

1 **MONDAY, JULY 22, 2013**

8:45 A.M.

2 **P R O C E E D I N G S**

3 (The following proceedings were held outside the presence
4 of the Jury Venire)

5 **THE CLERK:** Calling 07-MD-1827, Civil 10-4572, 10-4
6 -- 5452 and 12-4114, and I guess we're also going to go ahead
7 and call for the Record 10-4945, which I believe is settled,
8 but -- and Counsel has checked in.

9 **THE COURT:** Okay. Good morning. Welcome.

10 **MR. SILBERFELD:** Good morning.

11 **THE COURT:** So, Tracy, the panel's not up, right?

12 **THE CLERK:** The jury?

13 **THE COURT:** Yeah.

14 **THE CLERK:** They are in the jury office.

15 **THE COURT:** Right.

16 **THE CLERK:** Yeah.

17 **THE COURT:** Well, I don't know who is filling up the
18 courtroom. Welcome to all of you. But you are going to have
19 to move because --

20 **THE CLERK:** Oh, no, no, I put them there. They need
21 to stay there because initially the panel comes in that side
22 (Indicating).

23 (Off-the-Record discussion between the Court and Clerk)

24 **THE COURT:** Okay. You can stay put for a while. So
25 are we ready to go?

1 **MR. SILBERFELD:** Good morning, Your Honor. Roman
2 Silberfeld. We had some housekeeping things that we thought
3 might be helpful to take up with the Court before the jury
4 comes over.

5 **THE COURT:** Okay.

6 **MR. SILBERFELD:** There are eight prospective
7 jurors -- and Counsel and I have talked about this -- who have
8 expressed some form of hardship, either time or language
9 issues.

10 **THE COURT:** Yes. In addition to the ones you put in
11 your letter, you mean.

12 **MR. SILBERFELD:** Yes. Those were the ones where we
13 agreed that they would be excused.

14 **THE COURT:** Right.

15 **MR. SILBERFELD:** But there are eight additional ones
16 which we can either flag for the Court or take up now or
17 later.

18 **MR. CURRAN:** Your Honor, I'm sorry to interrupt, but
19 there may be some more preliminary issues to address such as
20 informing the court of some settlements that have been
21 reached. So as to those cases, we don't even need the jury.

22 **THE COURT:** Right.

23 **MR. CURRAN:** So, if I may begin, but I think other
24 parties may have other things to say as well.

25 Christopher Curran on behalf of Toshiba. Your Honor, this

1 morning we reached an agreement in principle with Kodak.

2 **THE COURT:** Toshiba has.

3 **MR. CURRAN:** Yes.

4 **THE COURT:** So if that were to come to fruition,
5 would that entirely eliminate Kodak from this trial?

6 **MR. CURRAN:** Yes.

7 **THE COURT:** Okay.

8 **MR. BELGUM:** Karl Belgum, Nixon Peabody --

9 **THE COURT:** Nobody meant that when they called your
10 client "the tail on the dog." Nobody meant that.

11 **MR. BELGUM:** We have reached an agreement with
12 Toshiba. It is contingent on approval, because Kodak's in
13 bankruptcy -- of a bankruptcy approval process. That will
14 either be done by approval of certain creditor committee
15 groups tomorrow. If -- in the extremely unlikely event that
16 doesn't happen, we will make a motion for approval. I can't
17 imagine this isn't going to be approved.

18 But I would simply ask that in the extremely unlikely
19 event that it somehow doesn't get approved, we just be bumped
20 back to Track 2 as a fallback. But that's not going to
21 happen.

22 **THE COURT:** Is that going to be your request, as
23 well?

24 **MR. CURRAN:** It is, Your Honor.

25 **THE COURT:** All right. That will be the order of the

1 Court. So at this time I'll move you folks from this track to
2 Track 2, in the confidence that it will not happen that way.

3 **MR. BELGUM:** It will not happen.

4 **THE COURT:** Okay.

5 **MR. BELGUM:** Last week we did notify the Court about
6 an AUO settlement, and that was also contingent on bankruptcy
7 approval. And that approval has now come through, so that
8 contingency is removed.

9 **THE COURT:** All right. Thank you.

10 **MR. BELGUM:** That's it for us, Your Honor.

11 **THE COURT:** Does that mean it's going to be a fond
12 farewell at this time, in this trial?

13 **MR. BELGUM:** It does, Your Honor, yes.

14 **THE COURT:** Well, I've enjoyed it very much.

15 **MR. BELGUM:** Thank you, Your Honor.

16 **MR. BRIAN:** Your Honor, Brad Brian for LG Display.

17 **THE COURT:** Okay.

18 **MR. BRIAN:** We filed a stipulation last evening
19 around 5:30, announcing a settlement between LG Display and
20 Best Buy. We have actually signed a term sheet and filed a
21 stipulation asking the Court not to dismiss, because the final
22 settlement papers have not been filed, but to defer along the
23 same lines as the Kodak case.

24 We previously had filed a stipulation announcing our
25 settlement with the Target group of Plaintiffs. So, pursuant

1 to those stipulations, I would ask leave to sit in the back of
2 the courtroom (Indicating).

3 **THE COURT:** And you're LG, right?

4 **MR. BRIAN:** LG Display. Correct, Your Honor.

5 **THE COURT:** And that would be your request as well?

6 **MR. SILBERFELD:** And that is all correct and
7 agreeable, yes.

8 **THE COURT:** Okay, that will be -- I just signed
9 something this morning, I think it might well have been your
10 stipulation.

11 **MR. BRIAN:** So my daughter's wedding is no longer in
12 jeopardy.

13 **THE COURT:** Well, she's pleased to hear that, and I'm
14 sure you're pleased to hear that. All right, thank you.

15 **MR. BRIAN:** Thank you, Your Honor.

16 **THE COURT:** At least, not from -- not from this
17 trial.

18 So that, then, leaves HannStar, Toshiba and Best Buy.

19 **MR. SILBERFELD:** Correct.

20 **MR. CURRAN:** That's right.

21 **THE COURT:** That is the trial lineup.

22 **MR. CURRAN:** This is Mr. Toto, my partner.

23 **MR. TOTO:** Toshiba.

24 **THE COURT:** That's what I thought.

25 **MR. FREITAS:** Good morning, Your Honor. Bob Freitas

1 for HannStar.

2 **THE COURT:** I guess in the course of things, we have
3 lost Mr. Russoniello then, huh?

4 **MR. CURRAN:** Yes. He was with AUO, Your Honor. And
5 therefore, he's gone, and I don't think we have to worry about
6 redacting indictments.

7 **THE COURT:** All right. All right.

8 **MR. CURRAN:** Funny how these things go.

9 **THE COURT:** Funny how these things go.

10 **THE CLERK:** (Inaudible).

11 **THE COURT:** Best Buy is the Plaintiff, and then we
12 have Toshiba and HannStar.

13 **MR. CURRAN:** Although it's on the other tables, so we
14 have got HannStar and Toshiba (Indicating).

15 **THE CLERK:** Okay, thank you.

16 **MR. CURRAN:** And with that, Your Honor, I think it
17 may be appropriate to discuss particular jurors. And for
18 that, Mr. Toto, my partner, will be addressing those issues.
19 That's why he stood up.

20 **THE COURT:** Okay. Okay.

21 **MR. CURRAN:** Thank you. Is that right?

22 **MR. SILBERFELD:** Sure.

23 **THE COURT:** Okay. Before we start talking about
24 jurors, let me talk about other housekeeping matters that have
25 occurred to me this morning as the number of players has

1 fallen off in this case. We currently are set to pick ten
2 jurors. I think we still need to do that.

3 **MR. SILBERFELD:** Uh-huh.

4 **THE COURT:** I have had previously, in a fit of
5 unwarranted exuberance, given each side five peremptory
6 challenges. That was on account of there were so many parties
7 with diverge interests, which no longer remains the case, it
8 seems to me.

9 So, the rules give you three each. And I would suggest
10 that you be given four each. That will give you the three
11 each, plus one extra for the alternates.

12 **MR. CURRAN:** Your Honor, I would like to make a pitch
13 that you stay at five. I think there are --

14 **THE COURT:** We are not going to have enough jurors,
15 Mr. Curran.

16 **MR. CURRAN:** Well, I think there were 40 coming in.

17 **THE COURT:** No, there are 30.

18 **THE CLERK:** Present.

19 **MR. CURRAN:** Thirty present?

20 **THE COURT:** There are 30. And if you are telling me
21 about hardships you want to agree upon, then we're dwindling
22 down.

23 **MR. CURRAN:** Okay, all right, because I was going to
24 make the point that we still have the same difference,
25 different situations on the defense side with HannStar and

1 Toshiba --

2 **THE COURT:** But there used to be four Defendants, and
3 there are now two.

4 **MR. CURRAN:** Yeah, but there were three crystal
5 meeting participants, and Toshiba. Now there's still a
6 crystal meeting participant and Toshiba. But if that's what
7 the numbers are --

8 **THE COURT:** That's what the number are, so I'm very
9 concerned that we -- that we complete this process so that you
10 folks can get your clients heard.

11 **MR. CURRAN:** Yeah. So if it's four per side, that
12 would mean that the final 18 remaining are in play. Right?

13 **THE COURT:** It would be 18.

14 **MR. SILBERFELD:** Absent some other cause challenge or
15 hardship challenge.

16 **THE COURT:** Well, we need 18 after --

17 **MR. SILBERFELD:** Right.

18 **THE COURT:** -- all those things. And if we are
19 starting with -- 30, you said, Tracy?

20 **THE CLERK:** Well, that was as of 8:30. I don't know
21 if anybody showed up since.

22 **THE COURT:** There had been a lot of traffic on the
23 South Bay, and I don't know if maybe people are having a hard
24 time getting here.

25 **MR. TOTO:** We had 40, Your Honor, and we excused

1 four. So there should be 36 now. So maybe folks are just
2 late.

3 **MR. CURRAN:** And obviously, all 40 were here on
4 Thursday to fill out the questionnaire, so you would expect
5 them back.

6 **THE COURT:** Or not. Anyway, as of the last time
7 Tracy told me, it was 30. So that's one of the reasons I'm a
8 little concerned. So, I think four is plenty.

9 **THE CLERK:** Thirty-four. Two are on their way.
10 Okay, thank you.

11 **MR. CURRAN:** I'm hearing from Tracy that it is 34 and
12 two on the way.

13 **THE CLERK:** Right now it is 34.

14 **THE COURT:** Okay.

15 **MR. CURRAN:** Okay. All right, thank you, Your Honor.

16 **THE COURT:** So that means you need 18, after
17 hardships and challenges for cause. So that gives us 16 to --
18 to play with if we have 34.

19 Okay. All right. Now you wanted to --

20 **MR. SILBERFELD:** I simply wanted to flag a couple of
21 these and if -- it might be more efficient if the Court were
22 to ask about these, or we can do it. I don't have a
23 preference about this.

24 These are the original juror numbers, not after people
25 move around. Juror --

1 **THE COURT:** What do you mean, "move around"?

2 **MR. SILBERFELD:** Well, if Juror No. 3 were to drop
3 out, because they were excused, I'm just using the original
4 juror questionnaire numbers.

5 **THE COURT:** All right. I think that's what we should
6 do throughout. Otherwise we'll confuse --

7 **MR. CURRAN:** Yeah, I agree.

8 **MR. TOTO:** Yeah.

9 **MR. SILBERFELD:** Juror No. 4 expressed some concern
10 in the questionnaire the jury duty would impose a hardship on
11 her employer, and it's not clear whether she would be paid for
12 jury service or not.

13 **THE COURT:** This is Ms. Galvez?

14 **MR. SILBERFELD:** Ms. Galvez.

15 **THE COURT:** Okay, where are you on her? What page
16 would this be?

17 **MR. SILBERFELD:** I don't have the page number.

18 **THE COURT:** Of the questionnaire.

19 **MR. TOTO:** Questionnaire 7.

20 **THE COURT:** That would be Page --

21 **MR. CURRAN:** 4.

22 **MR. SILBERFELD:** It's Page 4, Question 7, "No backup
23 for my work." And here again, it's not clear whether her
24 employer pays for jury service for this length of time.

25 It is Kindred Health Care, which is shown on Page 4 as

1 well.

2 **THE COURT:** We don't ask them that question?

3 Well, anyway, I see what you are saying. The -- the first
4 thing I'm going to do in talking to them is ask about -- let
5 me tell you what I thought we would do in terms of sequence.
6 I thought we'll get them in here, I will ask again about
7 hardships before we do anything else.

8 Theoretically, these folks are prescreened for
9 availability. So, theoretically, they have come to us, having
10 said "I can sit for six weeks." So, there nevertheless will
11 be a lot of people who want off, so we will talk about that
12 with them.

13 And then, I'll give -- I'll meet with you folks at
14 sidebar, we'll talk about which ones we should excuse. And
15 then we'll -- then we'll get going.

16 And I thought what we should do at that point is give you
17 the opportunity to make your five-minute statement, and then
18 I'll start with the voir dire.

19 **MR. SILBERFELD:** That's fine.

20 **THE COURT:** Is that --

21 **MR. SILBERFELD:** Sure.

22 **THE COURT:** Make sense? Okay. So this woman, for
23 example, she didn't beg off, evidently, earlier. I expect, if
24 she's not getting paid, she'll beg off now.

25 **MR. SILBERFELD:** Right.

1 **THE COURT:** But I don't see on there anything that
2 makes it impossible. Sometimes people express the desire
3 for -- to be excused for hardship on account of their
4 employers have said, "Oh, boy, you know, this will be a pain
5 if you have to do it."

6 **MR. SILBERFELD:** Yeah.

7 **THE COURT:** Which is different from saying "We won't
8 pay you." It's -- so we just have to find that out,
9 sometimes.

10 **MR. SILBERFELD:** Right.

11 **MR. TOTO:** We would just -- sorry, Your Honor.

12 We would just request that you raise that with her, if she
13 doesn't raise it specifically on her own. She may be shy or
14 not want to raise --

15 **THE COURT:** Raise what with her?

16 **MR. TOTO:** The issue of her availability and whether
17 she will be paid for jury service.

18 **THE COURT:** Well, did we ask on this questionnaire,
19 whether they would be?

20 **MR. TOTO:** No.

21 **THE COURT:** Well, then, that's why it's unclear.

22 **MR. TOTO:** I believe the way this was handled last
23 time, Your Honor, last summer, was you asked --

24 **THE COURT:** What I did is ask who wants off. If
25 somebody isn't going to be paid and doesn't care, or if

1 somebody isn't going to be paid but is the CEO of a major
2 corporation and has more money than all the rest of us put
3 together, then that might not be a hardship. If they don't
4 feel it's a hardship, it isn't a hardship, even if they're not
5 paid. So we'll just ask. We'll find out.

6 **MR. TOTO:** Fair enough.

7 **MR. SILBERFELD:** There is a second category of this
8 issue, and there's language issues.

9 **THE COURT:** Right.

10 **MR. SILBERFELD:** There are four jurors who raise the
11 issue of language as being a possible impediment for them. I
12 can give the Court the numbers.

13 **THE COURT:** This was one.

14 **MR. SILBERFELD:** No, actually, Ms. Galvez wasn't --

15 **THE COURT:** Okay.

16 **MR. SILBERFELD:** It was Jurors No. 5 --

17 **THE COURT:** Okay, and where will I find the question?

18 Oh, Page 3?

19 **MR. TOTO:** Yes.

20 **MR. SILBERFELD:** Right.

21 **THE COURT:** Okay.

22 **MR. SILBERFELD:** And this same juror at the end on
23 Page 14 describing past jury service said "Honestly, nervous."
24 So, and that may or may not relate to the language issue.

25 **THE COURT:** Okay. Which others?

1 **MR. SILBERFELD:** No. 28.

2 **THE COURT:** And what is the name of that one?

3 **MR. SILBERFELD:** 28, last name is Wang, W-A-N-G.

4 Again at Page 3, it describes understanding written English as
5 okay, or adequately.

6 **MR. CURRAN:** Your Honor, would it be helpful for us
7 to give you a binder that has all of the questionnaires
8 assembled?

9 **THE COURT:** That's all right.

10 **MR. CURRAN:** Thank you.

11 **THE COURT:** That is Page 3?

12 **MR. SILBERFELD:** Yes, Your Honor.

13 **MR. TOTO:** Your Honor, we think this juror seems
14 okay. Maybe under questioning, we can explore further how
15 good her English is.

16 But she said it was adequate, on the form.

17 **THE COURT:** Okay. Which other ones?

18 **MR. SILBERFELD:** 35, Your Honor. The last name
19 Benedith, B-E-N-E-D-I-T-H.

20 **THE CLERK:** I'm sorry; what was the jury number?

21 **MR. SILBERFELD:** 33. Apologize; 33.

22 **THE COURT:** Okay.

23 **MR. SILBERFELD:** Again, it's Page 3.

24 **THE COURT:** Yes, I see. Which others?

25 **MR. SILBERFELD:** No. 35. Last name is Rasdas,

1 R-A-S-D-A-S. Also Page 3.

2 **THE COURT:** Okay, so we can inquire about these
3 things.

4 **MR. SILBERFELD:** Right. And then one third --
5 category of hardship, two jurors evidenced sort of trip
6 issues. Actually, three jurors evidenced sort of trip issues.
7 One was No. 15, Mr. Fuller. At Page 21.

8 **THE COURT:** I'm just not -- not getting there.
9 Okay. At Page what?

10 **MR. SILBERFELD:** Page 21, Your Honor. Answer to
11 Question No. 61. It's not clear whether that is a business
12 trip or a personal trip that could be rescheduled, but I did
13 note it.

14 **THE COURT:** Okay. Let's see it.

15 So what we're talking about for this trial is we start
16 today, we go -- two, three, four, five, six, all right. Well,
17 we'll -- I'll inquire. These are the kinds of issues I'm
18 confident they will raise.

19 But, all right, what else?

20 **MR. SILBERFELD:** The next one is Juror No. 26.
21 Ms. Paleczny-Stevenson.

22 **MR. TOTO:** 57(b), Page 17.

23 **MR. SILBERFELD:** It also shows up on Page 4.

24 **THE WITNESS:** I see that. And that sounds like it is
25 a serious issue. I understood these were folks who were

1 available for six weeks, so I don't know what's going on here.

2 Anyway, the last one?

3 **MR. SILBERFELD:** The last one on a trip is
4 Juror No. 36, Mr. Chen.

5 **THE COURT:** Gregory Chinn?

6 **MR. SILBERFELD:** Richard Chen. And it -- the issue
7 appears at Page 21.

8 **THE COURT:** Number what?

9 **MR. SILBERFELD:** Sorry, No. 36.

10 **MR. TOTO:** This is over a weekend, so seems that it
11 might be doable for him to keep his trip and do his jury
12 service.

13 **THE COURT:** What page was this on, again?

14 **MR. SILBERFELD:** 21, and then it carries over to what
15 he calls Page 22.

16 **THE COURT:** Okay.

17 **MR. SILBERFELD:** So that's it on the various
18 categories of hardship.

19 **THE COURT:** Okay.

20 **MR. SILBERFELD:** There are possible cause challenges.
21 One of them we actually stipulated to, but the Court did not
22 exclude that individual.

23 **THE COURT:** Yes.

24 **MR. SILBERFELD:** And that is Mr. Nemecek, No. 12.

25 **THE COURT:** Yes.

1 **MR. SILBERFELD:** I don't know if it was mentioned in
2 what was submitted to the Court, but Mr. Nemecek knows a
3 number of people who are involved in this. One is a
4 paralegal, I think, for Toshiba; I can't --

5 **MR. FREITAS:** For HannStar, Your Honor.

6 **THE COURT:** In a social sense, or a Biblical sense?

7 **MR. FREITAS:** Purely social, Your Honor.

8 **THE COURT:** Okay. I mean, there are so many lawyers
9 in this case, we wouldn't have any lawyers on this panel who
10 didn't know some of them.

11 So, what else?

12 **MR. SILBERFELD:** This individual apparently dated one
13 of my partner's wives.

14 **THE COURT:** So we are getting close to Biblical now,
15 aren't we?

16 **MR. SILBERFELD:** I don't want to make a Federal Court
17 record out of this. But the third thing is, you know, he is a
18 lawyer. And he's written an article about the pass-on
19 defense.

20 **THE COURT:** Oh.

21 **MR. SILBERFELD:** And he says that. So, you know,
22 rather than spend a great deal of time on this, you know, I
23 think we have a cause challenge as to him.

24 **MR. TOTO:** Not only that, Your Honor; he's tweeted
25 and written about this case in particular. He wrote about the

1 AUO criminal verdict. He wrote about some things, some of
2 your rulings in the Dell case, as well as the criminal case
3 for AUO, including some somewhat-obscure rulings, showing that
4 he's following the case pretty closely.

5 So, we think he brings non-record evidence to the case,
6 and could really be an influence on the jury.

7 **MR. SILBERFELD:** I'm actually trying just to protect
8 the virtue of my partner's wife.

9 **THE COURT:** You'd better not tell her what you did.

10 **MR. SILBERFELD:** I'm sure she'll hear about it.

11 **THE COURT:** Well, frankly, she does not move me, nor
12 does your paralegal move me. But tweeting about the criminal
13 trial and other things does.

14 I think it would be -- it would be hard for him to set
15 previously-developed opinions aside, and it would be
16 impossible for the other jurors not to ask him what he
17 thought. So, I can see how that might be bad.

18 **MR. SILBERFELD:** That is Juror Number --

19 **THE COURT:** What number is he?

20 **MR. SILBERFELD:** No. 12, Mr. Nemecek.

21 **THE COURT:** Who does he work for?

22 **MR. SILBERFELD:** He has his own firm, Qian and
23 Nemecek?

24 **MR. TOTO:** Qian and Nemecek.

25 **MR. SILBERFELD:** Here in the Bay area.

1 **THE COURT:** Okay, what else? I think, when he -- you
2 can -- you can tell the jury folks to excuse him at this time.

3 **THE CLERK:** Okay.

4 **THE COURT:** What else?

5 **MR. SILBERFELD:** No. 38, Your Honor, Mr. Ito.

6 **THE CLERK:** What number; I'm sorry?

7 **MR. SILBERFELD:** 38.

8 **THE COURT:** Yes?

9 **MR. SILBERFELD:** Mr. Ito is a -- a technical person
10 at a technology group company that has as its customers,
11 Hitachi LC, Samsung.

12 In his own words, at Page 21, he says, "I work" -- "The
13 company I work for sells static control equipment to all of
14 the major..." I can't read --

15 **THE COURT:** "Flat-panel display manufacturers."

16 **MR. SILBERFELD:** That's right, "...flat-panel display
17 manufacturers in Taiwan and Korea."

18 His wife also -- or partner happens to be a courtroom
19 deputy in this Court, but it's his work that's of concern to
20 us.

21 **MR. TOTO:** Your Honor, our view is that's not enough
22 to disqualify him.

23 **THE COURT:** This time, I agree. I mean, he sells to
24 them. It's different from buys from them.

25 **MR. TOTO:** That is true.

1 **THE COURT:** Okay; what else?

2 **MR. SILBERFELD:** And the last one, this is more in a
3 manner of a flag, Ms. Bacon, No. 39, not clear whether she
4 owns presently or has owned in the past Best Buy stock. But,
5 there's references to owning Best Buy stock.

6 **THE COURT:** What page would that be?

7 **MR. SILBERFELD:** 20.

8 **THE COURT:** All right. Well, we'll have to find out.

9 **MR. SILBERFELD:** Okay. And --

10 **THE COURT:** That is it?

11 **MR. SILBERFELD:** And the last issue, and we didn't
12 raise this before; frankly, I just thought about it over the
13 weekend.

14 You know, I have a concern that some number of people on
15 the jury panel may have either heard about or received notice
16 of the IPP, the consumer class settlement. It was published
17 in newspaper articles; it was on television. It was
18 relatively recent.

19 And I would just ask if the Court would inquire about
20 that.

21 **THE COURT:** Well, I have been thinking about that
22 same question, which is, not just that, but all these other
23 cases that have been out there. And Mr. Nemecek brings that
24 to mind, that there's been a certain amount of publicity which
25 we all follow, I think the general public follows less avidly

1 about the various trials in case.

2 So my plan was simply to say -- because you're going to
3 know as much as you are going to know about these folks from
4 these questionnaires. But my plan was to say -- ask for a
5 show of hands.

6 I'll tell them, "There have been other cases concerning
7 some of these issues, previously. Have any of you heard about
8 that?" And ask for a show of hands.

9 And then, not ask them what they've heard, but just say
10 that: "It's important the juries only take the evidence from
11 the stand and make up their minds based on the evidence in
12 this trial. Will you be able to set aside anything you have
13 seen in the newspapers and just decide this case based on what
14 you hear here?" And see what they say.

15 And if people -- if people indicate they might have
16 trouble doing that, or they've heard a lot more, we can take
17 it at sidebar and find out what they have heard.

18 How's that?

19 **MR. SILBERFELD:** That's fine.

20 **MR. TOTO:** No objection, Your Honor.

21 **THE COURT:** Is that okay?

22 **MR. FREITAS:** No objection, Your Honor.

23 **MR. TOTO:** Your Honor, we did have one more for-cause
24 challenge that we would like to raise.

25 **THE COURT:** Okay.

1 **MR. TOTO:** No. 9, Raymond Thomas.

2 **THE COURT:** Yes.

3 **MR. TOTO:** Yes, Your Honor. This juror indicated
4 that he thinks most products are priced too high because they
5 are made overseas. That was response to Question 34(a) on
6 Page 11. He also said prices are too high for products at
7 issue, because they're made outside of the USA.

8 And finally, he checked the box "No" for the question of
9 whether he could set aside his own opinions and be impartial.
10 57(c). So, we believe he's shown bias here, and should be
11 excused for cause.

12 **THE COURT:** All right. Well, I'll inquire. We'll
13 see. Okay. Anything else?

14 **MR. SILBERFELD:** Just the last question. How does
15 the Court wish us to introduce clients, and at what point?

16 **THE COURT:** Oh. So, what I will plan to do is,
17 they'll all come in, and I'll tell them a little bit about
18 what we'll do this morning.

19 First, I'll do the hardships. So that -- because if -- if
20 someone is excused for hardship, we'll let them go now. So,
21 we'll do the hardships. And then we'll do the voir dire.

22 So the first thing I generally do is introduce the
23 lawyers, and the clients -- the parties. So, I would ask each
24 of you to stand, and introduce your -- well, say your name to
25 the -- and introduce your clients. So, at that point, if you

1 have representatives here, they should rise and be introduced.

2 And I'll tell the jury that's for the purposes of
3 determining if they know people, because if they do, then we
4 need to inquire further.

5 **MR. SILBERFELD:** Thank you.

6 **MR. TOTO:** Your Honor, we had a few housekeeping
7 issues as well.

8 Firstly, you know, the jurors may see defense counsel
9 conferring among ourselves on strikes. So, we would request
10 Your Honor say something to the jury along the lines of that
11 you have asked us to coordinate and confer. We don't want to
12 be seen together; could give the wrong impression.

13 **THE COURT:** Okay. I will say something like that, if
14 I think about it. But, one thing. The way this goes -- and
15 I'll say it again because it's not, perhaps, intuitive -- is
16 that we will do the -- I'll do such questions as I feel like I
17 need to do.

18 I'll then give each of you an opportunity -- what did I
19 say? How much time do you have for voir dire?

20 **MR. SILBERFELD:** Oh, for voir dire? Forty minutes,
21 Your Honor.

22 **THE COURT:** Each?

23 **MR. FREITAS:** Forty a side, Your Honor.

24 **THE COURT:** That's per side, when the sides were so
25 much larger than they are now. I mean, you're it now, right?

1 **MR. SILBERFELD:** Yes, Your Honor.

2 **THE COURT:** And there used to be three of you, but
3 one of you had a whole bunch going on. So, really, you're
4 down to a mere sliver of what one side used to be. True?

5 And you're -- two out of four. So, how about 30 minutes
6 each? Can you do that?

7 **MR. SILBERFELD:** Absolutely.

8 **MR. FREITAS:** Yes, Your Honor.

9 **THE COURT:** I mean, per side, not each. Per side.

10 **MR. TOTO:** You know, Your Honor, we still think the
11 issues are the same, and we still have a large venire. So, we
12 would request at least 35, or we'd request to stay at 40,
13 actually.

14 **MR. CURRAN:** (Nods head)

15 **THE COURT:** All right. We'll stay -- 40 each. You
16 may, but you are not required to use that much time. Mostly
17 people don't use up that time, but -- and of course, it's not
18 for purposes of ingratiating yourself in any way to the panel,
19 but rather, just to find things out.

20 Anyway, so, then you do your voir dire. Then, we have a
21 sidebar, and we talk about challenges for cause. And rule on
22 them. They're not excused at that point. They still sit
23 there. They don't know what we've done.

24 Then you write down on paper your peremptory challenges.
25 You take the paper back and forth. What I usually describe

1 that to the jury as is paperwork. "The lawyers have paperwork
2 to do. Just sit there, and when we're done -- and we will be
3 done shortly, and you can -- and we'll know more." So they,
4 theoretically, anyway, don't know who's being thanked and
5 excused. So you can confer to your heart's content, and I
6 don't think that's going to affect the jury much one way or
7 the other.

8 And then at the end of the day we'll just say, "All right,
9 so the following ten people are on the jury, and everybody
10 else can leave." Okay?

11 **MR. SILBERFELD:** And the five-minute openings come --

12 **THE COURT:** Oh, so the five-minute --

13 **MR. SILBERFELD:** After --

14 **THE COURT:** I'll do the hardships.

15 **MR. SILBERFELD:** Right.

16 **THE COURT:** And then I think you should do -- well,
17 then I guess I should introduce the parties and the lawyers.
18 And then I'll let you do the five-minute things before we
19 start asking questions.

20 **MR. SILBERFELD:** Right.

21 **THE COURT:** Is that all right? Okay.

22 So then, Tracy, do you want to see where we stand?

23 **THE CLERK:** Yes.

24 **THE COURT:** And when they come back in, I want to
25 know how many we have.

1 **THE CLERK:** I think there are 36 here now. There are
2 36 here now.

3 **THE COURT:** There are 36, and we are going to let go
4 that one person, so that would be 35.

5 **THE CLERK:** Okay. And I will put them --

6 **THE COURT:** If, in fact, he's one of the ones who's
7 here. Did you tell them --

8 **THE CLERK:** I told them to excuse, and he said "Will
9 do," so I assume he is here.

10 **THE COURT:** Okay. Yeah.

11 **MR. SILBERFELD:** Also Your Honor, there are some
12 instructional issues that both sides have that don't affect
13 the jury selection, per se, but --

14 **THE COURT:** Right. We'll have to do that later.

15 **MR. SILBERFELD:** But, do affect the opening.

16 **THE COURT:** Also, the landscape has shifted a little
17 bit since last we were together. So I don't know to what
18 extent, if any, that affects your jury disputes, your
19 instructional disputes.

20 **MR. CURRAN:** I think -- there certainly are remaining
21 issues on the preliminary instructions. I can put it that
22 way.

23 **THE COURT:** Okay.

24 **MR. CURRAN:** But that can wait until after we pick a
25 jury.

1 **THE COURT:** Right. I think it can. And I'm just
2 saying you might want to let me know what they are. What
3 differences there are, if any, from before.

4 **MR. SILBERFELD:** Sure.

5 **MR. CURRAN:** We will confer briefly on --

6 **THE COURT:** Well, Kodak, for example.

7 **MR. CURRAN:** I don't know that Kodak's elimination
8 narrows the preliminary-instruction issues at all.

9 **THE COURT:** Well, was Kodak operating under New York
10 law?

11 **MR. CURRAN:** Yes.

12 **THE COURT:** And what law is Best Buy operating under?

13 **MR. SILBERFELD:** Minnesota, Your Honor.

14 **THE COURT:** Minnesota. So I think now we don't have
15 to think about New York as much.

16 **MR. CURRAN:** I could be wrong, but I don't think we
17 distinguished between the state laws in the preliminary
18 instructions.

19 **THE COURT:** Maybe I'm thinking about the pass-on
20 issue. There was a distinction. In any event, we are back to
21 Minnesota, so --

22 **MR. FREITAS:** There is another issue, Your Honor,
23 regarding the instruction on the effect of criminal
24 convictions. That one's disputed.

25 **THE COURT:** And is that a preliminary instruction?

1 **MR. FREITAS:** It is, Your Honor.

2 **THE COURT:** Okay. Well, I shall get to that. I can
3 see why the issue would be important to you.

4 **MR. FREITAS:** (Nods head)

5 **MR. CURRAN:** Your Honor, I'm not sure how you see the
6 day going. Obviously, we are going to pick the jury. We then
7 have some preliminary issues.

8 Does Your Honor expect openings to be this afternoon? Or
9 tomorrow morning?

10 **THE COURT:** You know, as of last week, or when I was
11 thinking about this, I expected tomorrow.

12 **MR. CURRAN:** I did, too.

13 **THE COURT:** As of today, as things have changed a
14 little bit, it's possible -- it's possible, I guess, that we
15 will finish up.

16 **MR. CURRAN:** Yeah.

17 **THE COURT:** We no longer have the wedding to worry
18 about. So --

19 **MR. SILBERFELD:** It was on my mind all weekend,
20 Your Honor.

21 **THE COURT:** So, maybe we want to -- well, actually,
22 before we even call the jury in here, the reason -- the reason
23 that we were going to make them come in for, what, one -- one
24 day, what -- what were we doing?

25 I'm not here August 22, and I'm not here -- so that -- so

1 we'd have three days the week of August 19th, and I'm not here
2 the 26th and the 27th. So we would have two days the week of
3 August 26th. And we were doing that because I really think
4 because I was worried and counsel was worried about the end
5 point.

6 So, while I'm picking the jury here, do you still want to
7 leave it like that, or do you want to give them a couple of
8 those days? Do you think it's going to take any less time
9 since we have got so many fewer Plaintiffs?

10 **MR. CURRAN:** It could. It is hard to predict. It
11 could take less time. I do ask that the limits stay the same
12 because we have the same --

13 **THE COURT:** I know you do, but I'm just thinking,
14 since we have fewer Plaintiffs, surely we're going to have
15 fewer experts.

16 **MR. SILBERFELD:** Actually, not, because we shared
17 experts. What we'll have less of on the Plaintiff's side is
18 simply the client stories for the nine Target Plaintiffs.
19 Which, frankly, we had at about 15 minutes each, so I think
20 that there may be an hour or two savings on our side.

21 The settlement with LG doesn't change the overall
22 conspiracy story from our perspective, so it really doesn't
23 change much. And the expert lineup does not change at all,
24 because we shared experts.

25 **MR. CURRAN:** Your Honor, Chris Curran for Toshiba.

1 My preference would be that we keep court those two days,
2 just to try to get the trial, itself, over with quicker, if
3 possible.

4 **THE COURT:** All right, then I suppose we can play it
5 by ear. If it turns out -- well we can play it by ear. But
6 -- so at this point, then, I'll tell them they need to come
7 for those stray dates.

8 **MR. CURRAN:** Yeah. And as to openings, we probably
9 could do it either this afternoon or tomorrow. I have a
10 slight preference for tomorrow because I only settled with
11 Kodak this morning, and have some adjustments to make in my
12 opening.

13 **THE COURT:** Right. That's Toshiba. What -- Best
14 Buy, would you rather go today or tomorrow? If there's time.
15 I don't know if there is going to be time or not.

16 **MR. SILBERFELD:** Happy to do it either way. There's
17 the issue of splitting the openings. Some today, some
18 tomorrow.

19 **THE COURT:** Maybe we should just do the Plaintiffs
20 today, and do the defense tomorrow? What do you think?

21 **MR. SILBERFELD:** Sure.

22 **THE COURT:** Do you care?

23 **MR. FREITAS:** No strong preference, Your Honor.

24 **THE COURT:** Okay. Well, again, we can -- we can play
25 that by ear too, but I'm -- but we'll just see how long it

1 takes. If we get done in a trice, why, maybe we should try to
2 get some done today.

3 How much time did I give you for opening?

4 **MR. SILBERFELD:** Twenty-five minutes.

5 **MR. CURRAN:** It was only 25 minutes, Your Honor.

6 **THE COURT:** So that would be an hour and a half.

7 Well, we'll see.

8 **MR. SILBERFELD:** There's probably a little bit of
9 setup time in between. So, maybe a little more than an hour
10 and a half.

11 **THE COURT:** All right, so we'll see. But my
12 inclination is probably tomorrow at this point, as long as we
13 can get done in time.

14 **MR. CURRAN:** Thank you, Your Honor.

15 **THE COURT:** All right. Well, Tracy, do you want to
16 get them?

17 **THE CLERK:** Yes.

18 (Brief recess held in the proceedings)

19 (The following proceedings were held in the presence of
20 the Jury Venire)

21 (Jury Venire placed under oath)

22 **THE CLERK:** All rise. This Court is in session, the
23 Honorable Susan Illston presiding.

24 **THE COURT:** Good morning. Welcome. You may be
25 seated.

1 Well, good morning, ladies and gentlemen. My name is
2 Susan Illston. And I am the Judge who will be presiding over
3 the trial which will occur in this courtroom over the next
4 couple -- several weeks.

5 First, let me say welcome, and thank you for being here.
6 I appreciate that very much. I know you did not volunteer to
7 come. And we are grateful that you are here. There's --
8 there's just no way we could run our system of justice without
9 the cooperation of folks like yourselves, and we appreciate
10 very much that you are here.

11 What we will do this morning is as follows. We are
12 picking a jury for a civil jury trial that will take
13 approximately six weeks. We are going to pick ten jurors.
14 So, you can see that not all of you will be chosen for this.
15 But, what we will do this morning is find out -- well, we'll
16 select the jury.

17 So the first thing -- I'll ask you some questions. The
18 lawyers will have an opportunity to ask you some questions.
19 And the process will go like that.

20 We will then, then select the ten of you. And those of
21 you who are not selected will be excused. And the ten of you
22 who are selected will stay put and will take the next steps.

23 But the first thing I want to run by with all of you,
24 before we get to anything else, is hardship. As I mentioned,
25 this trial's going to take approximately six weeks. It may be

1 less, but it could take approximately six weeks. So, my first
2 question to all of you is whether there are any of you for
3 whom sitting for that length of time would be a real
4 substantial hardship.

5 And I don't mean an inconvenience, because you are all
6 being inconvenienced just by being here. We recognize that,
7 we are sorry for that, but we are grateful that you are here.
8 But, I mean an inconvenience that would make it hard for you
9 to even concentrate on the case.

10 So if there is anyone who feels that way, please raise
11 your hand, and we'll take your answer. Whenever you raise
12 your hands I'll try to take your answers in order so we can
13 keep track of who is who.

14 So, anyone for who feels that this trial for this length
15 of time would be that kind of a substantial hardship, please
16 raise your hand. Okay, I want to see all the hands up that
17 feel that way. Today is the day to tell me about this.
18 Tomorrow would be a bad day to tell me about this.

19 So we will start in order for no very good reason that is
20 the beginning and we will go that way. So raise your hand
21 high, so I can get you.

22 What's your name, ma'am?

23 (Reporter interruption)

24 **THE COURT:** Do you have the mic, Tracy?

25 We have a microphone, which sometimes works.

1 **THE CLERK:** You have to speak directly into it, very
2 closely, because if you put it down here (Indicating), it's
3 not going to pick up.

4 **PROSPECTIVE JUROR GALVEZ:** My name is Elizabeth
5 Galvez. I'm working at Kindred Health Care (Inaudible)

6 **THE COURT:** What do you --

7 **PROSPECTIVE JUROR GALVEZ:** And I'm working as a
8 payroll benefits coordinator. And it's hard for me to attend
9 this hearing because I do the process -- payroll processing
10 every two weeks. And this coming Friday and Saturday is my
11 payroll close.

12 And every day, I have to be there to answer the phone,
13 processing accounts payable, also. So --

14 **THE COURT:** Does your employer pay you for jury
15 service while you are on jury service?

16 **PROSPECTIVE JUROR GALVEZ:** I think we only have one
17 day for the jury. The first day I came here. And I'm not
18 sure for today.

19 **THE COURT:** So you don't know if they pay you for
20 jury service or not?

21 **PROSPECTIVE JUROR GALVEZ:** Yeah. I have to ask my
22 administrator.

23 **THE COURT:** Well, didn't you ask him last week when
24 you had to come in?

25 **PROSPECTIVE JUROR GALVEZ:** Because I told her, I had

1 to check my -- my schedule if I'm going to come back on
2 Monday.

3 **THE COURT:** Right. Well, did she tell you whether
4 they will pay you while you are on jury duty?

5 **PROSPECTIVE JUROR GALVEZ:** No. I didn't ask her.

6 **THE COURT:** Weren't you curious?

7 **PROSPECTIVE JUROR GALVEZ:** (No audible answer)

8 **THE COURT:** You don't know. All right. Thank you.

9 **PROSPECTIVE JUROR GALVEZ:** Sorry.

10 **THE COURT:** All right, thank you. And I'll take the
11 next one.

12 But first let me tell you something I forgot to tell you
13 to begin with, that I should have, which is: The schedule
14 that we have for jury trials in this courtroom is we sit
15 Monday through Thursday. We do not sit on Friday, because I
16 have other things I have to do in the courtroom on Fridays.

17 If a jury is out deliberating, it may continue to
18 deliberate Friday. But, in terms of taking evidence here in
19 court we only sit Monday through Thursday, and we go 8:30 in
20 the morning to 3:30 in the afternoon.

21 We have a break in the morning. We have a break in the
22 afternoon. We have a break for lunch. I don't call it a
23 lunch hour because we don't have an hour. But we will take
24 some time for lunch. There will be enough time for you to get
25 -- get nourishment to keep body and soul together. There will

1 not be enough time to go out and have a nice San Francisco
2 luncheon. But we have a cafeteria in the building on the
3 second floor. We have a little snack floor in the building on
4 the tenth floor. And in the jury room we have a little
5 refrigerator so you can bring your lunch if you want. We have
6 a little microwave and we have free cookies. So you won't
7 starve to death.

8 But, that is the schedule that we sit. Monday through
9 Thursday, 8:30 to 3:30. So when I'm asking you about the
10 hardship, it is in that context that I'm asking you.

11 But Ms. Galvez, I have your information, thank you. And
12 whose hand was next?

13 **PROSPECTIVE JUROR YALUNG:** My name is Khay Yalung.

14 **THE COURT:** Say it again; I didn't hear you.

15 **PROSPECTIVE JUROR YALUNG:** Khay, Khay Yalung. And
16 I'm working for Accurate Mailings Incorporation (sic). And my
17 employer doesn't pay me for this one. And I have some
18 mortgage to pay.

19 **THE COURT:** What is the name of your employer?

20 **PROSPECTIVE JUROR YALUNG:** Accurate Mailings.

21 **THE COURT:** What do they do? What kind of a business
22 is it?

23 **PROSPECTIVE JUROR YALUNG:** It's a mailing.

24 **THE COURT:** All right. Thank you, ma'am.

25 **PROSPECTIVE JUROR YALUNG:** Thank you.

1 **PROSPECTIVE JUROR PALMER-ORDONEZ:** My name is Janet
2 Palmer-Ordonez. And I'm working for Secure Talent, through
3 UBM. If I don't work, I don't get paid. And it is a
4 temporary staffing agency I'm currently working through.

5 **THE COURT:** All right, thank you, ma'am.

6 Next hand?

7 **PROSPECTIVE JUROR VOLPE:** My name is Valerie Volpe.
8 I work at Safeway Corporate Offices in Pleasanton.
9 My employer pays for 20 days of jury service in a
10 three-year period. So, if this trial ends in 20 days, fine.
11 If not, I'm basically giving up my salary.

12 Not that that would keep me from being able to focus on
13 the trial, but it would be nice to not have to give up the
14 pay.

15 **THE COURT:** All right. Thank you.

16 And now, come down to whoever is closest to me in this
17 row. Yes, sir.

18 **PROSPECTIVE JUROR FULLER:** My name is Paul Fuller.
19 I'm scheduled to be on a trip out of state on August 24th.
20 So, it's about four weeks from now.

21 **THE COURT:** What -- is it business or pleasure?

22 **PROSPECTIVE JUROR FULLER:** Pleasure, family.

23 **THE COURT:** Have you got tickets already?

24 **PROSPECTIVE JUROR FULLER:** Yes.

25 **THE COURT:** All right. Thank you, sir. Who's next?

1 **PROSPECTIVE JUROR YU:** My name is Alice Yu. I work
2 for Amgen, Incorporated. My employer only pays for 80 hours
3 of jury duty time, as well as I also have an interview
4 scheduled for next Thursday with a company that also -- it's
5 overseas, so it's kind of hard to reschedule the interview.

6 **THE COURT:** Is that for a new job, you mean?

7 **PROSPECTIVE JUROR YU:** Yes.

8 **THE COURT:** And, tell me again who you work for.

9 **PROSPECTIVE JUROR YU:** Amgen, Incorporated.

10 **THE COURT:** And how much time do you get?

11 **PROSPECTIVE JUROR YU:** Eighty hours.

12 **THE COURT:** All right. Thank you, ma'am.

13 **PROSPECTIVE JUROR THAN:** My name is Than Than. And
14 my mother-in-law is 91 year old, and she is at this moment is
15 pretty sick and sort of declining quite rapidly. She is not
16 in the hospice yet, so I'm not sure whether something might
17 happen, or may or not. That's one reason.

18 Another reason is that it's not for myself, for my
19 patients. I work as a primary-care physician in Antioch. And
20 about four, six weeks, we have to cancel a lot of patients. I
21 generally see about 20 to 25 patients a day, so it would be
22 quite inconvenient for the patients. I mean, not for myself,
23 though, and for my co-worker also.

24 Thank you.

25 **THE COURT:** Wait a second. I'm not sure if I wrote

1 your name down right. Could you say it again?

2 **PROSPECTIVE JUROR THAN:** My name is Than Than.

3 T-H-A-N T-H-A-N. The same as first name as last name.

4 Thank you.

5 **THE COURT:** Thank you. And I also didn't ask you
6 this question. Do you get paid for juror duty?

7 **PROSPECTIVE JUROR THAN:** I'm sorry, I didn't ask.

8 But several of my co-workers and physicians, they said that it
9 paid for two weeks. So, I didn't actually ask.

10 **THE COURT:** Okay.

11 **PROSPECTIVE JUROR THAN:** But I feel like that -- I
12 guess it's my duty, my duty then. Okay.

13 **THE COURT:** All right, thank you.

14 **PROSPECTIVE JUROR COLLINS:** My name is James Collins.

15 I work for SC Laboratories. My company will pay for three
16 days. I don't own a vehicle. And if BART goes on strike,
17 it's going to be very difficult for me to go from the East Bay
18 up to here.

19 **THE COURT:** Thank you.

20 **PROSPECTIVE JUROR PALECZNY-STEVENSON:** I'm Diane

21 Paleczny-Stevenson. And I feel it would be difficult because

22 I live in Petaluma, so it's taking me two and a half hours one
23 way to get down here to the courthouse. And then, returning.

24 Which I feel I can do for a while, but the term of six weeks

25 sounds very exhausting, physically.

1 Also, I'm a schoolteacher, and we start the school year
2 August 13th, and typically go in the week before to get things
3 ready. And, it's difficult to have a substitute at the
4 beginning of the year.

5 Thank you.

6 **THE COURT:** What -- where do you teach?

7 **PROSPECTIVE JUROR PALECZNY-STEVENSON:** Santa Rosa
8 City Schools. Further north, yet.

9 **THE COURT:** And what grade?

10 **PROSPECTIVE JUROR PALECZNY-STEVENSON:** I teach
11 elementary music, first grade to sixth grade, which makes the
12 substitute issue more tricky because you have to have a very
13 small pool of people to draw from.

14 **THE COURT:** All right, thank you.

15 **PROSPECTIVE JUROR CHINN:** My name is Greg Chinn. I
16 had a medical condition. Earlier this year I had a neck
17 surgery, fusion on C5, -6 and -7. I'm not able to stand or
18 sit for more than three or four hours. I have to take
19 medication.

20 If I take the medication, then it will make me drowsy, and
21 then I wouldn't be able to concentrate, and I would not be
22 able to drive from the city.

23 Also, in September I'm planning a pleasure trip.
24 thirty-four years of marriage, and we're going to be going
25 down south. And we already got concert tickets.

1 **THE COURT:** When?

2 **PROSPECTIVE JUROR CHINN:** Starting September 10th.

3 **THE COURT:** Thank you.

4 **PROSPECTIVE JUROR CHINN:** Thank you.

5 **PROSPECTIVE JUROR RASDAS:** My name is Leticia Rasdas.

6 I work in Kindred Nursing --

7 **THE COURT:** I'm sorry, I can't hear you. Can you
8 speak loud and slow?

9 **PROSPECTIVE JUROR RASDAS:** My name is Leticia Rasdas.
10 I'm working at Kindred Nursing and Rehab. I'm working as a
11 part-time.

12 And, oh, I cannot attend on this because my salary is only
13 enough for my rent.

14 **THE COURT:** Does your employer pay you for jury duty?

15 **PROSPECTIVE JUROR RASDAS:** Only one day. I didn't
16 ask yet.

17 **THE COURT:** Okay. All right. Thank you.

18 **PROSPECTIVE JUROR CHEN:** My name is Richard Chen. I
19 work with the City of Sunnyvale. My employer pay for the jury
20 duty, but I don't know the maximum. I can find out today.

21 Also I have a commitment for Friday, August 2nd, to drive
22 my son back to university center, university -- U.C. Santa
23 Barbara. It is like a five-hour drive. He cannot drive. I
24 have to drive him back there and come back.

25 **THE COURT:** Let me ask you this, sir. You are

1 driving down on Friday. When are you coming home?

2 **PROSPECTIVE JUROR CHEN:** Sunday.

3 **THE COURT:** All right. Well, that would be no
4 problem, because we don't sit on Fridays.

5 **PROSPECTIVE JUROR CHEN:** Okay.

6 **THE COURT:** We don't have jury on Fridays.

7 **PROSPECTIVE JUROR CHEN:** I ask for postpone --

8 **THE COURT:** I saw that in your questionnaire, sir.
9 Thank you. And so the good news or bad news, depending on how
10 you look at it, is we don't sit on Fridays, so that particular
11 thing won't be a problem.

12 **PROSPECTIVE JUROR CHEN:** All right. Thanks.

13 **THE COURT:** Thank you. Anybody else want to tell me
14 about hardships? Speak now, or forever hold your peace.

15 **PROSPECTIVE JUROR BACON:** I'm Tricia Bacon. I'm an
16 at-home mom, and I have a 14-year-old. My husband has a
17 couple of business trips scheduled for August, and it just
18 happens to fall the week to register my daughter for school,
19 and that she would start.

20 **THE COURT:** Which week was that?

21 **PROSPECTIVE JUROR BACON:** It's the week of the 19th
22 is registration, and then she would start the following week.

23 **THE COURT:** Well, I'll tell you one other thing
24 that's a fact, and then you can tell me if this -- if this
25 would matter.

1 This is roughly a six-week trial, but there are three days
2 during the course of the trial that I can't be here because I
3 have to be out of town. One of those days is August 22nd. So
4 that would be the Thursday of the week of the 19th, we won't
5 have trial. And then, I won't be here on August 26th or 27th,
6 so that would be Monday and Tuesday of the following week.

7 So, would that ease your burden at all in terms of
8 registration or the first day of school?

9 **PROSPECTIVE JUROR BACON:** The first day of school is
10 the 28th. And, the --

11 **THE COURT:** Oh. Wednesday.

12 **PROSPECTIVE JUROR BACON:** Yeah.

13 **THE COURT:** Well, they missed me up, then, didn't
14 they?

15 **PROSPECTIVE JUROR BACON:** Yeah, they did. And the
16 registration is the 21st. I could probably convince somebody
17 to let me register her one of the other days, but the 28th is
18 a problem.

19 **THE COURT:** Is the first day of school. Okay, thank
20 you, ma'am.

21 Anybody else?

22 **PROSPECTIVE JUROR TANTI:** Steven Tanti.

23 **THE COURT:** Yes.

24 **PROSPECTIVE JUROR TANTI:** My question, I believe I
25 already know the answer. I just want to make sure that we

1 would not have court or Labor Day. Would that be correct?

2 **THE COURT:** That would be correct. When is Labor
3 Day?

4 **PROSPECTIVE JUROR TANTI:** I think it's like September
5 2nd, around there. 1st?

6 **THE CLERK:** Let me see. It is the 2nd.

7 **THE COURT:** We would not have court on Labor Day.

8 **PROSPECTIVE JUROR TANTI:** Thank you.

9 **THE COURT:** Thank you. Okay. Mr. Tanti, can you
10 share that mic with whoever's raising her hand?

11 **PROSPECTIVE JUROR ROEMEN:** I just have a quick
12 question --

13 **THE COURT:** Your name?

14 **PROSPECTIVE JUROR ROEMEN:** Stacey Roemen.

15 **THE COURT:** Okay. Yes, ma'am.

16 **PROSPECTIVE JUROR ROEMEN:** On the questionnaire that
17 we filled out, it said that the last day of the trial would be
18 potentially August 30th, but it could end earlier. There is
19 no risk that it would go beyond that, is there?

20 **THE COURT:** The questionnaire said the last day was
21 August 30th?

22 **UNIDENTIFIED JURY VENIRE PERSON:** Yes.

23 **THE COURT:** Well, there is a chance that it would go
24 into the week of September 3rd.

25 **PROSPECTIVE JUROR ROEMEN:** Because I'm going to be

1 out of town that first week of September.

2 **THE COURT:** Is that on business or pleasure?

3 **PROSPECTIVE JUROR ROEMEN:** Pleasure.

4 **THE COURT:** Do you already have tickets?

5 **PROSPECTIVE JUROR ROEMEN:** Not airline tickets, but
6 we booked a resort for that week, and it was a prepaid event.

7 **THE COURT:** Okay. Anybody else? Yes, sir.

8 **PROSPECTIVE JUROR BENEDITH:** My name is Duilio
9 Benedith. And my concern is I'm leaving on vacation
10 August 30th. If by then the case over, that would be fine.

11 And also, I want to make sure that I can fully understand
12 you in court, in the courtroom, because I'm very limited in my
13 -- in English. But, I do my best.

14 **THE COURT:** All right, thank you. Anybody else?

15 (No response)

16 **THE COURT:** Anybody else?

17 (No response)

18 **THE COURT:** Okay, no other hands. All right, thank
19 you.

20 Well, ladies and gentlemen, what we are going to do right
21 now for the first time is something that we may do from time
22 to time for those of you who stay on the jury, and that is
23 have a conference at sidebar.

24 The reason we do this is because we need to talk outside
25 the presence of the jury. So rather than have the jury get up

1 an leave, and then we talk, and the jury comes back in, which
2 is disruptive and time-consuming, we huddle over in the corner
3 and just talk to each other. It is rude.

4 However, there is a trade-off, which is you can ignore us
5 while it is happening. During the trial, you have to pay
6 attention to what's going on. But when we have a sidebar
7 conference, you can relax and ignore us, you can chat with
8 your neighbor. You have to stay there, but you can at least
9 take a little breather.

10 So, Counsel, may have I see you at sidebar, please.

11 (Sidebar discussion held on the Record, outside of the
12 hearing of the Jury Venire)

13 **THE COURT:** So I count 14, is that right?

14 **MR. SILBERFELD:** I have 15. I've got 15.

15 **THE COURT:** Let's just double-check, then.

16 (Off-the-Record discussion)

17 **THE COURT:** On the Record.

18 So, Ms. Galvez, she's the one that raised the issue about
19 in the first instance, she doesn't know if her employer will
20 pay her. But I doubt that her employer would pay her for six
21 weeks. It doesn't sound like that kind of a place.

22 **MR. SILBERFELD:** Right.

23 **THE COURT:** And she speaks English, but it's
24 obviously a second language. So I would excuse Ms. Galvez.

25 Yalung, I don't know if that's a man or a woman.

1 **MR. CURRAN:** It is a woman.

2 **THE COURT:** Ms. Yalung's employer does not pay her
3 for jury duty, so I would excuse her.

4 Ms. Palmer-Ordonez gets no pay for jury duty.

5 **MR. SILBERFELD:** Right.

6 **THE COURT:** That's No. 7. So I would excuse her.
7 No. 8, Valerie Volpe gets 20 days from Safeway.

8 **MR. SILBERFELD:** Is she 8? Or 7?

9 **MR. TOTO:** She is the old 8. The numbers changed.

10 **MR. SILBERFELD:** Got it; sorry. Twenty days for
11 three years, I think.

12 **THE COURT:** Twenty days in three years. She seemed
13 only concerned about the 20 days, so I take it -- she didn't
14 say anything about a prior foray.

15 **MR. SILBERFELD:** Right.

16 **THE COURT:** So, that's -- I'm putting a question mark
17 by Ms. Volpe.

18 Mr. Fuller, No. 15, has a trip scheduled for August 24th
19 so I think we have to excuse him.

20 Ms. Yu, No. 22, works for Amgen. Eighty hours jury
21 service. So you have each got --

22 **MR. SILBERFELD:** And she's got the overseas
23 interview.

24 **THE COURT:** Yeah, well, I think we have to excuse her
25 just on the time.

1 **MR. SILBERFELD:** Right, on the 80 hours.

2 **THE COURT:** Than Than. She just doesn't want to be
3 here. Because she doesn't want to leave her patients. She
4 says her mom is sick, declining rapidly.

5 **MR. CURRAN:** Mother-in-law, I think.

6 **MR. FREITAS:** It was the mother-in-law.

7 **THE COURT:** Mother-in-law.

8 **MR. CURRAN:** Not that that's different.

9 **THE COURT:** I won't tell your mother-in-law what you
10 said.

11 **MR. CURRAN:** Please don't.

12 **MR. TOTO:** She does work for a big company, Kaiser
13 Permanente, so it's not like a solo medical practitioner.

14 **THE COURT:** And I would be very surprised if Kaiser
15 only gave two weeks for jury duty.

16 **MR. CURRAN:** Yeah.

17 **THE COURT:** Because we would have to have a talk with
18 Kaiser if that were true.

19 **MR. CURRAN:** Right.

20 **THE COURT:** So, I'm putting a question mark by her.
21 I'm not excusing her at this time.

22 No. 25, Mr. Collins, three days jury duty. I think I'll
23 let him go.

24 No. 26, Ms --

25 **MR. TOTO:** The music teacher.

1 **MR. SILBERFELD:** Yes.

2 **THE COURT:** The music teacher from Petaluma, No. 26.
3 I think we should excuse her.

4 No. 27, Mr. Chinn, he had surgery. We can -- we can
5 always allow people to -- we can accommodate their -- some
6 physical limitations. We can allow them to the stand up or
7 sit down. And we never sit for more than about an hour and a
8 half at a go. So, we could work with the three-to-four-hour
9 limitation.

10 **MR. CURRAN:** He referred to being on medication as
11 well.

12 **THE COURT:** He talks about medications that make him
13 drowsy.

14 **MR. SILBERFELD:** And would make him unable to drive,
15 I think he also said.

16 **MR. CURRAN:** Yeah.

17 **THE COURT:** Couldn't drive. And probably more to his
18 point, he's got a trip in September. I think we have to let
19 him be excused.

20 No. 35 --

21 **MR. SILBERFELD:** She is the co-worker of Ms. Galvez
22 at Kindred.

23 **THE COURT:** So they work together? I mean, the same
24 employer.

25 **MR. SILBERFELD:** Same employer, yeah. She also --

1 **THE CLERK:** What number?

2 **MR. TOTO:** 35.

3 **THE COURT:** No. 35. I -- letting Ms. Galvez go, I
4 think we should let Ms. Rasdas go too.

5 Ms. Bacon, I think we have to let her go. She has got a
6 14-year-old at home and has to register her at school, take
7 her to school when her husband's out of town.

8 No. 19, Roemen, has a trip out of town the week of
9 September 3rd. So we are right on the cusp of that. But
10 currently we are scheduled to go September 3rd, right?

11 **MR. SILBERFELD:** Right, closing arguments were
12 scheduled for --

13 **MR. CURRAN:** I hate to feel the deliberation is
14 rushed on account of her trip.

15 **THE COURT:** So I guess we will excuse Ms. Roemen.

16 And then Mr. Benedith has a vacation, and I think we
17 should excuse him.

18 **MR. TOTO:** Sorry; what number was that last one?

19 **THE COURT:** 33.

20 **MR. SILBERFELD:** 33.

21 **THE CLERK:** Did we excuse 19?

22 **THE COURT:** Yes. So, that means we have lost one,
23 two --

24 **THE CLERK:** And then the last one -- I'm sorry, I
25 just need to catch up -- 35 -- 33?

1 **THE COURT:** 33. One, two, three, four, five, six,
2 seven, eight, nine, ten, eleven, twelve.

3 **MR. CURRAN:** Two question marks.

4 **MR. SILBERFELD:** Uh-huh.

5 **THE CLERK:** Thirteen.

6 **THE COURT:** What?

7 **THE CLERK:** What was your total that is excused?

8 **THE COURT:** Twelve.

9 **THE CLERK:** Okay.

10 **THE COURT:** With two question marks. All right,
11 well, I think I will just excuse those folks I mentioned. And
12 that will leave us with 23.

13 **MR. TOTO:** Twenty-three.

14 **THE COURT:** Are there any objections?

15 **THE CLERK:** Because there was earlier --

16 **MR. SILBERFELD:** No.

17 **MR. TOTO:** No objections, Your Honor. But I would
18 like to raise No. 9 again, Mr. Thomas. This is the one you
19 may recall checked the box saying he couldn't set his opinions
20 aside, and that he thinks prices are too high because products
21 are made overseas.

22 **THE COURT:** He hasn't said anything yet.

23 **MR. TOTO:** Yeah, so I just wanted to --

24 **THE COURT:** We're just talking about hardships at
25 this time.

1 **MR. TOTO:** Thank you.

2 **THE COURT:** All right. Then that's what we will do.

3 Now, this is not a criticism. But it's a fact. When we
4 are going with this trial, we have got witnesses and issues, I
5 just need one lawyer for each client, because otherwise --

6 **MR. CURRAN:** It's my fault.

7 **THE COURT:** No, for now it's fine. But I'm just
8 mentioning that.

9 **MR. CURRAN:** Understood.

10 **THE COURT:** You folks (Indicating), same rule
11 applies to everybody.

12 **MR. SILBERFELD:** Sure.

13 **THE COURT:** All right. So now, Tracy will excuse
14 these 12 people, and then we'll get going.

15 **MR. CURRAN:** Thank you.

16 **THE COURT:** Well, how long have we been going? Do we
17 need a restroom break?

18 **THE CLERK:** The jury came in at about 9:30.

19 (Sidebar discussion concluded. The following proceedings
20 were held in the presence and hearing of the Jury Venire)

21 **THE COURT:** Ladies and gentlemen, I discussed this
22 with the lawyers. And we are going to excuse some of you at
23 this time, and not excuse some of you at this time.

24 And what will happen is Tracy will read the names of those
25 who are being excused right now. Please wait until she's read

1 the whole list, and then those of you whose names are read may
2 get up and leave this courtroom, and go back to the jury room,
3 and they will tell you what needs to happen next.

4 So, you are being excused from this trial, but not from
5 the system. So you're still in the system, and you have to
6 report back to the jury room.

7 But, please listen to the entire list before anybody gets
8 up to go.

9 So, Tracy, would you read the names?

10 **THE CLERK:** Elizabeth Galvez, Khay Yalung, Janet
11 Palmer-Ordonez, Paul Fuller, Stacey Roemen, Alice Yu, James
12 Collins, Diane Pal -- Pal -- I'm sorry, thank you,
13 Ms. Stevenson. Gregory Chinn. Duilio Benedith.

14 Okay. Leticia Rasdas. And Tricia Bacon.

15 **THE COURT:** So all of you are excused. And, thank
16 you very much for coming in today. Please go back to the jury
17 office.

18 (Off-the-Record discussion between the Court and Clerk)

19 **THE COURT:** Well, ladies and gentlemen, we will now
20 get going with the actual selection process.

21 And, what we will do is this. First, I'm going to ask the
22 counsel to introduce themselves and their clients. The reason
23 we'll do this is so that if any of you know either the lawyers
24 or the clients you can let us know. It might be awkward if
25 one of the parties here was your next-door neighbor. It could

1 interfere downstream. So we just, we want to know if you know
2 any of these folks.

3 After we do that, we are going to do something a little
4 different from anything I've ever done before, which is this.
5 The lawyers suggested -- and I agree with them -- it's a good
6 idea that each of the lawyers, one lawyer for each of the
7 parties, is going to give you a five-minute introduction to
8 this case.

9 Now, for those of you who are selected on this jury, you
10 will hear from me ad nauseam that the only evidence you may
11 consider in this case is testimony that you receive from the
12 witness stand, under oath, or other documents or evidence that
13 is admitted into trial. You can't decide the case based on
14 anything else, you are not to do any research about the case.
15 It is what happens in the courtroom that is evidence you
16 should consider.

17 Therefore, what the lawyers are about to say isn't
18 evidence because they're not witnesses and they're not under
19 oath and they're not on the stand. However, it's what they
20 expect that the evidence will show when you hear the case.

21 So we thought that they -- they suggested and I agree, it
22 will help you put my questions to you into context and know a
23 little bit better why we're concerned about the issues we are
24 concerned about, to understand a little bit about what this
25 case will involve.

1 So, after they introduce themselves, I will ask each of
2 them to give a five-minute summary of what they -- of what
3 they expect the case will sound like when it comes into
4 evidence.

5 After they have done that, pardon me, then I'll have a few
6 questions for you. After I do that, then we have a pop quiz.
7 The way we do the pop quiz is we make you stand up and answer
8 the questions in front of all of us.

9 And, we follow a particular kind of order for no reason
10 other than this is what we've always done, which is
11 Juror No. 1 is you, back in the corner there. And then we
12 will just ask each of you in turn to answer all these
13 questions. However, do not be alarmed. You will know the
14 answers to these questions. What is your name; where do you
15 live; what do you do; if you live with somebody, who do you
16 live with; if you have children, how many and how old; have
17 you been on a jury before; have you been in the military
18 service before; things like that.

19 So, we have eleven kind of demographic questions. Some of
20 them duplicate what is in these questionnaires. But, it will
21 at least get us kind of all on the same page about who we all
22 are. So we will ask each of you to stand and answer each of
23 those questions for us.

24 Once you have done that, then it will be the opportunity
25 of the lawyers to ask you some questions also. The lawyers

1 would love to talk to you basically the rest of the week.
2 They could ask you questions forever because they are very,
3 very interested in you. However, with this, as with
4 everything that we are going to do in this trial, they have
5 limitations. They have time limits. So, they won't be able
6 to ask forever, but only for a limited amount of time because
7 we are trying to keep this as efficient as possible.

8 That being the case, you ought not feel distressed or --
9 or neglected if they don't ask you any questions. It's not
10 because they're not interested new; it's because there just is
11 not that much time in the day. So we will do that. After
12 they have finished asking all their questions then we will
13 have another conference at sidebar. We will make the final --
14 we will have a discussion at that point.

15 Thereafter, the lawyers will have some paperwork to do
16 which they will do in silence and you again will not have to
17 pay attention while they are doing it. Although you will have
18 to stay in your chairs. And at the end of that process we
19 will have the ten jurors who are selected.

20 So, that's generally what we are going to do. At some
21 point we will take a restroom break. Sort of as the thing
22 goes, and as it makes sense. But I will tell you all now, as
23 the jury will be told when we are going, if, for any of you,
24 you feel that a restroom break would be really, really helpful
25 and improve your concentration, raise your hand, and we'll

1 deal with it. But otherwise, we will just kind of take breaks
2 as they come.

3 So the first thing that I would ask is that the lawyers
4 introduce themselves and their clients. And the Plaintiff
5 goes first.

6 **MR. SILBERFELD:** Thank you, Your Honor.

7 Good morning. My name is Roman Silberfeld.

8 (Off-the-Record discussion)

9 **MR. SILBERFELD:** Okay. That's better. Good morning
10 again. Roman Silberfeld. I represent the Plaintiff in this
11 case, Best Buy. It is a privilege to introduce my client who
12 is Wendy Fritz. Wendy is in the back there (Indicating). She
13 is a senior vice-president at Best Buy.

14 And, I'll let me colleagues introduce themselves.

15 **MS. ROTHCHILD:** Good morning. I'm Judy Rothchild,
16 and I'm assisting counsel. Thank you.

17 **MS. CONN:** Good morning. My name is Bernice Conn and
18 I also represent the Plaintiff, Best Buy.

19 **MR. MARTINEZ:** Good morning. My name is David
20 Martinez, and I represent the Plaintiff, Best Buy. Thank you.

21 **MS. NELSON:** Good morning. My name is Laura Nelson.
22 I also represent the Plaintiff, Best Buy.

23 **MR. GEIBELSON:** Good morning. My name is Michael
24 Geibelson, and I also represent Best Buy.

25 **THE COURT:** So, anybody in this panel know any of

1 these individual persons who have just identified themselves?

2 (No response)

3 **THE COURT:** No hands. Okay. The Defendants, now.

4 **MR. FREITAS:** Good morning, ladies and gentlemen. I
5 am Bob Freitas. I represent Hannstar Display Corp. And we
6 have Alex Tsai (Indicating), and Paul Chiu from HannStar
7 (Indicating).

8 **MS. LEAL:** Good morning. My name is Jessica Leal,
9 also counsel for HannStar.

10 **MR. ANGELL:** Good morning. I'm Jason Angell, also
11 counsel for HannStar.

12 **MR. CURRAN:** Good morning, ladies and gentlemen. My
13 name is Christopher Curran. I'm a lawyer for Toshiba. I've
14 got a colleague and a couple of client representatives at the
15 table here with me.

16 First, Mr. Toto (Indicating). Marty Toto is my partner,
17 he'll be helping me with this case. And I have two
18 representatives of Toshiba. Julius Christensen on the right
19 who is up from Irvine, and then Naomi Kusokabe, who's here
20 from Tokyo.

21 And there's one other Toshiba representative I want to
22 introduce. He's in the pews. But, he's from San Jose. So,
23 because there's a possibility some of you might know him, I'll
24 introduce him specifically. Win Wainbo (Phonetic), and he's
25 with Toshiba's office on Orchard Parkway right off of 101 in

1 San Jose.

2 Thank you.

3 **THE COURT:** Okay. Anybody on the panel know any of
4 the persons who have been introduced, for the defense side?

5 (No response)

6 **THE COURT:** No hands. Okay. All right.

7 Then at this point, ladies and gentlemen, we begin our
8 grand experiment. Each of the -- one lawyer for each of the
9 clients will give you a five-minute statement concerning what
10 he or she expects the evidence will show when it comes in at
11 trial.

12 So, Mr. Silberfeld.

13 **MR. SILBERFELD:** Thank you. I don't know if I can
14 turn this any more, but I'll try, without breaking the thing.

15 Your Honor, Counsel, and ladies and gentlemen of the
16 prospective jury panel, thank you first of all for completing
17 the questionnaire that we all have.

18 And if you are seated as jurors in this case, you are
19 going to be asked to make some important decisions that affect
20 the parties here, and the dispute that we have. And I'm
21 permitted now to briefly talk to you about what that dispute
22 is about.

23 This case is brought by Best Buy against HannStar, and
24 Toshiba. And it involves claims of a price-fixing conspiracy
25 that lasted eight years.

1 The claim is that the Defendants who are here conspired
2 with other firms who are not a part of this case, now, to fix
3 prices of an electronic component that's used in things like
4 the glass on this BlackBerry (Indicating), televisions,
5 computer monitors, laptops, the screens that are here in the
6 courtroom (Indicating). And, these are called TFT-LCD panels.
7 And they're incorporated into what we call finished products.
8 And this glass is what makes these electronic products work.

9 The price-fixing conspiracy that lasted eight years
10 between 1996 -- pardon me, 1998 and 2006 caused the prices of
11 finished products to be higher than they should have been had
12 the prices been fair ones. And, that difference between a
13 fair market price and the actual price is what we refer to as
14 an "overcharge." And that overcharge is what the damages in
15 this case are about that was imposed on Best Buy and others by
16 not only these Defendants (Indicating), but the conspirators
17 who are not here.

18 Now, in society today we all buy products of various kinds
19 like cell phones, computer monitors, televisions and so forth.
20 They're a basic necessity of modern life. And typically there
21 are many consumers that are involved in bringing these
22 products out. So, at our level, we buy products, all of us,
23 and we buy them either online or we buy them from a retailer.

24 And, my client is Best Buy, a well-known retailer. Best
25 Buy is also a consumer because Best Buy doesn't make these

1 products. Best Buy buys them and sells them to the consuming
2 public. And there are other consumers as well of these
3 panels. There are companies that make the finished goods,
4 that is, this BlackBerry (Indicating), for example. Somebody
5 made this, and incorporated the piece of glass that this case
6 is about, into this finished product. And those finished
7 product manufacturers, companies like Sony and Apple and HP,
8 in order to build those products, had to buy the panels of
9 glass as well. So they're consumers too. And they bought
10 them from the LCD manufacturers who are the subject of this
11 price-fixing conspiracy that we are here to talk about.

12 The focus of this case is on those Defendants, HannStar
13 and Toshiba here (Indicating), and their co-conspirators, who
14 for a period of eight years, as I mentioned, controlled the
15 price and controlled the supply of these glass panel products.
16 The evidence will show that a large group of firms, not just
17 these two, agreed over the course of all those years to fix
18 the prices of the panels, the prices that they would charge
19 the manufacturers of the finished products. Those raised
20 prices were ultimately passed along to companies like Best
21 Buy.

22 And they also agreed to artificially control the supply in
23 order to keep the prices high. Those artificially-raised
24 prices were the hidden cost in this glass product. Those
25 hidden costs were passed on to the finished-product

1 manufacturers and passed along again to retailers like Best
2 Buy, and companies like Best Buy bought those products from
3 two kinds of finished product manufacturers. One was
4 companies like Sony and Apple and HP who were not a part of
5 this conspiracy to fix the price of the glass panels, the LCD
6 panels. But, Best Buy also bought products from companies
7 like Toshiba (Indicating). And LG. And Samsung. Firms who
8 were part of the conspiracy. In both instances, whether they
9 bought from Sony or they bought from Samsung, the hidden cost,
10 this overcharge of this glass panel, was passed along to Best
11 Buy. And that is what this case is about. It's about the
12 damages caused to Best Buy by this hidden cost, this
13 overcharge. And you will hear from experts about all of that.

14 So, Best Buy has two kinds of claims. One is based on
15 Minnesota state law, the Court will instruct you more about
16 this at the end of the case. Best Buy is a Minnesota company,
17 and it has a particular kind of claim based on state law. And
18 it also has a second kind of claim based on federal law. And
19 we'll talk more about that as we get into the evidence. But
20 in both kinds of claims, it's about the increased price of
21 these glass panels being passed along to Best Buy as an
22 overcharge.

23 Now, the overcharge itself was relatively small, but the
24 damages involved are very, very large, because of the hundreds
25 of millions of products over that eight-year period that Best

1 Buy bought that contained these glass panels. The overcharges
2 were passed on to Best Buy.

3 And my last point about all of this and then I'll sit
4 down, is that consumers, Best Buy's customers, who bought
5 those products from Best Buy bought them not only from Best
6 Buy but from other retailers as well. And those consumers had
7 a separate lawsuit for their damages. And that lawsuit has
8 been settled and resolved.

9 Thank you. Thank you, Your Honor.

10 **THE COURT:** All right. Mr. Freitas?

11 **MR. FREITAS:** Good morning, again. I would like to
12 begin by talking a little about HannStar because it is not as
13 well known as the other companies in this case. HannStar is a
14 Taiwan-based company, and it makes LCD panels. You heard
15 Mr. Silberfeld talk about how things took place in the
16 conspiracy he described over eight years.

17 Well, he's talking about some things that happened before
18 HannStar even existed. The company didn't come into existence
19 until July, 1998. It didn't have a factory until November of
20 1999. And it wasn't until March of 2000 that the company
21 actually began selling its products in quantity.

22 Now, whatever went on earlier before the company was in
23 business obviously HannStar had nothing to do with any of
24 that. During time that we're concerned with, HannStar made
25 larger panels for notebooks and monitors, not for cell phones,

1 the bigger panels. And when you hear about the conspiracy
2 that Mr. Silberfeld described, you will hear about something
3 called the crystal meetings. And in the crystal meetings, the
4 only products whose prices were discussed were the larger
5 panels.

6 Now, I told you that HannStar did not participate in these
7 early activities, going back to 1998. But, the company did
8 attend the meetings that you will hear about, called the
9 "crystal meetings." And in those meetings, there were
10 discussions of the prices of the bigger panels. Sometimes,
11 there were even agreements about the prices that would be
12 charged.

13 Now, HannStar acknowledges that it participated in those
14 meetings. As a matter of fact, the company pleaded guilty to
15 participating in the meetings. But that guilty plea doesn't
16 address the issues that you will be asked to decide if you
17 serve on the jury. This case is about the extent to which
18 Best Buy was harmed by what happened. And there's a lot of
19 evidence that you'll hear that we think will show that the
20 claims that Best Buy is making are exaggerated.

21 Now, let me talk about a couple of things that you will be
22 asked to decide. First of all, you heard Mr. Silberfeld
23 mention what he called an "overcharge." You will be asked to
24 consider how much of an overcharge occurred. And the evidence
25 will show that the overcharge is nothing at all like what Best

1 Buy claims.

2 Second, when you look at the indirect claims, the
3 state-law claims, you will have to decide how much of any
4 overcharge was passed on to Best Buy. The panel makers make
5 the panel. They sell it to the finished goods maker. That's
6 where there's an overcharge, if there is one. But how much of
7 that reached Best Buy, when its supplier sold the finished
8 good?

9 Now, Mr. Silberfeld talked about that type of pass-on.
10 But he left one out. He didn't mention the other kind of
11 pass-on that you will be asked to consider. We call that
12 "downstream pass-on." That's pass-on by Best Buy to
13 consumers. And you will be asked when you consider those
14 claims, to determine how much of any overcharge that reached
15 Best Buy was passed on to consumers.

16 We're going to present some evidence about that. We will
17 present an expert witness named Edward Snyder. He is the Dean
18 of the Yale School of Management. Dr. Snyder will testify
19 that more than 90 percent of any overcharge that reached Best
20 Buy was passed on to consumers. More than 90 percent.

21 Now, Best Buy also has expert witnesses. And their expert
22 witnesses, they looked at this question of pass-on as well.
23 But when it comes to the question of downstream pass-on, you
24 won't hear a challenge to Dr. Snyder from Best Buy because
25 Best Buy's expert didn't look at that question. He didn't

1 look at how much of whatever reached Best Buy went on to
2 consumers.

3 Now, I mentioned that HannStar has pleaded guilty. But
4 HannStar accepts responsibility for what it did. It did so by
5 settling the case with the government, by pleading guilty.
6 And by settling the case that was brought by consumers. Those
7 issues are behind us.

8 What you will be asked to talk about involves Best Buy.
9 Whether any overcharge reached Best Buy. And if it did, how
10 much did Best Buy pass on to consumers.

11 Thank you very much.

12 **THE COURT:** Thank you. Mr. Curran?

13 **MR. CURRAN:** Good morning again, ladies and
14 gentlemen. Christopher Curran. I represent the Toshiba
15 companies.

16 First of all, I would like to thank you on behalf of
17 myself and Toshiba for being here. As Judge Illston commented
18 before, we all recognize that you didn't volunteer to be here.
19 But there, frankly, aren't that means things that we do in our
20 day-to-day lives that impact others directly. I think some of
21 us do military service, some of us sometimes do community
22 service. I hope we all vote and pay taxes.

23 But, jury duty is one thing we do sometimes begrudgingly
24 but dutifully. And everyone takes it seriously. And it's an
25 important part of our justice system. A lot of other

1 countries don't have it. We do, and I think it generally
2 works. It's not perfect, but it works well.

3 And Toshiba in this lawsuit has been sued. It is
4 comfortable placing its faith in this lawsuit in the hands of
5 a fair and impartial jury. So, thank you for being here. I
6 know some of you probably hope you're not chosen to be on the
7 final jury, but about half of you will be. But, regardless of
8 whether you are chosen or not, I would like to thank you for
9 being here.

10 Now, as to the lawsuit, itself, I don't need five minutes.
11 I want to make a couple of quick points. Mr. Freitas and
12 Mr. Silberfeld have already given you some background about
13 the case.

14 There was wrongdoing. Six companies in Asia, specifically
15 in Korea -- South Korea and Taiwan, had secret meetings,
16 secret from their customers, and secret from everybody else.
17 And they met as a group in hotel rooms. They discussed
18 pricing of the large panels, as Mr. Freitas referred to them,
19 and they sometimes reached agreements, price-fixing
20 agreements. That's illegal. Those six companies got caught.

21 Mr. Freitas referred to his company having pled guilty.
22 All six companies that participated in that got caught. U.S.
23 Department of Justice prosecutors, with the assistance of the
24 Federal Bureau of Investigation, caught those companies. They
25 were all dealt with the criminal justice system. You will

1 hear about that in this case.

2 Toshiba, the company that I represent, didn't go to any of
3 the meetings. Not one. In fact, the evidence will be so
4 clear that even Best Buy and its witnesses will acknowledge
5 that Toshiba never attended a single one of those meetings.
6 That's an irrebuttable fact that you will be hearing, even
7 from the very first witness in this case.

8 So, why is Toshiba here at all? Well, Best Buy will argue
9 that Toshiba did some other things wrong, had some improper
10 interactions with its competitors, separate and apart from
11 these meetings.

12 In the course of this trial, I, with my colleagues, will
13 show you -- will prove to you -- that those other interactions
14 that Toshiba people had with their competitors were perfectly
15 proper, and were not hidden from their customers. And in
16 fact, often, the customers wanted Toshiba to interact with its
17 competitors in order to find out what the competitors were
18 charging, in the hopes that Toshiba would price lower.

19 So, bottom line, Toshiba didn't participate in any of the
20 meetings. Toshiba was not prosecuted, charged, or convicted
21 of anything. And we'll prove that Toshiba didn't do anything
22 wrong in the course of this trial.

23 So, again, thank you for being here. Toshiba is willing
24 to put its trust in a fair and impartial jury. And, in a bit,
25 the lawyers will be asking you some questions, including

1 myself, and will be looking through the questionnaires and
2 asking some followup questions and that kind of thing.

3 Thank you very much. Thank you, Your Honor.

4 **THE COURT:** Thank you, Mr. Curran.

5 (Off-the-Record discussion between the Court and Clerk)

6 **THE COURT:** I was asking Tracy to make sure she
7 reminded me that we would need breaks from time to time for
8 comfort purposes. So, I think now is a good time.

9 What will happen when you come back is I'll ask you some
10 questions, you will take the pop quiz, and then the lawyers
11 will have their chance to ask you some questions. So we
12 should probably gird ourselves before that happens. So, we
13 will take a 15-minute break.

14 I would ask that you step outside into the hallway. The
15 restrooms are down the hall to the left.

16 I'll tell you now something that the jurors who are
17 selected will be told over and over and over again, which is:
18 Do not discuss this matter with each other or anyone else.
19 You haven't heard any evidence yet. But in any event, don't
20 talk about it, don't share thoughts.

21 Have a good break. We will come back in about 15 minutes.
22 And then we will complete this process.

23 (Jury Venire excused)

24 (The following proceedings were held outside of the
25 presence of the Jury)

1 **THE COURT:** Anything else before we go off the
2 Record?

3 **MR. SILBERFELD:** No, Your Honor.

4 **MR. CURRAN:** No, Your Honor.

5 **THE COURT:** Okay.

6 (Recess held from 10:44 to 11:00 a.m.)

7 **DEPUTY CLERK:** All rise.

8 **THE COURT:** Welcome back, ladies and gentlemen. You
9 may all be seated.

10 Let me ask you first: You've heard reference now to --
11 well, you've heard a little bit about what the evidence may
12 demonstrate in this case. And among other things you heard
13 reference to some prior cases that involved this same subject
14 matter. I wanted to know if any of you have either read in
15 the newspaper or heard on the news or otherwise learned about
16 any of the prior litigation in this case. Just raise your
17 hand.

18 No hands. Well, had you heard, I was going to tell you
19 that you must put that out of your mind -- that's not an issue
20 since you haven't -- but the point is, as I said before and
21 I'll say over and over again, you're to decide this case based
22 on the evidence presented that's admitted in this trial. So
23 you're not to take into account something you may have read or
24 heard or otherwise.

25 You will be told repeatedly not to talk to anybody about

1 the case. Not to look it up -- in the old days I'd say don't
2 go to the dictionary or the encyclopedia. Anymore, I say
3 don't go to the Internet, don't Google it, don't look it up in
4 any way. Don't Tweet about it. Don't communicate. The long
5 list of don'ts takes awhile to recite. But point is you're to
6 keep yourself isolated from information about either the case
7 or the products involved in the case or the questions raised
8 in the case until it's all over with.

9 In a moment, we'll get to the demographic quiz, but I did
10 want to go over just a few of the responses you gave in the
11 questionnaires. We'll try not to go over all that, because
12 you kindly spent your time filling them out for us, but there
13 were just a few questions that I wanted to raise. And one is
14 for Mr. Moya.

15 Where are you, Mr. Moya?

16 Mr. Moya, you indicated in response to some of the
17 questions on the questionnaire a concern in general about jury
18 verdicts and whether they are sufficient to -- to the task
19 that the trial was involved in. And we all come to cases like
20 this with viewpoints, and the issue that I'd like to ask you
21 is: Do you think you can follow the Court's instructions and
22 just decide this case based on the evidence that you hear in
23 this case and do a fair job in this case regardless of how you
24 think other juries may have handled things in the past? Do
25 you think you can do that?

1 **PROSPECTIVE JUROR MOYA:** Yeah, to your instructions,
2 sure.

3 **THE COURT:** Okay.

4 Oh, and your wife is -- works in the legal sector as well?

5 **PROSPECTIVE JUROR MOYA:** Yeah, my boyfriend.

6 **THE COURT:** Or your girlfriend. Well, another thing
7 that I will say right now that I will say over and over again
8 over the course of the case is, you may not discuss this case
9 with anybody. Those of you who are selected, when you go
10 home, you will be able to say, Look, I've been picked for a
11 jury, that it's going to take roughly six weeks, and I've been
12 ordered not to talk about it, so I can't tell you anything
13 more about it. And your family and your employer and your
14 colleagues will want to know all about it, and you can't tell
15 them. You can tell them, I've been picked for a jury, it's
16 going to take about six weeks, and I can't talk about it. So
17 that's what everybody will have to do. It is particularly
18 important that people who are emotionally attached to people
19 in the legal profession not talk to them about anything. Can
20 you refrain from talking to your wife about this case during
21 the course until it's over?

22 **PROSPECTIVE JUROR MOYA:** Yes. And it's my boyfriend.

23 **THE COURT:** Oh, your boyfriend. Sorry. Well, loved
24 ones of any sort, you may not talk to. Okay.

25 Mr. Thomas. Where's Mr. Thomas? Mr. Thomas, you

1 indicated in your questionnaire a viewpoint about prices, and
2 how products are priced. And again, one of the things you'll
3 have to promise me and take an oath to do is decide this case
4 just based on the evidence in the case that you hear here in
5 the courtroom. And not based on anything you learned or
6 thought before you heard the case. Because it's important
7 that the parties have a jury that's -- all of whom are
8 deciding the case based on the same evidence. Because
9 otherwise, it doesn't make sense.

10 So, do you think you can do that? Can you put aside your
11 ideas about how things have been and just listen to the
12 evidence in this case? Do you think you can do that?

13 **PROSPECTIVE JUROR THOMAS:** Yeah, I think I can do
14 that.

15 **THE COURT:** You've been introduced to who the parties
16 in the case are. Do you think you can be fair to both sides
17 in this case?

18 **PROSPECTIVE JUROR THOMAS:** I think so.

19 **THE COURT:** Everybody has a level playing field when
20 they start with you?

21 **PROSPECTIVE JUROR THOMAS:** Oh, yeah. Yeah.

22 **THE COURT:** Okay. And I have to ask you this because
23 I don't know, because of the questionnaire, on one of the
24 questions, it says, The jurors have to base their decisions on
25 the evidence in the case, and not from anything outside of the

1 case. Can you do that? And on your questionnaire you marked,
2 No.

3 **PROSPECTIVE JUROR THOMAS:** Say that again?

4 **THE COURT:** Okay. The question was: Can you set
5 aside any opinions you may have developed as a result of what
6 you've seen, heard or read about this case, which I guess you
7 haven't heard anything about this case, but set aside any
8 opinions you may have come to and just decide the case based
9 on the evidence that you hear from the witness stand and in
10 this trial. Can you do that?

11 **PROSPECTIVE JUROR THOMAS:** Oh, yeah. I think I can
12 do that.

13 **THE COURT:** So this box was checked "No" in response
14 to kind of the same question, but I think that might have been
15 an error.

16 **PROSPECTIVE JUROR THOMAS:** I think so, too.

17 **THE COURT:** All right.

18 Ms. Hanson? Where's Ms. Hanson?

19 From your questionnaire, it indicates that you've had a
20 close relationship with a crime victim. And that the crime
21 was never solved, I guess, which I'm sorry for that. I
22 express my sympathy for the pain that's caused everyone in
23 your family.

24 That's a criminal matter. This case is a civil matter.
25 Is there anything about that unresolved situation that would

1 make it hard for you to be fair to either side in this case?

2 **PROSPECTIVE JUROR HANSON:** No.

3 **THE COURT:** Okay.

4 Ms. Erwin. Again, it's a criminal question I have for
5 you. Evidently you've had personal experience as the victim
6 of an identity theft problem. And again, this is a civil case
7 and it's not related to your situation, but is there anything
8 about that that would make it hard for you to be fair to
9 either side in this case?

10 **PROSPECTIVE JUROR ERWIN:** No.

11 **THE COURT:** Okay. Thank you.

12 Ms. Linkhorn, you indicated in your questionnaire that you
13 have friends who have been affected by investment fraud.

14 **PROSPECTIVE JUROR LINKHORN:** Yes, that's correct.

15 **THE COURT:** And I suspect some of that is either
16 still pending or not satisfactorily resolved?

17 **PROSPECTIVE JUROR LINKHORN:** Yes.

18 **THE COURT:** Is there anything about that situation
19 that would make it hard for you to be fair to either side in
20 this case?

21 **PROSPECTIVE JUROR LINKHORN:** No.

22 **THE COURT:** All right. And there is likely to be a
23 good deal of testimony in this trial from what we call experts
24 who are people who are specially trained in a given area who
25 can help us evaluate data and conclude -- make decisions based

1 on that data. Both sides -- all sides will have plenty of
2 them, I expect. And you expressed a certain amount of
3 skepticism about experts in your questionnaire. So my
4 question is:

5 Do you think you can follow the Court's instructions which
6 say, use your own common sense, but apply it only to the
7 evidence that you hear in this courtroom based on your
8 assessment of credibility and qualification and expertise and
9 all of that, but that you will do that afresh for all the
10 evidence you hear in this case. Can you do that?

11 **PROSPECTIVE JUROR LINKHORN:** Absolutely. I'll be
12 listening very closely to their qualifications.

13 **THE COURT:** As I say, all of the folks here are going
14 to have them, so it's important to everyone that you're
15 willing to approach each of those witnesses in a fair manner.
16 You think you can do that?

17 **PROSPECTIVE JUROR LINKHORN:** Yes.

18 **THE COURT:** Okay. Thank you.

19 Miss Lin, you indicated you've had some jury experience
20 previously, and in your opinion there were certain
21 inefficiencies in the way that the process worked. Is that
22 right?

23 **PROSPECTIVE JUROR LIN:** Yes.

24 **THE COURT:** Well, I empathize with you. I know what
25 you're talking about, and we will do our best to be efficient.

1 But is there anything about your prior experiences and your
2 frustration with the way they worked that would make it hard
3 for you to be fair to either side in this case?

4 **PROSPECTIVE JUROR LIN:** No.

5 **THE COURT:** And you said you also have been the
6 victim of identity theft at some point?

7 **PROSPECTIVE JUROR LIN:** Yes.

8 **THE COURT:** Would that affect your ability to be fair
9 to either side here?

10 **PROSPECTIVE JUROR LIN:** I think it just makes me
11 skeptical.

12 **THE COURT:** Would you be skeptical to all parties and
13 all witnesses in the same way?

14 **PROSPECTIVE JUROR LIN:** In the same way.

15 **THE COURT:** Because what's important is that you
16 decide the case based on the evidence in the trial, and that
17 everybody starts on a level playing field. Can you do that
18 for all the parties here?

19 **PROSPECTIVE JUROR LIN:** Yes.

20 **THE COURT:** All right.

21 Mr. Wong?

22 **PROSPECTIVE JUROR WONG:** Yes.

23 **THE COURT:** I'll ask you about your response on
24 experts. Again, the parties are entitled to have all the
25 jurors approach, with an open mind, all the witnesses who

1 testify, and then evaluate their credibility based on the
2 juror's honest assessment of credibility, qualification and
3 everything else. Can you do that for all the parties in this
4 case?

5 **PROSPECTIVE JUROR WONG:** Yes.

6 **THE COURT:** Okay. Because, as I say, there will be
7 experts coming from probably from all directions, and
8 skepticism is healthy in all regards, but it's important that
9 everybody start with a fair shot, and so that's what I'm
10 asking. And you think you can do that?

11 **PROSPECTIVE JUROR WONG:** Yes.

12 **THE COURT:** Okay.

13 Ms. Wang, you indicated that your first language was
14 Mandarin?

15 **PROSPECTIVE JUROR:** Yes.

16 **THE COURT:** But you speak English fine now?

17 Tracy, can we get the mic?

18 **PROSPECTIVE JUROR:** The communication's okay, I
19 think -- I think I can understand.

20 **THE COURT:** All right. Can you understand spoken
21 English pretty well?

22 **PROSPECTIVE JUROR:** Not pretty well. I think just
23 adequate.

24 **THE COURT:** Just what, adequate? Okay. I have a
25 different question for you, though, since you -- I guess I

1 should have asked the lawyers: Will Mandarin be any of the
2 languages used in this trial?

3 **MR. FREITAS:** Yes.

4 **THE COURT:** Yes?

5 **MR. FREITAS:** Yes, your Honor.

6 **THE COURT:** Okay. One of the things that will happen
7 in this trial, probably a considerable amount of the evidence
8 that's presented to you will be presented in a different
9 language from English. And Mandarin is one of the languages
10 which some of the witnesses will speak and therefore testify
11 in. One of the things that is important is that all the
12 jurors hear the same testimony. So when we have testimony in
13 a non English language, it will be interpreted by an official,
14 approved interpreter, and that person will translate the
15 question into the language that's being spoken by the witness,
16 and then will translate the witness's answer into English.
17 And it will be the English testimony that will be the evidence
18 in this case.

19 So, even if a juror speaks the language that the witness
20 speaks, like Mandarin, for example, it will be important that
21 the jury, including that juror, only rely on the English
22 translation. So would you be able to follow that instruction
23 and rely on the English translation of the testimony?

24 **PROSPECTIVE JUROR:** Yes.

25 **THE COURT:** Okay. All right. Thank you, Ma'am.

1 Mr. Simmons? Mr. Simmons, you indicated in response to
2 one of the questions about whether you'd ever been
3 dissatisfied or had a bad experience with a listed company
4 there, and a number of companies were listed, including some
5 of the parties in this case, and you indicated a
6 dissatisfaction with Best Buy.

7 **PROSPECTIVE JUROR SIMMONS:** Yes, I did.

8 **THE COURT:** The question is: Will you be able to
9 follow the Court's instruction and decide this case just based
10 on the evidence you hear in the case and the credibility and
11 convincing nature of the testimony of the witnesses in the
12 case, and not based on any preconceived ideas about Best Buy
13 or Toshiba or HannStar or anybody else? Do you think you can
14 do that?

15 **PROSPECTIVE JUROR SIMMONS:** I do, yes.

16 **THE COURT:** And it seemed to be a pricing complaint
17 you were raising in your questionnaire. So again, the only
18 question will be whether you find the witnesses here
19 persuasive on one side or the other, and then to apply that to
20 the instructions you'll be given. So you think you can do
21 that fairly to all of the parties here?

22 **PROSPECTIVE JUROR SIMMONS:** Yes, I do.

23 **THE COURT:** Okay. Thank you, Sir.

24 Mr. Chen. In the questionnaire, you indicated that you
25 were born in China. So I guess do you speak Mandarin also?

1 **PROSPECTIVE JUROR CHEN:** Yes.

2 **THE COURT:** So, same question to you about the
3 Mandarin: Could you promise the Court that you would use the
4 English translation of any Mandarin testimony as the evidence
5 in the case? Can you do that?

6 **PROSPECTIVE JUROR CHEN:** Yes.

7 **THE COURT:** All right. And you indicated an opinion
8 about the Japanese invasion of China in the 1930's. Could you
9 set that aside and just listen to the evidence in this case
10 and decide it based on your assessment of the credibility of
11 the evidence?

12 **PROSPECTIVE JUROR CHEN:** Yes.

13 **THE COURT:** And could you be fair to all parties in
14 this case?

15 **PROSPECTIVE JUROR CHEN:** Yes.

16 **THE COURT:** All right. Thank you, sir.

17 **PROSPECTIVE JUROR CHEN:** I have a single question
18 your Honor. Your Honor, can I ask you now?

19 **THE COURT:** Sure.

20 **PROSPECTIVE JUROR CHEN:** The jury number we have now,
21 does that reflect some kind of priority or preference list?

22 **THE COURT:** No, no. It's random. We just put it in
23 order so we can keep track of who's who. But it was randomly
24 put together in the jury office.

25 **PROSPECTIVE JUROR CHEN:** Thank you.

1 **THE COURT:** Nice try. But, no.

2 Okay. Mr. Ito? You indicated in your questionnaire I
3 guess a negative opinion about large corporations. And my
4 question eventually -- well, first I'll point out that I think
5 all three of the parties here are corporations. But do you
6 think you could set that aside and just decide this case based
7 on your assessment of the credibility of the evidence you hear
8 in this trial?

9 **PROSPECTIVE JUROR ITO:** Yes.

10 **THE COURT:** All right.

11 Now, you've also expressed an annoyance with the fact that
12 you get called for jury duty regularly. And I can understand
13 that and appreciate it. But could you -- do you think you can
14 serve on this jury without being affected by the fact that
15 it's annoying?

16 **PROSPECTIVE JUROR ITO:** Well, probably. It's just a
17 general overall feeling. But yes, I could set that aside.

18 **THE COURT:** All right. Thank you, sir.

19 All right. That's -- could we get the microphone back up
20 here now?

21 It's now time, ladies and gentlemen, for the pop quiz. So
22 that means that current Juror Number 1, which would be
23 Ms. Colby, gets to start. And we would ask that each of you
24 stand and answer these questions right into the mic, because
25 the mic is real temperamental, and then I may have follow-ups.

1 So, Miss Colby...?

2 **PROSPECTIVE JUROR COLBY:** My name's Elizabeth Colby.
3 I live in Atherton. My occupation: I'm retired. I worked at
4 IBM for 30 years. Organizations I belong to: My church. I'm
5 a master gardener; I like gardening. That's also a hobby.

6 I'm married. My husband's occupation is with a software
7 company called Quantum. I have a son who's going to be a
8 sophomore in high school.

9 Were you ever a juror on another case? Yes. Were you
10 ever a grand juror? No. And were you in the military? No.

11 **THE COURT:** All right. The case that you were a
12 juror on, was it civil or criminal?

13 **PROSPECTIVE JUROR COLBY:** Civil.

14 **THE COURT:** How long ago was that?

15 **PROSPECTIVE JUROR COLBY:** A year or two ago.

16 **THE COURT:** All right. Don't tell me what, but did
17 it reach a verdict?

18 **PROSPECTIVE JUROR COLBY:** Yes.

19 **THE COURT:** Anything about that experience that would
20 make it hard for you to be fair here?

21 **PROSPECTIVE JUROR COLBY:** No. It was actually a good
22 experience.

23 **THE COURT:** Okay. What did you do at IBM?

24 **PROSPECTIVE JUROR COLBY:** Software development.

25 **THE COURT:** Is that what your husband does as well?

1 **PROSPECTIVE JUROR COLBY:** Right.

2 **THE COURT:** All right. Thank you.

3 **PROSPECTIVE JUROR HARPER:** My name is Brandon Harper.
4 Resident of Brentwood, California. I work for Wells Fargo. I
5 don't belong to any organizations. Hobbies: Golf.

6 I'm separated. My -- I have three children. My oldest
7 son is 18, my daughter is 16 and my youngest son is 11.

8 I was a juror on another case 10 years ago. It was in
9 Martinez, California, and I can't remember if it was criminal
10 or civil.

11 No, I was never a grand juror. And no, I was never in the
12 military.

13 **THE COURT:** Okay. The jury in Martinez, don't tell
14 me what, but did it reach a verdict?

15 **PROSPECTIVE JUROR HARPER:** I don't believe so. They
16 ended the trial, it must have reached an agreement or
17 something.

18 **THE COURT:** All right. Anything about that
19 experience that would make it hard for you to be fair here?

20 **PROSPECTIVE JUROR HARPER:** No.

21 **THE COURT:** Okay. What do you do at Wells Fargo?

22 **PROSPECTIVE JUROR:**

23 **PROSPECTIVE JUROR HARPER:** I'm a client associate,
24 work for Wells Fargo Advisers.

25 **THE COURT:** I can't hear you.

1 **PROSPECTIVE JUROR HARPER:** Work as a client associate
2 for Wells Fargo advisers.

3 **THE COURT:** Oh, okay. And you're separated wife,
4 what, if anything, does she do?

5 **PROSPECTIVE JUROR HARPER:** She works for Kaiser.

6 **THE COURT:** Kaiser. Okay. Doing what?

7 **PROSPECTIVE JUROR HARPER:** Quality control. She does
8 like malpractice cases for....

9 **THE COURT:** One of the things that jurors have to
10 promise is not to talk to anybody about anything to do with
11 the case till it's over with. Can you do that?

12 **PROSPECTIVE JUROR HARPER:** Yes, Ma'am.

13 **THE COURT:** Okay. Thank you.

14 **PROSPECTIVE JUROR MOYA:** Nathan Moya. I live here in
15 San Francisco. I am a director of competitive intelligence
16 for Salesforce.com.

17 Organizations I belong to: Lots of charities and
18 involvement in that sort of thing. But no, I guess, formal
19 organizations. Hobbies: I guess I'm a long-distance cyclist
20 these days.

21 I am single. But as you got from my questionnaire, my
22 boyfriend is a legal secretary, specializing in intellectual
23 property. I have no children.

24 I have never been chosen as a juror in another case, I've
25 never been a grand juror, and I was never in the military.

1 **THE COURT:** Okay. And you already said you would not
2 talk about the case to anybody till its end, right.

3 **PROSPECTIVE JUROR MOYA:** Yes.

4 **THE COURT:** All right. Thank you.

5 **PROSPECTIVE JUROR VOLPE:** Hi. My name is Valerie
6 Volpe. I live in Danville, California. My occupational
7 status: I'm employed. I work at Safeway. I'm the head of
8 testing for the loyalty program and e-commerce systems, which
9 is basically the website, Just For You, Fuel Rewards, grocery
10 shopping website.

11 I'm not currently a member of any formal organizations. I
12 like to golf. I like to cook. I have two grandchildren, I
13 like to hang out and baby-sit with them.

14 I'm divorced. My children, my oldest son is 30. He's an
15 ironworker building the Bay Bridge. And my youngest son is
16 27, and he's an estimator and does sales for All American
17 Fence Company.

18 I've never sat as a juror on another case, I've never been
19 a grand juror, and I've never been in the military.

20 **THE COURT:** And your ex-husband, what did he do?

21 **PROSPECTIVE JUROR VOLPE:** Container refrigeration,
22 mechanic at the Port of Oakland. He still does that.

23 **THE COURT:** All right. Thank you.

24 Down here. So that would be Mr. Thomas.

25 **PROSPECTIVE JUROR THOMAS:** My name is Ray Thomas. I

1 live in Danville, California. My occupation is steamfitter.
2 I work for UC-Berkeley right now. I belong to the
3 Steamfitters and Plumbers Local 342. Hobbies: I ride
4 motorcycles.

5 I'm married. Spouse's occupation right now is homemaker.
6 I have two children, a daughter, 28; a son, 25. He's a grip
7 on movie sets, and she's a makeup artist and nanny.

8 Oh, I was never a juror on another case. I was never a
9 grand juror, and I was in the Army.

10 **THE COURT:** When were you in the Army?

11 **PROSPECTIVE JUROR THOMAS:** '66 to 68.

12 **THE COURT:** What was your job in the Army?

13 **PROSPECTIVE JUROR THOMAS:** I was a scout.

14 **THE COURT:** And where were you?

15 **PROSPECTIVE JUROR THOMAS:** I was in Berlin.

16 **THE COURT:** All right. Okay. Thank you, sir.

17 **PROSPECTIVE JUROR SANGAL:** My name is Vishal Sangal.

18 I live in Fremont, California. I work as a business architect
19 in Global Supply, Cisco Systems.

20 I love movies; I love sports. I'm married to a software
21 engineer. She works with AT&T. I have a 12 year old kid.
22 He's a boy.

23 I have not been a juror before and haven't been a grand
24 juror before, as well, and I've never been in the military.

25 **THE COURT:** All right. Thank you.

1 **PROSPECTIVE JUROR TANTI:** My name is Steven Tanti. I
2 live in Dublin, California. I'm a network engineer for Cisco
3 Systems.

4 I don't belong to any organizations. Hobbies: Baseball,
5 snowboarding.

6 I am single but I do have -- live with my girlfriend who
7 is a fifth grade teacher, elementary school teacher. No kids.

8 Never been a juror or a grand juror, and I have not been
9 in the military.

10 **THE COURT:** Do you know Mr. Sangal?

11 **PROSPECTIVE JUROR SANGAL:** That was me, too.

12 **PROSPECTIVE JUROR TANTI:** No.

13 **THE COURT:** You don't like hang out together at work.

14 **PROSPECTIVE JUROR SANGAL:** No. It's a big company.

15 **THE COURT:** Physically, where do you work?

16 **PROSPECTIVE JUROR TANTI:** San Jose.

17 **THE COURT:** And physically, where are you?

18 **PROSPECTIVE JUROR SANGAL:** San Jose. There are 54
19 buildings there.

20 **THE COURT:** Oh. We may have more. Okay. Thank you.

21 Well, one thing: Should you both wind up on this jury,
22 one thing you'll also be told is you may never talk to each
23 other about the case until you go back to deliberate, and then
24 once juries are deliberating, they should only talk about the
25 case and decide the case when all 10 of you are together in

1 the jury room. So, let's say you were commuting together or
2 something, you couldn't talk about the case then. Can you
3 promise to do that?

4 **PROSPECTIVE JUROR SANGAL:** Yes.

5 **PROSPECTIVE JUROR TANTI:** Yes.

6 **THE COURT:** All right. Thank you.

7 **PROSPECTIVE JUROR HANSON:** Patricia Hanson. I live
8 in Martinez. I am retired from being a domestic goddess.

9 I don't belong to any organizations officially, and my
10 hobbies are book club and bocci.

11 And I've been married -- I am married, I should say. My
12 spouse is a wired construction superintendent. My children
13 are -- my son, Alex, is 34; my daughter, Emily, is 29.

14 I've never been picked as a juror, I've never been a grand
15 juror, and I've never been in the military.

16 **THE COURT:** All right. Thank you.

17 **PROSPECTIVE JUROR ERWIN:** Patricia Erwin. I live in
18 Napa. I'm currently unemployed, but prior to that I was a
19 preschool teacher for five years.

20 Don't belong to any organizations. Hobbies, just spending
21 time with family and friends.

22 I'm not married. I do live with my boyfriend, and he
23 works at Robert Sinskey Vineyards in Yountville.

24 No children. Never a juror. Never on grand jury. And
25 not in the military.

1 **THE COURT:** What does your boyfriend do at the
2 vineyard?

3 **PROSPECTIVE JUROR ERWIN:** He's cellar master.

4 **THE COURT:** What?

5 **PROSPECTIVE JUROR ERWIN:** Cellar master.

6 **THE COURT:** Oh....

7 **PROSPECTIVE JUROR ERWIN:** Yeah, right?

8 **THE COURT:** Sometimes, in long trials, particularly,
9 sometimes the jurors will begin to bring in little presents to
10 each other like muffins and donuts and things, but probably
11 not wine. At least not till it's over. All right? Thank
12 you.

13 **PROSPECTIVE JUROR LINKHORN:** Susan Linkhorn. I live
14 in Foster City. I am a retired teacher. I belong to my
15 church, and I'm active there, and my hobbies are reading,
16 volunteer work, and trying to be with my family.

17 I am married. My husband is a sales representative. My
18 children are a boy, 37, a girl, 34, and a girl, 32.

19 I was never a juror on another case, I was never a grand
20 juror and I was not in the military.

21 **THE COURT:** Okay. What did you teach before you
22 retired?

23 **PROSPECTIVE JUROR LINKHORN:** Everything from
24 preschool to high school, over the years. Lastly, preschool.
25 I sort of went down.

1 **THE COURT:** All right. And your husband works for
2 what company?

3 **PROSPECTIVE JUROR LINKHORN:** Himself.

4 **THE COURT:** Oh.

5 **PROSPECTIVE JUROR LINKHORN:** Dealing, Incorporated.

6 **THE COURT:** All right. All right. Thank you.

7 **PROSPECTIVE JUROR LIN:** Hi, my name is Karen Lin. I
8 live in Fremont, California. I am a high school math teacher.
9 I go to Peninsula Bible Church. My hobbies are -- I guess
10 I like to read and I like to hike with my dog. I am single.
11 No children.

12 I have been a juror twice. Never a grand juror. And I
13 was never in the military.

14 **THE COURT:** Now, forgive me if I'm repeating, but I
15 can't remember. The juries that you sat on, were they
16 criminal or civil or both?

17 **PROSPECTIVE JUROR LIN:** One of each.

18 **THE COURT:** One of each. Don't tell me what, but did
19 they reach verdicts?

20 **PROSPECTIVE JUROR LIN:** Yes.

21 **THE COURT:** Anything about those experiences that
22 would make it hard for you to be fair to either side here?

23 **PROSPECTIVE JUROR LIN:** No.

24 **THE COURT:** Okay. All right. Thank you.

25 **PROSPECTIVE JUROR WONG:** My name is Daniel Wong. I

1 live in Richmond, California. Occupation: I am employed at
2 Bayer Corporation, Bayer HealthCare.

3 I belong to my church. Hobbies are home repair,
4 technology.

5 I am married. My spouse is a student and homemaker. No
6 children.

7 I have not been on a jury. And I have never been a grand
8 juror and never served in the military.

9 **THE COURT:** Okay. What do you do for Bayer
10 HealthCare?

11 **PROSPECTIVE JUROR WONG:** I do investigations on
12 discrepancies and write reports.

13 **THE COURT:** And what?

14 **PROSPECTIVE JUROR WONG:** Write reports and do
15 investigations.

16 **THE COURT:** Discrepancies about what?

17 **PROSPECTIVE JUROR WONG:** About the manufacturing
18 process.

19 **THE COURT:** I see. All right. Thank you.

20 One more question: What's your wife studying?

21 **PROSPECTIVE JUROR WONG:** English.

22 **THE COURT:** Oh, okay.

23 **PROSPECTIVE JUROR THAN:** My name is Than Than and I
24 live in Indio. And I work as a primary care physician in
25 Kaiser Permanente. And I do gardening whenever I have time.

1 And I'm married, and my husband is stay at home, and he can't
2 work because he's disabled. And I have one son who is 19, and
3 I have never -- he's a student.

4 I have never been a juror, and I have never been a grand
5 juror, and I have never been in the military.

6 **THE COURT:** All right. Thank you.

7 **PROSPECTIVE JUROR THAN:** Thank you.

8 **PROSPECTIVE JUROR WANG:** My name is Szuping Wang, and
9 I live in San Francisco. I work as a accountant in an office
10 at retail store. Hobby, I like to spend time with my friends
11 and families. I'm single. I've never served as juror.

12 **THE COURT:** And have you been in the military
13 service?

14 **PROSPECTIVE JUROR WANG:** No.

15 **THE COURT:** All right. Thank you.

16 **PROSPECTIVE JUROR:** My name is David Lash. I live in
17 Santa Rosa. I work for the County of Sonoma at the Permanent
18 Resource Management Department in their records section.

19 I am active in a church. I enjoy anything outside
20 exercise-wise: Tennis, golf, hiking. I am single. I am not
21 married. I do not have any children.

22 I have served as a juror before. I've never been a grand
23 juror. And I have not served in the military.

24 **THE COURT:** How many jury trials have you served on?

25 **PROSPECTIVE JUROR LASH:** One.

1 **THE COURT:** And was it civil or criminal?

2 **PROSPECTIVE JUROR LASH:** Civil.

3 **THE COURT:** How long ago?

4 **PROSPECTIVE JUROR LASH:** About 13 years ago.

5 **THE COURT:** Okay. Don't tell me what, but did it
6 reach a verdict?

7 **PROSPECTIVE JUROR LASH:** Yes.

8 **THE COURT:** And anything about that experience that
9 would make it hard for you to be fair to either side in this
10 case?

11 **PROSPECTIVE JUROR LASH:** No.

12 **THE COURT:** All right. Thank you.

13 **PROSPECTIVE JUROR RENN:** My name is Richard Renn, and
14 I live here in the City of San Francisco. I work for Stanford
15 University, and I manage a small team of people who build
16 software for -- related to the medical research that goes on
17 there.

18 I'm not officially a part of any organizations. As far as
19 hobbies, I'm a co-owner of two small restaurants, one in
20 Chicago and one in Philadelphia. I also help out at the
21 San Francisco SPCA with the sick animals.

22 I am single, never been married, I have no children.

23 I was on a jury twice. One was civil, one was criminal.

24 Both -- we had a verdict in both of those cases. And I was --
25 I've never been a grand juror and I've never been in the

1 military.

2 **THE COURT:** Okay. Anything about those jury
3 experiences that would make it hard for you to be fair here?

4 **PROSPECTIVE JUROR RENN:** No, absolutely not.

5 **THE COURT:** Okay. Thank you.

6 **PROSPECTIVE JUROR SIMMONS:** Hello. My name is James
7 Simmons. City of residence, Albany. I'm retired.

8 Organizations: I'm volunteering at the U.S.S. Hornet Museum
9 as a restoration person.

10 Hobbies: Reading, working on the -- maintenance on my
11 house. I do all the work on my house. The other thing is I
12 play video games.

13 Married. My wife is or was a landscape architect. She's
14 also retired. Children, one son. He's about 47.

15 Were you ever a juror? Yes, I was a juror on another
16 case. No grand jury. And I was in the military.

17 **THE COURT:** I'm sorry, you said you were?

18 **PROSPECTIVE JUROR SIMMONS:** Yes, in the military.

19 **THE COURT:** What branch of the service?

20 **PROSPECTIVE JUROR SIMMONS:** Air Force.

21 **THE COURT:** What did you do?

22 **PROSPECTIVE JUROR SIMMONS:** Liquid fuel -- sort of a
23 jet fuel plumber. We had charge of the jet fuel until it got
24 on to the flight line.

25 **THE COURT:** Okay. What years were you in the Air

1 Force?

2 **PROSPECTIVE JUROR SIMMONS:** '67 to '71.

3 **THE COURT:** Where were you?

4 **PROSPECTIVE JUROR SIMMONS:** In the states, several
5 bases, and overseas, 11 months in Thailand.

6 **THE COURT:** Okay. And the jury that you were on, was
7 that civil or criminal?

8 **PROSPECTIVE JUROR SIMMONS:** I believe it was
9 criminal.

10 **THE COURT:** Don't tell me what, but did it each a
11 verdict?

12 **PROSPECTIVE JUROR SIMMONS:** Yes, they did.

13 **THE COURT:** And anything about that experience that
14 would make it hard for you to be fair here?

15 **PROSPECTIVE JUROR SIMMONS:** No.

16 **THE COURT:** Okay. What are you retired from?

17 **PROSPECTIVE JUROR SIMMONS:** I was a computer
18 programmer at Chevron.

19 **THE COURT:** All right. Thank you, sir.

20 **PROSPECTIVE JUROR MAHONEY:** My name is Marilyn
21 Mahoney and I live in San Francisco. And I work at Macy's, or
22 I've been working there for 27 years. I'm a sales specialist
23 in the Men's Store.

24 I belong to Local 101. I like the 49ers and the Giants,
25 and I like music and I collect rock memorabilia.

1 I'm single, I have no spouse, and I have no children.

2 And I have not been a juror on any other case or a grand
3 juror. And I was not in the military.

4 **THE COURT:** All right. Thank you, very much.

5 **PROSPECTIVE JUROR HREPCSHAK:** Good morning. My name
6 is Michael Hrepcshak. City of residence, Albany, California.
7 I'm a grocery checker at Safeway, 32 years.

8 I don't belong to any organizations. Hobbies are
9 crossword puzzles, walks, cooking when I get a chance.
10 Marital status is divorced. No children.

11 I was on a jury back in 1991. I was never a grand juror
12 and I've never been in the military.

13 **THE COURT:** The jury in 1991, was it civil or
14 criminal?

15 **PROSPECTIVE JUROR HREPCSHAK:** I believe it was
16 criminal.

17 **THE COURT:** And don't tell me what, but did it reach
18 a verdict?

19 **PROSPECTIVE JUROR HREPCSHAK:** No.

20 **THE COURT:** It did not?

21 **PROSPECTIVE JUROR HREPCSHAK:** No.

22 **THE COURT:** Anything about that experience that could
23 make it hard for you to be fair here?

24 **PROSPECTIVE JUROR HREPCSHAK:** No.

25 **THE COURT:** And your ex-wife or ex-partner, what did

1 that person do?

2 **PROSPECTIVE JUROR HREPCSHAK:** She had very -- several
3 jobs. She worked at House of Fabrics, she worked at Swenson's
4 Ice Cream parlor, worked at Safeway for a short period of
5 time.

6 **PROSPECTIVE JUROR CHEN:** My name is Richard Chen. I
7 live in Foster City, California. I'm a civil engineer project
8 design manager for the City of Sunnyvale.

9 I belong to the employee unions and some professional
10 organizations. I go to church. My hobbies are swimming,
11 outdoor walking and backyard. Watching movies.

12 I'm married. I have two children. My spouse is
13 self-employed dentist. My children, one is 18 -- 19 years
14 old, college student. And another one is 16 years old, high
15 school student.

16 I was not on a jury, and I was not on -- a grand juror,
17 and not in the military.

18 **THE COURT:** All right. Thank you, sir.

19 **PROSPECTIVE JUROR KOLHOVEN:** Hello. My name is John
20 Kolhoven. City of residence is Santa Rosa, California. I'm a
21 licensed clinical psychologist who's most recently been
22 working for Sonoma County Behavioral Health for about eight
23 years, transitioning.

24 Don't belong to any organizations. Hobbies, primarily,
25 travel, theater, art, hiking.

1 Marital status, married. Spouse's occupation, she's a
2 vice-president of academic affairs for the community college
3 in Santa Rosa. And also a psychologist. We have one child,
4 Colin, who is 21 and will be going to Duke next month for grad
5 school.

6 Never been a juror on another case. Never been a grand
7 juror and never been in the military.

8 **THE COURT:** All right. Thank you.

9 **PROSPECTIVE JUROR ITO:** My name is Kinne Ito. I live
10 in the City of Albany. Occupation: I'm a technician at a
11 company called Synco Ion.

12 No organizations. Hobbies, learning to play a musical
13 instrument, probably.

14 Marital status: Single, but I have a partner and she
15 works in the federal building. No children.

16 I have been a juror on a criminal case and it did reach a
17 verdict. No -- never been a grand juror. And I have not
18 served in the military.

19 **THE COURT:** Anything about that jury experience that
20 would make it hard for you to be fair here?

21 **PROSPECTIVE JUROR ITO:** No.

22 **THE COURT:** No. Okay. And your partner in the
23 federal building, what does she do?

24 **PROSPECTIVE JUROR ITO:** Courtroom deputy.

25 **THE COURT:** Oh, okay. For whom?

1 **PROSPECTIVE JUROR ITO:** Judge Breyer.

2 **THE COURT:** Okay. So, one of the things that all the
3 jurors have to promise us is not to talk to anybody about the
4 case until it's over, and this is particularly important if
5 the people you're not talking to are in the legal profession,
6 and particularly if they're employed or work with a really
7 chatty judge next door. So, could you not talk to her for the
8 duration of this case, until it's over?

9 **PROSPECTIVE JUROR ITO:** I think there would be no
10 problem doing that.

11 **THE COURT:** Okay. Judge Breyer might try, but you'd
12 have to be tough on this. You could do that?

13 **PROSPECTIVE JUROR ITO:** Yes, I could.

14 **THE COURT:** Okay. Thank you.

15 **PROSPECTIVE JUROR McCLAIN:** My name is Katherine
16 McClain. My City of residence is Albany. My occupation
17 status: I am a project manager for Global Healthcare
18 Exchange, supply company, plus a trainer.

19 I don't belong to any organizations. My hobbies are
20 weight training, massage therapy. Marital status: I'm
21 divorced. I have no children.

22 I was a juror on another case about a year ago. Never a
23 grand juror. And I was never in the military.

24 **THE COURT:** Anything about that jury experience that
25 would make it hard for you here?

1 **PROSPECTIVE JUROR McCLAIN:** No.

2 **THE COURT:** And without telling me what it did, did
3 it reach a verdict?

4 **PROSPECTIVE JUROR McCLAIN:** Yes.

5 **THE COURT:** Okay. What did your ex-husband do?

6 **PROSPECTIVE JUROR McCLAIN:** Well, which one? The
7 first one --

8 **THE COURT:** The first one.

9 **PROSPECTIVE JUROR McCLAIN:** The first one worked for
10 the post office; and the second one was a pastor.

11 **THE COURT:** Was a what?

12 **PROSPECTIVE JUROR McCLAIN:** Pastor.

13 **THE COURT:** Oh, okay. All right. Thank you.

14 Is that everybody? Okay.

15 So, at this point, ladies and gentlemen, it's the
16 opportunity of counsel to ask you a few questions. As I told
17 you, they will be most interested in asking you questions, but
18 they have only a certain amount of time. So don't be offended
19 if they don't talk to you.

20 And the plaintiff has the burden of proof in this trial,
21 and therefore it gets to go first. So, you may proceed.

22 **MR. SILBERFELD:** Thank you, your Honor.

23 Good afternoon, ladies and gentlemen. Almost afternoon.

24 As the Court said, I have an opportunity now to ask just a
25 very few questions of some of you, and I may skip some of you

1 and not ask questions because of limited time.

2 But for those I do ask questions of, let me just start by
3 saying, and I think I speak for all the lawyers here, by
4 asking questions that may seem personal or may even seem as if
5 we're prying, we are not trying to do that. We're simply
6 trying to get information that will help us make decisions
7 about everyone's fitness to be a juror in this case. Not
8 every case fits every juror, and not every juror fits every
9 case. And so the purpose of our asking is not to pry into
10 your personal lives but rather to try to understand a little
11 bit about your life experiences that may inform how you feel
12 about the particular issues in this case.

13 So, with that, Miss Colby, let me begin with you, if I
14 may. In your time at IBM, did you ever go through any
15 antitrust training of any kind?

16 **PROSPECTIVE JUROR COLBY:** I don't remember that, no.

17 **MR. SILBERFELD:** About the ground rules for how
18 companies compete fairly with one another, and sort of where
19 the line is between lawful conduct and illegal conduct? Did
20 you have any experience at IBM about that?

21 **PROSPECTIVE JUROR COLBY:** No, I didn't deal with
22 other companies much.

23 **MR. SILBERFELD:** Okay.

24 **PROSPECTIVE JUROR COLBY:** It was internal.

25 **THE COURT:** Incidentally, in order that the court

1 reporter gets everything, you'll have to speak just as loud as
2 you can when you answer these questions. Thank you.

3 **MR. SILBERFELD:** You have a bachelors degree in math,
4 I think; is that right?

5 **PROSPECTIVE JUROR COLBY:** (Nods head)

6 **MR. SILBERFELD:** If you're chosen as a juror here,
7 you're going to see a lot of testimony about numbers. Do you
8 think you can put aside whatever you know about math and just
9 the testimony in this case just based upon what you hear from
10 the witnesses who are likely all to be experts of one kind or
11 another? Do you think you could do that?

12 **PROSPECTIVE JUROR COLBY:** I guess so. I'm not sure
13 what that means.

14 **MR. SILBERFELD:** Well, if you're sitting here
15 listening to something and you say, you know, I just, based on
16 my own training, I just know that that's wrong -- based upon
17 something you learned or studied yourself. Is that the kind
18 of thing you could set aside and just listen to the testimony
19 here, weigh the testimony of the competing experts because
20 there are going to be competing experts here, and then follow
21 the Court's instructions and decide the case as best you can?

22 **PROSPECTIVE JUROR COLBY:** I'll try to.

23 **MR. SILBERFELD:** Okay. Good, thanks.

24 Mr. Harper, with regard to Wells Fargo, do you have
25 anything at all to do with any investment programs of the bank

1 where lawsuits have been brought against the bank.

2 **PROSPECTIVE JUROR HARPER:** No.

3 **MR. SILBERFELD:** No?

4 **PROSPECTIVE JUROR HARPER:** No.

5 **MR. SILBERFELD:** Tell me what you do in your work.

6 **PROSPECTIVE JUROR HARPER:** I assist four different
7 financial advisers for Wells Fargo from everything from
8 meeting and greeting with clients, opening accounts,
9 purchasing and selling of stocks and mutual funds in their
10 account. A whole gamut of things.

11 **MR. SILBERFELD:** Do you advise people on investment
12 decisions yourself?

13 **PROSPECTIVE JUROR HARPER:** I do not.

14 **MR. SILBERFELD:** Okay. Do you ever have occasion to
15 try to evaluate whether one investment or another is better or
16 worse for a particular client?

17 **PROSPECTIVE JUROR HARPER:** No.

18 **MR. SILBERFELD:** Okay. Are you aware of the fact
19 that Wells Fargo is sometimes sued for some of its conduct or
20 behavior?

21 **PROSPECTIVE JUROR HARPER:** Yes.

22 **MR. SILBERFELD:** Anything about that fact cause you
23 to have any feelings one way or the other about whether
24 companies ought to be sued or not?

25 **PROSPECTIVE JUROR HARPER:** No.

1 **MR. SILBERFELD:** Okay. Or whether the fact that your
2 employer may be sued sometimes causes you to have feelings
3 about whether you would have a tendency to side with either
4 the plaintiff on this case or the defense on this case?

5 **PROSPECTIVE JUROR HARPER:** No.

6 **MR. SILBERFELD:** Okay. So right now as you sit here,
7 if this were a race and we were at the starting line, Best
8 Buy, HannStar, Toshiba, we're all equal?

9 **PROSPECTIVE JUROR HARPER:** All even.

10 **MR. SILBERFELD:** Okay. Great. Thank you.

11 Mr. Moya. In your 234UR position as a director of
12 competitive intelligence at Salesforce.com, tell us what you
13 do.

14 **PROSPECTIVE JUROR MOYA:** So, my main job is to track
15 and analyze our competitors from a pricing products
16 perspective. Advise our sales folks, product management,
17 product marketing, on what our competition is doing, how do
18 they sell against us, how do they price against us, how do
19 their products stand up against ours. And then also advise
20 leadership on what's going on in the marketplace.

21 **MR. SILBERFELD:** And what is the business of
22 Salesforce.com?

23 **PROSPECTIVE JUROR MOYA:** We're a large CRM software
24 provider. Or actually a cloud provider.

25 **MR. SILBERFELD:** Customer relations management kind

1 of work?

2 **PROSPECTIVE JUROR MOYA:** Yes.

3 **MR. SILBERFELD:** And in your work -- how long have
4 you been doing this?

5 **PROSPECTIVE JUROR MOYA:** I've been at Salesforce for
6 six months. In my previous role, I did the same type of work
7 at EMC. And I did that for three and-a-half years. And prior
8 to that, I also did the same work at Cisco.

9 **MR. SILBERFELD:** So this has sort of been your field,
10 I gather, at least the last three jobs?

11 **PROSPECTIVE JUROR MOYA:** For the last, yeah, few
12 years.

13 **MR. SILBERFELD:** Did you receive any training, either
14 at Cisco, EMC or here at Salesforce, your present job, about
15 what you could fairly and legally do in terms of gathering
16 competitive intelligence and what you couldn't do?

17 **PROSPECTIVE JUROR MOYA:** Yes.

18 **MR. SILBERFELD:** Say that again?

19 **PROSPECTIVE JUROR MOYA:** Yes.

20 **MR. SILBERFELD:** Okay. Great. Without telling us
21 the details of it all, you understand that there's a
22 difference, I gather, between lawful gathering of intelligence
23 about your competitors and something that might be unlawful?

24 **PROSPECTIVE JUROR MOYA:** Absolutely. I work with our
25 legal department all the time, whenever there's a gray area.

1 And there's certainly quite a lot of information that comes to
2 us that we have to disregard or not use or I get Legal
3 involved.

4 **MR. SILBERFELD:** Can you give us an example of
5 something that would be over the line, if you will, or thought
6 to be illegal in terms of gathering competitive information?

7 **PROSPECTIVE JUROR MOYA:** Frequently, things like
8 price lists and product roadmaps for competitors, depending on
9 what the sources are and how we came about them. Certainly if
10 that comes from a new-hire employee that was not on their hard
11 drive is not something legal for us to use. Something we find
12 in a Google search, still potentially a little bit of a gray
13 area, but it is in a public forum.

14 **THE COURT:** Just so you know, ladies and gentlemen,
15 and I don't mean to interrupt, but the questions that are
16 being asked are to help illuminate really all of you to know
17 who's suitable to be on the jury and who's not. And the legal
18 questions that are being asked are being asked for that
19 purpose. But I have to jump in and say: In this trial, in
20 this case, I am the law. So in terms of what is legal and
21 what is illegal, you will get instructions from me at the
22 beginning of the case, and then more detailed instructions at
23 the end, and that will tell you what the legal rules are that
24 you're to apply.

25 So, as I say, I don't mean to interrupt, but the, what's

1 legal, what's not legal, what you can do, what you can't do,
2 to the extent that has to be decided by you in this case, that
3 will be based on instructions that I will later give you at
4 the end of the trial, just to be clear.

5 Thank you.

6 **MR. SILBERFELD:** Thank you, your Honor.

7 The last question for you, Mr. Moya, and then I'll move
8 on: In the work that you do, you compete by gathering
9 information, actively, against the competitors of
10 Salesforce.com?

11 **PROSPECTIVE JUROR MOYA:** Yes.

12 **MR. SILBERFELD:** But there are limits to that ability
13 to compete?

14 **PROSPECTIVE JUROR MOYA:** Absolutely.

15 **MR. SILBERFELD:** Great. Thank you, sir.

16 Miss Volpe?

17 **PROSPECTIVE JUROR VOLPE:** Yes.

18 **MR. SILBERFELD:** Thank you. Either at Safeway or at
19 VotoPhone, where I think you were four years --

20 **PROSPECTIVE JUROR VOLPE:** I was at VotoPhone four and
21 a half years. I have only been at Safeway for six months.

22 **MR. SILBERFELD:** What was the job you had at
23 VotoPhone?

24 **PROSPECTIVE JUROR VOLPE:** Quality assurance and
25 quality control manager. This VotoPhone office in Walnut

1 Creek, we developed the global internet platform. So there
2 were some VotoPhone companies that weren't big enough to have
3 their own IT shop, like VotoPhone Italy, VotoPhone Germany.
4 They all developed their own internet platform. So we did
5 that development in Walnut Creek for Australia, New Zealand,
6 Romania, Egypt, and it was the -- on the smart -- the
7 little -- not even smart phones, before that, the sports
8 scores, horoscopes, that kind of internet activity. That's
9 what we did back in 2001.

10 **MR. SILBERFELD:** All right. You told us in the
11 questionnaire that you shop at Best Buy all the time.

12 **PROSPECTIVE JUROR VOLPE:** All the time.

13 **MR. SILBERFELD:** Good experience? Bad experience?

14 **PROSPECTIVE JUROR VOLPE:** Well, it's very convenient
15 to where I live, and they have everything from microwaves to
16 DVDs to printers, ink cartridges. Everything. One-stop
17 shopping.

18 **MR. SILBERFELD:** You're satisfied with your
19 experiences there?

20 **PROSPECTIVE JUROR VOLPE:** Yes, I am.

21 **MR. SILBERFELD:** All right. Great.

22 There's a reference to some background you have in
23 software engineering. Does that involve anything of a
24 technical nature about TFT or LCD products?

25 **PROSPECTIVE JUROR VOLPE:** No, that's hardware. What

1 I do is develop the software that resides on top of it.

2 **MR. SILBERFELD:** Great. Thank you so much.

3 I'm going to go out of order and ask Miss Linkhorn, since
4 the microphone is right there next to you: Your husband does
5 sales in what field, Ma'am?

6 **PROSPECTIVE JUROR LINKHORN:** Office furniture and
7 systems. He reps different companies. He's a manufacturer's
8 representative.

9 **MR. SILBERFELD:** Okay. And I think in response to
10 the questionnaire you told us that he has economics,
11 statistics and math background.

12 **PROSPECTIVE JUROR LINKHORN:** Yes. From a long time
13 ago. Educational, really, only.

14 **MR. SILBERFELD:** So --

15 **PROSPECTIVE JUROR LINKHORN:** There was no
16 differentiation on the questionnaire, work experience and
17 educational. And his was educational.

18 **MR. SILBERFELD:** All right. You're going to hear
19 some economic testimony in this case, you're going to hear
20 some statistics, if you're chosen. Can you resist the
21 temptation to go home along talk to your husband about it?

22 **PROSPECTIVE JUROR LINKHORN:** Absolutely. We don't
23 really talk about economics.

24 (General laughter)

25 **MR. SILBERFELD:** That's all the questions I have for

1 you. Thank you.

2 Miss Erwin. Do you have any thoughts about whether there
3 are too many lawsuits in the system?

4 **PROSPECTIVE JUROR ERWIN:** No.

5 **MR. SILBERFELD:** Okay. Or whether verdicts that you
6 read about are too high, too low or just about right?

7 **PROSPECTIVE JUROR ERWIN:** No.

8 **MR. SILBERFELD:** Okay. Anything about your
9 background that you think would cause you to have some
10 preconceived idea about this case that would prevent you from
11 deciding it fully and fairly based upon the evidence in the
12 case?

13 **PROSPECTIVE JUROR ERWIN:** No.

14 **MR. SILBERFELD:** Okay. Great.

15 You had some experience at Bed, Bath & Beyond?

16 **PROSPECTIVE JUROR ERWIN:** For a short time, like six
17 months.

18 **MR. SILBERFELD:** Did they have a price match policy
19 when you were there?

20 **PROSPECTIVE JUROR ERWIN:** Not that I recall.

21 **MR. SILBERFELD:** So you never had any particular
22 experience with it?

23 **PROSPECTIVE JUROR ERWIN:** No.

24 **MR. SILBERFELD:** As a consumer, have you ever had any
25 experience at any store, Bed, Bath & Beyond, Best Buy or

1 anyplace, where you go in and you say, I saw this at another
2 store for a lower price?

3 **PROSPECTIVE JUROR ERWIN:** No, I haven't.

4 **MR. SILBERFELD:** Okay. And do you know whether you
5 shopped at Best Buy.

6 **PROSPECTIVE JUROR ERWIN:** Yes.

7 **MR. SILBERFELD:** What kind of experience have you had
8 there?

9 **PROSPECTIVE JUROR ERWIN:** My experience was fine
10 there.

11 **MR. SILBERFELD:** Fine.

12 **PROSPECTIVE JUROR ERWIN:** It was good. No bad
13 experience.

14 **MR. SILBERFELD:** Great. Thank you.

15 Miss Hanson, good morning. Now it is afternoon. Good
16 afternoon.

17 You have a daughter who works at Target, I think?

18 **PROSPECTIVE JUROR HANSON:** Yes, I do.

19 **MR. SILBERFELD:** And does she have any experience
20 that she's ever shared with you about matching prices with
21 competitor's prices? Has that ever come up?

22 **PROSPECTIVE JUROR HANSON:** No.

23 **MR. SILBERFELD:** What does she do there?

24 **PROSPECTIVE JUROR HANSON:** She is the person who
25 answers the phone when you call the store, and those duties

1 include finding replacements for employees who call in last
2 minute, can't work that day, and she has to find someone to
3 fill their place. The operator.

4 **MR. SILBERFELD:** All right. Do you have any thoughts
5 about whether it's a good thing, a bad thing or a neutral
6 thing when businesses compete against each other for your
7 consumer dollars or any of our consumer dollars.

8 **PROSPECTIVE JUROR HANSON:** No, that's normal.

9 **MR. SILBERFELD:** Okay. Great, thank you.

10 Mr. Tanti. Did I pronounce that correctly, sir?

11 **PROSPECTIVE JUROR TANTI:** Yes.

12 **MR. SILBERFELD:** Thanks. I see that your mother
13 works in retail, or has, anyway.

14 **PROSPECTIVE JUROR TANTI:** Yes.

15 **MR. SILBERFELD:** Does she have anything to do with
16 the prices -- is it Nordstrom where she works?

17 **PROSPECTIVE JUROR TANTI:** That is correct. And she
18 does not.

19 **MR. SILBERFELD:** She has nothing to do with setting
20 prices. She works in a retail store.

21 **PROSPECTIVE JUROR TANTI:** She actually works at a
22 distribution warehouse.

23 **MR. SILBERFELD:** So she doesn't deal with the
24 customers.

25 **PROSPECTIVE JUROR TANTI:** Right. She deals with

1 stock.

2 **MR. SILBERFELD:** Do you have any views -- you heard
3 me say earlier that this case is going to involve evidence
4 about fixing prices. Do you have any views about whether
5 that's right or wrong?

6 **PROSPECTIVE JUROR TANTI:** I guess, no, I don't have
7 any views on price fixing, I guess, because I haven't really
8 had an experience with it or -- you know.

9 **MR. SILBERFELD:** Have an open mind about it?

10 **PROSPECTIVE JUROR TANTI:** Yes.

11 **MR. SILBERFELD:** Happy to listen to the testimony if
12 you're chosen and decide the case based on the evidence you
13 hear?

14 **PROSPECTIVE JUROR TANTI:** Yes.

15 **MR. SILBERFELD:** Great. Thanks. Thank you, sir.

16 Mr. Sangal, is it?

17 **PROSPECTIVE JUROR SANGAL:** Yes.

18 **MR. SILBERFELD:** Thanks. You had an experience at
19 Best Buy. Good, bad, indifferent? What was it?

20 **PROSPECTIVE JUROR SANGAL:** I look for the cheapest
21 price. Best price for me.

22 **MR. SILBERFELD:** No particular loyalty to any
23 particular one? You're a price shopper?

24 **PROSPECTIVE JUROR SANGAL:** Yep.

25 **MR. SILBERFELD:** Did you have any sort of bad

1 experience at Best Buy in the times that you have shopped
2 there?

3 **PROSPECTIVE JUROR SANGAL:** No, I don't.

4 **MR. SILBERFELD:** Same question I asked, I think,
5 earlier about if we're all in a race now and we're at the
6 starting line, everybody even?

7 **PROSPECTIVE JUROR SANGAL:** Yes.

8 **MR. SILBERFELD:** Great. Do you have any thoughts
9 about the fact that this is a lawsuit that is now about to go
10 to trial and whether there are too many lawsuits or whether
11 damages in cases are -- seem crazy or too high to you?

12 **PROSPECTIVE JUROR SANGAL:** I'm interested to see how,
13 where it goes. It's an information explosion for me.

14 **MR. SILBERFELD:** Information explosion. I think it
15 is for all of us. Good. Thank you, sir.

16 Mr. Thomas, do you have any views about the pricing of
17 products that you have experience with, whether too high or
18 too low or just right?

19 **PROSPECTIVE JUROR THOMAS:** I always try to get them
20 as cheap as I can. I think some things are priced too high.

21 **MR. SILBERFELD:** Do you have any particular
22 experience with Best Buy?

23 **PROSPECTIVE JUROR THOMAS:** Oh, no.

24 **MR. SILBERFELD:** Ever bought a Toshiba branded
25 product, for example?

1 **PROSPECTIVE JUROR THOMAS:** I haven't bought any
2 Toshiba products, no.

3 **MR. SILBERFELD:** Just from what you've heard here in
4 the last couple of hours, would you like to help us try this
5 case?

6 **PROSPECTIVE JUROR THOMAS:** Yeah, I'd like to see how
7 it comes out, yeah. See what's brought before me, if I'm
8 chosen. So...

9 **MR. SILBERFELD:** Okay, great. If I could ask you to
10 pat the microphone down to Miss Lin, that would be great.

11 Now, Miss Lin -- good morning -- or afternoon -- in the
12 questionnaire, you told us that you had a bad experience at
13 Best Buy?

14 **PROSPECTIVE JUROR LIN:** I had a bad experience there?
15 No, I don't think so.

16 **MR. SILBERFELD:** Did you not?

17 **PROSPECTIVE JUROR LIN:** No. I just went last week.

18 **MR. SILBERFELD:** I got the impression from something
19 I read --

20 **PROSPECTIVE JUROR LIN:** Got a large TV.

21 **MR. SILBERFELD:** You bought a television, and there
22 was something about the cables weren't included or something
23 like that?

24 **PROSPECTIVE JUROR LIN:** Oh. I think overall, when
25 you buy a TV, the cables should be included.

1 **MR. SILBERFELD:** Okay. I agree with you. You
2 wouldn't characterize that as a bad experience at Best Buy?

3 **PROSPECTIVE JUROR LIN:** No, no, no. I had a good
4 experience because they price-matched everything for me.

5 **MR. SILBERFELD:** And tell me about that interchange
6 over the television and the price matching. How did that work
7 for you?

8 **PROSPECTIVE JUROR LIN:** I brought my nephew with me
9 who had an iPhone, and every time -- I started out with the
10 TV, but then we ended up -- because I had to buy a new
11 receiver, I had to buy a blu ray player, because everything
12 has to be upgraded from my 20-year-old TV. I ended up
13 spending a whole lot more money. So for every new item that
14 was added on to my purchase, of which I initially went just
15 for a TV, my nephew said, Oh, Auntie Karen, you can get this
16 at Amazon for this much, this much, this much. So the
17 salesperson at Best Buy just matched everything for us.

18 **MR. SILBERFELD:** Overall?

19 **PROSPECTIVE JUROR LIN:** Overall.

20 **MR. SILBERFELD:** Okay experience?

21 **PROSPECTIVE JUROR LIN:** Yeah.

22 **MR. SILBERFELD:** Happy with the TV?

23 **PROSPECTIVE JUROR LIN:** It's going to be installed on
24 Thursday. But it depends on if I have to --

25 **MR. SILBERFELD:** And you may not be there. Okay.

1 (General laughter)

2 **MR. SILBERFELD:** Your boyfriend, I understand, is in
3 international business of some kind. Tell us a little bit
4 about that.

5 **PROSPECTIVE JUROR LIN:** He majored in international
6 relations.

7 **MR. SILBERFELD:** Okay.

8 **PROSPECTIVE JUROR LIN:** But his job is with the
9 Social Security office. So no relation to that.

10 **MR. SILBERFELD:** Great. Thank you so much.

11 Mr. Wong, in doing your work, investigating and the
12 testing of products, do you follow certain protocols, sir?

13 **PROSPECTIVE JUROR WONG:** It's a GMP facility, so we
14 do have.

15 **MR. SILBERFELD:** Good manufacturing practices?

16 **PROSPECTIVE JUROR WONG:** Yes.

17 **MR. SILBERFELD:** So you follow certain guidelines in
18 how you do your work; is that right?

19 **PROSPECTIVE JUROR WONG:** Yes.

20 **MR. SILBERFELD:** Okay. And are your investigations
21 to try to figure out whether there's a manufacturing defect in
22 a product? Is that what you do?

23 **PROSPECTIVE JUROR WONG:** We're the manufacturer.
24 So...

25 **MR. SILBERFELD:** Pardon?

1 **PROSPECTIVE JUROR WONG:** We're the manufacturer.

2 **MR. SILBERFELD:** Right. No Bayer --

3 **PROSPECTIVE JUROR WONG:** See, I'm trying to find out
4 what the root cause is and prevent it.

5 **MR. SILBERFELD:** And you've done some work in the
6 past in a computer retail store?

7 **PROSPECTIVE JUROR WONG:** Yes.

8 **MR. SILBERFELD:** How long ago was that, sir?

9 **PROSPECTIVE JUROR WONG:** About 12 years ago.

10 **MR. SILBERFELD:** And what company was it?

11 **PROSPECTIVE JUROR WONG:** It's out of business now.
12 It was called Computerware.

13 **MR. SILBERFELD:** Hardware and software?

14 **PROSPECTIVE JUROR WONG:** And software, yes.

15 **MR. SILBERFELD:** Did you sell any products that
16 contained LCD panels, do you think?

17 **PROSPECTIVE JUROR WONG:** Yes.

18 **MR. SILBERFELD:** Did you have any involvement in the
19 pricing of those products?

20 **PROSPECTIVE JUROR WONG:** No.

21 **MR. SILBERFELD:** Thank you, sir.

22 Dr. Than. Did I pronounce that correctly, Ma'am?

23 **PROSPECTIVE JUROR THAN:** Correct. Yes.

24 **MR. SILBERFELD:** Doctor, I see that you expressed
25 some concerns about your ability to serve in this case having

1 to do with -- I think it was either your mother or
2 mother-in-law. Either your mother or mother-in-law.

3 **PROSPECTIVE JUROR THAN:** My mother-in-law.

4 **MR. SILBERFELD:** Your mother-in-law. Is there
5 anything about -- I'm so sorry to even ask about this, but is
6 there anything about that, the process that your mother-in-law
7 is now in, where you would, you know, feel as if you were
8 distracted or not paying full attention to the evidence in
9 this case?

10 **PROSPECTIVE JUROR THAN:** I will try, though. But I
11 guess that I cannot promise, because my husband's family
12 doesn't -- they're not from the medical field. So they sort
13 of rely a little more than they should on me. So if I were, I
14 will try my best to be here. I mean, to concentrate on the
15 case.

16 **MR. SILBERFELD:** So the impression I get is that in
17 addition to being a family member, you're looked to, because
18 of your medical training, to help make decisions with regard
19 to your mother-in-law?

20 **PROSPECTIVE JUROR THAN:** Correct, sir.

21 **MR. SILBERFELD:** All right. Thank you very much.

22 Miss Wang, is it? Now, we've talked a little bit about
23 the language issue, Miss Wang. Tell me, if you can, what you
24 think would be difficult for you if you were chosen as a juror
25 here. By that, I mean listening or reading or talking with

1 your fellow jurors or something else. What do you think would
2 affect you most in terms of your language limitations?

3 **PROSPECTIVE JUROR WANG:** I think is hard for me if I
4 hear something that I only can remember part of it -- I can't
5 remember all that I hear because sometimes I lose my
6 concentration or something. Yeah.

7 **MR. SILBERFELD:** So you think listening would be the
8 hard part?

9 **PROSPECTIVE JUROR WANG:** I need to pay much
10 concentration to it and -- so that I can remember what I hear.
11 Yeah.

12 **MR. SILBERFELD:** All right. Your father has some
13 experience with engineering and computers, I think. Is that
14 right? Can you tell us a little bit about that?

15 **PROSPECTIVE JUROR WANG:** The engineering is
16 construction engineering. He employed on night -- the United
17 States. And then he retires and he work for a computer
18 company as driver. So he didn't do anything about computer
19 products. He just deliver.

20 **MR. SILBERFELD:** Is Can Kwang the construction
21 company he worked for?

22 **PROSPECTIVE JUROR:** Actually, I translated bad. I'm
23 not sure it's in -- in Mandarin -- it's Chinese. I translated
24 the words -- actually, I don't know what's the corporation
25 name in English.

1 **MR. SILBERFELD:** Okay. Great. Thank you so much.

2 Mr. Lash, just one quick question for you, sir. Your
3 mother is working in the legal/clerical area. Is this a
4 particular kind of law that she is in?

5 **PROSPECTIVE JUROR LASH:** That was about 40 years ago
6 she was a legal secretary. She sold real estate for awhile.
7 And she's been retired for -- from working, for 14, 15 years.

8 **MR. SILBERFELD:** Okay, great. Thank you, sir.

9 Mr. Renn, one of the witnesses in this case is going to be
10 a Dr. Burnheim, who's on the faculty at Stanford. Do you know
11 Dr. Burnheim at all?

12 **PROSPECTIVE JUROR RENN:** I don't, no.

13 **MR. SILBERFELD:** Anything about that fact, the fact
14 that he's from Stanford and some of the defense experts are
15 from Yale and the University of Chicago and elsewhere,
16 anything about that experience that -- or that fact, rather,
17 that would cause to you sort of lean in favor of
18 Dr. Burnheim and against --

19 **PROSPECTIVE JUROR RENN:** No, Sir.

20 **MR. SILBERFELD:** -- the others? No problem?

21 **PROSPECTIVE JUROR RENN:** No problem there.

22 **MR. SILBERFELD:** All right, sir. In your job as a
23 software developer for the university -- and do you have
24 something to do with SRI or not?

25 **PROSPECTIVE JUROR RENN:** No. They're separate now.

1 **MR. SILBERFELD:** Separate. Okay.

2 **PROSPECTIVE JUROR RENN:** The research institute.

3 **MR. SILBERFELD:** Yes. Do you have any sort of
4 training that you've received by the university in terms of
5 antitrust or what's fair in terms of competition with
6 competitors?

7 **PROSPECTIVE JUROR RENN:** No.

8 **MR. SILBERFELD:** Okay. You have some background
9 knowledge about business law that you indicated, I think, in
10 your questionnaire. Do you have any particular training in
11 business law?

12 **PROSPECTIVE JUROR RENN:** No.

13 **MR. SILBERFELD:** No. Okay, great. Thank you.

14 Just one last one for you, sir. In response to the
15 questionnaire, you checked economics, statistics and math, and
16 market research, as areas that you've studied, either formally
17 or informally. Is that right?

18 **PROSPECTIVE JUROR RENN:** Yes, that's correct. I have
19 a bachelors degree in business management, a masters in
20 information systems.

21 **MR. SILBERFELD:** Masters in information systems.

22 Okay, wonderful. Thank you, sir.

23 Mr. Simmons. Mr. Simmons, good afternoon, sir.

24 **PROSPECTIVE JUROR SIMMONS:** Good afternoon.

25 **MR. SILBERFELD:** I just want to talk with you for a

1 minute about Best Buy and your experiences there. Tell me
2 about those.

3 **PROSPECTIVE JUROR SIMMONS:** Well, at first, years ago
4 when they first came to our area, I loved going there. They
5 had all the stuff I liked to look at. And we bought a lot of
6 things there. But later on, I began to feel -- I began to not
7 look at prices any more because I knew they were going to be
8 full retail. That's what it looked like to me. Then we began
9 going less. I guess because I been doing more on Amazon. So
10 that's really it. I never had any problems with any of the
11 products. And I still would like to go there. But I feel
12 guilty now because I'm not sure I'll actually buy rather than
13 just pick things up and look at them.

14 **MR. SILBERFELD:** But now you're just going there as a
15 showroom and you buy it at Amazon or something like that?

16 **PROSPECTIVE JUROR SIMMONS:** Well, I haven't been in
17 in awhile. I just feel guilty.

18 **MR. SILBERFELD:** Anything about your experiences with
19 Best Buy as a customer that you think causes you to have any
20 concerns about whether you ought to serve as a juror in a case
21 that involves the pricing of consumer products?

22 **PROSPECTIVE JUROR SIMMONS:** No, nothing particular.

23 **MR. SILBERFELD:** Okay. I used the analogy with
24 others about we're at the starting line of a race. Is Best
25 Buy at the same point in the starting line as Toshiba and

1 HannStar, or are we a little bit back?

2 **PROSPECTIVE JUROR SIMMONS:** Absolutely. I guarantee
3 it.

4 **MR. SILBERFELD:** Okay. Thank you, sir. Appreciate
5 that.

6 **THE COURT:** Actually, your question was compound and
7 therefore the answer doesn't tell us anything. Could you ask
8 it again?

9 **MR. SILBERFELD:** Sure. If we're at a starting line
10 of a race, is Best Buy, HannStar and Toshiba at the exact same
11 spot at the starting line, right now?

12 **PROSPECTIVE JUROR SIMMONS:** Yes.

13 **MR. SILBERFELD:** Thank you, sir.

14 **THE COURT:** Thank you.

15 **MR. SILBERFELD:** Miss Mahoney, you have an accounting
16 degree, and you love math, as I understand it.

17 **PROSPECTIVE JUROR MAHONEY:** Yes.

18 **MR. SILBERFELD:** And at Macy's, do you have any
19 involvement in making pricing decisions for your customers?

20 **PROSPECTIVE JUROR MAHONEY:** Sometimes we match a
21 price. Most -- used to be more competition, so we used to
22 match The Emporium or I.Magnin or -- it's got whittled down
23 now, so maybe Nordstrom. It usually has to be the same item,
24 same color. Or more likely now it's Macy's matching
25 macys.com.

1 **MR. SILBERFELD:** Right.

2 **PROSPECTIVE JUROR MAHONEY:** If they're different
3 prices.

4 **MR. SILBERFELD:** Do either you or your colleagues at
5 the store, are you able to make your own decisions about --

6 **PROSPECTIVE JUROR MAHONEY:** Yes.

7 **MR. SILBERFELD:** -- those kinds of decisions about
8 price?

9 **PROSPECTIVE JUROR MAHONEY:** Yes.

10 **MR. SILBERFELD:** All right. Thank you.

11 Mr. Hrepcshak -- did I do that too terribly?

12 **PROSPECTIVE JUROR HREPCSHAK:** No, you did fine.

13 **MR. SILBERFELD:** Thank you, sir. At Safeway, do you
14 ever get involved in pricing decisions?

15 **PROSPECTIVE JUROR HREPCSHAK:** We just have to get
16 courtesy clerks to do that, for price checks.

17 **MR. SILBERFELD:** Courtesy clerks in your store?

18 **PROSPECTIVE JUROR HREPCSHAK:** Yeah, for price checks.
19 Like if the customer says it's a different price, we have to
20 call for a courtesy clerk to do a price check.

21 **MR. SILBERFELD:** There's a reference in the
22 questionnaire about you or family members having done business
23 in Japan.

24 **PROSPECTIVE JUROR HREPCSHAK:** No, my brother went to
25 Japan for vacation. My mom lived in Japan during the 1950's.

1 She was a telephone operator back in the 50'S. And my
2 brother's been to Japan.

3 **MR. SILBERFELD:** Says you rarely shop at Best Buy.
4 Any bad experiences about shopping at Best Buy?

5 **PROSPECTIVE JUROR HREPCSHAK:** I shopped for -- for
6 a -- plywood two-by-fours for like working on the house and
7 stuff like that.

8 **MR. SILBERFELD:** Great. Thank you, sir. Mr. Chen?

9 **PROSPECTIVE JUROR CHEN:** Yes.

10 **MR. SILBERFELD:** Good afternoon, sir. Do you have
11 any views about whether there ought to be limits on either the
12 number of lawsuits or the kind of damages one can get in the
13 lawsuit based on any experience you've had?

14 **PROSPECTIVE JUROR CHEN:** Number of lawsuits and
15 the...?

16 **MR. SILBERFELD:** The amount of damages.

17 **PROSPECTIVE JUROR CHEN:** I don't quite understand
18 your question.

19 **MR. SILBERFELD:** Sure. In this case, if the evidence
20 justifies it, the jury is going to be asked to award Best Buy
21 hundreds of millions of dollars. I'll tell you that right
22 now. That's what the claim is. It will be up to the jury
23 following the Court's instructions to make that decision. But
24 when I say to you a -- "hundreds of millions of dollars",
25 right here, right now, does that shock you in some way where

1 you're saying to yourself: Boy, I don't think I could ever do
2 that?

3 **PROSPECTIVE JUROR CHEN:** No. I have managed some
4 projects where that's not an unusual amount of money.
5 Involved some potential claim disputes, resolved some kind of
6 change-orders -- yeah. That's not out of the budget.

7 **MR. SILBERFELD:** So that's not an issue for you?

8 **PROSPECTIVE JUROR CHEN:** No.

9 **MR. SILBERFELD:** If it's justified, right?

10 **PROSPECTIVE JUROR CHEN:** Yes.

11 **MR. SILBERFELD:** Wonderful. Thank you.

12 Mr. Kolhoven, I have no questions for you.

13 **PROSPECTIVE JUROR KOLHOVEN:** All right.

14 **MR. SILBERFELD:** Thank you, sir.

15 Mr. Ito, you're in the static control business.

16 **PROSPECTIVE JUROR ITO:** Yes.

17 **MR. SILBERFELD:** You said in your questionnaire that
18 you, or your company, rather, has contacts with firms like LG
19 and others, right?

20 **PROSPECTIVE JUROR ITO:** Yes.

21 **MR. SILBERFELD:** Do you have that contact yourself or
22 is that others?

23 **PROSPECTIVE JUROR ITO:** Others. I'm not involved in
24 the sales end.

25 **MR. SILBERFELD:** All right. What is it exactly that

1 you do?

2 **PROSPECTIVE JUROR ITO:** I assist the engineering
3 group, pushing out new products.

4 **MR. SILBERFELD:** Okay. Does your position in the
5 company depend at all on relations with any of your company's
6 customers such as LG, for example?

7 **PROSPECTIVE JUROR ITO:** No. I have no direct
8 relationship with the customers or contacts.

9 **MR. SILBERFELD:** In your questionnaire, you were
10 asked the question: Do you have any opinions about large
11 corporations? And you said you have a negative opinion, that
12 the corporate mentality is not conducive for what I consider
13 good business, anyplace that has a boss or a boss or a boss or
14 a boss is not a place to work for.

15 Do you remember that?

16 **PROSPECTIVE JUROR ITO:** I think I wrote a boss of a
17 boss of a boss of a boss.

18 **MR. SILBERFELD:** Oh, yeah. Four bosses.

19 **PROSPECTIVE JUROR ITO:** Probably more than that. And
20 those comments are based on my company being purchased by a
21 corporation, and you get stuck with a structure where you have
22 multiple bosses, they don't know what you do. They don't seem
23 to contribute anything to the end product. Yet they sort of
24 have control over your life.

25 **MR. SILBERFELD:** So here we have three large firms

1 involved in this case. Anything about that experience or your
2 views about large corporations that causes you to either lean
3 for or lean against any of the three parties here?

4 **PROSPECTIVE JUROR ITO:** I think this is separate.

5 **MR. SILBERFELD:** Okay. So you can take that
6 experience, put it on the shelf for the duration of this case,
7 and judge this case just on its facts here?

8 **PROSPECTIVE JUROR ITO:** Yes, I can.

9 **MR. SILBERFELD:** Okay. Wonderful. Thank you so
10 much.

11 Last, Miss McClain. Last couple of questions for you, if
12 I may. In describing your prior jury service, you said
13 that -- it's hard for me to read, but it seems to say
14 something about activities that can seem shady. Do you
15 remember that? My question is: What did you mean by that?

16 **PROSPECTIVE JUROR McCLAIN:** I'm trying to think of
17 what I was thinking when I said that. Just the whole process.
18 Just thinking back over the case and some of the things that
19 were discussed.

20 **MR. SILBERFELD:** Did it seem to you it just took too
21 long? Is that the idea?

22 **PROSPECTIVE JUROR McCLAIN:** That, and it just --
23 something just didn't seem very honest. Just -- the manner --
24 it just seemed like trickery, or just that one side was trying
25 to trick the other. You know, with some of the questioning.

1 Just the whole process.

2 **MR. SILBERFELD:** Sure. And this was a criminal drunk
3 driving case, as I recall?

4 **PROSPECTIVE JUROR McCLAIN:** It was, yes.

5 **MR. SILBERFELD:** Is that right?

6 **PROSPECTIVE JUROR McCLAIN:** Yes.

7 **MR. SILBERFELD:** You applied for a job at Best Buy at
8 some point?

9 **PROSPECTIVE JUROR McCLAIN:** Long time ago.

10 **MR. SILBERFELD:** Anything about that experience that
11 caused you to feel good or bad about Best Buy?

12 **PROSPECTIVE JUROR:** No.

13 **MR. SILBERFELD:** In -- and this is actually my very
14 last question. In your answer about large corporations, you
15 said, large corporations are about business and making money.
16 It's the name of the game. Making money is not what is fair
17 or right. Do you remember that?

18 **PROSPECTIVE JUROR McCLAIN:** Right. Sometimes you
19 have to -- some businesses just kind of undermine maybe the
20 big business or the little business, to make the money. It's
21 just -- it is what it is.

22 **MR. SILBERFELD:** Okay. Anything about that point of
23 view that causes you to have any particular feelings either
24 for or against Best Buy? For or against HannStar? Or for or
25 against Toshiba?

1 **PROSPECTIVE JUROR McCLAIN:** No.

2 **MR. SILBERFELD:** All right. Thank you very much.

3 Thank you, your Honor.

4 **THE COURT:** Thank you. And I haven't told you this,
5 Counsel, but I think we'll take our lunch recess at this time,
6 because we still have a considerable ways to go, and I know
7 you folks got here very early today and you're probably
8 hungry. So today, not -- unlike a regular day, today we're
9 going to take our lunch recess at this time. And today, we'll
10 take -- I'll give you up to an hour, which we will not do in
11 the ordinary course of the trial. But today, because it may
12 take awhile to get this accomplished, I'll ask you to come
13 back, please, at 1:30. At 1:30. The defense counsel will
14 have an opportunity to ask you some questions in the same way
15 that Mr. Silberfeld has asked you questions on behalf of Best
16 Buy. And then we will finish up this process. So, we are
17 close to the end but we're not close enough that we should
18 skip lunch. So if you'd be back at 1:30.

19 In the meantime, you have not heard any evidence in this
20 case yet, but you must not talk to anybody, each other,
21 anybody else, about the case. You can talk about the weather
22 or current events, but not about the case. And we'll see you
23 back here at 1:30, please.

24 (The jury venire exits the courtroom)

25 **THE COURT:** Mr. Curran?

1 **MR. CURRAN:** I object to Mr. Silberfeld's questioning
2 about the starting line. I understood that question to be
3 contrary to your Honor's instruction already that the
4 plaintiff bears the burden of proof. His question about the
5 three companies starting at the same spot and so forth, I
6 think is inconsistent with the law and your instruction.

7 **THE COURT:** That's overruled. I always say even
8 playing field, and I think he meant the same thing by starting
9 line. In any event, the Court's instructions will take care
10 of that PDQ. Thank you.

11 I wanted to tell you all: It is my view that if someone
12 were to request that Ms. Wang, Number 28, be excused for
13 basically -- I think it's going to be very hard for her to
14 keep up with the English -- I would sustain such a request.

15 **MR. SILBERFELD:** I would make that request, your
16 Honor.

17 **MR. TOTO:** No objection, your Honor.

18 **MR. FREITAS:** No objection, your Honor.

19 **THE COURT:** I'm not going to do it until the end of
20 the day, but I wanted to do that now so counsel need not spend
21 any time on that issue. All right?

22 Thank you.

23 (Recess held from 12:35 to 1:34 a.m.)

24 (The following proceedings were held in the presence of
25 the Jury)

1 **THE COURT:** Welcome back. You may all be seated. I
2 hope you got lunch. As I told you, it's now the opportunity
3 of the Defendants to ask a few questions.

4 You first, Mr. Freitas.

5 **MR. FREITAS:** Thank you, Your Honor.

6 **THE COURT:** Okay.

7 **MR. FREITAS:** Good afternoon. I'll be dividing my
8 time with Mr. Curran, so I won't have as much time to speak
9 with you as Mr. Silberfeld did. But I do have some questions.

10 Let me begin with you, Mr. Moya. You mentioned that in
11 your work you come across information that you have to
12 disregard. And you gave the one example of things that might
13 show up on a new hire's hard drive. Are there any other kinds
14 of information you had in mind?

15 **PROSPECTIVE JUROR MOYA:** We regularly come across
16 product roadmaps.

17 **THE COURT:** Tracy?

18 **PROSPECTIVE JUROR MOYA:** You know, other sorts of
19 internal confidential information which would --

20 (Reporter interruption)

21 **THE COURT:** We have to speak up, slowly.

22 **PROSPECTIVE JUROR MOYA:** So, you know, product
23 roadmaps. We're frequently hiring product managers, engineers
24 and salespeople that have, you know, work material from their
25 previous jobs and are more than happy to try to share that

1 information with us. You know, we are very selective and
2 always very careful on what we can and will take from folks
3 like that.

4 **MR. FREITAS:** Uh-huh. So your concern is whether the
5 employees who are joining Salesforce or one of your prior
6 companies might be obligated by nondisclosure agreements not
7 to be bringing the information to your company.

8 **PROSPECTIVE JUROR MOYA:** Absolutely.

9 **MR. FREITAS:** Okay, thank you.

10 **PROSPECTIVE JUROR MOYA:** Yeah.

11 **MR. FREITAS:** Ms. Colby, if we could get the
12 microphone, I mentioned when I spoke this morning that
13 HannStar is not as well known as some of the other companies.
14 Have you -- have you ever heard of HannStar?

15 **PROSPECTIVE JUROR COLBY:** No, I haven't.

16 **THE COURT:** Let jurisdiction.

17 **MR. FREITAS:** Let me ask a general question. Has
18 anyone ever heard of HannStar?

19 Mr. Tanti.

20 **PROSPECTIVE JUROR TANTI:** Yeah.

21 **MR. FREITAS:** What have you heard?

22 **PROSPECTIVE JUROR TANTI:** Well, I mean I could be
23 mistaken, but I think HannStar still manufactures the screens,
24 themselves, like a very small amount under their name. Like
25 if you shop online you might see a HannStar brand of product,

1 just by browsing.

2 **MR. FREITAS:** So, there's another company that's
3 known as Hannspree that makes televisions and the like. Is
4 that what you are saying?

5 **PROSPECTIVE JUROR TANTI:** It's very possible, yeah.

6 **MR. FREITAS:** Do you remember the kind of --

7 **PROSPECTIVE JUROR TANTI:** I remember, if you are back
8 in the market for LCDs, that's why -- trying to jog my memory.
9 Maybe it is Hannspree that I'm thinking of.

10 **MR. FREITAS:** Okay, well, that is a separate company,
11 but the name does sound familiar.

12 **PROSPECTIVE JUROR TANTI:** Okay.

13 **MR. FREITAS:** Okay. Ms. Colby, I have another
14 question for you. Would there be any difficulty that you
15 would feel about deciding the case as to my client HannStar
16 given that it's a smaller company, not as well known, as Best
17 Buy and Toshiba?

18 **PROSPECTIVE JUROR COLBY:** No.

19 **MR. FREITAS:** No reason they couldn't get the same
20 fair shot as everybody else?

21 **PROSPECTIVE JUROR COLBY:** Right.

22 **MR. FREITAS:** Mr. Harper. You just heard something
23 this morning about HannStar. I guess you hadn't heard of them
24 before.

25 You heard that the company pleaded guilty in the

1 Department of Justice investigation to participating in the
2 crystal meetings. What's your reaction to hearing that?

3 **PROSPECTIVE JUROR HARPER:** I think I -- I didn't
4 really have a reaction. And, the fact that the Judge said to
5 not consider that, (Inaudible).

6 **MR. FREITAS:** Okay. Well, the issues that are going
7 to be decided in this case are different from the issues, at
8 least some of them, that were decided when HannStar accepted
9 responsibility.

10 Do you think that you could keep the things that were
11 decided and the things that weren't decided separate?

12 **PROSPECTIVE JUROR HARPER:** Yes.

13 **MR. FREITAS:** One of the things that we will be
14 arguing about is the extent to which Best Buy might have been
15 harmed. And there weren't any decisions in the government
16 case about whether Best Buy was harmed, whether anyone else
17 was harmed, or what the extent of any harm was.

18 Do you think you could approach the case giving us a clean
19 slate on that?

20 **PROSPECTIVE JUROR HARPER:** Yes.

21 **MR. FREITAS:** All right. I have a question for
22 Mr. Lash, if we could get the microphone over there, please.

23 Good afternoon, Mr. Lash.

24 **PROSPECTIVE JUROR LASH:** Good afternoon.

25 **MR. FREITAS:** Mr. Silberfeld made reference to a

1 conspiracy that he described as lasting for eight years. Now,
2 the evidence about the plea and the evidence about the
3 activities by HannStar won't necessarily match up with that.

4 Do you think if you are chosen for the jury you could keep
5 separate what it was that was established by the plea
6 regarding the timing and the nature of the activities, and
7 anything else that Best Buy might try to prove regarding
8 HannStar, or any other company?

9 **PROSPECTIVE JUROR LASH:** Yes, I can.

10 **MR. FREITAS:** Can you think of any reason why it
11 would be difficult for you to do that?

12 **PROSPECTIVE JUROR LASH:** No, I can't.

13 **MR. FREITAS:** Ms. Hanson, sorry for moving around.

14 **PROSPECTIVE JUROR HANSON:** Yes.

15 **MR. FREITAS:** What was your reaction that HannStar
16 was in a government case and accepted responsibility for
17 participating in a crystal meeting where price was discussed,
18 and sometimes agreed?

19 **PROSPECTIVE JUROR HANSON:** It felt like a separate
20 issue, wouldn't be regarded in this case.

21 **MR. FREITAS:** All right. That is not something that
22 would interfere with your ability to listen to Judge Illston's
23 instructions, follow the law as she gives it to you?

24 **PROSPECTIVE JUROR HANSON:** No.

25 **MR. FREITAS:** Ms. Volpe, please. As the case goes

1 forward, if you are on the jury, you will hear the Court
2 provide instructions on the issues surrounding -- well on all
3 of the legal issues, specifically including what the
4 government case established, what it means, and what it
5 doesn't mean.

6 Can you think of any reason why you would have a hard time
7 following the Court's instructions, and deciding the case
8 based on what the Court tells you the law is, and the facts as
9 you find them?

10 **PROSPECTIVE JUROR VOLPE:** No, I can't think of any
11 reason I would have a hard time doing that.

12 **MR. FREITAS:** I think you mentioned that you have a
13 relative who works at All-American -- or was that Ms. Hanson?
14 Is that --

15 **PROSPECTIVE JUROR VOLPE:** My son works at
16 All-American Fence Company.

17 **MR. FREITAS:** All-American what, excuse me?

18 **PROSPECTIVE JUROR VOLPE:** Fence, Fence.

19 **MR. FREITAS:** Fence. Okay. I didn't get the full
20 name. Thank you.

21 Ms. Irwin, please, Ms. Irwin, do you think that it's fair
22 that after having participated in the government case and
23 having accepted responsibility for participating in the
24 crystal meetings, that HannStar has the right to come into
25 this trial and challenge what Best Buy says about the harm

1 that it supposedly suffered?

2 **PROSPECTIVE JUROR ERWIN:** Yeah, sure.

3 **MR. FREITAS:** There's no reason why you think we
4 should lose the right to do that, simply because of what took
5 place in the government case.

6 **PROSPECTIVE JUROR ERWIN:** No.

7 **MR. FREITAS:** Ms. Linkhorn, is there anything that
8 you've heard about the case or specifically about HannStar
9 that makes you doubt that you could be fair to HannStar and
10 all of the other parties?

11 **PROSPECTIVE JUROR LINKHORN:** Not at all.

12 **MR. FREITAS:** No reason that you couldn't give us a
13 clean slate, a fair start, on all of the issues that haven't
14 been resolved by our participation in the government case.

15 **PROSPECTIVE JUROR LINKHORN:** No. No.

16 **MR. FREITAS:** Thank you. Mr. Sangal?

17 **PROSPECTIVE JUROR SANGAL:** Yeah.

18 **MR. FREITAS:** Okay. I understand that you're an
19 engineer at Cisco Systems.

20 **PROSPECTIVE JUROR SANGAL:** Correct.

21 **MR. FREITAS:** Does your work involve any buying or
22 selling activities on behalf of Cisco?

23 **PROSPECTIVE JUROR SANGAL:** No it doesn't.

24 **MR. FREITAS:** What, what do you do?

25 **PROSPECTIVE JUROR SANGAL:** I actually -- business

1 architect. What we do is we do what-if analysis on the Cisco
2 supply chain, and we figure out and give suggestions to the
3 leadership team where the product should move, depending on
4 the sale.

5 **MR. FREITAS:** Uh-huh, okay, thank you.

6 Mr. Thomas. Just hearing what you have heard so far, is
7 there any reason why you would assume that Best Buy has been
8 harmed?

9 **PROSPECTIVE JUROR THOMAS:** No.

10 **MR. FREITAS:** You are willing to keep an open mind on
11 that subject and take a look at it, just like all the other
12 issues, and give all the parties a fair break, a fair
13 opportunity?

14 **PROSPECTIVE JUROR THOMAS:** Yeah, I would give
15 everybody a break.

16 **MR. FREITAS:** Okay.

17 **THE CLERK:** Can you speak into the mic, just a little
18 more directly?

19 **PROSPECTIVE JUROR THOMAS:** Yeah.

20 **THE CLERK:** Thank you.

21 **MR. FREITAS:** Mr. Tanti, you have heard this morning
22 had that some of the experts who will be testifying in this
23 trial will be experts. Economists, primarily but some people
24 from other disciplines.

25 Do you have any particular reaction to the idea of

1 listening to testimony from economists, and since they are not
2 here, I'll say apart from the fact that it might be pretty
3 boring?

4 **PROSPECTIVE JUROR TANTI:** No, I think it's good to
5 get unbiased experts' opinions on things, and I'm curious what
6 they have to say.

7 **MR. FREITAS:** What is your general reaction to the
8 idea that the parties will be presenting testimony from
9 experts that they have retained to address the issues in the
10 case?

11 **PROSPECTIVE JUROR TANTI:** I'm sorry; can you repeat
12 the first part?

13 **MR. FREITAS:** Sure. Do you have any general reaction
14 to the idea --

15 **PROSPECTIVE JUROR TANTI:** No.

16 **MR. FREITAS:** -- to the idea that some the witnesses
17 will be experts?

18 **PROSPECTIVE JUROR TANTI:** That's expected.

19 **MR. FREITAS:** You are willing to listen to what they
20 say, and take it for what it's worth?

21 **PROSPECTIVE JUROR TANTI:** Yes.

22 **MR. FREITAS:** Okay. Mr. Moya. This morning,
23 Mr. Curran made a comment to the effect that the companies who
24 participated in the crystal meetings got caught.

25 Well, what actually happened was that Samsung --

1 **THE COURT:** Uh, now, you're not testifying, are you?

2 **MR. FREITAS:** All right, Your Honor.

3 There will be evidence that will be presented in the case
4 that will come from some of the parties who attended the
5 crystal meetings. And, they will talk about what they saw,
6 what they heard. And some of -- some of them work or worked
7 for companies that have made cooperation agreements with the
8 government, or with private parties.

9 What's your reaction to the idea that some of the
10 witnesses who will be testifying are employed by companies
11 that have cooperation settlement agreements with the
12 government or with private parties?

13 **PROSPECTIVE JUROR MOYA:** Um, I don't think I have a
14 reaction to it. I -- I think that's -- happens in the normal
15 course of events.

16 **MR. FREITAS:** You would listen to what they had to
17 say and decide whether it was accurate or not, and --

18 **PROSPECTIVE JUROR MOYA:** Certainly, based on the
19 evidence presented and what they say, yes.

20 **MR. FREITAS:** Those are all the questions I have,
21 Your Honor.

22 **THE COURT:** Thank you, Mr. Freitas. Mr. Curran?

23 **MR. CURRAN:** All right, ladies and gentlemen, I hope
24 you can tolerate one more lawyer, and then we will be done
25 with this part of the process.

1 Can I ask where the microphone is now? Mr. Moya, would
2 you mind passing that down to Ms. Colby? I'll go in order
3 mainly -- even though it might be more boring to go in order I
4 think it's more efficient for use of the microphone. So,
5 we'll do it that way. All right?

6 Ms. Colby, you worked at IBM for 35 years?

7 **PROSPECTIVE JUROR COLBY:** Thirty years.

8 **MR. CURRAN:** Thirty years. Did you have any
9 interactions with folks at Toshiba during those years?

10 **PROSPECTIVE JUROR COLBY:** No.

11 **MR. CURRAN:** No? Have you purchased Toshiba
12 products, as far as you recall?

13 **PROSPECTIVE JUROR COLBY:** No. My husband does the
14 purchasing of those kind of things.

15 **MR. CURRAN:** Okay. Are you aware of whether he's
16 purchased any Toshiba products?

17 **PROSPECTIVE JUROR COLBY:** I don't think so.

18 **MR. CURRAN:** Thanks very much.

19 Mr. Harper. I notice in your questionnaire you have
20 passed a lot of FINRA series exams.

21 **PROSPECTIVE JUROR HARPER:** Correct.

22 **MR. CURRAN:** I know, I think I know FINRA Series 7 is
23 the stockbrokers exam, right?

24 **PROSPECTIVE JUROR HARPER:** Correct.

25 **MR. CURRAN:** But you have passed a bunch of other

1 ones as well. Can you briefly describe for me what those
2 qualify you for?

3 **PROSPECTIVE JUROR HARPER:** The Series 63 kind of goes
4 hand in hand with the 7, stockbroker side. The 9 and 10 that
5 I have are compliance side. More to do with staying in
6 balance with the rules and regulations of FINRA and Wells
7 Fargo.

8 **MR. CURRAN:** You envision yourself becoming a
9 stockbroker yourself, later?

10 **PROSPECTIVE JUROR HARPER:** No.

11 **MR. CURRAN:** No, but having these series exams are
12 they helpful for your current position?

13 **PROSPECTIVE JUROR HARPER:** Yes.

14 **MR. CURRAN:** Okay, thank you very much.

15 Mr. Moya, I think both the prior counsel have asked you
16 about your position, and I will as well.

17 **PROSPECTIVE JUROR MOYA:** It's a very interesting job.
18 I figured it would have a role here.

19 **MR. CURRAN:** You are a competitive intelligence
20 professional. So, of course, in an antitrust case we are
21 interested in that.

22 **PROSPECTIVE JUROR MOYA:** Of course.

23 **MR. CURRAN:** Can you answer for me a basic question
24 of why do -- why do companies like Salesforce.com and your
25 prior employers have positions like competitive intelligence?

1 **PROSPECTIVE JUROR MOYA:** First, I guess we act as a
2 clearinghouse of information between multiple parties or
3 groups within the organization, so we work hand in hand with
4 the sales force, with product management, with engineering.

5 And, we also kind of provide in-house analysis as well, we
6 use a lot of third-party analysis for market share and product
7 analysis but we're kind of the in-house specialists, that
8 understand intimately our own products, our own go-to markets.

9 And, you know, we kind of, I guess, focus that on the
10 outside, making it easier to sell, ultimately making the
11 company more profitable, gaining market share, making our
12 products better.

13 **MR. CURRAN:** And when you say focus on the outside,
14 that means instead of internally, at your company, looking at
15 what the competitors are doing?

16 **PROSPECTIVE JUROR MOYA:** Yeah. So, you know, from a
17 product or a pricing example, we bring outside intelligence to
18 the table, to verify or compare our own internal workings
19 around those functions. And see how they would play in the
20 marketplace. How we compare. Is it competitive, are we going
21 to be making -- gaining market share? Are we going to be
22 losing it? Are our products deficient somehow? We kind of
23 play multiple roles.

24 **MR. CURRAN:** Gotcha. Assessing what the competitors
25 are doing so salesforce.com can do a better job, itself?

1 **PROSPECTIVE JUROR MOYA:** Exactly.

2 **MR. CURRAN:** You said, I think, before in answer to
3 questions from Mr. Silberfeld, that you work with a lot of
4 lawyers in your position.

5 **PROSPECTIVE JUROR MOYA:** Yeah.

6 **MR. CURRAN:** I would like to ask some specific names,
7 if you don't mind, to make sure that there's not an issue.

8 **PROSPECTIVE JUROR MOYA:** Yeah.

9 **MR. CURRAN:** Why don't I ask the name. I don't want
10 to --

11 **PROSPECTIVE JUROR MOYA:** Sure.

12 **MR. CURRAN:** Do you work or have you met Gabriel
13 Stern?

14 **PROSPECTIVE JUROR MOYA:** No.

15 **MR. CURRAN:** Samuel Miller?

16 **PROSPECTIVE JUROR MOYA:** No.

17 **MR. CURRAN:** Robert Martin?

18 **PROSPECTIVE JUROR MOYA:** No.

19 **MR. CURRAN:** Or Ryan Sandrock?

20 **PROSPECTIVE JUROR MOYA:** No.

21 **MR. CURRAN:** All right. Thank you very much,
22 Mr. Moya. I appreciate it.

23 Ms. Volpe. Have you ever bought a Toshiba product?

24 **PROSPECTIVE JUROR VOLPE:** I'm sure I have.

25 **MR. CURRAN:** Now, I know you had favorable statements

1 to say about Best Buy. Do you have any particular opinions
2 that linger in your mind as to Toshiba products you may have
3 bought?

4 **PROSPECTIVE JUROR VOLPE:** I think -- I think I bought
5 a Toshiba television for my boys' bedroom when they were
6 little.

7 **MR. CURRAN:** How has it held up?

8 **PROSPECTIVE JUROR VOLPE:** It's still there, I think.

9 **MR. CURRAN:** That is a favorable indication, I think.
10 Did you buy that at Best Buy?

11 **PROSPECTIVE JUROR VOLPE:** I don't remember.

12 **MR. CURRAN:** Are there any opinions you have one way
13 or the other about Toshiba that would influence your
14 consideration of this case?

15 **PROSPECTIVE JUROR VOLPE:** Nope.

16 **MR. CURRAN:** All right, thank you very much. I guess
17 we should come down to Mr. Thomas this way. Thank you.

18 Mr. Thomas, in your questionnaire you referred to, you
19 thought the price of certain things were high and I think
20 Judge Illston asked you about that a little earlier. But your
21 questionnaire also said you thought things were too high
22 because they were not made in the U.S., instead they were made
23 outside the United States.

24 **PROSPECTIVE JUROR THOMAS:** I think I said that things
25 should be made more in the U.S., that the companies shouldn't

1 take everything overseas, is what I basically meant.

2 **MR. CURRAN:** Yeah, yeah.

3 **PROSPECTIVE JUROR THOMAS:** Everything shouldn't leave
4 the country to be worked over somewhere else because they can
5 pay somebody cheaper.

6 **MR. CURRAN:** Yeah, but you understand why that
7 process happens, right?

8 **PROSPECTIVE JUROR THOMAS:** Yeah, I understand why it
9 happens. I don't have to like it though.

10 **MR. CURRAN:** That's absolutely right. Do you have
11 any opinions about Toshiba in particular?

12 **PROSPECTIVE JUROR THOMAS:** Oh, no, I just -- I heard
13 that they were a good product. I've never bought anything,
14 but -- I've heard the name.

15 **MR. CURRAN:** Very good. All right, thank you very
16 much.

17 And now the two Cisco gentlemen, right? Mr. Sangal, in
18 your position at Cisco, or maybe earlier, have you had
19 interactions with Toshiba folks?

20 **PROSPECTIVE JUROR SANGAL:** Not with the folks, but I
21 did buy the product.

22 **MR. CURRAN:** Okay. For your personal use? Or on the
23 job?

24 **PROSPECTIVE JUROR SANGAL:** For my personal use.

25 **MR. CURRAN:** And do you recall what type of products?

1 **PROSPECTIVE JUROR SANGAL:** Yeah, I had three laptops
2 over the period of time that I bought from Toshiba. But I
3 bought it from Best Buy too, so --

4 **MR. CURRAN:** Gotcha, gotcha. Would it -- would it
5 affect your -- well, how have the laptops held up?

6 **PROSPECTIVE JUROR SANGAL:** The laptops are good.

7 **MR. CURRAN:** Did you buy a warranty at Best Buy when
8 you bought the laptop?

9 **PROSPECTIVE JUROR SANGAL:** No, I didn't. The fact
10 that I liked about the -- I went down to Santa Clara I gave it
11 to the guy, he took it in the next day, or he fixed it, and
12 said "You can take it back," for free. So that was really
13 interesting and a positive experience for me from a Toshiba
14 product.

15 **MR. CURRAN:** Terrific, terrific. Thank you.

16 Mr. Tanti, how about you? On the job at Cisco, have you
17 interacted with Toshiba folks?

18 **PROSPECTIVE JUROR TANTI:** Well, being in customer
19 support, I, you know, I work with Cisco's enterprise and
20 corporate customers. And I work with probably four or five
21 bigger customers every day, so it's hard to say whether I
22 worked with Toshiba. It's probably very likely, considering
23 the amount of customers that Cisco has.

24 So I can't say for sure. It's probably very likely that I
25 have, but, you know, the interaction I have is more of

1 supporting them, and not in, like, any kind of sales or
2 anything like that.

3 **MR. CURRAN:** Okay. Any impressions or opinions
4 linger in your mind about Toshiba?

5 **PROSPECTIVE JUROR TANTI:** Not at all, no.

6 **MR. CURRAN:** Thank you very much.

7 Ms. Hanson. I may have misread your questionnaire, but
8 are you, yourself, a member of the carpenters union?

9 **PROSPECTIVE JUROR HANSON:** No.

10 **MR. CURRAN:** Is your husband?

11 **PROSPECTIVE JUROR HANSON:** Yes.

12 **MR. CURRAN:** Okay. And, does he work as a carpenter?

13 **PROSPECTIVE JUROR HANSON:** Yes, construction,
14 superintendent.

15 **MR. CURRAN:** Gotcha, gotcha. And your daughter -- I
16 think Mr. Silberfeld touched on this -- your daughter works at
17 Target.

18 **PROSPECTIVE JUROR HANSON:** Yes.

19 **MR. CURRAN:** But not in a position where she buys or
20 sets prices?

21 **PROSPECTIVE JUROR HANSON:** No.

22 **MR. CURRAN:** All right, thank you very much.

23 Ms. Irwin, everyone else in the courtroom reacted when you
24 said your boyfriend was a cellar master. I drink wine, but I
25 don't know what a cellar master does. Can you explain that

1 briefly?

2 **PROSPECTIVE JUROR ERWIN:** He works in the cellar so
3 he takes the wine -- he's kind of like the manager back there.

4 **MR. CURRAN:** Is he responsible for the actual
5 blending process?

6 **PROSPECTIVE JUROR ERWIN:** Yeah, they do the blending,
7 they have the lab work, bottling, labeling, all that.

8 **MR. CURRAN:** Thanks very much. Ms. Linkhorn.
9 Ms. Linkhorn, your daughter visited Japan.

10 **PROSPECTIVE JUROR LINKHORN:** Correct.

11 **MR. CURRAN:** Any positive or negative reactions on
12 her part or your part?

13 **PROSPECTIVE JUROR LINKHORN:** She loved it. That was
14 a pleasure trip. She's been to Taiwan on business.

15 **MR. CURRAN:** Gotcha. Do you know where in Japan
16 specifically she went?

17 **PROSPECTIVE JUROR LINKHORN:** Several different
18 cities, but I can't name them. I don't remember. It was
19 recently, it was last summer.

20 **MR. CURRAN:** And she works for a sneaker company.

21 **PROSPECTIVE JUROR LINKHORN:** Yes.

22 **MR. CURRAN:** Right.

23 **PROSPECTIVE JUROR LINKHORN:** Well, and other shoes.
24 They make everything.

25 **MR. CURRAN:** Oh, do they? Okay. You also referred

1 in your questionnaire to your father having a horrific
2 experience during World War II.

3 **PROSPECTIVE JUROR LINKHORN:** Correct.

4 **MR. CURRAN:** I don't want to probe any more than
5 Judge Illston did before, but is there anything --

6 **PROSPECTIVE JUROR LINKHORN:** No, not at all.

7 **MR. CURRAN:** -- that would affect your consideration
8 of this case?

9 **PROSPECTIVE JUROR LINKHORN:** No.

10 **MR. CURRAN:** Okay. May I ask, other than the fact
11 that he was at war in World War II, was there something
12 specific about it that made it horrific?

13 **PROSPECTIVE JUROR LINKHORN:** I think his -- his Navy
14 experience, being stationed in the Pacific on many different
15 ships, it was a trying time for him.

16 **MR. CURRAN:** Thank you very much. I thank you for
17 his service.

18 **PROSPECTIVE JUROR LINKHORN:** (Inaudible)

19 **MR. CURRAN:** Ms. Lin.

20 **PROSPECTIVE JUROR LIN:** Yes.

21 **MR. CURRAN:** You talked about, I think you shopped
22 with your nephew at Best Buy?

23 **PROSPECTIVE JUROR LIN:** Yes.

24 **MR. CURRAN:** And the nephew was the online fellow?

25 **PROSPECTIVE JUROR LIN:** Right, right.

1 **MR. CURRAN:** That had the lower price. So the
2 original price at Best Buy was higher, and then you, through
3 your nephew's efforts, were able to get the price lower?

4 **PROSPECTIVE JUROR LIN:** Right, because the seller was
5 adding all these things into my bundle, and I wasn't really
6 shopping for these things. But he was meanwhile telling me
7 you could get it cheaper here, you could get it cheaper there.

8 And I -- not a showroom person, I generally just go where
9 I have to go and buy things. But because he was there, the
10 salesperson matched the prices for me.

11 **MR. CURRAN:** Gotcha. Does your nephew get a kickback
12 commission from Best Buy or anything like that? Or any --
13 that's a joke question.

14 All right. Mr. Wong.

15 **PROSPECTIVE JUROR WONG:** Yes.

16 **MR. CURRAN:** I know you have already answered a
17 series of questions about your job. I just want to make sure
18 I understand, the types of discrepancies. And by the way, I
19 don't want to learn any confidential information about your
20 employer. Okay?

21 But, I'm just curious. You said you investigate
22 discrepancies in the manufacturing process.

23 **PROSPECTIVE JUROR WONG:** (Nods head)

24 **MR. CURRAN:** Is that generally human error, or
25 mechanical error, or something else?

1 **PROSPECTIVE JUROR WONG:** It can be all of the above.
2 All equipment, materials from outside vendors.

3 **MR. CURRAN:** And how do you go about determining what
4 the problem is, and how to fix it?

5 **PROSPECTIVE JUROR WONG:** Well, I have to interview
6 people, try to figure out what exactly happened. Do research
7 with vendors sometimes to find out if they changed --
8 (Inaudible) process. (Inaudible)

9 **MR. CURRAN:** And sir, do I remember correctly that at
10 least earlier in your life you worked -- well, I think you
11 referred to this -- at a computer retail store?

12 **PROSPECTIVE JUROR WONG:** Right.

13 **MR. CURRAN:** And do you retain the hobby of working
14 on computers?

15 **PROSPECTIVE JUROR WONG:** Yes.

16 **MR. CURRAN:** Do you buy component products to replace
17 parts or to build a computer from scratch, that kind of thing?

18 **PROSPECTIVE JUROR WONG:** Not from scratch, but I have
19 replaced hard drives, adding memory, things of that sort.

20 **MR. CURRAN:** Thank you. You have never hurt yourself
21 doing that?

22 **PROSPECTIVE JUROR WONG:** No.

23 **MR. CURRAN:** Good. Thank you.

24 Dr. Than. Dr. Than, do you use -- I know you are a
25 primary care physician, correct?

1 **PROSPECTIVE JUROR THAN:** (Nods head)

2 **MR. CURRAN:** Do you use computers a lot on the job?

3 **PROSPECTIVE JUROR THAN:** Yes, I do.

4 **MR. CURRAN:** For what functions?

5 **PROSPECTIVE JUROR THAN:** I guess it -- everything,
6 all the RN charting, I guess it -- almost everything. I --

7 **MR. CURRAN:** Do you recall having interaction with
8 either people who work for Toshiba, or using Toshiba products?
9 On the job?

10 **PROSPECTIVE JUROR THAN:** No. And then we have got
11 separate IT department, so if we have got some trouble we just
12 call them, and they kind of take care of it. So we don't
13 actually work with anybody outside.

14 **MR. CURRAN:** Okay. Well, in the future, if you have
15 a problem you can just have Mr. Wong help you out.

16 **PROSPECTIVE JUROR THAN:** Yes.

17 **MR. CURRAN:** All right, thank you very much.

18 Ms. Wang.

19 **PROSPECTIVE JUROR WANG:** Yes.

20 **MR. CURRAN:** One simple question. I know you are an
21 accountant at the Mayoung Lee store?

22 **PROSPECTIVE JUROR WANG:** Uh-huh.

23 **MR. CURRAN:** I'm not familiar with that store. Can
24 you tell me the products?

25 **PROSPECTIVE JUROR WANG:** Oh, it's a shoe retail

1 store.

2 **MR. CURRAN:** Shoe retail?

3 **PROSPECTIVE JUROR WANG:** Yes.

4 **MR. CURRAN:** Is it just women's shoes? Or mens'
5 shoes, as well?

6 **PROSPECTIVE JUROR WANG:** Both. And kids' shoes as
7 well.

8 **MR. CURRAN:** Gotcha. Okay, thank you very much.
9 Mr. Lash.

10 **PROSPECTIVE JUROR LASH:** Yes.

11 **MR. CURRAN:** You work at the permit and resources
12 management department?

13 **PROSPECTIVE JUROR LASH:** Correct.

14 **MR. CURRAN:** And can you explain a little bit about
15 that?

16 **PROSPECTIVE JUROR LASH:** I work at the records
17 section. My office deals with the unincorporated areas of the
18 county. And, if you need a permit -- well it's basically for
19 property. Anything doing with real estate. Whether you want
20 to build a house, well or septic, that is what our -- you go
21 through our office if you are in an unincorporated area of the
22 county.

23 **MR. CURRAN:** Gotcha. And that's -- you have
24 responsibility for the entire county?

25 **PROSPECTIVE JUROR LASH:** Correct.

1 **MR. CURRAN:** And prior to your current position, I
2 think you reported that you worked at Long's Drugstore for a
3 period of time.

4 **PROSPECTIVE JUROR LASH:** Yes, I did.

5 **MR. CURRAN:** Did you have any purchasing or
6 price-setting responsibilities in that role, in that job?

7 **PROSPECTIVE JUROR LASH:** Yes, I did.

8 **MR. CURRAN:** Can you explain a little bit about that?

9 **PROSPECTIVE JUROR LASH:** Working in retail, I managed
10 several different sections within the store.
11 Over-the-counter, dairy products. I worked in the photo
12 department and liquor.

13 And as far as setting prices, I introduced dairy products
14 to our store. So I shopped our competition, went to several
15 grocery stores to see what they priced their dairy products
16 at. We wanted to have a local influence, Clover Stornetta, we
17 wanted to carry their products to be local. So I went out and
18 priced what their retail was, to set our prices for our store.

19 **MR. CURRAN:** Gotcha. And, you reported in your
20 questionnaire that you had a very favorable prior experience
21 as a juror.

22 **PROSPECTIVE JUROR LASH:** Yes, I did.

23 **MR. CURRAN:** But have I one followup question about
24 that. That was a lawsuit about a dog?

25 **PROSPECTIVE JUROR LASH:** Correct. It was a -- I

1 don't know the breed of dog, and something happened to the
2 dog, and -- in the civil case they also were suing for
3 emotional damages. And I can't remember the absolute
4 specifics of the case, but I remember it was a dog in a civil
5 case, and it lasted six days.

6 **MR. CURRAN:** The emotional damages of the owner of
7 the dog.

8 **PROSPECTIVE JUROR LASH:** Correct.

9 **MR. CURRAN:** Thank you very much.

10 Mr. Renn.

11 **PROSPECTIVE JUROR RENN:** Yes, sir.

12 **MR. CURRAN:** You said you are a part owner of two
13 restaurants?

14 **PROSPECTIVE JUROR RENN:** Yes.

15 **MR. CURRAN:** And you work full-time?

16 **PROSPECTIVE JUROR RENN:** Yes.

17 **MR. CURRAN:** How does that work?

18 **PROSPECTIVE JUROR RENN:** The restaurants are in
19 another city. My business partner actually is running them
20 day to day, and I do the finances and the payroll and pay the
21 sales tax and all that.

22 **MR. CURRAN:** I think you said the restaurants are in
23 Philadelphia and Chicago?

24 **PROSPECTIVE JUROR RENN:** Correct, yeah.

25 **MR. CURRAN:** And, you do all of that from here?

1 **PROSPECTIVE JUROR RENN:** Yes, uh-huh.

2 **MR. CURRAN:** Okay, thank you very much.

3 Mr. Simmons. You're an old Air Force guy.

4 **PROSPECTIVE JUROR SIMMONS:** Yes, sir.

5 **MR. CURRAN:** But you do volunteer work on the USS
6 Hornet?

7 **PROSPECTIVE JUROR SIMMONS:** Yes, I do.

8 **MR. CURRAN:** And that is an old aircraft carrier.

9 **PROSPECTIVE JUROR SIMMONS:** Yes.

10 **MR. CURRAN:** What sort of restoration do you do on
11 that?

12 **PROSPECTIVE JUROR SIMMONS:** Well, I work on --
13 everything's Bakelite. Shine up the brass and paint it black
14 again, it looks really nice.

15 **MR. CURRAN:** And is that pure, you know, a labor of
16 love? You enjoy doing it, and that is why you volunteer and
17 do it?

18 **PROSPECTIVE JUROR SIMMONS:** I do. It's funny, I was
19 in the Air Force, but there is some strong attachment to the
20 Navy. I don't know what it is, but I feel at home on the
21 carrier, and I like working on it.

22 **MR. CURRAN:** They've got to land the planes
23 somewhere, right?

24 **PROSPECTIVE JUROR SIMMONS:** (Shrugs shoulders)

25 **MR. CURRAN:** Thank you very much, sir.

1 Ms. Mahoney? You sell mens' clothes at Macy's?

2 **PROSPECTIVE JUROR MAHONEY:** Correct.

3 **MR. CURRAN:** Do you have any responsibility for
4 purchasing?

5 **PROSPECTIVE JUROR MAHONEY:** No.

6 **MR. CURRAN:** And forgive me if you touched on this a
7 little bit before, but you don't work with the suppliers of
8 the clothing lines at all?

9 **PROSPECTIVE JUROR MAHONEY:** No, no.

10 **MR. CURRAN:** Thanks very much.

11 Mr. Hrepcshak.

12 **PROSPECTIVE JUROR HREPCSHAK:** Yes.

13 **MR. CURRAN:** You referred to, in your questionnaire
14 and earlier under questioning, about the -- being a grocery
15 checker.

16 **PROSPECTIVE JUROR HREPCSHAK:** Yes.

17 **MR. CURRAN:** And you used that expression, I think,
18 in responding to a question by Mr. Silberfeld.

19 Are you aware of whether your employer ever checks the
20 prices at other supermarkets, and not just verifies whether
21 things are priced correctly?

22 **PROSPECTIVE JUROR HREPCSHAK:** That I'm not sure
23 about; I'm really not sure.

24 **MR. CURRAN:** Have you had any role in that?

25 **PROSPECTIVE JUROR HREPCSHAK:** I guess not. We have

1 courtesy clerks that check the prices that will call for a
2 price check, and we will get the price.

3 **MR. CURRAN:** So those are checkers within the store
4 who come to make sure that the product is marked correctly?

5 **PROSPECTIVE JUROR HREPCSHAK:** Yes, like the customer
6 will have a discrepancy, they'll say "It's supposed to be
7 cheaper than that," and then we will send a courtesy clerk to
8 get the price check.

9 **MR. CURRAN:** Do you have any involvement in coupons?
10 And -- or ads or products that are on sale and where people
11 have to bring in flyers, that kind of thing?

12 **PROSPECTIVE JUROR HREPCSHAK:** No. They show the
13 coupons, and I use a scanner, and they buy the item, and I run
14 the coupon across the scanner. It will pick up. And if it
15 doesn't pick up, that means they didn't buy the item.

16 **MR. CURRAN:** Okay. So you probably spend a lot of
17 time in the aisles.

18 **PROSPECTIVE JUROR HREPCSHAK:** Checkstand mostly, but
19 if I walk down the aisles on my break and the customer needs
20 help, I'll help them.

21 **MR. CURRAN:** Do you ever see competitors, so, people
22 who work at other supermarkets in yours, checking prices?

23 **PROSPECTIVE JUROR HREPCSHAK:** Not -- not that I'm
24 aware of, no.

25 **MR. CURRAN:** Thank you very much. Mr. Kolhoven.

1 **PROSPECTIVE JUROR KOLHOVEN:** Yes, sir.

2 **MR. CURRAN:** Sorry, I skipped Mr. Chen, right?

3 **PROSPECTIVE JUROR CHEN:** Yes.

4 **MR. CURRAN:** Yes. Mr. Chen, so you are a civil
5 engineer?

6 **PROSPECTIVE JUROR CHEN:** Yes.

7 **MR. CURRAN:** And you talked a little bit about some
8 of the projects that you work on.

9 **PROSPECTIVE JUROR CHEN:** Yes.

10 **MR. CURRAN:** Can you be a little bit more specific on
11 the nature of the projects?

12 **PROSPECTIVE JUROR CHEN:** Civic public works project
13 like bridge retrofits and the utility underground replacements
14 and the park and rec replacements on those civic projects, in
15 the Silicon Valley area.

16 **MR. CURRAN:** Thank you very much.

17 Now, Mr. Kolhoven -- or is it Doctor?

18 **PROSPECTIVE JUROR KOLHOVEN:** Yes.

19 **MR. CURRAN:** I know you got your Ph.D. in psychology.
20 It must have been some specific focus in getting the Ph.D.

21 **PROSPECTIVE JUROR KOLHOVEN:** I do a lot of work in
22 forensic psychology, that's my area.

23 **MR. CURRAN:** Not sure what that is.

24 **PROSPECTIVE JUROR KOLHOVEN:** For the courts, testing,
25 evaluation, primarily of sex offenders in Sacramento, in the

1 nineties.

2 I also worked, did a pilot program for a State of
3 California, doing dependency mediation cases. Sacramento was
4 one of five pilot counties at the time, again in the nineties.
5 And work primarily in behavior and mental health, doing some
6 administration, some also depending on the locale, doing
7 evaluations, 5150 holds.

8 **MR. CURRAN:** Have you testified in court proceedings?

9 **PROSPECTIVE JUROR KOLHOVEN:** I was trying to think of
10 that earlier. I'm sure that I have been called. I don't know
11 that I've actually had to testify, but it's -- it is likely in
12 the past that I've had to at least attest to a report that
13 I've provided.

14 **MR. CURRAN:** Gotcha. Any interactions with Toshiba
15 people or products?

16 **PROSPECTIVE JUROR KOLHOVEN:** No. I think on my
17 questionnaire I'm kind of -- we do a lot of comparison
18 shopping. I'm sure that I bought Toshiba products, or my son
19 has, or -- in our family.

20 **MR. CURRAN:** Any lingering opinions one way or the
21 other?

22 **PROSPECTIVE JUROR KOLHOVEN:** Quality. Quality
23 products, yeah.

24 **MR. CURRAN:** All right, thank you very much.

25 Mr. Ito. I think you have already explained that in your

1 position you are not involved in the sales of products.

2 Correct?

3 **PROSPECTIVE JUROR ITO:** Correct.

4 **MR. CURRAN:** Yeah. Have you purchased, to the best
5 of your recollection, Toshiba products, or interacted with
6 Toshiba folks at all?

7 **PROSPECTIVE JUROR ITO:** Not to my recollection.

8 **MR. CURRAN:** Okay, thank you.

9 And then finally, Ms. McClain? Ms. McClain, you report
10 that you are a project manager, and I think you touched upon
11 the health care field when you spoke before.

12 What types of projects do you manage?

13 **PROSPECTIVE JUROR MCCLAIN:** The integration between
14 the provider and the supplier. Just integrating one of our
15 software solutions.

16 **MR. CURRAN:** And, who are the provider and the
17 supplier?

18 **PROSPECTIVE JUROR MCCLAIN:** The provider can be the
19 hospital, and the supplier can be, you know, the business
20 that's providing the Band-Aids or catheters or whatever
21 medical -- medical supplies.

22 **MR. CURRAN:** And by "integration manager," you make
23 sure they link correctly?

24 **PROSPECTIVE JUROR MCCLAIN:** Correct.

25 **MR. CURRAN:** Yeah. Have you had any exposure or do

1 you have any recollection of dealing with Toshiba products or
2 people?

3 **PROSPECTIVE JUROR MCCLAIN:** No.

4 **MR. CURRAN:** No. Okay. Folks, thank you very much.
5 I appreciate your patience with this process.

6 Thank you, Your Honor.

7 **THE COURT:** All right. Thank you, Mr. Curran.

8 At this time, ladies and gentlemen, we shall have a
9 sidebar conference. Meaning, you may be at ease and we shall
10 get back to you.

11 (Sidebar discussion held on the Record, out of the hearing
12 of the Jury Venire)

13 **THE COURT:** Are there any challenges for cause?
14 Plaintiffs first.

15 **MR. SILBERFELD:** I would like to challenge Dr. Than.

16 **THE COURT:** Cause?

17 **MR. TOTO:** (Inaudible)

18 **MR. SILBERFELD:** 24, Your Honor.

19 **THE COURT:** What?

20 **MR. SILBERFELD:** And this may be not an explicit
21 challenge for cross.

22 I just fundamentally think that her role in the health
23 care of her mother-in-law, her affect here, and everything she
24 told us just suggests to me she is not going to be here, she
25 is not going to make it to the end of this case, given what's

1 going on with her mother-in-law's near-hospice condition and
2 the fact that she's looked to not only as a family member, but
3 the health-care provider for that.

4 For that reason, I think she ought to be excused.

5 **MR. TOTO:** Your Honor, we oppose that. We think a
6 lot of people here have personal issues, and we do feel
7 sympathy for her. But, we don't think that's a valid enough
8 reason at this point to let her go.

9 **THE COURT:** I agree, so that is overruled.

10 Anybody else?

11 **MR. SILBERFELD:** No.

12 **MR. TOTO:** Do you have any?

13 **MR. FREITAS:** No.

14 **THE COURT:** Challenge for cause for HannStar?

15 **MR. FREITAS:** No challenges for cause, Your Honor.

16 **MR. TOTO:** Okay, I have one or two, probably two.
17 No. 6, Nathan Moya. This is the person who's in competitive
18 intelligence, Your Honor.

19 **THE COURT:** Uh-huh.

20 **MR. TOTO:** And as I'm sure you will remember from
21 last trial, a big issue is going to be in this case price
22 checking and competitive intelligence. And unlike last
23 summer, where it was just Toshiba's conduct that was at issue,
24 here, also, there's going to be testimony about Best Buy
25 checking prices and doing things like that.

1 So, we think he brings preconceived notions of what's
2 legal, what's illegal, to the case. So that's one issue that
3 we think he has, you know, a real ability to poison the well
4 and bring his own opinions into it.

5 Secondly, he's got some connections to lawyers and law
6 firms in this case. His boyfriend worked for Sidley & Austin
7 -- works for -- who used to represent LG. Now, LG is no
8 longer in the case, but there is going to be testimony about
9 LG.

10 And then finally, Salesforce, his company, is a White &
11 Case client. So, we feel for all those reasons, he should be
12 dismissed for cause.

13 **MR. SILBERFELD:** I examined Mr. Moya about his
14 open-mindedness. I think he perfectly answered the question
15 about being able to set aside anything he knows.

16 If Best Buy's competitive intelligence program is at issue
17 in this case, I should be the one making this challenge. I'm
18 not. I'm perfectly satisfied that he can serve and serve
19 well. He's an intelligent person. He knows the difference
20 between his work and whatever the Court instructs him about in
21 the case.

22 And, I think Mr. Curran asked him questions about specific
23 lawyers. Those may have been the White & Case interfaces at
24 salesforce.com, I don't know --

25 **THE COURT:** Is that who they were?

1 **MR. CURRAN:** No.

2 **MR. SILBERFELD:** He didn't evidence any --

3 **MR. CURRAN:** I'm happy to tell you, three of them
4 were Sidley & Austin lawyers who previously appeared before
5 Your Honor in this case. The other one was a former White &
6 Case lawyer who is now, I believe, the general counsel --

7 **MR. TOTO:** Managing counsel.

8 **MR. CURRAN:** -- managing counsel of salesforce.com.

9 **MR. SILBERFELD:** Didn't know any of them.

10 **THE COURT:** I agree, so the objection is overruled.
11 Who else?

12 **MR. TOTO:** One final one, Your Honor, real quick,
13 No. 9. Again, we have talked about Raymond Thomas,
14 steamfitter. Again, he's repeatedly said that he thinks
15 prices are too high and because products are made overseas,
16 and he's unhappy about shipping of jobs overseas. He seems to
17 express a clear bias against foreign companies.

18 So again, we would request that he be dismissed for cause.

19 **MR. SILBERFELD:** Early on, to the Court's
20 questioning, he said he thought he could be fair. I think
21 he's just fine.

22 **THE COURT:** I do, too. I think he's actually denied
23 any of the prejudice you attribute to him. So, anyway, that
24 will be denied as well.

25 Is that it?

1 **MR. CURRAN:** Let me just check my -- yes, that's it,
2 Your Honor.

3 **THE COURT:** Okay. So, then --

4 **THE CLERK:** We have excused 28?

5 **THE COURT:** We excused 28 already. Which is
6 Ms. Wang.

7 **MR. TOTO:** Yeah.

8 **THE COURT:** So then we haven't excused any other ones
9 here, right? So that means -- two, three, four, five, six,
10 seven, eight, nine, ten, eleven, twelve, thirteen, fourteen,
11 fifteen, sixteen, seventeen, eighteen -- so as I see it, then,
12 you need not concern yourselves with anybody past Ms. Mahoney.
13 Is that consistent with your calculation?

14 **MR. TOTO:** Give me a second.

15 I actually got up to 34.

16 **MR. CURRAN:** Yeah, I think that's what our table
17 says, as well.

18 **MR. TOTO:** Yeah, 34 is the last one, according to my
19 count, Your Honor.

20 **THE COURT:** Mr. Hrepcshak -- oh, yes, I had forgotten
21 Ms. Wang. So then, you need not concern yourself with anybody
22 past Mr. Hrepcshak. Correct?

23 **MR. TOTO:** Yes.

24 **THE COURT:** At this point you can do your peremptory
25 challenges on paper, go Plaintiff, Defendant, Plaintiff,

1 Defendant. If you pass, that's okay, but it counts as a
2 challenge.

3 **THE CLERK:** So, just -- so you write, and then pass
4 to them, and then they do two, and you give it back.

5 **THE COURT:** Although, let me put it differently. If
6 you pass, that's okay. But two passes in a row, and we've got
7 a jury.

8 **MR. CURRAN:** Understood.

9 **THE COURT:** Understood?

10 **MR. TOTO:** Two passes by the same side, or pass back
11 and forth?

12 **THE COURT:** Back and forth.

13 **MR. TOTO:** Right, got it.

14 **THE COURT:** The reason I'm weaseling is because there
15 is a new Supreme Court case that said -- or maybe it's Ninth
16 Circuit -- you can't count a pass as if it were a challenge.
17 A criminal case.

18 I have not heard that that's applicable to civil cases but
19 lest we have to do this again on my account unnecessarily, I'm
20 not sure how I'll do that.

21 So if you use them all up, so be it. If you pass, let me
22 know, and I'll let you know how that comes out.

23 **MR. SILBERFELD:** And we're to put the jury number and
24 name? Is that the idea?

25 **THE CLERK:** Yes.

1 **MR. SILBERFELD:** Okay.

2 **THE COURT:** Yeah.

3 **MR. TOTO:** Numbers we have been using.

4 **THE CLERK:** Well, no, just the actual -- I don't know
5 what number you have been using but --

6 **THE COURT:** The number off the list.

7 **THE CLERK:** The list.

8 **MR. TOTO:** Got it.

9 **THE CLERK:** The list.

10 **MR. SILBERFELD:** Yeah.

11 **THE COURT:** Court indicates.

12 **THE CLERK:** Not this one.

13 **MR. SILBERFELD:** Okay.

14 **THE COURT:** You do it and give it to them, they do it
15 and then back and forth.

16 **MR. SILBERFELD:** Until there is no more room.

17 **MR. CURRAN:** The strikes.

18 **THE COURT:** Okay.

19 **MR. SILBERFELD:** May we have a moment?

20 **THE COURT:** You may have, but I'm going to tell them
21 now that we have paperwork to do and it won't take more than a
22 few minutes.

23 **MR. SILBERFELD:** Right.

24 **MR. CURRAN:** Thank you.

25 (Sidebar discussion concluded)

1 **THE COURT:** Ladies and gentlemen, we now have a
2 little bit of paperwork to do, which we shall do in quiet, so
3 you may continue not paying any attention. But, we should be
4 done with this whole process very soon.

5 (A pause in the proceedings)

6 **THE COURT:** All right, ladies and gentlemen, we are
7 practically -- practically -- to the end of this journey.

8 Tracy is going to call out the list of the ten of you who
9 have been selected to be on the jury. As she reads the list,
10 you should all sit quietly and wait until the end.

11 And then if your name has not been called, with our
12 thanks, you are excused from this setting and you need to
13 go -- just tell the jury office that you have been excused
14 from this trial.

15 And those fortunate few whose names are read should just
16 stay put, and we will tell you what to do next. So that will
17 happen in just a moment.

18 So, these will be the ones of you who have been selected.

19 **THE CLERK:** Okay. Elizabeth Colby. Vishal Sangal.
20 Patricia Hanson. Tricia Irwin. Susan Linkhorn. Than Than.
21 Richard Renn. James Simmons, Marilyn Mahoney, and Michael
22 Hrepcshak.

23 **THE COURT:** So, those of you whose names were not
24 called, we are very grateful to you for your -- your
25 cooperation today. You are excused from this trial. And

1 please go back to the jury office and tell them that.

2 (Jury Venire excused)

3 **THE COURT:** And now for you folks, Tracy will tell
4 you what to do.

5 **THE CLERK:** Okay. So we are going to -- we have ten
6 jurors, we are going to have five in the back.

7 Is that how you want to do it?

8 **THE COURT:** Five in the back and five in the front.

9 **THE CLERK:** Five in the front. So, Mr. Sangal, if
10 you could be Juror No. 2 now in the back, you three ladies
11 just stay in the same order but go into the back row.

12 Ms. Than, if you want to come to the front row, and then
13 Mr. Renn, follow her. James, Mr. Simmons, you would be next.
14 Marilyn, and then Mr. Hrepcshak in the front row. No, all the
15 way down.

16 **THE COURT:** The idea is to get you all as close as
17 possible to the witness stand, because that's where you will
18 get your evidence in the case.

19 Well, congratulations, ladies and gentlemen. You have
20 survived a grueling process, and you will now become the jury
21 in this case. Let me tell you what will happen next, which is
22 basically I'll let you go.

23 Tracy will first will swear you as jurors. So you will
24 take the oath to well and truly hear the evidence in the case.
25 And then, Tracy will take you back to the jury room which is

1 right through this door, she will give you your jury badges,
2 she will tell you how to get in and out of the building, and
3 show you the microwave and the refrigerator and the free
4 cookies, which are of very low quality, but they're free.

5 And, and then we will ask you to please come back tomorrow
6 morning at 8:30. So we will begin the trial tomorrow morning
7 at 8:30.

8 Although we've -- it's been a leisurely day, we will try
9 very hard to get this case to you in as efficient way as we
10 can. The issues are very important to all the litigants, and
11 there is a lot of territory to cover. But we will do our very
12 best to get it to you efficiently and clearly.

13 So, Tracy, I think you should first swear the jury.

14 **THE CLERK:** Okay. If you could, please stand and
15 raise your right hand.

16 (Jury sworn in)

17 **THE CLERK:** Thank you.

18 **THE COURT:** All right, thank you, ladies and
19 gentlemen.

20 At this point I'll turn you over to Tracy, who will show
21 you the ropes. And then we will see you in this courtroom at
22 8:30 tomorrow morning to begin the trial. Thank you. Have a
23 good evening.

24 Oh, oh, wait. One last thing I have to tell you before
25 you go. I'll have a set of instructions to -- you might as