JUROR BROWNLEE: No, sir.

16 THE COURT: All right. Thank you.

17 Have any of you or members of your immediate family
18 engaged in law enforcement work? And by "immediate family," the
19 same definition: father, mother, children, brothers, or
20 sisters? (Hands raised.)

21 Identify yourself, please.

22 PROSPECTIVE JUROR MATHEWS: I'm Janice Mathews. My
23 sister is a, um -- a parole officer with the federal government
24 out of Salt Lake.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR MATHEWS: Her husband is a Lieutenant
2 Detective with Murray City Police Department.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR MATHEWS: And my grandfather was with
5 the FBI --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR MATHEWS: -- now deceased.

8 THE COURT: All right.

9 Is there anything about those relationships that would
10 interfere with your ability to judge this case fairly and
11 impartially and based solely on the evidence presented here in
12 court and the instructions of law as I will give it to you?

13 PROSPECTIVE JUROR MATHEWS: No.

14 THE COURT: Thank you.

15 Is there anyone who could not judge the testimony --

16 MR. FEARS: Your Honor --

17 THE COURT: I'm sorry.

18 MR. FEARS: -- I think there's another one.

19 THE COURT: Another one? Right.

20 Yes.

21 PROSPECTIVE JUROR MARTIN: My name is Mike Martin.

22 My father is retired police officer.

23 THE COURT: Your father's a retired police officer.

24 All right.

25 And where does he live?

1 PROSPECTIVE JUROR MARTIN: California.

2 THE COURT: Okay.

3 Is there any --

4 PROSPECTIVE JUROR MARTIN: And, no, I don't believe it
5 would impair my judgment.

6 THE COURT: All right. Thank you.

7 Is there anyone who could not judge the testimony --
8 testimony of all witnesses by the same standards? (No hands
9 raised.)

10 Is there anyone who would give more or less weight to
11 the testimony of a law enforcement officer? (Hand raised.)

12 MR. FEARS: Your Honor.

13 THE COURT: Yes.

14 PROSPECTIVE JUROR UY: Good morning, your Honor.

15 THE COURT: Please be seated and speak right into the
16 microphone. Put it right up to your mouth. There you go.

17 PROSPECTIVE JUROR UY: In my -- in my past experience,
18 uh, I have, also, cases -- I have a case more than a year ago.
19 I suffer injustice from the L.V. Metro that I was arrested due
20 to the fault of the court personnel. And the judge was not at
21 the time, the presiding judge, did not even know about the fault
22 of that one with -- the person of the court, that was the
23 Marshal. And I was arrested.

24 And then, during that particular day of trial, I -- I
25 make my statement of justification before the judge. And I said

1 that I was now been arrested. And the judge was amazed; he was
2 bewildered. What? You have been arrested for the second time
3 for the same offense? And then he turned his head and --

4 THE COURT: Would that experience interfere with
5 your --

6 PROSPECTIVE JUROR UY: Sure.

7 THE COURT: -- to judge this case --

8 PROSPECTIVE JUROR UY: Every --

9 THE COURT: All right. Hold on --

10 PROSPECTIVE JUROR UY: -- Las Vegas --

11 THE COURT: -- just a minute.

12 PROSPECTIVE JUROR UY: -- officer --

13 THE COURT: Would that interfere with your ability to
14 judge this case and to give --

15 PROSPECTIVE JUROR UY: I --

16 THE COURT: -- equal weight to the testimony of all
17 witnesses? You've already answered yes.

18 PROSPECTIVE JUROR UY: Yes. I have --

19 THE COURT: All right. You are excused.

20 PROSPECTIVE JUROR UY: Thank you, sir. Thank you, your
21 Honor.

22 THE COURT: Please report to the Jury Commissioner on
23 the first floor, sir.

24 PROSPECTIVE JUROR UY: Thank you.

25 THE CLERK: Replacing number 8, Dawn Porterfield,

1 P-o-r-t-e-r-f-i-e-l-d. Dawn Porterfield.

2 THE COURT: Ms. Porterfield, do you have a positive
3 response to any of the questions?

4 PROSPECTIVE JUROR PORTERFIELD: Um, yes, sir. It would
5 somewhat be a financial hardship. My company does not pay for
6 jury duty and my grandfather was a police officer.

7 THE COURT: Okay.

8 Tell me about your -- your employment first.

9 PROSPECTIVE JUROR PORTERFIELD: Um, I'm a controller at
10 Suburban Graphics.

11 THE COURT: At?

12 PROSPECTIVE JUROR PORTERFIELD: A company called
13 "Suburban Graphics." And they do not pay --

14 THE COURT: Suburban Graphics.

15 PROSPECTIVE JUROR PORTERFIELD: -- for any jury duty.

16 THE COURT: Oh, yes. Okay.

17 And what do you do there in -- as your duties? Are
18 these things that you could do after hours? before hours?

19 PROSPECTIVE JUROR PORTERFIELD: Uh, yes, some of them
20 are.

21 THE COURT: Okay. All right. Thank you.

22 And with respect to your father --

23 PROSPECTIVE JUROR PORTERFIELD: My grandfather.

24 THE COURT: -- grandfather being a police officer?

25 PROSPECTIVE JUROR PORTERFIELD: It would not impair my

1 decision.

2 THE COURT: All right. Thank you.

3 Yeah. That's enough. Thank you.

4 Any -- any others? (No hands raised.) All right.

5 Have any of you ever served as a member of a federal or
6 state or local Grand Jury? (No hands raised.)

7 Have any of you or any members of your immediate
8 family, as I defined immediate family, ever been a party to
9 litigation with the United States? (No hands raised.)

10 Have any of you or members of your immediate family
11 ever been prosecuted for a criminal offense? And, before you
12 raise your hand, let me tell you again, remind you, that you can
13 go to sidebar if you wish to, uh -- if you wish to tell me in
14 private so that you don't have to speak in front of everyone
15 else.

16 So, first, let's see by a show of hands: Have any of
17 you or members of your immediate family ever been prosecuted for
18 a criminal offense? (Hands raised.)

19 Okay. The next -- so we have how many? Raise your
20 hands again. All right. We have two? Three hands up.

21 How many of you want to go to sidebar? All three.

22 Okay. Let's go to sidebar.

23 (Sidebar conference was held as follows:)

24 THE COURT: Ms. Doty.

25 THE CLERK: Have Ms. Doty come, Chad.

1 THE COURT: Was it Doty?

2 MR. CRISTALLI: No, no, no, she's been excused.

3 THE COURT: Who is it?

4 MR. BOWERS: It's Juror number --

5 THE COURT: Come over here. Come on in. State your
6 name.

7 PROSPECTIVE JUROR MATHEWS: Janice Mathews.

8 THE COURT: Mathews. Where are you seated?

9 THE CLERK: 22.

10 PROSPECTIVE JUROR MATHEWS: 22.

11 THE COURT: Do you want the pink noise, white noise?

12 MR. CRISTALLI: Fuzzy noise.

13 MR. BOWERS: Obnoxious.

14 THE COURT: Yeah, it certainly is irritating.

15 MR. BOWERS: Yeah.

16 THE COURT: All right. There we go.

17 All right. Do you wanna just -- if you just say it
18 kinda quietly into that microphone.

19 PROSPECTIVE JUROR MATHEWS: Okay. Well, my oldest son,
20 who is now 36, um, when was 19 was convicted of selling drugs.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR MATHEWS: He's -- didn't serve time.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR MATHEWS: But he's been clean and --

25 THE COURT: All right. Good.

1 PROSPECTIVE JUROR MATHEWS: -- good boy ever since.

2 So...

3 THE COURT: Anything about that that would interfere
4 with your ability to be fair and impartial in this case?

5 PROSPECTIVE JUROR MATHEWS: No.

6 THE COURT: To both sides?

7 PROSPECTIVE JUROR MATHEWS: No.

8 THE COURT: Okay. All right.

9 PROSPECTIVE JUROR MATHEWS: Okay. Thanks.

10 THE COURT: Thank you.

11 Everybody okay out there?

12 MR. NEIMAN: For now.

13 MR. BOWERS: Your Honor, while we're over here -- I
14 know you're in a hurry -- I need to use the restroom, if you get
15 a chance. Sorry.

16 THE COURT: Okay.

17 Yes.

18 PROSPECTIVE JUROR DYESS: Judge, my wife -- I think it
19 was 1979. It was before I ever knew her -- she -- manslaughter.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR DYESS: It was pleaded. She got
22 probation.

23 THE COURT: Before you met her, before you married her?

24 PROSPECTIVE JUROR DYESS: Oh, yes.

25 THE COURT: Anything that would interfere --

1 PROSPECTIVE JUROR DYESS: No.

2 THE COURT: -- with your ability to be fair and
3 impartial --

4 PROSPECTIVE JUROR DYESS: No.

5 THE COURT: -- as a result of that?

6 THE CLERK: What's your name?

7 THE COURT: Your name.

8 PROSPECTIVE JUROR DYESS: Max Dyess --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR DYESS: -- D-y-e-s-s.

11 THE CLERK: Thank you.

12 THE COURT: Thank you, sir.

13 THE CLERK: Number 23.

14 THE COURT: All right.

15 THE CLERK: Number 23.

16 MR. BOWERS: That's Mr. Dyess.

17 THE CLERK: Um-hum.

18 PROSPECTIVE JUROR GILLIARD: Hi.

19 THE COURT: Okay.

20 Why don't you step right over here and identify
21 yourself.

22 PROSPECTIVE JUROR GILLIARD: Addie Gilliard.

23 THE COURT: Okay.

24 Where were you seated? Are you --

25 PROSPECTIVE JUROR GILLIARD: Front row.

1 THE COURT: You're in the front.

2 MR. BOWERS: About 13 or so.

3 THE COURT: There you are. Yep, number 13.

4 Go ahead and speak quietly into that.

5 PROSPECTIVE JUROR GILLIARD: Domestic violence. My
6 ex-husband he's a corrections officer and we would fight and he
7 would call the police on me. And I didn't really understand
8 what to -- I don't -- he would just call the police on me and
9 they would come and take me to jail if he said we were fighting
10 and I didn't know what to do. I mean, I don't --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR GILLIARD: -- I didn't know anything
13 about the law like that. So he could say that we were fighting
14 or that I was doing these things and then they would arrest me.

15 THE COURT: Um-hum.

16 PROSPECTIVE JUROR GILLIARD: That's basically it.

17 THE COURT: Your experience.

18 You've never been convicted of --

19 PROSPECTIVE JUROR GILLIARD: Yeah, I was --

20 THE COURT: -- domestic violence?

21 PROSPECTIVE JUROR GILLIARD: -- convicted once. I
22 didn't have -- I got a Public Defender.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR GILLIARD: And he just kept sayin',
25 well, just plead not guilty -- I mean, plead guilty and it'll be

1 all be over --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR GILLIARD: -- and I didn't have the
4 money for an attorney at the time. So...

5 THE COURT: Is there anything about that that would
6 interfere with your ability to be fair to both sides in this
7 case?

8 PROSPECTIVE JUROR GILLIARD: No.

9 THE COURT: No. Okay.

10 Any follow-up questions?

11 MR. BOWERS: Just verify that it was misdemeanor.

12 THE COURT: It was a misdemeanor? It wasn't a felony
13 domestic battery? One time; right?

14 PROSPECTIVE JUROR GILLIARD: Yeah. But I went to jail.

15 THE COURT: One time. Yeah. Well, that's mandatory.
16 But you didn't have any -- it wasn't a felony; it was a
17 misdemeanor --

18 PROSPECTIVE JUROR GILLIARD: Right.

19 THE COURT: -- domestic battery.

20 And one time?

21 PROSPECTIVE JUROR GILLIARD: Twice.

22 THE COURT: Twice? Okay.

23 The third time's a felony; right?

24 MR. BOWERS: Third times a felony.

25 PROSPECTIVE JUROR GILLIARD: Two and a half years.

1 THE COURT: How long were you in jail?

2 PROSPECTIVE JUROR GILLIARD: Three days.

3 THE COURT: First time?

4 PROSPECTIVE JUROR GILLIARD: First time, one day.

5 THE COURT: One day. And then three days. Okay.

6 MR. BOWERS: That's fine.

7 THE COURT: Do you feel the system was unfair to you as
8 a result of that?

9 PROSPECTIVE JUROR GILLIARD: No. I think he took
10 advantage of it --

11 THE COURT: Of the system.

12 PROSPECTIVE JUROR GILLIARD: -- because I didn't know
13 it. So I don't think it was unfair. I think it was just that
14 he knew it a little better than I did.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR GILLIARD: That's all.

17 THE COURT: Probably so.

18 Yeah. He was a corrections officer?

19 PROSPECTIVE JUROR GILLIARD: Um-hum.

20 THE COURT: Yeah. Okay.

21 MR. BOWERS: Nothing here.

22 MR. IGNALL: No.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR GILLIARD: Thank you.

25 THE COURT: All right.

1 Any things you wanna cover?

2 MR. CRISTALLI: One more.

3 THE COURT: Oh, one more. Okay.

4 MR. BOWERS: There's another one.

5 THE COURT: I only saw three.

6 MR. CRISTALLI: It was a late in.

7 THE COURT: Sometimes hard to remember all the
8 relatives.

9 Come on over here. Speak right into there.

10 PROSPECTIVE JUROR PARISH: Actually, I think I have a
11 hardship for not makin' enough.

12 THE COURT: What's your name?

13 PROSPECTIVE JUROR PARISH: Curt Parish.

14 THE COURT: Where are you seated?

15 MR. BOWERS: Number 6, your Honor.

16 THE COURT: Number 6. Okay.

17 What's your situation?

18 PROSPECTIVE JUROR PARISH: Um, I think I'd get fired.

19 THE COURT: Where do you work?

20 PROSPECTIVE JUROR PARISH: Executive Speciality
21 Contracting.

22 THE COURT: Huh?

23 PROSPECTIVE JUROR PARISH: Executive Speciality
24 Contracting.

25 MR. BOWERS: Executive Specialty Contracting.

1 THE COURT: What do you do there?

2 PROSPECTIVE JUROR PARISH: Um, well, I install hardwood
3 floors, and I'm one of the main workers.

4 THE COURT: Okay.

5 Who -- who do you work for? Who is your boss?

6 PROSPECTIVE JUROR PARISH: Troy Curtis.

7 THE COURT: And, uh, do you think he'd fire you for
8 jury service?

9 PROSPECTIVE JUROR PARISH: Yes, sir.

10 THE COURT: How long have you worked there?

11 PROSPECTIVE JUROR PARISH: Um, I've been -- uh, well,
12 for this company we were workin' there for probably about four
13 or five months.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR PARISH: Just started.

16 THE COURT: How many -- and you just started?

17 PROSPECTIVE JUROR PARISH: Yeah.

18 THE COURT: And how many days a week have you worked so
19 far this month?

20 PROSPECTIVE JUROR PARISH: This month?

21 THE COURT: (Nods head.)

22 PROSPECTIVE JUROR PARISH: Probably about six days a
23 week.

24 THE COURT: Six days a week?

25 PROSPECTIVE JUROR PARISH: Yeah, six days a week.

1 THE COURT: Okay. Thank you.

2 PROSPECTIVE JUROR PARISH: Thank you, sir.

3 THE COURT: Go back out.

4 MR. FEARS: Your Honor, there's one individual who
5 doesn't have an answer to this question but has a personal issue
6 that wants to bring it up at sidebar.

7 THE COURT: Bring him over.

8 MR. BOWERS: Who was that guy, number 6?

9 THE COURT: Parish, number 6.

10 MR. BOWERS: Thank you.

11 THE COURT: Wanna get rid of him?

12 MR. NEIMAN: Yeah, that's fine.

13 THE COURT: Go ahead.

14 PROSPECTIVE JUROR McDAUGALE: Jodie McDaugale.

15 THE COURT: All right.

16 Where are you seated?

17 THE CLERK: Number 15.

18 MR. BOWERS: In the benches?

19 THE COURT: Number 15?

20 THE CLERK: Um-hum.

21 PROSPECTIVE JUROR McDAUGALE: Yeah.

22 THE COURT: No, he's not in the benches.

23 THE CLERK: He's 15.

24 THE COURT: McDaugale. Got it. Okay. He's in the
25 box. Okay.

1 Go ahead.

2 PROSPECTIVE JUROR McDAUGALE: I have a personal
3 problem.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR McDAUGALE: I have absolutely zero
6 respect for the IRS. I cannot sit on a bench and have them
7 prosecuting against anybody.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR McDAUGALE: They took my life. They
10 destroyed it. Tore it apart.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR McDAUGALE: Totally prejudiced
13 towards them.

14 THE COURT: You are excused.

15 PROSPECTIVE JUROR McDAUGALE: Thank you.

16 THE COURT: Yeah. We'll get to that question a little
17 later. But thank you.

18 MR. BOWERS: I guess he can't be fair and impartial.

19 MR. CRISTALLI: Can I try to rehabilitate him.

20 THE COURT: Any follow-up questions?

21 MR. BOWERS: This is exactly what personal injury --

22 THE COURT: It's more of a resurrection than a
23 rehabilitation.

24 MR. BOWERS: You know, Judge, I think that question was
25 leading.

1 THE COURT: State your name?

2 (Sidebar conference concluded and the
3 following is held in open court:)

4 THE COURT: Okay. Mr. Parish is excused. And
5 Mr. McDaugale is excused. Please return to the Jury
6 Commissioner on the first floor.

7 THE CLERK: Douglas Scott, S-c-o-t-t, to replace
8 number 6.

9 THE COURT: You're excused. Yep. Go down to the first
10 floor, back -- that's where the outside doors are. But go to
11 the Jury Commissioner first.

12 So we called Mr. Scott?

13 THE CLERK: Correct.

14 THE COURT: Douglas Scott.

15 THE CLERK: Do you want me to replace Mr. McDaugale or
16 do you want to ask him questions?

17 THE COURT: Mr. Scott, do you have a positive response
18 to any of the questions previously asked?

19 PROSPECTIVE JUROR D. SCOTT: Can I ask for
20 clarification on one of those --

21 THE COURT: Yes.

22 PROSPECTIVE JUROR D. SCOTT: -- questions, sir?

23 THE COURT: You may. Yes, sir.

24 PROSPECTIVE JUROR D. SCOTT: Did you say Monday through
25 Thursday --

1 THE COURT: Yes.

2 PROSPECTIVE JUROR D. SCOTT: -- until 4:30?

3 THE COURT: Yes.

4 PROSPECTIVE JUROR D. SCOTT: So Friday we would not be
5 here?

6 THE COURT: Friday you'll not be here.

7 PROSPECTIVE JUROR D. SCOTT: And also an hour for
8 lunch?

9 THE COURT: Hour to an hour and a half.

10 PROSPECTIVE JUROR D. SCOTT: I have no problem.

11 THE COURT: All right. Thank you.

12 Number 15.

13 THE CLERK: To replace number 15, Lillian Babauta,
14 B-a-b-a-u-t-a. Lillian Babauta.

15 THE COURT: Ms. Babauta, do you have any positive
16 responses?

17 PROSPECTIVE JUROR BABAUTA: Yes.

18 THE COURT: Go ahead.

19 PROSPECTIVE JUROR BABAUTA: Um, I served as a Grand
20 Juror with the Superior Court of Guam in 2003 --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR BABAUTA: -- six months. And, also,
23 um, on Monday I received a letter for an oral interview in
24 Lancaster after passing a test. And I did call their office and
25 they did say that if I didn't make it then I'd lose my

1 opportunity for the first panel of interviewees. So the chances
2 for me to...

3 THE COURT: Okay. We'll excuse you.

4 PROSPECTIVE JUROR BABAUTA: Thank you.

5 THE CLERK: Replacing number 15, Gary Fultz, F-u-l-t-z.
6 Gary Fultz.

7 THE COURT: Okay.

8 Mr. Fultz, do you have a positive response to any of
9 the questions?

10 PROSPECTIVE JUROR FULTZ: Yes, I do. I'd like to
11 approach you at sidebar.

12 THE COURT: Okay.

13 (Sidebar conference was held as follows:)

14 PROSPECTIVE JUROR FULTZ: In 1993, I was arrested for
15 domestic violence.

16 THE COURT: Hold on just a minute.

17 PROSPECTIVE JUROR FULTZ: Okay. Oh, I'm sorry.

18 THE COURT: One more to come.

19 (Pause in the proceedings.)

20 THE COURT: All right. We're all here now.

21 Go ahead, Mr. Fultz.

22 PROSPECTIVE JUROR FULTZ: In approximately 1993, I was
23 arrested for domestic violence. I had a roommate come home and
24 started breaking up the apartment that we were sharing. I was
25 trying to defend myself. Uh, I asked my neighbor to call the

1 police; he did. I ended up actually putting my roommate in the
2 hospital.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR FULTZ: And I was arrested for
5 domestic violence.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR FULTZ: I had to serve two years'
8 parole. I served my time. And, uh, about a year after parol
9 was over, I was leaving a bowling center with some friends and I
10 was rearrested in front of my friends --

11 THE COURT: Okay.

12 PROSPECTIVE JUROR FULTZ: -- for parole violations. I
13 spent four days in jail. There was no violations. Paperwork
14 had been messed up.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR FULTZ: And I was released. And I --
17 I don't have the best of feelings over that to be honest with
18 you.

19 THE COURT: You would feel that this might interfere
20 with your ability to be fair and impartial?

21 PROSPECTIVE JUROR FULTZ: I would like to believe so,
22 but I can't be --

23 THE COURT: You can't be sure.

24 PROSPECTIVE JUROR FULTZ: I can't be honest with
25 myself.

1 THE COURT: Okay.

2 Any follow-up questions?

3 MR. BOWERS: Um...

4 MR. CRISTALLI: Go ahead.

5 MR. BOWERS: Was this here in the State of Nevada?

6 PROSPECTIVE JUROR FULTZ: Colorado. In Colorado.

7 MR. BOWERS: Do you know if you were -- ultimately, did
8 that conviction result in a felony or was that --

9 PROSPECTIVE JUROR FULTZ: Yes.

10 THE COURT: It did.

11 MR. BOWERS: It is a felony.

12 PROSPECTIVE JUROR FULTZ: In Colorado, yes.

13 MR. BOWERS: Was it expunged or sealed?

14 PROSPECTIVE JUROR FULTZ: It's sealed.

15 MR. BOWERS: It's your understanding that you're not a
16 felon at this point in time?

17 PROSPECTIVE JUROR FULTZ: No, no, I'm not a felon at
18 this point.

19 THE COURT: How long ago did it happen?

20 PROSPECTIVE JUROR FULTZ: Approximately '93 and I was
21 probably rearrested, uh, maybe '95. I could be off a year.

22 MR. BOWERS: But you weren't convicted of anything on
23 the rearrest; correct?

24 PROSPECTIVE JUROR FULTZ: On the rearrest? No. But I
25 spent four days in jail till I was released.

1 MR. CRISTALLI: I just want to talk to you a little bit
2 about your ability to sit fairly on the jury. If the Court
3 instructed you on the law, um, despite, um, your feelings at
4 this particular time, would you be able to listen to the Court's
5 instructions and follow those instructions and act as a
6 reasonable juror in this case?

7 PROSPECTIVE JUROR FULTZ: Again, I'd like to think I
8 could. I -- I -- you know, I really can't be honest with
9 myself.

10 MR. CRISTALLI: Do you think you could be fair to the
11 Government in evaluating the evidence in this case? Can you set
12 aside your --

13 PROSPECTIVE JUROR FULTZ: I've also been --

14 MR. CRISTALLI: -- past history?

15 PROSPECTIVE JUROR FULTZ: -- I've also been fined quite
16 heavily by the IRS because of a \$100 tax mistake that turned
17 into a \$2,000 penalty with them that I had to pay back. I don't
18 have a good feeling over that either to be honest with you.

19 MR. CRISTALLI: If the Court instructed you to -- on
20 the law and, um, you had -- and you had to sit there and listen
21 to the evidence, would be -- would you put -- put it -- would
22 you put the evidence right out of your mind, would you put the
23 instructions out of your mind and rule against the Government
24 dispute maybe evidence in their favor or instructions in their
25 favor?

1 PROSPECTIVE JUROR FULTZ: No. I -- I would be -- I
2 would be open minded.

3 MR. CRISTALLI: Okay.

4 THE COURT: Do you feel that right now you have a bad
5 feeling about -- about the Treasury and the Government because
6 of your experience with the penalties?

7 PROSPECTIVE JUROR FULTZ: I think the fine was
8 excessive.

9 THE COURT: Okay.

10 MR. BOWERS: May I ask a question?

11 THE COURT: Yes.

12 MR. BOWERS: Um, although you may not be happy with
13 either the Government or the Treasury Department or the IRS as
14 an institution, uh, just so we're clear, can you set your
15 feelings aside about that, follow the judge's instruction,
16 evaluate the law and fairly deliberate the evidence in this case
17 with the co-jurors?

18 PROSPECTIVE JUROR FULTZ: Yes, I could.

19 MR. BOWERS: Okay.

20 THE COURT: Uh, your felony conviction, how did you --
21 how did you get that sealed? Are you sure that's what happened?

22 PROSPECTIVE JUROR FULTZ: I'm -- I'm almost positive
23 that that's what I was told, that after the two-year parole or
24 probation that it would be sealed off and it wouldn't be on my
25 permanent record.

1 THE COURT: Did you take any independent action to do
2 that? Did you hire an attorney --

3 PROSPECTIVE JUROR FULTZ: Yes, I had --

4 THE COURT: -- to seal your records?

5 PROSPECTIVE JUROR FULTZ: -- an attorney, yes, in
6 Colorado.

7 THE COURT: To seal your records?

8 PROSPECTIVE JUROR FULTZ: Gregory Ruland (phonetic) --

9 THE COURT: Humm?

10 PROSPECTIVE JUROR FULTZ: Gregory Ruland was my
11 attorney in Colorado.

12 THE COURT: In the case --

13 PROSPECTIVE JUROR FULTZ: Yes.

14 THE COURT: -- in the criminal case?

15 PROSPECTIVE JUROR FULTZ: Yes.

16 THE COURT: And did -- my point is: I -- I realize you
17 were represented. But how do you know your records were sealed?

18 PROSPECTIVE JUROR FULTZ: This is what I was told by
19 him.

20 THE COURT: Okay. All right. Thank you.

21 PROSPECTIVE JUROR FULTZ: Thank you.

22 MR. BOWERS: Thank you.

23 MR. CRISTALLI: Thank you.

24 THE COURT: All right.

25 MR. IGNALL: We move to excuse him for cause.

1 MR. CRISTALLI: Your Honor --

2 MR. BOWERS: No.

3 MR. IGNALL: I appreciate his honesty and --

4 MR. BOWERS: I appreciate his honesty too. That's
5 why --

6 MR. IGNALL: He wasn't sure he could say that he could
7 be fair given --

8 MR. BOWERS: No, no. He clearly came around.

9 MR. CRISTALLI: I believe he did say that he could be
10 fair to the Government, um, if instructed on the law and
11 factually he would be able to assess the evidence fairly and
12 reasonably.

13 MR. BOWERS: Or more important, I think his initial
14 inability to be fair related to the state conviction and when
15 questioned directly about issues in this case that he could be
16 fair to the IRS.

17 THE COURT: He -- he hesitated in his answer when he
18 was asked if he could be fair and unequivocal and he -- he
19 hedged even his first answer and it was only after some
20 additional questioning that he -- he firmed up. But his initial
21 response was -- was equivocal.

22 MR. CRISTALLI: It was. But after being -- giving him
23 an explanation -- jurors are not familiar with the legal
24 procedures and processes. Um, their initial thought may not be
25 enough to preclude them to sit on a jury. Once he was advised

1 that if he was given an opportunity to review the evidence, if
2 the evidence appeared to favor the Government, he would be able
3 to fairly and accurately assess the evidence, even if it's in
4 favor of the Government. So I think that clearly, uh, does
5 not -- uh, does not preclude him on a cause basis.

6 MR. BOWERS: And I would just again note that
7 particularly with relation to the IRS he didn't have that
8 hesitation he indicated with the domestic violence issues, which
9 may or may not be relevant.

10 THE COURT: But he admitted bad feelings about the IRS
11 right up front.

12 MR. CRISTALLI: But bad feelings is not enough, your
13 Honor.

14 THE COURT: Well, it is when you're dealing with agents
15 and collection processes and things like that. It's enough if
16 they resent the system and he -- he was talking about the
17 system; he felt he was unfairly penalized and still does.

18 MR. CRISTALLI: And I -- I would strongly, um, lodge an
19 objection that cause has not been met to excuse this particular
20 juror.

21 MR. BOWERS: I join in the objection.

22 THE COURT: All right. Thank you.

23 MR. BOWERS: Thank you, your Honor.

24 (Sidebar conference concluded and the
25 following is held in open court:)

1 THE COURT: The Court excuses Mr. Fultz for cause.
2 Clerk will call a name to replace the juror.

3 THE CLERK: Tuan Duc Nguyen, N-g-u-y-e-n. Tuan Nguyen.

4 THE COURT: Mr. Nguyen, do you have any positive
5 responses to any of the questions that have been asked before?

6 PROSPECTIVE JUROR NGUYEN: Uh, no, sir.

7 THE COURT: I'm sorry?

8 PROSPECTIVE JUROR NGUYEN: No, sir.

9 THE COURT: No? Okay. Thank you.

10 Have any of you or relatives or close friends, to the
11 best of your knowledge, ever ordered materials from Freedom
12 Books in Las Vegas, Nevada? (No hands raised.)

13 Have any of you or --

14 MR. FEARS: Your Honor.

15 THE COURT: Oh, I'm sorry.

16 PROSPECTIVE JUROR: Could you repeat that, please?

17 THE COURT: Yes.

18 Have any of you or your relatives or close friends, to
19 the best of your knowledge, ever ordered books from -- or
20 materials from Freedom Books in Las Vegas, Nevada? (No hands
21 raised.)

22 Have any of you, your relatives, or close friends, to
23 the best of your knowledge, ever listen to a radio show hosted
24 by Irwin Schiff and Cynthia Neun? (No hands raised.)

25 Do any of you hold strong personal or philosophical

1 feelings about the tax system of the United States? (No hands
2 raised.)

3 Does any member of the jury panel have a disagreement
4 with any of the Internal Revenue laws of the United States or
5 hold any personal belief that the United States should not
6 regulate the payment of income taxes or that the Internal
7 Revenue Service should not investigate or audit taxpayers or tax
8 preparers? (No hands raised.)

9 Do any of you have any disagreement with the idea that
10 it is the duty of all persons to obey the laws of this country?
11 (No hands raised.)

12 Have any of you, a member of your family had an
13 experience with the Internal Revenue Service which might
14 influence you in a case which involves the Internal Revenue
15 Service? (No hands raised.)

16 Have any of you, a close friend or relative ever been
17 the subject of an Internal Revenue Service audit, assessed a
18 penalty by the IRS, or been the subject of an IRS or other
19 government investigation? (Hands raised.)

20 Okay. Let's start -- let's start up with, uh, uh,
21 Ms. -- would you like to be called Ms. Green-Wilson or just
22 Ms. Wilson?

23 PROSPECTIVE JUROR GREEN-WILSON: It's Green-Wilson,
24 your Honor.

25 THE COURT: All right.

1 Ms. Green-Wilson, would you explain?

2 PROSPECTIVE JUROR GREEN-WILSON: Well, probably about
3 10 years ago, uh, we were audited by the IRS.

4 THE COURT: Okay.

5 And did that result in penalties or any action being
6 taken?

7 PROSPECTIVE JUROR GREEN-WILSON: Yes, there was a
8 penalty. But, uh, the tax preparer was the one who has to pay
9 for, uh...

10 THE COURT: All right.

11 It was the tax preparer's mistake?

12 PROSPECTIVE JUROR GREEN-WILSON: Uh, I think so.

13 THE COURT: Okay. Must have been if he had to pay;
14 right? Or she.

15 PROSPECTIVE JUROR GREEN-WILSON: Yeah.

16 THE COURT: Do you have any feelings about that that
17 would interfere with your ability to be fair and impartial to
18 both sides here?

19 PROSPECTIVE JUROR GREEN-WILSON: Well, um, I thought
20 there was a statute of limitation as far as, you know, auditing
21 the files. And basically that's -- that's all my concern, you
22 know.

23 THE COURT: Could you be fair and impartial in this
24 case to both sides?

25 PROSPECTIVE JUROR GREEN-WILSON: I don't think so.

1 MR. CRISTALLI: Your Honor, I apologize. I did not
2 hear the response to that question.

3 THE COURT: All right.

4 What -- what I asked was: Could you be fair and
5 impartial in this case to both sides.

6 Are you referring to the previous answer?

7 MR. CRISTALLI: Was there anything about the
8 experience, I think, that --

9 THE COURT: Oh. She thought that there was a statute
10 of limitations as far as auditing was concerned.

11 MR. CRISTALLI: Okay.

12 THE COURT: That was her answer.

13 Is that right?

14 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

15 THE COURT: Okay.

16 And getting back to my question: Do you think you can
17 be fair and impartial to both sides in this case,
18 notwithstanding the experience that you had?

19 PROSPECTIVE JUROR GREEN-WILSON: I don't think so.

20 THE COURT: You don't think so?

21 PROSPECTIVE JUROR GREEN-WILSON: Yes.

22 THE COURT: You don't think you can be fair and
23 impartial?

24 PROSPECTIVE JUROR GREEN-WILSON: Well, I think it will
25 not interfere with my decisions.

1 THE COURT: It will not or it will?

2 PROSPECTIVE JUROR GREEN-WILSON: Will not.

3 THE COURT: It will not interfere with your decision.

4 PROSPECTIVE JUROR GREEN-WILSON: I think. Yes, sir.

5 THE COURT: Thank you.

6 Mr. Dishon.

7 PROSPECTIVE JUROR DISHON: Uh, your Honor, I was
8 audited back, um, approximately 10 years ago and I had a
9 business that I was conducting through the house, a picture
10 frame business. And, uh, um, I -- through the audit I had to
11 pay -- pay some money. So...

12 THE COURT: All right.

13 Does that interfere with your ability to be fair and
14 impartial to both sides in this case?

15 PROSPECTIVE JUROR DISHON: I don't believe so.

16 THE COURT: All right. Thank you.

17 Who do we have?

18 PROSPECTIVE JUROR SAMANIEGO: Uriel Samaniego.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR SAMANIEGO: My in-laws had some tax
21 problems back in the '80s when they lived in Texas. And every
22 tax season that comes around they talk about that and a bunch of
23 other negative things about the IRS.

24 THE COURT: All right.

25 Can you judge this case solely on the facts that have

1 been presented in this case?

2 PROSPECTIVE JUROR SAMANIEGO: Oh, yeah. I don't have a
3 problem with that.

4 THE COURT: All right.

5 MR. BOWERS: Your Honor, I'm sorry. Your Honor?

6 THE COURT: Yes.

7 MR. BOWERS: I couldn't hear the first part. I heard
8 he could be fair, but I didn't hear anything after that.

9 THE COURT: Your response again? Can you be fair and
10 impartial?

11 MR. BOWERS: No, I heard that. I'm sorry, Judge. I
12 heard that part. It was the first part that caused you to ask
13 that question.

14 THE COURT: Oh, okay. All right. You didn't hear
15 about his -- he had some in-laws that had tax problems in the
16 '80s in Texas and they like to talk about that.

17 MR. BOWERS: Okay, Judge. I think it's the microphone
18 over here.

19 THE COURT: Okay.

20 Is that right?

21 PROSPECTIVE JUROR SAMANIEGO: That's correct.

22 THE COURT: Okay.

23 And you can be fair and impartial; is that right?

24 PROSPECTIVE JUROR SAMANIEGO: No problem.

25 THE COURT: All right.

1 PROSPECTIVE JUROR D. SCOTT: Tax preparer -- tax
2 preparer mistake. And, um, I think I was a couple hundred
3 dollars short one time and paid it three weeks late. Cost me
4 \$16.17. And, yes, I could be fair and impartial.

5 THE COURT: Any others? (Hands raised.)

6 Oh, yes. Go ahead. Identify yourself, please.

7 PROSPECTIVE JUROR WIGGINS: Yes. My name is Lillie
8 Wiggins.

9 THE COURT: Go ahead, Ms. Wiggins.

10 PROSPECTIVE JUROR WIGGINS: My husband and I had a
11 business back in '76, I believe. Um, we -- we thought that the
12 taxes that have taken care of. But, um, through the SBA we had
13 to use a company. They didn't file for the last quarter that we
14 were in business. So we did have to liquidate everything and --
15 and take care of that.

16 THE COURT: Do you have any feelings remaining from
17 that that would interfere with your ability to judge both the
18 evidence and the witnesses fairly?

19 PROSPECTIVE JUROR WIGGINS: I don't believe so, no.

20 THE COURT: You could -- you could be fair and
21 impartial to both sides in other words?

22 PROSPECTIVE JUROR WIGGINS: I could.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR LOMBARDO: Eric Lombardo.

25 My parents were audited back in the '80s, um, and there

1 were no repercussions of that.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR LOMBARDO: I think everything was
4 fine.

5 THE COURT: Do you have any feelings about that that
6 will interfere with your ability to be fair and impartial --

7 PROSPECTIVE JUROR LOMBARDO: No, sir.

8 THE COURT: -- to both sides? Thank you.

9 Who is next? Identify your --

10 PROSPECTIVE JUROR STEINAGEL: My name is Christina
11 Steinagel. And my husband and I were audited a few years back.

12 THE COURT: Okay.

13 And did that create any feelings that would interfere
14 with your ability to be fair and impartial in this case?

15 PROSPECTIVE JUROR STEINAGEL: No, sir.

16 THE COURT: All right.

17 PROSPECTIVE JUROR KADERLIK: My name is Richard
18 Kaderlik. I've had about -- I think about four written -- I
19 don't know if they call them audits but, you know, by letter
20 claiming my taxes were incorrect. Uh, I prevailed, well, in all
21 of them really.

22 But one observation I always felt and still feel it to
23 this date that, uh, the taxpayer is guilty until proven innocent
24 in the tax system. And I've never liked that. But overall I
25 think the tax service does a good job. But I can never get rid

1 of the feeling that the taxpayer is guilty. And, you know,
2 unless he is for -- well, the person's forced to come up with
3 sometimes material that you just don't even have or it's
4 difficult to get. Like in my case I had to reach back six years
5 to retrieve data at much time and effort, which I did, and
6 satisfied the requirement. But --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR KADERLIK: But I don't think this
9 would really affect my decision. Just wanted to make a point.

10 THE COURT: All right. Thank you.

11 PROSPECTIVE JUROR MARTIN: Mike Martin.

12 Tax audit about 10 years ago. What it was was a
13 mistake on my part. And all I received from the IRS was a bill
14 stating I owed so much and that they had done an audit on me for
15 the last seven years and it took me several years to pay off the
16 amount that they said I owed.

17 THE COURT: Do you have feelings about that that would
18 interfere with your ability to be fair and impartial in this
19 case?

20 PROSPECTIVE JUROR MARTIN: I believe that some of the
21 feelings from that would.

22 THE COURT: All right. Thank you.

23 Does the Government move to exclude any of the jurors
24 based on the answers?

25 MR. IGNALL: I think Juror number 32 expressed some

1 concerns about his ability to be fair given the experience.

2 MR. CRISTALLI: Your Honor, if I could request a
3 sidebar?

4 THE COURT: Sidebar.

5 (Sidebar conference was held as follows:)

6 MR. CRISTALLI: Your Honor, if my hearing was correct,
7 this is almost the reverse of what we were dealing with the last
8 time we were at sidebar on this particular issue. I think
9 initially Mr. Martin said that he would be able to, uh, set
10 aside his feelings and judge this case fairly. And then there
11 was a follow-up question that, uh, in response to your question
12 and that -- I think you said, do you think that would affect
13 you? And I don't recall the specific question that the Court
14 had asked him. But he then said no.

15 I would ask at the very least that he be asked a
16 follow-up question. If -- if -- if he was to sit as a juror in
17 this particular case and he was to have to listen to the
18 evidence, would he be able to judge it fairly. And, um, I would
19 like to know what his response was to that or would his beliefs
20 interfere with his ability to follow your orders and
21 instructions. I think essentially that's what I want to know
22 from him.

23 MR. BOWERS: Yes.

24 MR. IGNALL: Your Honor, given that he was equivocal
25 about being fair, as we had with the previous juror --

1 THE COURT: Yeah.

2 MR. IGNALL: -- we don't necessarily object to a
3 further interrogation at sidebar.

4 THE COURT: He's already indicated. I'll ask a
5 follow-up question. But...

6 MR. CRISTALLI: I would appreciate that. If you
7 want --

8 THE COURT: You have no problem with any others?

9 MR. IGNALL: No.

10 MR. NEIMAN: No.

11 THE COURT: Okay.

12 MR. CRISTALLI: No.

13 MR. IGNALL: Thank you, your Honor.

14 MR. CRISTALLI: Do you want him here or are we gonna
15 ask him out there?

16 THE COURT: I'll ask him out there.

17 (Sidebar conference concluded and the
18 following is held in open court:)

19 THE COURT: One follow-up question for Mr. Martin. If
20 you were selected to sit as a juror in this case, could you set
21 aside the feelings that you have resulting from your experience
22 and decide this case solely based on the evidence presented?
23 You're not answering very promptly. Are you hesitant?

24 PROSPECTIVE JUROR MARTIN: I would have to say no, I
25 would not be able to from my experience.

1 THE COURT: The juror's excused.

2 PROSPECTIVE JUROR MARTIN: Excuse me?

3 THE COURT: You are excused. Return to the first
4 floor.

5 THE CLERK: Melissa Stoddard, S-t-o-d-d-a-r-d. Melissa
6 Stoddard.

7 PROSPECTIVE JUROR STODDARD: No, sir.

8 THE COURT: Ms. Stoddard, no positive response to any
9 of the questions?

10 PROSPECTIVE JUROR STODDARD: No, sir.

11 THE COURT: All right. Thank you.

12 Have any of you or members of your immediate family --
13 let me -- let me revise that.

14 Is there anyone on the jury panel who would not be able
15 to sit in judgment of another individual because of religious
16 beliefs or because of personal beliefs unrelated to religion?
17 (No hands raised.)

18 Is there any of you who prepare your own income tax
19 returns? (Hands raised.) Okay.

20 Let me -- let me ask a follow-up question to that. Of
21 those who raised your hand regarding preparation of income tax
22 returns, have any of you been audited? (Hand raised.) Okay.
23 Thank you.

24 MR. FEARS: Your Honor.

25 THE COURT: Yes. One?

1 PROSPECTIVE JUROR: It was 1976 and it was a random
2 audit. And, when I was done, they owed me money. So no
3 problem.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: No problem.

6 THE COURT: Okay.

7 In this -- in the federal courts, and in all of the
8 courts, evidence can be in the form of direct evidence or
9 circumstantial evidence. Would any of you have any problems
10 accepting either kind of evidence, direct or circumstantial
11 evidence? (No hands raised.)

12 Are any of you -- do any of you believe that if you
13 reached a not guilty verdict the Government might investigate
14 you or audit you? Is there anyone who holds that concern?

15 MR. FEARS: Your Honor.

16 THE COURT: Yes.

17 PROSPECTIVE JUROR: Yes, your Honor. Uh, I feel that,
18 yeah, maybe -- maybe we are subjected to audit if, you know...

19 THE COURT: Would that fear or concern interfere with
20 your ability to be fair and impartial to both sides?

21 PROSPECTIVE JUROR: I don't think so. It's just the
22 fear of, you know, being audited, you know, even then we have a
23 tax preparer who prepares my taxes. But still, you know, 'cuz
24 uh...

25 THE COURT: Would that be in your mind as you sat and

1 listened to the evidence and tried to reach a verdict, that you
2 might be audited?

3 PROSPECTIVE JUROR: Well, because when I was married we
4 went to Japan. My ex-husband was in the military. And the IRS,
5 you know, wrote to us and said, okay, we need to audit you. So
6 we have to write back to them, we are in the military and we
7 cannot go back to the states and just, you know -- just to
8 fulfill the audit. So I don't know. I just have this paranoia,
9 you know, about audit.

10 THE COURT: Well, I'm still trying to -- trying to
11 ascertain whether this would --

12 PROSPECTIVE JUROR: Well, I try to be partial [sic] or,
13 you know, fair about my decision making.

14 THE COURT: Do you believe you can be fair and
15 impartial to put that paranoia aside as you identify it?

16 THE DEFENDANT: I will try my best, your Honor.

17 THE COURT: Are you sure you can do it?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: All right. Thank you.

20 Is there any of you who would not be willing to follow
21 my instructions of law or to judge the case solely on the
22 evidence presented here in court? (No hands raised.)

23 Have any of you or your immediate family worked for the
24 government of the United States of America? (Hands raised.)
25 Okay.

1 Just answer whether -- tell us the position and the
2 relationship and whether it will interfere with your ability to
3 be fair and impartial.

4 PROSPECTIVE JUROR SAMANIEGO: I was wanting to clarify:
5 Does being in the military count being an employee of the
6 government?

7 THE COURT: It does.

8 PROSPECTIVE JUROR SAMANIEGO: Okay. I was in the
9 United States Air Force for five years. And no, it would not
10 impact.

11 THE COURT: Thank you.

12 Next.

13 PROSPECTIVE JUROR D. SCOTT: My father, um, he was
14 pretty secretive. But I think he was head of computer security
15 systems for the Marine Corps, Civil Service. And no, it
16 wouldn't affect.

17 THE COURT: Thank you.

18 Next.

19 PROSPECTIVE JUROR HAWORTH: I was employed by the
20 Department of Dependent Schools way back in the '60s. And that
21 certainly wouldn't impair my judgment.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR PORTERFIELD: My husband's in the
24 U.S. Air Force. And no, it wouldn't impact my judgment.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR MANESSE: I worked for the U.S.
2 Census in 1990. It would not impair my --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR MANESSE: -- judgment.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR TERRY: Two sons, United States
7 Marine Corps. It won't affect this at all.

8 PROSPECTIVE JUROR V. SCOTT: Okay. My father was in
9 the Intelligence in the Air Force and he's since passed away.
10 My husband was 20 years in the Army, from 1980 to 2000. My son
11 is currently enlisted in the Army in Special Forces at
12 Fort Bragg. I worked for the Civil Service as an alcohol and
13 drug control clerk in the early 1980s and I also worked for the
14 Census Bureau in 1998 and '99. I think I have it all.

15 THE COURT: Would that have any affect on your ability
16 to be fair and impartial?

17 PROSPECTIVE JUROR V. SCOTT: No, it won't.

18 THE COURT: Any of that? Thank you.

19 PROSPECTIVE JUROR LOMBARDO: My father was in the
20 U.S. Army. And no, it would not affect.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR GROFT: My father worked for the
23 Department of Energy. And no, it would not affect my judgment.

24 PROSPECTIVE JUROR WARD: Retired Air Force, no.

25 PROSPECTIVE JUROR MATHEWS: I already told you about

1 mine, so...

2 THE COURT: Okay.

3 PROSPECTIVE JUROR DYESS: My son was an engineer for
4 the Environmental Protection Agency for five years. Wouldn't
5 make any difference.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR WARD: I'm both a retired military
8 and retired federal government employee. My position was
9 computer systems analyst. And it would not affect any of my
10 decision.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR DISHON: Yeah, retired Air Force and
13 work for Bechtel Nevada now.

14 THE COURT: You work for Bechtel Nevada?

15 PROSPECTIVE JUROR DISHON: Correct.

16 THE COURT: Anything about that that would interfere
17 with your ability to be fair and impartial?

18 PROSPECTIVE JUROR DISHON: No.

19 THE COURT: Go ahead.

20 PROSPECTIVE JUROR STODDARD: I'm a current government
21 employee. And no, it would not have any affect.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR STODDARD: I work for the Department
24 of Energy.

25 THE COURT: Okay. Thank you.

1 Have any of you worked for the IRS, Internal Revenue
2 Service? (No hands raised.)

3 Okay. What we're going to do now is we're going to
4 take a break. We're gonna take a one-hour break in the jury
5 selection process. What I would ask is that you avoid contact
6 with any of the individuals that you see seated in the courtroom
7 at counsel table, that is the defendants, their attorneys, the
8 government employees. Return -- return back to the jury room
9 [sic] at 1:30.

10 Do not discuss the case among yourselves or with others
11 or allow anyone to discuss it in your presence and, uh, do not
12 allow yourself to be influenced in any -- in any way. We will
13 resume at 1:30 in the jury selection process.

14 I would expect that it will probably take another --
15 probably take another half hour to an hour to complete jury
16 selection. This has gone a little bit longer than anticipated,
17 but there are many issues to be discussed. So I appreciate your
18 patience. And we will see you back here in an hour.

19 (Prospective jury panel leaves the courtroom
20 at 12:26 p.m.)

21 (Pause in the proceedings.)

22 THE COURT: Do we have everyone out of the courtroom,
23 any prospective jurors?

24 THE CLERK: It appears we do.

25 THE MARSHAL: Do you want it emptied, your Honor?

1 THE COURT: No. It's okay.

2 I just wanna talk about any further voir dire. I'm not
3 going to ask them their hobbies. We have a questionnaire, a
4 standard questionnaire, that I can show you that asks them their
5 occupation; where they live; whether they own or rent their
6 home; what their spouse's occupation is; whether they've ever
7 served on a jury. Those are most of the questions. Those are
8 the personal questions I'm gonna allow.

9 But I'm not inclined to -- to question them about their
10 hobbies and what TV shows they watch and that kind of detail. I
11 don't think it's fair. I think it's getting into their personal
12 lives too much. But, if any of you have a question that you
13 really feel strong about that hasn't been asked that was, you
14 know, proposed, let me know and I'll consider it during the
15 break.

16 MR. BOWERS: Judge, I -- I'm not trying to be difficult
17 and these might be totally specific. But, in reference to some
18 of the specific issues in my proposed voir dire -- I can give
19 you my copy or find another one -- I -- I guess 12 through 16
20 are pretty -- pretty specific about, um, whether -- for example,
21 12 is you understand a person in good faith misunderstand the
22 law, become the target of indictment but at the same time not
23 committed a crime.

24 The other -- and -- and there's a couple more along
25 those lines -- the other one is I -- I don't know if we're going

1 to be using -- if the Government's going to be using the phrase
2 "tax protestor" at any point. But I would certainly like to
3 address it if that's gonna come up. Um, so I guess I would say
4 number 12, number 18, number 13, number 14 and 15. And I can
5 read those to you.

6 THE COURT: I have them already.

7 MR. BOWERS: Okay. I'm sorry.

8 THE COURT: Thank you.

9 MR. CRISTALLI: Uh, your Honor, on behalf of Ms. Neun,
10 I just basically have some pretty generic questions, um, that I
11 have some concern with. I just want to make sure that the jury
12 is advised of and make sure that they have a firm understanding
13 that, um, the defendants in this case are clothed with the
14 presumption of innocence.

15 THE COURT: I've told them that already.

16 MR. CRISTALLI: And, um, I think there was more of kind
17 of an initial instruction to them when they took the -- took --
18 were in the panel. I'd like to know whether or not they have
19 any disagreement with the Government's burden of proof in this
20 particular case --

21 THE COURT: All right.

22 MR. CRISTALLI: -- um, whether any potential jurors has
23 any disagreement with the rule that would require a jury to give
24 the defendant the benefit of a reasonable doubt, um, and that
25 the defendant is not required to prove his -- his innocence.

1 THE COURT: Okay.

2 MR. CRISTALLI: And it is in my jury voir dire, your
3 Honor, 6, 7, 8, and 9.

4 THE COURT: Okay. Thank you.

5 MR. IGNALL: Your Honor -- I'm sorry. Are you done?

6 THE COURT: Government.

7 MR. IGNALL: Just quickly, with respect to Mr. Bowers's
8 questions 12 and 13, we'd object to that. That's going into the
9 instruction.

10 And I think -- we don't object to what Mr. Cristalli
11 suggests for maybe a further inquiry about reasonable doubt.
12 And I think that would cover 12 and 13 appropriately at this
13 point.

14 And, in terms of Mr. Bowers's question 18 about the tax
15 protest movement, we have no objection to asking that.

16 THE COURT: Okay. Thank you.

17 MR. IGNALL: I'm sorry. Was there another question?

18 MR. BOWERS: No, no. I was just gonna say if I had to
19 respond to that, choose between one or the other, I think 13 is
20 particularly more important to me than 12 is.

21 THE COURT: Okay. Thank you.

22 MR. BOWERS: Thank you.

23 THE COURT: We'll be in recess.

24 MR. IGNALL: Thank you, your Honor.

25 THE CLERK: All rise.

1 (Lunch break, 12:32 p.m. to 1:35 p.m.)

2 THE CLERK: All rise.

3 THE COURT: Missing one still?

4 THE CLERK: Yes.

5 THE COURT: Please be seated.

6 Mr. Terry --

7 THE CLERK: Yes, sir.

8 THE COURT: -- is it?

9 Have you already checked with the Jury Commissioner?

10 THE CLERK: I did, your Honor, and she said no one was
11 downstairs.

12 THE COURT: Mr. Fears, will you check out in the hall
13 and see if Mr. Terry is waiting out there?

14 MR. FEARS: (Complies.)

15 (Prospective Juror Terry enters the
16 courtroom.)

17 THE COURT: Have any of you heard of the tax protest
18 movement or tax protestors? If so, would that affect your
19 decision in this case in any way that was not based upon the
20 evidence and the law as I will give it to you? (Hands raised.)
21 So that is -- that is a compound question.

22 Have you heard of tax protest movement or tax
23 protestors? And, if so, would -- would your knowledge of that
24 interfere with your ability to judge this case solely on the
25 evidence that is presented here in court and the law as I will

1 give it to you?

2 PROSPECTIVE JUROR DUCHON: Yes, your Honor, I believe
3 so in my case. Could I request a sidebar with you?

4 THE COURT: You may. Let's see if there are any others
5 that have that same opinion or feeling.

6 Are there any other hands up?

7 PROSPECTIVE JUROR BROWNLEE: I've heard, but it won't
8 affect.

9 THE COURT: All right. Thank you. That's -- only if
10 it will affect you need you respond.

11 Now, Is there anyone -- I'll make a note of you,
12 Mr. Duchon -- is there anyone who would not be willing to give
13 the defendants the presumption of innocence that I've already
14 discussed with you, that is, that they are presumed innocent
15 until the Government has proven beyond a reasonable doubt that
16 they are guilty of the offenses charged? Is there anyone who
17 would be unwilling to give the defendants the presumption of
18 innocence and require the Government to meet that burden of
19 proof?

20 PROSPECTIVE JUROR DUCHON: I would have an issue with
21 that.

22 THE COURT: All right. We'll deal with you at sidebar
23 in just a moment.

24 Is there anyone who would not be willing to acquit the
25 defendants if they have reasonable doubt as to the guilt of the

1 defendants? (No hands raised.)

2 All right. Let's deal with the issue at sidebar.

3 (Sidebar conference was held as follows:)

4 THE COURT: Okay. Mr. Duchon, step right up here to
5 the microphone.

6 PROSPECTIVE JUROR DUCHON: Okay. Um, your Honor --

7 THE COURT: Yes.

8 PROSPECTIVE JUROR DUCHON: -- in '97 our -- I'm not
9 gonna make this real long -- in 1997 our condo burnt down to the
10 ground. We lost everything. Um, we sold the condo at a loss;
11 we came out to Vegas. Had a hard time gettin' a job. So we
12 filed for bankruptcy which was just discharged this August.
13 Now, IRS immediately sent us a letter of a levy.

14 THE COURT: A letter of what, levy?

15 PROSPECTIVE JUROR DUCHON: Levy, yes.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR DUCHON: So we called immediately.

18 And my wife talked to four people at the IRS and the first
19 person she talked to said have the bank call me -- we signed up
20 for payments. They agreed upon it. They'll send a letter out.
21 So they requested that -- says, well, can you call the bank and
22 tell -- fax over something to cancel the levy?

23 Well, she said -- the IRS said have the bank call me
24 and we'll take care of it that way and they'll give us a fax
25 number and so. The bank called them. And the IRS said we don't

1 deal with a third party. And that was cancelled. So she tried
2 to call three other people after that. Everybody's telling her
3 a different story.

4 So I'm sorry. I'm not -- I -- I think I'd be biased
5 towards the defendants at this point in time.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR DUCHON: I don't feel comfortable
8 with this.

9 THE COURT: Even if you heard all of the evidence and
10 my instructions of law, you feel that you could not judge this
11 case fairly and impartially based on your experience?

12 PROSPECTIVE JUROR DUCHON: I don't believe so. And I
13 believe that I did hear -- I listen to talk radio and I did hear
14 something about there's 15 percent taxes running around and also
15 don't pay your tax and I believe that's what this is about. I'm
16 not sure.

17 THE COURT: Um-hum.

18 PROSPECTIVE JUROR DUCHON: That sort of thing. I -- I
19 don't feel that I'd be a good juror at this point in time on
20 this case.

21 THE COURT: And you don't feel you could follow my
22 instructions of law and judge this case solely on the evidence
23 given those experiences? I asked you that before. Are you
24 affirming that?

25 PROSPECTIVE JUROR DUCHON: I'd like to say I could,

1 your Honor, but I have reservations.

2 THE COURT: Okay.

3 Anyone want any further questions?

4 MR. CRISTALLI: Well, you said that you don't think you
5 can be a good juror. Um, being a good juror would be somebody
6 who can listen to the evidence and set aside their own personal
7 views and judge the case purely on the evidence --

8 PROSPECTIVE JUROR DUCHON: Yes.

9 MR. CRISTALLI: -- and the law that the Judge instructs
10 you on. Do you believe that you would be able to sit here and
11 do that and set aside your feelings about what has happened to
12 you personally and judge this case fairly: fairly for the
13 Government, fairly for the defense?

14 PROSPECTIVE JUROR DUCHON: I believe I'd have trouble
15 with that. I really do.

16 THE COURT: Is he excused for cause?

17 MR. BOWERS: I couldn't hear his response. What was
18 his response?

19 THE COURT: He'd have trouble with that.

20 MR. IGNALL: We'd move to excuse him for cause.

21 THE COURT: Response.

22 MR. CRISTALLI: Um, sir, if you, um, had an opportunity
23 to sit on the jury, after the government has presented all of
24 their evidence that you believe that the defendants are -- are
25 guilty based on the evidence that you have heard, would you be

1 able to be true to the Government and return a verdict of guilty
2 if you believe that the evidence supported a verdict of guilty?

3 PROSPECTIVE JUROR DUCHON: I don't think I could
4 because after talking to four different people -- I think it's
5 an inefficient organization. Okay? It really is.

6 THE COURT: All right. You're beating a dead horse,
7 Counsel.

8 MR. BOWERS: Let's -- let's -- let's --

9 MR. CRISTALLI: Well, I think we all would maybe agree
10 that it was inefficient.

11 THE COURT: You want to ride him, but he's dead. Okay?
12 You're excused.

13 PROSPECTIVE JUROR DUCHON: Thank you, sir. Thank you,
14 your Honor.

15 (Sidebar conference concluded and the
16 following is held in open court:)

17 THE CLERK: Christopher Addison, A-d-d-i-s-o-n.
18 Christopher Addison.

19 THE COURT: Mr. Addison, do you have a positive
20 response to any of the questions?

21 PROSPECTIVE JUROR ADDISON: Yes, I do, your Honor.

22 THE COURT: Go ahead.

23 PROSPECTIVE JUROR ADDISON: Uh, my company will not pay
24 for any time I missed. I'm a limousine driver/chauffeur.

25 THE COURT: Sole source of support for your household?

1 PROSPECTIVE JUROR ADDISON: My wife works also.

2 THE COURT: Where does she work?

3 PROSPECTIVE JUROR ADDISON: Bookkeeper.

4 THE COURT: Which company?

5 PROSPECTIVE JUROR ADDISON: Uh, the V Theater at the
6 Aladdin.

7 THE COURT: She works at the Aladdin?

8 PROSPECTIVE JUROR ADDISON: That's correct.

9 THE COURT: For the Aladdin?

10 PROSPECTIVE JUROR ADDISON: For the V Theater. It's
11 independent.

12 THE COURT: Independent of the Aladdin. Okay.
13 Who is the primary breadwinner, you or her?

14 PROSPECTIVE JUROR ADDISON: I am, sir.

15 THE COURT: Okay. Mr. Addison is excused.

16 THE CLERK: Monique Perkins, P-e-r-k-i-n-s. Monique
17 Perkins.

18 THE COURT: Ms. Perkins, do you have a positive
19 response to any of the questions I have asked?

20 PROSPECTIVE JUROR PERKINS: Yes. I'd like to go to
21 sidebar for my answer.

22 THE COURT: Okay.

23 (Sidebar conference was held as follows:)

24 THE COURT: Hold on. Just a minute until everyone gets
25 here. Okay.

1 MR. CRISTALLI: Is Schiff here?

2 THE COURT: Oh, Schiff.

3 MR. LEVENTHAL: He's coming.

4 PROSPECTIVE JUROR PERKINS: The, um, one about -- okay.
5 The question about the criminal. What was...

6 THE COURT: Yeah. Has any of -- you or your immediate
7 family ever been convicted of a serious criminal offense?

8 PROSPECTIVE JUROR PERKINS: Okay. "Immediate" means
9 like "husband"?

10 THE COURT: Husband.

11 PROSPECTIVE JUROR PERKINS: Okay. Prior to when we
12 were married.

13 THE COURT: Okay.

14 What was the nature of the crime?

15 PROSPECTIVE JUROR PERKINS: Um, how could -- would it
16 be like trafficking?

17 THE COURT: Drugs?

18 PROSPECTIVE JUROR PERKINS: Yeah.

19 THE COURT: Something to do with drugs?

20 PROSPECTIVE JUROR PERKINS: Um-hum.

21 THE COURT: Is there anything about that experience
22 that would interfere with your ability to judge this case?

23 PROSPECTIVE JUROR PERKINS: No. It was prior to
24 meeting me. So...

25 THE COURT: Okay. All right.

1 Any other -- other things you want to address --

2 PROSPECTIVE JUROR PERKINS: Not that I can recall.

3 THE COURT: -- any other concerns?

4 PROSPECTIVE JUROR PERKINS: I can't remember all the
5 questions. But I knew that was one that...

6 THE COURT: All right.

7 PROSPECTIVE JUROR PERKINS: But anything else though.

8 THE COURT: Any reason why you can't be fair and
9 impartial and sit as a juror in this case?

10 PROSPECTIVE JUROR PERKINS: No.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR PERKINS: There's no reason.

13 THE COURT: All right. Thank you.

14 PROSPECTIVE JUROR PERKINS: Okay. So do I leave or go
15 back?

16 THE COURT: You can go back.

17 PROSPECTIVE JUROR PERKINS: Oh.

18 THE COURT: You can go back in there.

19 PROSPECTIVE JUROR PERKINS: Okay.

20 THE COURT: Yeah.

21 (Sidebar conference concluded and the
22 following is held in open court:)

23 THE COURT: I'm not going to ask any other voir dire
24 questions. All of the ones -- the other ones that have been
25 proposed but not yet propounded are going to be covered by the

1 Court's instructions of law and the jury has -- panel has
2 already indicated that there is no one who would be unwilling to
3 follow my instructions of law or judge this case solely on the
4 evidence presented. So that is the end of the voir dire.

5 Does any party wish to challenge the panel as it now
6 exists for cause?

7 MR. IGNALL: No, your Honor.

8 MR. CRISTALLI: No, your Honor, not on behalf of
9 Ms. Neun.

10 THE COURT: Thank you.

11 Mr. Bower [sic]?

12 MR. BOWERS: Uh, no. Thank you, your Honor.

13 THE COURT: Mr. Schiff?

14 MR. SCHIFF: No, your Honor.

15 THE COURT: All right. The jury is passed for cause.

16 Now, the next step is for Mr. Fears to hand you a
17 questionnaire that will require you to -- to read a question and
18 give an answer. As to the -- Ms. Green-Wilson --

19 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

20 THE COURT: -- will you read the question and then give
21 the answer.

22 And then, Ms. Perkins, when you receive that piece of
23 paper, you just give the answer rather than reading the question
24 again.

25 PROSPECTIVE JUROR PERKINS: Okay.

1 THE COURT: Okay?

2 PROSPECTIVE JUROR GREEN-WILSON: Do I have to answer
3 everything on this sheet?

4 THE COURT: Yes, please.

5 PROSPECTIVE JUROR GREEN-WILSON: Okay.

6 THE COURT: Read the question and then give your
7 answer.

8 PROSPECTIVE JUROR GREEN-WILSON: State your name, the
9 community in which you live, and how long you have lived there.
10 My name is Lisa Green-Wilson. And I live in, um, Green Valley
11 area and I've been there for four years.

12 Second question. Do you own or rent your current
13 residence? I own.

14 Third question. State your occupation and the name of
15 your current employer. I'm preclose loan audit -- auditor for
16 Wells Fargo Financial.

17 Question number 4. State whether you are married.
18 And, if so, the current occupation and employer of your spouse.
19 I am divorce --

20 THE COURT: All right.

21 PROSPECTIVE JUROR GREEN-WILSON: -- so I'm -- I'm
22 single, I guess.

23 Question number 5. If you have minor children living
24 in your home, please tell us their ages. I have a grown-up son;
25 I don't have no little children.

1 Number 6. Please state your educational level. I have
2 associate's degree.

3 Number 7. Tell us whether you have had prior jury
4 service in this or any other court. No. I have been summoned,
5 but I haven't served.

6 THE COURT: Okay. That --

7 PROSPECTIVE JUROR GREEN-WILSON: Number 8. If you have
8 had prior jury service, was the case criminal or civil? And
9 without telling us what the verdict was, did the jury in which
10 you served reach a verdict?

11 THE COURT: That's not applicable for you.

12 PROSPECTIVE JUROR GREEN-WILSON: Not applicable --

13 THE COURT: All right.

14 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR PERKINS: Monique Perkins. North
17 Las Vegas, Nevada. A year. I own. Administrative support for
18 the City of Las Vegas. Married. Um, occupation of my spouse.
19 Foreman of Economy Steel.

20 THE COURT: That's your husband?

21 PROSPECTIVE JUROR PERKINS: Yes.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR PERKINS: Okay. I thought I said
24 married. Okay.

25 I have one child, age 4. I have a BS/BA. No. No.

1 THE COURT: No jury service?

2 PROSPECTIVE JUROR PERKINS: No.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR GOODING: I'm Annie Gooding. Live at
5 2500 Sierra Bello for five years. Own that home. Not working.
6 Married, yes. Children, one child. One year of college for
7 banking. No. Not applicable.

8 THE COURT: Let me ask you this: What does your
9 husband do? Does he work?

10 PROSPECTIVE JUROR GOODING: Yes. He work at
11 Stratosphere as a runner.

12 THE COURT: At the Stratosphere as a runner.

13 PROSPECTIVE JUROR GOODING: Yeah, in the warehouse.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR GOODING: You're welcome.

16 PROSPECTIVE JUROR SAMANIEGO: My name is Uriel
17 Samaniego. I live out in Henderson. I've been in Las Vegas for
18 13 years. We currently renting. I'm a massage therapist. I
19 work for The Rio Hotel. I am married, but my wife is a
20 housewife. We have two children, 13 and 11. I had some college
21 for education level. I had two prior jury experiences, both in
22 Texas, one was civil and one was criminal, and we both -- in
23 both cases we came to a verdict.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR SALTON: My name is Carolyn Salton.

1 I live in Henderson, Nevada. I've lived here for 16 years. I
2 own. I work for Sunrise Hospital in the laboratory. Single.
3 Um, all my children are grown. Uh, two years college. No. And
4 not applicable.

5 THE COURT: No jury service. Thank you.

6 PROSPECTIVE JUROR D. SCOTT: Doug Scott. Las Vegas.
7 Been at that residence since April. We own -- or I own, I
8 guess. Prepared Response: I'm in management. I am married.
9 And...

10 THE COURT: What does your wife do?

11 PROSPECTIVE JUROR D. SCOTT: My wife is an office
12 manager for Contact -- Contact Corporation. No children living
13 at home. Three and a half years of associate's degree. Um, no
14 jury service.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR HAWORTH: Diane Haworth. Las Vegas.
17 I've lived here for six years. I've owned my own home. And I
18 am a retired public school teacher. I am single. Uh, my
19 educational level is master's degree plus. I have had prior,
20 uh, jury service in California. It was a criminal case and, um,
21 no, the jury did not reach a verdict.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR PORTERFIELD: My name is Dawn
24 Porterfield. I live in northwest Las Vegas for two years. We
25 own our home. I'm a controller for graphics company being

1 Suburban Graphics. I am married. My husband is in the U.S. Air
2 Force. We have no children. Um, I have a bachelor's degree.
3 And no, I have never done jury duty.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR MANESSE: My name is Seth Manesse. I
6 live in Henderson. We've been at that address for about --
7 since -- since January. We own. I'm a casino dealer, MGM
8 Grand. Married. Uh, my wife is a stay-at-home mother. We have
9 three small children, ages 6, 5, 3 and a half. I've completed
10 some college. No prior jury service.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR SHARP: My name's Randy Sharp. I
13 live in Henderson. Lived there seven years. We own the current
14 residence. I'm a casino floor supervisor at the Venetian. I'm
15 married. My wife is a dealer at the Mandalay Bay. We have no
16 children at home. I have one year college. No prior jury duty.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR TERRY: My name is Patrick Terry. I
19 own my own home in Pahrump, Nevada. Uh, I'm a retired real
20 estate broker/contractor. Uh, married. Four children that are
21 grown; four grandchildren we're helpin' to raise now. Um,
22 education level, I've got an Associate of Arts. And had prior
23 jury? No.

24 THE COURT: No prior jury. Okay. Thank you.

25 PROSPECTIVE JUROR WIGGINS: My name is Lillie Wiggins.

1 I live in Henderson and I've lived there for a little over two
2 years. Uh, we are -- I do own the home. Um, I am retired.
3 I -- I -- I'm a retired executive secretary for Cherry Creek
4 School District in Colorado. I am married, um, and my husband
5 is a loan officer. I have no minor children living at home.
6 Um, my education level would be, um, two years plus. I have had
7 prior jury service, uh, in Los Angeles, um, Municipal Court. I
8 believe it was a criminal case and we did find the -- the person
9 not guilty.

10 THE COURT: Hold on. We don't want the verdict.

11 PROSPECTIVE JUROR WIGGINS: Oh, I thought you did. I'm
12 sorry.

13 THE COURT: We just wanted to know whether you reached
14 a verdict.

15 PROSPECTIVE JUROR WIGGINS: We did reach a verdict.

16 THE COURT: Okay. Thank you.

17 PROSPECTIVE JUROR GILLIARD: My name is Addie Gilliard.
18 I live in North Las Vegas for one year. I own my home. I'm a
19 21 dealer at The Rio. I'm divorced. And, um, I have two
20 children living at home, 13 and 5. Uh, high school education;
21 no college. I have been summoned for jury duty but never
22 served.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR MOULTON: My name is Brenda Moulton.
25 We live at -- I live in Mesquite, Nevada. Um, own my home. Uh,

1 I am married. We own a picture framing/art gallery business.
2 We have one child, age 13, living at home. I've had some
3 college. Uh, I have not served jury duty.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR NGUYEN: I am Tuan Nguyen. I live in
6 north -- in -- in south -- southwest Las Vegas. I own a home.
7 Um, I'm -- I'm a nail technician, manicurist. I'm single. I
8 don't have any children. I don't understand 6.

9 (Discussion between Ms. Moulton and
10 Mr. Nguyen.)

11 PROSPECTIVE JUROR NGUYEN: Yeah, I'm in college. I
12 have -- I have jury service in Maryland. I don't know when. I
13 forgot.

14 THE COURT: In Maryland.

15 PROSPECTIVE JUROR NGUYEN: In Maryland, yes.

16 THE COURT: Did you reach a verdict?

17 PROSPECTIVE JUROR NGUYEN: Huh?

18 THE COURT: Did you reach a verdict?

19 PROSPECTIVE JUROR NGUYEN: I'm sorry. Uh...

20 THE COURT: In the jury service in which you served --

21 PROSPECTIVE JUROR NGUYEN: Jury service, yes, sir.

22 THE COURT: -- did you reach a verdict?

23 PROSPECTIVE JUROR NGUYEN: Yes, sir.

24 THE COURT: And what -- was it a civil or criminal
25 case?

1 PROSPECTIVE JUROR NGUYEN: I --

2 THE COURT: Don't remember?

3 PROSPECTIVE JUROR NGUYEN: I'm sorry. I don't
4 remember.

5 THE COURT: All right.

6 PROSPECTIVE JUROR NGUYEN: But I went one time.

7 THE COURT: One time?

8 PROSPECTIVE JUROR NGUYEN: Yeah.

9 THE COURT: And did the jury reach a verdict? Did you
10 make a decision? Did the jury decide the case?

11 PROSPECTIVE JUROR NGUYEN: I don't -- I don't
12 understand. I'm not sure. I don't remember.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NGUYEN: But -- I can't remember.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NGUYEN: I went once.

17 THE COURT: That's all then. Thank you.

18 PROSPECTIVE JUROR NGUYEN: Thank you.

19 PROSPECTIVE JUROR V. SCOTT: My name is Vanya Scott. I
20 live in Las Vegas. I rent my home. I am the collections
21 curator for the Atomic Testing Museum here in town. I'm
22 married, and my husband is currently a pest control technician
23 with Enviro Pro. I have no minor children living with me. Um,
24 my educational level, I have a bachelor's plus one year of
25 graduate school. I have been called for jury duty in Texas, but

1 I wasn't chosen.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR V. SCOTT: And that's all.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR TUCKER: My name is Renee Tucker. We
6 live on the east side of Las Vegas for 15 years. We own our own
7 home in which I own and operate a licensed child care facility.
8 Um, I am married. My husband works for United Nissan as a parts
9 counterman. We have one child at home, not a minor child. Um,
10 I have some college. And I have been summonsed but never
11 served.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR BROWNLEE: My name is Belisa
14 Brownlee. I live in the southwest side of Las Vegas for 12
15 years now. I rent my apartment. I am the night auditor at the
16 Luxor. I'm single. I don't have any children, but my nephew
17 lives with me. Um, I have a BS/BA/JD. And I've never served
18 jury.

19 PROSPECTIVE JUROR LOMBARDO: My name's Eric Lombardo.
20 I live in Las Vegas. I've been here for two years. I own our
21 home. And, um, I'm a speech pathologist for UMC. My wife is a
22 speech pathologist also, but she's pretty much a stay-at-home
23 mom. We have a seven-month old at our home. I hold a master's
24 degree. And I've never served before.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR GROFT: My name is Travis Groft.
2 I've lived in Las Vegas for 25 years. I live with my parents
3 currently. I am a heavy equipment mechanic for Nevada Ready
4 Mix. I am single. And I have no kids. High school diploma.
5 And I've never served on a jury before.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR WARD: Stanley Ward. I've lived in
8 Las Vegas 12 years. Own a house. I work for the school
9 district as a bus driver. I'm married. My wife works for the
10 County as an H.R. finance analyst. 13-year-old at home.
11 Associate's degree. Never served on a jury.

12 THE COURT: Thank you.

13 PROSPECTIVE JUROR MATHEWS: My name is Janice Mathews.
14 I live in southeast Las Vegas. Um, I -- I've lived there in the
15 address where I am right now for seven years. I own my home.
16 Uh, I am the advertising manager for the Imperial Palace Hotel &
17 Casino. I am married, and my husband is a car dealership
18 manager. Um, I have no minor children living at home. Uh, I
19 have two and a half years of college. And I have been called
20 for jury duty before but never served.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR DYESS: My name is Max Dyess. I've
23 lived in Las Vegas for 25 years. We own our own home. I'm
24 retired from the casino industry; 15 years with Circus Circus
25 Corporation. Uh, I'm married. Uh, my wife is disabled; she

1 doesn't work. No minor children. Uh, one year of college.
2 I've had -- been called three times in Las Vegas; never served.
3 Served one time in Texas, civil case. It was settled after
4 three days.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR DYESS: Uh, I guess that's it.

7 THE COURT: Okay. Ms. --

8 PROSPECTIVE JUROR MATHEWS: I'm sorry. I -- I meant to
9 say that I lived at my home for seven years, but I've lived here
10 for 20, almost 21 years.

11 THE COURT: Okay. Thank you.

12 PROSPECTIVE JUROR MATHEWS: Full time.

13 PROSPECTIVE JUROR MARAGOS: My name is Rena Maragos. I
14 live in Las Vegas. We've lived there for about 13 years. We
15 own our home. I am an office manager for a loan company. My
16 husband is retired. We have four children, all grown. Uh, two
17 and a half years of college. I did serve at the Clark County
18 courthouse, civil case, and it was decided.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR CRAIGIE: My name is Stu Craigie.
21 Lived in Las Vegas for 28 years. I own my own home. I'm a keno
22 supervisor at Bally's. Divorced, two grown children. Had a
23 little college. I've served on three juries, two civil and one
24 criminal, and they all were decided.

25 THE COURT: They all what?

1 PROSPECTIVE JUROR CRAIGIE: They were all -- had
2 decisions.

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR STEINAGEL: My name is Christina
5 Steinagel. I've lived in Las Vegas my whole life. I rent my
6 home. I work at the Golden Nugget as a VIP attendant. I am
7 married, and my husband works at the MGM as a internal
8 consultant. I have a five-year-old daughter living at home. A
9 bachelor's degree. And I've never served on a jury.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR KADERLIK: My name is Richard
12 Kaderlik. Let's see. Oh. And I've lived here for 11 years,
13 and I'm a current homeowner. I'm currently retired. And my
14 previous employment was with the federal government plus retired
15 military. I am married, and my spouse is retired as well. Uh,
16 two grown children. Two years' college. And I've had, uh, two
17 criminal cases and one civil all of which were settled and one
18 federal criminal case, uh, where I was relieved by the judge --
19 or not selected by the judge personally.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR McFARLANE: My name is Brandon
22 McFarlane. I've lived in Las Vegas for 31 years. I own my
23 home. Married. My wife's an office administrator for
24 KH Landscaping. Minor child living at home is five years old.
25 Uh, no college. And never been selected for a jury.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR BOUCHARD: My name is Stacey
3 Bouchard. I live in Las Vegas for 26 years. I own my own home.
4 I work for the State of Nevada Department of Motor Vehicles.
5 I'm divorced; two children, 12 and 15. High school graduate.
6 And never served on jury.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR DISHON: My name's Al Dishon. I've
9 lived in Las Vegas five years. I own my home. I work at
10 Bechtel Nevada as a technical staff. I'm married. My wife also
11 works at Bechtel Nevada as a senior facility manager. I have no
12 minor children at home. Uh, some college. And one jury
13 selected in California and came to a verdict.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR SMITH: John Smith, four years. Own.
16 I work in Operations at the Base Exchange. Single. No
17 children. High school graduate. No prior jury service.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR STODDARD: I'm Melissa Stoddard. I
20 live in Las Vegas, Nevada. I've lived there for about nine
21 months. I currently rent my residence. I work for Bechtel
22 Nevada as an administrative support person. I am unmarried. I
23 have zero children. I have three years towards a Bachelor of
24 Science. And this is my first time being selected.

25 THE COURT: Thank you.

1 Is the panel passed for cause?

2 MR. IGNALL: Yes, your Honor.

3 MR. CRISTALLI: Court's indulgence.

4 MR. BOWERS: Court's indulgence one moment, your Honor.

5 THE COURT: Yes.

6 (Discussion between defense counsel.)

7 MR. IGNALL: Your Honor, on further reflection if we
8 get an opportunity at sidebar.

9 THE COURT: Okay.

10 MR. BOWERS: We have no challenges at this time, your
11 Honor. If we can meet the Government for a sidebar.

12 THE COURT: Mr. Cristalli?

13 MR. CRISTALLI: Uh, your Honor, I don't have a
14 challenge for cause at this time.

15 THE COURT: Mr. Schiff? Mr. Schiff?

16 MR. BOWERS: Mr. Schiff.

17 THE COURT: Any challenges for cause?

18 (Discussion between Mr. Leventhal and
19 Mr. Schiff.)

20 MR. SCHIFF: No. No, your Honor.

21 (Sidebar conference was held as follows:)

22 MR. IGNALL: The only question we have -- and this is
23 something my co-counsel pointed out -- Mr. Nguyen seemed to have
24 some trouble reading the questionnaire. He may just have been
25 nervous. Maybe we could inquire further of him to make sure

1 that he feels comfortable under --

2 MR. BOWERS: You know --

3 MR. IGNALL: -- understanding of everything that we're
4 saying here.

5 MR. BOWERS: Just for the record, he's been flawless.
6 I mean, initially there was some concern. But every time we've
7 asked him a question other than that round --

8 MR. CRISTALLI: I got --

9 MR. BOWERS: -- he was --

10 MR. CRISTALLI: I'm a little concerned with him myself.

11 MR. NEIMAN: It's unclear whether or not --

12 MR. IGNALL: I just -- maybe some further inquiry at
13 sidebar might help understand if he's really following.

14 MR. CRISTALLI: Yeah.

15 MR. IGNALL: He might just be nervous.

16 THE COURT: Yeah. It just seems like he's taking a
17 long time to read the --

18 MR. IGNALL: Yeah.

19 THE COURT: -- read the questions. Pretty simple. I
20 mean, he listened to them, you know. I mean, I could have done
21 those from memory.

22 MR. BOWERS: You know, it's obviously a judgment call
23 what --

24 THE COURT: Yeah. Let's bring him over. Bring him
25 over.

1 MR. SCHIFF: Frankly, I would object to having somebody
2 from Vietnam. The way you have strong centralized government,
3 they don't understand the limited nature of the federal
4 government and the fact that private citizens may have rights
5 and powers that --

6 MR. CRISTALLI: I just think he's gonna have some
7 hurdles with regard to the English language.

8 THE COURT: I think so.

9 MR. MODAFFERI: I think he's from Thailand.

10 MR. SCHIFF: Well, I don't like these people from where
11 they have strong central governments.

12 MR. CRISTALLI: Okay. All right.

13 MR. SCHIFF: They don't understand the limited nature
14 of...

15 THE COURT: All right. Thank you.

16 Bring him over. Bring him over so I can question him.

17 Mr. Nguyen. Can you get Mr. Nguyen over here?

18 THE CLERK: I can.

19 Mr. Nguyen, could you come over with me, please?

20 (Pause in the proceedings.)

21 THE COURT: Oh. How are you?

22 PROSPECTIVE JUROR NGUYEN: Fine. Thank you.

23 THE COURT: Good. Just a quick question.

24 PROSPECTIVE JUROR NGUYEN: Sure. Sure, Judge.

25 THE COURT: Does it take you a while to -- to pick up

1 on the English? Is that a difficult thing for you?

2 PROSPECTIVE JUROR NGUYEN: Yes.

3 THE COURT: Is it?

4 PROSPECTIVE JUROR NGUYEN: Yeah.

5 THE COURT: Do you think you'd having difficulty
6 reading things?

7 PROSPECTIVE JUROR NGUYEN: Yes.

8 THE COURT: You would? Okay.

9 PROSPECTIVE JUROR NGUYEN: Yes.

10 THE COURT: Yeah. There's going to be some reading
11 here and --

12 PROSPECTIVE JUROR NGUYEN: Um-hum.

13 THE COURT: -- some pretty complicated things that will
14 require reading. Would you like to be excused based on that?
15 Do you understand that question?

16 PROSPECTIVE JUROR NGUYEN: Excuse, uh...

17 THE COURT: Released.

18 PROSPECTIVE JUROR NGUYEN: Sure.

19 MR. BOWERS: Would you like to be a juror? Would you
20 like to go?

21 THE COURT: You'd rather not be a juror in this case?

22 MR. BOWERS: Do you want to go or stay?

23 PROSPECTIVE JUROR NGUYEN: Yeah, please.

24 MR. CRISTALLI: I think we'll move anyway.

25 THE COURT: All right.

1 MR. IGNALL: Yeah. Okay.

2 THE COURT: You're excused, sir.

3 PROSPECTIVE JUROR NGUYEN: Thank you.

4 THE COURT: Go back down to the first floor.

5 PROSPECTIVE JUROR NGUYEN: Thank you.

6 THE COURT: Thank you.

7 (Sidebar conference concluded and the
8 following is held in open court:)

9 THE COURT: Yes. Mr. Nguyen, you are excused. If you
10 need to pick up something there, go ahead. You're excused.
11 Thank you.

12 THE CLERK: To replace number 15, Sonia Lopez,
13 L-o-p-e-z. Sonia Lopez.

14 THE COURT: Okay.

15 Ms. Lopez, do you have a positive response to any of
16 the questions that I asked earlier?

17 PROSPECTIVE JUROR S. LOPEZ: No, sir.

18 THE COURT: Okay.

19 Could you read the questionnaire and...

20 PROSPECTIVE JUROR S. LOPEZ: My name is Sonia Lopez and
21 I've been lived in Las Vegas for four years. I rent. I'm a
22 nurse assistant.

23 THE COURT: Where do you work? Which --

24 PROSPECTIVE JUROR S. LOPEZ: Henderson Healthcare.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR S. LOPEZ: In Henderson. I'm
2 divorced. I have a minor at home; she's 13 years old. My
3 education level is nursing. And I haven't had a jury service.

4 THE COURT: Okay.

5 Let me ask you a couple more questions about your
6 employment. Does your employer pay for jury time?

7 PROSPECTIVE JUROR S. LOPEZ: I really don't know.

8 THE COURT: You don't know?

9 PROSPECTIVE JUROR S. LOPEZ: (Shakes head.)

10 THE COURT: Uh, are you -- if they don't, are you gonna
11 to be able to make it financially?

12 PROSPECTIVE JUROR S. LOPEZ: I can change my -- my
13 hours.

14 THE COURT: You can change your hours.

15 PROSPECTIVE JUROR S. LOPEZ: Yes.

16 THE COURT: Okay.

17 And would you be working long hours or could you kind
18 of tailor it to your jury service?

19 PROSPECTIVE JUROR S. LOPEZ: I could work Fridays,
20 Saturdays, and Sundays.

21 THE COURT: Okay.

22 And would you be able to remain alert and attentive if
23 you came to jury service after you had been working?

24 PROSPECTIVE JUROR S. LOPEZ: Sure.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR S. LOPEZ: It's no problem.

2 THE COURT: Six hours is about what we put in. But
3 it's spread over, you know, a whole day. So you think you can
4 work it in?

5 PROSPECTIVE JUROR S. LOPEZ: Sure.

6 THE COURT: All right. All right. Well, thank you.
7 Does the Government pass the panel for cause?

8 MR. IGNALL: Your Honor, with the Court's indulgence,
9 could I have one more sidebar?

10 THE COURT: Okay.

11 MR. IGNALL: Something that's just come to my
12 attention.

13 THE COURT: Yes. What did you want to say?

14 PROSPECTIVE JUROR S. LOPEZ: Yes, your Honor.

15 THE COURT: Hold on just a minute.

16 PROSPECTIVE JUROR GREEN-WILSON: Earlier I had stated
17 that I'm not sure whether my company will cover for that five
18 weeks jury duty.

19 THE COURT: Yes.

20 PROSPECTIVE JUROR GREEN-WILSON: So, during lunch time
21 I've called and can't get ahold of anybody. So I left message.
22 And I need to check my messages to see if they give me
23 information because I'm a sole provider and -- it's gonna be a
24 financial burden for me if, you know, they don't cover the full
25 five weeks.

1 THE COURT: And you don't know yet whether you --

2 PROSPECTIVE JUROR GREEN-WILSON: I need -- can I go out
3 and check my messages on my cell phone to see if they got back
4 with me?

5 THE COURT: Can you walk outside?

6 PROSPECTIVE JUROR GREEN-WILSON: Yes.

7 THE COURT: Yes, you may do that while we're at
8 sidebar.

9 (Pause in the proceedings.)

10 (Sidebar conference was held as follows:)

11 THE COURT: Okay.

12 MR. IGNALL: I apologize, your Honor. Just -- one of
13 the IRS agents who is in the courtroom here but not working on
14 our case recognizes Juror number 21, Stanley Ward. She
15 recognizes him from a tax preparer case. She thinks he might
16 have been a witness. I don't -- I don't suspect that there's
17 anything to this. But we'd request that he be interrogated
18 separately to determine.

19 MR. CRISTALLI: Could you just repeat what it was --

20 MR. IGNALL: We understand from one of the other IRS
21 agents -- she's not working on this case; she's public affairs
22 officer -- that Juror number 21, Stanley Ward, she recognizes
23 him as, she thinks, a witness in a tax return preparer case that
24 she worked on. I don't -- I'm not saying that there is any
25 basis for cause. But --

1 MR. CRISTALLI: That's what I --

2 MR. IGNALL: -- we'd be curious to know if he --

3 MR. CRISTALLI: Do you know if he was a witness or --

4 MR. BOWERS: Percipient witness?

5 MR. IGNALL: We don't -- I don't know anything beyond
6 that. That's why just out of an abundance of caution I think it
7 would be --

8 THE COURT: Okay.

9 MR. IGNALL: -- worth inquiring. I don't suspect
10 there's anything to that.

11 MR. CRISTALLI: Okay.

12 THE COURT: The witness in a tax preparer --

13 MR. IGNALL: Criminal -- IRS criminal investigation,
14 possibly a witness in a tax return preparer case.

15 THE COURT: Okay.

16 MR. IGNALL: I said I don't -- that's what --

17 THE COURT: Maybe it just looks like somebody who was a
18 witness.

19 MR. IGNALL: May just be a coincidence.

20 THE COURT: Let's bring Stanley Ward over to sidebar,
21 number 21. Stanley Ward.

22 (Pause in the proceedings.)

23 THE COURT: All right. Mr. Ward --

24 PROSPECTIVE JUROR WARD: Yes.

25 THE COURT: -- are you a witness in an IRS case right

1 now?

2 PROSPECTIVE JUROR WARD: No.

3 THE COURT: You're not. Okay.

4 PROSPECTIVE JUROR WARD: No.

5 THE COURT: Not involved in a tax return preparer case
6 of some kind that's pending?

7 PROSPECTIVE JUROR WARD: Not that I know of.

8 THE COURT: Okay.

9 MR. CRISTALLI: Don't get nervous.

10 MR. BOWERS: Wait till you get home tonight.

11 THE COURT: I think you'd definitely know if you were.

12 All right. Thank you.

13 MR. IGNALL: Thank you, your Honor.

14 THE COURT: Okay.

15 So let's see what -- well, we'll find out.

16 Any other comments or questions?

17 MR. IGNALL: I think we're okay.

18 MR. NEIMAN: No.

19 (Sidebar conference concluded and the
20 following is held in open court:)

21 THE COURT: Did you get an answer?

22 PROSPECTIVE JUROR GREEN-WILSON: Yes.

23 THE COURT: All right.

24 What is the answer?

25 PROSPECTIVE JUROR GREEN-WILSON: They will cover it.

1 THE COURT: They will cover it? So you're okay to
2 serve?

3 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

4 THE COURT: Okay. Anyway...

5 Did counsel hear that, Ms. Lisa Green-Wilson --

6 PROSPECTIVE JUROR GREEN-WILSON: Yes, sir.

7 THE COURT: -- is going to be compensated during the
8 period of her service by her employer.

9 All right. The last -- the final last --

10 MR. IGNALL: The Government has no challenges for
11 cause.

12 MR. CRISTALLI: No, your Honor, not on behalf of
13 Ms. Neun.

14 THE COURT: Thank you.

15 MR. BOWERS: Nothing on behalf of Mr. Cohen at this
16 time, your Honor.

17 MR. SCHIFF: No challenges.

18 THE COURT: All right. Thank you.

19 Ladies and gentlemen, the next step is the peremptory
20 challenge. And this gives the attorneys an opportunity to
21 strike the names of jurors of the 32 who have been called
22 without giving a reason and that process will probably take
23 about 30 minutes.

24 So what we're going to do while we wait for that is
25 first we're going to excuse all those who were not called as

1 part of the 32. We'll send you back down to the Jury
2 Commissioner on the first floor. And I want to thank you for
3 your patience and participation this -- this morning and this
4 afternoon in -- in waiting while we selected the panel. If you
5 would please return back to Ms. Hybarger who is in the Jury
6 Assembly Room.

7 (Remaining prospective jury panel members
8 leave the courtroom at 2:23 p.m.)

9 THE COURT: Okay. The next phase. We'll have you wait
10 outside, go downstairs. Just make sure you're back here, let's
11 say, um -- let's say no later than 3:00 p.m. and by that time
12 the peremptory process should be completed.

13 When you come back into the courtroom, just remain back
14 behind the bar of the court, behind the gates, and then the
15 clerk will call the names of 14 jurors, the first 12 will be
16 regular jurors and two will be alternates, and the rest of you
17 will be excused.

18 So thank you. Thank you for your patience and we'll
19 see you at 3:00 p.m. right back here.

20 (32 members of prospective jury panel exit
21 the courtroom at 2:25 p.m.)

22 THE CLERK: Shall I begin?

23 THE COURT: Ready. Go ahead.

24 THE CLERK: Peremptory challenge ground rules.

25 Everyone, let me review them so that you know what I'm doing.

1 The first 28 will constitute the initial panel of 12.
2 Peremptory challenges one per side for the first two rounds,
3 then two for the defense there after; one for -- so I'm going
4 one to one, one to one, one to two, and up, okay, till you have
5 10 altogether on this side and you have six. Then the last four
6 people we consider for your alternates, one each. Okay?

7 It's all joint peremptories. It would be my suggestion
8 that so we can keep track of things that the number of
9 peremptories -- one through six, one through ten -- and that you
10 use a different color.

11 MR. NEIMAN: Can you go backwards.

12 MR. CRISTALLI: A question --

13 MR. NEIMAN: I'm sorry.

14 MR. CRISTALLI: Go ahead.

15 MR. NEIMAN: Can you back strike? Like, let's say we
16 get to number one --

17 MR. IGNALL: We can strike anyone from the first 28?

18 THE CLERK: You can strike anyone from the first 28.

19 MR. NEIMAN: In any order?

20 MR. IGNALL: In any order?

21 THE CLERK: Correct.

22 MR. NEIMAN: Okay.

23 MR. IGNALL: Okay.

24 MR. CRISTALLI: And, just so we're clear, if they are
25 impaneled the way they are impaneled and if there is no

1 peremptory challenges, for example, on the person who is sitting
2 in juror seat number one, does that person stay in jury seat
3 number one or is it reselected somehow or no? The 28 --

4 THE CLERK: The first 12 people that survive in
5 peremptory challenges of the first 28 people that constitutes
6 your jury.

7 MR. CRISTALLI: But, if they are already up there, they
8 stay at that position; correct?

9 THE CLERK: Correct. They stay up -- well, if number
10 one is up there, number one stays at that position.

11 MR. CRISTALLI: Okay.

12 THE CLERK: However, if you strike number two, then
13 number three moves into number two spot.

14 MR. CRISTALLI: Okay.

15 THE CLERK: Does that answer your question?

16 MR. CRISTALLI: Yes.

17 THE CLERK: Okay. Any other questions?

18 THE COURT: Okay. We are in recess till 3:00 p.m.

19 MR. IGNALL: Thank you.

20 THE COURT: Thank you.

21 THE CLERK: Government starts first.

22 (Recess for peremptory challenges, 2:28 p.m.
23 to 3:00 p.m.)

24 THE CLERK: All rise.

25 THE COURT: Please be seated.

1 THE CLERK: We have some microphones that are muted.
2 I'd like to unmute them before we get started.

3 THE COURT: Do we have anyone here that is part of the
4 jury panel, the 32? If so, they should be --

5 THE CLERK: I asked them to leave.

6 THE COURT: All right.

7 THE CLERK: Yes, sir.

8 THE COURT: All right.

9 Sir, would you identify yourself? You standing.

10 THE MARSHAL: Right over here. Step up.

11 (Discussion between the clerk and the Court.)

12 THE COURT: Your name, sir.

13 MR. MALAN: My name is John Anthony Malan.

14 THE COURT: John Anthony Malan.

15 MR. MALAN: Malan, M-a-l-a-n.

16 THE COURT: Are you connected with any of the parties
17 in this case? Have you met with them, discussed anything with
18 them today?

19 MR. MALAN: I'm an observer.

20 THE COURT: You're an observer.

21 The question is: Did you discuss anything with any of
22 the attorneys or parties in this case today?

23 MR. MALAN: I don't understand the nature of the
24 question, your Honor.

25 THE COURT: The question is pretty simple: Did you

1 meet with or discuss anything with any of the individuals who
2 are inside the bar of this Court today?

3 MR. MALAN: No, sir, not that I'm aware of.

4 THE COURT: Not that you're aware of.

5 Is it possible --

6 MR. MALAN: I talked to some people in the elevator. I
7 don't know who; I don't remember who they were.

8 THE COURT: All right.

9 What did you say?

10 MR. MALAN: I -- I don't understand the nature of this
11 questioning, sir. I'm not part of this case. I'm just --

12 THE COURT: Did you --

13 MR. MALAN: -- an observer.

14 THE COURT: -- speak to prospective jurors in this
15 case?

16 MR. MALAN: Not that I'm aware of, sir. No, I did not.

17 THE COURT: All right.

18 Who is the prospective juror that is in the courtroom?
19 Ms. Hybarger.

20 Ma'am, would you identify yourself?

21 PROSPECTIVE JUROR BROWN: My name is Mary Elizabeth
22 Brown.

23 THE COURT: Were you called as a member of the jury
24 panel in this case?

25 PROSPECTIVE JUROR BROWN: I was called but not

1 selected.

2 THE COURT: All right.

3 Did this man speak to you or a group of people that you
4 were with?

5 PROSPECTIVE JUROR BROWN: He spoke to a group of people
6 but not me particularly.

7 THE COURT: What did he say?

8 PROSPECTIVE JUROR BROWN: Um, he -- he said to just
9 remember to listen to the facts and no opinions. Just listen to
10 the facts and judge the facts.

11 THE COURT: All right.

12 And, uh, did he follow you -- where did that happen?

13 PROSPECTIVE JUROR BROWN: Outside the elevators on the
14 sixth floor when we first arrived.

15 THE COURT: All right.

16 And how many were in your group? This is when you
17 first came up with the jury panel?

18 PROSPECTIVE JUROR BROWN: Probably two-thirds of our
19 group.

20 THE COURT: Was in that elevator?

21 PROSPECTIVE JUROR BROWN: Outside the elevators --

22 THE COURT: Outside the elevator.

23 PROSPECTIVE JUROR BROWN: -- in that lobby area.

24 THE COURT: Did you say that?

25 MR. MALAN: I'm not aware of that, Judge. But I can't

1 proceed without the advice of counsel at this time.

2 THE COURT: All right.

3 MR. MALAN: Am I under arrest?

4 THE COURT: You are not. But I'm going to tell you
5 that you are not allowed in the courtroom or in this -- in this
6 building again until we resolve this matter.

7 MR. MALAN: And how do we propose to do that, Judge? I
8 don't understand.

9 THE COURT: You're not allowed in the courthouse until
10 we resolve this matter because you -- apparently you're accused
11 of attempting to influence a juror --

12 MR. MALAN: Well, that's not true, sir.

13 THE COURT: -- in this case.

14 MR. MALAN: That's not true.

15 THE COURT: Well, you said you just -- you just said
16 you don't remember.

17 MR. MALAN: Well, I don't understand. I --

18 THE COURT: Did you or didn't you?

19 MR. MALAN: -- I asked you, Judge, if I'm under arrest
20 and I said I can't proceed without counsel.

21 THE COURT: All right. I'll allow you to get counsel.
22 We'll set this matter for you to report whether you have counsel
23 in three days.

24 MR. MALAN: Well, Judge, I'm -- I'm not gonna be here
25 in three days. I don't -- I don't plan on bein' here in

1 three -- I got to go back to -- back to work. Like I said, I'm
2 just here to --

3 THE COURT: You're not gonna be in Las Vegas or not
4 going to be here?

5 MR. MALAN: I'm not -- my plan is to leave on Wednesday
6 to go back to Wyoming.

7 THE COURT: So you don't live here.

8 MR. MALAN: No, sir, I do not.

9 THE COURT: Sir, I'm going to set a contempt hearing
10 before another judge. And, if you leave, we will have you
11 served in Wyoming and have you brought back here because I think
12 you engaged in indirect contempt of this Court --

13 MR. MALAN: Well --

14 THE COURT: -- by attempting to -- to communicate
15 with --

16 MR. MALAN: I did not --

17 THE COURT: -- individuals that you knew were
18 prospective jurors. That's what I think. And, uh, whether --
19 whether that's right or not will be determined in a show cause
20 hearing.

21 The order is that the defendant will appear and show
22 cause in this court to a judge to be assigned if I'm not
23 available on Wednesday at 9:00 a.m.

24 If you wish to obtain counsel, you may.

25 MR. MALAN: Well, I don't -- I don't have any money,

1 Judge. I mean, I'm a little bit confused as to what's goin' on
2 here. I don't understand the nature and the cause --

3 THE COURT: Well --

4 MR. MALAN: -- of the charge against me.

5 THE COURT: -- what is alleged is very serious. And
6 if -- if -- if you wish to admit that you did communicate with
7 the jurors right now, we can end this. But, if you wish a
8 hearing, I will grant you one.

9 MR. MALAN: I -- I -- I do not want a hearing. Like I
10 said, I don't understand what's goin' on here. I --

11 THE COURT: I've set this for a show cause hearing for
12 Wednesday morning at 9:00 a.m. in this department. And, if I
13 can't hear it, another judge will.

14 MR. MALAN: And my witnesses against me will be
15 available?

16 THE COURT: The witnesses against you will be the
17 panel, the members of the panel, and this woman who says you
18 approached the group.

19 MR. MALAN: Well, Judge, I didn't say nothin' to the
20 group. I was talkin' to another person indirectly. I don't
21 know if they overheard.

22 THE COURT: Who were you speaking to?

23 MR. MALAN: Some gentleman. I don't know. He -- I
24 don't know if he was a member of the jury or not.

25 THE COURT: All right. Well, that's all to be decided

1 at the hearing on Wednesday. That's all.

2 MR. MALAN: I object to these entire proceedings,
3 Judge.

4 THE COURT: Your objection is noted. The matter is set
5 for a show cause hearing.

6 Would you please, ma'am, leave your name with the Jury
7 Commissioner.

8 MR. BOWERS: I'm sorry. Your Honor?

9 THE COURT: Yes.

10 MR. BOWERS: I don't know if this can be handled in
11 open court or at sidebar, but I have concerns about the status
12 of this jury selection process at this point in time and --

13 THE COURT: We can discuss it at sidebar.

14 MR. BOWERS: I'd be happy to, your Honor.

15 THE COURT: But, in the meantime, the individual who
16 was just here will be removed from the premises.

17 MR. BOWERS: I have absolutely no objection to that.
18 But could we have the prospective juror who relayed this
19 information to us stay here until --

20 THE COURT: She can remain. Yes, she can remain.

21 (Sidebar conference was held as follows:)

22 MR. CRISTALLI: I don't know who wants to start. I
23 think --

24 THE COURT: Do you know who this guy is?

25 MR. BOWERS: Well, first of all --

1 MR. CRISTALLI: Go ahead.

2 MR. BOWERS: Let me start for a moment.

3 First of all, I don't have a clue who this guy is. And
4 this -- this is not beneficial to me in any way.

5 THE COURT: Right. Exactly.

6 MR. BOWERS: You're very well aware that for me
7 personally and as well as Mr. Cristalli we have no interest in
8 seeing this trial go on any longer than it has to. Absolutely.
9 I mean, we -- we practices and other things to do. We -- we
10 can't stretch this trial out needlessly. And you've obviously
11 been doing your best to move it along in a fair way and we have
12 no complaints about that.

13 This is so the following is not done for any reason
14 other than I think it needs to be done to protect my client
15 which is I -- I think we have to reselect a jury depending on
16 this woman's answers about what happened. Because what I'm
17 hearing is that two-thirds of the potential jury pool, and who
18 knows which was which, just heard -- I mean, you've seen this
19 gentleman's demeanor in court. It could very well be argued
20 that this is almost a threat of some sort. But certainly it's
21 not a positive connotation that was just spun to my half of the
22 table because of some guy I've never heard of before.

23 Um, so the bottom line is I think the jury pool is
24 tainted. I think rather than -- I mean, we could talk to her.
25 But my position is gonna be, unfortunately, we start again

1 tomorrow with tighter security.

2 THE COURT: What -- what will happen is I will question
3 the panel and ask them if anyone said anything to them during
4 the break. That's what I'm gonna do.

5 But first, Mr. Schiff, right over here to the
6 microphone.

7 MR. CRISTALLI: Before you get to Mr. Schiff, just so
8 I'm clear on the record, um, I also have a concern with regard
9 to what had occurred. Obviously, um, I would never want
10 somebody to go out and interfere with the jury process or any
11 specific, uh, potential juror. Um, and so, if somebody had done
12 that, certainly it could taint what I'm trying to do in terms of
13 picking a fair and impartial juror. So I -- I do join in
14 Mr. Bowers's position with regard to that.

15 MR. BOWERS: Well, and just -- I understand what you're
16 gonna do here and I approve of it. But just before we --

17 MR. SCHIFF: Yeah. You're gonna -- you're gonna -- I
18 had absolutely --

19 MR. BOWERS: Irwin, hold on. Hold on.

20 MR. SCHIFF: -- nothing to do with this.

21 MR. BOWERS: Just a moment, please.

22 The Government doesn't have contention that any of the
23 attorneys had anything to do with this; correct?

24 MR. IGNALL: Correct.

25 MR. BOWERS: Okay.

1 And then the only other comment I have is I understand
2 that you run this courtroom and it's your prerogative to
3 question the jury and all these things. But I don't know if
4 we're gonna meet again or what. But my position's gonna be that
5 that's a bell that once rung it cannot be unring. And I would
6 rather start clean. I --

7 THE COURT: I know your position.

8 MR. BOWERS: Okay. I'm done.

9 THE COURT: And -- and -- and let me say this: In and
10 of itself it was not prejudicial. You know, just some babbling.
11 They can run into that every day down on the front steps --

12 MR. BOWERS: No, I understand.

13 THE COURT: -- coming in.

14 MR. CRISTALLI: Although --

15 THE COURT: My concern is that I don't want anyone in
16 here in the back gallery doing this anymore, talking to the jury
17 in any way. And I'm gonna give them a warning back there that
18 if it happens that they are going to be in contempt of court.

19 MR. BOWERS: Well --

20 MR. SCHIFF: Let me tell you --

21 MR. BOWERS: Irwin, I have one more --

22 MR. SCHIFF: -- because I know the fellow.

23 MR. BOWERS: -- thing and then I'll let go. I'll leave
24 you along.

25 MR. SCHIFF: I'm just going to say: I had absolutely

1 nothing. I had no knowledge of what he said or didn't say.

2 THE COURT: Do you know him?

3 MR. SCHIFF: Yes, I know him. Because he -- you know,
4 he -- he just served a lot of time -- he's an electrician. He
5 works up in Idaho -- Nevada someplace. He's -- he's an
6 electrician and he just came into town. But he's been using my
7 stuff.

8 THE COURT: A lot of people from Idaho in this case.

9 MR. SCHIFF: I did not speak to him about this.

10 THE COURT: All right.

11 MR. SCHIFF: I had -- I want you to know that. Listen
12 to me. No, no.

13 THE COURT: Okay.

14 MR. SCHIFF: Because I had absolutely nothing to do
15 with whatever he said.

16 THE COURT: All right.

17 MR. BOWERS: Your Honor, I agree with you that in and
18 of itself a comment like this isn't prejudicial. But this guy
19 was behind the bar this morning on our half of the room. I
20 don't know who saw that.

21 THE CLERK: I did.

22 MR. BOWERS: I don't know why he was there. I don't
23 know -- I don't know if jurors saw that. But I know that this
24 guy isn't just some dude walkin' around. Now, the jurors may
25 not have made that association, but this man was sitting behind

1 the bar.

2 THE COURT: You can't stop people from coming in and,
3 you know -- and sitting on whatever side of the courtroom they
4 want to.

5 MR. BOWERS: He was -- he was inside of the --

6 THE COURT: I didn't -- I didn't recognize him as --

7 MR. SCHIFF: I can tell you one thing about him.
8 He's --

9 MR. BOWERS: I've made my objection.

10 MR. SCHIFF: -- for not -- for child support or
11 something, or not supporting, because he was giving the money
12 directly to his wife; she reported the credit. He spent six or
13 seven months in the state jail for failing to support. But --
14 and he just flew in, I think, this morning.

15 THE COURT: He's not too broke if he can fly in.

16 MR. SCHIFF: I'm just telling you what I know.

17 MR. NEIMAN: Just to alert the Court and get on the
18 record, I was told that the gentleman who talked to the jurors
19 had come up to another government employee and asked the
20 question, if I talked to the jury pool, what would happen to me?
21 And a conversation did take place between him and another
22 government employee.

23 THE COURT: What did they tell him?

24 MR. NEIMAN: I haven't gotten that far. That's all.

25 THE COURT: Okay.

1 MR. NEIMAN: We can inquire, if necessary.

2 MR. IGNALL: We agree with the Court's plan to
3 interrogate the jury.

4 THE CLERK: I had him leave --

5 THE COURT: Are we finished with the record --

6 MR. NEIMAN: Still going.

7 THE COURT: -- still going.

8 MR. CRISTALLI: Your Honor, the only -- the only
9 clarification I would like the Court to make to the jury if they
10 could -- if you could is that he didn't -- he doesn't have any
11 association with Cynthia Neun --

12 THE COURT: Okay.

13 MR. CRISTALLI: -- or the defense of Cynthia Neun.

14 THE COURT: Okay.

15 THE CLERK: Excuse me.

16 Your Honor, Mr. Bower [sic] has more or less asked if I
17 could make this note. That gentleman was behind defense table.
18 But, before the jury panel was brought in, I asked him to move
19 specifically.

20 THE COURT: All right.

21 THE CLERK: And I put him outside.

22 THE COURT: Okay. Thank you for making the record
23 clear.

24 MR. IGNALL: Your Honor, I have one other question now.
25 As we go through the preemptories --

1 MR. BOWERS: Could we expand this?

2 THE CLERK: We tried.

3 MR. IGNALL: I'm just thinking ahead. If we bring the
4 panel back, what if there's one juror who actually has heard
5 something we feel needs to be excused for cause --

6 THE COURT: Well --

7 MR. IGNALL: -- what would that do to the peremptories
8 that we've already --

9 THE COURT: Good question.

10 MR. CRISTALLI: On this particular issue you mean?

11 THE COURT: Yeah.

12 MR. IGNALL: Yeah.

13 THE COURT: I guess we bring them in now and ask
14 them --

15 MR. BOWERS: Judge, I mean this --

16 MR. CRISTALLI: Could we just have them raise their
17 hand and come back to --

18 THE COURT: Yeah.

19 MR. BOWERS: I don't want to delay this trial. But
20 this is very serious if there's any prejudice --

21 THE COURT: If there's anything --

22 MR. BOWERS: -- to my client.

23 THE COURT: -- more that was said other than, "you just
24 judge the case on the law and the facts." He's just parroting
25 what I already said. But, who knows, you know.

1 MR. BOWERS: Well, let's see what happens if we can
2 expand the record.

3 MR. IGNALL: Okay.

4 MR. BOWERS: All right.

5 (Sidebar conference concluded and the
6 following is held in open court:)

7 (Discussion between the clerk and the Court.)

8 THE COURT: Okay. Bring them in.

9 (Prospective jurors enter the courtroom at
10 3:12 p.m.)

11 (Pause in the proceedings.)

12 THE COURT: Clear the first few rows for the panel,
13 please. All of you who are in here go to the back rows, back
14 rows, so we can have the panel up front.

15 (Discussion between the clerk and the Court.)

16 (Pause in the proceedings.)

17 THE COURT: Do we have everyone here? Can we get a
18 count to see who's all here? Would each of you who are part of
19 the panel raise your hands so we can get a count and make sure
20 we have everyone here that was on the panel? Just hold them up.

21 (Pause in the proceedings.)

22 THE CLERK: Yeah, I got them all.

23 THE COURT: All right. Thank you.

24 Ladies and gentlemen of the panel, I had called to my
25 attention that an incident that happened earlier in the day

1 where someone attempted to communicate with the group that had
2 been brought up to court, the larger group. And so what I want
3 to know now is -- is just by a show of your hand if anyone
4 attempted to communicate with you about this case during the
5 time that you have been here in the courthouse today other than
6 here in open court and, of course, in the panel downstairs when
7 you arrived. (Hands raised.)

8 All right. If you would -- each of you who has you
9 hand up if you'd line up over here in front of the clerk's desk
10 at sidebar so I can ask you some questions.

11 (Sidebar conference was held as follows:)

12 THE COURT: Come up.

13 First, let's get some pink noise going.

14 THE CLERK: Yes, sir. I'm sorry.

15 (Pause in the proceedings.)

16 THE COURT: All right. Just step right here. State
17 your name.

18 PROSPECTIVE JUROR DYESS: Max Dyess.

19 THE COURT: All right.

20 And, um, can you tell me what was said?

21 PROSPECTIVE JUROR DYESS: Well, there's a group of us
22 gettin' ready to -- excuse me -- gettin' ready to come into the
23 court. And this guy was standin' there. He had on a
24 multicolored cap turned on backwards. And I heard him say
25 somethin'. He wasn't talkin' to anybody in particular that I --

1 I mean, he just said, you know, just listen to the evidence.

2 And I thought he was just a kook. And I just --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR DYESS: -- I didn't pay attention to
5 him.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR DYESS: Thought a typical Las Vegas.

8 THE COURT: All right.

9 Is there anything about that that would interfere with
10 your ability to judge this case solely on the facts or -- and
11 not to hold it --

12 PROSPECTIVE JUROR DYESS: No.

13 THE COURT: -- against any of the --

14 PROSPECTIVE JUROR DYESS: No.

15 THE COURT: -- the defendants here?

16 PROSPECTIVE JUROR DYESS: No.

17 THE COURT: All right.

18 MR. BOWERS: May I?

19 THE COURT: Go ahead.

20 MR. BOWERS: Did you associate this individual with any
21 party --

22 PROSPECTIVE JUROR DYESS: No.

23 MR. BOWERS: -- to the action, one side or the other?

24 PROSPECTIVE JUROR DYESS: No. No.

25 MR. BOWERS: Well, was --

1 PROSPECTIVE JUROR DYESS: We never stopped walkin'. We
2 just kept walkin'. There was --

3 MR. BOWERS: Who is "we"?

4 PROSPECTIVE JUROR DYESS: Well, there's eight or ten in
5 a group. We were gettin' ready to come in --

6 THE COURT: They're over there.

7 MR. BOWERS: -- to the courtroom.

8 MR. NEIMAN: They are coming.

9 MR. BOWERS: To the best of your recollection, did the
10 people that include themselves as "we" identify themselves just
11 now and the other ones that have been dismissed?

12 PROSPECTIVE JUROR DYESS: I couldn't tell ya. We were
13 just all walkin' together. But it was --

14 MR. BOWERS: Were you --

15 THE COURT: There's seven of them over there.

16 MR. BOWERS: Were you threatened at all?

17 PROSPECTIVE JUROR DYESS: No.

18 MR. BOWERS: Did you feel threatened by this?

19 PROSPECTIVE JUROR DYESS: No, not at all.

20 MR. BOWERS: Okay.

21 PROSPECTIVE JUROR FULTZ DYESS: Didn't pay any
22 attention.

23 MR. BOWERS: Thank you, sir. Sorry to question that
24 way.

25 THE COURT: I'll conduct the questioning.

1 MR. BOWERS: I'm sorry, your Honor.

2 THE COURT: Okay. Next.

3 Hello.

4 PROSPECTIVE JUROR MATHEWS: Hi.

5 THE COURT: Identify yourself and tell us what you saw
6 and heard.

7 PROSPECTIVE JUROR MATHEWS: My name is Janice Mathews.
8 And a gentleman in a red shirt and a, um -- well, they use 'em
9 for welding hats -- but strange hat on his head came up running
10 through and said, you guys are the juries [sic] and you have to
11 remember that everybody has to be -- you know, you have to be
12 fair and impartial and --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR MATHEWS: -- do your job.

15 THE COURT: Anything else?

16 PROSPECTIVE JUROR MATHEWS: No.

17 THE COURT: Would that influence you one way or the
18 other --

19 PROSPECTIVE JUROR MATHEWS: No.

20 THE COURT: -- on your decision in this case?

21 Do you associate him with anyone having --

22 PROSPECTIVE JUROR MATHEWS: I --

23 THE COURT: -- part of this litigation?

24 PROSPECTIVE JUROR MATHEWS: I saw him -- then, when we
25 broke for lunch, I saw him down sitting with one of the

1 defendants.

2 MR. CRISTALLI: Who?

3 MR. SCHIFF: He joined --

4 THE COURT: Which one?

5 MR. SCHIFF: -- me.

6 PROSPECTIVE JUROR MATHEWS: Yeah.

7 THE COURT: All right.

8 Did -- are you gonna hold that against Mr. Schiff?

9 PROSPECTIVE JUROR MATHEWS: No. But I think the guys
10 an idiot, but...

11 MR. SCHIFF: I had no -- look --

12 MR. LEVENTHAL: Shhhh.

13 THE COURT: All right.

14 MR. LEVENTHAL: Let the judge ask the questions.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR MATHEWS: So that's...

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR MATHEWS: I'm bein' honest.

19 THE COURT: Thank you.

20 MR. BOWERS: Thank you.

21 THE COURT: Next.

22 PROSPECTIVE JUROR PORTERFIELD: Hi.

23 THE COURT: Hello. How are you?

24 PROSPECTIVE JUROR PORTERFIELD: Good. Dawn
25 Porterfield.

1 THE COURT: Yes.

2 PROSPECTIVE JUROR PORTERFIELD: Um, when we first got
3 out of the elevators, there was a gentleman in a red shirt and a
4 cap who was yelling something about: You get to change the law.
5 You get to decide what the law is. Something like that.

6 THE COURT: Okay.

7 Does that have any effect on your impression of this
8 case.

9 PROSPECTIVE JUROR PORTERFIELD: I would hope he's not a
10 witness. I would not be able --

11 THE COURT: All right.

12 PROSPECTIVE JUROR PORTERFIELD: I thought he was an
13 idiot. So I would not be able to --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR PORTERFIELD: -- take his testimony.

16 THE COURT: Would you hold that against any of these
17 defendants?

18 PROSPECTIVE JUROR PORTERFIELD: Um, I don't think so.
19 I did see him having lunch with this gentleman though.

20 THE COURT: Okay. All right.

21 PROSPECTIVE JUROR PORTERFIELD: Okay.

22 MR. CRISTALLI: Just so we're clear, um, you're
23 pointing to --

24 THE COURT: Mr. Schiff?

25 MR. CRISTALLI: -- Mr. Schiff?

1 PROSPECTIVE JUROR PORTERFIELD: Yes.

2 THE COURT: Yeah. Okay.

3 PROSPECTIVE JUROR PORTERFIELD: Okay?

4 THE COURT: All right. Thank you.

5 PROSPECTIVE JUROR PORTERFIELD: Thank you.

6 THE COURT: Oh. Let me ask you another question.

7 Does Larry Sheffer (phonetic) still own Suburban
8 Graphics?

9 PROSPECTIVE JUROR PORTERFIELD: Uh, Suburban Graphics
10 is owned by Dan Hughes and Ron Coury.

11 THE COURT: Oh, okay. Larry used to be in there
12 somewhere at one time.

13 PROSPECTIVE JUROR PORTERFIELD: Didn't he own Glass
14 Supply?

15 THE COURT: Hum?

16 PROSPECTIVE JUROR PORTERFIELD: Glass Supply? I don't
17 know. He might have. I -- I've only been --

18 THE COURT: I thought he was --

19 PROSPECTIVE JUROR PORTERFIELD: -- there for two years.

20 THE COURT: I thought he was in that business.

21 PROSPECTIVE JUROR PORTERFIELD: He may have been,
22 but --

23 THE COURT: Maybe a different one.

24 PROSPECTIVE JUROR PORTERFIELD: Yeah. Now it's Dan and
25 Ron who own it.

1 THE COURT: Yeah. All right.

2 PROSPECTIVE JUROR PORTERFIELD: Okay?

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR PORTERFIELD: Thank you.

5 MR. CRISTALLI: Ma'am, I'm sorry. Your name again is?

6 PROSPECTIVE JUROR PORTERFIELD: Dawn Porterfield.

7 MR. CRISTALLI: Porterfield? Okay. Thank you.

8 THE CLERK: She's number...

9 MR. SCHIFF: Let me --

10 PROSPECTIVE JUROR PORTERFIELD: 8.

11 THE CLERK: 8.

12 MR. SCHIFF: I'm sorry. I was...

13 THE COURT: Do you want to say anything while she's
14 here?

15 MR. SCHIFF: No, no, no, no.

16 THE COURT: Okay. Go ahead. Appreciate it.

17 MR. SCHIFF: I was just gonna comment to the -- you
18 know, I know a lot of people all over the country. And I
19 haven't spoken to this man in about two or three years. He
20 comes in this morning. And he -- so I was having lunch and he
21 joined us. I mean, I know the man.

22 THE COURT: All right.

23 MR. SCHIFF: I can't say you can't have lunch with me.
24 But I was having lunch with about four or five people.

25 THE COURT: All right. All right.

1 Next.

2 MR. SCHIFF: I had lunch with Cindy, Larry...

3 MR. LEVENTHAL: Shhhhh.

4 THE COURT: All right, sir. State your name.

5 PROSPECTIVE JUROR MANESSE: Seth Manesse.

6 THE COURT: And what did you hear and see?

7 PROSPECTIVE JUROR MANESSE: Uh, let's see. When I came
8 up from -- initially when we came up in the elevator --

9 THE COURT: Um-hum.

10 PROSPECTIVE JUROR MANESSE: -- there was a fellow in a
11 red shirt and a hat and he came up to -- not anyone in
12 particular but he came up and said something along the lines of:
13 Just remember. You're the jury. You -- you decide on your own.
14 Something along those lines.

15 THE COURT: All right.

16 Any of that affect any of your ability to remain
17 impartial in this case?

18 PROSPECTIVE JUROR MANESSE: Uh, no, not at all.

19 THE COURT: Did you associate him with anyone in the
20 defense?

21 PROSPECTIVE JUROR MANESSE: Actually, I saw him again.
22 And so when I saw him coming back from lunch, he was out in the
23 atrium outside and he was talking to two of the people, uh --
24 one of the -- the people out here. I'm not -- on...

25 MR. BOWERS: Defendants?

1 PROSPECTIVE JUROR MANESSE: Yeah, defendants.

2 THE COURT: Do you know who it was? which one? If you
3 look around.

4 MR. CRISTALLI: Two males?

5 PROSPECTIVE JUROR MANESSE: Yeah. It was not -- not
6 this gentleman, but the lady out here, Ms. Neun --

7 THE COURT: Uh-huh.

8 PROSPECTIVE JUROR MANESSE: -- and the gentleman also
9 out here, he was talking to them.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR MANESSE: It was the same fellow.

12 THE COURT: Uh, anything about that that would
13 interfere with your ability to be fair and impartial in this
14 case and not hold his conduct against them?

15 PROSPECTIVE JUROR MANESSE: Of course not, no.

16 THE COURT: All right.

17 PROSPECTIVE JUROR MANESSE: Not at all.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR MANESSE: Thank you.

20 THE COURT: All right. Thank you.

21 (Pause in the proceedings.)

22 THE COURT: Oh. Come right up here and state your
23 name.

24 PROSPECTIVE JUROR LOMBARDO: Eric Lombardo.

25 THE COURT: All right.

1 And what did you see and hear?

2 PROSPECTIVE JUROR LOMBARDO: Uh, when I was walking in
3 this morning, there was a gentleman making some comments about,
4 um, some legal words. I didn't really even pay much
5 attention --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR LOMBARDO: -- didn't make eye contact
8 with him. But --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR LOMBARDO: -- I heard it just off in
11 a distance.

12 THE COURT: All right.

13 Did you associate him with anyone in this case?

14 PROSPECTIVE JUROR LOMBARDO: No.

15 THE COURT: All right. Thank you.

16 PROSPECTIVE JUROR LOMBARDO: Okay. Thank you.

17 THE COURT: Will it have any bearing on your decision
18 as to how you look at the parties in this case --

19 PROSPECTIVE JUROR LOMBARDO: No, sir.

20 THE COURT: -- and make your decision?

21 PROSPECTIVE JUROR LOMBARDO: No, sir.

22 MR. CRISTALLI: Did you see him with anyone else?

23 THE COURT: Did you see him with anyone else --

24 PROSPECTIVE JUROR LOMBARDO: Uh, no, I did not.

25 THE COURT: -- associated with this case?

1 PROSPECTIVE JUROR LOMBARDO: No --

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR LOMBARDO: -- I did not.

4 THE COURT: All right. Thank you.

5 MR. NEIMAN: I'm wondering how loud was this.

6 THE COURT: Okay.

7 MR. NEIMAN: Just...

8 MR. CRISTALLI: Loud enough for a lot of them to hear.

9 THE COURT: Well, it's like if the tree fell and
10 somebody didn't hear it, it didn't happen. And we've got all
11 the people here that it happened.

12 All right.

13 PROSPECTIVE JUROR WIGGINS: Hi.

14 THE COURT: State your name.

15 PROSPECTIVE JUROR WIGGINS: My name is Lillie Wiggins.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR WIGGINS: I happened to be
18 standing -- digging around in my purse. And I believe I heard
19 someone say, um, you have a right to vote the way you want to or
20 don't let anyone tell you how. I -- I wasn't paying that much
21 attention. I figured it was someone who shouldn't be talking to
22 us.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR WIGGINS: I just glanced up and then
25 continued to...

1 THE COURT: Would that have any affect on your ability
2 to decide this case impartially?

3 PROSPECTIVE JUROR WIGGINS: Absolutely not.

4 THE COURT: And did you -- did you associate that
5 person with any one who was involved in this litigation?

6 PROSPECTIVE JUROR WIGGINS: I didn't know if it was
7 this particular one. But I -- I -- I didn't know if it was a
8 person in his right mind or what. I just felt that it --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR WIGGINS: -- was someone who stepped
11 out and was saying this.

12 THE COURT: But you wouldn't hold it against any of the
13 parties in this litigation, what was said?

14 PROSPECTIVE JUROR WIGGINS: No.

15 THE COURT: Or your opinion of what was said?

16 PROSPECTIVE JUROR WIGGINS: No.

17 THE COURT: All right. Thank you.

18 PROSPECTIVE JUROR WIGGINS: Um-hum.

19 THE COURT: Oh. Somebody wanted to know how loud it
20 was. Was it just --

21 PROSPECTIVE JUROR WIGGINS: It --

22 THE COURT: -- just normal tone of voice?

23 PROSPECTIVE JUROR WIGGINS: No, no. It was loud
24 enough -- I was a little ways back in the crowd. So he was --

25 THE COURT: All right.

1 PROSPECTIVE JUROR WIGGINS: -- saying it loud enough
2 for me to look up and...

3 THE COURT: Okay. All right. Thank you.

4 PROSPECTIVE JUROR WIGGINS: Um-hum.

5 THE COURT: Any others?

6 MR. FEARS: One more, Judge.

7 THE COURT: One more. Okay.

8 All right. Would you step right up and state your
9 name?

10 PROSPECTIVE JUROR MARAGOS: My name is Rena Maragos.

11 THE COURT: Okay.

12 And what did you see and hear?

13 PROSPECTIVE JUROR MARAGOS: Are we talking about the
14 man in the red -- in the red shirt and the hat?

15 THE COURT: Apparently so. Are there any others?

16 PROSPECTIVE JUROR MARAGOS: You know, I really can't
17 remember what he said.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR MARAGOS: I just remember he did a
20 pirouette and -- and it attracted my attention and said
21 something. But I don't remember.

22 THE COURT: You didn't hear what he said? It wouldn't
23 affect your ability --

24 PROSPECTIVE JUROR MARAGOS: No.

25 THE COURT: -- to be fair and impartial?

1 Do you associate him with anyone else in this case?

2 PROSPECTIVE JUROR MARAGOS: No.

3 THE COURT: All right. Thank you.

4 PROSPECTIVE JUROR MARAGOS: Um-hum.

5 THE COURT: All right.

6 MR. CRISTALLI: Um, yeah, one issue, though, I have,
7 um, is if there is going to be an investigation conducted by the
8 Marshals and/or the FBI in this particular case, um, if their
9 intention is to interview sitting jurors during the course of
10 the trial I certainly would have a significant concern --

11 THE COURT: Yeah.

12 MR. CRISTALLI: -- with regard to that.

13 THE COURT: What we're gonna do is we're gonna see if
14 he shows up on Wednesday, with or without counsel. And by then
15 I'll decide if I'm gonna hear it or another judge will hear it.

16 MR. CRISTALLI: Very good, Judge.

17 THE COURT: It's kind of an indirect contempt. But the
18 hearing and opportunity to bring in counsel may -- may allow me
19 to hear it. I don't know. But it won't happen during the
20 trial.

21 MR. CRISTALLI: And my -- my only -- just so the
22 record's clear, my concern with regard to, um, this is that at
23 least the first three individuals that, um, we questioned had
24 stated that they believed that the person was an idiot and that
25 they saw this person sitting with Mr. -- two of them saw them

1 sitting with Mr. Schiff, one of 'em saw him with Ms. Neun. So
2 that definitely has some implication in terms of --

3 THE COURT: Yeah. But they said it didn't.

4 MR. CRISTALLI: -- in terms of a transfer.

5 THE COURT: And it -- and it, uh -- and it really is --
6 you know, the content was not prejudicial. So the mere fact of
7 association with kooks is not enough to -- if -- in their words,
8 is not enough to do it.

9 MR. BOWERS: Judge --

10 MR. IGNALL: Your Honor -- I'm sorry.

11 THE COURT: Yes.

12 MR. IGNALL: If I kept track correctly, only two of the
13 people who came in here have not already been struck in the
14 peremptory challenges.

15 THE COURT: Correct.

16 MR. IGNALL: And they were the two -- Mr. Lombardo and
17 Ms. Maragos, I think. And both of them said they didn't really
18 pay attention --

19 THE COURT: Yeah.

20 MR. IGNALL: -- they didn't understand what they heard.

21 THE COURT: Correct.

22 MR. IGNALL: So I think the ones that Mr. Cristalli
23 mentioned are probably moot at this point.

24 THE COURT: All right. Thank you.

25 MR. CRISTALLI: And that's --

1 MR. BOWERS: May I just add something real --

2 THE COURT: Yes.

3 MR. BOWERS: -- quickly?

4 You know, uh -- how do I say this? -- it's clear what
5 your ruling is; I'm not arguing with you. But, for the record,
6 I -- you know, this is -- the heart stone of the system. I have
7 concerns. I understand you've made a record. But, in
8 particular, several of these witnesses were very unequivocal;
9 they said they've associated with -- this gentleman with Irwin;
10 they've associated this gentleman with my client; he's an idiot.
11 Um, and this was done quite loudly. Um, so --

12 THE COURT: Okay.

13 MR. BOWERS: -- there may --

14 THE COURT: You made your record.

15 MR. BOWERS: Thank you, your Honor.

16 THE COURT: Do you have anything you want to say?

17 MR. SCHIFF: It's just unfortunate.

18 THE COURT: All right.

19 Well, let's do this: You know, I'm gonna instruct
20 these -- the remaining -- after we let these jurors go back out,
21 anybody that remains in the courtroom, I'm gonna instruct them
22 that if anyone tries to communicate with one of the jurors they
23 will be held in contempt of court, any of the spectators.

24 MR. SCHIFF: Let my say this: Larry -- Larry, Cindy
25 and I and a friend of mine were having dinner. And I know the

1 man. I mean, I can remember -- and if he wants to sit -- sit
2 and have lunch with me, I'm not gonna say, no, you can't sit
3 here.

4 THE COURT: Yeah. But, you know, if he's -- if he's a
5 person that's gonna run up and --

6 MR. SCHIFF: I didn't know he did it.

7 THE COURT: I know. But if he's the kind of person
8 that would do that -- I mean, he's here for reasons, a lot of
9 these people are here for reasons and --

10 MR. SCHIFF: I thought he just came to hear --

11 THE COURT: -- it's not --

12 MR. SCHIFF: -- he wanted to hear the trial or
13 something.

14 THE COURT: Yeah. You know, you've -- you've got some
15 people that you apparently don't want along for the ride and for
16 the wrong reasons. So --

17 MR. SCHIFF: There are all kinds of people.

18 MR. BOWERS: I can't imagine that.

19 MR. CRISTALLI: And, your Honor, just so that we're
20 clear, if there is an investigation, um, we'll be -- I would
21 have an objection to contact with sitting jurors obviously.

22 THE COURT: We're not gonna do it.

23 MR. FEARS: Your Honor, the CSO had some --

24 THE COURT: All right.

25 MR. IGNALL: Do you want the lawyers here or not?

1 MR. BOWERS: Do we need lawyers around?

2 THE COURT: No, no. Go ahead.

3 (Discussion between the Court and a Marshal
4 at sidebar, not reported.)

5 (Sidebar conference concluded and the
6 following is held in open court:)

7 THE COURT: Okay. Thank you, ladies and gentlemen of
8 the panel. If you would wait outside, if the Marshal will
9 accompany the panel outside while the peremptory challenge is
10 finished that will -- that will do.

11 Ms. Hybarger, you'll remain in -- in the courtroom with
12 the panel member for further instruction. Thank you.

13 (Prospective jurors leave the courtroom at
14 3:28 p.m.)

15 THE COURT: Okay. Before we proceed any further, the
16 individual who was just here was attempting to -- to intimidate
17 or influence jury members or prospective jury members. And
18 that's not allowed. I want to warn anyone who is present in
19 this courtroom that you are not doing any favors to the
20 defendants by engaging in such conduct. It will not help. And,
21 in fact, it -- it has the potential to do great harm.

22 If -- if I hear of any of you saying anything to any of
23 the jury panel members or communicating with them in any way, I
24 will hold you in contempt of court; I will request the U.S.
25 Attorney to bring charges of jury tampering against you. I hope

1 all of you understand that.

2 Mr. Cristalli, would you like to add anything to what
3 I've said?

4 MR. CRISTALLI: Your Honor, only that the individual
5 that, um, was questioned by, um, your Honor who was involved in
6 this altercation has no relationship to myself, my defense team,
7 or Ms. Cynthia Neun and that it absolutely was certainly never,
8 uh, engaged in terms of dialogue to do any of that conduct.

9 THE COURT: Thank you.

10 Mr. Bowers.

11 MR. BOWERS: Well, just briefly I have to say something
12 to the same effect.

13 I know the Court's made this point. But, if anybody's
14 interested in thinking that this is gonna help Mr. Cohen or
15 Mr. Cohen's defense, I want to publicly say that this is the
16 worst possible thing in the world you could do. And ask a
17 personal favor on behalf of my client that anyone thinking this
18 is a good idea refrain from this conduct in the future.

19 THE COURT: All right.

20 Mr. Schiff, would you like to say anything or would
21 you --

22 MR. SCHIFF: Yes. I mean --

23 THE COURT: -- or would your advisory counsel like to
24 say anything?

25 MR. SCHIFF: -- I had nothing to do with this. And,

1 um, I -- I wouldn't want the jurors to think that this is a
2 buddy of mine or I associate with him. I know the man like I
3 know a lot of people who -- who have moved on in this town.
4 And, um, then they -- they saw him having lunch with me. He did
5 have -- he joined us at the table. Now, I don't -- I don't know
6 how this works. But I don't know why we can't -- we still have
7 plenty of jurors, I think. Why can't we just dismiss the ones
8 who might be slightly tainted?

9 THE COURT: Because they are not tainted and because we
10 need 32 to complete the panel and we've already excused the
11 others.

12 MR. SCHIFF: All right. I mean, I don't know anything
13 this. But I mean --

14 THE COURT: All right.

15 MR. SCHIFF: -- but they have to understand that this
16 is not a buddy of mine or a friend of mine or I put him on to
17 this --

18 THE COURT: Well --

19 MR. SCHIFF: -- you know --

20 THE COURT: -- I don't --

21 MR. SCHIFF: -- or that he's associated with me.

22 THE COURT: No one's accusing you of having done that.

23 MR. SCHIFF: I -- I understand that.

24 THE COURT: I'm just warning the individuals in the
25 courtroom who are here to observe that this is not permitted.

1 And so far both Mr. Cristalli and Mr. Bowers, who are counsel
2 for the codefendants, have stated to the -- to the courtroom
3 that this is not helpful to the case, to the defense of the
4 case.

5 MR. SCHIFF: Well, I don't think -- all right. I -- I
6 just don't understand how you select a jury pool. But it seems
7 to me there are still plenty of jurors left. Maybe there's not.
8 I'd just as soon have them excused and just replaced. If that
9 can't be done, it can't be done.

10 THE COURT: Thank you.

11 All right. We will -- yes, Mr. Cristalli.

12 MR. CRISTALLI: Your Honor, just one final housekeeping
13 matter.

14 Just prior to the jury leaving today, this evening, if
15 the Court could give them an admonishment so that they could
16 understand what their role is in terms of jurors and not
17 listening to --

18 THE COURT: Yes.

19 MR. CRISTALLI: -- because there may be news articles
20 and things of that nature.

21 THE COURT: There are going to be some -- some further
22 instruction --

23 MR. CRISTALLI: Yes, sir.

24 THE COURT: -- on those matters, detailed instruction.

25 MR. BOWERS: I don't want to delay the Court.

1 Presumably those instructions will include statements to the
2 effect that this individual is not associated with anybody in
3 this case, I presume, or at least not my client in this case.

4 THE COURT: Well, the -- we can certainly tell them, if
5 you wish, that the -- all of the defense denies that he was
6 associated with the case and that they are to disregard anything
7 he said.

8 MR. BOWERS: Maybe I'll think about what I --

9 MR. CRISTALLI: Your Honor, if there's only a portion
10 of them that actually heard this, I would -- I don't want to --
11 you know, sometimes bringing attention to something is not the
12 best idea either.

13 THE COURT: Well, they've all had their attention drawn
14 to it --

15 MR. CRISTALLI: Yes, sir.

16 THE COURT: -- with my question --

17 MR. CRISTALLI: Yes, sir.

18 THE COURT: -- and the raising of the hands of those
19 that are affected. There's no other way to get to it.

20 MR. CRISTALLI: Yes, sir.

21 MR. BOWERS: Maybe the defense will talk about this
22 while we finish up selecting the jury.

23 THE COURT: All right. Finish up the peremptories.

24 MS. HYBARGER: Your Honor, can Ms. Brown leave?

25 THE COURT: Yes. I think probably come back here and

1 let me talk to her for just a second.

2 (Continuation of peremptory challenges, 3:34
3 p.m. to 3:50 p.m.)

4 THE CLERK: All rise.

5 THE COURT: Please be seated.

6 All right. We have a motion?

7 MR. CRISTALLI: Your Honor, we do.

8 On behalf of Cynthia Neun, before we exercise our next
9 two peremptory challenges, we'd like to move for cause to excuse
10 Juror number 23, who I believe is Mr. Dyess, if I'm not
11 mistaken. And, as the Court is aware, Mr. Dyess is one of the
12 individuals who overheard, um, the comment that was made to
13 several other prospective jurors. I think Mr. Dyess is the only
14 one left that may be actually selected to sit on this jury.

15 I think there is a taint because I -- Mr. -- uh,
16 Mr. Dyess has said that he -- he heard the guy, thought the guy
17 was an idiot, and then he saw that he was sitting with
18 Mr. Schiff. So there's kind of a -- uh, a connection there.
19 Maybe it's indirect, but ultimately it flows down to my client,
20 Ms. Neun, and causes me concern. So we would ask the Court to
21 excuse him for cause.

22 MR. BOWERS: I join. And just point out that it's
23 gonna force me to use a peremptory challenge if the Court denies
24 this motion.

25 MR. SCHIFF: Yeah, I join in that too --

1 THE COURT: All right.

2 MR. SCHIFF: -- request.

3 THE COURT: The motion to dismiss Juror -- Perspective
4 Juror number 23 for cause is denied. The reason is that the
5 comments were not prejudicial, the mere fact that he was seen
6 with Mr. Schiff does not affect the -- Defendant Neun in any
7 way. And, even with Schiff, it does not affect Schiff because
8 we cannot control who comes around us and stands next to us or
9 sits next to us in a public place. So the motion to dismiss
10 number 23 is denied.

11 MR. BOWERS: Thank you, your Honor.

12 THE COURT: Thank you.

13 (Continuation of peremptory challenges, 3:52
14 p.m. to 4:06 p.m.)

15 THE CLERK: All rise.

16 THE COURT: Please be seated.

17 Ms. Clerk, have the attorneys completed the peremptory
18 challenges?

19 THE CLERK: They have, your Honor.

20 THE COURT: Clerk will call the names of the remaining
21 jurors.

22 THE CLERK: Yes, sir.

23 Number one will be Monique Perkins. Please come
24 forward.

25 Number Two is Annie Gooding.

1 Number three is Uriel Samaniego.

2 Number four is Carolyn Salton.

3 Number five is Annie Gilliard -- excuse me -- Addie
4 Gilliard.

5 PROSPECTIVE JUROR GILLIARD: Addie, yes.

6 THE CLERK: Number six is Brenda Moulton.

7 Number seven is Sonia Lopez.

8 Number eight is Belisa Brownlee.

9 Number nine is Eric Lombardo.

10 Number 10 is Travis Groft.

11 Number 11 is Stanley Ward.

12 Number 12 is Christina Steinagel.

13 Number 13 is Al Dishon.

14 And number 14 is Melissa Stoddard.

15 THE COURT: Thank you, Ms. Clerk.

16 The remaining members of the panel are excused and
17 requested to return to the Jury Commissioner on the first floor
18 for a few minutes. I thank you for your participation this
19 afternoon, ladies and gentlemen.

20 (Remaining jury panel exits the courtroom.)

21 THE COURT: Ms. Clerk, will you swear the jury?

22 THE CLERK: Please stand and raise your right hands.

23 You and each of you do solemnly swear or affirm that
24 you will well and truly try the matter at issue in the cause now
25 pending before this court and a true verdict render according to

1 the law and the evidence, so help you God?

2 ALL JURORS: "I do."

3 THE CLERK: Thank you.

4 THE COURT: Members of the jury, now you have been
5 sworn as the jury to try this case. By your verdict you will
6 decide the disputed issues of fact and I will decide all
7 questions of law that arise during the trial. And, before you
8 retire to deliberate at the close of the case, I will instruct
9 you on the rules of law that you must follow and apply in
10 deciding upon your verdicts.

11 You should give careful attention to the testimony and
12 evidence presented for your consideration during the trial, but
13 you should not form or express any opinion concerning the case,
14 one way or the other, until you have heard all of the evidence
15 and have had the benefit of the closing arguments of counsel and
16 my instructions of law.

17 During the trial, you must not discuss the case among
18 yourselves in any manner or with anyone else and you must not
19 permit anyone to attempt to discuss the case with you or in your
20 presence.

21 Insofar as the lawyers are concerned, as well as others
22 whom you may come to recognize as having some connection with
23 the case, you are instructed that to avoid even the appearance
24 of impropriety you should have no conversation whatsoever with
25 those persons while you are serving on the jury.

1 You must also avoid reading any newspaper articles that
2 might be published concerning the case now that the trial is in
3 session and you must avoid listening to or viewing any broadcast
4 news program on either TV or radio or on the Internet concerning
5 the case.

6 The reasons for these cautions, of course, lies in the
7 fact that it is your sworn duty to decide the case solely based
8 on the evidence presented during the trial and in accordance
9 with the instructions of law as I will give them to you. You
10 are to heed these admonishments whether I remind you each time
11 the courtroom.

12 From time to time during the trial, I may be called
13 upon to make rulings on law, objections that are made by the
14 lawyers. You should not infer or conclude from any ruling that
15 I make that I have an opinion one way or another on how this
16 case should be decided. And, if I sustain a question -- an
17 objection to a question that goes unanswered by a witness, you
18 should not speculate on what the answer might have been nor
19 should you draw any inferences from the question itself.

20 During the trial, it may be necessary for me to
21 communicate with the lawyers from time to time out of your
22 hearing concerning matters that involve questions of law or
23 procedure. On some occasions you may even be excused from the
24 courtroom as a convenience to you while we discuss those
25 matters. We will try to limit those interpretations as much as

1 possible. But you should remember at all times the importance
2 of the case that you are here as jurors to determine. And I
3 trust you will be patient even though the case may seem to go
4 slowly at some points due to such interruptions.

5 If you wish, you may take notes to help you remember
6 what has been said by the witnesses. If you do take notes,
7 please keep them to yourself until after you have gone to the
8 jury room to decide the case at the end of the trial.

9 Do not let note-taking distract you from hearing what
10 other witnesses are saying or other questions and answers by
11 witnesses. When you leave, your notes should be left here in
12 the courtroom. Whether or not you take notes you should rely on
13 your own memory as to what was said. If there is a conflict
14 between the notes and the collective memory of the jury, the
15 collective memory of the jury controls. You should not be
16 overly influenced by notes.

17 Jurors are permitted to ask questions during the course
18 of the proceedings subject to prior approval by the Court. Any
19 juror wishing to submit a question to be asked should do that in
20 writing with your name signed and hand it to Ms. Vannozzi, the
21 clerk. If I determine that the question is one that can be
22 asked, I will ask the question. If I determine that the
23 question is one that cannot be asked, I will inform you of that
24 fact.

25 We will start the trial, uh, tomorrow morning. We are

1 close enough to 4:30 that we are going to recess early.

2 Before you leave the courtroom, I would like to have
3 you introduced to the jury room, which is right through this
4 door. That is the place that you will assemble from now on
5 prior to coming into court.

6 In the jury room, there is a memorandum from myself
7 that discusses your conduct. Things that I have already
8 reminded you of and -- and those are that you are not to allow
9 anyone to influence you in any way, to allow anyone to come into
10 contact with you who you have associated with this case. And,
11 if you are approached by someone to -- to disregard what is said
12 and immediately remove yourself from the area and call a Court
13 Security Officer to -- to apprehend the individual who is
14 attempting to communicate with you.

15 The jury badges that you'll be given as you go into the
16 jury room are to be worn on your lapel so that those who are
17 involved with this case will recognize you and avoid any contact
18 with you whatsoever.

19 When you are returning to the court for jury service,
20 you will have your juror identification badge. As you come out
21 of the elevator, instead of going to the right and coming around
22 the hallway to the court, you will go to the left out of the
23 elevators where you will see two double doors. There is a
24 button that has my name on it. And, if you'll push that button
25 and then stand and face the domed item in the ceiling -- it has

1 a camera that transmits your image back into chambers -- the
2 chambers personnel will be able to identify you as a juror in
3 the case. Upon seeing your juror identification badge, they
4 will press a release latch which will allow you admittance into
5 the hallway and you can come around the hallway to the jury room
6 and there remain until you are brought back into court.

7 I do want to remind you, again, that you are not to
8 discuss the case among yourselves or with others until after the
9 conclusion of all the evidence and I have informed you that you
10 are now free to deliberate.

11 So with that we will recess. We do have an item on
12 tomorrow morning --

13 THE CLERK: Yes, sir.

14 THE COURT: -- at 9:00 o'clock. So we will start at
15 9:30 tomorrow morning rather than 9:00 o'clock so that I can
16 take care of that matter without having you have to wait in the
17 jury room any longer than is necessary. I want to thank you for
18 your willingness to serve and -- and we will try to move the
19 case along as fast as we can. Thank you.

20 (Jury leaves the courtroom at 4:17 p.m.)

21 THE COURT: Okay. Please be seated.

22 Are there any matters of business that we need to take
23 of before we recess for the evening?

24 MR. CRISTALLI: Your Honor --

25 THE COURT: Mr. Cristalli.

1 MR. CRISTALLI: Thank you.

2 -- the issue that I'm concerned with is with regard to
3 the content of my opening statement and whether or not I'm going
4 to be able to utilize excerpts from the report of Mr. Hayes, the
5 clinical psychologist, who examined Mr. Schiff.

6 THE COURT: Uh, I -- I think it's -- I'm not ruling on
7 whether you'll be able to get it in or whether it'll be
8 admissible as an exhibit or later on as evidence. I don't think
9 you have any right to admit it; I think it's probably up to
10 Mr. Schiff. Even if he tells me he admits it, he can renege on
11 that. And then basically what happens is you're left kind of
12 holding the bag. So, you know, if you want to make that a
13 prominent point of your opening, which I don't think it's
14 necessary to do so, you'll do it at your own risk.

15 MR. SCHIFF: I have no problems about discussing it --
16 discussing his report.

17 THE COURT: Um...

18 MR. SCHIFF: I mean, if you're manic depressive,
19 there's --

20 THE COURT: Yeah. I know you don't. I heard that
21 earlier. I'm saying you can change your mind and he'll be left
22 holding the bag.

23 MR. SCHIFF: I don't understand what he's saying.

24 THE COURT: All right.

25 MR. BOWERS: Your Honor --

1 THE COURT: Yes.

2 MR. BOWERS: -- so is this issue closed?

3 THE COURT: It's not closed as far as --

4 MR. BOWERS: I mean for the time being.

5 THE COURT: Well, it's not closed because I may decide
6 to let it in. I think that it's -- it's a borderline issue.

7 And I haven't quite made up my mind on this particular point
8 because it just came up today and I need to do some reading.

9 MR. SCHIFF: I told Dr. Hayes -- I'm sorry.

10 MR. BOWERS: I'm sorry, your Honor. Not to push the
11 issue but it would seem to me that whether the psychiatrist were
12 allowed or not, if Irwin intends to testify he could state, you
13 know, he's been diagnosed as being delusional without the
14 psychiatrist here. Or is that -- that sort of the issue that
15 you're wanting to look at?

16 THE COURT: That's the issue I'm going to look at as
17 far as future admissibility. Right now we're talking about
18 opening statements only. Mr. Cristalli is look for direction.
19 I'm trying to give him that as best I can on a matter that's
20 still uncertain.

21 MR. BOWERS: May I do the same on another issue when
22 you're done here with this? And I'll sit down until then.

23 MR. CRISTALLI: Just so I'm perfectly clear, because I
24 don't want to screw things up tomorrow, I will have latitude to
25 make reference to the findings. The Court said at my own risk.

1 I would assume that's maybe subject to objection, which is my
2 concern because it's going to be in a -- on a television screen.

3 THE COURT: You're gonna put up the report up on a
4 television screen?

5 MR. CRISTALLI: No, not the report. But there's gonna
6 be language related to the report in the television -- on the
7 television screen and it's going to be related to findings of
8 Dr. Hayes or -- or Clinical Psychologist Hayes. I'm not going
9 to go into the diagnosis.

10 The only language that I'm going to use as it relates
11 to that particular report is the language that, um -- you know,
12 it was a six-hour interview -- but the language relating to the
13 fact that Mr. Schiff holds his beliefs truly and that, um, he
14 can't be convinced otherwise. Um, um, you know, there was --
15 and I believe Mr. Schiff made part of the record this morning
16 that language in the report that I'm most interested in, um,
17 and, you know, it goes directly to my willfulness argument.
18 And, um, I think it's important for me to be able to let the
19 jurors know which direction I'm goin' with this thing.

20 Um, you know, I mean specifically it says: As a
21 result, it would be almost impossible at this point in his life
22 to persuade him that he is wrong, particularly since he feels
23 that there are few, if any, individuals who can match the
24 breadth and depth of his knowledge. There is a commitment to
25 his passion which he holds his beliefs to be true. Um, he's

1 extremely rigid, fixed, inflexible. Doggedly determined
2 opinions and beliefs that cannot be changed by others'
3 reasonings. Um, that type of language.

4 I'm not gonna go on forever with regard to it. I'll
5 make it as concise as I possibly can. But I would like to make
6 reference to it because, um, I have -- I have a clinical
7 psychologist who was requested by the Government to examine
8 Mr. Schiff, the language contained in that report --

9 THE COURT: Meaning Hayes?

10 MR. CRISTALLI: I'm sorry. Meaning Hayes.

11 -- is beneficial to my defense.

12 THE COURT: I understand.

13 MR. IGNALL: Your Honor, we're gonna renew our
14 objection because we're definitely gonna object to the
15 introduction of Dr. Hayes's testimony if Mr. Schiff should
16 choose to call him. I still don't understand how Dr. Hayes's
17 testimony could possibly be relevant to Ms. Neun's defense.

18 And, although I understand that Mr. Cristalli could
19 reference at his peril, we think there's a twin risk that this
20 could confuse the jury when he talks about some psychologist
21 hired by the Government doing something. I'm not exactly sure
22 how that plays out given that we're gonna object to that. And I
23 think it should not come into evidence at all. So we'd object
24 to --

25 THE COURT: I understand your position and --

1 MR. IGNALL: Okay.

2 MR. SCHIFF: I just want to make one comment.

3 THE COURT: -- and I also understand why Mr. Cristalli
4 thinks that it might benefit his client's position because what
5 he's told me earlier is that his -- Mr. Schiff's dogmatic views,
6 even though legally erroneous, influenced her.

7 MR. CRISTALLI: Correct, your Honor. And their -- and
8 the relationship issues obviously that will come up as well.

9 THE COURT: Well --

10 MR. SCHIFF: I just want to say: In the order, you
11 referred to the expert opinions justifying defendant's conduct.
12 Nothing in their opinions justified my conduct. They didn't
13 justify my conduct. They put my attitude in the clinical light
14 based upon what they understood my bipolar illness and how it
15 might have manifested itself.

16 THE COURT: Well, your bipolar illness really is not --
17 doesn't really have much to do with it.

18 MR. SCHIFF: But I'm just saying: The two
19 psychiatrists, they -- they differed generally on how this
20 bipolar illness manifested itself: two thought it was
21 delusional and one thought it was a mood disorder.

22 THE COURT: I'm not gonna reargue motions that have
23 already been decided. We're not going to do that.

24 MR. SCHIFF: Oh. So you've --

25 THE COURT: What we're doing is we're talking about

1 Mr. Cristalli's opening argument.

2 MR. SCHIFF: But I think I told I was gonna send him a
3 subpoena. So you're not gonna allow him to testify?

4 THE COURT: I haven't said that either.

5 MR. SCHIFF: Pardon me?

6 THE COURT: I haven't said that either.

7 MR. SCHIFF: Oh, okay.

8 MR. IGNALL: Your Honor, just briefly, we don't
9 disagree that Mr. Cristalli can argue about Ms. Neun relying on
10 how steadfast Mr. Schiff was to develop her own state of mind.
11 I still don't understand how a psychologist who examines
12 Mr. Schiff is relevant to her state of mind --

13 THE COURT: It is --

14 MR. IGNALL: -- unless she can testify that --

15 THE COURT: -- it is relevant when he says that this
16 guy is so dogmatic that -- and so convincing that he's willing
17 to go to jail and all of that even though he knows that his
18 views are not going to be supported by the law.

19 MR. IGNALL: But that tied into her having read the
20 report or knowing that? I don't --

21 THE COURT: No. It's just -- it's just relevant to his
22 state of mind which is relevant to her state of mind because
23 she -- apparently the argument is going to be made is that she
24 was convinced by him because of his dogged determination and
25 hanging to a belief that had been discredited almost everywhere

1 and followed him based on his apparent conviction.

2 MR. CRISTALLI: And, your Honor, there will be no
3 evidence to suggest that she held these beliefs prior to meeting
4 Mr. Schiff and becoming his boyfriend [sic], the person that she
5 relied on support from, both financially and through these other
6 means. So that's kind of where I think the nexus lies.

7 MR. IGNALL: Will the Court allow us to brief this
8 issue overnight?

9 THE COURT: I will.

10 MR. IGNALL: Okay. Thank you, your Honor.

11 THE COURT: Both parties.

12 MR. CRISTALLI: Very good. Thank you, your Honor.

13 THE COURT: Have it faxed to chambers by 8:00 a.m.

14 MR. CRISTALLI: Very good.

15 MR. IGNALL: Thank you, your Honor.

16 MR. BOWERS: Your Honor, just for the record, I -- I'm
17 similarly situated to Mr. Cristalli on this issue. So I guess
18 I'll brief it independently.

19 THE COURT: All right.

20 MR. BOWERS: I do want to bring to the Court's
21 attention, though, that as it stands now the Government has
22 never sought to suppress psychiatric evidence of Irwin's
23 delusional disorder, only his bipolar condition. I don't know
24 how that factors into this.

25 THE COURT: They still have a right to object on

1 relevance grounds.

2 MR. BOWERS: And I'm not saying they don't. I'm just
3 saying -- you know, and then the other thing as I understand it
4 I'm obligated to provide you, also, between now and tomorrow
5 morning, um, the defense's position regarding willfulness in a
6 tax conspiracy in the Ninth Circuit. Is that correct?

7 THE COURT: Um, I -- I remember discussing this
8 earlier. What were you trying to do?

9 MR. BOWERS: The Government's taken a position that
10 willfulness, as it's determined by Cheek and it's progeny --

11 THE COURT: Oh.

12 MR. BOWERS: -- and not applicable --

13 THE COURT: Yeah.

14 MR. BOWERS: -- in a tax --

15 THE COURT: Well, you said you had some cases and you
16 were going to brief. You offered to brief it.

17 MR. BOWERS: Okay.

18 THE COURT: So go ahead.

19 MR. BOWERS: All right. Thank you.

20 THE COURT: Yeah. Thank you. It shouldn't take you
21 more than a paragraph to -- to tell me what you think the new
22 case is, the --

23 MR. BOWERS: I'm not complaining. I appreciate the
24 opportunity.

25 THE COURT: -- the case signed in August --

1 MR. CRISTALLI: I actually have the case, your Honor,
2 also. I can leave it with Ms. Clerk.

3 THE COURT: On which point?

4 MR. CRISTALLI: On what --

5 MR. BOWERS: That's Trevino. That's what we referenced
6 this morning.

7 MR. CRISTALLI: Okay. I'll leave it up to you.

8 MR. NEIMAN: And the Government's not gonna reference
9 this in its opening again, your Honor, for what it's worth.

10 THE COURT: Yeah. It's -- they've already said that
11 they are not going to address it in their opening. But if --

12 MR. BOWERS: Well, so, in the event that I think that I
13 don't need to address it in my opening, can we preserve this
14 issue for another time?

15 THE COURT: We can preserve it.

16 MR. BOWERS: Thank you.

17 MR. SCHIFF: I'm just -- I don't want to make a comment
18 here. Throughout the Government's Indictment -- I don't
19 understand this because I'm not a lawyer, of course --
20 throughout the Government's Indictment they say not only are my
21 beliefs false but I believe they are false. Now, they have no
22 proof that --

23 THE COURT: Well, that's to be determined. Let's see
24 what happens.

25 MR. SCHIFF: So here's a psychiatrist --

1 THE COURT: You can't argue the case now.

2 MR. SCHIFF: -- who examines me and he says I believe
3 what I believe.

4 THE COURT: We can't --

5 MR. SCHIFF: And why is that not relevant? I don't
6 understand.

7 THE COURT: No one said it's not relevant. We're going
8 to get to that. That's the purpose of the trial. That's the
9 purpose of the trial. And we're not gonna stop it right here
10 because that's something for the jury to decide.

11 MR. SCHIFF: But they're not gonna hear Dr. -- they're
12 not gonna hear his report.

13 THE COURT: No. We haven't decided that yet.

14 MR. SCHIFF: Oh, I'm sorry. All right.

15 THE COURT: All right. We're in recess still 9:30 a.m.

16 MR. IGNALL: Thank you.

17 MR. NEIMAN: Thank you, your Honor.

18 MR. CRISTALLI: Thank you.

19 MR. BOWERS: Thank you.

20 (Proceedings adjourned at 4:29 p.m.)

21 --oOo--

22 I hereby certify that pursuant to Section 753, Title 28, United
23 States Code, the foregoing is a true and correct transcript of
24 the stenographically reported proceedings held in the
above-entitled matter.

25 DATED:

FELICIA RENE ZABIN, RPR, CCR NO. 478