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REPORTER'S RECORD
VOLUME 1 OF 1
TRIAL COURT CAUSE NO. 2010-CI-10977

JOHN K. MEYER, ET AL
V.

IN THE DISTRICT COURT

JP MORGAN CHASE BANK, N.A.,
INDIVIDUALLY/CORPORATELY AND
AS TRUSTEE OF THE SOUTH TEXAS
SYNDICATE TRUST AND
GARY P. AYMES

BEXAR COUNTY, TEXAS
408TH JUDICIAL DISTRICT

VOIR DIRE EXAMINATION

On the 4th day of November, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before the HONORABLE LARRY NOLL, Judge Presiding, held in the 408th District Court, San Antonio, Bexar County, Texas.

Proceedings reported by machine shorthand.

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VOIR DIRE EXAMINATION

1
2 THE COURT: All right. Good morning, ladies
3 and gentlemen, and welcome back to the 408th. We will
4 start the process this morning of the general questioning
5 of you as a panel. We are going to permit the lawyers to
6 give you a brief statement about what this case is about
7 and then they will be asking you some general questions.
8 Both sides will do that.

9 Once we finish with the general questioning,
10 then we will start the individual questioning. One of
11 the things I want to remind you about, as you go through
12 the day like on breaks or over the lunch hour if you
13 would make it back by the central jury room so that you
14 can get your parking ticket stamped. That's how you get
15 your \$2 parking. So I am assuming that everybody was
16 able to get in the lot. Am I correct? In the garage?
17 All right. Thank you for being willing to be here
18 because I want to make sure in this process that we can
19 be as accommodating as possible. **We know there's nothing**
20 **I can say to make you feel any better about being here,**
21 **but I just am always reminded when we have juries about**
22 **why we have juries, and I think about the people that**
23 **have gone before us that have paid the ultimate price to**
24 **ensure that the Bill of Rights means something to**
25 **everyone in this state and this country. It's a timeout**

1 *from our daily routine in order to do civic duty. Like*
2 *today, civic duty. People vote. Today you are*
3 *participating in another right that's guaranteed by our*
4 *Bill of Rights, and that is the right to help those who*
5 *have requested a jury to resolve disputed issues that*
6 *they have.*

7 *And so that is what this process is all*
8 *about, and I gave you a little bit of the information*
9 *yesterday about how this process will go. So just the*
10 *fact that you are here today does not mean that everyone*
11 *is going to be on this jury because there's only a*
12 *certain number of you that will be selected. So I*
13 *appreciate all of those of you who indicated to us*
14 *yesterday that you could spend the time if selected. And*
15 *so with that in mind, we are going to proceed.*

16 *Keep in mind that Officer Helton is your*
17 *conduit if you need something from me outside of the time*
18 *we are here in court. Obviously when we are here all*
19 *together if you have got a question everybody gets to*
20 *hear the question. When it's not court time and Officer*
21 *Helton is available, if you need to communicate with me,*
22 *you do it through Officer Helton and I will share your*
23 *concern or question with the rest of the people here. So*
24 *at this time, we will proceed with the general*
25 *questioning and a little bit about what this case is*

1 about from the plaintiffs' side. So, sir, are you ready
2 to proceed?

3 MR. FLEGLE: We are, Your Honor.

4 THE COURT: Are you going to use the lapel
5 mic or the hand-held mic?

6 MR. FLEGLE: Lapel mic, Your Honor.

7 THE COURT: All right. Ladies and
8 gentlemen, as I pointed out yesterday and you see my
9 court reporter up here, he cannot move from this position
10 so they are going to be asking you questions of a general
11 nature. So even if you think it remotely applies to you,
12 raise your card. When we come back on specific, you will
13 have the karaoke mic like we did yesterday with those
14 people that I was questioning about their inability to be
15 here for the length of time that has been estimated for
16 this trial. So we will be able to indulge in
17 conversation back and forth, and that way my court
18 reporter will be able to get down everything that is said
19 by you and said by the lawyers.

20 So in this initial phase here when the
21 questions come, use your cards. I assume everybody has
22 got a card on their seat there. Those of you that have
23 nines and sixes, remember when you hold it up what it
24 looks like. Some of those things, a three looks like an
25 eight or whatever. So just keep in mind how you hold it

1 up. That's how the parties are going to be recording
2 your responses in the general session. When we start the
3 individual session one by one, it will be just like was
4 done yesterday with the people who told me that they had
5 various reasons why they could not be here.

6 So at this time, sir, if you are ready, then
7 tell me when you are ready and I will keep track of time.
8 And, sir, tell me how much time did you -- did we agree
9 on that it would take here on the general?

10 MR. FLEGLE: Your Honor, I believe 40
11 minutes or less.

12 THE COURT: All right. I will keep time so
13 you tell me when you are ready. That's when I will start
14 counting time.

15 MR. FLEGLE: I am ready, Your Honor.

16 THE COURT: All right. Go ahead.

17 MR. FLEGLE: Can we -- may we have the
18 screen, please, with our projector?

19 THE COURT: Sure. All right. Since I can't
20 see the screen, I assume it's up over there. Can
21 everybody see that?

22 POTENTIAL JURORS: Yes, sir.

23 THE COURT: All right. Go ahead, sir. I
24 will start counting time right now.

25 MR. FLEGLE: May it please the court.

1 Ladies and gentlemen, good morning.

2 POTENTIAL JURORS: Good morning.

3 MR. FLEGLE: This is an important case.
4 It's a big case. We have got a trust that's over 100
5 years old, South Texas, mineral rights to over 132,000
6 acres, 285 families and beneficiaries that are
7 beneficiaries to the trust. Over 140 of those are
8 plaintiffs in this case.

9 One of the most important things about this
10 trust is guess where it is located. Smack dab in the
11 Eagle Ford shale. And guess where the first discovery
12 well in the Eagle Ford shale was drilled. On the South
13 Texas Syndicate Trust rights.

14 We have a trust. The beneficiaries of the
15 trust in 1951 chose a trustee. That trustee was one of
16 the fine banks in San Antonio, the Alamo National Bank,
17 and the Alamo National Bank was our trustee for over 50
18 years when in 2001 we inherited JPMorgan Chase Bank
19 through all those mergers and things the banks do.

20 This case is about the conduct of JPMorgan
21 Chase. I'm not going to take the time today to describe
22 that conduct, but I will tell the 14 of you that are
23 picked for this jury about that conduct in my opening
24 statement.

25 This is a simple case about a trustee, a

1 trustee's duties, and those duties -- and whether those
2 duties were breached with our beneficiaries in the trust,
3 and here's what we claim the standard of their conduct
4 is. The bank failed to exercise reasonable care, skill,
5 and caution in managing our mineral rights.

6 Now, we are in what's called voir dire.
7 Some of you have been on jury panels before. The purpose
8 of voir dire is to talk about the issues which I'm going
9 to do in just a minute with you, to find out your
10 opinions which we will do in our individual part, right
11 now I just need numbers, and see if you can be completely
12 fair in this case to the parties in this case on what we
13 are going to address.

14 I have got 15 topics to go through with you.
15 We will go through them as efficiently as we can because
16 I value your time and I appreciate your time for being
17 here today. What we are doing is looking to see if
18 anybody has a bias or prejudice that would keep them from
19 being a fair juror.

20 The first topic that I have got is the
21 burden of proof. It's the preponderance of the evidence.
22 Preponderance of the evidence we believe you will be
23 instructed by the court is the greater weight of the
24 credible evidence. Now, let me give you an example of
25 that.

1 We had an opening -- the first basketball
2 game this year for the Spurs. They played the Mavericks.
3 The score was 101 to 100. Okay. Did the Spurs win? Of
4 course they did. They didn't have to do ten percent.
5 They didn't have to do five percent. They had to do one
6 point, and that's my burden in this case.

7 Is there anybody here that has a
8 preconceived notion or doesn't understand this
9 preponderance of the evidence? I need you to raise your
10 cards if anybody does. And for the record, I see no
11 cards.

12 My second topic is opposing lawsuits, and I
13 have got a general question for you first and then I have
14 got a specific question for you. The general question
15 is, is there anyone here -- and be honest with me and
16 hold your card up because there's no right or wrong
17 answers here today. There's only honest answers and
18 that's all I'm asking for. Is there anyone here who does
19 not believe in filing a lawsuit where you or your family
20 lost a lot of money due to somebody else's conduct? Is
21 there anybody here that just can't do that? I have got
22 one number. It's number 11 for the court reporter.
23 Thank you. We can't talk right now. I apologize, ma'am.
24 I wish I could, but that's just the rules right now so we
25 can be efficient here.

1 MR. SPENCER: 38 back there.

2 MR. FLEGLE: Oh, I'm sorry. 38. Okay.

3 Thank you so much. Thank you. Anybody else? Again, no
4 right or wrong answers. Just honest ones.

5 Let me ask it another way. I have got a
6 slide on the screen here. If you had been taken
7 advantage of by a business partner and you lost a lot of
8 money, would you sue? I'm going to give you some options
9 here. One is definitely not. I wouldn't sue at all.
10 Two is no, I wouldn't sue. Not as strong. Three is
11 maybe. Four is yes. Five is definitely yes.

12 My first question to the panel is how many
13 are definitely not? This is a separate question. So how
14 many would definitely not sue if you had been taken
15 advantage of by a business partner and you lost a lot of
16 money? Anybody? For the record, there are no ones.

17 Number two, less than definitely not, no.
18 Is there anybody here who would not sue at all? Juror
19 No. 11. Thank you very much, ma'am. Anybody else? If
20 you had been taken advantage of by a business partner and
21 you lost a lot of money. For the record, that was all
22 that we had in response.

23 Topic number three. Other than a divorce
24 case, I don't want to get into that with anybody, or a
25 car accident case and I don't want to get into that with

1 anybody, and I'm sorry if anybody has had to deal with
2 either of those, but let's put those to the side. Has
3 anyone been a defendant in a civil case? If you have,
4 raise your hand. You have been a defendant in a civil
5 case. Somebody sued you or any family members or your
6 business. Okay. That's good. All right. Could you
7 hold that up just so that I got it? Number 19, number
8 26.

9 UNIDENTIFIED JUROR: Could you repeat the
10 question again?

11 MR. FLEGLE: Sure. Other than a divorce
12 case or a car accident case, has anyone been a defendant
13 in a civil case, and that's anyone or their family or
14 their business? Number 41. I'm a little bit out of
15 order here. Number 22. And 11, I have got you. Okay.
16 Thank you. Anybody else?

17 Okay. Topic number four. I want to talk a
18 little bit about JPMorgan. They are the defendant in
19 this case. Please raise your hand if you are a current
20 customer of JPMorgan Chase. Do we have any current
21 customers? All right. Hang on. When I read your
22 number, you can take your card down and I apologize for
23 those in the back. Juror number one, number four, thank
24 you, number seven, number nine, thank you, number 21,
25 number 23, thank you, number 32, number 34, number 41,

1 and number 43.

2 Now then, please raise your hand if you have
3 been a former customer of JPMorgan Chase Bank. A former
4 customer. Okay. Hang on on the former customers. 11,
5 16, thank you, 22, 24, 31, 35, thank you, 37, and 44.
6 Okay. Thanks.

7 Now, for those of you who just raised your
8 hands as former customers, would that relationship cause
9 you to start the trial favoring JPMorgan Chase? Those
10 who raised your hand, does that relationship cause you to
11 start this trial saying I think the defendant is already
12 right or I'm leaning towards the defendant? Anybody in
13 the room? I'm not going to ask you this for those who
14 raised your hands, but I do want to ask if there was some
15 kind of bad experience with you being a former customer
16 of JPMorgan Chase Bank.

17 Let me tell you. The circumstances of this
18 case are totally different. Is there anybody who cannot
19 take that bad experience with Chase Bank and put it aside
20 and judge this case on the admitted evidence and the law
21 as provided you by His Honor, the court? Anybody?
22 Number 24. Thank you. Anybody else?

23 The next question. Has anybody currently or
24 in the past done business with JPMorgan? Separate from
25 being a customer, has anybody done business with

1 JPMorgan?

2 UNIDENTIFIED JUROR: As business --

3 THE REPORTER: I'm sorry. I can't hear you,
4 sir.

5 THE COURT: All right. Leave it as is. You
6 have to ask the question differently or move on to
7 something else.

8 MR. FLEGLE: Thank you, Your Honor. Has
9 anyone had anything other than a checking account or a
10 loan transaction with JPMorgan where JPMorgan was
11 actually a business partner or somebody in the business
12 itself? And for the record, I see no cards.

13 Does anyone currently own stock in JPMorgan
14 Chase? Okay. Just a second. Juror number seven and
15 juror number 23 and maybe juror 40. Okay. Thank you.

16 Now then, is anybody currently employed by
17 JPMorgan Chase? Do we have any current employees? For
18 the record, I see none.

19 Do we have any former employees of JPMorgan
20 Chase? And for the record, I see none.

21 Now, I'm just going to do a catchall here.
22 I have asked about business, about customers, and I have
23 asked about employment. Is there anybody here that has
24 any other association or connection? Is anybody employed
25 by JPMorgan Chase to your knowledge? Family, friends,

1 next door neighbor, anything? Okay. And for the record,
2 I see none. Oh, I'm sorry. Number 48. Okay. And
3 number 48, would that experience cause -- No. Let me ask
4 it generally. I will ask it generally. Would the
5 experience with these associations or connections cause
6 you to start this trial favoring the defendant bank? If
7 it would cause you to favor the bank, please raise your
8 number. I see no number for the record.

9 Now, I'm going to go away from JPMorgan
10 Chase and look at the banking industry. Does anyone have
11 a current association or connection with the banking
12 industry or the finance industry? Banking or finance?
13 Okay. First row, we have got juror one, juror six, and
14 you can take your cards down.

15 UNIDENTIFIED JUROR: Can I ask for
16 clarification?

17 MR. FLEGLE: I'm sorry. The best I can do
18 is --

19 THE COURT: Just raise your card. They will
20 take it up on the individual questioning.

21 MR. FLEGLE: Does anyone have a current
22 association or connection with the banking industry or
23 the finance industry? Okay. Seven and we have got eight
24 and we have got 15, 18, thank you, 23, thank you, 30,
25 thank you, 34, thank you, 40, thank you, 41, thank you,

1 and 48. Anyone else?

2 Okay. Topic five, what I call bad
3 experience with a bank. Has anyone had a bad experience
4 with a bank? I need the cards raised. Okay. It will
5 take just a minute here. Juror one, thank you, four,
6 five, thank you, 12, 13, thank you, 17, 18, 19, 20, thank
7 you, 21, thank you, 23, 24, thank you, 32, thank you, 34,
8 35, thank you, 38, and 41. Thank you.

9 Now, I'm not going to ask you about that
10 experience. What I want to know of those people who just
11 gave me -- showed me their numbers is can you look at
12 this case which is totally different from the experience
13 that you had, totally different people, totally different
14 transactions, and judge the transactions in this case
15 based on the evidence you hear as admitted by the court
16 and the law that you receive as instructed by the court?
17 Is there anybody that thinks they cannot do that? Raise
18 your card that just gave me a card. All right. Thank
19 you. Okay. So we have got 5, 21, 24, thank you, 32, 34,
20 35, and 38. Thank you.

21 Topic number six is lawyers. I just want to
22 ask about your connection with the defense lawyers.
23 Their San Antonio counsel is Hornberger, Sheehan, Fuller,
24 Wittenberg & Garza. Does anybody have any connection
25 with that firm? Anybody ever heard of them before, had

1 any connections with them, either hired them or they were
2 on the other side? Thank you. Number 13. Number 11.
3 Thank you.

4 Now then, let me expand it a little bit and
5 does anybody have any neighbors or any friends or serve
6 on any boards or any committees or go to church or
7 anything with anybody that you know is a member or an
8 employee of Hornberger, Sheehan, Fuller, Wittenberg &
9 Garza? For the record, I see no numbers. And just so
10 I'm clear here, has anybody ever hired them as counsel?
11 For the record, I see no numbers.

12 Topic number seven is witnesses. I just
13 want to ask you about a few of the witnesses in the case.
14 *One of the plaintiffs in this case is a beneficiary and*
15 *his name is Jack Meyer. Mr. Meyer was formerly the*
16 *president of the Alamo National Bank. He retired in*
17 *1986.* His son, Ted Meyer, is sitting right here in the
18 courtroom and is one of the beneficiary representatives
19 for this case. Does anybody have any relationship, know
20 of, heard of, been with Jack Meyer or Ted Meyer? For the
21 record, I see none.

22 There are *two geologists* in this case --
23 geophysicist, geologist, one or the other. They are tech
24 people that were used by the JPMorgan bank as trustee for
25 certain things related to the South Texas Syndicate

1 Trust. One is named Robert Buehler, B-u-e-h-l-e-r. The
2 other one is named Joe Finger. Does anybody know either
3 Mr. Buehler or Mr. Finger or have any association with
4 them whatsoever? For the record, I see no numbers.

5 Now I want to ask just a little bit about
6 the rights that we are talking about in this case to see
7 if anybody has any relationship to mineral rights. As
8 you know, oil and gas in Texas is owned by the persons
9 that either own the land or actually have the mineral
10 rights which can be severed from the land. Does anyone
11 own mineral rights? Just a second. Okay. We have got
12 juror 11, thank you, 13, 15, thank you, 22, thank you,
13 and 29. Anyone else? And this would include -- Let me
14 expand that just a minute. Other than the ones that I
15 just had, does anyone to your knowledge have family
16 members who have mineral rights? Okay. Thank you.
17 Juror six, again juror 11, and juror 40.

18 Now, does anybody get a royalty check for
19 those mineral rights? Juror 13, 15, and 29. Now I'm
20 going to ask you a slightly different question because
21 this is an important concept. Has anybody been a mineral
22 manager? Managed minerals on their own or for somebody
23 else? For the record, I see none.

24 Has anybody had a mineral manager work for
25 them or your family? For the record, I see none.

1 Now, let me ask you this. How many of you
2 have heard of the Eagle Ford shale play? Okay. Give me
3 a moment here. Be patient with me. 1, 4, thank you, 8,
4 9, thank you, 11, 12, thank you, 14, 15, thank you, 17,
5 18, 19, thank you, 21, 23, 24, and 25, thank you, 28 and
6 29, thank you, 35, thank you, 39, 41, thank you, and 46
7 and 47. Thank you.

8 Are any one of you or anyone that you know
9 of receiving royalties from mineral interests in the
10 Eagle Ford shale? Number 15. Thank you. Anyone else?

11 Topic number nine is trustee. I have been a
12 trustee for a close friend. I know what it feels like.
13 It's a burden. It's a big burden, but I'm glad to take
14 it and there's a lot of responsibilities as trustee. The
15 classic trustee these days really is the bank, and that's
16 what we have here in JPMorgan as trustee for our mineral
17 interests or mineral rights during the time that is in
18 dispute.

19 My first question is has anyone ever been a
20 trustee or had somebody appointed as a trustee for them?
21 Anyone? Number 40. Thank you. Anyone else? Number
22 nine, thank you. Number 36, thank you.

23 Now, those who have had an experience with a
24 trustee, any of you had a bad experience with a trustee
25 one way or the other? Okay. I see no hands.

1 Topic number ten. The first question is
2 will you raise your card if you have heard of the term
3 "fiduciary duty"? Can I just see who has heard of that
4 term before? Juror 1, thank you, 4, thank you, 9, thank
5 you, 15, thank you, 17, 18, 19, thank you, 23, thank you,
6 27, 28, thank you, 11.

7 UNIDENTIFIED JUROR: Repeat again.

8 MR. FLEGLE: Yes. Fiduciary duty. Just
9 those two words, fiduciary duty. Thank you. Juror 11.
10 Let's see. Juror 40, thank you, and juror 48.

11 Now, let me just give you an example of
12 fiduciary duty and what we believe is not fiduciary duty.
13 If you are a checking account customer with a bank, the
14 bank doesn't have a fiduciary duty to you. One of the
15 reasons it doesn't is because if you have got a checking
16 account, you get to make the decision on when the check
17 is written and how much is the check and who you write
18 the check to. If the bank is your trustee, the bank
19 makes that decision. And when it makes the decision on
20 who to write the check to, how much to make the check
21 for, and when to do it, the bank is acting as a fiduciary
22 to you. Does anybody have any questions about what I
23 just said about that distinction? If so, just raise your
24 card.

25 We believe the law will show that fiduciary

1 *duty is one of the highest duties under the law. It*
2 *requires due diligence before acting or making a*
3 *decision, and you have got to put as the trustee the*
4 *beneficiary's interest above any and all others. The*
5 *fiduciary, the trustee, is acting for you because it's*
6 *got control.*

7 *Now, is there anybody here that if they are*
8 *instructed -- If you are instructed that the law in this*
9 *situation is that there is a fiduciary duty, is there*
10 *anybody that says I just can't agree with that? I'm not*
11 *going to listen to the law and I'm just going to say I*
12 *don't care what the instruction is. I can't look at this*
13 *as a fiduciary duty. Is there anybody in here? And for*
14 *the record, I see none.*

15 *Now, let me ask a little bit further*
16 *question. Has anybody ever been an executor of an estate*
17 *or had a power-of-attorney for somebody else? Okay.*
18 *number 15, thank you, number 7, thank you, number 18,*
19 *number 19, thank you, number 23, number 25, thank you,*
20 *number 6, thank you, number 37, number 40, number 41,*
21 *number 44, and number 46. You know, in those situations,*
22 *there are certain circumstances where those situations*
23 *have fiduciary duties as well where you have to think for*
24 *the other person.*

25 *Topic 11 is damages. My first question to*

1 you is if the evidence supports a large damages award --
2 and I underline "if the evidence supports." That's all
3 we want. If the evidence supports a large damages award
4 possibly in the hundreds of millions of dollars. Okay.
5 I told you this was an important case. Are you with me?
6 Is there anyone who is unwilling to listen to the
7 evidence -- is there anyone unwilling to listen to the
8 evidence and award the damages that are supported by the
9 credible evidence? Do you remember that burden of proof
10 thing that I was talking with you about a few minutes
11 ago. Is there anyone unwilling to listen to the
12 evidence? Just say I can't do it. For the record, I see
13 none.

14 I'm going to ask this a slightly different
15 way, Your Honor. Thank you. Well, I have got this out
16 of order. There we go. Here's the question on awarding
17 money. If supported and proven by the evidence, and I
18 will say by the credible evidence that is admitted in
19 trial, how comfortable or uncomfortable would you feel in
20 awarding a lot of money in damages? Zero is very
21 uncomfortable. Is there anybody here who is very
22 uncomfortable with that statement? It just makes your
23 skin crawl. For the record, I see none.

24 Let me go one tick further. Is there
25 anybody who is a little bit less than very uncomfortable,

1 doesn't make your skin crawl, but still uncomfortable?
2 For the record, we have juror 19. Thank you very much,
3 ma'am. Anybody else?

4 Let me move it one more tick. Just
5 uncomfortable and number two. Is there anybody who feels
6 like they are at number two on this scale? Raise your
7 hand. Juror 23, thank you. Juror 17, thank you, and
8 juror 34 and 35. Thank you. Anybody else?

9 Topic number 12 deals with business deals.
10 Raise your card if you have had a bad experience with an
11 investment or a business deal. Bad experience with an
12 investment or a business deal. Juror one, thank you,
13 six, thank you, 23, thank you, 21, thank you, and 48,
14 thank you. Anybody else?

15 Now, for those who just raised your card --
16 Again, this case is completely different. Is there
17 anybody who raised their card who is of the mind today
18 that because of your previous bad business experience you
19 will not be able to listen to the evidence in this case
20 and render a verdict based on the admitted credible
21 evidence and the instructions of law from the court? Is
22 there anybody who just sitting there today says I just
23 can't do it, Mr. Flegle? For the record, there are no
24 cards.

25 Topic number 13, if I may, Your Honor, is

1 some of the bank's defenses in this case. I just want to
2 ask you about what we think those of you who are chosen
3 are going to hear. *They are going to say, yeah, but the*
4 *plaintiffs, that's me, that's our beneficiaries, are*
5 *using hindsight. You know, we are looking backwards*
6 *through the barrel and we are using hindsight and that's*
7 *not permitted. They are going to say we made a lot of*
8 *money. So so what? We can rip them off. They just made*
9 *a lot of money. Okay.*

10 *They are going to say, well, for a period of*
11 *time, the plaintiffs liked the mineral manager. You*
12 *know, I asked you about mineral manager awhile ago and*
13 *those of you who are selected will hear about mineral*
14 *managers. They are going to say, well, the plaintiffs*
15 *liked the mineral manager that the bank used. And then*
16 *they are going to say, well, you know, a lot of this*
17 *stuff happened in 2008 and the economy tanked so we get a*
18 *get out of jail free card.*

19 *Is there anybody here today on any of those*
20 *four defenses who will say, Mr. Flegle, if that's what*
21 *the defense is, I'm shutting down. My hand is going*
22 *home. I'm not going to be able to listen to any of the*
23 *evidence. I have already made my mind up and there's no*
24 *reason for me to be here as a juror. Is there anybody on*
25 *those four? Just be honest with me now. Number 21,*

1 thank you, sir, number 20, thank you, sir, number 30,
2 thank you, sir, number 26, thank you, sir, number 42,
3 thank you, sir, number 38, thank you, and number 48.
4 Anyone else? And number 11, thank you.

5 Topic number 14, the lawsuit. Raise your
6 card if you have heard or read about this case, the South
7 Texas Syndicate and JPMorgan Chase. Juror 15. Has
8 anybody else? Juror 11 I see. Okay. Juror 35, thank
9 you. Juror 39, thank you.

10 Of those who have heard about this case, as
11 a result of what you have heard about the case, are you
12 starting off this trial favoring one side or the other?
13 Anybody? Raise your card. All right. For the record, I
14 see no cards.

15 So finally 15. We are there. I call this a
16 catchall so it won't take very long, I think. Is there
17 anybody sitting here feeling like after you have heard
18 what I have said that I'm starting out leaning towards or
19 favoring JPMorgan Chase Bank? Anything I have said?
20 Anybody leaning towards JPMorgan Chase Bank at this point
21 in time? For the record, I see no cards.

22 Last question. Is there anyone who believes
23 that they cannot keep an open mind and listen to the
24 evidence and reach a decision based on the law as
25 instructed by the court? Is there anybody after hearing

1 what you have heard from me that says I can't do that
2 today? And for the record, I see no cards. Your Honor,
3 that concludes our general.

4 THE COURT: All right. Mr. Garza, tell me
5 when you are ready. Are you going to use the lapel mic?

6 MR. GARZA: I will.

7 THE COURT: All right. You wanted 40
8 minutes. Is that correct, counsel?

9 MR. GARZA: I think that's correct, Your
10 Honor.

11 THE COURT: All right. Tell me when you are
12 ready.

13 MR. GARZA: I'm ready.

14 THE COURT: All right. Proceed.

15 MR. GARZA: Okay. Thank you. Ladies and
16 gentlemen of the panel, I want to thank you so much for
17 being here. I know that it's not voluntary and I know it
18 doesn't pay an awful lot, but you are performing a real
19 service just like the court told you earlier.

20 What the purpose of the voir dire is -- and
21 I really like this part of it because this is the one
22 time we get to interchange. We ask questions and so we
23 are going to have these general questions and then we
24 will talk about some of the specifics.

25 Mr. Flegle has covered some of the areas

1 that I'm going to cover so I don't want to retread
2 ground, but I may ask the questions a little bit
3 differently. First of all, I want you to know that we
4 all come into this life through our life experiences.
5 And through those experiences, they form our beliefs and
6 so everyone has different beliefs. In this case, what we
7 want is we want to be able to talk to you about the
8 evidence and we want a fair and impartial jury, and
9 that's the process here as you have probably figured out.

10 Now, the truth of the matter is that not
11 everybody is perfect for every jury. You may be good for
12 one particular jury but maybe not for another. For
13 example, I served on the school board in the Boerne
14 school district for nine years. I probably wouldn't be
15 the best juror to sit on a case where the school was
16 involved or a teacher was involved or the superintendent
17 or something like that. I coached baseball for a number
18 of years, and so I may not be the right person in a case
19 involving Little League baseball or high school baseball
20 or professional baseball.

21 So I just want you to know that just the
22 fact that you raise your cards to different questions
23 does not mean that you are not a good juror. It may be
24 that this isn't the right jury for you. It may be that
25 there's another case that you could do, but, you know,

1 that's what we are doing here.

2 The last thing I want to tell you about is
3 that we really are looking for honest answers. And as
4 Mr. Flegle said, there's no wrong answers. It's just
5 truthful answers and honest answers. I'm going to ask
6 you some direct questions that some of you may think may
7 offend my client if you end up raising your card. We are
8 not going to be offended. We are looking for a fair and
9 impartial jury so please give me your honest opinions
10 about these things.

11 Okay. I have got some general questions
12 about your experiences. Mr. Flegle covered some of
13 these. *In this case, JPMorgan was the trustee of the STS*
14 *trust. And as trustee, JPMorgan negotiated several*
15 *important leases that had a lot of money to these*
16 *beneficiaries, a significant amount of money, and you*
17 *will hear about that. In fact, you will be shocked by*
18 *it.*

19 *Nevertheless, they want more. They believe*
20 *that JPMorgan made some sort of mistakes, that they*
21 *didn't properly manage these leases, and keep in mind*
22 *that this was the original Petrohawk discovery of Eagle*
23 *Ford and you will hear more about that during the case.*
24 *Nevertheless, they believe that we did not do the right*
25 *thing. We will show you that we acted with prudence,*

1 **caution, and care as the law requires.**

2 Now, Mr. Flegle asked about whether anybody
3 had heard anything about this case and we had some hands.
4 I just want to make sure we get those again just because
5 we are going to follow up on that, the hands of people
6 who have heard, read, or know something about this
7 particular case. 15 and 39, 12, and 11 maybe. Okay. We
8 will follow up here a little bit later. 35. Did I miss
9 somebody? I'm sorry. Thank you, sir. Okay. We will
10 follow up on the context of that in more individual
11 questions.

12 We talked about mineral leasing. Does
13 anybody have any experience in mineral leasing where
14 either someone close to them or they themselves were
15 involved with mineral leasing either in the business or
16 working with somebody in the business? Okay. I see no
17 hands for that.

18 Has anyone ever been a beneficiary of a
19 trust? Number 40. Number 9. Okay. I think we covered
20 executor and trustee so I'm not going to recover those
21 right now.

22 Does anybody here have some specialized
23 knowledge about the oil and gas industry of whatever
24 sort? Does anybody here have someone close to them that
25 worked in the oil and gas industry? Thank you. 13.

1 Thank you. We have got number one here on the front row.
2 Sorry if I missed you. 22, 23, and 38. Thank you.

3 Does anybody here have any experience in
4 geology or geophysics? I see no hands for that. How
5 about experience in accounting or financial management?
6 Okay. Now we have got a few here. 4, 6, 17, 13, 15, 30,
7 37, and 48. Is there anybody here that would say they
8 had absolutely no experience in financial management or
9 in finances? Five. Thank you. 39. And please don't be
10 shy. Whatever the questions are, we just want your
11 honest answer. 20, 34, 44. Did I miss anybody? Thanks
12 a lot.

13 Does anybody here know whether they -- and
14 apart from the royalties. We have covered the question
15 about the Eagle Ford royalties, but whether they have
16 anybody that has a direct relationship to Eagle Ford, and
17 that is, whether they worked there, they have somebody
18 who is associated worked there, a relative, close
19 relative worked there, things like that. Does anybody
20 have anybody that worked in the Eagle Ford? Yes, sir.
21 Number 9. Thank you, sir. 23. Thank you so much.

22 Does everyone here agree that oil and gas
23 exploration by its very nature takes on risk? Does
24 anybody disagree with that statement? I know it's pretty
25 basic, but does everybody agree that that is a risky

1 thing to do with respect to knowing what the results are
2 going to be? 29. Thank you. 39. 42. Thanks so much.

3 Now, I'm going to give you a little
4 hypothetical and it involves something we all deal with.
5 Let's just pick cars. I want you to assume that you have
6 a car and you are going to sell that car. You are going
7 to sell that car for \$20,000 and you market the car.
8 It's a fair price. Somebody buys the car. Then the
9 purchaser ends up refurbishing the car. They add new
10 headlights and they put a paint job on it and they put
11 some mags and things like that and then they sell that
12 car for \$30,000. Does everybody follow that?

13 Does anybody think that the person, you,
14 that sold the car originally somehow has some complaint
15 that you should have gotten more money for the car? Does
16 anybody think that at all, that that extra \$10,000 you
17 left on the table, that you should have a claim to that?
18 Okay. I take it by your silence that no one feels that
19 way.

20 Okay. Let's talk a little bit about one of
21 the major issues in this case. Mr. Flegle talked to you
22 some about it, and that is banks. I want to talk to you
23 about first big banks. We have all had experience with
24 banks and there have been all kinds of experiences as we
25 all know. We all deal with them in some form or fashion

1 and we form our opinions based upon our experiences.
2 That's what we are trying to get to right here. I'm
3 going to tell you that some people like banks. Some
4 people dislike banks. Some people hate banks. Okay. It
5 goes across the spectrum.

6 Is there anybody here that just because of
7 their experiences just has had a negative experience with
8 a bank and just dislikes banks completely? Anybody here?
9 Okay. Number 3, number 5, number 17, 20, 21, 24, 34, 35,
10 and 38. And for those of you that dislike banks and have
11 had bad experiences with banks, is that -- would it be
12 your position that that experience in and of itself would
13 cause you not to be a fair juror in this case, and I need
14 real honesty here? Okay. Number 5, number 20, number
15 21, number 3, 24, 34, 35, and 38. Thank you for your
16 honesty. That's what I'm looking for. I'm really
17 looking for straight honest answers. Thank you.

18 Does anyone here have someone close to them
19 that has had negative experiences about banks? Okay.
20 Number 5, 6, I'm sorry, 1, 19, 20, 13, 17, 34, 35, 42,
21 44, 45. Very good. Thank you.

22 MR. GALL: Could you --

23 MR. GARZA: I'm sorry?

24 MR. GALL: We didn't get the numbers.

25 MR. GARZA: Okay. I apologize.

1 MR. GALL: You did it fast.

2 MR. GARZA: We didn't get all the numbers.
3 So people that are close to you that had negative
4 experiences with banks, let's see those numbers again and
5 I'm going to be a little slower for my colleagues up
6 here. You guys are doing just fine. Number 1, number 5,
7 number 6, number 13, 17, 19, 20, 34, 35, 45, 44, and 42.

8 Has anyone here ever entrusted their money
9 to someone else or an institution for them to take care
10 of it? Okay. Here we go. Number 1, number 17, 13, 27,
11 29, 23, 34, 35. Let's see. We have got 37, 39, 40, 41,
12 and 44, 48, thank you, and number 11. I apologize.
13 Sometimes these questions are not real clear, but as the
14 judge told you, if you think it has any bearing
15 whatsoever, go ahead and raise your card and then we will
16 talk to you about it. 19 and 20. Okay. Thank you. We
17 will follow up on that.

18 If all of you knew that a bank was being
19 accused by a customer of acting improperly, who here
20 feels that they would tend to favor the customer even if
21 just a little bit? Number 1, number 5, number 6, number
22 9, number 13, 17, 18, 19, 20, 21, 22, 24, 32, 34, 35, 42,
23 37, 38, 44, 45, and 48. Thank you for your candor.

24 Who here believes that most large banks are
25 willing to engage in improper behavior if it would

1 *benefit themselves or their bottom line? Improper*
2 *behavior. Number 1.*

3 *UNIDENTIFIED JUROR: Improper?*

4 *MR. GARZA: Yes. Improper. Inappropriate.*
5 *Improper behavior. 1, 3, 5, 6, 17, 19, 20, 24, 25, 35,*
6 *37, 38, 39, 42, 44, 45, 48. Everybody get that? These*
7 *questions -- as I told you, they are going to be very*
8 *direct questions. Does anybody believe that a large bank*
9 *would cheat their customers in order to gain a profit or*
10 *a benefit for themselves? Number 3, number 5, number 6,*
11 *number 1, number 17, number 20, 21, 24, 8, I'm sorry, 34,*
12 *35, 37, 38, 39, 42, 44, and 45.*

13 *Who here believes that there should be a lot*
14 *more regulation in the banking industry? Number 1, 25,*
15 *24, 35, 38, 39, 42, 44, and 45. Thank you.*

16 *Who here believes that the best way to get*
17 *large companies to act ethically and properly is to award*
18 *big damage awards in lawsuits? Who here believes that?*
19 *42, 48.*

20 *UNIDENTIFIED JUROR: Can you repeat the*
21 *question?*

22 *MR. GARZA: Who here believes that the way*
23 *to make large companies perform ethically and honestly is*
24 *to award large damages in lawsuits? 24, 48. I think we*
25 *got that. Thank you.*

1 Who here believes that just because these
2 gentlemen over here and these plaintiffs ask for a lot of
3 money that they are somehow entitled to something? Who
4 believes that? Thank you.

5 Okay. We have talked about big banks and
6 now we are going to talk about JPMorgan. We had hands of
7 people that are doing business with JPMorgan. I'm not
8 going to recover that ground. And, by the way, everybody
9 knows that JPMorgan Chase, Chase is the local banks.
10 It's the same company. Who here has a negative opinion
11 about JPMorgan Chase? Negative opinion? Number 24.

12 Does anyone here feel that because JPMorgan
13 Chase has been sued and is a defendant in this lawsuit
14 that they must have done something wrong at this stage?
15 Does anybody feel that? All right. 38, 42, number 6,
16 and number 13. So just to be clear, at this stage of the
17 proceedings just because JPMorgan has been sued, your
18 position is they must have done something wrong. Okay.

19 Who here believes that if these plaintiffs
20 and these plaintiffs' lawyers accuse JPMorgan of looking
21 out for itself rather than its customers or its
22 beneficiaries then it's probably true? Number 5, 17.

23 UNIDENTIFIED JUROR: Can you repeat the
24 question one more time?

25 MR. GARZA: Yes. Who here believes that if

1 *these individual plaintiffs and the plaintiffs' lawyers*
2 *accuse JPMorgan of doing something wrong then it's*
3 *probably true. Just the fact that they accuse them.*
4 *Okay. Number 1, number 5. I have got 38, 42. Did I*
5 *have anything over here? No. Okay. Good. Thank you.*
6 *Appreciate your candor.*

7 *I want to talk to you a little bit now about*
8 *risk taking. You know, we all go through these kinds of*
9 *things. Who here feels that from a financial standpoint*
10 *you consider yourself a risk taker with your finances?*
11 *Anybody? Number 23, number 7. Okay.*

12 *Does anybody here regularly go gambling to*
13 *Las Vegas or Louisiana or the Indian reservations? Okay.*
14 *Juror 9, 18, 21. My wife loves to do that so, you know,*
15 *I sort of have this thing about it. Okay. Let's say you*
16 *are looking for a good deal on a product and you want to*
17 *buy the product or sell the product and the deal comes*
18 *along. You know, you basically have a buyer and a seller*
19 *and you end up with a good deal and then you make it. I*
20 *say you make it.*

21 *How many of you would have that deal and*
22 *then say, You know what. I'm going to wait to see if*
23 *something better comes along. How many of you would take*
24 *the deal as opposed to waiting? Anybody? Number 5, 13,*
25 *31, 9, 18, 17, 1, 21, 22, 42, 37, 38, 39, 46, 48, and*

1 number 8. Thank you. We will get into more of that.

2 I want to talk a little bit about the
3 difference between prudence and caution on the one hand
4 and gambling and speculation on the other. Everybody
5 understands that difference, right? Does anybody not
6 understand the difference between being prudent and
7 cautious which is the charge of JPMorgan and gambling and
8 speculation which is not their charge?

9 So let me give you another hypo. These are
10 always interesting because we get to talk about different
11 kinds of things other than this case. I want you to
12 assume that you are out of work and you have been out of
13 work for a number of months. The bills are piling up.
14 You really don't know exactly what to do and you have
15 been looking for a job. What you end up doing is
16 finally -- finally after months finding a job. You do
17 research on the company and you do research on the
18 position and it all works out. It just looks right and
19 fair.

20 And so you have a choice. Do you take that
21 job then or do you wait and see if something better comes
22 along in the future. Those are your choices. All right.
23 Who here agrees with me that if you are making a prudent
24 and cautious decision you accept that job at that time?
25 Who agrees with that? Okay. I have got lots of cards so

1 let's flip it. Who thinks that that is not the prudent
2 and cautious thing to do? Okay. That's a lot easier
3 than reading all of those cards.

4 Who here agrees that waiting for what might
5 come in the future would be taking a gamble and it's
6 speculating in that scenario? Who agrees with that?

7 UNIDENTIFIED JUROR: Can you repeat that?

8 MR. GARZA: Yes. Let me repeat that. It's
9 the flip side of that and it's a little confusing. I
10 might have to flip it again. Who agrees that waiting for
11 what might come in the future, not accepting that job,
12 would be a gamble? Okay. Again, we have got so many
13 cards let's flip it. Who disagrees with that? Who
14 doesn't think that's a gamble? I see no cards. Thank
15 you. Speculating or hoping about what the future might
16 offer or be around the corner is not prudent. That is a
17 gamble. That's basically what you are saying. That's
18 the point I wanted to make.

19 Now, let's assume -- let's assume that a new
20 job comes along about eight months later. You have
21 already taken the one job and a new job comes along. Who
22 believes that because the new job came along that might
23 have been a little bit better job, paid a little bit more
24 eight months later that you made a mistake the first
25 time? Who believes that? Does anybody believe that?

1 Number 5, number 6, number 7, 9, 10, 17, 19, 31, 33, 34,
2 35. Okay. Thanks.

3 Of course, judging what decision you make
4 after the fact is what we call hindsight, and I think
5 everybody here -- *I assume everyone has heard hindsight*
6 *is 20-20.* Everybody knows that phrase. Does anybody not
7 know that phrase because *this case is going to be about*
8 *hindsight in large part.* *It will be about questioning*
9 *decisions that good people made at the time with the*
10 *facts and with the circumstances in front of them.* So
11 hindsight -- and we all end up dealing with hindsight.
12 You know, a week ago I was watching the Cowboys. Tony
13 Romo had gone out with a back injury. It was a close
14 game. The quarterback was doing well. They brought him
15 back in and the Cowboys lost.

16 Well, Monday morning, of course, everybody
17 says they should have kept in Weeden. Monday morning
18 quarterbacking is the same kind of thing, and there's a
19 bias here. There's a bias because after you know the
20 fact you tend to believe that it was going to happen.

21 And so what I want you to know is that --
22 Well, let me put it to you a different way. How many of
23 you people have had employers or co-workers second-guess
24 your decisions whether you are working now or not? Just
25 sometimes you are in a career. All right. We have got

1 plenty of cards right there so I'm not going to go
2 through all of those cards. That's a common experience.

3 When they second-guess, does that mean that
4 you didn't do a good job at the time? Does anybody think
5 that because you got second-guessed and in hindsight when
6 they look at it, does anybody think, well, I must not
7 have done a good job at the time? 36.

8 Does it bother --

9 UNIDENTIFIED JUROR: Could you repeat the
10 question?

11 MR. GARZA: I'm sorry. Of course. Of
12 course. This is a question about whether you have been
13 second-guessed by co-workers or by an employer, and I
14 think we have all been in that situation. The question
15 is when you have had that situation, do you feel like you
16 didn't do a good job? Okay. Thank you. Or that you
17 made the wrong decision just because after the fact they
18 second-guess you? Does anybody think that? Okay.

19 Would it bother you that somebody that tries
20 to judge after the fact is looking back at your
21 decisions, but at the time, they were very happy with the
22 decision? They didn't complain. They didn't say
23 anything. Does that bother anyone in any way?

24 Let me clear the question up because that
25 was a little bit confusing. All right. Would you be

1 *bothered by somebody who judged your conduct after the*
2 *fact but at the time they made no complaint, they were*
3 *happy with what you did, and everything was just fine*
4 *with respect to the decision? Would it bother you that*
5 *they criticized you after the fact?*

6 *Okay. Now, let's flip that because we have*
7 *got so many cards there. Who would it not bother? Does*
8 *anybody say that that would not bother them? We have got*
9 *28, 34, 39, and 42. I hope I made that question clear.*
10 *Yeah. We will follow up on that.*

11 *How many of you believe that when someone is*
12 *managing minerals and they are attempting to lease the*
13 *minerals out to an exploration company -- an oil and gas*
14 *company that the mineral lessors know that there's going*
15 *to be oil struck on the property? Does anybody believe*
16 *that they know it? Number 3. Okay. Thank you. Thank*
17 *you so much. Do you think they know how long and how*
18 *much oil might come? Number 3. Number 1. Okay.*

19 *Now, what if this mineral acreage is wildcat*
20 *acreage? Does anybody believe that if it's -- **Wildcat***
21 ***acreage, by the way, is acreage where the ability to know***
22 ***whether there's going to be production, whether you are***
23 ***going to strike oil, whether you are going to have a***
24 ***successful well is unknown.** Does anybody believe that if*
25 *it's wildcat acreage then the mineral managers should*

1 know what the results are going to be? Let me see those
2 hands. Of course, nobody can know exactly what the
3 future holds whether it's oil and gas exploration or
4 anything else.

5 *The people at JPMorgan -- the good people at*
6 *JPMorgan, and you will hear from them, made decisions*
7 *based upon the facts and circumstances that they had to*
8 *deal with at the time. They are now being second-guessed*
9 *by the use of hindsight and wishful thinking.*

10 *Plaintiffs believe that my clients should*
11 *have had a crystal ball to foresee the future. The*
12 *evidence is really going to show that they did their job*
13 *and you are going to be here. And by the way, I will*
14 *tell you that I know that this is going to be a*
15 *commitment for a while, but it's going to be a very*
16 *interesting case. And those of you that are lucky to be*
17 *on this jury I think are really going to enjoy learning*
18 *about all kinds of things about the Eagle Ford and all*
19 *kinds of things about the banking industry and things*
20 *like that. So I hope you are encouraged and not*
21 *discouraged by the lawyers who keep asking you questions*
22 *here.*

23 *Now, would it matter to you about JPMorgan's*
24 *conduct if you knew that the more money they made --*
25 *JPMorgan made -- more money, I should say, the*

1 beneficiaries made then the more money JPMorgan would
2 make? Would that bother anybody? Does anybody agree
3 that when they are making money because the beneficiaries
4 are making money, and it's a considerable amount of money
5 that the beneficiaries made, does anybody have any
6 problem with that or think that somehow JPMorgan would
7 not be trying to make as much money as they could for
8 their beneficiaries? Does anybody believe that? How are
9 we doing on time, Your Honor?

10 THE COURT: You have got about 10 minutes.

11 MR. GARZA: Thank you, sir. Let's put the
12 chart up on JPMorgan if you can, Joe.

13 THE COURT: All right.

14 MR. GARZA: Well, I tell you what. Let's
15 switch gears a little bit. I didn't cover this at the
16 beginning. This is a list of all the parties. I want
17 you to know that there are 276, I believe, beneficiaries
18 in the STS trust. Not all of the beneficiaries chose to
19 file this lawsuit. *These plaintiffs' lawyers represent a*
20 *portion of those beneficiaries.*

21 *So I do want you to realize that not all the*
22 *beneficiaries of this trust chose to sue JPMorgan.* Most
23 of the beneficiaries are out of state. There are very,
24 very few Texas beneficiaries. Mr. Piper and his father
25 are --

1 MR. GALL: Mr. Meyer.

2 MR. EICHMAN: Mr. Meyer.

3 MR. GARZA: Mr. Meyer, I apologize, and
4 their names are up there. John Meyer, John Blaze, John
5 Q. Piper, Catherine Massuci, Julia Walker, Evans, Warner,
6 Wells Fargo Bank, and US Bank. Now, does anyone know any
7 of those people? Obviously you know the banks. Okay.
8 The banks are there in a representative capacity. Does
9 it bother anybody, by the way, that the banks who are
10 trustees themselves and have brought some actions, is
11 there anybody here that cannot be fair because it happens
12 to be Wells Fargo or US Bank?

13 Okay. Let's scroll up on the screen. Here
14 are the witnesses. I don't want to scare you. All
15 right. It may be a little tough to read. Patricia
16 Schulz-Ormond, Gary Aymes, H. L. Tompkins, Colleen Dean,
17 Aaron Reber, Kevin Smith, Charlotte Ray, Steven Area,
18 Bert Hayes-Davis, Paschall Tosch. We are going through
19 these pretty quickly. Ron Dirker, Jackie Smith -- Jack
20 B. Smith, Correne Loeffler, Greg Crow, David Herford, Joe
21 Finger, Robert Buehler, John Flannery, Keith Masters.
22 That's half of it. Anybody know any of those people? I
23 wouldn't expect that anybody would.

24 And then on the other side, we have Richard
25 Stoneburner, Charles Cusack, Stan Caddou, Bill Osborne,

1 *David Braddock, Mike Stell, David Cecil, Renee McElhaney,*
2 *Alan Cummings, Bruce Wallace, Wayman Gore, Charlotte*
3 *Wright, George Brin, Charles Graham, Robert Lee, James*
4 *O'Connell, David Leathers, George Hite, Juan Vasquez, and*
5 *Michael Jones.* Does anybody know any of those
6 individuals?

7 *Okay. Let's scroll down to the law firms.*

8 *Okay. We have got some lawyers here. They are fine*
9 *lawyers. Mr. Spencer and Mr. Rosenbach that are sitting*
10 *right here, has anybody dealt with the firm of Clemens &*
11 *Spencer in the city of San Antonio? How about*
12 *Mr. Drought's firm, Drought, Drought & Bobbitt. Has*
13 *anybody dealt with that firm at all or has somebody close*
14 *to them that has dealt with them? Hired them or*
15 *anything? We have got Richard Tinsman, Tinsman & Sciano,*
16 *and Mr. Sciano is sitting right here. Has anybody ever*
17 *dealt with them or hired them on any kind of case? And*
18 *then we have got -- I think that Mr. Flegle covered our*
19 *firm. We have got Mr. Massopust's firm who is -- which*
20 *is out of Minnesota and we have got Mr. Massopust here,*
21 *Matthew Gollinger, Steven Badger, Ms. Jones, and Michael*
22 *Christian. I assume nobody has heard of them here in*
23 *this environ, and then we have got Mr. Flegle's firm*
24 *which is David Deary, Jim Flegle, Caroline Farquhar, from*
25 *Loewinsohn, Flegle & Deary. Does anybody know anything*

1 about them at all? Okay. Sorry about that. Let's move
2 on.

3 All right. That's our hindsight rule. A
4 trustee's compliance with its duties -- We anticipate
5 that the court will instruct you about this so that's why
6 there's so much time being spent on it. *Compliance with*
7 *its duties is determined in light of the facts and*
8 *circumstances existing at the time of a trustee's*
9 *decision or action and not by hindsight.* I covered that
10 with you a little while ago and I think you answered my
11 questions. Now, let's talk a little bit about -- let's
12 have the chart for JPM, please.

13 THE COURT: You have five minutes, counsel.

14 MR. GARZA: Here's the JPMorgan Chase chart
15 and here's the trust department down here. *Now, the*
16 *trust department is physically separate from the rest of*
17 *the bank. In this case, the plaintiffs have made some*
18 *pretty serious accusations about JPMorgan engaging in*
19 *self-dealing. They are accusing JPMorgan's trust -- that*
20 *is, the employees on the trust department side of having*
21 *discussions with individuals on the banking side, the*
22 *other side of the bank.*

23 *The plaintiffs claim that JPMorgan employees*
24 *intentionally -- I'm talking about intentionally*
25 *benefited the commercial side -- that is, the trust*

1 *department people on this side, the green box,*
2 *intentionally tried to benefit the commercial side*
3 *because of the banking relationships that the commercial*
4 *side has.*

5 *Now, that's a little bit difficult to*
6 *understand, but what's really going on here is there are*
7 *what we call barriers that prohibit the trust department*
8 *or the commercial side from exerting influence on the*
9 *other side. It works both ways. This is an information*
10 *barrier.*

11 *Is there anyone here that feels that all I*
12 *need to know is that if an oil and gas company A is a*
13 *bank customer of JPMorgan and is negotiating a lease with*
14 *the same company that's on the trust side -- in other*
15 *words, commercial relationships with the bank and then*
16 *JPMorgan in the trust department is negotiating a lease*
17 *with company A, separate employees, separate individuals,*
18 *does anybody think that that by itself is enough to*
19 *create a conflict of interest? That by itself? 44.*

20 *UNIDENTIFIED JUROR: Can you repeat that?*

21 *MR. GARZA: Yes. I will repeat that. Does*
22 *anyone think that the fact that JPMorgan employees in the*
23 *trust department side are negotiating a lease with a*
24 *company that does business on the commercial side,*
25 *completely separate, just because they are doing that,*

1 does anybody believe that that in itself is a conflict
2 without hearing anything more? 3, 42, 45, 19, and 35.

3 Now, if the law allows and permits big banks
4 to do this because big banks have customers that --
5 JPMorgan has customers all over the world, but the law
6 says you shall not attempt to influence decisions from
7 one side or the other. If the law says that you are not
8 entitled to do that, does anyone here have any opinion as
9 to whether JPMorgan is still going to be liable? Still
10 responsible?

11 THE COURT: You have got two minutes,
12 counsel.

13 MR. GARZA: Judge, can I have a few more
14 minutes, sir?

15 THE COURT: All right. Keep going.

16 MR. GARZA: Thank you. Who would say that
17 it would be a matter of how the employee of the trust
18 department may have had any information? In other words,
19 if somebody on the trust department side or someone on
20 the corporate side ended up talking to somebody on the
21 trust department side about a customer -- about this
22 customer that they are negotiating a lease with, who
23 would say that's all I need to know? If there was some
24 contact, then I think there's a conflict. Number 1,
25 number 3, number 48.

1 Now, of those, how many of you would think
2 that I need to know more? I need to know the context. I
3 need to know whether there was a conversation. Number
4 40. Okay. We are getting a lot here. Okay. Very good.
5 Okay. Does anybody want me to read these?

6 MR. GALL: No.

7 MR. GARZA: Okay. Thank you. What if the
8 lease actually benefited the trustees? Would anybody
9 want to know that?

10 MR. GALL: Beneficiaries.

11 MR. GARZA: Benefited the trust. Well, the
12 trust and the beneficiaries. In this issue of a
13 conflict, what if the actual lease benefited the
14 trustees? Would that make a difference to you when you
15 are evaluating whatever it is whether there's a conflict
16 or not?

17 MR. EICHMAN: Benefited the beneficiaries.

18 MR. GARZA: Benefited the beneficiaries.
19 The beneficiaries. When I say to the trust, it's the
20 beneficiaries. Yes. 1, 11, 13, 46, 27, 28, 35, and 42.
21 I apologize. That was a little bit of an inartful
22 question. We will cover more of that in the direct.

23 *Now, there are going to be claims here about*
24 *JPMorgan employees being overworked.* How many people
25 here have at one time or another felt overworked or

1 overloaded? Very good. I'm not going to read all those
2 numbers. How many here have never felt overworked or
3 overloaded by their employer? And by the way, when I say
4 work, I'm talking about being at home working, you know.
5 That to me is as big a job as any other job. So everyone
6 here has felt overworked and overburdened at times.

7 Now, do you feel like the fact that you felt
8 overworked that you didn't do a good job on the work you
9 were doing? Okay. So 1, 6, 13, 18, 19, 23, 27, 11, 44,
10 45, 25. And so how many would say that being overworked
11 or overloaded interfered with your ability to do a good
12 job? 1, 6, 7, 11, 13, 14, 17, 18, 19, 21, 22, 23, 24,
13 25, 27, 32, 33, 35, 38, 40, 42, 44, 45, 46, 47, 48.

14 Now, of all of you that said that, did you
15 manage to get the job done appropriately? Who of those
16 cards managed to get the job done in spite of feeling
17 overworked? Okay. 1, 5, 6, 7, 13, 14, 17, 18, 21, 22,
18 23, 27, 33, 38, 39, 42, 45, 11, 46, 47, and 48.

19 All right. I want to talk to you a little
20 bit about the circumstances in 2008. You know, we all
21 have times when we remember where we were at certain
22 times. For those of us that are a little bit older, we
23 all remember when Kennedy was shot. Okay. As we move a
24 little forward in time, there are some other things that
25 happened. Everybody remembers where they were at 9-11.

1 You know, that's fairly recent and you have a pretty good
2 feel for where you were.

3 *In the fall of 2008, we had an economic*
4 *crisis in this country that is comparable to the Great*
5 *Depression of the 1930s. Does everybody remember what*
6 *happened in the fall of 2008?* Okay. Good. I'm not
7 going to take those numbers because I think we do
8 remember. *On September 29th, 2008, the stock market fell*
9 *700 points on that Monday. There was fear out there.*
10 *The stock market lost 40 percent of its value, but more*
11 *importantly, people were losing jobs. There were*
12 *foreclosures going on. There was just all kinds of*
13 *problems in the economy.* Does everybody remember how
14 scared we were as to what was going to happen next? *Does*
15 *anybody not remember the crash of the fall of 2008?*
16 Okay. 19, 38. Excellent.

17 *Who here themselves or somebody close to*
18 *them was impacted by the crash of 2008?* All right. 6,
19 8, 17, 18, 23, 24, 25, 36, 39, 40, 41, 44, and 48. Thank
20 you. I just have a few more questions. Is there anybody
21 that would like to tell me something or tell us something
22 that we have not asked that is on your mind or that we
23 asked and you weren't sure of? Don't be shy. If you
24 have some question, raise your hand and let us know if
25 there's anything. And by the way, if there's something

1 that you want to take up with the court, we can take it
2 up with the court if there's something private or
3 personal that you want to bring up.

4 Is there anybody here that would like to add
5 anything to what they have already told us in terms of
6 the selections now that you think about it? Okay.
7 Number 11. We will talk about that in just a bit.

8 Now that you know a little bit about the
9 case or had a chance to think about it some, who feels
10 that this may not be the right case for them? Just like
11 I told you at the beginning, there may be cases that I
12 couldn't be the juror. Is there anybody here that feels
13 that based upon what we have talked about this may not be
14 the right case for them? Okay. Number 5, number 6,
15 number 2, 13, 19, 20, 21, 22, 24, 26, 29, 30, 32, 34, 35,
16 38, 39, 42, number 3, and number 48. Number 10. Okay.

17 Listen, thank you very much. I appreciate
18 your time and efforts. I just thank you for what we have
19 done. We are going to follow up with some of these
20 questions in just a minute, but that's all my general
21 questions at this time, Your Honor.

22 THE COURT: All right. Counsel for the
23 plaintiff, you either get five additional minutes in
24 opening or five additional minutes in rebuttal. It's
25 your choice. You don't have to make that choice now.

1 MR. FLEGLE: Thank you, Your Honor.

2 THE COURT: All right. We are going to take
3 a break at this time. Please be back in the area at 10
4 after. Don't forget during breaks especially during the
5 lunch hour that you get your parking ticket stamped. So
6 all rise for the panel, please.

7 (Recess from 9:49 to 10:10).

8 THE COURT: All right. Ladies and gentlemen
9 of the panel, please remember my instructions from
10 yesterday. I know we are in tight quarters here and we
11 have got a lot of people here that are representing the
12 parties in this lawsuit, but remember what I said. Other
13 than cordialities, there should be no discussions with
14 you or any of the parties that you see sitting in front
15 of you.

16 We are going to be going through the
17 individual questioning now. So if there's a question you
18 have when they go through the question of each one of you
19 and there's something that's bugging you or eating at
20 you, you can ask the question. That's the proper time to
21 do it because any discussion outside of this courtroom
22 not in front of everybody here that is represented is
23 prohibited by the rules. Other than cordialities, any
24 other discussions of any nature are now prohibited. So
25 please remember that.

1 And so as we go through this, as I said, if
2 there's something that you need to bring up now is the
3 time to do it when it comes your time to speak. So
4 remember from yesterday, we are going to use the
5 hand-held mic and you have to be close to it almost like
6 you are kissing it, because if you don't, it won't come
7 through for my court reporter to record the conversation
8 back and forth. The lawyers will be using the
9 microphones at their tables and you will be on the screen
10 here for everybody to see. So this is your TV time, you
11 are coming out, and your opportunity to be karaoke so
12 that everybody can hear us and see us. All right. Are
13 we ready to proceed, Mr. Flegle?

14 MR. FLEGLE: Yes, Your Honor. Plaintiffs
15 are ready to proceed.

16 THE COURT: All right. Potential juror
17 number one, is that Marsha Glidewell? Is that correct?

18 POTENTIAL JUROR 1: Yes, sir.

19 THE COURT: All right. Proceed.

20 MR. FLEGLE: Yes.

21 QUESTIONS OF POTENTIAL JUROR 1

22 BY MR. FLEGLE:

23 Q. Good morning again. I noticed in your answers
24 this morning that you said you were a current customer.
25 Can you kind of describe for us what kind of account and

1 for how long you have been a customer of JPMorgan?

2 A. I have probably four or five different credit
3 cards with Chase. Probably five or ten years.

4 Q. For five or ten years?

5 A. Yeah.

6 Q. And it's just a credit card experience?

7 A. Just credit cards, yes, sir.

8 Q. All right. Thank you. And is there anything
9 about the credit cards that would make you lean one way
10 or the other in this case?

11 A. No, sir.

12 Q. Okay. And I noticed that you raised your hand
13 when you said that -- when we asked about a current
14 association or connection with banking or finance. Can
15 you --

16 A. I work for Black Knight Financial which is a
17 branch of Fidelity National.

18 Q. Okay. What's your job there?

19 A. Software quality assurance. I do the web sites
20 for the analytics division.

21 Q. Okay. And the analytics division, what do they
22 do?

23 A. Real estate data.

24 Q. Got you. Is there anything about that
25 relationship that would cause you to lean one way or the

1 other as we are starting out today?

2 A. I believe not. I believe not.

3 Q. Okay. Excellent. On topic five on a bad
4 experience with the banks, I think you raised your hand.

5 A. Yes.

6 Q. Am I right?

7 A. Yes, I did.

8 Q. Now, I'm not going to get into what the
9 experience was, but after you have heard what we said
10 here and what the bank said here in terms of what you
11 have heard this morning, can you open your mind and put
12 your bad experience to the side and listen to the
13 evidence that we are going to be presenting in this case
14 because we are in this -- not only are we in this
15 courtroom, but we are going to be in an evidence box that
16 His Honor is going to put the lawyers and the jury in and
17 listen to what is admitted and gauge what is admitted by
18 the law that the judge gives you? Can you do that for
19 us?

20 A. I believe so for the most part, yeah.

21 Q. Okay. And just on that question, is there any
22 hesitation there on your part?

23 A. I just -- I have heard a lot of bad stuff with
24 banks and it's like -- it makes me kind of lean a little
25 bit towards you guys because I don't think lawsuits get

1 *filed frivolously for that large of amount. So, I mean,*
2 *I'm open to hear both sides and I'm hoping I can stay*
3 *open.*

4 *Q. Well, we do too and that's all we are asking you*
5 *to do here as a potential juror is to listen to the*
6 *evidence. We don't want to start out ahead. We want to*
7 *start out on an even playing field.*

8 *A. Right.*

9 *Q. So before we get into any evidence, can you*
10 *share with us that you can say for the time being before*
11 *the evidence starts that neither side is starting out*
12 *ahead of each other?*

13 *A. Yeah. At this point, I can see both of your*
14 *points of views and it would be interesting to hear*
15 *all -- you know, all of it.*

16 *Q. And you understand you haven't heard any*
17 *evidence yet?*

18 *A. Right. Right. Right.*

19 *Q. And you consider yourself to be a fair person,*
20 *right? I mean --*

21 *A. I hope so.*

22 *Q. Yeah. So could you set aside your personal*
23 *views about what those banks are in situations that are*
24 *totally different from this case and decide this case by*
25 *the evidence and the law?*

1 A. Yes. I think so.

2 Q. Thank you. You said on my topic eight on
3 mineral rights that you had heard of the Eagle Ford
4 shale. Do you have any preconceived notions about who is
5 right and who is wrong in this case because of what you
6 have heard?

7 A. I just moved here two years ago so I know about
8 it, but I don't know the whole history about it. So I
9 don't know when everything developed and what years what
10 happened. So --

11 Q. Okay. So there's nothing about that that
12 would --

13 A. I do not have enough knowledge to make any --

14 Q. Can you share briefly with us what you heard
15 about the Eagle Ford?

16 A. Well, I just know that it's a huge oil deposit
17 and that they keep finding more and more areas that are,
18 you know, huge, huge sources of oil. So --

19 Q. Okay. Thank you. I also saw that you had
20 raised your hand on hearing the term "fiduciary duty."
21 Can you kind of tell us in what context you have heard
22 the term?

23 A. Well, I know in -- Well, my mom acted on my
24 behalf when we did a flip on a farm a couple of months
25 ago so she was my -- What do you call it? I can't think

1 of the word.

2 Q. Power-of-attorney maybe?

3 A. Yeah. She had my power-of-attorney.

4 Q. Okay.

5 A. So --

6 Q. And what you did was you gave her the right and
7 responsibility for taking care of --

8 A. Of my document, yes, for signing everything for
9 me.

10 Q. Right. And she took care of it?

11 A. Yeah. She signed everything for me.

12 Q. And everything worked out okay?

13 A. Oh, yeah.

14 Q. Okay. And there is nothing about that
15 transaction that would --

16 A. No.

17 Q. -- tend to make you lean one way or the other
18 here?

19 A. No. We even tried to retain the mineral rights
20 on that, but we didn't get them. So --

21 Q. Now, you mentioned also that you might have had
22 a bad experience with an investment or a business deal.

23 A. Yes.

24 Q. Did I get that right?

25 A. Yes.

1 Q. I'm not going to ask you about the business
2 deal. I'm not going to pry there, but again in terms of
3 this case when we start putting evidence in the box in
4 this case, can you set that business deal aside and look
5 at the evidence that we present and gauge it in light of
6 the law that the court is going to instruct you?

7 A. Yeah. It had nothing to do with banking.

8 Q. I'm sorry?

9 A. Yes, because it had nothing to do with banking.

10 Q. Okay. Thank you. Now, I noticed in some of the
11 questions that the bank's lawyers asked you that you
12 raised your card when you were asked whether -- the group
13 was asked whether they tend to favor customers. In that
14 tendency here, we have got beneficiaries and we have got
15 a trust. Can you take that tend-to-favor-the-customers
16 concept that you were talking about and again put it
17 aside and listen to the evidence in this case involving a
18 trust and beneficiaries with the bank as the trustee?

19 A. I believe so.

20 Q. Okay. Is there something about what you have
21 heard -- Well, you are hesitating a little bit again. Do
22 you think you can be fair here if you were chosen?

23 A. Yes.

24 Q. Okay. I also noticed you answered the question
25 if we accused JPMorgan it's probably true. Can you share

1 with me how you got there?

2 A. Well, any time I have talked to anybody that
3 accused a bank of doing something against them, it was
4 true. I mean --

5 Q. Well, let's stop here for a second because -- Do
6 you remember up on the board I mentioned that we have got
7 the burden of proof in this case?

8 A. Yes.

9 Q. And just like the Spurs, we only have to win by
10 one point even if it's 101 to 100.

11 A. It had nothing to do with any kind of trust so
12 they were totally different issues.

13 Q. Yeah. Two different issues. And here if we
14 look at the issues in the trust department as the bank's
15 lawyers were mentioning, can you look at those issues
16 independently of your other experience and fairly judge
17 them in light of the law?

18 A. Yes.

19 Q. And then I think the other question was whether
20 you felt like the bank cheated customers to make money.
21 Can you kind of explain to me why you are there?

22 A. In a way, I think that, you know, banks are
23 there to make money. And if there's a way to make it,
24 they will do it. I mean, anybody -- it seems like
25 anybody or most people, I should say, if they have two

1 avenues and one they can make money and one they don't,
2 they will go for making the money. I mean --

3 Q. Well, here you probably heard there's two sides
4 to this story and you are going to hear one side from us
5 and one side from the bank. Could you keep an open mind
6 to listen to all the evidence and listen to both sides of
7 this story and then again judge the evidence in light of
8 what the law is that the judge gives you?

9 A. Yeah.

10 Q. Okay.

11 MR. FLEGLE: Your Honor, may I -- I have got
12 three cards that I think will make this faster on our
13 side. And if I can read into the record what the cards
14 are, we can pass them by the jurors as we go by and just
15 ask where they are on the scale.

16 THE COURT: What are we doing now?

17 MR. FLEGLE: I have got three scale cards,
18 Your Honor, that I have shared with the bank's counsel
19 and they don't have any objection.

20 THE COURT: All right.

21 MR. FLEGLE: Okay. And if I can read them
22 in the record and then we can just start with juror one.

23 THE COURT: All right. Go ahead.

24 MR. FLEGLE: Card number one is what number
25 best reflects your opinion of JPMorgan Chase. And on the

1 card, it's got one on one end is very positive and 10 on
2 the other end is very negative.

3 Card two is fiduciary duty requires that a
4 beneficiary's interest must be put above all others. And
5 on one end, it's zero which is strongly disagree, in the
6 middle it's neutral, and number ten is strongly agree.

7 And number three, it is very important that
8 a company be held accountable for its conduct and
9 actions, and zero is strongly disagree and 10 is strongly
10 agree. Your Honor, may I either give these to the
11 bailiff for juror one or just hand them to --

12 THE COURT: So your intention is to pass it
13 all through the audience when each panel member --
14 potential panel member gets the cards. Is that the idea?

15 MR. FLEGLE: Yes, Your Honor.

16 MR. GARZA: Your Honor, we didn't agree to
17 that. I'm sorry.

18 THE COURT: All right. You have got to be
19 on a microphone, sir. Remember, do not stand. You have
20 got to talk in a microphone.

21 MR. GARZA: I'm sorry, Your Honor. We did
22 not agree to have that passed through the jury.

23 THE COURT: All right. Sir, you can just
24 ask the question then.

25 MR. FLEGLE: All right.

1 BY MR. FLEGLE:

2 Q. So here are the questions. The first question
3 is what number best reflects your opinion of JPMorgan
4 Chase. One is very positive, five is neutral, 10 is very
5 negative and we have numbers in between one and ten.

6 A. One. Positive.

7 Q. Okay. Question number two is fiduciary duty
8 requires that a beneficiary's interest must be put above
9 all others. Zero is strongly disagree, five is neutral,
10 10 is strongly agree, and we have got all the numbers in
11 between.

12 A. Ten.

13 Q. And the last one is it is very important that a
14 company be held accountable for its conduct and actions.
15 Zero is strongly disagree, five is neutral, and 10 is
16 strongly agree.

17 A. Ten. Everybody should be accountable for their
18 actions.

19 Q. I noticed that you have just become a resident
20 here in Bexar. Where did you live before?

21 A. Los Angeles County.

22 Q. All right. Is there anything else you want to
23 share with us this morning that I haven't asked about?

24 A. I don't think so.

25 MR. FLEGLE: We pass the juror, Your Honor.

1 THE COURT: All right. Who is going to do
2 the first questioning?

3 MR. GARZA: I will, Your Honor.

4 THE COURT: All right. Are you ready to
5 proceed?

6 MR. GARZA: Yes, sir.

7 THE COURT: All right. Go ahead.

8 MR. GARZA: Okay.

9 BY MR. GARZA:

10 Q. Ms. Glidewell, tell me about your bad bank
11 experience. What was that about? Your bad bank
12 experience.

13 A. Oh, I had a roommate that forged -- well, she
14 owed me money so she was going to put money in my bank.
15 She kind of faked it all and like wrote a bad check and
16 then she took like everything out of my bank account and
17 the bank never did anything about it. Even though I
18 proved that it wasn't my signature and I had a police
19 report, there was no accountability and I left that bank
20 and I will never go back to it.

21 Q. Okay. Now, you understand that this process is
22 very important and how you feel about a case is
23 significant. We are trying to get to the truth and we
24 are trying to really find out how you really feel. You
25 hesitated a number of times when Mr. Flegle asked you

1 questions as to whether you could be fair and impartial
2 to the parties. You raised your hand when the question
3 was if the bank was simply accused that would be enough
4 for you to say that they were liable. Do you remember?

5 A. Yeah.

6 Q. Do you still feel that way?

7 A. Well, I would have to hear the full evidence
8 before I gave my final word. I mean, yeah. I mean --

9 Q. Do you feel -- I'm sorry. Go ahead.

10 A. Any trial I have watched, let's say that you
11 kind of start out because of all the crap you hear on the
12 media and you lean one way and then you hear the evidence
13 and you can lean the other way. You are kind of
14 wishy-washy until you hear everything.

15 Q. I think the point -- I thought it was your point
16 that before you hear any evidence the customers or the
17 beneficiaries start out ahead of the bank in your mind.

18 A. I don't really know. I mean, I think it's
19 pretty even, but I think they might be a little more
20 ahead in my head.

21 Q. And that's all we want. We really just want
22 your personal view. So what you are telling the court is
23 you believe that the beneficiaries start out ahead before
24 you have heard any evidence?

25 A. Yeah. I mean, before the evidence from anything

1 I have heard so far even though it's not really anything
2 that's real evidence.

3 Q. All right. But your past experience with the
4 bank and what happened there has influenced you to say,
5 you know, I don't know that I could go with the bank
6 because I had a bad experience with a bank?

7 A. With one bank.

8 Q. With one bank. I know it wasn't JPMorgan.

9 A. All are, but --

10 Q. Okay. You answered a question as to whether you
11 felt a bank would cheat in order to get profits. Do you
12 remember that?

13 A. I -- I think they could.

14 Q. Okay. We really want your just absolute
15 honesty. Do you think that you could be fair and
16 impartial to JPMorgan? Given the facts that you have
17 told us and how the customers start out ahead and how you
18 feel about banks, do you feel like you could be
19 absolutely fair and impartial?

20 A. I will be absolutely honest and say I'm not
21 sure.

22 Q. Yes. I mean, that's what I'm trying to get to.

23 A. Yeah.

24 Q. You know, that's exactly what I -- and I
25 appreciate your honesty and it goes for everyone else.

1 All we want is honest answers. So your position is you
2 are not sure that you could be fair and impartial to
3 JPMorgan?

4 A. Right.

5 Q. Correct?

6 A. (Indicating affirmatively).

7 Q. You also answered questions that there ought to
8 be a lot more bank regulation, is that correct, or did I
9 miss that?

10 A. Yeah.

11 Q. The fact that you don't feel or you don't know
12 that you could be absolutely fair, that's a conviction
13 that you have right now; is that right?

14 A. Yes.

15 Q. Okay. Thank you, ma'am.

16 THE COURT: All right. Potential juror
17 number two, is that Alicia Falcon; is that correct?

18 POTENTIAL JUROR 2: Yes, sir.

19 THE COURT: All right. Please use the
20 microphone. It's got to be right up close to you. We
21 have got to be able to hear every word that is said. All
22 right. Go ahead, Mr. Flegle.

23 MR. FLEGLE: Yes, Your Honor.

24

25

1 QUESTIONS OF POTENTIAL JUROR 2

2 BY MR. FLEGLE:

3 Q. We didn't see your card much this morning, but
4 let me ask you a couple of questions about your family.
5 What was your position at CPS Energy?

6 A. Billing operations.

7 Q. Okay. And how long had you been there -- have
8 you been there?

9 A. Thirty years.

10 Q. Thirty years. And I notice you have some
11 children, one 42 and one 44. Can you tell us what kind
12 of work they do?13 A. My son is a technician for CSR Services. He
14 fixes their computers.

15 Q. Okay.

16 A. Their software.

17 Q. And how about your other -- is it a daughter?

18 A. My daughter is a beautician.

19 Q. She's a beautician. Here in San Antonio?

20 A. Yes, sir.

21 Q. Okay. Now, this is your time to talk to us or
22 talk with us. Is there anything you have heard that
23 would cause you to believe you couldn't be a fair juror
24 in this case if you were selected?

25 A. Well, I have never really experienced anything

1 with any bank. I mean, I have heard that some banks are
2 not good, but I don't know -- I have never had any
3 experiences.

4 Q. Do you believe you could be a fair person in
5 this case and keep an open mind and listen to the
6 evidence that the court admits?

7 A. Yes, sir.

8 Q. And follow the legal instructions the court
9 gives you?

10 A. Yes, sir.

11 Q. Can you assure us that you will be a fair and
12 impartial juror?

13 A. Yes. I assure.

14 Q. Okay. And you would be fair both to us and to
15 the bank?

16 A. Yes, sir.

17 Q. Okay. Let me ask you the questions that I just
18 asked -- question number one of juror number one. What
19 number best reflects your opinion of JPMorgan Chase with
20 one being very positive, five being neutral, and ten
21 being very negative or any number in between?

22 A. Five.

23 Q. And then on number two, fiduciary duty. The
24 statement is fiduciary duty requires that a beneficiary's
25 interest must be put above all others. Strongly

1 disagree, zero. Five, neutral. Ten, strongly agree, and
2 anything in between.

3 A. Seven.

4 Q. And number three, it is very important that a
5 company be held accountable for its conduct and actions.
6 Zero, strongly disagree. Five, neutral. Ten, strongly
7 agree, and anything in between.

8 A. I would give it a 10.

9 Q. Thank you very much.

10 THE COURT: All right. Is it Mr. Gall? Are
11 you going to be asking questions of potential juror
12 number two?

13 MR. GALL: Yes, Your Honor.

14 THE COURT: All right. Go ahead.

15 MR. GALL: Thank you, Your Honor.

16 BY MR. GALL:

17 Q. Ms. Falcon, when you say you do billing
18 operations at CPS Energy, tell me what that involves.

19 A. I print the utility bills and I operate the mail
20 inserter.

21 Q. So you pay the utility bills?

22 A. I print.

23 Q. Print the utility bills. I understand. Okay.
24 In the questioning from Mr. Garza, you indicated that you
25 did not feel that this was the right case for you. Do

1 you remember giving that answer?

2 A. Yes, sir.

3 Q. Tell me what you were thinking when you gave
4 that answer. I want to understand why you were concerned
5 about whether this was the right case for you.

6 A. Well, I don't know anything about problems with
7 the banks or anything. I have never had any -- any
8 problems whatsoever. To me, I wouldn't -- I don't think
9 I would know very much about --

10 Q. I see. So it's just a concern about whether you
11 would understand what --

12 A. Right.

13 Q. -- the issues are?

14 A. Right.

15 Q. But you don't come into this case with any
16 preconceived notions, correct?

17 A. Correct.

18 Q. Would you try to listen to the evidence and
19 consider the testimony of the witnesses before making
20 your decision?

21 A. Yes, sir.

22 Q. If the judge was to instruct you that you were
23 not to judge the conduct of the trustee, JPMorgan, using
24 hindsight but instead base any decision you have on the
25 facts and circumstances that existed at the time of the

1 *decision, could you do that?*

2 *A. Yes, sir.*

3 *Q. Would you try hard not to use Monday morning*
4 *quarterbacking?*

5 *A. Yes, sir.*

6 *Q. Thank you.*

7 *MR. GALL: That's all I have, Your Honor.*

8 *THE COURT: All right. Potential juror*
9 *number three, is that Donald Valcher? Is that correct?*

10 *POTENTIAL JUROR 3: Yes, sir.*

11 *THE COURT: All right. Mr. Flegle, do you*
12 *have any questions for potential juror number three,*
13 *Mr. Valcher?*

14 *MR. FLEGLE: Yes, Your Honor, we do.*

15 *QUESTIONS OF POTENTIAL JUROR 3*

16 *BY MR. FLEGLE:*

17 *Q. I notice, sir, you have been in Bexar for about*
18 *19 years. What brought you to San Antonio?*

19 *A. Repeat the question.*

20 *Q. Sure. What brought you to Bexar County 19 years*
21 *ago?*

22 *A. I was living in Wilson County and the house was*
23 *sold so I moved up here.*

24 *Q. In Hallettsville?*

25 *A. Yes.*

1 Q. Okay. You say you were retired. Who was the
2 employer that you retired from?

3 A. Sam Houston. Civil service.

4 Q. Civil service?

5 A. Yes, sir.

6 Q. And what was your job over there?

7 A. I was an asphalt engineer.

8 Q. Okay. And was that -- were you at Sam Houston
9 even before you were in San Antonio?

10 A. Yes. I was still working -- I was working
11 there.

12 Q. Okay. And then you say your wife also is
13 retired. Can you tell us where she retired from?

14 A. Levi Strauss.

15 Q. Okay. And what was her position at Levi
16 Strauss?

17 A. Computer operator.

18 Q. Okay. And where is that plant? I'm sorry. I
19 didn't -- I don't know their offices. Where was Levi
20 Strauss officed?

21 A. It was on Highway 90, but they closed it.

22 Q. I got you. All right. I noticed in response to
23 a couple of the bank lawyer's questions that you raised
24 your card. One of them was that you dislike banks and
25 you couldn't be fair. Can you kind of explain to us

1 where you are coming from there?

2 A. Most of them don't hold by treating the customer
3 as fair as they should. They usually lower rates where
4 you make a little profit and I don't particularly care
5 for that.

6 Q. I got you. Now, as you have heard, this is kind
7 of a different issue in this case in the sense that it
8 involves a trust and it involves the bank as trustee. Do
9 you think you could be a fair person and listen to the
10 evidence in this particular case when you come over here
11 in the jury box?

12 A. Yes, sir.

13 Q. And you could listen to the law that the judge
14 provides you?

15 A. Yes, sir.

16 Q. And you could make a decision based on that
17 evidence and the law without --

18 A. Yes, sir.

19 Q. -- being biased one way or the other?

20 A. Yes, sir.

21 Q. Okay. And then I noticed that you also answered
22 on the cheat customers to make money standpoint. Could
23 you look at this case -- even though you think that might
24 have happened in other situations look at this case
25 independently and look at the evidence itself?

1 A. Yes, sir.

2 Q. And you could listen to the instructions of the
3 court in this case?

4 A. Yes, sir.

5 Q. Okay. I have got the three questions again.
6 One of them is what number best reflects your opinion of
7 JPMorgan Chase, one being very positive and 10 being very
8 negative. Which number is a good one for you?

9 A. The neutral one, five.

10 Q. Number five. Okay. Number two is fiduciary
11 duty. Fiduciary duty requires that a beneficiary's
12 interest must be put above all others. Zero is strongly
13 disagree and 10 is strongly agree.

14 A. I would go with neutral again.

15 Q. I'm sorry?

16 A. Neutral.

17 Q. Neutral, number five. Okay. Thank you. And
18 number three, it is very important that a company be held
19 accountable for its conduct and actions with zero,
20 strongly disagree and ten, strongly agree.

21 A. Number 10.

22 Q. Number 10, agree. And do you agree based on
23 what you have said to me this morning and what we have
24 discussed that you can be fair and that the parties are
25 starting out even right now?

1 A. Yes, sir.

2 Q. Okay.

3 MR. FLEGLE: Pass the witness, Your Honor.
4 Thank you.

5 THE COURT: All right. Mr. Garza, do you
6 have any questions for potential juror number three,
7 Mr. Valcher?

8 MR. GARZA: Yes, I do, Your Honor.

9 BY MR. GARZA:

10 Q. Mr. Valcher -- Well, first of all, I know you
11 tried to stop me outside and I wasn't able to speak with
12 you. Did you have a question for us?

13 A. You were discussing JPMorgan. I just wanted to
14 know who was the other company involved? Was it Merrill
15 Lynch?

16 Q. No, sir, it wasn't.

17 A. Are they affiliated with Merrill Lynch? It
18 seems like I have been reading about it somewhere.

19 Q. I'm not sure about that, but that's --

20 A. Because I'm with Merrill -- I have investments
21 with Merrill Lynch and I seem to have seen JPMorgan
22 listed on there somewhere.

23 Q. Okay. Merrill Lynch doesn't have anything to do
24 with this particular case or what we are dealing with if
25 that answers your question, but I do have --

1 A. *Somewhat.*

2 Q. *Okay. You have indicated that you dislike*
3 *banks. What's the basis of that? Can you tell us?*

4 A. *Their interest rates are way too low.*

5 Q. *I'm sorry?*

6 A. *Too low. Interest rates.*

7 Q. *Oh, the rates are too low?*

8 A. *Too low. So if you go through like Security*
9 *Service or Federal, they are a lot higher. You make more*
10 *money. If you are interested in making a little more*
11 *money --*

12 *THE COURT: Sir, you have got to -- please*
13 *speak into the microphone because I cannot hear you. I*
14 *have got to hear what you are saying. So would you*
15 *please start over.*

16 *MR. GARZA: Okay. Did you want him to*
17 *repeat that, Your Honor?*

18 *THE COURT: Yes. I didn't hear what you*
19 *said, sir. Repeat what you said, please.*

20 *BY MR. GARZA:*

21 Q. *About the rates.*

22 A. *The interest rates on banks are too low and I*
23 *think a federal institution pays more -- higher rates*
24 *than the regular banks.*

25 Q. *Okay. Now, in my questioning earlier, I asked*

1 if you could be fair and impartial and you raised your
2 card and said you could not. Do you remember that?

3 A. Yes.

4 Q. On what basis did you say that?

5 A. The basis of being 100 million, it might not be
6 as truthful as it should be to give an answer to these
7 people of what they did. I would try to be fair and
8 impartial according to that if you understand that.

9 Q. Well, let me follow up on that because it's a
10 very important point and we really need to get your true
11 feelings on this.

12 A. Yes.

13 Q. It's clear that you believe that the
14 beneficiaries and customers start ahead of the bank in
15 this case. Is that true?

16 A. That's the truth.

17 Q. And you told us that you couldn't be fair
18 towards JPMorgan in this case, right?

19 A. Yes, sir. That's what I did.

20 Q. Yes. And so you right now have this conviction
21 that you could not be a fair juror towards JPMorgan in
22 this case?

23 A. I may not.

24 Q. Okay. Other cases may be different, but in this
25 case, your conviction is that you cannot be a fair juror?

1 A. *True.*

2 Q. *Okay. Thank you, sir.*

3 *THE COURT: All right. Potential juror*
4 *number four, is that Angel Ellison? Is that correct?*

5 *POTENTIAL JUROR 4: Yes, sir.*

6 *THE COURT: All right. Mr. Flegle, do you*
7 *have any questions for Ms. Ellison?*

8 *MR. FLEGLE: We do, Your Honor.*

9 *QUESTIONS OF POTENTIAL JUROR 4*

10 *BY MR. FLEGLE:*

11 Q. *I notice that you have a clerk on here as your*
12 *employment and my thing is fuzzy. What kind of position*
13 *is it that you have?*

14 A. *I work in the finance department.*

15 Q. *Okay. So is this accounts payable?*

16 A. *Accounts payable.*

17 Q. *Okay. Do you supervise anybody?*

18 A. *No, sir.*

19 Q. *Okay. How many are in that department there at*
20 *Holt Cat?*

21 A. *In the department?*

22 Q. *Yeah, that you work in.*

23 A. *About 10 maybe.*

24 Q. *Okay. I notice -- Unfortunately it looks like*
25 *you were in a car wreck. Were there any legal*

1 *proceedings after the car wreck?*

2 *A. No.*

3 *Q. Okay. In terms of our questions, you raised*
4 *your hand, I think, that you were a current customer of*
5 *JPMorgan Chase. Can you just tell us what kind of*
6 *accounts you have and how long you have been a customer?*

7 *A. I have a credit card account, and I really don't*
8 *recall how long. It's been so long.*

9 *Q. Okay. And just having a credit card account*
10 *wouldn't make you lean one way or the other in the case?*

11 *A. No, sir.*

12 *Q. Okay. And I noticed you said you had had a*
13 *bad -- or you knew somebody that had a bad experience*
14 *with a bank. Did I get that right?*

15 *A. No.*

16 *Q. Okay.*

17 *A. I have had one.*

18 *Q. Oh, you have had one?*

19 *A. Personally have had one.*

20 *Q. Personally have had one. Now, let me ask you*
21 *this. I don't want to ask you about the experience, but*
22 *I want to ask you if it had anything to do with a trust*
23 *or a trustee.*

24 *A. No, sir.*

25 *Q. So could you take whatever that experience was*

1 with whatever bank that was and put it aside and listen
2 strictly to the evidence in this case -- use your common
3 sense, of course, but listen to the evidence in the case
4 and judge that evidence by the law the court gives you?

5 A. Yes.

6 Q. And you think you could be a fair person?

7 A. Yes.

8 Q. And if the judge instructed you that you could
9 not decide the case based on your personal experiences,
10 will you follow that instruction?

11 A. Yes.

12 Q. Okay. I noticed on the mineral rights that you
13 had heard of the Eagle Ford shale. Tell us what you have
14 heard about it.

15 A. I work for Holt Cat. It's directly related to
16 the Eagle Ford shale industry.

17 Q. Got you. Could you please remind us what Holt
18 Cat does?

19 A. We sell Caterpillar machines. Large equipment
20 that's used in the Eagle Ford shale.

21 Q. So are these the ones that do the horizontal
22 drilling or the frac'ing and that kind of stuff?

23 A. Yes.

24 Q. Okay. And would that experience knowing that
25 your company is involved in the Eagle Ford shale cause

1 you to lean one way or the other in this case?

2 A. No, sir.

3 Q. Okay. And I also noticed you said you had heard
4 the terms "fiduciary duty." Kind of share with us in
5 what context you heard those terms.

6 A. I have read it in an article before. I wouldn't
7 say I really knew what it was until today, but I know I
8 have read it in an article before.

9 Q. Okay. Kind of, what, financial articles?

10 A. Yes. Financial-type articles.

11 Q. I have got the three slides again. One is what
12 number best reflects your opinion of JPMorgan Chase. One
13 is very positive and 10 is very negative and there's
14 numbers in between.

15 A. Number five.

16 Q. Number two is fiduciary duty requires that a
17 beneficiary's interest must be put above all others.
18 Zero is strongly disagree and 10 is strongly agree and
19 the numbers --

20 A. Ten.

21 Q. Ten?

22 A. Yes.

23 Q. And then the last one is number three. It is
24 very important that a company be held accountable for its
25 conduct and actions. Zero is strongly disagree, 10 is

1 *strongly agree, and all numbers in between.*

2 *A. Ten.*

3 *Q. Now that you have heard from us and from the*
4 *bank's lawyers, is there anything else you want to share*
5 *with us or any opinions that you have?*

6 *A. No, sir.*

7 *MR. FLEGLE: We pass the juror, Your Honor.*

8 *THE COURT: All right. Mr. Gall, do you*
9 *have any questions for potential juror number four,*
10 *Ms. Ellison?*

11 *MR. GALL: Yes.*

12 *BY MR. GALL:*

13 *Q. Ms. Ellison, I want to ask you a little more*
14 *about your knowledge of the Eagle Ford. You say you work*
15 *at Holt Cat where they sell equipment that's used there.*
16 *Have you heard people talk about the Eagle Ford and do*
17 *you have any understandings about the Eagle Ford that you*
18 *can share with us or is it just that you know that it*
19 *exists?*

20 *A. I know of it. There's a lot of discussion about*
21 *it in our company. That's about all I could really tell*
22 *you.*

23 *Q. Have you heard -- What have you heard about it?*

24 *A. It affects our bottom line basically.*

25 *Q. If the Eagle Ford is going well, Holt is doing*

1 well?

2 A. Yes.

3 Q. If it's not, you are not?

4 A. Right.

5 Q. Okay. I will rush in where Mr. Flegle wasn't
6 willing to go. Tell me about your bad experience with
7 the bank.

8 A. They froze my accounts many, many years ago. My
9 ex-husband and I had a loan together and he was not
10 upholding his part of the loan, and they froze my banking
11 accounts to get the money that they were owed.

12 Q. That wasn't JPMorgan, was it?

13 A. No, it was not.

14 Q. And you can set that experience aside and judge
15 our conduct based on what you hear in the courtroom?

16 A. Yes.

17 Q. You mentioned your ex-husband. What was his
18 employment?

19 A. He worked for Albertsons.

20 Q. Okay. Nothing to do with the oil and gas
21 industry?

22 A. No.

23 Q. All right. Mr. Flegle asked you about whether
24 companies should be held accountable for their conduct
25 and you said you strongly agreed. Would you also agree

1 *that if a company does its job well it should be rewarded*
2 *for its conduct?*

3 *A. Rewarded how?*

4 *Q. Either with -- paid for its services?*

5 *A. Yes.*

6 *Q. And I can't remember whether you raised your*
7 *hand when the question was asked about being overworked.*
8 *Were you one of the ones?*

9 *A. Yes.*

10 *Q. And have you felt that way from time to time?*

11 *A. Yes.*

12 *Q. Have you complained to people sometimes about*
13 *it?*

14 *A. Yes.*

15 *Q. Maybe written an e-mail that you weren't so*
16 *proud of or something like that?*

17 *A. Not an e-mail, no.*

18 *Q. Okay. Did you still do a good job at what you*
19 *did?*

20 *A. Yes.*

21 *Q. Put in the extra work. Do what you had to do to*
22 *get your job done?*

23 *A. Yes. That's what they pay me for.*

24 *Q. Thank you. I want to ask you the same thing I*
25 *asked Ms. Falcon. If the judge instructs you to judge*

1 JPMorgan's conduct based on the facts and circumstances
2 that existed at the time they were making decisions and
3 not do hindsight, will you do the best job you can to do
4 that?

5 A. Yes, sir.

6 Q. Will you do the best job you can to be fair to
7 both sides?

8 A. Yes. Absolutely.

9 Q. And do you understand that just because
10 Mr. Flegle says this is a big case, it's real important,
11 that that doesn't mean it's a big case that's real
12 important?

13 A. I'm sure it's important to the parties, but --

14 Q. Sure, but just because someone says it's a big
15 case and there's a lot of money at stake, that doesn't
16 mean they are entitled to money. Would you agree with
17 that?

18 A. I work in finance. I see millions of dollars
19 every day go out the door so that doesn't affect me.

20 Q. Thank you.

21 MR. GALL: That's all we have.

22 THE COURT: All right. Potential juror
23 number five, is that Leslie Guitan? Is that correct?

24 POTENTIAL JUROR 5: Yes.

25 THE COURT: All right. Mr. Flegle, do you

1 have any questions for Ms. Guitan?

2 MR. FLEGLE: We do, Your Honor.

3 QUESTIONS OF POTENTIAL JUROR 5

4 BY MR. FLEGLE:

5 Q. I notice you are at Christus Health. Have you
6 had any prior jobs before Christus?

7 A. I was at Legend Oaks and Six Flags a long time
8 ago.

9 Q. But in your -- kind of your working time where
10 you have got jobs -- You are a pediatric nurse now,
11 right?

12 A. Yes.

13 Q. And have you been a pediatric nurse all three
14 years you have been at Christus Health?

15 A. I have only been at Christus since June.

16 Q. Okay. I see. You have been in Bexar County for
17 three years. Where were you before you came here?

18 A. El Paso, Colorado, and Georgia.

19 Q. And that was with your husband?

20 A. Yes.

21 Q. Now, I notice he's a disabled vet. Thank you
22 for his service. Which theaters was he in? Do you
23 remember?

24 A. Excuse me?

25 Q. Where did he serve?

1 A. *Army.*

2 Q. *And was he overseas or in the United States?*

3 A. *Yes. Afghanistan and Iraq.*

4 Q. *How many times either place?*

5 A. *Twice. Well, once in Iraq and once in*
6 *Afghanistan.*

7 Q. *I noticed with your number that you mentioned*
8 *that you had a bad experience with a bank and that that*
9 *experience might be important to you. Again, I don't*
10 *want to get into -- I'm not into getting into bad*
11 *experiences. I'm trying to get into whether or not you*
12 *could look at the evidence in this case as admitted by*
13 *the court and judge it in light of the law that the court*
14 *gives you and put the bad experience aside and be a fair*
15 *juror if you were picked. Could you do that?*

16 A. *I'm not sure because it's more than one bank*
17 *that we had.*

18 Q. *More than one bank?*

19 A. *Yeah.*

20 Q. *Were any of the banks that you had the*
21 *experience with JPMorgan Chase?*

22 A. *No.*

23 Q. *Were they banks that were in Bexar County?*

24 A. *Yes.*

25 Q. *Well, if the judge instructed you that you could*

1 not decide the case based on your personal experiences
2 but you had to listen to the evidence and the law as
3 given by the judge, could you follow the judge's
4 instruction?

5 A. Yes.

6 Q. I'm going to ask you the same three questions
7 here for a number. The first one is what number best
8 describes your opinion of JPMorgan Chase Bank with zero
9 being very -- I'm sorry, one being very positive and 10
10 being very negative.

11 A. Five.

12 Q. And on number two, fiduciary duty. Fiduciary
13 duty requires that a beneficiary's interest must be put
14 above all others. Zero is strongly disagree and 10 is
15 strongly agree and the numbers in between.

16 A. Ten.

17 Q. And accountability. It is very important that a
18 company be held accountable for its conduct and actions.
19 Zero, strongly disagree. Ten, strongly agree.

20 A. Ten.

21 Q. Now, just a minute ago, you mentioned to me that
22 you think you could be fair here today. And when the
23 bank asked for some questions -- asked some questions
24 generally just a while back, you raised your card that
25 you would tend to favor the customer. Can you kind of

1 explain why you raised your card then?

2 A. Because I could try and listen to the evidence,
3 but I think I would be more towards the customer than the
4 bank.

5 Q. Now, have any of your experiences as -- any of
6 your feelings about favoring the customer had anything to
7 do with a trust or the bank acting as the trustee?

8 A. No.

9 Q. And if you were given the law that related to
10 the trustee's responsibility and the trust and the
11 beneficiaries, do you think you could listen to it?

12 A. Yes.

13 Q. And could you listen to the evidence that was
14 given about what happened to the trust and what the
15 trustee did or didn't do and gauge that based on the
16 evidence that's presented and the law that's given by the
17 court?

18 A. Yes.

19 Q. Okay. Now, I think you also said you disliked
20 banks and can't be fair. I take it that has to do with
21 your experience --

22 A. Yes.

23 Q. -- a little bit before. Can you take those
24 experiences again and put them aside in a case that's
25 involving trusts and the bank is a trustee and judge this

1 case on the evidence and the law?

2 A. I'm not too sure about that because of my
3 experience and then everything else that you hear on the
4 news and the TV about all the other stuff about banks.

5 Q. Well, let me ask you this. If the court
6 instructs you as part of your instructions in this case
7 to look only at the evidence in this case and only at the
8 law that the court gives you, do you think you can do
9 that?

10 A. I think so.

11 Q. Are you going to try to be as fair as you can?

12 A. Yes.

13 Q. And you think you can be fair?

14 A. Yes.

15 Q. And then I think you held up your card when the
16 question was asked if my clients have accused JPMorgan
17 then it's probably true. Let me just say we want to
18 start out even here. So can you let us start out even
19 here and say, you know, I'm going to put you to that
20 burden. Remember that 101 to 100 burden -- preponderance
21 of the evidence. If I don't make it, my clients don't
22 prevail in the case. Could you put that burden on me and
23 my clients and say I'm going to listen to the evidence.
24 And if the plaintiffs carry their burden, I will make a
25 decision accordingly, or if the bank carries its burden,

1 *I will make a decision accordingly?*

2 *A. Yes.*

3 *Q. Could you do that?*

4 *A. Yes.*

5 *Q. And then I think you had another answer on banks*
6 *cheat customers to make money. When you raised that*
7 *card, did any of your experiences or your observations on*
8 *that issue have anything to do with trusts or trustees?*

9 *A. No.*

10 *Q. So could you look at this situation and make an*
11 *independent decision on your own and fair decision based*
12 *on the facts and the evidence that we present and the law*
13 *the court gives you on whether or not the plaintiff*
14 *should prevail or that the bank should prevail and*
15 *starting out -- we are both starting out even?*

16 *A. Yes.*

17 *Q. You could do that?*

18 *A. Yes.*

19 *Q. And can you also assure JPMorgan here that if*
20 *you are chosen you will be a fair and impartial juror?*

21 *A. Yes.*

22 *Q. And can you assure my clients, the*
23 *beneficiaries, the same thing?*

24 *A. Yes.*

25 *Q. And by same thing, I mean decide the case on the*

1 *evidence presented and admitted and the law given you by*
2 *the court?*

3 *A. Yes.*

4 *MR. FLEGLE: We pass the juror, Your Honor.*

5 *THE COURT: All right. Mr. Garza, do you*
6 *have any questions of potential juror number five,*
7 *Ms. Guitan?*

8 *MR. GARZA: I do, Your Honor.*

9 *BY MR. GARZA:*

10 *Q. Ms. Guitan, you were very honest in the opening*
11 *questions that we were asking you and you said that this*
12 *case may not be right for you. Tell me what you meant by*
13 *that.*

14 *A. Just thinking the banks might be in the wrong*
15 *maybe.*

16 *Q. Right. Okay. Is there anything else about*
17 *that?*

18 *A. No.*

19 *Q. Mr. Flegle was trying to ask you questions to*
20 *move you from your answers before. You told me that you*
21 *could not be fair in this case, did you not?*

22 *A. Yes.*

23 *Q. And why can you not be fair?*

24 *A. Just my experience and then everything, like I*
25 *said, that you hear on the news about all of these banks.*

1 Q. Okay. And so you have a firm conviction that
2 you cannot be fair in this case. Is that a yes?

3 A. Yes.

4 Q. Okay. That's all the questions we have. Thank
5 you.

6 THE COURT: All right. Potential juror
7 number six, is that Brandy Stone? Is that correct?

8 POTENTIAL JUROR 6: That is correct. I
9 actually have something personal I need to note and very
10 soonly so before the questions or after.

11 THE COURT: All right. Go ahead.

12 POTENTIAL JUROR 6: Originally when I did
13 not raise my hand for my availability, I went home and
14 talked to my husband. That was a big mistake and I will
15 hear about it for the rest of whatever. Anyways,
16 Thursday -- this past Thursday, he was fired from KCI.
17 Tech Systems is the group that gets him hired onto
18 another company so that's why I listed them as his
19 employer. Yet by my being here and he is not working,
20 it's actually going to impact us a great deal. I just
21 wanted to say that so I can go home and say I said that.
22 Carry on.

23 THE COURT: All right. Thank you. All
24 right. Mr. Flegle, do you have any questions?

25 MR. FLEGLE: I do, Your Honor.

1 QUESTIONS OF POTENTIAL JUROR 6

2 BY MR. FLEGLE:

3 Q. Let's see. In your juror questionnaire, you
4 mention that you are working at Dive World. Is that a
5 diving --

6 A. Recreational sales, yes.

7 Q. Recreational sales. What prior jobs have you
8 had?9 A. Always in retail. There was a short time that I
10 did in Florida for a nonprofit art company or art gallery
11 but always sales.12 Q. And you said you have been in Bexar for two
13 years. Where were you before Bexar?14 A. Florida. I was born and raised in San Antonio
15 and left to go to Florida when I was 24 but just recently
16 got back.

17 Q. And are you a diver?

18 A. Very much so.

19 Q. All right. Are there places to dive -- There's
20 places to dive around here, aren't there?

21 A. Not many, but yeah.

22 Q. Yeah. In answer to our questions, I noticed
23 that you mentioned that you had an association or
24 connection with the banking industry or the finance
25 industry.

1 A. Correct.

2 Q. Can you kind of describe that for us?

3 A. My sister has been with Wells Fargo for 17-18
4 years.

5 Q. Okay. What is her job?

6 A. She's had several. At the moment, her position
7 has a lot of letters in it, but what I get out of it is
8 that she responds to disaster areas to make sure the
9 operations are up and running.

10 Q. Disaster meaning the bank's equipment --

11 A. Any type of disaster. Yeah. She goes in and
12 makes sure that everything is running as it should be or
13 getting it up to speed as quickly as possible.

14 Q. So if something like Hurricane Katrina blows
15 through New Orleans, she will come in for Wells Fargo?

16 A. Correct. Yes.

17 Q. All right. Is there anything about her work for
18 Wells Fargo that would cause you to lean one way or the
19 other here?

20 A. No.

21 Q. You also answered one of our questions. Let's
22 see. 8 A, owning mineral rights. Can you kind of
23 describe what mineral rights you or your family own?

24 A. Okay. Well, at the present moment, we are
25 selling property -- my husband's property. It has been

1 in the family for many years and it's a work in progress.
2 So it hasn't been sold on and I know that there is
3 mineral rights discussion on it, but that's the extent of
4 it. I mean, just that I have some working knowledge of
5 it.

6 Q. Sure. And where is the property located?

7 A. Campbellton.

8 Q. Okay.

9 A. South 1604 outside.

10 Q. Okay. Help me here. That's in our county,
11 isn't it? Is that in Bexar?

12 A. I think so.

13 Q. Yeah. I think it is. Are there mineral rights
14 involved?

15 A. Yes.

16 Q. Okay. Is there anything about that pending sale
17 that would cause you to lean one way or the other in this
18 case?

19 A. Not necessarily.

20 Q. And does the sale involve a trust or anything?

21 A. It does, in fact. It was his -- He's, what,
22 overseeing the estate because both parents are deceased.

23 Q. Okay.

24 A. My husband.

25 Q. Your husband?

1 A. Uh-huh.

2 Q. And so he's acting as kind of the trustee?

3 A. Correct.

4 Q. Okay. And have you and he discussed what his
5 responsibilities are as trustee?

6 A. Generally, yes. Not in great length, but yes.

7 Q. Okay. And are there other beneficiaries to the
8 trust?

9 A. Yes.

10 Q. Okay. And I guess -- I bet your husband
11 understands that he's got some duties to those other
12 people?

13 A. Absolutely.

14 Q. Okay. And as part of this sale, he's trying to
15 make sure that he fills those duties, right?

16 A. Correct.

17 Q. Now, is there anything about what he's doing
18 with this trust and this sale that would cause you to
19 lean one way or the other in this case either in favor of
20 the bank who is our trustee or our beneficiaries here?

21 A. I would like to think no. Yes, I'm an emotional
22 person and how he would respond or react I think would
23 have some bearing on how I feel about this case. It has
24 nothing to do with one or the other, though. I mean --

25 Q. Okay. And when you say you are an emotional

1 person, has there been something happen with your husband
2 and the trust thing that --

3 A. Yes, unfortunately. Yes.

4 Q. Without getting too far in the weeds, what
5 generally happened?

6 A. It involves a niece and a nephew that he has
7 nothing to do with. Like I said, both parents are
8 deceased and his brother is also deceased. They have
9 no -- there's no family ties. There's no connection to
10 -- Yeah, the emotional crap.

11 Q. Yeah. Kind of the family stuff. Well, if the
12 judge instructed you that you could not decide the case
13 based on your experiences but on the evidence that's
14 admitted in this case and the law instructed by the
15 court, could you follow that?

16 A. Absolutely.

17 Q. Okay. I noticed in the bank counsel's questions
18 that you said you tended to favor -- you would tend to
19 favor the customer. Can you kind of share with us why?

20 A. Yeah, and it's just human nature. I would think
21 that if I were in their position that I would be putting
22 a lot of stake into that they have -- they know it better
23 and I have to trust that. So where I don't, I would rely
24 on them, and I guess just for the fact that it's sort of
25 imperfection to not know everything and be so dependent

1 on somebody else that I would expect them to be able to
2 help better or be more available, I guess.

3 Q. Right. And the "them" you are talking about is
4 the bank?

5 A. Correct.

6 Q. Okay. Now, you know, there's going to be some
7 back and forth I can predict between us and the bank and
8 the bank's lawyers about that issue. Do you feel like
9 you can keep your mind open until you have heard the
10 evidence?

11 A. Yes, sir.

12 Q. Okay. And be fair?

13 A. Yes.

14 Q. Okay. And I think you raised your card when the
15 question was asked if the plaintiff accused JPMorgan it's
16 probably true.

17 A. Yeah. I just went with numbers on that one just
18 looking at it from the simple standpoint that I'm at at
19 this time. Yeah. There's a lot of numbers that I can't
20 imagine it's not valid based on that.

21 Q. Right. Well, could you spot me this that I have
22 got a burden and I'm not shying away from it and my
23 beneficiaries are the ones that have got to help me. We
24 have got to carry that burden. It's the 101 to 100 thing
25 we were talking about. Can you put that burden on me and

1 *be fair in this case --*

2 *A. Of course.*

3 *Q. -- and listen to the evidence and the law that*
4 *the judge instructs you?*

5 *A. Yes.*

6 *Q. Okay. And then I think there was another card*
7 *that you raised on cheating customers to make money for*
8 *banks. How come you feel like that?*

9 *A. It's not fair. I probably -- I hesitated and*
10 *just acted on impulse, but there again, they are the ones*
11 *that are holding all the information and the knowledge*
12 *and the power, and nobody is perfect. It could happen.*
13 *That was all.*

14 *Q. Right. Sure. We are all human. Nobody is*
15 *perfect and things could happen, and the bank has got*
16 *certain standards it's got to meet. There's no question*
17 *about that. But could you listen to what the evidence is*
18 *about what the bank actually did and be fair to the bank*
19 *and also listen to what the beneficiaries' side of the*
20 *story is, the evidence, and be fair to the*
21 *beneficiaries --*

22 *A. Yes, I could.*

23 *Q. -- and follow the judge's instructions based on*
24 *the evidence?*

25 *A. Yes.*

1 Q. Okay. Now, I missed a couple of questions here
2 and let me -- let me see. We talked about I think the
3 fiduciary -- we have done the fiduciary duty part and
4 there's one other item here. I think you raised your
5 card on the bad experience with an investment or a
6 business deal. Is that your husband's issue?

7 A. My ex-husband's issue.

8 Q. Oh, ex. Okay.

9 A. So I don't see that it has any relation at this
10 point.

11 Q. Right. So let me just ask you that question
12 because our court reporter is taking things down here.
13 It's real important. The bad experience is with your
14 former husband?

15 A. Uh-huh.

16 Q. Is that correct?

17 A. Yes.

18 Q. And that experience is remote enough that that
19 has nothing to do with the way you would gauge this case
20 and judge it as a fair juror based on the evidence and
21 the law?

22 A. Correct.

23 Q. Okay. Let me just ask you about the situation
24 with your husband. Given that situation with your
25 husband and what he's having to deal with with the niece

1 and nephew, would that in any way affect you in this case
2 if you are chosen?

3 A. I will just be more sympathetically aware
4 because it's going to -- you know, it's something I'm
5 going through on some level and there will be that small
6 comparison, I guess.

7 Q. But does it mean you are starting out to favor
8 the bank as trustee which is what your husband is or the
9 beneficiaries?

10 A. No.

11 Q. Okay. Here's the three questions again. What
12 number best reflects your opinion of JPMorgan Chase? One
13 is very positive. Ten is very negative.

14 A. Five.

15 Q. And the second one is fiduciary duty requires
16 that a beneficiary's interest must be put against all
17 others -- put above all others. Zero, strongly disagree.
18 Ten, strongly agree.

19 A. Ten.

20 Q. And finally, it's very important that a company
21 be held accountable for its conduct and actions. Zero,
22 strongly disagree. Ten, strongly agree.

23 A. Ten.

24 MR. FLEGLE: We pass the juror, Your Honor.

25 THE COURT: All right. Mr. Gall, do you

1 have any questions for potential juror number six,
2 Ms. Stone?

3 MR. GALL: Yes, Your Honor, we do.

4 BY MR. GALL:

5 Q. Ms. Stone, as I understand it, your husband is
6 acting as a trustee and the other parties that are
7 interested are cousins that he doesn't really have a
8 relationship with, correct?

9 A. Niece and nephew.

10 Q. Niece and nephew. I'm sorry. If your husband
11 sells this property and gets a fair price for it, do you
12 think he's done his job?

13 A. Yes, I do.

14 Q. Do you think it would be fair for that niece and
15 nephew to come back months/years later and say, Oh, you
16 should have waited a year, you should have waited 18
17 months, you should have waited later to sell it because
18 you would have gotten more, do you think that's fair?

19 A. No. They have been given an opportunity.

20 Q. Right. And you told us that -- you told
21 Mr. Garza that you assumed because JPMorgan was sued that
22 they must have done something wrong. Is that your
23 attitude?

24 A. Yeah.

25 Q. Yeah. So if that's your assumption, that means

1 that we are kind of starting off behind, correct?

2 A. I suppose. Unfortunately, yes.

3 Q. Yeah. So the scale is not even as we start
4 this, right?

5 A. Right.

6 Q. Okay. And you have -- you said you -- you
7 answered the question that you thought that banks would
8 engage in improper behavior. Is that still your
9 attitude?

10 A. Yeah. I'm not -- just only because it's not
11 incapable of happening.

12 Q. Right. But your kind of attitude is that a bank
13 would engage in improper behavior to benefit itself?

14 A. Yes.

15 Q. That's a preconceived notion you come into the
16 case with?

17 A. Self-serving, yes.

18 Q. Okay. Now, you also told us that you had some
19 accounting and finance experience, I think. Can you tell
20 me what that is?

21 A. Very small in its form. Again, it was with my
22 ex-husband. We had a business together and I helped in
23 that regard. His parents had five businesses that I
24 helped in that regard but not enough where it would
25 impact on what I need to do now.

1 Q. How long ago was that?

2 A. Eight years ago.

3 Q. Eight years. What kind of businesses?

4 A. Property rentals and we also had a painting
5 business.

6 Q. Painting?

7 A. Uh-huh.

8 Q. Thank you. You testified -- or, I mean, you
9 answered that you had been impacted by the economic crash
10 in 2008.

11 A. Correct.

12 Q. And I'm not trying to embarrass you, but I'm
13 trying to understand how you were impacted.

14 A. We lost our jobs.

15 Q. I see.

16 A. Uh-huh. We had to -- we lost our painting
17 business. And at the time, we were kind of crossing over
18 into construction. A major no-no. So that business
19 folded and we lost our jobs and came running back to
20 Texas.

21 Q. It was a really bad time, wasn't it?

22 A. It was.

23 Q. For a lot of people?

24 A. Sure.

25 Q. You also answered that you didn't think this was

1 the right case for you. Could you tell us why?

2 A. For the simple standpoint that I felt like it
3 was sort of -- because of the sale on the current
4 property that it had some influence.

5 Q. Okay.

6 A. Not major, but it's present anyways.

7 Q. All right. Is the property being sold to an oil
8 company?

9 A. No.

10 Q. All right. The property that your husband is
11 dealing with.

12 A. Correct.

13 Q. Okay.

14 A. It's not.

15 Q. How long has he been the trustee for that?

16 A. Maybe three or four years.

17 Q. All right. That's all the questions I have.
18 Thank you.

19 THE COURT: All right. Potential juror
20 number seven, is that Virgil Schroeder?

21 POTENTIAL JUROR 7: Yes.

22 THE COURT: All right. Mr. Flegle, do you
23 have any questions for potential juror number seven,
24 Mr. Schroeder?

25 MR. FLEGLE: We do, Your Honor.

1 QUESTIONS OF POTENTIAL JUROR 7

2 BY MR. FLEGLE:

3 Q. Mr. Schroeder, I noticed you have been in Bexar
4 for 16 years. Where were you before Bexar?

5 A. It was Douglas County, Omaha, Nebraska.

6 Q. And what did you do there?

7 A. I worked for Mutual of Omaha Insurance for 17
8 years.

9 Q. What was your job?

10 A. IT specialist.

11 Q. Is that where you were born and raised?

12 A. No. I was -- I grew up in Lincoln, but I have
13 lived all over the country.14 Q. Got you. And in terms of what you did all over
15 the country, was it for the same company, Mutual of
16 Omaha, or for others?17 A. No. I worked for a large retail catalog company
18 in Minneapolis for five years prior to Omaha.

19 Q. Okay. Which retail company?

20 A. It's Martin Merchandising. They owned and
21 operated stores similar to Service Merchandise and they
22 also printed their catalogs.23 Q. Okay. And was that headquartered in
24 Minneapolis?

25 A. Yes.

1 Q. Okay. And I notice you just earlier this year
2 retired from USAA. What was your job at USAA?

3 A. The last 13 years, I was in IT data backup and
4 recovery.

5 Q. Was it any particular department or was it for
6 the whole deal?

7 A. The entire corporation including our remote
8 sites.

9 Q. Okay. In your role, when would you get involved
10 in an issue?

11 A. We always guaranteed that backups were there.
12 If people needed additional space to store data, we were
13 involved. If they needed recovery of any kind of data,
14 we were involved. I was on call 24/7.

15 Q. That makes weekends long sometimes, doesn't it?

16 A. That's why I retired earlier than 65.

17 Q. Well, it's good to have you here. Thank you. I
18 noticed on our questions that you mentioned that you had
19 a -- you were a current customer of JPMorgan Chase. Can
20 you kind of tell us generally how long you have been a
21 customer and what kind of accounts you have?

22 A. One Master Card for probably about eight years,
23 a Visa card from a previous company that I think was
24 taken over by Chase, and I also just recently got
25 investments by Edward Jones that were put into JPMorgan.

1 Q. And Edward Jones I think if I remember is
2 separate from JPMorgan, isn't it?

3 A. Yes, but they purchased JPMorgan for my
4 portfolio.

5 Q. Yeah. The stock just for the -- the savings --
6 the retirement account, whatever it is, the portfolio?

7 A. Yes.

8 Q. And were you consulted before they did that?

9 A. Yes. I was doing a rollover from USAA, a
10 401(k). We discussed our goals and JPMorgan was part of
11 those goals.

12 Q. Okay. Now, is there anything about the fact
13 that your account and your adviser suggested that you
14 purchase JPMorgan stock for your account cause you to
15 lean one way or the other in this case before you have
16 heard the first piece of evidence?

17 A. No.

18 Q. Okay. And would it cause you in any way to look
19 at the evidence or the law favoring one side or the
20 other?

21 A. No.

22 Q. Do you know whether the ownership of the
23 JPMorgan stock is outright as in it's a line item or is
24 it part of a mutual fund that you own?

25 A. It's a series of mutual funds that are in my

1 portfolio.

2 Q. Okay. And the mutual fund then has some
3 positions in JPMorgan; is that right?

4 A. Yes.

5 Q. Okay. Now, I -- and is that all your -- is that
6 how your -- Let's see. We have got the credit cards and
7 we have got the stock. Then I noticed that -- One of the
8 questions was current association or connection in the
9 banking industry or the finance industry. What was that?

10 A. It's basically USAA and Mutual of Omaha both for
11 large financial companies. I did not work directly for
12 the bank, but the bank -- USAA Bank was one of my
13 internal customers.

14 Q. You did IT work for them?

15 A. Yes.

16 THE COURT: Sir, can you hold the microphone
17 a little closer to you?

18 POTENTIAL JUROR 7: Okay.

19 THE COURT: There you go. That's better.

20 BY MR. FLEGLE:

21 Q. And is there anything about what you did for a
22 bank at USAA that would cause you to lean one way or the
23 other here?

24 A. No. I treated the data as irrelevant of who the
25 customer was other than some customers had higher

1 *priority to get their data back.*

2 *Q. Right. And your job was just to get the data*
3 *back, not to know what was in the data?*

4 *A. Correct.*

5 *Q. Okay. Let me ask you the three questions that I*
6 *have got. Number one is what number best reflects your*
7 *opinion of JPMorgan Chase with one being very positive*
8 *and 10 very negative?*

9 *A. I'd say five.*

10 *Q. All right. Thank you. And on fiduciary duty,*
11 *fiduciary duty requires that a beneficiary's interest*
12 *must be put above all others. Zero, strongly disagree.*
13 *Ten, strongly agree, and anything in between.*

14 *A. Ten.*

15 *Q. And then accountability. It's very important*
16 *that a company be held accountable for its conduct and*
17 *actions. Zero, strongly disagree. Ten, strongly agree,*
18 *and anything in between.*

19 *A. Ten.*

20 *Q. And just so I'm crystal clear here in terms of*
21 *the JPMorgan stock, is that held as a line item in your*
22 *stock that you are holding directly or is that through*
23 *another company?*

24 *A. Edward Jones is my company I go with. Half of*
25 *the stocks or mutual funds show JPMorgan in the name such*

1 as a bond fund, a growth fund.

2 Q. Oh, I see. So this is not stock in JPMorgan
3 Chase & Co. It's a fund that JPMorgan Chase administers
4 or whatever they do?

5 A. Right.

6 Q. Okay.

7 A. They were based on my goals to try to protect my
8 401(k).

9 Q. I understand. So if the question then is do you
10 own stock in the big bank over here, the answer is that's
11 not what you are talking about?

12 A. No.

13 Q. Okay.

14 MR. FLEGLE: We will pass the juror, Your
15 Honor.

16 THE COURT: All right. Mr. Garza, do you
17 have any questions for potential juror number seven,
18 Mr. Schroeder?

19 MR. GARZA: I do, Your Honor.

20 BY MR. GARZA:

21 Q. Mr. Schroeder, where did your wife work before
22 she retired?

23 A. She retired from Millard school district which
24 is up in Omaha. She worked briefly for USAA for 15
25 months back in the early nineties -- I mean late

1 *nineties. Other than that, watched our grand kids.*
2 *She's got health issues and so she can't work right now.*

3 *Q. So when she worked for USAA, what was her job*
4 *over there?*

5 *A. She had to transcribe audio recordings of, say,*
6 *an accident and basically transcribe what she heard into*
7 *some kind of an internal document.*

8 *Q. Sir, we talked a little about hindsight earlier*
9 *in the discussions. Do you think it's fair for someone*
10 *to use hindsight to judge decisions that were made*
11 *previously?*

12 *A. No. What's in the past is past.*

13 *Q. Okay. And you can be a fair juror here and you*
14 *have assured us that you can be; is that correct?*

15 *A. Yes.*

16 *Q. Thank you, sir.*

17 *THE COURT: All right. Potential juror*
18 *number eight, is that Enrique Ramos? Is that correct?*

19 *POTENTIAL JUROR 8: Yes, sir.*

20 *THE COURT: All right. Mr. Flegle, do you*
21 *have any questions for Mr. Ramos?*

22 *MR. FLEGLE: We do, Your Honor.*

23

24

25

1 QUESTIONS OF POTENTIAL JUROR 8

2 BY MR. FLEGLE:

3 Q. I noticed in our questions that you mentioned
4 that you had a connection or a current association with
5 the banking or finance industry. Can you explain that to
6 us?

7 A. My wife, sir. She works for Citibank.

8 Q. Okay. And what's her position?

9 A. Phone service rep.

10 Q. Is that here in San Antonio?

11 A. Yes.

12 Q. That's where she works. And then I notice that
13 you work at HEB as a mechanic. Is that for the --

14 A. Warehouse, yes.

15 Q. The warehouse stuff?

16 A. Trucks. Trailers.

17 Q. Got you. And you have been a mechanic with them
18 for how long?

19 A. Twenty-seven years.

20 Q. Twenty-seven years. Okay. Now, is there
21 anything about your wife's role over at Citibank that
22 would cause you to lean one way or the other in this
23 case?

24 A. No. Her job is her job. We never get into it.

25 Q. Yeah. I tend to know what that means. Let's

1 see. I also noticed you mentioned that you had heard of
2 the Eagle Ford. Can you kind of tell us what you had
3 heard about it?

4 A. I believe I saw the front page of the paper
5 awhile back. It had a story or something about it, but I
6 didn't even read it. I just saw it.

7 Q. About the Eagle Ford shale or about this case or
8 do you know?

9 A. I think it was about the case.

10 Q. Okay.

11 A. Something about a lawsuit, but like I said, I
12 didn't read it.

13 Q. But you didn't read it. And just seeing that
14 case in the newspaper is not causing you to lean one way
15 or the other here, right?

16 A. No.

17 Q. Okay. And you could be a fair juror?

18 A. Yes.

19 Q. Okay. Let's see. There were some bank
20 questions for you that you raised your card on, and one
21 of them was if we accused JPMorgan it's probably true.
22 Now, can you kind of explain why you raised your card on
23 that one?

24 A. I don't believe I did on that one.

25 Q. Oh, you didn't? Okay. Let's see if I have got

1 *this right. Okay. Just a mistake on my card here. And*
2 *then I have got an indication that you raised your card*
3 *on banks cheat customers to make money. Did you raise*
4 *your hand on that?*

5 *A. No.*

6 *Q. All right, sir. Well, is there anything about*
7 *the questions that the bank asked everybody generally or*
8 *up to now that would cause you to believe the bank's*
9 *position already or to cause you to believe the*
10 *beneficiaries' position already before you have heard the*
11 *evidence and instructions that are allowed by the court?*

12 *A. No, sir. I have heard nothing so I can't make a*
13 *judgment.*

14 *Q. Right. And do you believe you could be fair in*
15 *this case?*

16 *A. Yes, sir.*

17 *Q. In terms of this case in and of itself, do you*
18 *have any views or opinions right now that you feel like*
19 *you need to share with us?*

20 *A. No, sir.*

21 *Q. Okay. So I will ask you the three questions.*
22 *What number best reflects your opinion of JPMorgan Chase?*
23 *One, very positive. Ten, very negative, anything in*
24 *between.*

25 *A. Five.*

1 Q. And the second one is fiduciary duty requires
2 that a beneficiary's interest must be put above all
3 others. Zero, strongly disagree. Ten, strongly agree,
4 and anything in between.

5 A. Eight.

6 Q. And the last one is it's very important that a
7 company be held accountable for its conduct and actions.
8 Strongly disagree is zero, strongly agree is 10, and
9 anything in between.

10 A. Ten.

11 Q. And just the last topic. Did 2008 and all the
12 stuff that was going on have an impact on you or your job
13 or your family?

14 A. My 401(k) at work. We lost a lot of money.

15 Q. Yeah. And it was just a matter of the stocks
16 going down?

17 A. Yeah.

18 Q. And did they come back up eventually?

19 A. Eventually.

20 Q. Yeah. All right. You didn't sell while they
21 were going down?

22 A. I can't touch it. I'm too young.

23 Q. All right.

24 MR. FLEGLE: Your Honor, we pass the juror.

25 THE COURT: All right. Mr. Gall, do you

1 have any questions for potential juror number eight,
2 Mr. Ramos?

3 MR. GALL: Yes, Your Honor, I do.

4 BY MR. GALL:

5 Q. Mr. Ramos, when you saw your 401(k) fall, did it
6 scare you?

7 A. To a certain point, yes, you know, losing a lot
8 of money.

9 Q. I'm sorry?

10 A. Yeah. Losing money, yeah.

11 Q. Were you absolutely certain it was going to come
12 back?

13 A. Nothing is guaranteed.

14 Q. Right. Now, in response to Mr. Flegle's
15 questions, you said that you had seen an article about
16 this and didn't read it about the case. Other than that,
17 have you any knowledge of the Eagle Ford shale play at
18 all?

19 A. Just what I see in the news about them, you
20 know, digging and oil and all that stuff about frac'ing
21 and stuff like that but nothing else.

22 Q. All right. Just general knowledge that you have
23 picked up from living in San Antonio --

24 A. Yes.

25 Q. -- the last three years? Okay. And the

1 connection you have to banking and finance is through
2 your wife. Did I understand that correct?

3 A. Yes, sir.

4 Q. And that's the only connection. Mr. Flegle has
5 asked you about fiduciary duties and you said 10, that
6 you saw that meant that the trustee has to put his
7 obligations or his -- oh, eight. You said eight on that;
8 that the fiduciary has to put his interest behind his
9 beneficiaries.

10 To put some real life meat on that, that
11 would mean that Ms. Stone's husband has got to put the
12 interest of the two cousins -- two nephews and nieces
13 ahead of his own. Is that how you understand it?

14 A. Well, the way I see it is every case is
15 different. That's why I didn't give it a 10.

16 Q. Okay. That's perfect. If in this case the
17 judge instructs you that you are to judge the trustee's
18 conduct based on the information that was available at
19 the time of the decisions and not to use hindsight and
20 Monday morning quarterbacking to judge our conduct, can
21 you do that?

22 A. Yes, sir.

23 Q. Will you do the best you can not to be
24 influenced by hindsight?

25 A. Yes, sir.

1 Q. Thank you. Well, is there any other -- anything
2 else that occurs to your mind that would make you feel
3 like you couldn't be fair and impartial?

4 A. No, sir.

5 Q. All right. Thank you for your time.

6 A. Thank you.

7 THE COURT: All right. Potential juror
8 number nine, is that Kenneth Volker? Is that correct,
9 sir?

10 POTENTIAL JUROR 9: Yes, sir.

11 THE COURT: All right. Mr. Flegle, do you
12 have any questions for Mr. Volker?

13 MR. FLEGLE: We do, Your Honor.

14 QUESTIONS OF POTENTIAL JUROR 9

15 BY MR. FLEGLE:

16 Q. I notice on your juror questionnaire that you
17 are retired.

18 A. That's correct.

19 Q. What did you retire from?

20 A. A tobacco company.

21 Q. Which one?

22 A. Liggett Group.

23 Q. And was that here in Bexar County or was it
24 somewhere else when you were employed by them?

25 A. I was employed here in Texas.

1 THE COURT: Sir, I don't think that
2 microphone is working. Would you check it and make sure
3 it didn't get turned off on the transfer there.

4 POTENTIAL JUROR 9: Is it working now?

5 THE COURT: Craig, can you hear it?

6 THE REPORTER: Yes.

7 THE COURT: All right. Go ahead.

8 BY MR. FLEGLE:

9 Q. You say you were working here in Texas. I
10 noticed you have been in Bexar for 25 years.

11 A. That is correct.

12 Q. Where did you move from?

13 A. I moved from Michigan.

14 Q. Okay. And how long have you been in Texas?

15 A. Twenty-five years.

16 Q. Okay. So it's all been right here in Bexar?

17 A. Well, I was covering 17 states, but this was my
18 home base.

19 Q. Got you. And what was your role at Liggett?

20 A. I'm sorry?

21 Q. What was your role with the Liggett Group? What
22 was your job?

23 A. I was a zone manager.

24 Q. And what did they do?

25 A. Covering 17 states, I was responsible for

1 covering all the military installations and ensure that
2 they had enough product and also the federal prisons. If
3 they had any problems, then I would correct them.

4 Q. Did any of your responsibilities have anything
5 to do with banking or the financial industry?

6 A. No.

7 Q. Okay. And there's nothing about what you did
8 with the 17-state area that would cause you to start this
9 case one way or the other leaning either side?

10 A. No.

11 Q. I noticed in our questions that you mentioned
12 that you are a current customer of JPMorgan Chase. Can
13 you tell us what kind of accounts you have and how long
14 you have been a customer?

15 A. My wife and I have a joint checking account
16 there and approximately a year and a half, I would guess.

17 Q. Is there anything about that relationship and
18 the checking account that would cause you to start this
19 case leaning one way or the other?

20 A. No, sir.

21 Q. I also noticed that you raised your card for
22 knowledge of the Eagle Ford shale. What have you heard
23 about the Eagle Ford shale?

24 A. Well, I know it's a very productive area and
25 cities around there are growing by leaps and bounds and I

1 read that. I have got a stepson and a grandson that do
2 some kind of trucking work with that Eagle Ford area.

3 Q. Okay. Do you know the names of any oil
4 companies that they work with or for?

5 A. Not off the top of my head. I don't -- I don't
6 think it was Halliburton, but there was another one.

7 Q. Right. This was the service companies, right?

8 A. Right. Exactly.

9 Q. Okay. Not the actual operators or the drillers?

10 A. No. They will go in there and fix equipment or
11 they will haul -- they do a lot of hauling.

12 Q. Yeah. There's everything from water to frac'ing
13 liquids to equipment and that kind of stuff.

14 A. Exactly.

15 Q. Yeah. Now, is there anything about them having
16 a relationship with the Eagle Ford shale in their jobs
17 that would cause you to start leaning either to the
18 beneficiaries of our trust or to the bank in this case?

19 A. I don't see anything to do with it.

20 Q. Let's see. I think you also mentioned that --
21 you also mentioned you had been a trustee. Did I get
22 that right?

23 A. No. I was a beneficiary of a trustee.

24 Q. A beneficiary of a trustee. Now, was the
25 trustee -- I won't ask for names, but was the trustee a

1 person or a bank or something else?

2 A. Let me put it this way. My grandfather left all
3 us grand kids some money and it went to a lawyer and I
4 was one of the grandchildren that received the funds.

5 Q. Okay. And is there anything about that
6 transaction where that lawyer was appointed as the
7 trustee to take care of what your grandfather wanted the
8 trust to be that would cause you to start in this case
9 leaning towards the beneficiaries or the bank?

10 A. It would have no effect, sir.

11 Q. Okay. And you would be able to put whatever
12 happened there aside and judge the facts of this case in
13 light of what the instructions of law are from the
14 court --

15 A. Absolutely.

16 Q. -- and be fair to both sides?

17 A. Yes.

18 Q. Okay. And I also noticed that you had mentioned
19 that you had heard the term "fiduciary duty." Can you
20 just kind of put it in context where you heard the term?

21 A. It was many years ago and it could have been
22 either one of the cases that I was on as a juror or --
23 It's been a long time, but I heard the term before.

24 Q. Okay. Do you remember whether the case you were
25 on was a case involving a trust?

1 A. No.

2 Q. Okay. Would what you knew about the fiduciary
3 duty in the past be something that you could use -- you
4 could set aside and listen to what the court instructs
5 you here about fiduciary duty law and gauge the facts
6 that are admitted in this case in light of that law from
7 the court?

8 A. Absolutely.

9 Q. Okay. I noticed you answered one of the
10 questions by the defense -- by the bank's lawyers that
11 you tended to favor the customer. Have I got that right?
12 They asked a question about tending to favor the customer
13 and I think your number was read out.

14 A. It doesn't ring a bell with me.

15 Q. Okay. Good. So here in this case if you were
16 selected on the jury, you would give us an even playing
17 field --

18 A. Absolutely.

19 Q. -- so that you are not leaning one way or the
20 other to the beneficiaries or the bank until you have
21 heard the evidence?

22 A. No.

23 Q. Okay. Let me get your answers to these
24 questions. One is what number best reflects your opinion
25 of JPMorgan Chase. One, very positive. Ten, very

1 *negative.*

2 *A. It would be two.*

3 *Q. Okay. Thank you. Two is fiduciary duty*
4 *requires that a beneficiary's interest must be put above*
5 *all others. Zero, strongly disagree or ten, strongly*
6 *agree.*

7 *A. That would be ten.*

8 *Q. And the third one is it is very important that a*
9 *company be held accountable for its conduct and actions.*
10 *Zero, strongly disagree and ten, strongly agree, and*
11 *anything in between.*

12 *A. Ten again.*

13 *Q. And I believe going back on the jury service,*
14 *let me ask you a couple of questions. Did you end up*
15 *being the presiding juror?*

16 *A. Excuse me?*

17 *Q. Did you end up being the foreperson on the jury?*

18 *A. It was between me and another person.*

19 *Q. So you both kind of jointly did it?*

20 *A. Exactly.*

21 *Q. Okay. And did you reach a verdict?*

22 *A. Yes, we did.*

23 *Q. And was it a civil case?*

24 *A. No.*

25 *Q. Is there anything else based on what you have*

1 heard here that you would like to share with us you think
2 we ought to know?

3 A. I haven't heard any good jokes.

4 Q. Totally my fault.

5 MR. FLEGLE: Your Honor, we pass the juror.

6 THE COURT: All right. Mr. Garza, do you
7 have any questions for potential juror number nine?

8 MR. GARZA: We do, Your Honor.

9 THE COURT: All right. Go ahead.

10 BY MR. GARZA:

11 Q. All right. Hang on. There may be some jokes
12 here before we are all done. Sir, you talked about your
13 knowledge of the Eagle Ford and how right now it is in
14 large production and things like that. Are you aware
15 that in 2008 that there was virtually no production in
16 the Eagle Ford?

17 A. I don't even believe I was aware of Eagle Ford
18 back in 2008.

19 Q. All right. Now, with respect to the issue of
20 Monday morning quarterbacking, you are familiar with that
21 term, are you not?

22 A. Absolutely.

23 Q. Are you a football fan?

24 A. Yes, sir.

25 Q. Which team?

1 A. *Detroit Lions.*

2 Q. *My goodness. So you are a Michigan fellow. Is*
3 *that the connection?*

4 A. *Somewhat.*

5 Q. *Okay. Well, obviously Monday morning we can all*
6 *look at Sunday nights or Sunday's games and see how*
7 *things go. Do you believe that one should not be judged*
8 *in hindsight?*

9 A. *Absolutely.*

10 Q. *You answered Mr. Flegle's question on the scale*
11 *of one to ten with respect to JPMorgan and you indicated*
12 *a two. Can you tell me why it was a two and not a one?*

13 A. *I went in to cash a check and I had it made out*
14 *to cash and she said we don't take those kind of checks.*

15 Q. *Well, I don't blame you.*

16 *THE COURT: That was the joke, Mr. Garza.*

17 *BY MR. GARZA:*

18 Q. *I told you one was going to appear quickly.*
19 *Now, I think you answered a question and I may be wrong*
20 *about this. If a customer makes a claim against JPMorgan*
21 *or a big bank, there must be some merit to the claim.*
22 *Did you answer that at all?*

23 A. *I could have.*

24 Q. *Do you think that -- do you believe that now or*
25 *not?*

1 A. Well, if somebody makes a claim against
2 somebody, I believe it's going to go to an outcome of
3 some kind, whether it be a trial such as we have here or
4 something like that. Somebody is going to address it.

5 Q. Okay. Is it fair to say that just the fact that
6 somebody makes a claim doesn't mean that it's valid?

7 A. That is correct.

8 Q. Okay. Thank you so much, sir.

9 THE COURT: All right. Ladies and gentlemen
10 of the panel, what we are going to do is break here for
11 lunch. I will give y'all a jump on finding our downtown
12 eating establishments. I hope you can find something
13 that will rate on -- We have got these scales here. You
14 can rate your dining experience on one to five jalapenos,
15 one being bad and five being good. I hope you find a
16 five jalapeno. Be back at 1 o'clock. We will start
17 promptly at 1 o'clock. All rise, please.

18 (Lunch recess from 11:46 to 1:00).

19 THE COURT: All right. Please be seated.
20 Ladies and gentlemen of the panel, did we have any
21 five-jalapeno restaurants? Four jalapenos? Three? Two?
22 A two. Well, I know there was one five. Mr. Valcher
23 brought his own lunch so I presume that was a five
24 jalapeno. Well, I won't tell the Chamber of Commerce.
25 All right. Are we ready to proceed, sir?

1 MR. FLEGLE: We are, Your Honor.

2 THE COURT: All right. Potential juror
3 number ten, is that Mark Bird? Is that correct?

4 POTENTIAL JUROR 10: That's correct.

5 THE COURT: All right. Go ahead.

6 MR. FLEGLE: Thank you, Your Honor.

7 QUESTIONS OF POTENTIAL JUROR 10

8 BY MR. FLEGLE:

9 Q. I just wanted to ask you a couple of things
10 about your past. What prior work did you have?

11 A. I was a truck driver working for SYGMA Network
12 here in San Antonio, Texas.

13 Q. In San Antonio. And how long ago did you leave
14 that trucking business?

15 A. It's been about six months now.

16 Q. Six months?

17 A. Yes, sir.

18 Q. All right, sir. I notice you have been on a
19 civil jury?

20 A. It's been a long time, yes, sir.

21 Q. Did the jury -- What type of case was it?

22 A. I believe it was a civil case.

23 Q. Okay. Did the jury reach a verdict?

24 A. Yes, sir.

25 Q. And I don't want to know what you voted on, but

1 do you remember what the jury verdict was?

2 A. I believe the defendant had won.

3 Q. All right, sir. Now, you didn't raise your hand
4 or you didn't give us your number on any of the
5 questions. Is there anything you have heard about today
6 that you think you need to tell us about in terms of your
7 perceptions and your observations that you think we need
8 to know?

9 A. No, sir.

10 Q. All right. I'm trying to make this a little
11 more efficient this afternoon. The court has let me put
12 our questions up on the screen. Can you put question
13 number one on the screen? This is on the JPMorgan Chase
14 opinion. Can you tell us which of those numbers would
15 best reflect your opinion?

16 A. Number five, neutral.

17 Q. Thank you. And then question number two on
18 fiduciary duty?

19 A. Ten.

20 Q. A 10 on strongly agree. And then number three
21 on accountability?

22 A. Ten.

23 Q. Strongly agree.

24 MR. FLEGLE: We pass the juror, Your Honor.

25 THE COURT: All right. Who is going to take

1 *this --*

2 *MR. GALL: I will, Your Honor.*

3 *THE COURT: All right. Mr. Gall, do you*
4 *have any questions for potential juror number ten,*
5 *Mr. Bird?*

6 *MR. GALL: Just a few.*

7 *BY MR. GALL:*

8 *Q. Mr. Bird, I believe that you raised your number*
9 *on the question about whether this was the right case for*
10 *you. You were concerned about whether this was the right*
11 *case for you to serve on the jury.*

12 *A. Yes, sir.*

13 *Q. Am I correct?*

14 *A. Yes, sir.*

15 *Q. Can you tell me why you were concerned about*
16 *that?*

17 *A. Basically because I'm not -- I don't know much*
18 *about banking and financing and I thought this might be*
19 *way over my head.*

20 *Q. All right. Any other reasons other than just*
21 *concern about whether you would understand?*

22 *A. No, sir.*

23 *Q. Okay. My notes indicate that you answered*
24 *affirmatively that you -- we put the hypothetical about*
25 *the job and then you took a job and then a better job*

1 came along eight months later. That meant you had made a
2 mistake when you took the first job.

3 A. That's correct.

4 Q. If the situation was that the first job comes
5 along, it fits your needs, you think it's a fair price, a
6 fair -- a good job that you wanted, and if you wait you
7 lose that job. Would that change your answer?

8 A. No, sir.

9 Q. Okay. So are you using hindsight to judge
10 whether a mistake was made, do you think?

11 A. Yes. I believe so.

12 Q. Okay. If the jury were -- or the judge were to
13 instruct you that you were to judge the conduct of
14 JPMorgan in this case based on the facts and
15 circumstances at the time the decision was made and not
16 by using hindsight, could you do that?

17 A. Yes, sir.

18 Q. Would you try your best to do that?

19 A. Yes, sir.

20 Q. Is there any other -- anything else that you
21 think either side needs to know about concerning your
22 ability to serve as a juror?

23 A. No, sir.

24 Q. Thank you.

25 MR. GALL: That's all, Your Honor.

1 THE COURT: All right. Potential juror
2 number 11, is that Dolores Ferrell? Is that correct?
3 All right. Mr. Flegle, do you have any questions for
4 potential juror number 11, Ms. Ferrell?

5 MR. FLEGLE: We do, Your Honor.

6 QUESTIONS OF POTENTIAL JUROR 11

7 BY MR. FLEGLE:

8 Q. Ma'am, I noticed this morning you raised your
9 hand to a lot of our questions. Are you feeling like you
10 might have trouble being a fair juror in this case?

11 A. I would want to give my very best. I want to be
12 very fair, but before we begin, may I say something?

13 Q. Sure.

14 A. Okay. Thank you. Your Honor, yesterday when
15 you were asking would we be able to attend the trial for
16 the entirety, I said that I was having financial
17 problems, but my number one situation which I failed to
18 mention yesterday and I apologize is that with the
19 weather becoming inclement, getting colder and wet, and I
20 don't have a car and I can't afford a taxi to come back
21 and forth every day or come to, because if I get cold --
22 sometimes if I get -- the inclement weather in the fall
23 and winter, I can go into asthma. So that was what I
24 should have mentioned yesterday and I didn't mention it
25 and I'm not trying to take your time.

1 So I will answer the gentleman's questions,
2 but I was asking is there any way that I could be
3 released from being on the panel because to be honest
4 tomorrow I wouldn't be able to come because the inclement
5 weather is coming tomorrow, I think, or tonight.

6 THE COURT: All right. Thank you for that
7 information, ma'am. If you would, please answer his
8 questions.

9 POTENTIAL JUROR 11: Certainly.

10 BY MR. FLEGLE:

11 Q. And you are saying from your own personal health
12 standpoint, how does this asthma affect you?

13 A. Well, you know, just typical symptoms, shortness
14 of breath, that type of thing. That would be -- I would
15 be too ill or not concentrating on the case because if
16 you have asthma you concentrate on the asthma.

17 Q. So when you get this asthma, you get to be in a
18 position where you cannot concentrate and cannot sit for
19 long periods of time?

20 A. The biggest thing with my asthma that I have is
21 that I don't want to get in the weather to make it worse.
22 No, I could probably sit and concentrate, but it's just
23 the temperature and the coldness makes it -- In other
24 words, I would be thinking of -- in other words, is it
25 going to get worse or whatever, and I have gone to the

1 hospital or doctor for it in the past, but I don't really
2 have asthma, but that triggers it. Cold weather and
3 inclement weather like fall and winter.

4 Q. Okay. Well, let me ask you. On one of the
5 questions -- and I just -- I will have to apologize. I
6 think I kind of messed up the question that I asked in
7 the general part so let me see if I can straighten it
8 out. Do you remember when I had that slide up that
9 talked about the bank's defenses and it talked about
10 hindsight and whether or not the plaintiffs had made
11 money and those kind of things?

12 And I believe when I asked the question,
13 what I intended to ask was if the bank makes those
14 statements without any evidence but they just make the
15 statements, are those statements strong enough that you
16 are just going to say I'm going to shut down, the bank
17 just said that, and I'm not going to listen to the
18 evidence and I'm not going to put it in context and I'm
19 not going to listen to the judge and the law the judge
20 gives me. Is that what you were saying or did I
21 misunderstand?

22 A. Oh, no. You have to remember that I worked for
23 a bank for many years. So if the bank says we didn't do
24 it, I think there has to be sufficient proof that they
25 did do it. In other words, I'm just not going to say,

1 oh, yeah, that's the bank. They did it. I want to make
2 sure that I'm fair to both sides because I know there are
3 many good people in banking and there are many good
4 people that are not in banking, but all banks are not
5 bad.

6 Q. Sure. I agree with that. And the bank that you
7 were with was which one?

8 A. I was with Frost.

9 Q. Frost?

10 A. Uh-huh.

11 Q. And what was your position at Frost?

12 A. I was just a simple worker. I was mostly in
13 telephone customer services most of my career with them,
14 but I had other positions also.

15 Q. And the last year you worked with Frost was
16 when?

17 A. It was 2001.

18 Q. 2001?

19 A. Yes.

20 Q. Okay. Now, is there anything about your
21 relationship or your work at Frost that would cause you
22 to start this case leaning against one side or the other
23 or favoring one side? For example, favoring the bank in
24 this case.

25 A. Not really because when I was working with

1 Frost, Frost, as you know, was just in the state of Texas
2 and I also -- I usually considered JPMorgan the big --
3 the big East Coast. In other words, the big boys. The
4 East Coast bank. International bank. And years ago when
5 banking was having -- was kind of shaky, a lot of people
6 thought that some big bank would buy out Frost, but it
7 never occurred, thank God.

8 Q. And you say "thank God." Why?

9 A. Well, sometimes when a bigger bank buys a
10 smaller bank or whatever -- and Frost is very strong and
11 very large, but they have to cut which makes sense, and
12 JPMorgan and some others are big and were considered at
13 least to me -- I call them -- I would just call them the
14 big boys.

15 Q. And that cut, it's kind of what they call
16 reductions in force?

17 A. You have to -- Because when Frost would buy some
18 banks, they would have to reduce the force there too.

19 Q. Got you. Now, I believe you raised your number
20 on a question about believing lawsuits and whether or not
21 you would sue. Do you remember that?

22 A. That is correct. Yes.

23 Q. Can you explain to me what you meant by that?

24 A. Certainly. I think the question was,
25 Mr. Flegle, I think you said something similar to if you

1 were in business with someone and they cheated you and
2 you lost money, would you sue them.

3 Q. Right.

4 A. No, probably not, because by the time I have
5 sued them I have created very bad friendships with them.
6 I would take it as a -- I would take it as a learning
7 tool and move on because good things are going to come to
8 me if I do the right thing.

9 Q. I understand. Let me just add one little factor
10 there. What if the business dispute involved a lot of
11 money, and you can just put that on your own scale. You
12 don't have to give me a number, but just say it was a lot
13 of money and it was meaningful to you. Would you still
14 not sue?

15 A. I would really be tempted to sue them. I guess
16 it would also maybe have some play if I could get any
17 money back from them, at least a percentage of what was
18 actually done wrong to me, but in many cases, I would
19 just say, okay, we will let it -- life will take care of
20 it.

21 Q. All right. Now, I notice you were also a
22 defendant in a lawsuit; is that right? Did I get that
23 right?

24 A. It was, but it never -- actually it never went
25 to trial. Something occurred and I didn't have to go to

1 court.

2 Q. And what was the -- I don't need to know all the
3 specifics but just the type of case.

4 A. It was a criminal case and I was a victim in the
5 criminal case.

6 Q. All right. Now, I think you also said you knew
7 something about this case through the publicity about it?

8 A. I think I may have heard possibly because I like
9 to listen to, you know, the latest news and whatever, and
10 Eagle Ford shale is always being mentioned. Even in
11 church they mentioned it. Not this particular case, but
12 just the fact that now all of these people are getting a
13 lot of money. Within the past, they were -- many of them
14 were poor farmers and now good things are coming their
15 way.

16 Q. Okay. And would what you have learned in that
17 publicity cause you to start out favoring one side or the
18 other?

19 A. No, it wouldn't make me favor either side. I
20 would want both sides to be fair.

21 Q. Okay. Let me ask you about the three questions.
22 On question number one involving JPMorgan Chase, what
23 number is best for you?

24 A. It would be five to six.

25 Q. On fiduciary duty, number two, what number would

1 *be best for you?*

2 *A. It would be 10.*

3 *Q. And for number three, accountability, what*
4 *number would be best for you?*

5 *A. Definitely 10.*

6 *Q. Thank you.*

7 *MR. FLEGLE: We pass the juror, Your Honor.*

8 *THE COURT: All right. Mr. Garza, do you*
9 *have any questions for potential juror number 11?*

10 *MR. GARZA: I do, Your Honor.*

11 *BY MR. GARZA:*

12 *Q. Ms. Ferrell, I understand you worked for Frost*
13 *Bank for a number of years.*

14 *A. That's correct, sir.*

15 *Q. And you were actually the voice on the*
16 *telephone?*

17 *A. One of the many.*

18 *Q. One of the many. Very good. Were you always in*
19 *the customer relations department there at Frost?*

20 *A. No, sir.*

21 *Q. What else did you do there?*

22 *A. Well, I was in bank by mail. I was in the*
23 *statement department. A department similar to but not*
24 *all the same.*

25 *THE COURT: Ma'am, can you get a little*

1 closer to the microphone. I'm having trouble hearing
2 you.

3 POTENTIAL JUROR 11: I'm sorry. Yes, sir.
4 I apologize.

5 BY MR. GARZA:

6 Q. And I understand you also own some mineral
7 rights.

8 A. Well, we inherited some mineral rights, but we
9 haven't ever gotten any money from them.

10 Q. Okay.

11 A. But I have checked on them recently or I'm going
12 to do some checking. You know, they are in Gonzales
13 County so we will see what happens.

14 Q. Is there anything about this case where you
15 think you could not be a fair and impartial juror?

16 A. No, I don't think so. I would want to be as
17 fair as I can to both sides.

18 Q. Okay. Thank you, ma'am.

19 A. One thing, though, just to mention. Mr. Flegle,
20 I know I can't ask you a question. There were some
21 questions you asked earlier that I maybe didn't give the
22 correct answer to so I just wanted to correct them. You
23 said did I have a relationship with the bank and I was
24 thinking what did you mean by relationship. And, yes, I
25 have owned stock in Frost Bank. I don't anymore and I do

1 get a monthly pension from them, that is correct. And
2 one more question. You said do you think some judgments
3 are too great. Do they give too much money. I think you
4 asked that, and I think some of them -- I think some
5 judgments are too much. There were some questions that
6 you asked -- maybe both sides. I was kind of conflicted
7 so I may not have given the correct answer on some of
8 them or not answered at all. So my apologies on that.

9 THE COURT: Thank you, ma'am.

10 MR. GARZA: Thank you, ma'am.

11 THE COURT: All right. Potential juror
12 number 12, is that Cynthia Hicks? Is that correct?

13 POTENTIAL JUROR 12: Yes. That's right.

14 THE COURT: All right. Mr. Flegle, do you
15 have any questions for Ms. Hicks?

16 MR. FLEGLE: We do, Your Honor.

17 QUESTIONS OF POTENTIAL JUROR 12

18 BY MR. FLEGLE:

19 Q. Could you tell us what kind of work you have
20 done in the past?

21 A. I take care of my husband's books for his
22 mechanic work, I have done housekeeping, and that's about
23 it.

24 Q. And his mechanic work is what? Does he have his
25 own shop?

1 A. Yes. He owns his own business.

2 Q. Is it for cars or trucks?

3 A. Big fleet trucks.

4 Q. The big ones?

5 A. Semis and stuff, yes.

6 Q. I got you. And he does kind of the engine
7 stuff?

8 A. He does anything to all the trucks.

9 Q. I got you. Any particular client that he's got
10 or is he just all over?

11 A. He has a couple. A recycling. He does all the
12 work on the recycling trucks.

13 Q. Okay. Now, I noticed in one of the questions I
14 asked this morning your number went up on a bad
15 experience with a bank.

16 A. Yes. It was just a dispute between the loan
17 company and the bank.

18 Q. Okay. Now, I don't want to ask you the
19 specifics, but in terms of whether or not -- if you
20 could -- If you were selected as a juror in this case,
21 could you put that experience over in a box and judge the
22 evidence in this case according to the law that the court
23 will give us at the end of the case?

24 A. Yes.

25 Q. And you are not starting out favoring one side

1 or the other because of that experience?

2 A. No.

3 Q. Okay. Now, I understand you have heard
4 something about the case?

5 A. Yes. Just on the news. Mainly about the wrecks
6 that they have out there. The accidents and stuff.

7 Q. Oh, out in the Eagle Ford?

8 A. Yes, on the highways.

9 Q. Okay. But did you -- have you heard anything
10 about this dispute about this trust?

11 A. No.

12 Q. Okay. And what you have heard about the
13 accidents and so forth doesn't cause you to start this
14 leaning one way or the other?

15 A. No.

16 Q. Okay. Now, I noticed that you were on a jury.
17 Did you reach a verdict?

18 A. Yes. It was a civil case.

19 Q. And I don't want to ask you how you voted, but
20 do you remember how the jury -- what the jury's verdict
21 ultimately was?

22 A. Yes. We voted for the defendant and then we had
23 to offer him an amount of money too.

24 Q. Okay. So on a counterclaim or something?

25 A. Yes.

1 Q. Did you find -- Yeah. And just so I'm
2 understanding, did you find for the person that was
3 suing?

4 A. Yes.

5 Q. All right. Let me put the three slides on the
6 board there. Slide number one is about JPMorgan Chase.
7 Which number is best for you?

8 A. Five.

9 Q. Number two is fiduciary duty. Which number is
10 best for you?

11 A. Ten.

12 Q. And number three, accountability. Which number
13 is best for you?

14 A. Ten.

15 Q. Thank you very much.

16 A. Thank you.

17 MR. FLEGLE: We pass the juror, Your Honor.

18 THE COURT: All right. Mr. Gall, do you
19 have any questions for potential juror number 12?

20 MR. GALL: Yes, I do, Your Honor.

21 BY MR. GALL:

22 Q. Ms. Hicks, the dispute with a bank that you were
23 involved in, did you say it was a dispute between a loan
24 company and the bank?

25 A. Yes, and the bank ended up paying the loan

1 *company.*

2 *Q. And how were you involved?*

3 *A. Because I was the one that borrowed the money.*

4 *Q. I see. Did that involve JPMorgan?*

5 *A. No.*

6 *Q. How long ago was that?*

7 *A. It's been maybe about five or six years ago.*

8 *Q. All right. And nothing about that causes you to*
9 *feel one way or the other about banks or banking?*

10 *A. No.*

11 *Q. You can be fair despite that experience?*

12 *A. Right.*

13 *Q. Let me ask you the same question I have been*
14 *asking everybody else. If the judge instructs the jury*
15 *that they are to judge JPMorgan's conduct based on the*
16 *facts and circumstances that existed at the time the*
17 *decisions in question were made and not with hindsight*
18 *looking back --*

19 *A. Right.*

20 *Q. -- can you do that?*

21 *A. Yes.*

22 *Q. And will you do your best to do that?*

23 *A. Yes.*

24 *Q. Thank you.*

25 *MR. GALL: Nothing else, Your Honor.*

1 THE COURT: All right. Potential juror
2 number 13, is that Kristen Alaniz?

3 POTENTIAL JUROR 13: Yes, sir.

4 THE COURT: All right. Mr. Flegle, do you
5 have any questions for Ms. Alaniz?

6 MR. FLEGLE: I do, Your Honor.

7 QUESTIONS OF POTENTIAL JUROR 13

8 BY MR. FLEGLE:

9 Q. I notice you were a vendor specialist. What
10 does that mean?

11 A. It's kind of complicated. Essentially I work
12 for a company that directly works with doctors and
13 lawyers. Usually we deal with cases that are like
14 lawsuits, any accident that happens. Our part is that we
15 are giving this product to the lawyers and to a client.
16 So essentially if somebody gets injured, they come to us.
17 We have one of our doctors look -- you know, see the
18 patient and this is nationwide as well. So, you know, we
19 have different doctors everywhere. They assess the
20 patient and make out a life care plan for the patient
21 that goes to trial.

22 Q. And a life care plan, if you could just kind of
23 briefly describe what that is.

24 A. A life care plan deals -- I guess it's a
25 doctor's plan for a patient's care dealing directly with

1 any injuries that they have experienced from a specific
2 instance or incident.

3 Q. Right. And is the work that you do as a vendor
4 specialist mostly for people that would be plaintiffs in
5 lawsuits or defendants?

6 A. It varies, but I personally have seen more
7 plaintiff.

8 Q. Okay. Now, I noticed in your answers in your
9 card raising today that you had a bad experience with a
10 bank. Did I get that right?

11 A. Yeah. It was mostly minor. And by that, I just
12 mean there was no major, major losses. It was just one
13 of those things. I think lack of communication. I
14 wasn't notified, you know, specifics on my accounts and
15 it lost -- I lost some money. It wasn't a major thing.
16 It was just very inconvenient, and it was just one of
17 those things that I felt that the trust between the bank
18 and myself was not there.

19 Q. Right. The bank wasn't JPMorgan Chase, was it?

20 A. No, it was not.

21 Q. Okay. And in terms of that experience, would
22 you be able to be fair and put that experience to the
23 side and listen to the evidence that's admitted in this
24 case and the law as instructed by the court?

25 A. With that specific instance, yes. I would be

1 fine.

2 Q. And are there any other instances that you have
3 had?

4 A. The only other thing would be because I do have
5 a little bit more in the oil part of things. My family
6 on both sides -- my mom and my dad's side, both families,
7 but mostly on my mom's, she has -- I wouldn't be able to
8 say how many but a lot of mineral -- I guess properties
9 and mineral rights to those properties. So there's a lot
10 of -- we have a lot of oil coming in. I wouldn't be able
11 to say what company they go through specifically. I just
12 know that that -- I'm a beneficiary and that it's in
13 Laredo area.

14 Q. Okay. In Laredo area?

15 A. Yeah.

16 Q. Okay. Now, with that -- and I think you
17 answered -- you raised your hand on mineral rights and
18 royalty checks. Do you get the royalty checks -- a
19 royalty check or is it a trust that gets it?

20 A. It's not me yet right now because it would go
21 straight to my mom first, but if, you know, anything were
22 to happen to her, the money would go directly to me and
23 my siblings.

24 Q. Right. And is there anything that's related to
25 your mineral rights or the interests in this trust that

1 would cause you to start this case leaning one way or the
2 other?

3 A. Honestly I would have to say yes only because in
4 the past we have dealt with oil companies specifically
5 with my mother's or her dad's estate -- specifically has
6 had -- actually went to court with one of the oil
7 companies because of stealing, and it turned out that
8 they were actually -- they were stealing and my mom's
9 family ended up winning the court case, but that would be
10 my main thing why I hesitate in, you know, not leaning a
11 certain way.

12 Q. I understand. Let me just mention to you that
13 none of the parties in this case are oil companies. It's
14 the beneficiaries of the trust and the bank. Could you
15 put that experience that involves the oil companies over
16 to the side and only listen to the evidence that the
17 court admits in this case and the law that the court
18 gives you in this case and make a decision on the issues
19 between the bank and my clients, the beneficiaries?

20 A. Yes.

21 Q. And do you think you could be fair in doing
22 that?

23 A. Yes.

24 Q. Okay. I noticed you also answered one of the
25 questions that you tended to favor the customer in issues

1 with the banks. This is an issue again about a trust and
2 our beneficiaries are beneficiaries of the trust. So we
3 are not -- we don't have checking accounts there or
4 anything like that. Could you take that tendency that
5 you have got and put it on the side and start this case
6 out smack dab flat even for the beneficiaries and the
7 bank?

8 A. I think that's easier said than done for sure.
9 I would want to come in, you know, with a very balanced
10 view, but I feel like if it was a situation where, you
11 know, it was leaning one way without me having made a
12 decision, I feel like I would be more inclined to go with
13 the plaintiff on that or the customer in this case.

14 Q. Okay. But would you be willing to listen to the
15 evidence before you made a decision --

16 A. Absolutely. Absolutely.

17 Q. -- and listen to all the evidence?

18 A. Of course.

19 Q. Okay. Let me put the three slides on the board.
20 Slide number one on JPMorgan, what number is best for
21 you?

22 A. Neutral, five.

23 Q. And slide number two, fiduciary duty. Which
24 number is best for you?

25 A. Ten.

1 Q. And slide number three, accountability. Which
2 number is best for you?

3 A. Ten.

4 Q. And let me just ask you one last question. You
5 know, if we don't prove our case in this case, do you
6 have the courage to vote against the plaintiffs in this
7 case if we don't prove our case?

8 A. If you don't prove the case, you know, I
9 definitely think -- if all signs point against it, I
10 wouldn't overlook that just because of any hatred towards
11 anybody --

12 Q. Okay.

13 A. -- which there's none.

14 MR. FLEGLE: We pass the juror, Your Honor.
15 Thank you.

16 THE COURT: All right. Mr. Garza, do you
17 have any questions for Ms. Alaniz?

18 MR. GARZA: I do, Judge. I'm sorry.

19 BY MR. GARZA:

20 Q. Ms. Alaniz, first off, thank you for your candor
21 in answering the questions. As you know, what we are
22 trying to do here is really get to the root of people's
23 thoughts so that we can get an impartial jury. You told
24 me when I was standing up and we were dealing with things
25 that you didn't think this was the right case for you.

1 Can you tell us why?

2 A. Right. Honestly I believe it was just pretty
3 much what I was saying before. I feel that, you know, if
4 it was -- since I don't know everything about the case,
5 specifically with my oil experience I feel like that was
6 mostly my main thing. I just wanted to let you guys know
7 that for that question specifically that's my honest
8 opinion, you know. I think that -- I can't answer that,
9 you know, with a no saying that there's not any
10 hesitation because there is, you know.

11 Q. Okay. And so that follows up to my next
12 question because you also said on my opening that you
13 could not be fair in this case. Do you remember that?

14 A. Right.

15 Q. And so tell us again why you cannot be fair.

16 A. I don't think necessarily that I could be fair
17 with -- if I'm having a tendency going in right away. I
18 would be willing to listen to everything, but I feel like
19 it's very important, you know, going in if I -- you know,
20 initially going in, I'm going to have a preconceived
21 notion of -- you know, of that specific -- you know, I'm
22 going to lean a certain way right off the bat.

23 Q. Okay. And so what you are telling us is you do
24 lean right off the bat a certain way in this case?

25 A. Correct.

1 Q. And you are telling us that you do have
2 preconceived notions about the issues in this case and
3 the parties?

4 A. Correct.

5 Q. And what you are telling us is regardless of
6 whatever instructions you get, you are leaning and would
7 favor the plaintiffs?

8 A. Correct.

9 Q. Okay. And so you are telling this court that
10 this would not be the right case for you?

11 A. I don't think it would be fair.

12 Q. Thank you, ma'am.

13 A. Uh-huh.

14 THE COURT: All right. Potential juror
15 number 14, is that Jonathan Elward? Is that correct?

16 POTENTIAL JUROR 14: Yes, sir.

17 THE COURT: All right. Mr. Flegle, do you
18 have any questions for Mr. Elward?

19 MR. FLEGLE: Briefly, Your Honor.

20 QUESTIONS OF POTENTIAL JUROR 14

21 BY MR. FLEGLE:

22 Q. I noticed that you are a student. When do you
23 go to school?

24 A. I start in the spring semester.

25 Q. Okay. So this is the semester in between --

1 A. Yes, sir.

2 Q. -- the next one? And where will you be going to
3 school in the spring?

4 A. SAC. San Antonio College.

5 Q. Okay. Congratulations.

6 A. Thank you, sir.

7 Q. I noticed that in your answers you said you had
8 heard about the Eagle Ford. What have you heard about
9 it?

10 A. Well, usually like I pass through Pleasanton a
11 lot so I will see like Halliburton, you know,
12 Weatherford, all those other large companies. Also I
13 know about like Austin Chalk, but just broad like
14 definitions or just broad like ideas about it.

15 Q. Okay. I notice -- not a lot of questions you
16 raised your card about. Is there anything that's come up
17 that you think we ought to know or you want to share with
18 us this afternoon that would relate to your service here?

19 A. No, sir.

20 Q. Let me put my charts on the screen there. On
21 chart number one on JPMorgan Chase, which number is best
22 for you?

23 A. Neutral for sure.

24 Q. That's number five?

25 A. Yes, sir.

1 Q. And then number two is fiduciary duty. Which
2 one is best for you?

3 A. I'm going to go with nine.

4 Q. Nine. Okay. Thank you. And number three is
5 accountability. Which number is best for you?

6 A. Nine as well.

7 Q. Thank you very much.

8 MR. FLEGLE: Your Honor, we pass the juror.

9 THE COURT: All right. Mr. Gall, do you
10 have any questions for Mr. Elward?

11 MR. GALL: Just a couple.

12 BY MR. GALL:

13 Q. Mr. Elward, I didn't understand where you said
14 you were going to go to school.

15 A. San Antonio Community College.

16 Q. Oh, I see. Did you graduate from high school
17 this last spring?

18 A. Yes, sir.

19 Q. Okay. And you are not currently employed?

20 A. No, not currently.

21 Q. What do you plan to study when you go to school?

22 A. I was planning to be a pilot. After SAC try out
23 for Southeastern Oklahoma or Embry-Riddle.

24 Q. To try to be an airline pilot?

25 A. Yes, sir.

1 Q. Good. I can't remember whether you answered
2 about your experience with the 2008 financial crisis.
3 You were pretty young then.

4 A. Yes, sir.

5 Q. Do you remember anything about it? Is it
6 something you were aware of that occurred?

7 A. Oh, yeah. Absolutely. You know, it was a
8 tougher time for the family, you know, typically like for
9 everybody else as well, but we weren't connected to the
10 oil field or any of that or any issues with the bank,
11 either. None.

12 Q. Do you live at home?

13 A. Currently, yes.

14 Q. What do your parents do?

15 A. My dad is a truck driver and my mom, she stays
16 at home.

17 Q. Good. Mr. Flegle has his charts one to ten. I
18 have got hindsight. So you probably know what I'm going
19 to ask you. If the judge instructs you that you are to
20 consider and judge our conduct based on the facts and
21 circumstances that existed back in 2008 and not based on
22 hindsight looking back based on what we know now, will
23 you try to do that?

24 A. Yes, sir. Absolutely.

25 Q. Do the best you can?

1 A. Yes, sir.

2 Q. Is there anything else you can think of that we
3 need to know that might affect your ability to be a fair
4 and impartial juror?

5 A. No, sir.

6 Q. Thank you.

7 A. Thank you.

8 THE COURT: All right. Potential juror
9 number 15, is that Katherine Totten? Is that correct?

10 POTENTIAL JUROR 15: Yes, sir.

11 THE COURT: All right. Mr. Flegle, do you
12 have any questions for Ms. Totten?

13 MR. FLEGLE: I do, Your Honor.

14 QUESTIONS OF POTENTIAL JUROR 15

15 BY MR. FLEGLE:

16 Q. I see that you are retired from USAA FSB.

17 A. Yes, sir.

18 Q. The FSB, is that the bank?

19 A. That's the bank.

20 Q. Okay. And what was your position at the bank?

21 A. I was -- as I retired was a senior personal
22 banking representative. I spent -- we were lobby
23 representatives working on both personal banking,
24 face-to-face contact with checking and savings customers,
25 safe deposit, and at one time we did loan servicing.

1 Q. And were you at a particular location or did you
2 work --

3 A. There's only one physical location for USAA
4 Federal Savings Bank and that is here in San Antonio.

5 Q. Here in San Antonio?

6 A. Yes, the only physical location.

7 Q. I can't remember. Is it downtown?

8 A. No. It's out on the USAA campus on I-10.

9 Q. Oh, I got you. Okay. And how long have you
10 been retired from there?

11 A. Almost 10 years. 2005.

12 Q. Okay. Now, from the standpoint of your banking
13 experience, did you have any responsibilities for dealing
14 with beneficiaries of trusts or did USAA actually have
15 trusts?

16 A. They do currently have a trust department. I
17 was not related to it. At a previous bank, I was in
18 charge of a safe-keeping department which is not the
19 same, but it does have a quasi responsibility for
20 securities for customers.

21 Q. Was that just a matter -- it was a matter of
22 keeping the securities safe for the customers?

23 A. Exactly. Both treasuries that were book entry,
24 but we also were responsible for clipping coupons back in
25 the days when you still clipped coupons.

1 Q. Before bitcoin, I guess.

2 A. Way before bitcoin.

3 Q. Okay. Was there anything about your banking
4 experience that would lead you to believe in this case
5 that you would be starting out favoring the bank in this
6 case?

7 A. No, sir.

8 Q. Okay. And in terms of your working at USAA, you
9 were the front person for an awful lot of contacts with
10 customers?

11 A. That was our responsibility, yes, sir.

12 Q. Okay. I noticed on the mineral right answers
13 that you had several of them that you raised your hand.
14 I believe you own mineral rights?

15 A. I inherited mineral rights in four different
16 counties.

17 Q. Okay. Were either of the counties that you have
18 got rights in La Salle or McMullen?

19 A. No, sir.

20 Q. And was this inheritance through a family?

21 A. It was through my family, yes.

22 Q. And was there anything about the inheritance
23 that would cause you to start this case one way or the
24 other in terms of a trust dispute?

25 A. No. Absolutely not.

1 Q. Okay. And I noticed that you said you had heard
2 of the Eagle Ford?

3 A. It's hard not to hear about Eagle Ford if you
4 read the newspaper or watch the news.

5 Q. Yeah. Okay. And that's just basically the
6 extent of it?

7 A. Well, you know, if you own mineral rights, you
8 pay attention to where is the Eagle Ford and where are
9 your mineral rights and things of that nature, but, you
10 know -- and I understand what they are doing and frac'ing
11 and all of those are issues that come up.

12 Q. And for the mineral rights that you have got,
13 you do look and see and gather information and keep up
14 with what's going on?

15 A. Monitor it, yes.

16 Q. Right. Because that's kind of important to make
17 sure that you understand what the market is for the
18 rights that you have got?

19 A. Yes.

20 Q. Okay. Now, are you receiving any royalties from
21 the mineral properties?

22 A. I am receiving royalties as of the last two
23 months.

24 Q. Okay. And are those royalties from properties
25 in the Eagle Ford?

1 A. *It is from Eagle Ford, but it is not down in*
2 *this part. It's up in Robertson County so in the upper*
3 *northeast end.*

4 Q. *Right. Eagle Ford is a long piece of --*

5 A. *Right.*

6 Q. *-- formation.*

7 A. *It's at the far extent of the area that is still*
8 *considered Eagle Ford.*

9 Q. *All right. And I noticed that you said you were*
10 *an executor or had a power-of-attorney or something like*
11 *that?*

12 A. *I have been power-of-attorney, but I was*
13 *executor both for my mother's estate and for my aunt's*
14 *estate.*

15 Q. *And would that experience as executor or*
16 *power-of-attorney cause you to start off leaning towards*
17 *the trustee in this case versus my beneficiaries?*

18 A. *No, sir.*

19 Q. *Okay. And I noticed that you raised your hand*
20 *about whether or not you had heard or read about this*
21 *case.*

22 A. *Yes. There was an article in the newspaper*
23 *sometime in the last two weeks, and I do read the*
24 *newspaper. There's not much in the paper these days*
25 *except comments, sports, and a few interesting articles*

1 on what's going on in town. I did read it.

2 Q. But you did read it. And is there anything in
3 that article that would cause you to start out this case
4 leaning in favor of the plaintiffs or the defendant, the
5 bank?

6 A. No. There was nothing there other than what
7 you-all have discussed this morning.

8 Q. And did you form any opinions about the case --

9 A. No, sir.

10 Q. -- based on what you read?

11 A. No.

12 Q. Let me show you my charts if you don't mind.
13 Number one is for JPMorgan Chase. Which number is best
14 for you?

15 A. I'm going to go with neutral, and I will tell
16 you I do not like number charts or number surveys.

17 MR. GARZA: There you go, Mr. Flegle.

18 BY MR. FLEGLE:

19 Q. I got a feeling by the end --

20 A. It was just -- they don't give you anything
21 other than black and white and it doesn't tell you
22 anything as far as I'm concerned.

23 Q. I understand. That's why I'm trying to do them
24 as fast as I can.

25 A. No, I understand. I understand. It makes it --

1 it makes it simple.

2 Q. Number two is fiduciary duty. Which number is
3 best for you?

4 A. I will go with 10.

5 Q. Okay. And number three on accountability, which
6 number is best for you?

7 A. I will also go with 10.

8 Q. Thank you very much. On the lease and the oil
9 and gas mineral rights that you have, did you either
10 negotiate or get information on those leases yourself or
11 did you depend on others to do that?

12 A. The proposal on the lease was brought to me
13 directly. I will tell you the one in Robertson County, I
14 own 1/26th of the interest. And by the time they get to
15 me, they have gone through a lot of the other cousins.

16 Q. Right.

17 A. And I'm sure that they have done much more of
18 the negotiating. It's just a strict proposal. We are
19 offering this. Yes or no.

20 Q. I understand. And you know the interest in this
21 case is 100 percent. I mean, this is the whole thing.

22 A. Uh-huh.

23 Q. Do you have any mineral interests where you are
24 100 percent on any of the acres?

25 A. No.

1 Q. Okay. Is there anything else that I have raised
2 that you would like to add for us today?

3 A. I have nothing.

4 Q. Okay. Thank you very much.

5 MR. FLEGLE: We pass the juror, Your Honor.

6 THE COURT: All right. Any questions with
7 regard to potential juror number 15?

8 MR. GARZA: Yes, Your Honor.

9 BY MR. GARZA:

10 Q. Ms. Totten, first of all, I agree with you on
11 the graphs and the numbers. Secondly, owning a little
12 bit of a different area of the Eagle Ford, do you
13 understand that all Eagle Ford acreage is not the same?

14 A. Oh, absolutely.

15 Q. There are vast differences between different
16 areas?

17 A. Yeah. Absolutely.

18 Q. Okay.

19 A. As I said, I'm up at the far end.

20 Q. Right. Exactly. Now, you indicated that you
21 read an article in the paper a couple of weeks ago on the
22 case; is that correct?

23 A. Yes, sir.

24 Q. And your position is that wouldn't affect you in
25 any way with respect to what goes on in this courtroom

1 and the evidence?

2 A. No. I just read it. It was interesting. It
3 was something that was going on in town.

4 Q. Is it kind of interesting that you end up
5 hearing all of this here?

6 A. Yes, it is.

7 Q. I notice you have an MBA. Can you tell me where
8 you went to school and what --

9 A. I completed an MBA at Incarnate Word thanks to
10 USAA. At that time, they were paying for employees to
11 get both an undergraduate degree or a graduate degree,
12 and I already had an undergraduate degree not in
13 business.

14 Q. So you have an undergraduate degree not in
15 business --

16 A. Not in business.

17 Q. -- but you do have your MBA from Incarnate Word
18 and Mr. Agnese?

19 A. Yes.

20 Q. Thank you. Is there anything about your banking
21 experience that would shine negatively on JPMorgan or
22 your ability to listen to the facts in the case and be a
23 fair and impartial juror?

24 A. No, sir.

25 Q. Okay. Thank you, ma'am.

1 A. You are welcome.

2 THE COURT: All right. Potential juror
3 number 16, is that Austin Cain? Is that correct?

4 POTENTIAL JUROR 16: That's correct.

5 THE COURT: All right. Mr. Flegle, do you
6 have any questions for Mr. Cain?

7 MR. FLEGLE: Yes, Your Honor. Thank you
8 very much.

9 QUESTIONS OF POTENTIAL JUROR 16

10 BY MR. FLEGLE:

11 Q. I noticed you are a paramedic with the City of
12 San Antonio?

13 A. Yes, sir.

14 Q. What jobs have you had before that?

15 A. Army for six years and then communications with
16 SAPD.

17 Q. And in your Army service, were you state side or
18 did you get deployed?

19 A. I did one tour overseas.

20 Q. Do you mind me asking where?

21 A. Iraq.

22 Q. Okay. Were you also a paramedic over there?

23 A. No.

24 Q. Okay. I noticed that you had answered one of
25 the questions that you had been a former customer of

1 *JPMorgan Chase Bank.*

2 *A. Just a credit card.*

3 *Q. Just a credit card. Is there anything about*
4 *being a former customer that would cause you to lean one*
5 *way or the other?*

6 *A. No, sir.*

7 *Q. Okay. And is there anything that you have heard*
8 *so far that leads you to believe you need to talk with me*
9 *and share something that I haven't asked you about?*

10 *A. No, sir.*

11 *Q. Okay. Here's my numbers. Make it quick.*
12 *Number one is JPMorgan.*

13 *A. Five.*

14 *Q. Number two is fiduciary duty.*

15 *A. Ten.*

16 *Q. And number three is accountability.*

17 *A. Ten.*

18 *Q. Thank you, sir.*

19 *A. All right.*

20 *MR. FLEGLE: Pass the juror, Your Honor.*

21 *THE COURT: All right. Potential juror*
22 *number 16, do you have any questions, Mr. Gall, of*
23 *Mr. Cain?*

24 *MR. GALL: Just a couple.*

25 *BY MR. GALL:*

1 Q. You have been pretty quiet. Do you feel like
2 you can be fair based on what you have heard?

3 A. Yes, sir.

4 Q. You have heard my question about hindsight and
5 judging conduct based on hindsight. If the jury
6 instructs you to base your decision on the facts and
7 circumstances that existed at the time the decisions that
8 JPMorgan made were made and not on hindsight, will you do
9 your best to do that?

10 A. Yes, sir.

11 Q. You understand that it's hard to do because we
12 are looking back now?

13 A. Uh-huh.

14 Q. So it requires some effort to focus on what was
15 going on at the time?

16 A. Right.

17 Q. But you think you can do that?

18 A. Yes, sir.

19 Q. All right. Thank you for your time.

20 A. Uh-huh.

21 THE COURT: All right. Potential juror
22 number 17, is that David Albright? Is that correct?

23
24
25

1 QUESTIONS OF POTENTIAL JUROR 17

2 BY MR. FLEGLE:

3 Q. Yes, sir. I noticed in my questioning this
4 morning you said you had a bad experience with a bank.
5 Did I get that right?

6 A. Well, probably not just one experience, but, I
7 mean, just overall I think just some of the banking
8 policies that I have issues with.

9 Q. Okay. Now, you know this is -- I say you know.
10 You have been told at least by the lawyers and the court
11 here that this is a case that involves a trust and the
12 bank is the trustee and it's got some oil and gas
13 interests in it. Is there anything about the bad
14 experiences that you have had that would lead you to
15 believe that you could not be a fair juror and listen to
16 the evidence in this case and make a judgment based on
17 the law that the court gives you?

18 A. No. I don't think so. I mean, my experience
19 with banks is basically excessive fees, exorbitant
20 interest rates, you know, crappy performance. Other than
21 things like that, I know banks are there to make a profit
22 just like other big companies. So my issue is when
23 profit overrides, you know, ethics. So as long as -- You
24 know, in my position, my job, I deal on facts and data.
25 So I don't have a problem, you know, listening to the

1 facts and the data and forming my opinion based on that.

2 Q. And you believe you could be fair in this case.
3 You don't know anything about the case other than what
4 you have heard today?

5 A. Not really. I just moved here two years ago.
6 I'm familiar with Eagle Ford as far as whatever I have
7 read in the paper. You know, I know there's a lot of
8 money and a lot of oil down there. I know it's going to
9 be an environmental catastrophe some day, but just -- you
10 know, just what I hear, just what I read. And, again,
11 those are just -- just what I hear. And so based on
12 facts and data, though, I think, you know, whatever is
13 presented I think that I could form an opinion on that.

14 Q. All right. That's all we are asking is can you
15 be fair. And can you be fair?

16 A. I think I can be fair.

17 Q. All right, sir. Now, on one of my questions
18 today, it's one of those number questions, you answered a
19 two on the could you award a large amount of damages. Do
20 you remember that? You raised your card.

21 A. Two meaning --

22 Q. It was how comfortable or uncomfortable you
23 would be in awarding a large amount of damages if the
24 evidence supported it.

25 A. And two meaning uncomfortable?

1 Q. It's on the uncomfortable end.

2 A. Okay. I vaguely remember that. I think part of
3 the issue with that is often in society today I think
4 there's a need to right away sue for what we feel when we
5 have been wronged.

6 Q. Right.

7 A. So, you know, that being said, if the plaintiffs
8 have an overwhelming amount of evidence that they have
9 been wronged and they are -- they are due a certain
10 amount of, you know, money, you know, the amount, I
11 guess, is determinable. So that's probably what I was
12 thinking about when I answered that.

13 Q. Sure. But you are going to hold me -- I would
14 say just in fairness you are going to hold me to the
15 standard that if I make something up you are not going to
16 go with it, right?

17 A. I won't believe it unless I see the facts and
18 data, yeah.

19 Q. Okay. Yeah. Sure. And you would listen to the
20 experts in terms of the numbers that they put together?

21 A. Oh, sure.

22 Q. Yeah. And you just said overwhelming evidence.
23 Can you also because -- Do you remember the standard that
24 I'm going to be on is a preponderance of the evidence,
25 and I accept that standard. Can you listen to the court

1 and use a preponderance of the evidence as a standard to
2 judge which way you go in this case?

3 A. For sure, yes.

4 Q. So it's 101 to 100. That's just basically where
5 it is. You could do that?

6 A. Yes.

7 Q. Okay. Thank you. Let me do the three cards
8 with you, please. Your best number for JPMorgan Chase on
9 slide one.

10 A. Six.

11 Q. And your best number on fiduciary duty, two.

12 A. Ten.

13 Q. And your best number on accountability, three.

14 A. Ten.

15 Q. Thank you, sir.

16 MR. FLEGLE: We pass the juror, Your Honor.

17 THE COURT: All right. Any questions of
18 potential juror number 17, Mr. Albright?

19 MR. GARZA: Yes, sir, Your Honor.

20 BY MR. GARZA:

21 Q. Mr. Albright, I understand from your card that
22 you have an MBA?

23 A. Yes, sir.

24 Q. What is that in?

25 A. I have a master's degree in business from Baker

1 University. It's in Kansas. Baldwin City, Kansas.

2 Q. Okay. And your undergraduate degree was in
3 what?

4 A. In business as well.

5 Q. Also from Kansas?

6 A. No. I went to Missouri Western in St. Joe,
7 Missouri.

8 Q. Excellent. And you told us a little bit in
9 answer to some of the general questions that you dislike
10 banks. Do you remember that?

11 A. Yeah. I mean, just some of the policies. I
12 mean, I'm not -- you know, I have a bank account. You
13 know, I have a car loan. I have a home mortgage. I
14 mean, banks are there for a reason and I appreciate the
15 service that they provide. Sometimes there's -- I have a
16 little disdain for the amount of corporate greed that's
17 out there not just in the banking industry but
18 everywhere. And so, you know, in discussion of 2008, you
19 know, I have some hard feelings about that era, you know,
20 in regards to banks. So in answer to your question, yes.

21 Q. Okay. And you rated JPM before you have really
22 heard any of the evidence as a six, not even neutral. Do
23 you take -- do you think that --

24 A. And that's why. Just banks right at a six.

25 Q. So is it --

1 A. *In general.*

2 Q. *Is it fair to say that before this case starts*
3 *that the plaintiffs start out a little bit ahead of*
4 *JPMorgan in this case, my client?*

5 A. *I wouldn't say that because, again, I would*
6 *probably -- if I were to put their issue up on a scale, I*
7 *would probably give them a six as well simply for the*
8 *fact that, you know, like I said, people are quick to*
9 *sue. You have got 100 -- a list of 100 or so plaintiffs.*
10 *I mean, how many of those are already millionaires. You*
11 *know, are we just suing to get an extra million. You*
12 *know, I don't know.*

13 *So, you know, I'm one to be a little*
14 *skeptical one way or the other, but then again with my*
15 *profession, facts and data, give me the facts and data*
16 *and I will be able to form my opinion and hopefully give*
17 *you a fair one.*

18 Q. *Super. Thank you. Now, I did ask you at one*
19 *time if the bank was accused by a customer you would*
20 *assume that -- you would be in favor of the customer or*
21 *that the customer was ahead or it must be true. Did I*
22 *get that one right?*

23 A. *I don't -- I mean, if I answered that, I was*
24 *probably thinking that, but, you know, my personal*
25 *opinion is if a customer has an issue, then in their*

1 opinion they must think that something that the bank did
2 was wrong. And in an instance like this where something
3 actually makes it to trial, I'm assuming that there was a
4 pretrial determination that there was enough evidence to
5 go to trial. So the answer to the question is where we
6 are at now, I'm assuming that there was enough evidence
7 to take this thing to trial and that's why we are here.

8 Q. So do you think in fairness that you may be more
9 on one side than the other at the beginning of this case?

10 A. Well, like I said, I think I'm probably giving
11 each one of you, you know, the tip of the scale, but I
12 think that, you know, I can come down the middle and look
13 at the data and probably determine one way or the other
14 which is right and which is wrong. I don't think I'm
15 leaning one way or the other.

16 Q. Okay. No, you are right. You have given each
17 side a tip of the scale. I agree. I noticed that when
18 Mr. Flegle asked you about experts you got a smile on
19 your face.

20 A. Experts on what?

21 Q. On whether you can listen to the experts in this
22 case and decide this case.

23 A. You mean just now?

24 Q. Yes.

25 A. Well, sure. I mean --

1 Q. Do you have an opinion about experts?

2 A. No. Because I'm smiling, I guess I just smile a
3 lot. No.

4 MR. FLEGLE: It's a nice smile.

5 A. You know, one thing about having an MBA is that
6 you don't need to know everything, you know, but they do
7 teach you if you are in a situation where you need to
8 know something, bring in an expert. Okay. So that's --
9 you know, I don't have trouble, you know, or a problem
10 and I would expect that we are going to hear from lots of
11 experts because the majority of the people that will be
12 on this jury probably are not experts in this, me
13 included. So if you don't bring in the experts, we will
14 probably have some issues.

15 BY MR. GARZA:

16 Q. And do you know that the experts that are
17 brought in are paid for by the plaintiffs with respect to
18 the experts that they are talking about?

19 A. I would imagine so and you will have your
20 experts as well.

21 Q. That's right.

22 A. Okay.

23 Q. When I asked you earlier or when Mr. Flegle
24 asked you earlier do you think you can be fair -- he
25 asked you can you be fair and you said I think so. I

1 just want to make sure that you believe in your heart
2 that you can be fair in this particular case.

3 A. Is that what I said?

4 Q. Yes, sir.

5 A. I know I can be fair.

6 Q. Okay. Thank you. Have you been involved in any
7 litigation with any of your companies that you work with?

8 A. I have not.

9 Q. Okay.

10 MR. GARZA: Thank you, Your Honor.

11 THE COURT: Is that all the questions?

12 MR. GARZA: Yes, Your Honor.

13 THE COURT: All right. Potential juror
14 number 18, is that Jennifer Oates? Is that correct?

15 POTENTIAL JUROR 18: Yes, sir.

16 THE COURT: All right. Mr. Flegle, do you
17 have any questions for Ms. Oates?

18 MR. FLEGLE: Yes, Your Honor.

19 QUESTIONS OF POTENTIAL JUROR 18

20 BY MR. FLEGLE:

21 Q. Could you tell us a little bit about your job?
22 I think you are an underwriter?

23 A. Yes, sir.

24 Q. What do you do as an underwriter?

25 A. Primarily I look at the inspections we have

1 completed on homes that our members own to determine if
2 we are going to continue the insurance or have them fix
3 things or, you know, cancel the policy now or later based
4 on the condition primarily.

5 Q. You say P and C. So that means --

6 A. Property and casualty.

7 Q. -- property and casualty. So you go in and you
8 look at the house and then you come back and report to
9 somebody else?

10 A. No. I do not do the inspections. We get the
11 inspections from an inspection company.

12 Q. I'm sorry. And then that company reports to you
13 and do you make the decision --

14 A. Yes, sir.

15 Q. -- on whether or not to continue the insurance
16 on the property?

17 A. Yes, sir.

18 Q. All right. Very good. You have been at --
19 Let's see. Yes. You have been there for the last 32
20 years?

21 A. Yes, sir.

22 Q. Congratulations.

23 A. Thank you.

24 Q. I noticed that you have been an executor, I
25 believe?

1 A. Well, my father passed away in 2011 and my
2 mother passed away a year ago.

3 Q. Sorry to hear.

4 A. And my sister is primary executor, but if
5 something happens to her, I'm next in line so I answered
6 yes.

7 Q. Okay. Is there anything about that experience
8 being next in line or your sister being an executor that
9 leads you to come in here in a dispute between a trust
10 and the beneficiaries one way or the other?

11 A. No, sir.

12 Q. Okay. I think you mentioned in one of your
13 responses from the bank that you tend to favor the
14 customers. Could you kind of explain why you raised your
15 card for that?

16 A. I have had some bad experiences which I think
17 was the first question you asked and, you know, the
18 little guy versus the big guy type situation. Just an
19 opinion.

20 Q. Okay. And realizing that this is a dispute
21 about a trust and a dispute with a bank that's the
22 trustee --

23 A. Yes.

24 Q. -- can you put those experiences to the side,
25 listen to the evidence and the law, and render a fair

1 *verdict in this case?*

2 *A. Yes, sir. I think I can.*

3 *Q. You said I think I can.*

4 *A. Yes, I can.*

5 *Q. We have heard about those words. Can you?*

6 *A. Yes, sir.*

7 *Q. Okay. Thank you. Here's my numbers again real*
8 *quick. Number one --*

9 *A. Six.*

10 *Q. -- on JPMorgan. Thank you. Number two on*
11 *fiduciary duty.*

12 *A. Nine.*

13 *Q. And number three on accountability.*

14 *A. Ten.*

15 *Q. Thank you.*

16 *MR. FLEGLE: We pass the juror, Your Honor.*

17 *THE COURT: All right. Any questions for*
18 *Ms. Oates, Mr. Gall?*

19 *MR. GALL: Yes, Your Honor.*

20 *BY MR. GALL:*

21 *Q. Ms. Oates, why can't you hold a job? Only 32*
22 *years. Have you done anything besides be a property and*
23 *casualty analyst?*

24 *A. I have been an underwriter for 23 of those*
25 *years. I started out in '82 as a codes analyst which was*

1 just punching information into the computer like if they
2 bought a car.

3 THE COURT: Ma'am, you need to pull the
4 microphone a little closer to you so we can hear.

5 A. And then I spent the next however many years as
6 a service rep on the phone with our customers with their
7 auto and property insurance needs.

8 BY MR. GALL:

9 Q. All right. Thank you. I want to delve into
10 this favoring the customer, little guy versus big guy
11 thing, because as Mr. Garza has pointed out we are all
12 wanting to be sure that we are starting out even.

13 A. Yes, sir.

14 Q. And can you promise us that we are starting out
15 even, that you can put aside that --

16 A. Yes, because I look at your side as being the
17 trust department versus the entire bank.

18 Q. That's correct. Thank you. And I think in
19 answering questions that you indicated you had heard of
20 the Eagle Ford?

21 A. Yeah.

22 Q. Other than just newspaper discussions, anything
23 else?

24 A. An ex co-worker married a guy with 200 acres
25 down there. Reading the newspaper, you know, I will read

1 part of the article and get bored with it, but --

2 Q. So I think --

3 A. -- I experienced the earthquake at work that
4 they said was from the frac'ing a couple of years ago.

5 Q. All right. The lady that was married to the guy
6 with the 200 acres, I take it she is not working any
7 longer?

8 A. Well, no. He's an Air Force pilot so they had
9 to go to Japan. He hasn't sold yet.

10 Q. Okay. I think you indicated as well that you
11 have been impacted by the 2008 financial crisis. Without
12 telling me too much, how were you impacted?

13 A. 401(k). You know, it goes down. You get out.
14 You don't get back in the market at the right time. My
15 husband has been through many jobs since then from
16 corporate buyout and layoffs and stuff. So --

17 Q. Okay. And you also I think indicated that you
18 enjoyed gambling?

19 A. Yes.

20 Q. Do you consider yourself a risk taker?

21 A. No. I budget money for gambling.

22 Q. Well, that sounds cautious to me. Do you
23 understand that a bank trust department can't be
24 gambling? You know, they can't gamble with the assets
25 that they hold? Do you understand that they have to

1 be --

2 A. Yes.

3 Q. And that they have to be cautious and make
4 cautious decisions?

5 A. Yes.

6 Q. All right. And if the evidence shows that we
7 were cautious, that would be consistent with our
8 fiduciary obligations. Would you agree with that?

9 A. Yes.

10 Q. And lastly, will you judge our conduct based on
11 what the evidence shows were the facts back in 2008 when
12 the decisions that are in question were made? Will you
13 do that?

14 A. Yes, sir.

15 Q. It's hard because we all have biases that we
16 bring based on what we now know happened, but will you
17 try to focus on what happened at the time?

18 A. Yes, sir.

19 Q. Thank you.

20 A. And I need to --

21 Q. I'm sorry.

22 A I checked my credit card at a break and I do
23 have a Chase credit card for under a year.

24 Q. Would that affect your opinions one way or the
25 other?

1 A. No, sir.

2 Q. Okay. Thank you.

3 THE COURT: All right. Potential juror
4 number 19, is that Jacquelyn Risse?

5 POTENTIAL JUROR 19: Risse.

6 THE COURT: Risse. I knew I was going to
7 get it wrong. I apologize, ma'am.

8 POTENTIAL JUROR 19: That's all right.

9 THE COURT: All right. Mr. Flegle, do you
10 have any questions for Ms. Risse?

11 MR. FLEGLE: We do, Your Honor.

12 QUESTIONS OF POTENTIAL JUROR 19

13 BY MR. FLEGLE:

14 Q. You note that you are retired. Where did you
15 retire from?

16 A. USAA.

17 Q. USAA?

18 A. Yes, sir.

19 Q. Do you know any of the other people at USAA in
20 this room?

21 A. Yes, sir.

22 Q. I see.

23 A. We work together. Jennifer.

24 Q. I got you. And you are pointing to juror 18?

25 A. Yes, sir.

1 Q. All right. Now, does knowing each other cause
2 you any problems with rendering a fair verdict in this
3 case?

4 A. No, sir.

5 Q. Okay. What did you do at USAA?

6 A. Simply I worked in P & C as personalized
7 insurance customer service the majority of the -- Well,
8 first when I started I was in data entry and then I went
9 into customer service and then I spent the last few years
10 in IT.

11 Q. Wonderful. Did you have any experience in any
12 of those levels at USAA that would cause you to start
13 this case if you were chosen leaning either to my folks
14 or to the bank?

15 A. No, sir.

16 Q. Okay. How long were you with USAA?

17 A. Forty years.

18 Q. Congratulations, I think.

19 A. But I retired --

20 Q. I didn't get a smile from you.

21 A. But I retired at 57.

22 Q. I got you. Congratulations. Now, I noticed
23 that you said in answer to one of the bank's questions, I
24 believe, that you might start favoring a customer. Did I
25 get that right?

1 A. Well, the first thought that came to my mind was
2 no. The customer is always right.

3 Q. I understand and that's an excellent motto from
4 my perspective.

5 MR. GALL: Can we get a one to 10 on that?

6 MR. FLEGLE: I think I'm turning red.

7 BY MR. FLEGLE:

8 Q. In this case involving a trust and some
9 beneficiaries, can you put that motto aside? I believe
10 you can.

11 A. I can.

12 Q. And you can be fair, can't you?

13 A. I like to think I'm a fair person, yes.

14 Q. And can you -- I'm going to need a yes or a no
15 or we are going to have a -- we are going to have a
16 carfuffle up here. If you were asked by the court to
17 look at the evidence -- only the evidence in this case
18 but use your common sense, of course, look at the
19 evidence in this case, listen to the law the judge
20 instructs, do you believe you could fairly do that and
21 dispatch your duties as a juror?

22 A. Yes.

23 Q. Okay. I notice that you have mentioned there
24 might be an issue with your uncle's estate, and I don't
25 want to dig in too deeply there.

1 A. Well, I have four sisters -- four other sisters
2 and brothers. He passed away without a will and then
3 they found my mother had passed away too and so Bexar
4 County has served me notice on his property taxes.

5 Q. Oh, my goodness. Let me ask you this.

6 A. I have a lawyer.

7 Q. And I ran out of cards so it's a good thing you
8 have gotten somebody. Okay. I'm sorry. Is there
9 anything that has to do with your uncle's estate that
10 would cause you to start out this case leaning one way or
11 the other?

12 A. Not this case, no.

13 Q. Not this case. Good. Now, I noticed in my
14 question -- it was one of my numbers questions, but it
15 was on a damages issue and it was if we had sufficient
16 evidence to prove that there is a lot of damages due my
17 clients, I think you raised your card and said you would
18 be uncomfortable. Why is that?

19 A. My first thought was that's a -- that's a hard
20 decision to make on who gets what. That's difficult.

21 Q. Sure. And all we are asking you to do is listen
22 to the evidence in this case and listen to the testimony
23 that comes in through this jury box and the documents and
24 listen to the law that the judge gives you and you are
25 going to get -- you would get opening statements from the

1 *lawyers and closing arguments from the lawyers and*
2 *beginning and end. Do you think you could listen to that*
3 *and come to a decision using your common sense?*

4 *A. I will say yes.*

5 *Q. Okay.*

6 *A. I just personally have problems when it comes to*
7 *money as to who gets what.*

8 *Q. Okay. I understand that and the problems are --*
9 *I don't want to be --*

10 *A. Personal because of my mother's estate. Well,*
11 *me handling her stuff before she died.*

12 *Q. Got you. And in terms of that personal*
13 *experience, does it cause you to want to not look at the*
14 *evidence?*

15 *A. No. No. It's just distribution of money.*

16 *Q. Okay. I understand. Now, does it cause you to*
17 *make -- that you would make me prove our entitlement to*
18 *money on a standard higher than preponderance of the*
19 *evidence?*

20 *A. Can you say that again, please?*

21 *Q. Sure. Do you remember our burden of proof in*
22 *this case is preponderance of the evidence. The*
23 *Spurs-Mavericks, 101 to 100, Spurs win. That's the*
24 *preponderance of the evidence in this case. Can you*
25 *follow that and apply it to the evidence as instructed by*

1 the court?

2 A. Yes.

3 Q. Okay. And I believe you also answered one of
4 the questions or you raised your card that you might not
5 be the right person for this case. Does that have to do
6 with your --

7 A. I'm thinking about -- well, the distribution of
8 monies, but I was also thinking like sometimes phrases
9 and words might be above my head that I might not be able
10 to understand. Sometimes being retired I go brain dead.

11 Q. Well, it's our job -- Do you remember -- As I
12 mentioned, this is an important case. It's also a simple
13 case, and it's our job as the lawyers and the witnesses'
14 jobs to explain those facts to you and we are going to do
15 that. So can you listen to the evidence? If we do our
16 job, can you listen to the evidence and apply the law?

17 A. Yes.

18 Q. Okay. Let me give you my numbers. Number one
19 on JPMorgan.

20 A. Five, nine, nine.

21 Q. Five. And number two is nine and number three
22 is nine?

23 A. Yes.

24 Q. Okay. Is there anything else you want to share
25 with us?

1 A. No.

2 Q. Okay.

3 MR. FLEGLE: We pass the juror, Your Honor.
4 Thank you very much, ma'am.

5 THE COURT: All right. Any questions of
6 potential juror number 19, Mr. Garza?

7 MR. GARZA: Yes, Your Honor.

8 BY MR. GARZA:

9 Q. Ms. Risse, can I -- maybe if I can just -- There
10 we go.

11 THE COURT: You have got to speak into the
12 microphone, sir, please.

13 MR. GARZA: I'm going to try, Your Honor.
14 Here we go.

15 BY MR. GARZA:

16 Q. Ms. Risse, you indicated a second ago that this
17 may not be the right case for you. Did I hear you right
18 that you felt like you are not in favor of large verdicts
19 or large awards?

20 A. When it comes to a lot of money, yes.

21 Q. Okay.

22 A. I don't think -- I don't know -- I just think
23 it's difficult.

24 Q. Sure, and that's all we want. We want your
25 honest opinion about this. I see here you had a bad bank

1 *example or experience, either you or someone close to*
2 *you. Can you tell us about that?*

3 *A. From me?*

4 *Q. Yes.*

5 *A. Well, it was when I first started working. It*
6 *has to do with bank tellers. It happened when I first*
7 *started working and later in life where they didn't give*
8 *me the correct money. And when I told them I was missing*
9 *\$5, \$10, \$20, \$100, I had to wait until they cleared*
10 *their books the next day. They didn't believe me that*
11 *they miscounted.*

12 *Q. So the bank made a mistake in that instance?*

13 *A. Yes.*

14 *Q. And was that USAA or was that a different bank?*

15 *A. Well, different banks. One is not even in*
16 *existence anymore.*

17 *Q. Okay. And then I saw that you indicated if the*
18 *bank is accused of doing something wrong then you would*
19 *tend to believe that. You believe the customer as*
20 *opposed to the bank. Did I get that right?*

21 *A. The customer --*

22 *Q. The customer, yes, ma'am.*

23 *A. -- over the bank?*

24 *Q. Right.*

25 *A. Yes.*

1 Q. Okay. And is this the little guy-big guy
2 situation or exactly why --

3 A. Many times I think businesses rush through
4 transactions without listening.

5 Q. Okay. And you are talking now more about the
6 tellers themselves?

7 A. And stuff throughout the years, yes, sir. Not
8 just banks.

9 Q. You also answered a question about whether the
10 trust was negotiating a lease. You understand the
11 difference between the commercial side and the trust side
12 of the banks having worked at USAA, do you not? Did
13 y'all have a division there at USAA between the trust
14 department and the commercial side?

15 A. No.

16 Q. No?

17 A. Did I get it wrong?

18 Q. You don't get anything wrong. Do you know
19 whether you even have a trust department at USAA?

20 A. I don't know, sir. I have been gone since '05.
21 I don't know what goes on over there. I'm sorry.

22 Q. No problem.

23 A. When I worked there, I don't think so.

24 Q. Right. I think you are right. I think at that
25 time they did not. So you are hearing about Eagle Ford.

1 Was there anything in particular about Eagle Ford that
2 you heard? Is it something --

3 A. Just the places I went people I knew were moving
4 out there to get jobs and about the drilling and --

5 Q. Did you have somebody else that had a bad bank
6 experience?

7 A. One of my brothers.

8 Q. And tell me about that.

9 A. All I know is it had something to do with his
10 money market or IRA. I'm not certain. He doesn't
11 confide in me that much.

12 Q. Okay. That's fine. That's fine. And so at
13 USAA -- I know you told us, but you worked in what
14 department there for, say, the last 10 years of your
15 tenure?

16 A. The first five years I was with the division
17 called data entry. I can tell you what I did, but nobody
18 will know what it is because it's been so long.

19 Q. That's okay.

20 A. And then after that I went into a policy
21 service -- customer service personal lines where we did
22 property and casualty personal lines, and then my last
23 few years were in IT.

24 Q. So you were in the property and casualty lines.
25 Were you doing more data entry or were you actually doing

1 *adjusting of claims or --*

2 *A. No claims. All just insurance policy*
3 *information.*

4 *Q. I see. Okay. Now, is there anything about --*
5 *Well, you indicated this might not be the right case for*
6 *you. You indicated it was for that one reason. Are*
7 *there any other reasons?*

8 *A. No, sir.*

9 *Q. Do you have anything else that you think would*
10 *cause you not to be a fair and impartial juror in this*
11 *case?*

12 *A. No, sir.*

13 *Q. Okay. Thank you, ma'am.*

14 *THE COURT: All right. Potential juror*
15 *number 20, is that Frank Sancho? Is that correct?*

16 *POTENTIAL JUROR 20: Sancho.*

17 *THE COURT: Sancho, yes. Any questions,*
18 *Mr. Flegle?*

19 *MR. FLEGLE: Yes, Your Honor.*

20 *QUESTIONS OF POTENTIAL JUROR 20*

21 *BY MR. FLEGLE:*

22 *Q. I noticed in raising your card -- you didn't*
23 *raise it very many times, but --*

24 *A. Right.*

25 *Q. -- one of them was a bad experience with a bank?*

1 A. Yes, sir.

2 Q. Did I get that -- I got that right?

3 A. Right.

4 Q. And, again, I don't want to ask about it other
5 than to ask was it a bad experience with JPMorgan?

6 A. No, with another bank.

7 Q. Okay. Now, is there anything about that
8 experience that you cannot push over to the side and
9 leave alone and judge -- and cause you not to judge the
10 facts in this case according to the law the judge
11 instructs you?

12 A. No.

13 Q. Okay. And you believe you could be fair in this
14 case if you were selected?

15 A. Yes.

16 Q. Okay. Now, one of the questions that I asked
17 this morning included a slide with the bank's defenses on
18 it and I think you raised your hand on that, and I may
19 not have asked the question very well. It may have been
20 muddled. Why did you raise your hand when I asked that
21 question?

22 A. Well, I think my understanding is -- as Mark
23 said, I'm not too familiar with banking and financing and
24 trustee and mineral rights and stuff like that. So if I
25 was to be picked, it would be hard for me to kind of

1 really understand what's going on and not knowing so much
2 about it.

3 Q. Okay.

4 A. And also with -- you know, with the banking
5 policies.

6 Q. I understand. Now, as I just mentioned just a
7 minute ago, I mean, that's one of my responsibilities --

8 A. Right.

9 Q. -- is to explain things. And if I don't do my
10 job, people won't understand.

11 A. Right.

12 Q. Are you telling us -- Well, let me just see if I
13 get this right. If we explain our case to you so you
14 understand it, are you willing to listen to the case?

15 A. Yeah, if I get help in understanding the case
16 and what both sides of the parties are trying to explain.

17 Q. Excellent. And you would be willing to listen
18 to the facts, both our facts and the bank's facts, and
19 decide the questions that the court gives you according
20 to the law the court gives you?

21 A. As long as I can understand what's going on.

22 Q. All right. That's exactly what we are going to
23 try to do. So you think you could be fair under those
24 circumstances?

25 A. Oh, I will be fair if I'm understanding it.

1 Q. Okay. Let me give you my numbers. On slide
2 one, which best number for JPMorgan for you?

3 A. Five.

4 Q. Two, fiduciary duty.

5 A. Ten.

6 Q. And three, accountability.

7 A. Ten.

8 Q. Is there anything else you want to share with us
9 or want to say or anything that has popped up in your
10 head over this case?

11 A. Be fair with my decision as long as I understand
12 it.

13 Q. Excellent.

14 MR. FLEGLE: We pass the juror, Your Honor.
15 Thank you.

16 THE COURT: All right. Any questions of
17 Mr. Sancho?

18 MR. GALL: Yes, Your Honor.

19 BY MR. GALL:

20 Q. Mr. Sancho, you said you are concerned about
21 being able to understand what's going on?

22 A. Right.

23 Q. If you get to the point and you are in the jury
24 room making a decision and you kind of feel like you
25 don't understand, is there one way or the other you would

1 *just fall naturally? Would you just more naturally favor*
2 *the plaintiffs over the bank?*

3 *A. No. As long as both sides -- if there's a*
4 *question on either side and I got the understanding,*
5 *that's where, you know, I will make my choice of, you*
6 *know, making the right fair choice.*

7 *Q. Let me tell you why I'm concerned about that.*
8 *You raised your card and you said you thought banks would*
9 *cheat their customers. Do you believe that?*

10 *A. I don't remember raising my card on that.*

11 *Q. You don't think you did?*

12 *A. No. I don't think so.*

13 *Q. I thought you also said you thought that banks*
14 *engaged in improper behavior to take advantage of*
15 *customers. Did I --*

16 *A. Yes.*

17 *Q. Okay.*

18 *A. I have had experience with that.*

19 *Q. Personal experience?*

20 *A. Yes.*

21 *Q. Tell me about that.*

22 *A. Well, it happened to be that one of my daughters*
23 *needed a co-signer and they didn't really explain the*
24 *policy of what it means to be a co-signer. And what*
25 *happened, they ended up withdrawing money out of my*

1 account which is I'm the co-signer, but they didn't
2 inform me about it which they should have and it put me
3 in a bind. I did get back with them and they were kind
4 of rude, but finally I had to go to a higher level which
5 they ended up taking care of the case.

6 Q. All right. How long ago was that?

7 A. Two years ago.

8 Q. That was not JPMorgan?

9 A. No.

10 Q. You also -- Again, another concern. We are
11 looking here to try to be sure that we are getting people
12 that we start out at least even with, and you said that
13 banks -- if a bank has been accused by a customer that
14 you would favor the customer. Do you remember telling us
15 that?

16 A. No.

17 Q. So you don't think you would feel that way?

18 A. No. I wouldn't feel that way.

19 Q. Then I also believe that you answered that you
20 didn't think this would be the right case for you. Do
21 you remember that?

22 A. Yes.

23 Q. Why is that?

24 A. Well, like I was saying, for me -- well, he kind
25 of answered the question. I mean, I don't have that much

1 *experience in understanding banking, financing, trustees,*
2 *or mineral rights, but if there's a point to where I*
3 *don't understand if I get the help to understand it,*
4 *well, then I can feel that I can be --*

5 *Q. Will you listen hard and try to understand the*
6 *explanations?*

7 *A. Yeah. I mean, if I don't understand, I will ask*
8 *and get it explained to me and make sure.*

9 *Q. Okay. You have heard me ask other people. Do*
10 *you think it's fair to judge people's conduct with*
11 *hindsight?*

12 *A. No.*

13 *Q. Will you do your best in this circumstance to*
14 *look at the facts and circumstances that existed at the*
15 *time and not judge conduct by looking in the rearview*
16 *mirror? Will you do that?*

17 *A. Yeah. I will do that. Yes.*

18 *Q. All right. Thank you for your time.*

19 *THE COURT: All right. Potential juror*
20 *number 21, is that Jose Martinez? Is that correct?*

21 *POTENTIAL JUROR 21: Yes, sir.*

22 *THE COURT: All right. Mr. Flegle, do you*
23 *have any questions for Mr. Martinez?*

24 *MR. FLEGLE: We do, Your Honor.*

25

1 QUESTIONS OF POTENTIAL JUROR 21

2 BY MR. FLEGLE:

3 Q. I will do my best to let you see my face back
4 there. I believe you are a current JPMorgan customer; is
5 that correct?

6 A. My wife.

7 Q. I'm sorry?

8 A. My wife.

9 Q. Okay. What kind of accounts and for how long?

10 A. Her account. Debit card and stuff like that.

11 Q. Okay. So there's a checking account involved in
12 that?

13 A. Yeah.

14 Q. Any other kind of accounts?

15 A. No.

16 Q. And is there anything about your experience with
17 JPMorgan and that checking account that would cause you
18 to lean one way or the other here?

19 A. No.

20 Q. I believe I saw that you raised your card on
21 some tendencies to favor customers and dislikes banks and
22 there was another one I believe that banks cheat
23 customers to make money. Did I get that right?

24 A. I don't understand what you are --

25 Q. Okay. Well, do you have any negative feelings

1 about the bank that -- about JPMorgan in this case?

2 A. No.

3 Q. And is there anything that you know or
4 experiences you have had with the banking industry that
5 would cause you to --

6 A. I have a bank problem right now.

7 Q. Okay.

8 A. Yeah.

9 Q. I don't want to pry into your personal affairs.
10 And it's not with JPMorgan?

11 A. No.

12 Q. Now, does it have anything to do with a trust?

13 A. No.

14 Q. Okay. This case is about a trust and the
15 beneficiary and trustee relationship. Can you put
16 whatever that experience is you are having over to the
17 side and judge this case if you are selected on the facts
18 that are admitted by the court and the law that the court
19 instructs you?

20 A. No.

21 Q. I'm sorry. You said --

22 A. No.

23 MR. GARZA: He said no.

24 MR. FLEGLE: Okay.

25 BY MR. FLEGLE:

1 Q. Let me just -- From the standpoint of
2 understanding your reaction this morning when I asked
3 this question about the bank's defenses, I believe you
4 put your card up. Do you remember why your card was up
5 for that?

6 A. I can't remember what that said.

7 Q. The defenses like the hindsight, the plaintiffs
8 made money, the plaintiffs liked the mineral manager,
9 that kind of thing. Just because the bank's lawyers say
10 that, would that cause you to stop in your tracks and not
11 listen to the evidence?

12 A. No.

13 Q. Okay. So before I get to my numbers, I'm
14 hearing you telling us this afternoon that you cannot be
15 a fair juror in this case. Am I hearing you right?

16 A. Right, because I have other problems with banks
17 that I don't think I would be fair, you know, to
18 participate in this.

19 Q. Okay.

20 MR. FLEGLE: Your Honor, we will pass the
21 juror. Thank you, sir.

22 THE COURT: All right. Do you have any
23 questions, Mr. Gall?

24 MR. GALL: It's Mr. Garza.

25 MR. GARZA: I do. Just a couple, Your

1 Honor.

2 THE COURT: All right. Go ahead.

3 BY MR. GARZA:

4 Q. So, Mr. Martinez, I appreciate your candor and
5 honesty. And so you have a firm conviction that you
6 cannot be fair and impartial in this case?

7 A. Right.

8 Q. Okay. Thank you.

9 THE COURT: All right. Potential juror
10 number 22, is that Wanda Torres? Is that correct?

11 POTENTIAL JUROR 22: That's correct.

12 THE COURT: All right. Mr. Flegle, do you
13 have any questions of Ms. Torres?

14 MR. FLEGLE: Yes, Your Honor.

15 QUESTIONS OF POTENTIAL JUROR 22

16 BY MR. FLEGLE:

17 Q. I see from your answers that you have been a
18 defendant in a lawsuit. Did I get that right?

19 A. No. Not myself, no.

20 Q. Oh, somebody in your family?

21 A. Well, actually right now my husband is
22 potentially going to court, and that's something that
23 I -- I just got a letter and I opened it yesterday. He
24 has a hearing on December the 15th, and that's why I
25 think I am not -- well, I shouldn't be here because in

1 case he has to go to court I need to be there for him,
2 you know. So I don't know when that will start.

3 THE COURT: We will be through by December
4 15th. Okay? Don't let that worry you.

5 POTENTIAL JUROR 22: No, but the problem is
6 I can't be out of work for four to six weeks here and
7 also for him. So I don't know.

8 THE COURT: Remember what the lawyers have
9 told you. This is a simple case. Okay?

10 POTENTIAL JUROR 22: Okay.

11 THE COURT: All right. Remember that. We
12 will be through before December 15th. All right. Next
13 question.

14 BY MR. FLEGLE:

15 Q. I think you said you were a former customer of
16 JPMorgan?

17 A. Yes.

18 Q. What type of relationship and how long?

19 A. I had my truck financed through Chase Bank.

20 Q. Was there anything about that finance of your
21 truck with Chase Bank that causes you to start leaning
22 one way or the other in this case?

23 A. No.

24 Q. And I believe you said you have got some oil and
25 gas knowledge? Did I get that right?

1 A. Well, actually my husband works in the oil
2 field. He started out at Halliburton in Odessa and now
3 he's working out in Kenedy, Texas with Select Energy
4 Services. He does deliver water to the Eagle Ford and
5 other oil companies around the Texas area, San Antonio
6 area, Kenedy, and all those little towns.

7 Q. Is there anything about his work delivering
8 water for these -- out in the Eagle Ford that would cause
9 you to start leaning one way or the other in this case?

10 A. No.

11 Q. Okay. Now, there was also -- you raised your
12 card with one of the bank's questions that you tended to
13 favor the customer, I believe. Did I get that right?

14 A. Well, yes, and I think it's because I had that
15 idea in my head too. The customer is always right, but
16 not necessarily all the time.

17 Q. So could you put that business philosophy aside
18 and just look at the evidence here?

19 A. Yes.

20 Q. Okay. Here's my three charts. Number one is
21 your -- what number for JPMorgan, number one?

22 A. Five.

23 Q. And number two for fiduciary duty?

24 A. Ten.

25 Q. And number three for accountability?

1 A. Ten.

2 MR. FLEGLE: Your Honor, we pass the juror.
3 Thank you very much.

4 THE COURT: All right. Any questions of
5 Ms. Torres?

6 MR. GALL: Yes, Your Honor.

7 BY MR. GALL:

8 Q. Just quickly, Ms. Torres. You mentioned your
9 husband was apparently the subject of a lawsuit. Without
10 prying too much, can you tell me just generally what that
11 relates to?

12 A. Well, it's not in Bexar County. It's in
13 Atascosa County. So I would rather not say if I don't
14 have to.

15 Q. All right. But he would be the defendant in the
16 lawsuit?

17 A. Yes. Uh-huh.

18 Q. He's being sued?

19 A. Right.

20 Q. Does it relate to his work?

21 A. No.

22 Q. Okay. Has your husband told you things about
23 the Eagle Ford as far as his view of how successful it's
24 been and things like that?

25 A. No. No. He's worked for several companies

1 actually in the oil field from Halliburton to Frac Tech
2 to Pumpco to Pennergy. So, no, we really, you know,
3 don't get into much discussions about that.

4 Q. Super. You also answered that you were not sure
5 this was the right case for you to be the juror on?

6 A. Well, yes, also because my husband has property
7 out in Pleasanton, Texas. It's an inheritance from his
8 grandfather. Now, his parents are deceased so now the
9 property belongs to the siblings, and they have like over
10 a thousand acres out there and they are -- they have been
11 digging for oil and they are going in there for the
12 mineral rights and all of that pretty soon. So I don't
13 know that it would be -- it would influence my decision
14 any way or the other, but that's something similar that
15 they are going through also.

16 Q. Okay. And in that instance, was your husband
17 involved in negotiating the oil and gas leases that were
18 involved?

19 A. No. The properties were inherited so they have
20 been like, how do you say, sectioned off to each of the
21 siblings. So there's no friction or anything going on.

22 Q. No, I understand. Were they already under lease
23 when they were inherited? Do you know?

24 A. No.

25 Q. You don't know?

1 A. No. No, they weren't.

2 Q. Okay. Again, did your husband negotiate the
3 lease on the section that he had?

4 A. No.

5 Q. Who did?

6 A. They have some big company that went in there.
7 I don't know their name.

8 Q. Okay. I understand. Is there anything else
9 that you are aware of that would prevent you from being a
10 fair and impartial juror?

11 A. No.

12 Q. The same question I have been asking other
13 people. Can you set hindsight aside and judge the bank's
14 conduct based on the facts and circumstances at the time?

15 A. Yes.

16 Q. Do you think that's the fair way for people's
17 conduct to be judged?

18 A. Right.

19 Q. Thank you.

20 THE COURT: All right. We are going to take
21 a break, ladies and gentlemen. Don't forget on your
22 breaks to get your parking ticket stamped. That's how
23 you get your \$2 parking. So be back in the area at 10
24 minutes to three. All rise, please.

25 (Recess from 2:32 to 2:50).

1 THE COURT: All right. Potential juror
2 number 23, is that Robert Oliver? Is that correct?

3 POTENTIAL JUROR 23: Yes, sir.

4 THE COURT: All right. Mr. Flegle, do you
5 have any questions for Mr. Oliver?

6 MR. FLEGLE: Yes, Your Honor. Thank you.

7 QUESTIONS OF POTENTIAL JUROR 23

8 BY MR. FLEGLE:

9 Q. I believe in answering some of the questions
10 this morning with your card you had some connection or
11 knowledge with the Eagle Ford. Could you explain to us
12 what that was?

13 A. Just through like everyone else, the media. I
14 know several people who -- through my church and family
15 members who work in it. I still worked in the oil field
16 in the early nineties on a drilling rig. And so just
17 from my experience and knowledge and knowing people,
18 that's my experience with it.

19 Q. Got you. Do any of the people that you know
20 that are out in the Eagle Ford have mineral interests or
21 landowners or anything like that?

22 A. I do.

23 Q. Okay. Do you personally?

24 A. I do not.

25 Q. Okay. Is there anything about what you know

1 from these other people or what you know from the people
2 that have mineral rights in the Eagle Ford that would
3 cause you to start this trial leaning one way or the
4 other?

5 A. No.

6 Q. Now, I believe this morning I saw that you
7 raised your card on uncomfotability of awarding damages.
8 Did I get that right?

9 A. Yes.

10 Q. Okay. The question was if the evidence -- if
11 supported by the evidence how comfortable or
12 uncomfortable you would be in awarding a lot of damages
13 and, of course, we have got a burden of proof and I don't
14 want to -- I don't want anybody in this room to believe
15 we are running from it. We accept the burden of proof.
16 Can you explain to me whether or not you could award
17 damages that are substantial if, in fact, the evidence
18 showed that those damages were justified?

19 A. Well, I believe our society has gone to a
20 process of litigation equaling the lottery. So
21 litigation by lottery or whatever you may say. So I
22 believe there is greed by both parties. Not in this
23 case. I'm just saying in general in our society. So
24 I'm always uncomfortable when someone gets a million
25 dollars --

1 *THE COURT: Please hold the microphone up*
2 *close to you, sir, because when you pull away like that*
3 *we lose it.*

4 *A. Okay. Sorry. I'm uncomfortable awarding people*
5 *100 million dollars for spilling coffee on their crotch.*

6 *BY MR. FLEGLE:*

7 *Q. I understand. I understand. There's no coffee*
8 *spilled in this case.*

9 *A. We need more.*

10 *Q. But you understand my burden is the*
11 *preponderance of the evidence. Can you listen to that?*

12 *A. I can.*

13 *Q. And can you listen to those people that we have*
14 *that have specialized knowledge in the field and make a*
15 *decision on whether you believe what they are saying or*
16 *not?*

17 *A. I will listen to both specialists from both*
18 *sides.*

19 *Q. I'm sorry?*

20 *A. I will listen to both specialists from both*
21 *sides.*

22 *Q. Excellent. Okay. And do you think now that we*
23 *have kind of talked this through and that you have*
24 *listened this afternoon if you were picked you could be a*
25 *fair juror?*

1 A. *I could be fair, yes --*

2 Q. *Okay.*

3 A. *-- once I heard the information.*

4 Q. *Sure. And, again, my job is to make it*
5 *understandable. And if I don't make it understandable, I*
6 *didn't do my job and the witnesses up here have a job of*
7 *telling the truth, the whole truth, and nothing but the*
8 *truth, and the court has got a job of telling you what*
9 *the law is. So with that in place, do you think you*
10 *could be fair?*

11 A. *Yes, sir.*

12 Q. *Okay. Let me give you my number chart real*
13 *quickly. Number one on JPMorgan Chase, which number is*
14 *best for you?*

15 A. *7.689.*

16 Q. *Number two, fiduciary duty?*

17 A. *Ten.*

18 Q. *And number three, accountability?*

19 A. *Ten.*

20 Q. *Thank you, sir.*

21 MR. FLEGLE: *We pass the juror.*

22 THE COURT: *All right. Any questions for*
23 *Mr. Oliver?*

24 MR. GARZA: *Yes, Your Honor.*

25

1 BY MR. GARZA:

2 Q. Mr. Oliver, I think I have a note here that you
3 either have been an executor or had a power-of-attorney
4 at one time; is that correct?

5 A. Yes. My wife and I have power-of-attorney for
6 her father.

7 Q. For her father. And so you take care of his
8 finances?

9 A. Yes.

10 Q. And you also indicated at some point you
11 entrusted money to someone and had a bad experience with
12 that. Did I get that one right?

13 A. Well, I think we all have made bad choices.

14 Q. You are talking about bad investments?

15 A. Bad investments. Bad business decisions, yes.

16 Q. Okay. You haven't had a trust that you
17 entrusted to somebody else or --

18 A. No, no, no. Just bad business.

19 Q. And you also indicated you were impacted by the
20 crash of '08.

21 A. Yes.

22 Q. Tell me about that.

23 A. Just losing several thousands of dollars in my
24 retirement --

25 Q. Sure.

1 A. -- impacted me greatly.

2 Q. All right. Were you able to keep your job
3 through all of that?

4 A. Yes.

5 Q. And you have family connections to the Eagle
6 Ford?

7 A. No.

8 Q. Okay. So your wife, she works for Bryan?

9 A. Yes.

10 Q. And what kind of work does she do?

11 A. She is his assistant.

12 Q. Okay. Very good. And did you have any kind of
13 bad experience on a deal of some sort? I have got that
14 note here, but we have had a lot of numbers. Do you
15 remember anything about that?

16 A. I have had plenty of bad experiences, but --

17 Q. That's a good point. Besides having to be here
18 for all of this.

19 A. Nothing that would -- nothing that would affect
20 anything that we are talking about here.

21 Q. Okay. And you understand the concept of
22 hindsight and judging somebody by hindsight. Would you
23 be able to in this case judge JPMorgan by the decisions
24 made and the facts known at the time that they made those
25 decisions?

1 A. Yes. I do not believe in Monday quarterback.

2 Q. Great. Thank you so much.

3 THE COURT: All right. Potential juror
4 number 24, is that Edgar Manrique? Is that correct?

5 POTENTIAL JUROR 24: Yes, sir.

6 THE COURT: All right. Mr. Flegle, do you
7 have any questions for Mr. Manrique?

8 MR. FLEGLE: Yes, Your Honor.

9 QUESTIONS OF POTENTIAL JUROR 24

10 BY MR. FLEGLE:

11 Q. I believe you said you were a former customer of
12 JPMorgan?

13 A. Yes.

14 Q. What kind of -- what type of account and how
15 long?

16 A. It was just a credit card and I believe I had a
17 banking -- a checking account with them.

18 Q. Was there anything about that experience with
19 JPMorgan that would cause you to start leaning our
20 direction instead of everything being equal in this case?

21 A. Not JPMorgan, but I have had other bad
22 experiences with other banks.

23 Q. Okay. Let me ask you about those bad
24 experiences then. Were any of those experiences
25 involving a trust?

1 A. No, sir.

2 Q. Or a trustee?

3 A. No, sir.

4 Q. Or oil and gas interests?

5 A. No.

6 Q. Is there -- do you think it's possible that you
7 could take your bad experiences that you are talking
8 about and put them over on the side and listen to what's
9 here in this case, make me prove the evidence by a
10 preponderance of the evidence, my burden of proof, and
11 start out on an even playing field between us and
12 JPMorgan in this trust case?

13 A. On an even field, in my personal opinion I
14 probably wouldn't be able to.

15 Q. All right. Can you tell us why not?

16 A. Just because of the bad experiences I have had
17 with the banking industry, you know, and my personal
18 opinion that have gone against me when I felt I shouldn't
19 have been, you know, and that I was forced to pay the
20 bank, you know. They are the big bank, you know.
21 Somebody has got to pay and it was me.

22 Q. All right, sir. Well, let me just ask you so
23 I'm sure here. If the judge here tells you you have got
24 to set that stuff aside and you have got to listen to the
25 evidence in this case and judge it by the law that the

1 court gives you, do you believe you could do that?

2 A. To tell you the truth, I probably couldn't
3 because, I mean, I would have to not be honest and we are
4 here to be honest, you know, and I'm being honest. So I
5 probably -- it would be inside of me still.

6 Q. Okay.

7 THE COURT: I'm sorry, sir. I can't hear
8 you. You need to have the microphone closer to you.

9 A. I said probably -- I probably couldn't because,
10 I mean, we are all here to be honest. And in honesty, I
11 wouldn't be able to, like I said, be on, you know, an
12 even playing field for both sides. You know, that would
13 be my personal opinion.

14 BY MR. FLEGLE:

15 Q. And are you telling us you don't think you could
16 be a fair juror in this case?

17 A. Probably not for this case. In another case --

18 Q. All right. Thank you very much, sir.

19 MR. FLEGLE: We pass the juror, Your Honor.

20 THE COURT: All right. Mr. Gall, do you
21 have any questions of Mr. Manrique?

22 BY MR. GALL:

23 Q. Are you representing to the court that you have
24 a firm conviction that you couldn't be fair?

25 A. Yes, sir.

1 Q. Thank you.

2 THE COURT: All right. Potential juror
3 number 25, is that Donna Smith? Is that correct? All
4 right. Mr. Flegle, do you have any questions for
5 Ms. Smith?

6 MR. FLEGLE: Yes, Your Honor.

7 QUESTIONS OF POTENTIAL JUROR 25

8 BY MR. FLEGLE:

9 Q. I noticed your husband is at Fort Sam Houston.
10 Is he career military?

11 A. We were career military. He still works for
12 Department of the Army and runs installation management
13 at Fort Sam as the director.

14 Q. All right. Thanks for his service. I notice
15 that you were an executor or you had a power-of-attorney.
16 Did I get that right?

17 A. Yes, but it's I think a power-of-attorney in a
18 different light because it's a military power-of-attorney
19 when my husband has had to do remote situations so it was
20 for our own personal family.

21 Q. Right. And is there anything about being a
22 power-of-attorney that would cause you to lean towards
23 the bank as the trustee in this case over us?

24 A. No.

25 Q. I noticed you also had some knowledge of the

1 *Eagle Ford. Can you kind of tell us what it is you know?*

2 *A. I'm the same way as just about everybody else.*
3 *Just through the media. We are new to Texas. I don't*
4 *even know the area, but just what we have read and what*
5 *we have heard about, and we do know several people who*
6 *either they or their children have gone to work down*
7 *there so they could make some money.*

8 *Q. Got it. Yes. Well, let me give you my charts*
9 *if I could if I could just get some numbers. Number one*
10 *is an opinion of JPMorgan Chase.*

11 *A. Five.*

12 *Q. And number two is fiduciary duty?*

13 *A. Ten.*

14 *Q. And number three is accountability?*

15 *A. Ten as well.*

16 *Q. Thank you very much.*

17 *MR. FLEGLE: Your Honor, we pass the juror.*

18 *THE COURT: All right. Mr. Garza, do you*
19 *have any questions for Ms. Smith?*

20 *MR. GARZA: I do, Your Honor.*

21 *BY MR. GARZA:*

22 *Q. Ms. Smith, I note here that you thought maybe we*
23 *need more regulations in the banking industry?*

24 *A. I think we should have more regulations in every*
25 *industry, and so I don't want to exempt banking from that*

1 in any way, shape, or form.

2 Q. Fair enough. So it was not just banking?

3 A. Absolutely.

4 Q. Okay. And I take it that with your military
5 background you and your husband have moved around a lot?

6 A. Yes, sir.

7 Q. All over the world?

8 A. All over the world many times.

9 Q. And he's still active duty at this point?

10 A. No. He works for the Army at this point so he
11 is still associated.

12 Q. You answered that you were impacted by the 2008
13 crash. Can you tell us a little bit about that?

14 A. We were not so much personally, but there were
15 members of our family that were as well as very good
16 friends who we saw lose jobs, homes, cars, means of
17 living that took quite a toll on their lives, and some
18 have recovered and some are still in recovery from that.

19 Q. Do you remember how frightening that time was?

20 A. Yes.

21 Q. Is there any reason why you could not be a fair
22 and impartial juror in this case?

23 A. No.

24 Q. And you have heard a lot from the lawyers. And
25 as far as you are concerned, both sides start out even

1 and you are willing to listen to all the evidence and be
2 fair to both sides?

3 A. Yes. I think so.

4 Q. Okay. Thank you, ma'am.

5 THE COURT: All right. Potential juror
6 number 26, is that Juan Quinones? Is that correct?

7 POTENTIAL JUROR 26: Yes, Your Honor.

8 THE COURT: All right. Mr. Flegle, do you
9 have any questions for potential juror number 26,
10 Mr. Quinones?

11 MR. FLEGLE: Yes, Your Honor.

12 QUESTIONS OF POTENTIAL JUROR 26

13 BY MR. FLEGLE:

14 Q. Could you tell us what your former employer was?

15 A. Well, I used to work for a car dealer. In fact,
16 I was working there this past summertime, but I had an
17 accident. I didn't share that with y'all yesterday. I
18 had an accident in the middle of August and I was
19 hospitalized for about ten days. I was in a coma for
20 almost four days. And what happened is that I slipped
21 causing a problem with my leg. I slipped and I hit
22 myself, I guess, in the bathroom. That's where they
23 found me. There was a pool of blood there, and I was
24 taken to the emergency room. I mean, that's why I'm
25 having a lot of problems with my leg right now and it's

1 *bothering me with the cold weather coming in. There's a*
2 *lot of walking. It would be difficult for me, but I*
3 *worked for them. I worked for that car dealer off and*
4 *on. I did sell cars.*

5 *Q. All right, sir. And as far as the results of*
6 *your accident, are you able to sit for an hour and a*
7 *quarter or hour and a half at a time?*

8 *A. No. Sir, right now it's been bothering me, you*
9 *know, as I walk. Yesterday in the elevator I almost fell*
10 *down. My leg stiffens up, my knee locks up, and I'm*
11 *having a hard time getting around. And with this weather*
12 *changing, it's getting worse and worse, and that's why I*
13 *mentioned yesterday that my Medicare just kicked in*
14 *Saturday. So if I wouldn't be here, I would be making --*
15 *How do you say it? I would be making doctor's*
16 *appointments. So, you know, my leg has really been*
17 *bothering me, sir.*

18 *Q. Yes, sir. Are you -- I don't mean to be prying,*
19 *but are you on any pain medication today?*

20 *A. No. Like I said, I didn't have no insurance.*
21 *Now that I have got insurance I have a better chance of*
22 *getting more attention and whatever medication I need.*
23 *They did give me some medication when I got out of the*
24 *hospital, but I'm almost -- I'm almost out of it.*

25 *Q. Let me ask you just a couple of questions about*

1 *this case and a little bit about one of your past things.*
2 *Are you sitting here today leaning or favoring the bank*
3 *even slightly in this case before hearing the evidence?*

4 *A. No, sir.*

5 *Q. Do you think -- If we put the medical issues*
6 *aside right now, if you were selected you could be a fair*
7 *juror?*

8 *A. Oh, yes, sir. Yes. Of course.*

9 *Q. Okay. And I noticed you had some jury duty on a*
10 *civil case. Do you remember what kind it was?*

11 *A. That was on a civil case. It was a lawsuit for*
12 *an injury to a person and a house, but they dropped --*
13 *for some reason they dropped it.*

14 *Q. So the jury never deliberated?*

15 *A. No. We didn't get a chance.*

16 *Q. Okay. Let me put my numbers up there just to*
17 *ask you. On number one, JPMorgan, which is the best*
18 *number for you?*

19 *A. Number five.*

20 *Q. Number two is fiduciary duty. Which is the best*
21 *number for you?*

22 *A. I would say a nine.*

23 *Q. And number three, accountability?*

24 *A. Number nine.*

25 *Q. Thank you, sir.*

1 MR. FLEGLE: Your Honor, we pass the juror.

2 THE COURT: All right. Mr. Gall, do you
3 have any questions for Mr. Quinones?

4 MR. GALL: Yes, Your Honor.

5 BY MR. GALL:

6 Q. This morning Mr. Flegle asked a question about
7 the bank's defenses, and my notes indicate you raised
8 your card and said once you had seen those your mind was
9 made up. Do you remember that?

10 A. No, sir. I think I asked him to repeat the
11 question.

12 Q. Oh, okay.

13 A. I asked him to repeat the question. It might
14 have been that one.

15 Q. Okay. But you haven't made up your mind after
16 looking at those defenses one way or the other. Is that
17 what you are telling me?

18 A. What was that again? I didn't understand.

19 Q. He put the defenses up on the board --

20 A. Uh-huh.

21 Q. -- and asked people to raise their hand if after
22 reading those they made up their mind and were ready to
23 go home. Did you raise your hand?

24 A. I might have. It's hard to remember right now.
25 I know I raised my hand a couple of times. It might have

1 *been that one.*

2 *Q. Okay. And what did you intend to indicate to us*
3 *by raising your hand in response to that question?*

4 *A. I'm trying to recall that.*

5 *Q. Well, it seems to me there's two choices. One,*
6 *that the defenses are so good you could -- you were done*
7 *or the defenses are so bad you were done. Did you have a*
8 *reaction one way or the other? If you didn't, that's*
9 *fine. I'm just trying to find out --*

10 *A. I'm trying to recall. I know I raised my hand a*
11 *couple of times, but I don't recall that one if I did.*

12 *Q. All right. You also indicated in response to*
13 *Mr. Garza's questions that you didn't feel like this was*
14 *the right case for you to serve as a juror on?*

15 *A. Yes, sir.*

16 *Q. Another time that you raised your card.*

17 *A. Uh-huh.*

18 *Q. Could you tell me what you intended to*
19 *communicate by that?*

20 *A. Well, in my condition right now, I don't think I*
21 *would be concentrating on the case, you know, because I*
22 *wouldn't be, you know, putting my mind on it. It's like*
23 *one of the gentlemen up there in front made a statement*
24 *about this case not being a big case. Well, it is -- to*
25 *me it's a big case. It would be unfair for me to be on*

1 the jury and not put my concentration and listen because
2 of my physical, you know, and that's the reason I said I
3 wouldn't be, you know, qualified I guess.

4 Q. Thank you for your candor. I was actually the
5 one that said that about a big case and I do think that
6 every case -- any case that comes before a court is big
7 in that sense, but just because someone calls it a big
8 case do you think that that meant they were entitled to a
9 bunch of money?

10 A. No. You are talking about a bunch of money so I
11 figured it has to be a big case. It's going to touch a
12 lot of people, you know. And when you touch a lot of
13 people, it becomes pretty big.

14 Q. All right. Anything else that you can think of
15 that would make it difficult for you to serve as a juror?

16 A. Just my physical right now, sir. Like I said, I
17 need to get medical attention. And like I said, if I
18 wasn't here, I would have already made some appointments,
19 you know, and I need to get -- since this weather is
20 changing, I'm having a difficult time getting around and
21 it's hard on me.

22 Q. All right. Thank you. I hope you do get the
23 attention you need and that your recovery is a full one.
24 Thank you.

25 A. Thank you, sir.

1 THE COURT: All right. Potential juror
2 number 27, is that William Bowman? Is that correct?

3 POTENTIAL JUROR 27: Yes, sir.

4 THE COURT: All right. Mr. Flegle, do you
5 have any questions for Mr. Bowman?

6 MR. FLEGLE: Yes, Your Honor.

7 QUESTIONS OF POTENTIAL JUROR 27

8 BY MR. FLEGLE:

9 Q. I notice you have been here about two years.

10 A. Yes, sir.

11 Q. Where were you before Bexar County?

12 A. I was in Howard County, Maryland.

13 Q. And I see you are with the Department of Defense
14 as an analyst. Can you tell us a little bit about your
15 job?

16 A. I work in network traffic analysis.

17 Q. So that's strictly the communication system,
18 audio, video, that kind of stuff?

19 A. I really can't divulge too much more.

20 Q. Or you would have to shoot me, I guess.

21 A. I wouldn't say that.

22 Q. All right. Well, I respect your confidentiality
23 agreements. I notice you didn't raise your hand much in
24 the first part of the case. Is there anything that you
25 have heard here that causes you to have a feeling or a

1 sensation that you are favoring the bank or the
2 beneficiaries before you have heard the first evidence?

3 A. No, sir.

4 Q. And do you believe you could be a fair juror in
5 the case?

6 A. One hundred percent.

7 Q. Let me do my numbers thing quickly. Number one
8 is JPMorgan.

9 A. Five.

10 Q. Number two is fiduciary duty.

11 A. Eight.

12 Q. And number three is accountability?

13 A. Ten.

14 Q. Thank you very much, sir.

15 MR. FLEGLE: Your Honor, we pass the juror.

16 THE COURT: All right. Mr. Garza, do you
17 have any questions for Mr. Bowman?

18 MR. GARZA: I do, Your Honor.

19 BY MR. GARZA:

20 Q. Mr. Bowman, I have got a note here that you
21 raised your number when it was asked whether you
22 entrusted money to someone else. Is that accurate?

23 A. Yes, sir.

24 Q. And tell me about that.

25 A. I have at times, you know, leveraged my parents

1 to manage my accounts when I am away to make sure that
2 all of my bills and things are paid.

3 Q. Okay. And they did just fine with all of that.
4 No problem. I see you are an analyst and I'm not sure I
5 picked up -- if Mr. Flegle asked you about that. In what
6 field are you an analyst?

7 A. Computers.

8 Q. Did you go to LSU?

9 A. Yes, sir.

10 Q. You have got a big game this Friday or this
11 Saturday.

12 A. Oh, yeah. That's why I'm glad we are not here
13 on Saturdays.

14 Q. So am I. Thank you, sir.

15 A. Appreciate it.

16 THE COURT: All right. Potential juror
17 number 28, is that Adriene Harrison? Is that correct?

18 POTENTIAL JUROR 28: Yes.

19 THE COURT: All right. Mr. Flegle, do you
20 have any questions for Ms. Harrison?

21 MR. FLEGLE: Yes, Your Honor, briefly.

22 QUESTIONS OF POTENTIAL JUROR 28

23 BY MR. FLEGLE:

24 Q. I see you are with the Attorney General of
25 Texas?

1 A. Yes.

2 Q. And you are one of the caseworkers there?

3 A. Yes.

4 Q. What type of cases are you a caseworker on?

5 A. I deal with child support cases.

6 Q. I got you.

7 A. Interstate cases state to state for 22 years.

8 Q. And this is making sure the child support is
9 being paid or --

10 A. Exactly.

11 Q. -- you locate --

12 A. Uh-huh.

13 Q. -- whichever parent it is?

14 A. Uh-huh. So I litigate with the fathers as well
15 as the mothers.

16 Q. Okay. I noticed you had some understanding
17 about the Eagle Ford shale. Could you kind of share with
18 us your level of information?

19 A. Actually it's not much. I'm down to my last
20 years of retirement so I'm taking on a different trade.
21 So basically I'm going to real estate school at night and
22 that's where I heard about this.

23 Q. I got you.

24 A. So that's it.

25 Q. All right. And nothing about property values or

1 what's going on out there on the ground?

2 A. No. No, sir.

3 Q. Okay. And I also understand from your answers
4 you have heard about fiduciary duty. Could you kind of
5 tell us the context that fiduciary duty comes up for you?

6 A. Well, in my form -- I mean, what I do
7 basically -- I mean, I actually take -- I go to court as
8 well with the attorneys. We have litigation. Again, we
9 do a lot of administrative where I actually bring people
10 in the office and where I litigate with them and actually
11 do a child support order based on the Texas guidelines.
12 That's what I have to do. I'm under oath to do that.

13 Q. And the fiduciary duty comes up how?

14 A. Well, if we ended up taking something to court
15 maybe for -- I have actually dealt with probate cases. I
16 have done that as well. So I actually assist the
17 attorney and I go to court with them and they litigate
18 the case.

19 Q. And those fiduciary duties that you are talking
20 about are pretty important duties for the people?

21 A. Yes, they are.

22 Q. Particularly for the kids and families?

23 A. For the interest of kids of Texas, yes, sir.

24 Q. Yes. Thank you for doing that.

25 A. Yes. Thank you.

1 Q. My first numbers are JPMorgan, number one.
2 Which one is good for you?

3 A. Five.

4 Q. And number two is fiduciary duty.

5 A. Ten.

6 Q. And number three is accountability.

7 A. Ten.

8 Q. Is there anything that we have talked about
9 today that causes you to have something you would like to
10 share with us?

11 A. No, sir. I'm knowledgeable to both sides so I'm
12 fair down the line.

13 Q. All right.

14 MR. FLEGLE: Your Honor, we pass the juror.

15 THE COURT: All right. Mr. Gall, do you
16 have any questions for Ms. Harrison?

17 MR. GALL: Just quickly.

18 BY MR. GALL:

19 Q. Ms. Harrison, when you work on these cases, do
20 you sometimes testify as a witness?

21 A. I have never.

22 Q. Never testified as a witness?

23 A. Never. Not yet. No, sir.

24 Q. So tell me what role you play. Is it support
25 for the lawyers in court?

1 A. Yes, but again I deal with interstate cases so I
2 do a lot of telephonic hearings, out-of-state
3 caseworkers. I deal with every state you can possibly
4 imagine.

5 Q. When you get into a situation where there's a
6 fiduciary situation involved, do you gamble with the
7 assets that you are acting as a fiduciary for?

8 A. Not necessarily. We put everything together and
9 that would be basically up to our Attorney General's
10 office. Our office actually litigates that.

11 Q. Do you understand that a fiduciary has to act
12 with caution?

13 A. Yes.

14 Q. And be careful more so than even they might be
15 with their own money?

16 A. Yes. I sure do.

17 Q. Is there anything in your experience working
18 with lawyers that would affect -- We are not a wonderful
19 breed sometimes. Is there anything in working with the
20 lawyers that would affect your attitude about being a
21 juror?

22 A. No. They are different, but that's it. I mean,
23 that's okay. I mean, I have no problem.

24 Q. Okay. And if the judge instructs you that you
25 are to judge the conduct in here based on the facts and

1 evidence -- the facts and events that were occurring at
2 the time and not use hindsight, will you do your best to
3 do that?

4 A. I will.

5 Q. Thank you. Nothing further.

6 A. Thank you.

7 THE COURT: All right. Potential juror
8 number 29, is that Rogelio Cadena? Is that correct?

9 POTENTIAL JUROR 29: Yes, sir.

10 THE COURT: All right. Mr. Flegle, do you
11 have any questions for Mr. Cadena?

12 MR. FLEGLE: Yes, Your Honor.

13 QUESTIONS OF POTENTIAL JUROR 29

14 BY MR. FLEGLE:

15 Q. I noticed from your cards this morning you own
16 mineral interests; is that right?

17 A. Yes, sir.

18 Q. Can you tell us -- are they Eagle Ford mineral
19 interests?

20 A. It's in Arlington, Texas.

21 Q. Arlington. So is that Barnett shale?

22 A. I think so.

23 Q. Okay. And this is some land that you own that
24 has mineral interests on it?

25 A. It's a house we used to have.

1 Q. Okay. And I think you said somebody gets
2 royalty checks?

3 A. Yes, sir.

4 Q. Do you?

5 A. Yeah.

6 Q. And it's from that property in Arlington?

7 A. Uh-huh.

8 Q. Now, is there anything about the relationship
9 that you have with the -- I think it's the lessee is what
10 we call it, the oil company or the gas company that sends
11 you that royalty check or has dealt with your mineral
12 rights that causes you to start this case if you were
13 chosen as a juror favoring the bank or the beneficiaries
14 over each other?

15 A. No.

16 Q. Do you think you could be totally fair if you
17 were selected?

18 A. Yes, sir.

19 Q. I believe you said you have heard about the
20 Eagle Ford before?

21 A. Yeah. What I read in the newspapers.

22 Q. Okay. Did you read anything about this case?

23 A. No, sir.

24 Q. Okay. Now, one of the concepts that we have
25 heard a lot about today is hindsight here. Can you make

1 me prove by a preponderance of the evidence the knowledge
2 and the information that was available at the time the
3 decisions were made in this case? Can you go with me
4 there?

5 A. I don't understand English very well. I don't
6 even understand what hindsight means.

7 Q. Okay. I got you. Well, let me ask you. Can
8 you listen to what is said by the witnesses and make a
9 decision on whether or not the conduct was appropriate
10 based on the information that should have been known at
11 the time?

12 A. Yes, sir.

13 Q. Okay. Let me give you my chart with the three.
14 Number one is for JPMorgan. What number is best for you?

15 A. Five.

16 Q. And number two is fiduciary duty. What number
17 is best for you?

18 A. Ten.

19 Q. And number three is accountability. What number
20 is best for you?

21 A. Ten.

22 Q. Is there anything else you want to share with
23 us?

24 A. No, sir.

25 MR. FLEGLE: Your Honor, we pass the juror.

1 Thank you very much, sir.

2 THE COURT: All right. Mr. Garza, do you
3 have any questions for Mr. Cadena?

4 MR. GARZA: I do, Your Honor.

5 BY MR. GARZA:

6 Q. Mr. Cadena --

7 A. Uh-huh.

8 Q. -- I notice you have been a welder for 37 years?

9 A. Yes, sir.

10 Q. You came up as an apprentice and did you receive
11 certification and all of that kind of thing?

12 A. Yes.

13 Q. That is amazing. Now, I did notice that -- I
14 think you answered a question that you entrusted money or
15 your family had entrusted money to somebody else.

16 A. No.

17 Q. No? Okay. So we got that one wrong. What I do
18 recall is that you said this may not be the right case
19 for you.

20 A. Yeah, because I don't understand English very
21 well. I don't write, read, or understand English very
22 well.

23 Q. I'm sorry, sir. You said you don't write, read,
24 or understand English very well?

25 A. I never went to school here.

1 Q. Yes. I noticed that you went to school in
2 Mexico through secundaria?

3 A. Yes, sir.

4 Q. Okay. But right now you don't write or read
5 English?

6 A. Not at this level.

7 Q. All right. If you were chosen on this jury, do
8 you have any feelings that you think would sway you one
9 way or the other with respect to the bank or the
10 plaintiffs?

11 A. I don't understand.

12 Q. Okay. Do you have any problem with banks at
13 all?

14 A. No, no.

15 Q. Okay. That's fine. Do you believe if you are
16 chosen you would be fair and impartial to everybody?

17 A. Yes, sir.

18 Q. Okay. Thank you so much.

19 THE COURT: All right. Potential juror
20 number 30, is that Brian Julian? Is that correct?

21 POTENTIAL JUROR 30: Yes, sir.

22 THE COURT: All right. Mr. Flegle?

23 MR. FLEGLE: Yes, Your Honor. Thank you.
24
25

1 QUESTIONS OF POTENTIAL JUROR 30

2 BY MR. FLEGLE:

3 Q. I noticed you answered today that you have a
4 connection to banking in some fashion. Can you share
5 with us what that is?6 A. Yes. It's not -- it's not with banks. It's
7 more just dealing with finances daily.

8 Q. And how does that -- how does that come up?

9 A. My job is I deal -- I work for clients and I
10 help manage their businesses so I deal with their budgets
11 on a daily basis.12 Q. Okay. I notice that your employer, have I got
13 it right, is Rehab Care?

14 A. That's correct.

15 Q. And so that's not physical rehab, is it?

16 A. Yes. It's rehabilitation services like people
17 that are hurt or have a stroke.18 Q. All right. So if I, for example, had a medical
19 condition and I needed to get back in the flow of things,
20 that's something that -- depending on the condition
21 something that your company would be able to -- would
22 help with?23 A. Yes. We contract our services out to other
24 clients.

25 Q. Okay. And it just kind of gets me back on the

1 freeway of life so that I can get back in the mainstream?

2 A. Yes, sir.

3 Q. Now, in terms of the work that you do with Rehab
4 Care, do you work more with -- are all of your customers
5 or clients people or patients, I guess, instead of
6 doctors or --

7 A. Yeah. I deal with the owners of the buildings.
8 We contract our services out to them and then the
9 employees do the actual therapy.

10 Q. Okay. And the owners of the buildings means
11 places like what?

12 A. Hospitals, skilled nursing facilities.

13 Q. Okay. I got you. Now, based on those
14 connections, are you starting out this favoring the bank
15 even slightly over my clients, the beneficiaries, before
16 you hear any evidence?

17 A. Initially I would lean towards the bank just
18 because a larger corporation sometimes is a bigger
19 target.

20 Q. Okay. Thank you for being fair. You are saying
21 because of your experiences in the past you would start
22 out leaning towards JPMorgan Chase?

23 A. That's correct.

24 Q. Okay. Let me just give you my number charts.
25 Number one is JPMorgan. What number is best for you?

1 A. Five.

2 Q. And number two is fiduciary duty.

3 A. Ten.

4 Q. And number three is accountability.

5 A. Ten.

6 Q. Thank you, sir.

7 MR. FLEGLE: Your Honor, we pass the juror.

8 THE COURT: All right. Mr. Gall, do you
9 have any questions for Mr. Julian?

10 MR. GALL: Yes.

11 BY MR. GALL:

12 Q. Mr. Julian, you indicate here on your card you
13 have a master's degree. Is that an MBA?

14 A. No. It's a master's in physical therapy.

15 Q. I am confused. I thought that -- I understood
16 you were doing physical therapy -- physical therapy --
17 you and I -- whichever way I lean you lean. Let's try it
18 this way. I thought I understood that you were doing
19 accounting kind of work, right?

20 A. Right now currently I just deal with the
21 financial side, but initially I had a master's in
22 physical therapy and I'm a physical therapist by trade.

23 Q. I see. And you have kind of morphed over --

24 A. Yes.

25 Q. -- as your career has continued?

1 A. *That's correct.*

2 Q. *Do you own this business?*

3 A. *No.*

4 Q. *Okay. Now, you said in response to Mr. Flegle's*
5 *questions that you might begin with a slight lean toward*
6 *the bank. If the judge instructs you to make a decision*
7 *based on his instructions about the law and the evidence*
8 *that is put in by the lawyers once the jury is seated,*
9 *could you do that and be fair?*

10 A. *Yes, sir.*

11 Q. *Okay. And will you hold the plaintiffs to their*
12 *burden of proof to prove that we failed to meet our*
13 *fiduciary duties based on the facts and evidence at the*
14 *time as opposed to using hindsight?*

15 A. *Yes, sir.*

16 Q. *Thank you. Nothing further.*

17 *THE COURT: All right. Potential juror*
18 *number 31, is that Lalaine or Lalaine Jebb? Is that*
19 *correct?*

20 *POTENTIAL JUROR 31: Lalaine Jebb, yes, sir.*

21 *THE COURT: All right. Mr. Flegle, do you*
22 *have any questions?*

23 *MR. FLEGLE: Yes, Your Honor.*

24

25

1 QUESTIONS OF POTENTIAL JUROR 31

2 BY MR. FLEGLE:

3 Q. I believe you were a former JPMorgan customer?

4 A. Yes, sir.

5 Q. And can you tell us a little bit about what
6 accounts you had?

7 A. Checking account.

8 Q. Okay. How long did you have the checking
9 account with them?

10 A. Just two years ago or a year ago. I'm sorry.

11 Q. Is there anything about having that checking
12 account with JPMorgan that would cause you to start this
13 case leaning towards JPMorgan or leaning towards my
14 clients, the beneficiaries?

15 A. No, sir.

16 Q. I notice you just moved into Bexar County a
17 couple -- well, two and a half years ago. Where were you
18 before you came here?

19 A. I was in San Diego, California.

20 Q. And were you employed out there?

21 A. I was going to school.

22 Q. And you are still at Baptist Medical Health?

23 A. Yes, sir.

24 Q. Okay. Can you share with us why you came to San
25 Antonio?

1 A. Well, my sister is stationed here. She's in the
2 Army and she needed help because at that time she was
3 deploying to Afghanistan. So she asked me, you know, for
4 help to take care of her house and her dog. So I came
5 down here and helped her out.

6 Q. And then decided to stay, huh?

7 A. And I decided to stay, yes, sir.

8 Q. Well, good. Well, good. Do you have any views
9 at all that might impact you one way or the other in
10 making a decision --

11 THE COURT: Can you hold on just a second.
12 All right. Hold on just a second. I have got to take an
13 important call. I will be right back. Y'all remain
14 seated. This will just take a few minutes.

15 (Brief recess)

16 THE COURT: All right. Go ahead.

17 MR. FLEGLE: Thank you, Your Honor.

18 BY MR. FLEGLE:

19 Q. Is there anything that you have heard today that
20 gives you a reason that you want to share anything with
21 us about where you are?

22 A. No, sir.

23 Q. Okay. Let me do the little charts. Number one
24 is JPMorgan Chase. Which is the best number for you?

25 A. Five.

1 Q. And number two is fiduciary duty. Which is the
2 best number?

3 A. Eight.

4 Q. And number three is accountability.

5 A. Ten.

6 Q. Thank you.

7 MR. FLEGLE: We pass the juror.

8 THE COURT: All right. Mr. Garza, do you
9 have any questions for Ms. Jebb?

10 MR. GARZA: Just a few, Your Honor.

11 BY MR. GARZA:

12 Q. Ms. Jebb, I see that you are a college graduate.

13 A. Yes, sir.

14 Q. Where did you go to school?

15 A. San Diego State.

16 Q. The Aztecs.

17 A. The Aztecs, yes, sir.

18 Q. And what did you study?

19 A. I majored in health science. Public health.

20 Q. And did you get a job when you left school or is
21 this your first job when you came here?

22 A. This is my -- after graduating, this is my job,
23 yes.

24 Q. All right. Now, you have heard a lot in this
25 case. Is there anything that you have heard that would

1 cause you to say I can't be a fair and impartial juror in
2 this particular case?

3 A. No, sir.

4 Q. And you can be fair to the bank and you can be
5 fair to the plaintiffs both?

6 A. Yes, sir.

7 Q. Okay. Thank you, ma'am.

8 A. Thank you.

9 THE COURT: All right. Potential juror
10 number 32, is that Steven Ortiz?

11 POTENTIAL JUROR 32: Yes, sir.

12 THE COURT: All right. Mr. Flegle, do you
13 have any questions for Mr. Ortiz?

14 MR. FLEGLE: Yes, Your Honor.

15 QUESTIONS OF POTENTIAL JUROR 32

16 BY MR. FLEGLE:

17 Q. I noticed in your answers this morning you are a
18 current JPMorgan customer?

19 A. Yes, sir.

20 Q. And can you kind of describe what that
21 relationship is?

22 A. I just have a credit card with them.

23 Q. Okay. And there's nothing about the credit card
24 that you have got that would cause you to be favoring us
25 or the bank in this case?

1 A. No, sir.

2 Q. Okay. I believe you also said that you had a
3 bad experience with banks. Was I right about that?

4 A. Yes, sir. I currently am going to court with
5 Household Bank right now over disputes of a credit card.

6 Q. So that's a credit card issue?

7 A. Yeah. Yes, sir.

8 Q. Okay. And it doesn't have anything to do with a
9 trust or beneficiaries?

10 A. No.

11 Q. Is there anything about that dispute that you
12 have got with Household Bank that would cause you to lean
13 one way or the other in this case on a starting-out
14 basis?

15 A. To sit here and say no, it wouldn't I would be
16 lying. I feel like it would affect it because if
17 something is going on in my case over here and then I
18 come over here, I'm going to be upset if things aren't
19 going my way with that court case and I'm going to be
20 upset with the bank. So to say that it would affect me,
21 yes.

22 Q. And are you telling the court and us up here
23 that you feel based on your disputes with Household Bank
24 that you could not be a fair juror in this case?

25 A. Yes, sir.

1 MR. FLEGLE: Your Honor, that's all the
2 questions. We pass the juror. Thank you, sir.

3 THE COURT: All right. Mr. Gall, do you
4 have any questions for Mr. Ortiz?

5 MR. GALL: Just one question.

6 BY MR. GALL:

7 Q. Mr. Ortiz, is your conviction that you can't be
8 fair in this case a firm conviction?

9 A. Yes, sir.

10 Q. Thank you.

11 THE COURT: All right. Potential juror
12 number 33, is that Juanita Romero? Is that correct?

13 POTENTIAL JUROR 33: Yes, sir.

14 THE COURT: All right. Mr. Flegle, do you
15 have any questions for Ms. Romero?

16 MR. FLEGLE: Yes, Your Honor.

17 QUESTIONS OF POTENTIAL JUROR 33

18 BY MR. FLEGLE:

19 Q. Ma'am, I noticed you are with Helping Hands. Is
20 that home health?

21 A. That's home health, yes, sir.

22 Q. Okay. And you have been -- and so you go to --
23 do you live with your clients or do you go to the house
24 every day?

25 A. No. I go to the houses every day.

1 Q. Okay. I didn't see much of your card being
2 raised one way or the other. Is there anything the
3 people have said today that would cause you to feel
4 uncomfortable about being a fair juror in this case or
5 anything that you would like to share with us?

6 A. No, sir.

7 Q. No?

8 A. No, sir.

9 Q. Let me get some answers to my question numbers.
10 Number one is JPMorgan. Which is the best number for
11 you?

12 A. Five, 10, and 10.

13 Q. So number -- Perfect.

14 MR. FLEGLE: Thank you very much. We pass
15 the juror.

16 THE COURT: All right. Mr. Garza, do you
17 have any questions for Ms. Romero?

18 MR. GARZA: Just a couple.

19 BY MR. GARZA:

20 Q. Thanks for speeding that up, Ms. Romero. Okay.
21 I noticed that in one of the answers -- and I can't quite
22 see you. There you are. Okay. Perfect. I think you
23 said if the bank was accused, just that alone you would
24 end up favoring a customer or is that incorrect?

25 A. That's incorrect.

1 Q. Okay. So you don't have any preconceived
2 notions in this case --

3 A. No, sir.

4 Q. -- either way; is that right?

5 A. That's correct.

6 Q. Okay. And I noticed you have lived here in San
7 Antonio your whole life?

8 A. Yes, sir.

9 Q. Where did you go to high school?

10 A. Edgewood High School.

11 Q. Excellent. Okay. You have heard from both
12 sides. Is there anything about this case that would tend
13 to make you believe one way or the other that you
14 couldn't be a fair juror?

15 A. No, sir.

16 Q. And I know that right now you are doing the home
17 health care. Before that, what did you do?

18 A. Actually I was a medical assistant. I worked
19 for about 30 years at a doctor's office.

20 Q. And what type of doctor was that?

21 A. It was a family practice.

22 Q. And so you were in his offices for the last 30
23 years before you went to home health care?

24 A. Yes, sir.

25 Q. And your home health care work now, do you do

1 weekends or do you do just weekdays?

2 A. It's actually seven days a week. I do get two
3 days off sometimes.

4 Q. All right. Is there any reason you couldn't be
5 a fair juror in this case, ma'am?

6 A. No, sir.

7 Q. Okay. Thank you so much.

8 THE COURT: All right. Potential juror
9 number 34, is that Ruben Estrada?

10 POTENTIAL JUROR 34: Yes, sir.

11 THE COURT: All right. Mr. Flegle, do you
12 have any questions for Mr. Estrada?

13 MR. FLEGLE: Yes, Your Honor.

14 QUESTIONS OF POTENTIAL JUROR 34

15 BY MR. FLEGLE:

16 Q. I noticed you are a current customer of JPMorgan
17 Chase.

18 A. Yes, sir.

19 Q. Could you tell us just what kind --

20 A. Mortgage.

21 Q. It's a mortgage?

22 A. Yes.

23 Q. Okay. I guess house mortgage?

24 A. Yes, sir.

25 Q. Okay. Is there anything about your house

1 mortgage relationship with JPMorgan Chase that causes you
2 to start out favoring the bank over my clients?

3 A. I would favor Chase.

4 Q. And can you kind of give us an explanation of
5 that?

6 A. They lowered my payments. You said to be
7 truthful.

8 Q. I understand that. Do you think that would have
9 an impact on the way you look at this case?

10 A. Kind of. I mean, they have never done me wrong
11 in 12 years.

12 Q. All right. And before -- you are having that
13 feeling and that leaning even before you hear the first
14 piece of evidence in the case?

15 A. Yes.

16 Q. Now, I believe you also said you were
17 uncomfortable awarding money -- large amounts. Did I get
18 that right?

19 A. Yes. This is -- this is way over my -- I mean,
20 it's got to be a large amount with all of these people
21 here.

22 Q. And are you telling us that even if that large
23 amount was supported by the evidence that is admitted by
24 the court and you followed the law that was instructed
25 you by the judge that you still feel like you couldn't

1 award a large number if the evidence supported it?

2 A. Correct.

3 Q. Now, we have heard other jurors say that they
4 felt they couldn't be fair and impartial in this case.
5 Do you think you are the same way today?

6 A. Yes, sir.

7 MR. FLEGLE: No further questions, Your
8 Honor. We pass the juror. Thank you, sir.

9 THE COURT: All right. Mr. Gall, do you
10 have any questions for Mr. Estrada?

11 MR. GALL: Yes.

12 BY MR. GALL:

13 Q. Mr. Estrada, I'm a little concerned and I want
14 to make sure we understand where you lean.

15 THE COURT: Sir, you can stand up if you
16 would like back there. There you go.

17 MR. GALL: I thought you were talking to me.
18 You couldn't tell anyway.

19 THE COURT: Well, he might want to see who
20 you are. Do you want to stand up? Have you got a good
21 view of him now?

22 MR. GALL: That's embarrassing. Let me
23 collect myself for just a minute.

24 BY MR. GALL:

25 Q. In your answers, I thought you raised your card

1 when Mr. Garza asked you about big banks. I thought you
2 indicated you dislike big banks. Did I -- did I just --

3 A. I don't -- in truth, I don't like banks. I
4 mean, banks are banks, but that's life, you know. You
5 have to pay them.

6 Q. Got it. And you also indicated that -- I
7 thought you indicated that in a dispute between customers
8 and banks that you would naturally favor the customer.
9 Did I --

10 A. Yes. The customer is always right.

11 Q. You would?

12 A. That's the way I grew up. The customer is
13 always right.

14 Q. Okay. And I thought you also said that you
15 thought large banks sometimes cheat their customers. Did
16 I understand that right?

17 A. Yes.

18 Q. Okay. But given that you have those opinions --

19 A. Except me.

20 Q. Huh?

21 A. Except me.

22 Q. Except you. I should just be quiet. Is that
23 what you are telling me?

24 MR. GALL: No further questions, Your Honor.

25 POTENTIAL JUROR 34: You are ahead right

1 now.

2 THE COURT: Good move. All right.
3 Potential juror number 35, is that Edwin Friesenham? Is
4 that correct?

5 POTENTIAL JUROR 35: Yes, sir.

6 THE COURT: All right. There we go. Do you
7 need one of the lawyers to stand up or can you see them?

8 POTENTIAL JUROR 35: I can see them.

9 THE COURT: You are welcome to stand if you
10 would like, sir. All right. Mr. Flegle, do you have any
11 questions for Mr. Friesenham?

12 MR. FLEGLE: Yes, we do, Your Honor.

13 QUESTIONS OF POTENTIAL JUROR 35

14 BY MR. FLEGLE:

15 Q. I believe you are a current customer of
16 JPMorgan?

17 A. This was many years ago. Not right now.

18 Q. Okay. So it's a former customer?

19 A. Yes, sir.

20 Q. All right. And was there -- and you said it was
21 many years ago?

22 A. Yes, sir.

23 Q. Is there anything about that banking
24 relationship with JPMorgan that would tend to make you
25 lean towards JPMorgan before you have heard the first

1 evidence in this case?

2 A. To tell you the truth, I just don't trust banks.

3 Q. Okay. I hear what you are saying there. Now,
4 can you be with me -- just follow me for just a second.
5 We have got a case that's on a trust and we have got a
6 bunch of beneficiaries and the claims are made against
7 their trustee. Do you feel like you could listen to the
8 evidence that gets in the record in this case and judge
9 that evidence on a preponderance of the evidence as the
10 court instructs you by the law?

11 A. Deep inside, I don't trust -- I don't think --

12 THE COURT: Please keep the microphone up
13 close to you, sir. We have got to be able to hear what
14 you say.

15 A. Deep inside, I don't feel like I can be fair.
16 Inside, I just don't feel I can be fair.

17 BY MR. FLEGLE:

18 Q. So are you telling us this afternoon that -- you
19 are telling the judge and us up here in the front that
20 you think based on what you know about this case and the
21 issues in the case that you could not be a fair juror?

22 A. It's not about the case. It's just that I don't
23 trust banks and that's it, sir. I just don't.

24 Q. Now, let me just make sure because if you got
25 selected in this jury box here, the judge will instruct

1 you and the other jurors that are here to put aside all
2 of those personal views and only judge the evidence
3 through your common sense and the law that the court will
4 give you. Are you saying you cannot do that?

5 A. That's what I'm saying, sir. I cannot do that.

6 Q. Okay. Thank you very much, sir.

7 MR. FLEGLE: We pass the juror, Your Honor.

8 THE COURT: All right. Mr. Garza, do you
9 have any questions for Mr. Friesenham?

10 MR. GARZA: Just one or two, Your Honor.

11 BY MR. GARZA:

12 Q. Mr. Friesenham --

13 THE COURT: Remember I count now, sir. Is
14 that one or two?

15 MR. GARZA: Two questions, Your Honor.

16 THE COURT: All right. Two questions. Go
17 ahead.

18 BY MR. GARZA:

19 Q. Mr. Friesenham, first of all, I appreciate your
20 honesty. That is what we want, but I just want to make
21 sure that what you say, that you cannot be a fair juror,
22 you say that with a firm conviction?

23 A. Yes, sir.

24 Q. Okay. Thank you, sir.

25 THE COURT: All right. Potential juror

1 number 36, is that Nayda Rivera? Is that correct?

2 POTENTIAL JUROR 36: Correct.

3 MR. FLEGLE: Thank you.

4 QUESTIONS OF POTENTIAL JUROR 36

5 BY MR. FLEGLE:

6 Q. You can sit down or stand up. Whichever you are
7 more comfortable with is fine with me. I just wanted to
8 ask you. I believe you raised your card this morning
9 saying that you have been a trustee?

10 A. In my personal -- my personal will and trust
11 only. I haven't been -- I am the trustee of my personal
12 business. Not business. My personal affairs.

13 Q. I understand. And do you have any beneficiaries
14 of the trust that you have named in your trust?

15 A. My three kids, yes.

16 Q. Your kids?

17 A. And I have a Chase Visa account.

18 Q. Okay.

19 A. I am a customer of JPMorgan.

20 Q. And how long have you had that Chase Visa
21 account?

22 A. I believe around 10 years.

23 Q. Now, is there anything about that Visa account
24 that you have got with Chase that would cause you to
25 start this proceeding if you were put in this jury box

1 favoring the bank?

2 A. No. No. I have other accounts too and they are
3 all good.

4 Q. Okay. Now, I noticed that you answered -- you
5 raised your hand about impacted by the 2008 events.
6 Could you tell us just briefly what that impact was?

7 A. Unfortunately at that time I was going through a
8 divorce and losing some money in some annuities that I
9 had impacted the amount of money that I was going to keep
10 during the divorce. I was going to have to give to my
11 ex-husband who didn't have anything more of my money
12 because I lost a few thousand dollars in the annuities.

13 Q. I understand. Is there anything about that that
14 would cause you to lean one way or the other in this
15 case?

16 A. No.

17 Q. And then I noticed you are retired. Could you
18 tell us who your former employer was?

19 A. I worked for Christus Santa Rosa for 31 years
20 before retirement.

21 Q. What kind of work did you do for them?

22 A. I was a respiratory therapist.

23 Q. Okay. Thanks for doing that great work. I have
24 got my charts. What is your number on number one for
25 JPMorgan?

1 A. I wouldn't be fair if I don't give them one.
2 They have been a good company for me.

3 Q. Okay. You would give them a one. Okay. And
4 how about number two on fiduciary duty?

5 A. Ten and 10.

6 Q. Meaning strongly disagree with this on fiduciary
7 duty or are you saying you strongly agree?

8 A. No. I strongly agree.

9 Q. Okay. So that would be a 10?

10 A. A 10 and a 10.

11 Q. Okay. Very good. And number three would be a
12 10 too?

13 A. Correct.

14 Q. Do you have any other view, ma'am, that just
15 comes to mind in all of this that would impact your
16 service as a fair juror if you were selected in this
17 case?

18 A. No. I don't have any other view.

19 Q. Thank you very much.

20 MR. FLEGLE: Your Honor, we pass the juror.

21 THE COURT: All right. Mr. Gall, do you
22 have any questions for Ms. Rivera?

23 MR. GALL: Yes.

24

25

1 BY MR. GALL:

2 Q. Ms. Rivera, do I understand that you by
3 indicating a one in response to that first question that
4 you have a negative opinion of JPMorgan?

5 A. No. One is a positive opinion.

6 Q. Oh, one is a positive opinion. So we changed
7 the chart. Okay. Good. That concerned me. I
8 misunderstood.

9 A. That doesn't mean that I couldn't give one also
10 to the Discovery card or to the other credit cards that I
11 have.

12 Q. I understand. Thank you. Do you have a college
13 degree, ma'am?

14 A. Yes. I was a medical doctor in Nicaragua before
15 coming to the United States.

16 Q. I see. And when did you come to the United
17 States?

18 A. In 1979 with the revolution in my country.

19 Q. Congratulations --

20 A. Thank you.

21 Q. -- of being a citizen here. Do you -- Anything
22 about your training as a doctor do you think would have
23 any impact on your ability to serve as a juror here?

24 A. No. I already serve on one jury before.

25 Q. Okay. Did you have a specialty as a doctor?

1 A. I was an OB/GYN doctor, yes.

2 Q. I see. Good. You have served on a civil jury
3 before I understand?

4 A. Yes, I did.

5 Q. What kind of case was it?

6 A. It was a sexual harassment case.

7 Q. Were you the foreman of the jury?

8 A. I'm sorry. What?

9 Q. Were you the foreman of the jury or forewoman of
10 the jury?

11 A. The deliberation was in the room. We went for
12 the plaintiff -- for the defendant.

13 Q. You went for the defendant?

14 A. Yes.

15 Q. Okay. How long ago was that?

16 A. I will say like 15 years.

17 Q. I'm sorry?

18 A. Fifteen years probably.

19 Q. Oh, 15. Quite awhile ago?

20 A. Yes.

21 Q. Do you understand -- We have been talking about
22 hindsight. Is that a term that you understand?

23 A. Yes.

24 Q. And will you -- if the judge instructs you that
25 JPMorgan's conduct is to be judged by the facts and

1 *circumstances at the time, will you attempt to do that*
2 *the best you can?*

3 *A. Yes.*

4 *Q. Thank you. No further questions.*

5 *A. You are welcome.*

6 *THE COURT: All right. Potential juror*
7 *number 37, is that Kimlyn Nelson? Is that correct?*

8 *POTENTIAL JUROR 37: Yes. I usually go by*
9 *Kim.*

10 *THE COURT: Kim. All right.*

11 *POTENTIAL JUROR 37: It's easier. I'm going*
12 *to stand. I'm tired of sitting.*

13 *THE COURT: All right. Mr. Flegle, do you*
14 *have any questions for Ms. Nelson?*

15 *MR. FLEGLE: Yes, Your Honor.*

16 *QUESTIONS OF POTENTIAL JUROR 37*

17 *BY MR. FLEGLE:*

18 *Q. I believe you are a former customer of JPMorgan?*

19 *A. I had a credit card several years ago. No*
20 *issues with it.*

21 *Q. So that wouldn't cause you to lean one way or*
22 *the other?*

23 *A. No. No prejudices.*

24 *Q. And I think you also said that you have been an*
25 *executor before?*

1 A. *When my mother passed away, yes.*

2 Q. *Okay. And was there anything about being an*
3 *executor, having fiduciary duties, or anything that*
4 *caused you to have a negative experience in that?*

5 A. *No.*

6 Q. *And you appreciate what the responsibilities are*
7 *of executors?*

8 A. *Yes.*

9 Q. *Now, in some of the bank's questions, I think*
10 *you raised your card on favoring customers and the*
11 *question about banks cheating customers for money. Could*
12 *you kind of share with us why you raised your card?*

13 A. *Not just banks. It goes back to the customer is*
14 *always right, and I don't feel like a lot of companies do*
15 *that anymore, and I think certain people and certain*
16 *companies -- if you get the right combination, any*
17 *company will try to cheat the customers for profit. So*
18 *it's not just exclusive to the bank and I'm not*
19 *prejudiced against JPMorgan. So no problems with you*
20 *guys.*

21 MR. GARZA: *Thank you.*

22 BY MR. FLEGLE:

23 Q. *So that's what I needed to ask you --*

24 A. *Yes.*

25 Q. *-- for purposes of the record and the court*

1 here.

2 A. Yes.

3 Q. In terms of those views, can you put those views
4 aside --

5 A. Yes, sir.

6 Q. -- and listen to the evidence --

7 A. Yes.

8 Q. -- starting out with the bank is not ahead and
9 my clients are not ahead --

10 A. Yes.

11 Q. -- and you can weigh that evidence in light of
12 the law that the judge instructs?

13 A. Yes.

14 Q. And you believe you can be fair?

15 A. Yes, sir.

16 Q. All right. Let me give you one, two, and three.

17 A. 5, 10, and 10.

18 Q. Five, 10, and 10. Thank you very much.

19 A. And I like numbers.

20 Q. We have a tie now.

21 MR. FLEGLE: Your Honor, pass the juror.

22 THE COURT: All right. Mr. Garza, do you
23 have any questions for Ms. Nelson?

24 MR. GARZA: I do have a couple of questions,
25 Your Honor. I have some questions, Your Honor.

1 THE COURT: There you go. I thought I was
2 going to get another two here, but he changed it to some.

3 MR. GARZA: It takes me a while to catch on
4 sometimes.

5 BY MR. GARZA:

6 Q. Ms. Nelson, I see that your background is in
7 accounting.

8 A. Yes, it is.

9 Q. And how long have you been an accountant?

10 A. Fifteen years.

11 Q. Okay. So you are good with numbers and you know
12 that the numbers need to add up, don't you?

13 A. Oh, yes.

14 Q. All right. And tell me about your job right
15 now. What exactly do you do?

16 A. I'm a senior staff accountant at Sirius Computer
17 Solutions. I deal with inventory and purchase orders
18 that haven't been closed out that have open POI's which
19 probably doesn't mean a whole lot to anybody, but I have
20 specific accounts -- specific general ledger accounts
21 that I'm responsible for.

22 Q. Have you ever been in public accounting?

23 A. No.

24 Q. And where did you go to school?

25 A. Actually I don't have a degree in accounting. I

1 went to school in Michigan and my degree is in french,
2 but when my youngest child went into first grade, then I
3 went to UTSA to get my accounting hours.

4 Q. Excellent. Okay.

5 A. Yeah.

6 Q. Now, the issue about banks being accused and you
7 would favor the customer, I think you clarified that you
8 are really talking about companies in general, not banks
9 in particular; is that correct?

10 A. Yes. Yes.

11 Q. It's real important that every juror here be
12 completely impartial. And as we have seen, there is some
13 bias at times against banks. Can you put that bias aside
14 irrespective of your answer and judge the evidence based
15 upon what comes in from the witness stand and from the
16 documents and make sure that Mr. Flegle has put on his
17 proof and to make sure that you listen to everything so
18 you can have an impartial, fair decision?

19 A. Yes, sir, I can. I was a bank teller for many
20 years so I have very good experiences with banks also.

21 Q. Well, good. And you indicated that maybe banks
22 engage in improper behavior. Is that in that same rubric
23 of other companies in general?

24 A. Yes. Yes.

25 Q. Okay. Is there anything about what you have

1 *heard today or yourself to feel that you could not be a*
2 *fair and impartial juror in this case?*

3 *A. No, sir.*

4 *Q. Okay. Thank you.*

5 *THE COURT: All right. Does anybody need a*
6 *break at this time? All right. Let me just kind of give*
7 *you the lay of the land as I see it here. We are*
8 *probably going to be bouncing up going past the 5 o'clock*
9 *hour, but we have got a choice. Just continue until we*
10 *talk to all of the potential jurors and then I have to*
11 *give the people in front of you some time to make their*
12 *selections and then I still have to give instructions to*
13 *the jury that is selected and then to release the balance*
14 *of you. So it's probably going to go past five. I'm*
15 *hoping to be done by six.*

16 *The other choice is to have you come back*
17 *tomorrow and we continue the process. So I just need to*
18 *make sure that I'm not infringing on somebody's*
19 *anniversary dinner tonight or somebody's voting or a*
20 *business deal or something like that. So are we -- we*
21 *can take a short break here if somebody needs to make*
22 *some arrangements for picking up this evening, but is*
23 *everybody on the same page that we continue until we*
24 *finish this evening?*

25 *POTENTIAL JURORS: Yes.*

1 THE COURT: All right. Do you need about a
2 10-or-15-minute break? Okay. Let's be back at 4:20.

3 (Recess from 4:05 to 4:20).

4 THE COURT: All right. Potential juror
5 number 38, is that Tanislado Sandoval? Is that correct?

6 POTENTIAL JUROR 38: Yes, sir. It's
7 Tanislado.

8 THE COURT: Tanislado? Did I say it right?

9 POTENTIAL JUROR 38: Yeah, but -- Yeah. You
10 got it.

11 THE COURT: I want to get it right.
12 Tanislado? Is that how you say it? Did I say it
13 correctly?

14 POTENTIAL JUROR 38: Yeah. I guess.

15 THE COURT: Well, tell me where I'm wrong.

16 POTENTIAL JUROR 38: I mean, it's a unique
17 name. It's pretty complex. Not a lot of people can say
18 it right, but --

19 THE COURT: How do you say it?

20 POTENTIAL JUROR 38: Tanislado. It's Native
21 American.

22 THE COURT: Tanislado?

23 POTENTIAL JUROR 38: Yeah.

24 THE COURT: Is that better? All right,
25 counsel. Did you get that? This is Tanislado. Do you

1 go by a nickname, sir?

2 POTENTIAL JUROR 38: Junior.

3 THE COURT: Junior. Thank you, Junior. All
4 right. Mr. Flegle, do you have any questions for Junior?

5 MR. FLEGLE: Yes, Your Honor, we do.

6 QUESTIONS OF POTENTIAL JUROR 38

7 BY MR. FLEGLE:

8 Q. Sir, this morning I believe you held up your
9 card about opposing lawsuits. Could you tell us kind of
10 why you raised your card? You remember the question I
11 asked was if you or somebody in your family had been hurt
12 and had been damaged a lot of money would you file a
13 lawsuit. I think you held up your card that you
14 wouldn't -- you probably wouldn't do that. Did I get
15 that right?

16 A. To sue them?

17 Q. Yes.

18 A. Yes, sir.

19 Q. And can you tell me why you feel that way?

20 A. Well, first of all, you are taking advantage of
21 me and that's -- that's -- I don't like that -- like
22 towards me, my personal life.

23 Q. Okay.

24 A. I wouldn't like being taken advantage of.

25 Q. Got you. I must have misunderstood you this

1 morning. What you are saying is -- Let me see if I
2 understand you. You are saying if you were taken
3 advantage of and it cost you a lot of money you would
4 sue?

5 A. Yes, sir.

6 Q. Okay. All right. Good enough. And I believe
7 you also said you had a bad experience with a bank?

8 A. Yes, sir, with Wells Fargo. They would just
9 charge me an overdraft fee every time -- like I would
10 call them and tell them if I don't have the necessary
11 funds to not pay for it and I would have to constantly
12 remind them like every other month because they would
13 still charge.

14 Q. Right. Well, was there anything about that
15 experience -- And Wells Fargo is not the defendant in
16 this case as you know. Could you put that experience
17 aside and judge the bank's conduct in this case based on
18 the evidence that is presented in the case?

19 A. Yes, sir.

20 Q. And in your mind neither side, the bank or the
21 beneficiaries, are starting out ahead of each other?

22 A. I can lean to either/or, but right now it's in
23 the middle.

24 Q. We are even. Okay. Good. And I believe this
25 morning when I asked about the bank's defenses -- and I

1 didn't ask a very good question. Was there anything
2 about those defenses that came to you that you were
3 thinking about where you said, hey, wait a minute. If
4 that's what -- if the bank mentions the word "hindsight,"
5 I'm just going to shut down and I'm not going to listen
6 to the evidence and I'm not going to listen to whether or
7 not there was information that was available to the bank
8 at the time they made the decision that they ignored?
9 Can you listen to that evidence if we have evidence like
10 that?

11 A. I have no idea what hindsight means.

12 Q. All right. So you keep an open mind on it then?

13 A. Sure.

14 Q. Okay. Good. Now, you answered some questions
15 for the bank's lawyers about you tend to favor the
16 customer, you dislike banks, and some other things. If
17 you were really being totally straight with us here, you
18 could still listen to the evidence in this case and judge
19 it fairly according to what's been admitted and what the
20 legal instructions are from the court, can't you?

21 A. No, not really.

22 Q. Okay. And is that because of some of the things
23 that have happened to you in the past?

24 A. Yes, sir.

25 Q. Okay. I have just got to make sure that I

1 understand because at the end of the day if you were
2 chosen on this jury you would get an instruction by the
3 judge to put all of that aside, to listen to the
4 evidence, and to apply the law that the court gives you.
5 Are you saying you can't do that?

6 A. Yes, sir, I can't.

7 Q. And are you saying you cannot be fair in this
8 case?

9 A. Yes, sir.

10 Q. Thank you very much, sir.

11 MR. FLEGLE: Your Honor, no further
12 questions.

13 THE COURT: All right. Mr. Gall, do you
14 have any questions for Mr. Junior?

15 MR. GALL: Actually I have just one.

16 BY MR. GALL:

17 Q. Mr. Sandoval, are you firmly convicted that you
18 cannot be fair?

19 A. Yes, sir.

20 Q. Thank you.

21 THE COURT: All right. Potential juror
22 number 39, is that Anne Mora? Is that correct?

23 POTENTIAL JUROR 39: Yes, sir.

24 THE COURT: All right. Mr. Flegle, do you
25 have any questions for Ms. Mora?

1 MR. FLEGLE: Yes, Your Honor.

2 QUESTIONS OF POTENTIAL JUROR 39

3 BY MR. FLEGLE:

4 Q. I believe you said you had heard of the Eagle
5 Ford?

6 A. I beg your pardon?

7 Q. I think you raised your hand that you knew --
8 you had heard about the Eagle Ford shale?

9 A. Yes. I just heard it on the news and I checked
10 it out last night and just read about the lawsuit in
11 particular.

12 Q. Okay. So you read about this particular
13 lawsuit?

14 A. Right.

15 Q. Was there anything that you heard and what you
16 read about that causes you to lean one way or the other
17 in the case before you see the evidence?

18 A. Not at all. I was just trying to inform myself.

19 Q. Okay. And was there -- did you have any
20 opinions that you got from reading that to say you are
21 leaning towards the bank or you are leaning towards my
22 beneficiaries?

23 A. No. The article was just stating facts.

24 Q. Okay. And will you be open-minded to listen to
25 only those facts that are admitted by the court in this

1 case and evidence?

2 A. Absolutely.

3 Q. Okay. Let's see. I believe you had raised your
4 hand on one of the bank's questions about feeling that
5 businesses would cheat customers to make money. Is that
6 a feeling that -- Have I got that right?

7 A. No. I didn't do that.

8 Q. You didn't say that? And I also have a note
9 here that you were impacted by 2008, the financial stuff.

10 A. Yes. Loss of portfolio investments.

11 Q. Okay. In terms of your experience there -- and
12 I'm sorry for that experience, but in terms of that
13 experience, does that cause you to look at what you have
14 heard about this case so far and come into it leaning one
15 way or the other?

16 A. No. Not indeed.

17 Q. Okay. Let me give you my number charts. Number
18 one is your number on JPMorgan?

19 A. Five.

20 Q. And number two on fiduciary duty?

21 A. 10 and 10.

22 Q. And 10. Thank you very much, ma'am.

23 MR. FLEGLE: Your Honor, we pass the juror.

24 THE COURT: All right. Mr. Garza, do you
25 have any questions for Ms. Mora?

1 MR. GARZA: I do, Your Honor.

2 BY MR. GARZA:

3 Q. Ms. Mora, I just want to ask you a few
4 questions. First of all, you answered a number of
5 questions or maybe we got this wrong about whether the
6 banks engage in improper behavior or whether you would
7 believe the customer over the bank. Did you answer any
8 of those?

9 A. Well, I don't have a problem with the services
10 banks provide. I was just thinking of the geopolitical
11 impact of bank institutions. That's all. I do have a
12 problem with that. That's a different situation.

13 Q. Okay. Now, would you have a problem in this
14 case based upon the geopolitical issues that you deal
15 with?

16 A. No, sir.

17 Q. You indicated that this may not be the right
18 case for you.

19 A. Yes. English is not my first language, although
20 I speak it correctly. Just checking on technicalities
21 and nuisances, I was not feeling comfortable. It's a big
22 lawsuit with high implication, and I felt like maybe I
23 would be a little too challenged, you know, in the
24 decision-making process.

25 Q. And obviously you read English and you

1 *understand English?*

2 *A. Yeah. I do.*

3 *Q. Okay. And I understand that last night you went*
4 *and looked up this case on the internet --*

5 *A. Right, I did.*

6 *Q. -- and read about it?*

7 *A. Yes.*

8 *Q. And did you figure out you didn't get the whole*
9 *story when you were reading about it?*

10 *A. Well, I understood most of it, but it's just*
11 *quite complex.*

12 *Q. Okay.*

13 *A. And, you know, I thought maybe that's not for*
14 *me.*

15 *Q. So based upon the fact that you have read*
16 *something about it and actually read about the facts, do*
17 *you feel like you are leaning in a direction because no*
18 *evidence has been put on in the case yet?*

19 *A. No, I'm not leaning in any directions. I*
20 *just -- I know I would be challenged intellectually on*
21 *the vocabulary. I don't always understand such things,*
22 *but I can make a fair decision after listening.*

23 *Q. Okay. I'm sorry.*

24 *A. Yeah. But I can make a fair decision given all*
25 *the evidence.*

1 Q. So is your first language French or Swiss?

2 A. I'm French.

3 Q. Yes. Excellent. And when did you come from
4 France?

5 A. I'm sorry?

6 Q. When did you come from France?

7 A. When?

8 Q. When?

9 A. Oh, 24 years ago.

10 Q. Okay. And you have been here in Bexar County, I
11 know it says on your sheet, for how long?

12 A. Yes.

13 Q. How long have you been here in San Antonio?

14 A. Yes. Twenty years.

15 Q. The whole time. Okay. And the impact that you
16 talk about with respect to the crash of 2008 has to do
17 with the retirement plan and your portfolio?

18 A. Right.

19 Q. Can you put aside your commentary and your
20 thoughts and your attitudes about banks and their
21 behaviors for whatever reason, geopolitical or otherwise,
22 to be a fair juror in this case?

23 A. Sure I can.

24 Q. Okay. Thank you, ma'am.

25 THE COURT: All right. Potential juror

1 number 40, is that Madeline Amos? Is that correct?

2 POTENTIAL JUROR 40: Yes. That's right.

3 THE COURT: All right. Mr. Flegle, do you
4 have any questions for Ms. Amos?

5 MR. FLEGLE: Yes, Your Honor.

6 QUESTIONS OF POTENTIAL JUROR 40

7 BY MR. FLEGLE:

8 Q. I believe you raised your card on owning stock
9 in JPMorgan?

10 A. Yes.

11 Q. Is that you personally or is it --

12 A. It's a managed account.

13 Q. Managed account. And is it -- do you know
14 whether or not it is the JPMorgan symbol stock?

15 A. Yes, it is.

16 Q. Okay. And would having that stock in this
17 managed account for you cause you to lean towards the
18 bank in this case before you have even heard evidence?

19 A. No.

20 Q. Okay. Now, I notice you also raised your card
21 about being associated with the financial industry. Can
22 you kind of --

23 A. With the financial industry?

24 Q. Yes, financial or banking industry. Did I just
25 get that wrong?

1 A. No. Just -- No, no, no. Just as an investor.

2 Q. Oh, just as kind of a customer of the industry?

3 A. Customer of. I mean, yeah. I think that must
4 have been what I meant.

5 Q. Okay. And just because you are an investor
6 doesn't mean you are going to lean towards JPMorgan
7 Chase?

8 A. You know, I was involved with a trust at one
9 time. Yeah.

10 Q. Okay.

11 A. Yeah.

12 Q. All right. Now, I believe as you mentioned
13 there's a trust. I believe you raised your hand that you
14 were a trustee. Did I get that right?

15 A. Well, yes. I'm the trustee of something that I
16 am the beneficiary of and I have had a trustee
17 relationship in which the bank was the trustee --

18 Q. Okay.

19 A. -- of some funds.

20 Q. Got you. So you are the beneficiary?

21 A. Yes.

22 Q. Okay. And the bank was the trustee?

23 A. Yes.

24 Q. And was it this bank over here?

25 A. No.

1 Q. It was another bank?

2 A. Yes.

3 Q. Is there anything about that relationship with
4 the bank with you being the beneficiary that would cause
5 you to lean against the bank or lean against our
6 beneficiaries starting out?

7 A. No.

8 Q. Okay. Do you believe you could be a fair juror
9 in this case?

10 A. Yes.

11 Q. Now, I believe you also said you had some
12 mineral rights?

13 A. No.

14 Q. No? I may have gotten that one wrong. Let me
15 ask you the three charts. Which numbers are good for you
16 on JPMorgan?

17 A. Five, ten, and nine.

18 Q. Okay. Is there anything else you feel like you
19 ought to share with us?

20 A. I have a concern about a possibly impending
21 funeral. I received today news that one of our closest
22 family friends has gone into the hospital with pneumonia
23 and he's been failing for some time. The relationship is
24 one where I guess our families have shared every
25 important occasion for the last 30 years. To be absent

1 would be a hardship.

2 Q. All right. Thank you for sharing that with us.

3 A. Yes.

4 MR. FLEGLE: Your Honor, no further
5 questions.

6 THE COURT: All right. Mr. Gall, do you
7 have any questions for Ms. Amos?

8 MR. GALL: Yes, I do.

9 BY MR. GALL:

10 Q. And I'm sorry for your friend's situation.

11 A. Thank you. Maybe it will turn out.

12 Q. You are retired. What did you do before you
13 retired?

14 A. I was a teacher. Elementary.

15 Q. That's hard work.

16 A. It is.

17 Q. You have a master's degree. What's your
18 master's degree in?

19 A. Music.

20 Q. Ah.

21 A. Yeah.

22 Q. Something I never dealt in. And your husband,
23 was he a teacher as well?

24 A. No.

25 Q. What did he do?

1 A. Well, he was also a musician -- is also a
2 musician, but he retired from Porter Loring Mortuaries
3 where he was in pre-need.

4 Q. He was in what?

5 A. Pre-need.

6 Q. Okay. I understand. If you don't mind, who is
7 the bank that's the trustee of this trust?

8 A. The trust has been dissolved, but it was
9 Broadway National.

10 Q. Okay. Were you pleased with the service you
11 obtained?

12 A. Yes.

13 Q. How long ago was that?

14 A. We ended the relationship this last January.

15 Q. Did the trust own mineral rights?

16 A. Not that I'm aware of. No, no. Huh-uh.

17 Q. Who was the actual trust officer you dealt with?
18 Do you remember?

19 A. Wendelyn Wilkes.

20 Q. Okay. I think you also held up your card and
21 indicated you were impacted by the financial crash in
22 2008?

23 A. Uh-huh. The retirement funds were affected.

24 Q. Did it scare you?

25 A. It scared me for a while, but I kept investing

1 so it turned out okay.

2 Q. Okay. Did you know then that it was going to
3 turn out okay?

4 A. No. I was just following, you know, what I felt
5 was the right thing.

6 Q. Advice you got?

7 A. Well, you get more for your money when the
8 bank -- when the stocks are down. So that's what I
9 thought I would do.

10 Q. All right. Do you think it's fair to judge a
11 trustee or a bank or anyone else based on hindsight?

12 A. No.

13 Q. Thank you for your time.

14 THE COURT: All right. Potential juror
15 number 41, is that David Massing? Is that correct?

16 POTENTIAL JUROR 41: Yes, sir.

17 THE COURT: All right. Mr. Flegle, do you
18 have any questions for Mr. Massing?

19 MR. FLEGLE: We do, Your Honor.

20 QUESTIONS OF POTENTIAL JUROR 41

21 BY MR. FLEGLE:

22 Q. I believe you are a current customer of
23 JPMorgan?

24 A. Correct. I have a corporate credit card through
25 my company.

1 Q. Okay. And other than that corporate credit
2 card, do you have any other banking relationship?

3 A. No others.

4 Q. And your company is what?

5 A. It's Concentra Medical Centers.

6 Q. Okay. And there's nothing about that credit
7 card relationship that would cause you to be favoring the
8 bank to begin with, is there?

9 A. No.

10 Q. Okay. Now, I believe you raised your card on a
11 bad experience with banks. Did I get that right?

12 A. Yeah. It was just something when I was much
13 younger. Nothing that would influence me.

14 Q. Okay. So you have gotten beyond that and you
15 could listen to this case if you were chosen --

16 A. Yes.

17 Q. -- and be a fair juror?

18 A. Yes.

19 Q. You also mentioned you had a connection to
20 banking?

21 A. Correct. My wife works for Citibank.

22 Q. Okay. What does she do for Citibank?

23 A. She is the senior vice president and director of
24 communications and the chief of staff here in San
25 Antonio.

1 Q. How many people report to her? Do you know?

2 A. I don't know directly. I would say maybe half a
3 dozen or a dozen.

4 Q. And is she director of communications just of
5 the San Antonio area or is it more Texas or has she got a
6 region?

7 A. It's mostly San Antonio, but I know the director
8 that she works for does have more implications even
9 globally.

10 Q. All right, sir. And is there anything about
11 your wife working at Citibank that would, you think, get
12 you starting out tilting towards JPMorgan Chase in this
13 case?

14 A. No. I don't believe so.

15 Q. Okay. I believe you said you were an executor
16 or had a power-of-attorney at one time?

17 A. My wife and I have power-of-attorney for each
18 other, yes.

19 Q. For each other?

20 A. Yes.

21 Q. There's nothing about that that would cause you
22 to --

23 A. No.

24 Q. -- favor the beneficiaries, for example, in this
25 case?

1 A. No. Correct.

2 Q. Okay. And I believe you said you had a bad
3 experience -- you were impacted by 2008. Kind of what's
4 the thumbnail o your experience?

5 A. Correct. You know, obviously 401(k). Some
6 financial stuff. Also we still own a house in Baltimore
7 that we are trying to sell because of the downturn in the
8 economy.

9 Q. Okay. Do you have anything else after you have
10 heard of what everybody else has been saying that you
11 want to share with us this afternoon?

12 A. I don't believe so, no.

13 Q. I have got my numbers one, two, and three.

14 A. Five, seven, and eight.

15 Q. Five, seven, and eight. So number two is seven.
16 Number three is eight?

17 A. Correct.

18 Q. Thank you, sir.

19 MR. FLEGLE: No more questions, Your Honor.

20 THE COURT: All right. Any questions of
21 Mr. Massing?

22 MR. GARZA: Yes, sir.

23 BY MR. GARZA:

24 Q. Mr. Massing, the impact of the 2008 crash, tell
25 me a little bit about that. Was that mainly -- other

1 than the house, were there repercussions with the IRA,
2 your retirement account, and things like that?

3 A. You know, just typical 401(k) obviously. You
4 know, it hurt at that point in time, but as was
5 previously mentioned, we got a lot more bang for our buck
6 by investing at that point in time. So no concerns over
7 it.

8 Q. So are you from Baltimore by way of Pittsburgh?

9 A. From Baltimore by way of Erie, PA. So yes.

10 Q. Okay. So that's why the Steelers --

11 A. Absolutely. Yeah.

12 Q. You must not have been very popular in Baltimore
13 at that time.

14 A. No. It was a rough eight years.

15 Q. You believe you could be fair with all of the
16 facts in this case and to be fair to all parties and be
17 an impartial juror?

18 A. Yes. I believe so.

19 Q. Great. Thank you, sir.

20 A. Thank you.

21 THE COURT: All right. Potential juror
22 number 42, is that Jimmy Guadiana-Doming? Is that
23 correct?

24 POTENTIAL JUROR 42: Dominguez. It was too
25 long so they cut off --

1 THE COURT: Dominguez. Okay. The computer
2 didn't have enough characters, huh? All right.

3 Mr. Flegle, do you have any questions for Mr. Dominguez?

4 MR. FLEGLE: Yes, Your Honor. Thank you.

5 QUESTIONS OF POTENTIAL JUROR 42

6 BY MR. FLEGLE:

7 Q. When I put up the bank defenses card this
8 morning, you raised your card. You remember I had four
9 defenses up there. What I was trying to say was if the
10 bank raised any of those defenses would they be so
11 powerful that you would just shut down and you wouldn't
12 listen to the evidence. That's what I was trying to say.
13 Can you explain to me why you raised your card?

14 A. It's just basically if they are going to be
15 using those as an excuse and if it's that simple, then
16 this shouldn't have gone to court if they are using those
17 excuses.

18 Q. I'm sorry. You are saying if they are using
19 those excuses what?

20 A. If it's that simple, this wouldn't have gone to
21 court. It could have been settled outside of court.

22 Q. Oh, I see. Well, if the bank raises those
23 defenses, are you telling me you could still be fair and
24 listen to the evidence in this case?

25 A. Unfortunately not.

1 Q. Okay. And the reason is?

2 A. It's just basically -- it's a large company and
3 I believe that large companies do take advantage of their
4 customers.

5 Q. Okay. Well, let me ask you. I just need to ask
6 this question. From the standpoint of this case if the
7 judge instructs you to keep your experiences out of the
8 courtroom except for your common sense, of course, and
9 you must listen to the evidence that's presented and the
10 law presented by the judge and you are asked to render a
11 fair verdict, are you telling us and you are telling the
12 court that you don't feel like you can do that?

13 A. To be honest, yes.

14 Q. And you are saying you don't think you can be
15 fair here?

16 A. I don't believe I can.

17 Q. Okay.

18 MR. FLEGLE: I don't have any other
19 questions, Your Honor.

20 THE COURT: All right. Mr. Gall, do you
21 have any questions for Mr. Dominguez?

22 MR. GALL: Just one again.

23 BY MR. GALL:

24 Q. Thank you for being honest with us. Are you
25 firmly convicted that you can't be fair?

1 A. Yes, I am.

2 Q. Thank you.

3 THE COURT: All right. Potential juror
4 number 43, is that Gloria Rivera? Is that correct?

5 POTENTIAL JUROR 43: Yes, Your Honor.

6 THE COURT: All right. Mr. Flegle, do you
7 have any questions for Ms. Rivera?

8 MR. FLEGLE: Yes, Your Honor.

9 QUESTIONS OF POTENTIAL JUROR 43

10 BY MR. FLEGLE:

11 Q. I understand you are a current bank customer?

12 A. Yes.

13 Q. And can you tell me what kind of accounts you
14 have with the bank?

15 A. Home mortgage and credit card.

16 Q. So it's a home mortgage and a credit card. Is
17 there anything about that relationship with JPMorgan
18 Chase on your mortgage or your credit card that would
19 make you start out favoring the bank in this case?

20 A. No, sir.

21 Q. Okay. Have you had any experiences there that
22 make you feel one way or the other with the bank that you
23 are loving them even though we put our facts together in
24 this case?

25 A. No, sir.

1 Q. Do you feel like you could be a fair juror?

2 A. Yes, sir.

3 Q. Okay. I notice that you said you had had jury
4 service?

5 A. Yes, sir.

6 Q. Do you remember whether your jury rendered a
7 verdict?

8 A. Yes, sir.

9 Q. Do you remember whether it was for the plaintiff
10 or the defendant?

11 A. The plaintiff.

12 Q. Okay. Do you remember what kind of case it was?

13 A. It was bodily injury and entry of a home.

14 Q. Okay. Now, I need to ask you. Is there
15 anything that anybody has said today that causes you to
16 think I need to tell Jim here something that I haven't
17 asked?

18 A. Repeat that, please.

19 Q. Have you heard anything today that causes you to
20 think there's something that's in your feelings or in
21 your opinions that you need to tell me about today?

22 A. No, sir.

23 Q. Okay. Just in terms of background, how long
24 have you had the mortgage with JPMorgan Chase?

25 A. We refinanced. I cannot answer specifically.

1 Q. Okay. It's been a long time?

2 A. I want to say maybe 10 years.

3 Q. Okay. Now, if we prove our case -- If we prove
4 by a preponderance of the evidence our case against the
5 bank and that proof shows that there are damages that the
6 bank owes us, do you feel comfortable rendering a verdict
7 on those damages --

8 A. Yes, sir.

9 Q. -- based on the evidence that's presented?

10 A. Yes, sir.

11 Q. Okay. I have got my three cards. What's the
12 number for the bank that's best for you?

13 A. Five.

14 Q. And the number for fiduciary duty?

15 A. Nine.

16 Q. And the number for accountability?

17 A. Ten.

18 Q. Thank you very much, ma'am.

19 MR. FLEGLE: Your Honor, we pass the juror.

20 THE COURT: All right. Mr. Garza, do you
21 have any questions for Ms. Rivera?

22 MR. GARZA: Yes, sir.

23 BY MR. GARZA:

24 Q. Ms. Rivera, where did you grow up, by the way?

25 A. Here. San Antonio.

1 Q. And where did you go to high school?

2 A. Lanier.

3 Q. Excellent. I see that your husband works for
4 the Department of Defense.

5 A. Yes, sir.

6 Q. And it says airframe. Tell me what that means.

7 A. He's an airframe specialist. Works on
8 airplanes. Repairs.

9 Q. Excellent. Okay. On the jury that you served
10 on --

11 A. Yes, sir.

12 Q. -- you indicated that it came back with a
13 plaintiff's verdict, the person that was injured; is that
14 correct?

15 A. Yes, sir.

16 Q. And you were the foreperson on that jury? Were
17 you in charge? Were you the --

18 A. No.

19 Q. -- foreperson?

20 A. No.

21 Q. Okay. In your relationship with JPMorgan, have
22 you been treated well?

23 A. Yes, sir.

24 Q. Is there anything about the service or JPMorgan
25 itself that you have any problem with?

1 A. No, sir.

2 Q. Based upon what you have heard here today, do
3 you feel like you can be a fair and impartial juror?

4 A. Yes, sir.

5 Q. Do you understand that hindsight is going to
6 play a part in this case?

7 A. Yes, sir.

8 Q. Do you think it's fair to judge actions in
9 hindsight as opposed to the facts that existed at the
10 time? In other words, looking back and trying to make a
11 judgment about things?

12 A. No, sir.

13 Q. So you think it's not fair to judge in
14 hindsight; is that correct?

15 A. Correct.

16 Q. Okay. Thank you, ma'am.

17 THE COURT: All right. Potential juror
18 number 44, is that Marcel Grant? Is that correct?

19 POTENTIAL JUROR 44: Yes.

20 THE COURT: All right. Mr. Flegle, do you
21 have any questions for Mr. Grant?

22 MR. FLEGLE: Yes, Your Honor.

23

24

25

1 Q. Okay. My three cards. JPMorgan, number one.

2 A. Five, nine, and ten.

3 Q. Five, nine, and ten. Is there anything that's
4 come up for you that I didn't ask you about that you have
5 heard from everybody else that you think you need to
6 share with us so that we have the information you think
7 we need for you?

8 A. No.

9 Q. Okay.

10 MR. FLEGLE: Your Honor, no questions.
11 Thank you. We pass the juror.

12 THE COURT: All right. Mr. Gall, do you
13 have any questions for Mr. Grant?

14 MR. GALL: Yes. Just a couple, Your Honor.

15 BY MR. GALL:

16 Q. Mr. Grant, you have a bachelor's degree; is that
17 correct?

18 A. Yes.

19 Q. What's your degree in?

20 A. Computer information systems.

21 Q. Where did you go to school?

22 THE COURT: How many questions do you have,
23 sir?

24 MR. GALL: Well, I --

25 THE COURT: You said a couple. A couple

1 means two to me.

2 MR. GALL: I understand.

3 THE COURT: You have used them up.

4 MR. GALL: You caught me.

5 THE COURT: You have used them up.

6 MR. GALL: I apologize. Could I ask a
7 couple more -- or several more?

8 THE COURT: All right. Let's take a vote.
9 How many say yes? You have got two more questions. Make
10 them good.

11 MR. GALL: This is good.

12 BY MR. GALL:

13 Q. You indicated that you were troubled if JPMorgan
14 in its trust department negotiated with customers that
15 had banking relationships with the commercial side.

16 A. I mean, it almost seems like a conflict of
17 interest to me.

18 THE COURT: You have to get closer to the
19 microphone, sir. It's not coming through.

20 A. It seems like a conflict of interest to me.

21 BY MR. GALL:

22 Q. If the judge were to instruct you that that was
23 perfectly within the law --

24 A. That's fine.

25 Q. -- you would be able to deal with that?

1 A. Yes.

2 Q. Anything else that we need to know about that
3 you think might affect your ability to be a fair and
4 impartial juror?

5 A. No.

6 Q. Thank you.

7 THE COURT: All right. Potential juror
8 number 45, is that Arthur Perez? Is that correct?

9 POTENTIAL JUROR 45: Yes, sir.

10 THE COURT: All right. Mr. Flegle, do you
11 have any questions for Mr. Perez?

12 MR. FLEGLE: Yes, Your Honor.

13 QUESTIONS OF POTENTIAL JUROR 45

14 BY MR. FLEGLE:

15 Q. We haven't seen your card very much today. I
16 was just wondering if there's anything that you have
17 heard today that would cause you to believe that you
18 would start out if you were on the jury leaning one way
19 or the other towards the bank or towards my clients, the
20 beneficiaries?

21 A. No, sir.

22 Q. Now, you answered a couple of questions from the
23 bank about tending to favor customers. Is that kind of
24 the customer is always right, the work that you do at
25 Walmart?

1 A. Yes, sir.

2 Q. Okay. But you wouldn't tend to favor my clients
3 over the bank if you were picked on this jury, would you?

4 A. No, sir, until I hear all the evidence.

5 Q. Excellent. Then you also mentioned that you
6 feel like businesses may cheat customers to make money, I
7 believe?

8 A. Yes, sir.

9 Q. Kind of share with me what that means to you.

10 A. Majority of the major companies like to make a
11 lot more money than usual, so that's what I believe.

12 Q. And let's take that opinion -- that view that
13 you have got. If you are instructed by the court to
14 listen only to the evidence in this case and use your
15 common sense and apply the law as the court instructed,
16 do you think you could be a fair juror if you were
17 chosen?

18 A. Yes, sir.

19 Q. I have got those three cards. One is JPMorgan?

20 A. Five, ten, and ten.

21 Q. Five, ten, and ten. Thank you, sir.

22 MR. FLEGLE: No further questions.

23 THE COURT: All right. Mr. Garza, do you
24 have any questions for Mr. Perez?

25 MR. GARZA: Yes, sir.

1 BY MR. GARZA:

2 Q. Mr. Perez, you indicated that you felt that if
3 the bank was accused of something improper from a
4 customer that you would favor the customer?

5 A. Yes, sir.

6 Q. And so is it fair to say that in all honesty you
7 believe that the plaintiffs are a little bit ahead at
8 this point of the bank even though there's been no
9 evidence?

10 A. No, sir.

11 Q. Do you think you can be a fair juror and listen
12 to all of the evidence and put those thoughts aside in
13 this case?

14 A. Yes, sir.

15 Q. Are you still in high school or you have
16 graduated from high school?

17 A. Graduated from high school.

18 Q. Where did you go to school?

19 A. I went to East Central.

20 Q. East Central?

21 A. Yes, sir.

22 Q. Great. All right. Thank you, sir.

23 THE COURT: All right. Potential juror
24 number 46, is that James Hamilton?

25 POTENTIAL JUROR 46: Yes, sir, it is.

1 THE COURT: All right. Mr. Flegle, do you
2 have any questions for Mr. Hamilton?

3 MR. FLEGLE: Yes, Your Honor, briefly.

4 QUESTIONS OF POTENTIAL JUROR 46

5 BY MR. FLEGLE:

6 Q. You have spent a long time with United Parcel
7 Service, haven't you?

8 A. Yes, sir, since October '85.

9 Q. Congratulations.

10 A. Thank you.

11 Q. You are a supervisor. How many people do you
12 supervise?

13 A. There's probably 300 under my scope --

14 Q. My goodness.

15 A. -- that are drivers, yes, sir.

16 Q. Is that just San Antonio or --

17 A. It's San Antonio, all the south, McAllen,
18 Harlingen, Brownsville, all the valley group.

19 Q. Got you. And these are not independent
20 contractors and so forth. These are employees of UPS,
21 are they not?

22 A. Employees of UPS, yes, sir.

23 Q. Now, is there anything about that position or
24 role that you have at United Parcel Service that would
25 cause you to start out favoring the bank over our

1 *clients, the beneficiaries in this case?*

2 *A. No, sir.*

3 *Q. Okay. I believe you said that you had some*
4 *knowledge of the Eagle Ford. Did I get that right?*

5 *A. Other than there's a lot of oil. I mean, no,*
6 *sir, other than that.*

7 *Q. Okay. And have you read anything about this*
8 *case in the media?*

9 *A. No, sir.*

10 *Q. I also think you mentioned that you were an*
11 *executor or you had a power-of-attorney?*

12 *A. It's more of a medical power-of-attorney for my*
13 *father. He's 90 years old so it's part of his living*
14 *will.*

15 *Q. My goodness. Good for him.*

16 *A. As mean as ever. Old, mean, and Irish so he's*
17 *doing okay.*

18 *Q. Yeah. It keeps him living, doesn't it?*

19 *A. Oh, yeah. He keeps me on my toes.*

20 *Q. Good. Should we all be so lucky. Do you have*
21 *any issues at all from what you have heard today about*
22 *being -- if you were chosen on the jury here that you*
23 *would be a fair juror?*

24 *A. No, sir.*

25 *Q. Okay. My three charts.*

1 A. *Five, ten, ten.*

2 Q. *Thank you, sir.*

3 MR. FLEGLE: *We pass the juror.*

4 THE COURT: *All right. Mr. Gall, do you*
5 *have any questions for Mr. Hamilton?*

6 MR. GALL: *I do, Your Honor.*

7 *BY MR. GALL:*

8 Q. *Do you have someone you report to?*

9 A. *Yes, sir. He's based out of Utah.*

10 Q. *Okay. And do you think it would be fair for him*
11 *to judge your conduct with hindsight?*

12 A. *No, sir.*

13 Q. *Do you try to base your decisions about*
14 *employees and their conduct based on the facts that were*
15 *existing at the time they made the decisions they made?*

16 A. *Yes, sir.*

17 Q. *If the judge instructs you -- in this case if*
18 *you are a juror and the judge instructs you to not use*
19 *hindsight and to base your decisions on the facts that*
20 *existed at the time the decisions were made, would you do*
21 *that?*

22 A. *Yes, sir.*

23 Q. *Do you understand that a trustee can't gamble*
24 *with the assets that they hold?*

25 A. *Yes.*

1 Q. And fiduciary duties that we have talked about
2 require us to act with caution?

3 A. Yes, sir.

4 Q. Okay. Anything else that you can think of that
5 we should know?

6 A. No, sir.

7 Q. Thanks for your patience today. I know you have
8 had to sit here for a long time.

9 A. Nowhere else to go.

10 Q. Thank you for your time.

11 THE COURT: All right. Potential juror
12 number 47, is that David Sembera? Is that correct?

13 POTENTIAL JUROR 47: Yes, Your Honor.

14 THE COURT: All right. Any questions,
15 Mr. Flegle?

16 MR. FLEGLE: Yes. Thank you, Your Honor.

17 QUESTIONS OF POTENTIAL JUROR 47

18 BY MR. FLEGLE:

19 Q. We didn't see your card very much today. So my
20 question to you is -- The one card that I did see was you
21 knew about the Eagle Ford. Is that because of the work
22 that you do at Alcoa or is it --

23 A. It's with the -- We have got some friends at
24 Alcoa that live out that way and that are involved in
25 getting the checks right now.

1 Q. In getting the checks?

2 A. Yes, sir.

3 Q. They have got some land and mineral rights?

4 A. Yes, sir.

5 Q. Okay. Now, is there anything about knowing
6 those friends that would lead you to be leaning one way
7 or the other in this case if you were selected as a
8 juror?

9 A. Definitely not.

10 Q. And you believe you could be a fair juror if
11 selected?

12 A. Yes, sir.

13 Q. Is there anything -- is there anything that you
14 have heard today from any of the folks or any of the
15 questions that you feel like you need to tell us so that
16 we will be informed of anything that's important in your
17 background that would cause you not to be able to be a
18 fair juror?

19 A. No, sir.

20 Q. Okay. My three slides.

21 A. Five, ten, ten.

22 Q. Thank you, sir.

23 MR. FLEGLE: We pass the juror.

24 THE COURT: All right. Mr. Garza, any
25 questions for Mr. Sembera?

1 MR. GARZA: Yes, sir.

2 BY MR. GARZA:

3 Q. Mr. Sembera, did you grow up here in San
4 Antonio?

5 A. Yes, sir, I did.

6 Q. And where did you go to high school?

7 A. La Vernia High School.

8 Q. That's almost San Antonio, right? You are
9 familiar with the term "Monday morning quarterbacking,"
10 right?

11 A. Yes, sir.

12 Q. Do you follow any football teams?

13 A. I sure do.

14 Q. Cowboys?

15 A. Yes, sir.

16 Q. And so are you going to be able in this case if
17 you are chosen as a juror to not Monday morning
18 quarterback and be able to look at the facts because it's
19 going to be about decisions that were made in the past
20 that these plaintiffs are looking back on and
21 criticizing, but they are facts and circumstances that
22 occurred at the time. Are you going to be able to look
23 at that evidence and not use hindsight to judge it?

24 A. Yes.

25 Q. Okay. How about second-guessing? Have you ever

1 *been second-guessed in your jobs, you know, where you*
2 *have an employer or a co-worker second-guessing what you*
3 *are doing and things like that?*

4 *A. No. I'm pretty much a leader at work so I feel*
5 *confident in my work.*

6 *Q. Okay. Super. Is there anything about this case*
7 *that you have heard today -- First of all, you haven't*
8 *heard anything about the case before today, right?*

9 *A. No, I haven't.*

10 *Q. Okay. So as far as you are concerned, you can*
11 *be a fair and impartial juror in this matter?*

12 *A. Yes.*

13 *Q. Okay. Thank you so much, sir.*

14 *THE COURT: All right. Potential juror*
15 *number 48, is that Ralph Zimmer? Is that correct?*

16 *POTENTIAL JUROR 48: That's correct, sir.*

17 *THE COURT: All right. Mr. Flegle, do you*
18 *have any questions for Mr. Zimmer?*

19 *MR. FLEGLE: Yes, Your Honor.*

20 *QUESTIONS OF POTENTIAL JUROR 48*

21 *BY MR. FLEGLE:*

22 *Q. I believe you have got some connections to the*
23 *banking industry and JPMorgan?*

24 *A. Yes, I do. I'm an actuary at USAA. It's really*
25 *the financial industry mainly. So I am in loss reserving*

1 so I set the liabilities for the P & C company, but I
2 also do financial forecasting for the P & C company.

3 Q. And when you say the P & C company, is
4 that property and casualty?

5 A. Property and casualty. Auto and homeowners
6 insurance primarily.

7 Q. All right. And in terms of being an actuary at
8 USAA, is there any of this work that you do that ends up
9 being for the benefit of or shared with JPMorgan or any
10 of its various companies?

11 A. Not with JPMorgan, no.

12 Q. Okay. And is there anything about being an
13 actuary at USAA that would cause you to start our trial,
14 if you were selected as a juror, leaning towards the bank
15 as opposed to the beneficiaries?

16 A. No. I don't believe so.

17 Q. And you think you could fairly listen to the
18 evidence and make a decision based on the evidence that's
19 admitted in the case?

20 A. Yes, sir.

21 Q. Okay. I believe you mentioned that you had a
22 bad experience in an investment?

23 A. Yes, I did.

24 Q. Was that related to any bank?

25 A. No, it was not.

1 Q. Okay. And is that the kind of experience that
2 you in fairness to the parties here could put to the side
3 and that would not influence you one way or the other in
4 making a fair decision based on the evidence that's
5 admitted in the case and the law instructed by the judge?

6 A. Yes, I could do that, sir.

7 Q. Okay. Now, this morning when I raised the bank
8 defenses or I put the bank defenses --

9 A. Yes.

10 Q. -- you raised your card. Can you explain to
11 me -- It may have been my bad question, but could you
12 explain to me what you were thinking?

13 A. No, I can explain it.

14 Q. Yes, sir.

15 A. So as a reserving actuary and a forecaster of
16 losses, I get second-guessed all the time, and so the use
17 of the word "hindsight" leaves a bad taste in my mouth
18 because I get Monday morning quarterbacked all the time.

19 Q. Right.

20 A. And so when I read that, I was taken aback a
21 little bit and I thought initially that when, you know,
22 this is a case -- if that's what you are trying to use to
23 prove it that that would be a problem for me, that it
24 might bias me a little bit more towards the defendant,
25 but I think I would be able to put that aside and still

1 *be impartial.*

2 *Q. Right. Could you listen to the evidence -- If*
3 *we provide evidence in this case that the complaints*
4 *against the bank's conduct are complaints based on*
5 *information that was available at the time the conduct*
6 *occurred but was not acted on or recognized by the bank,*
7 *could you listen to that testimony with an open mind?*

8 *A. Yes, I could.*

9 *Q. Okay. I believe you said in answer to questions*
10 *by the bank's lawyers that you would favor the customer*
11 *and some businesses cheat in order to make money. Did I*
12 *get that right?*

13 *A. No, not exactly. I said do something improper.*
14 *I did not say cheat because cheat implies breaking the*
15 *law, but I do believe large corporations are -- really*
16 *their prime goal is to make a large amount of money. And*
17 *so as a result, they will try to do things within the*
18 *law -- within the narrow view of the law. That would be*
19 *improper in my mind and so that's why I said that.*

20 *Q. Okay. I got you. Well, in light of that*
21 *perception, though, could you still listen to the*
22 *evidence here and listen to the law that the court*
23 *instructs you on and render a fair verdict?*

24 *A. Absolutely.*

25 *Q. Okay. I have got one, two, three. What were*

1 your numbers?

2 A. Five, ten, ten.

3 Q. Five, ten, ten. Thank you.

4 MR. FLEGLE: That's all the questions I
5 have, Your Honor.

6 THE COURT: All right. Mr. Gall, do you
7 have any questions for Mr. Zimmer?

8 MR. GALL: I do.

9 BY MR. GALL:

10 Q. If I understand it, one of your jobs is to try
11 to figure out future events and predict losses and
12 reserves into the future?

13 A. That's correct.

14 Q. Hard job, right?

15 A. Very hard.

16 Q. It's difficult to predict the future?

17 A. Very volatile, correct.

18 Q. Very volatile. What do you mean by "volatile"?

19 A. The range of possibilities that I deal with at
20 USAA -- You know, our reserves are 6.5 billion dollars
21 and, you know, our range is, you know, almost a billion
22 dollars, you know, I think from high to low of possible
23 outcomes so about 600 million.

24 Q. Lots of different things in the future can
25 affect what you are trying to predict, right?

1 A. *Absolutely.*

2 Q. *And when you are trying to predict the future,*
3 *that's a risky endeavor -- a risky thing to do?*

4 A. *Yes.*

5 Q. *Because there's all kinds of things that can*
6 *affect it. The economy, right?*

7 A. *Correct.*

8 Q. *Commodity prices can affect things?*

9 A. *Correct.*

10 Q. *It's almost infinite the number of things that*
11 *can affect these kind of predictions, right?*

12 A. *Yes. I mean, our range of estimates -- These*
13 *are just the known things. There's a lot of unknowns.*
14 *We have to qualify everything we do to make people*
15 *understand that there are possibilities that are really*
16 *unknowable.*

17 Q. *And they still second-guess you?*

18 A. *Absolutely.*

19 Q. *And it looks like it annoys you, right?*

20 A. *Yes, and it's very easy to second-guess because,*
21 *you know, every quarter we have to come up with a new*
22 *estimate. And guess what? That new estimate changes.*
23 *And so by definition, the last estimate was wrong.*

24 Q. *Right. You are an actuary. And what's your*
25 *degree in?*

1 A. *Bachelor's degree in mathematics.*

2 MR. GALL: *He has a bachelor's degree in*
3 *mathematics.*

4 A. *Yes, and I'm a fellow of the Casualty Actuarial*
5 *Society.*

6 *BY MR. GALL:*

7 Q. *That's a certification that comes from some*
8 *organization?*

9 A. *Yes, the Casualty Actuarial Society. You have*
10 *to pass 10 qualifying tests to become a fellow.*

11 Q. *Is it important as an actuary to be a fellow in*
12 *that organization? Is that something that's a*
13 *certification of your skill?*

14 A. *Absolutely.*

15 Q. *And so people that don't have it really*
16 *haven't -- there's a difference in the way people look at*
17 *that, right?*

18 A. *Absolutely. I mean, certification allows*
19 *someone to sign off on annual statements for P & C*
20 *insurance companies to make sure that they -- Basically*
21 *every P & C insurance company has to have an appointed*
22 *actuary that signs off on their reserve liabilities that*
23 *states that what is being put on the books is a*
24 *reasonable provision, and only fellows of the Casualty*
25 *Actuarial Society or associate level which is the lower*

1 level can do that.

2 Q. In this case, a number of the people have
3 petroleum landman certificates. Would that be something
4 that would be important that they have those kind of
5 certificates to show that they were qualified?

6 A. Absolutely.

7 Q. And if there was someone that was trying to
8 testify without that, would you maybe look a little more
9 askance at that?

10 A. Yes, I would.

11 Q. Thank you. One of the things that you raised
12 your card on was the idea that there might be some kind
13 of conflict, I think, if --

14 A. I think I was just conflicted about the
15 hindsight. I mean, I feel pretty passionate about it,
16 and so the concern was am I a little too biased to the
17 defense.

18 Q. Do you think you can be --

19 A. But, I mean, I'm just -- You asked if I was, you
20 know, uncomfortable. I maybe felt this wasn't the
21 best --

22 Q. Right.

23 A. And that's the reason.

24 Q. Do you think you can be fair?

25 A. Yes. Absolutely.

1 Q. Thank you.

2 THE COURT: All right. Ladies and
3 gentlemen, this concludes the specific voir dire in the
4 case. Let me just give you an estimate here on time
5 based on prior experience. I would ask you to be back in
6 the area about 10 minutes to six. I would hope we would
7 be close to being presented with the selections.

8 Then what has to happen is that those people
9 that are selected to be on the jury, I have to give some
10 specific instructions to those people who are going to be
11 the jurors in this case so that there's no
12 misunderstanding how we are going to proceed. It takes
13 me about 20 to 25 minutes to do that. And as soon as we
14 conclude that, then we would be through for the evening.
15 I will save the discussions with those of you on the jury
16 for any other instructions past that point.

17 But for time purposes, I would think that
18 somewhere in the 6:30 time frame would probably be what
19 we would be looking at. Obviously if we can do it a
20 little quicker we will, but that's just a guesstimate.
21 So if you would, please, you can use the facilities or if
22 you wait out in the hall until we finish this other
23 process and then we will move along as quickly as we can.
24 So all rise for the panel, please.

25 (Potential jury panel not present).

1 THE COURT: All right. These are people I
2 would excuse for cause without any argument. Number 3,
3 number 6, number 11, number 21, number 24. Let me just
4 stop right there. One of these potential jurors has just
5 advised my bailiff that she had planned to vote this
6 evening and it's raining cats and dogs and she's got to
7 go to La Vernia to vote. So if I keep her around during
8 this process, she doesn't get to vote. I don't know. I
9 had her as an okay juror, but anyway, we are going to
10 have enough I think that we are not going to have a
11 problem, but does anybody have a problem? If you would
12 look at your notes on number 25, Donna Smith.

13 MR. FLEGLE: Your Honor, for plaintiffs,
14 it's whatever Your Honor wants to do.

15 MR. GALL: I'm sorry, Mr. Flegle. I didn't
16 hear.

17 MR. FLEGLE: Whatever the court decides.

18 MR. GALL: Oh.

19 THE COURT: Well, I don't want to deprive
20 somebody of not getting to vote because we have exceeded
21 our goal here to get this thing wrapped up.

22 MR. GALL: I think we can let her go, Your
23 Honor. I think we have enough.

24 THE COURT: Okay. I think that -- I don't
25 know that she's going to make it. She may be able to,

1 but I will plan on letting her go. So if you want to
2 pull her aside so she doesn't come back in. I just don't
3 want all the other jurors to see it.

4 THE BAILIFF: I will pull her inside here
5 and just go ahead and release her, Judge?

6 THE COURT: Yes. We will do that and give
7 her a certificate. I just don't want the other jurors to
8 see this. All right?

9 THE BAILIFF: All right, sir.

10 THE COURT: So that would be 25, 26, 32, 34,
11 35, 38, 42. Let me count that up.

12 MR. GALL: I count it as 11, Your Honor.

13 THE COURT: Count it again.

14 MR. GALL: 12. I'm sorry. I can't count.

15 THE COURT: All right. 12.

16 MR. GARZA: Your Honor, on number 29 --

17 THE COURT: Okay. Now, we have got to be on
18 a microphone. If anybody is going to be talking, you
19 don't say a word unless you are on a microphone. If we
20 are not going to do it this way, I'm going to send my
21 court reporter back in there and he can finish up.

22 MR. GARZA: I apologize --

23 THE COURT: So it's got to be on a
24 microphone.

25 MR. GARZA: I apologize, Your Honor.

1 THE COURT: We have got to get that
2 straight. You are going to hear it for six weeks. By
3 the time we finish, I figure everybody will be
4 understanding how we do it. All right. Go ahead.

5 MR. GARZA: I believe it's juror 29, Your
6 Honor, that could not understand or read and write the
7 English language. I think that's a disqualification by
8 statute.

9 THE COURT: Let me read that.

10 MR. FLEGLE: And, Your Honor, we disagree.

11 MR. GALL: Disagree?

12 MR. FLEGLE: Yeah. We believe his English
13 is sufficient for this trial.

14 THE COURT: Yeah. I didn't have a problem
15 with that one.

16 MR. GALL: He said he couldn't read it, the
17 language.

18 THE COURT: He doesn't have to read. Y'all
19 are going to tell him what's going on. No. He can read.
20 He's a welder. He's got to follow specs to do welding.
21 I can't understand that. I didn't get that from what he
22 said.

23 MR. GALL: Okay. Well, we think he's
24 statutorily disqualified, Your Honor.

25 THE COURT: I don't remember him saying he

1 couldn't read or write. He said he had trouble with
2 that.

3 MR. GALL: He said -- The way I heard it is
4 he said he couldn't read and write. He went to school 12
5 years in Mexico and that he couldn't read or write
6 English.

7 THE COURT: You know what. He's a U.S.
8 citizen. And to be a U.S. citizen, you have got to be
9 able to be proficient in reading and writing. We can
10 take it back up. What other ones?

11 MR. GALL: We have number one, Your Honor.

12 THE COURT: I put a question mark by number
13 one. So does anybody else have any heartburn with number
14 one?

15 MR. GALL: She was pretty straightforward
16 that she couldn't be fair.

17 THE COURT: Well, she was a little iffy, but
18 I have got a question mark. So I don't have a problem
19 with that one.

20 MR. FLEGLE: Your Honor, plaintiffs do.
21 Even though she was a little iffy, it's not enough to
22 disqualify her.

23 THE COURT: I will grant the
24 disqualification. All right. Next one.

25 MR. GALL: The next one we have is five.

1 THE COURT: I have got a question mark by
2 that one. Let's hear what the plaintiff has to say.

3 MR. FLEGLE: What we have is she said she
4 would try and listen, but leaning is not enough to get
5 her off.

6 THE COURT: Let me see what she says here.
7 Yeah. I made my notes here. Said this may not be the
8 right case for her and she vacillated back and forth
9 about can't be fair and fair. I think she's on the
10 fence.

11 MR. GALL: Actually, our notes indicate that
12 at the very end in response to a question from Mr. Garza
13 she said yes to the question do you have a firm
14 conviction that you can't be fair.

15 THE COURT: She did. She concluded by
16 saying that. Yeah. She was the young lady sitting right
17 here. I will grant that one. All right. The next one?

18 MR. GALL: The last one we have is 13 who is
19 Kristen Alaniz. I think she also said that she had
20 preconceived notions and that she just didn't think she
21 could be fair. Whatever instructions she gets doesn't
22 think she can be fair.

23 THE COURT: I have a question mark by that
24 one because I wrote down she made a comment this may not
25 be the right case for her. That was her honest opinion.

1 *Let me hear from the plaintiff.*

2 *MR. FLEGLE: Yes, Your Honor. What we heard*
3 *was she didn't know anything about the case. She would*
4 *be willing to listen to everything. And as we know in*
5 *Cortez, it's not where you start out. It's where you end*
6 *up. We think she ended up saying she could listen to*
7 *everything.*

8 *MR. GALL: We actually agree with Mr. Flegle*
9 *that it's where you end up, and her last statement was*
10 *whatever instruction that she gets from the judge she*
11 *doesn't think she can be fair. Just not the right case*
12 *for her.*

13 *THE COURT: Well, I put a question mark.*
14 *That's why I'm giving you seven strikes. Okay. If*
15 *that's one you don't like, you use a strike against them.*

16 *MR. GALL: All right. Thank you, Your*
17 *Honor.*

18 *THE COURT: All right. Next one?*

19 *MR. GALL: Other than 29, we are good.*

20 *THE COURT: All right. What about the*
21 *plaintiff?*

22 *MR. FLEGLE: We just have two, Your Honor.*
23 *One is 30.*

24 *THE COURT: Let me read what I wrote. He*
25 *said he can be fair.*

1 MR. FLEGLE: What we had was he would be
2 leaning towards the bank.

3 THE COURT: I did write that down, but he
4 concluded by saying he could be fair. That's why you
5 have got a strike. Okay. Next one?

6 MR. FLEGLE: And the other one is number 40,
7 Your Honor. I don't have the case law with me, but I
8 think number 40 owns stock in JPMorgan directly.

9 THE COURT: I had a question mark by that
10 one.

11 MR. FLEGLE: And I think the case law says
12 stock ownership in a party disqualifies. I don't have
13 the case law with me, though.

14 THE COURT: Yeah. I put a question mark by
15 that. I will grant that one.

16 MR. FLEGLE: Okay.

17 THE COURT: How many --

18 MR. FLEGLE: That's it for us.

19 THE COURT: Let's go back to 29. I'm a
20 little concerned about 29.

21 MR. GALL: The other thing I thought we
22 might ought to discuss, Your Honor, there's the witness
23 who has got the bad injury.

24 THE COURT: I think he's struck.

25 MR. GALL: Oh, is he gone? Oh, he is. You

1 are right, Your Honor.

2 THE COURT: Yeah. I mean, that's one --
3 because he's not going to be able to make it. He said
4 that the other day, but we only had inquiry as to who
5 couldn't be here. I think he was struggling with that,
6 but I think I struck him.

7 MR. GALL: You did. I'm sorry.

8 THE COURT: All right. So let's go back to
9 29. He did say may not be the right case for him and I
10 don't remember -- I did not write down anything about him
11 not being able to read and write. I did not -- I heard
12 him say he had trouble, but I didn't write anything down.
13 So do we have enough? Do we still have some room? Count
14 them up. How many do we have?

15 MR. FLEGLE: We have room, Your Honor.

16 THE COURT: If we have got room, then he
17 ought to go.

18 MR. GALL: All right. That makes it easy.

19 THE COURT: All right. So let's make sure
20 we are on the same page. All right. We have number one.
21 We have got number three. We have got number five. We
22 have got number six. We have got number 11. We have got
23 number 21. We have got number 24. We have got number
24 25. We have got number 26. We have got number 29. We
25 have got number 32. We have got number 34. We have got

1 number 35. We have got number 38. We have got number
2 40. We have got number 42. That's the last one. So
3 count them up. How many do we have? 16?

4 MR. FLEGLE: I believe, Judge, we have still
5 got four extras so we are okay.

6 THE COURT: All right. So we have got 32.
7 Is there anybody else anybody has any heartburn about?

8 MR. FLEGLE: Not for plaintiffs, Your Honor.

9 THE COURT: Okay.

10 MR. GALL: Not for defendants, Your Honor.

11 THE COURT: All right. So you have got 32
12 to find 14, and we agreed you have got seven strikes and
13 we take the first 14. Everybody agree to that?

14 MR. GALL: That's fine, Judge.

15 THE COURT: Sir?

16 MR. FLEGLE: Yes, Your Honor.

17 THE COURT: All right. We have got seven
18 strikes a side and we take the first 14. The first 12
19 will be the jurors if we don't need the alternates, but
20 we are not going to get into an argument about the
21 alternates. It's going to be the 14 -- first 14 people.
22 The first 12 will be the actual jury. The other two will
23 be the alternates.

24 MR. GALL: We thought one thing. In fact, I
25 got a little heat from everybody. It's our suggestion

1 that we not tell the alternates that they are alternates.
2 They may be able to figure it out, but --

3 THE COURT: Somebody has already mentioned
4 it. I'm not going to address it again. They are going
5 to figure it out by the seating over here because I'm
6 going to have Officer Helton have these two people sit in
7 different rows so they can look at the screen. So as you
8 are going through, make sure you always ask the questions
9 can everybody can see this because these two people
10 sitting over here are going to have to look on this
11 screen and the screen doesn't actually turn for them to
12 get it so we are just going to have to be a little
13 careful. All right. I will keep that in mind as you are
14 going through the evidence. Two people on the end, don't
15 let them sit out there without confirming that everybody
16 has seen what we put up on the screen. I will do that
17 and be on it, but catch me if I miss it. All right?

18 MR. GALL: Thank you, Your Honor.

19 THE COURT: Anything else? All right. I
20 need one group in here doing selection and the other
21 group to take your chairs and go in the jury room.

22 MR. GALL: We will go in the jury room, Your
23 Honor.

24 THE COURT: Just take all the chairs in
25 there and I need your strikes by 6 o'clock.

1 *(Recess from 5:30 to 6:10).*

2 *(Potential jurors entered courtroom).*

3 *THE COURT: Please be seated. All right.*

4 *Thank you for your patience, ladies and gentlemen. I*
5 *know the hour is late, but I know based on what you told*
6 *me before you wanted to finish this process today so we*
7 *did not have to have all of you come back tomorrow. So I*
8 *appreciate your willingness to do that.*

9 *All right. As your names are called if you*
10 *would, please, come up and have a seat in the jury box*
11 *over here. And, Officer Helton, how do you want them*
12 *seated?*

13 *THE BAILIFF: Folks, as you come up here,*
14 *you are going to walk up the ramp. Number one is going*
15 *to be right here. One through six in the front. Seven*
16 *through 14 in the back row.*

17 *THE COURT: All right. Juror number one*
18 *will be Alicia Falcon. Juror number two will be Angel*
19 *Ellison. Juror number three will be Enrique Ramos.*
20 *Juror number four will be Jonathan Elward. Juror number*
21 *five is Austin Cain. Juror number six is Jennifer Oates.*
22 *Juror number seven is Jacquelyn Risse. Juror number*
23 *eight is Wanda Torres. Juror number nine is Lalaine*
24 *Jebb. Juror number 10 is Juanita Romero. Juror number*
25 *11 is Nayda Rivera. Juror number 12 is Kim Nelson.*

1 Juror number 13 is David Massing. Juror number 14 is
2 Gloria Rivera. All right. Would the jurors please
3 stand.

4 (Jury was sworn).

5 THE COURT: All right. For the balance of
6 the panel, at this time you are going to be discharged
7 from further service. Officer Helton will have at the
8 rear of the courtroom your certificates. And if you
9 would, please take off your buttons and give them to him.
10 He will collect them so we can return them to the central
11 jury room.

12 With regard to your service here these past
13 two days, the best I can tell you is that your check is
14 in the mail. Remember what I said. We have about 5- or
15 600 jurors each day, and I assure you that they are
16 working diligently to make sure those payments are
17 promptly made, but they are working on payments for
18 yesterday and last week. So if two weeks goes by and you
19 don't get a check and you want somebody to follow up on
20 it, you can certainly call us here in the 408th and we
21 will do our best to track down and find out what
22 happened.

23 I hope that this experience has been one
24 that you can relate to your friends and people that you
25 run across that want to do away with the jury system.

1 *Our system is under attack these days. They don't want*
2 *citizens like yourself to be a part of this process.*
3 *There's a movement to have just a judge like myself or*
4 *two judges or three judges sit and make decisions with*
5 *regard to the dispute that you have heard here.*

6 *I often think when I hear that about the*
7 *people that have gone before us and have paid the*
8 *ultimate price and laid down their lives to ensure that*
9 *our Bill of Rights means something in this country and*
10 *then when citizens can't resolve their differences that*
11 *they want to -- that our forefathers and those who have*
12 *paid the ultimate price fought to preserve, protect, and*
13 *defend a citizen's right for this country to have a jury*
14 *of citizens -- fellow citizens listen to evidence and*
15 *make decisions. I often think about that when I hear the*
16 *system under attack.*

17 *I know it's an inconvenience. It's a*
18 *timeout, but as citizens of this great state and country,*
19 *there comes a time when we just have to do that. So*
20 *think about that, and I hope you will speak up for the*
21 *jury system and will defend it and those who are*
22 *naysayers that want to do away with it that you will*
23 *stand up for and argue for the retention of this system*
24 *that we enjoy in this great state and country.*

25 *This court is paid for by your tax dollars.*

1 You are welcome to back here any time hopefully as a
2 visitor, not as a litigant, but if it is as a litigant,
3 you are certainly welcome here. And if you have any
4 questions at all, you know, just feel free to call us
5 here in the 408th. I hope your stay has been a pleasant
6 one and you have learned something about the system.

7 And so with the exception of the ladies and
8 gentlemen of the jury, please remain seated, everybody
9 else please stand for the panel. God bless you and
10 godspeed.

11 (Potential jurors exited courtroom).

12 THE COURT: Please be seated. All right.
13 Ladies and gentlemen of the jury, I know the hour is
14 late, but before I discharge you, there are some
15 instructions that I have to give you that will further
16 guide you in your service here as a juror in this case.
17 There's a pamphlet that's been put on your chairs there,
18 some jury instructions, and I'm required to read those to
19 you. So if you would, please follow along with me. I
20 will digress a few times in here to make some other
21 comments that are not made in the papers here and you
22 will understand that when I do.

23 Members of the jury, you have been chosen to
24 serve on this jury because of the oath you have taken.
25 In your selection for the jury, you become officials of

1 this court and active participants in our justice system.
2 You have each received a set of written instructions.
3 I'm going to read them with you now. Some of them you
4 have heard before and some are new.

5 Number one. As we go through these
6 proceedings, as you have heard me say before, all cell
7 phones -- Hold on just a second. Would you open this
8 door here. We are not getting a draft. They cut off the
9 AC around here around 7 o'clock, but I need a draft here.
10 So if you will just keep that open, please.

11 You have already heard me talk about cell
12 phones and electronic devices. So please -- You can
13 bring them with you, but make sure that they are off when
14 we are here in the courtroom or when we are deliberating
15 and please don't use these devices to communicate with
16 anyone. For example, do not communicate by phone, text
17 message, e-mail message, chat room, blog, or social
18 networking web sites such as Facebook, Twitter, or
19 Myspace.

20 The bailiff will give you a number where
21 others may contact you in case of emergency. And as you
22 leave this evening, my bailiff is required to obtain a
23 telephone number from you so that we can contact you as
24 well. So we need your number and you will have the
25 number here from the court.

1 Do not post information about this case on
2 the internet before these court proceedings end and you
3 are released from jury duty. Do not record or photograph
4 any part of these court proceedings because it is
5 prohibited by law.

6 Number two. To avoid looking like you are
7 friendly with one side of the case, do not mingle or talk
8 with the lawyers, witnesses, parties, or anyone else
9 involved in the case. So this already occurred earlier,
10 but it was disclosed and that juror who is not on the
11 panel or on the jury was advised and counseled not to do
12 that. I know it was an honest thing, but please, we are
13 not to do that except as I say here. You can exchange
14 casual greetings like hello and good morning. Past that,
15 please adhere to the instructions. As I said, other than
16 that, do not talk with them at all. They have to follow
17 these instructions too so you should not be offended when
18 they follow the instructions.

19 Number three. Do not accept any favors from
20 the lawyers, witnesses, parties, or anyone else involved
21 in the case. Do not do any favors for them. This
22 includes favors such as giving rides and food. Now,
23 during the process of the case, I have a coffee machine
24 back here and the court provides this for you. So those
25 of you who are coffee makers -- Honestly I'm not a coffee

1 *drinker. My court reporter is not a coffee drinker. My*
2 *clerk is not a coffee drinker. My bailiff is not, but I*
3 *have got the facilities. So anybody who is a coffee*
4 *maker, you are welcome to make coffee when you come in in*
5 *the morning and share it with your fellow jurors because*
6 *your new home base will be the jury room. And so when*
7 *you come here in the mornings, you can come to that room*
8 *and then you can go back in the break room and that's*
9 *your break area and you can make coffee. Like I say, if*
10 *you want to bring your lunch or bring some stuff from*
11 *home and you don't like our five-jalapeno restaurants*
12 *down here, you can bring your own food and keep it there*
13 *in the refrigerator.*

14 *Number four. Do not discuss this case with*
15 *anyone, even your spouse or a friend, either in person or*
16 *by any other means including by phone, text message,*
17 *e-mail message, chat room, blog, or a social networking*
18 *web site such as Facebook, Twitter, or Myspace. Do not*
19 *allow anyone to discuss the case with you in your*
20 *hearing. If anyone tries to discuss the case with you or*
21 *in your hearing, tell me immediately. We do not want you*
22 *to be influenced by something other than the evidence*
23 *admitted in this court.*

24 *You have already heard me say the only*
25 *evidence that is for your consideration is what comes*

1 from this witness stand or what I admit into evidence
2 either in the form of a document, the form of a picture,
3 a video, or that type of thing. That's the only
4 evidence. I have already told you what the lawyers say
5 is not evidence. It's what comes from here under oath or
6 you may see on a video deposition or something that I
7 have admitted into evidence for your consideration.

8 This is important because the lawyers have
9 worked very hard to present this case to you, and they
10 have all exchanged information and they have done
11 preparation for the evidence that's going to come in
12 here, and they are expecting you to set aside what your
13 previous beliefs may have been and to listen to what's
14 going to happen here. When you do something or go
15 outside of something in this courtroom, you are bringing
16 something into consideration that the parties here may
17 not know about and it's not fair. The fairness has to be
18 what is presented here and you cannot go to other
19 sources. I heard where somebody went on line to find out
20 something about this case. That's highly inappropriate.
21 Now that you are on this jury -- sitting here in this
22 jury box, that's highly inappropriate because the
23 information, you don't know where it came from, whether
24 it's accurate, and it has not been tested by the parties'
25 representatives as to whether it's credible or

1 *believable. So that's why it's absolutely important that*
2 *the only thing you learn about this case or will learn*
3 *about it will come from this courtroom. It's the only*
4 *way it can be fair to the parties that are here. I have*
5 *to have a complete understanding about that and do not be*
6 *tempted to do that. It's so easy with social media*
7 *devices nowadays, but you have got to block that out. If*
8 *it doesn't happen in here, that's something that the*
9 *parties are going to have to deal with when this case is*
10 *over. It has to be in this courtroom.*

11 *Number five. Do not discuss this case with*
12 *anyone during the trial, not even the other jurors, until*
13 *the end of the trial. You should not discuss the case*
14 *with your fellow jurors until the end of the trial so*
15 *that you do not form opinions about the case before you*
16 *have heard everything. After you have heard all the*
17 *evidence, received all my instructions, and heard all of*
18 *the lawyers' arguments, you will then go to the jury room*
19 *to discuss the case with the other jurors and reach a*
20 *verdict.*

21 *Number six. Do not investigate this case on*
22 *your own. For example, do not try to get information*
23 *about the case, lawyers, witnesses, or issues from*
24 *outside the courtroom. I have already gone over that.*
25 *Do not go to places mentioned in the case to inspect the*

1 places. Do not inspect items mentioned in this case
2 unless they are presented as evidence in court. Do not
3 look up anything in a law book, dictionary, or public
4 record to try to learn more about the case. Do not look
5 up anything on the internet to try to learn more about
6 the case or do not let anyone else do any of these things
7 for you. It's absolutely essential. If you do that, you
8 are depriving these parties of a fair trial with evidence
9 presented in this courtroom subject to being tested
10 through cross-examination by the representatives of these
11 plaintiffs and the defendant here. You just cannot do
12 that. I can't emphasize it enough.

13 As I said, this rule is very important
14 because we want a trial based only on the evidence
15 admitted in open court. Your conclusions about this case
16 must be based only on what you see and hear in this
17 courtroom because the law does not permit you to base
18 your conclusions on information that has not been
19 presented to you in open court. All the information must
20 be presented in open court so the parties and their
21 lawyers can test it and object to it.

22 Let me digress here. Objections. The
23 lawyers' job is here to represent their clients and their
24 job is to make sure that we try this case according to
25 the rules of procedure and evidence and they know what

1 they are. And so when they object, they are raising a
2 point that they think has gone against those rules. I
3 may not agree with them. I have to make the ultimate
4 call, but that's their job. So when they object to
5 things, do not hold that against them. That is their
6 job. And so I'm hoping since these parties know this
7 case this well that we are not going to have a lot of
8 that, but if we do, that's their job. Do not hold that
9 against them. You have got to understand that.

10 Information from other sources like the
11 internet will not go through this important process in
12 the courtroom of being subject to being tested. In
13 addition, information from other sources could be
14 completely unreliable. As a result, if you investigate
15 this case on your own, you could compromise the fairness
16 to all parties in this case and jeopardize the results of
17 this trial.

18 Number seven. Do not tell other jurors
19 about your own experiences or other people's experiences.
20 For example, you may have special knowledge of something
21 in the case such as business, technical, or professional
22 information. You may even have expert knowledge or
23 opinions or you may know what happened in this case or
24 another similar case. Do not tell the other jurors about
25 it. Telling other jurors about it is wrong because it

1 means a jury will be considering things that were not
2 admitted in court.

3 Number eight. Do not consider attorney's
4 fees unless I tell you to do so. Do not guess about
5 attorney's fees. Do not consider or guess whether any
6 party is covered by insurance unless I tell you. During
7 the trial if taking notes will help focus your attention
8 on the evidence, you may take notes using materials the
9 court has provided. That's why I have given each of you
10 a notebook there. And if you would, you can write your
11 name on the inside cover of that notebook. Not on the
12 outside but on the inside, and those notebooks will be
13 taken up each day after we have the evidence presented.
14 We will protect those notes and then give them back to
15 you the next day.

16 There's a danger here in doing this. Those
17 notes are meant for each of you individually to help
18 remind you of something or to take down something that
19 you thought was important, but your notes do not become
20 evidence. The evidence is what you hear in this
21 courtroom or what you see. Your notes are not evidence.
22 I caution you and I will caution you again when I charge
23 you at the end of the case. Your notes are for your
24 recollection of something in the case that you thought
25 was important. So keep that in mind, but I will allow

1 you to take your notes with you into the jury room when
2 the case is presented to you for decision.

3 Do not show or read your notes to anyone
4 else. They are meant for you. Now, you don't have to
5 take notes. Some people draw. Some people do
6 tick-tac-toe. Some people draw the people here. You can
7 do whatever you want. One thing I have to ask you. Do
8 we have any people with shorthand experience here,
9 because I had a juror one time that was writing all the
10 time and I didn't realize what they were doing, but they
11 were taking down the whole trial in shorthand. So I need
12 to make sure that I don't have anybody like that on this
13 jury. If you want to take -- If you have that ability
14 and you want to take it down, that's fine, but it's for
15 your benefit and not anybody else's.

16 You must leave your notes in the courtroom
17 and the bailiff will collect them. The bailiff is
18 instructed not to read your notes and to give your notes
19 to me promptly after collecting them from you. I will
20 make sure your notes are kept in a safe, secure location
21 and not disclosed to anyone. I will allow you to take
22 your notes into the jury room and consult them during
23 deliberations, but keep in mind that your notes are not
24 evidence.

25 When you deliberate, each of you should rely

1 on your own independent recollection of the evidence and
2 not be influenced by the fact that another juror has or
3 has not taken notes. After you complete your
4 deliberations, the bailiff will collect your notes. When
5 you are released from jury duty, the bailiff will
6 promptly destroy your notes so that nobody can read what
7 you wrote.

8 Number 11. I will decide matters of law in
9 this case. It is your duty to listen and consider the
10 evidence and determine the fact issues that I may submit
11 to you at the end of the trial. After you have heard all
12 the evidence, I will give you instructions to follow to
13 make your decision. The instructions will also have
14 questions for you to answer. You will not be asked and
15 you should not consider which side will win. Instead,
16 you will need to answer the specific questions that I
17 give you.

18 I can't give you those questions now because
19 I don't know a whole lot more about this case than you
20 do. I have done some of the pretrial work on this case,
21 but I don't know what evidence is going to be presented
22 or what you are going to hear. Some of it I have seen,
23 but that's why I can't give you the questions right now
24 because I have to wait until all of the evidence is in,
25 the whole book is played, all the chapters, whatever it

1 is, to figure out what the charge should be for you to
2 read -- for me to read to you and you to answer the
3 questions I submit to you. It's probably the hardest
4 thing I have to do in this case. And I don't know when
5 the case is going to end, but when it ends, then it's my
6 job to put together the questions to ask you that we need
7 answers on for me to formulate a judgment.

8 And so that process is very lengthy. I
9 don't know at what point in the trial -- whether it will
10 come early in the day or late in the day when both
11 parties have finished, but understand when we get to that
12 point that I have a very difficult job with the help of
13 the lawyers sitting here to put together the questions to
14 ask you. It takes a considerable amount of time, but I
15 will deal with that later on as we get closer to the end
16 of the trial.

17 Every juror must obey my instructions. If
18 you do not follow these instructions, you will be guilty
19 of juror misconduct and I may have to order a new trial
20 and start this process all over again. This would have
21 been a waste of your time and the parties' money and
22 would require the taxpayers of this county to pay for
23 another trial. If anyone does not understand these
24 instructions, please let me know now. Please keep these
25 instructions and review them as we go through the case.

1 If anyone does not follow these instructions, please let
2 the bailiff know so he can tell me.

3 Now, a few things about how we operate in
4 here. As I have said, when we finish this evening my
5 bailiff has to get your phone number and you have to have
6 ours so that if there's an emergency -- because we know
7 we don't live life in a vacuum and things happen. And so
8 we need to make sure that we know how -- we can
9 communicate with each other.

10 There's a badge there that's a blue badge,
11 and I suggest you wear that. All of the people in the
12 downtown area and the people who work in the courthouse,
13 the uniformed officers, when they see a badge, they know
14 that you are a very special person because there are very
15 few people who are able to reach the point where you
16 have. Being a juror is one of the most coveted positions
17 in our entire judicial practice.

18 And so it's a position that very few of
19 us -- I know I will never get the opportunity to sit
20 where you are sitting. And so the people who see that
21 badge know that if you ask for assistance they will come
22 to your aid because they know the sacrifice that you are
23 making by being here.

24 Do not bring guns, knives, or bullets in the
25 entryway and through the security because the badge won't

1 protect you on that. That's the one thing. And you
2 laugh, but we had a juror over on the criminal side about
3 a month ago that -- He had a consealed handgun permit and
4 he thought being a juror allowed him to come in the
5 courthouse with a gun. I assure you that does not permit
6 you to do that. So, please, if you have any of those
7 kind of things, do not bring them to the courthouse.

8 But in the downtown area, especially the
9 people that work around here, they will all see that and
10 they will come to your aid if there's something that you
11 need an answer on with regard to something that is a
12 problem.

13 Now, the way the process is going to go is
14 the next step will be opening statement and that will be
15 the prelude to the beginning of the evidence. Each side
16 will tell you more in detail what this case is about.
17 After both sides have given their opening statement --
18 The defendant has the option of giving an opening right
19 after the plaintiff gives his opening or the defendant
20 can wait until such time that the case shifts to his
21 side. I don't know. Has that decision been made,
22 counsel?

23 MR. GALL: Yes. We will give our opening
24 tomorrow, Your Honor.

25 THE COURT: All right. So both parties are

1 going to give their opening one right after the other.
2 The plaintiffs will put on all of their evidence and then
3 they will rest. Then the defendant will put on all of
4 its evidence. They will rest. And then at that point,
5 whenever that is, that's when I have to work with the
6 lawyers to come up with the questions to ask you that we
7 need answers on.

8 Once I come up with that document, it's
9 called the court's charge, I'm required to read that to
10 you. And then after I have read the charge to you, then
11 the lawyers have the opportunity to make their closing
12 arguments. This is where the lawyers show their wares at
13 their finest, their argument as to what they think the
14 evidence has presented to you.

15 Each side gets to present a closing
16 argument. The plaintiff -- Since the plaintiff has the
17 burden of proof, they are entitled to have the last say
18 since they have the burden. So they usually break up the
19 time that I allot for them to make their closing
20 argument, and the defendant has one block of time and
21 they do not get to speak twice at closing.

22 Once all of that is done, then you are
23 discharged into the jury room and the case is in your
24 hands. It moves at your leisure or pleasure until we
25 reach a -- you tell us that you have answered all of the

1 questions that I have submitted to you.

2 Now, the time for working. This case -- I
3 think we can get it finished in a shorter time if you
4 will be willing to work as you did this morning coming at
5 8 o'clock in the morning, and that will ensure that you
6 will have \$2 parking every day because, as I said, we
7 call 5- to 600 jurors a day. They are rookies. You have
8 done this twice now and they want your parking spots.
9 The only way I can assure you that you will have that \$2
10 spot is if you get here before they do in the morning.

11 By starting early if that is your choice, I
12 assure you we can probably finish this case in a shorter
13 amount of time than has been projected. However,
14 everybody else around here works starting at 9:30. If
15 that is your pleasure, then I will abide by what you want
16 to do. I just caution you that if you pick 9:30 I can't
17 guarantee you will get a spot in the garage, and the lots
18 around here charge 10 and \$15 a day.

19 All right. The order where we go from
20 here -- and I'm going to leave this up to you. Tomorrow
21 I have a legal matter that I have to take care of in
22 Dallas, Texas tomorrow afternoon. I have to be on a
23 plane at 1:30 tomorrow. So we have a choice. We can be
24 here and work from 8:30 to 11:30 tomorrow morning. I
25 have got to be in Dallas. The event is tomorrow

1 afternoon and Thursday and so Friday would be our first
2 full day, but I'm amenable if you want -- since you have
3 worked hard these past two days, if you want to return
4 and we start on Friday, I am open to that, but I'm also
5 willing -- if you want to be here in the morning, we
6 would work from 8 to 11:30 so be thinking about that the
7 next few minutes and then you can tell me what you want
8 to do. I will tell you one thing. If you choose to
9 bypass tomorrow and Thursday, I will assure you are paid
10 for tomorrow and Thursday whether you are here or not.
11 So think about that.

12 Now, you already know my work times. My
13 court reporter, Mr. Carter, we go about an hour to hour
14 and a half -- about an hour and 15 minutes to hour and 20
15 minutes before we take a break. He has to have time to
16 rest his fingers, plus it gives you a little time to move
17 around and stretch. And so that's the process. You can
18 pretty much time the breaks. When we start, you can
19 pretty much count on an hour and 15 minutes to hour and
20 20 minutes. After that will be a break.

21 If we start early in the morning, then I
22 usually end the day around 4:30 or 4:35 to give you a
23 jump on getting out of town. Does anybody have any
24 questions? All right. What is your pleasure on working
25 tomorrow and Thursday -- I can't be here Thursday, but I

1 could be here tomorrow morning. Do you want to come
2 tomorrow for three hours or do you want to start
3 everything on Friday?

4 JURORS: Friday.

5 THE COURT: All right. We are working at
6 your pleasure. I'm not telling you, and that's fine with
7 me. You have been here. It's been a very hard grind for
8 all of you, but that being said, I need you here on
9 Friday. Okay? All right. Time. What time are you
10 comfortable working?

11 JURORS: Eight.

12 THE COURT: Eight o'clock. All right. That
13 means that all the people that you see here, they will be
14 here at 7:30 each morning. We will be waiting for you.
15 All right. Make sure -- Watch the weather. If there's a
16 little bit of weather, give yourself enough time to get
17 here. We will be ready to start when Officer Helton
18 comes in and tells me that all of you are here.

19 I have already said this. Officer Helton is
20 your newest best friend. Anything that you need through
21 the court, you pass on the message to him and he will see
22 that I get it. So his job is to protect you and protect
23 the court here, but he is also the conduit between you
24 and me with regard to proceedings here in court. All
25 right. Anybody else have any questions? Anything else,

1 *Officer Helton?*

2 *THE BAILIFF: Jurors, be sure and put on*
3 *your blue tags and just put the white juror button on the*
4 *shelf in front of you, please.*

5 *THE COURT: All right. That's it, ladies*
6 *and gentlemen. Again, thank you and we look forward to*
7 *working with you so all rise for the jurors, please. If*
8 *you would, see Officer Helton over here so we can get*
9 *your phone numbers.*

10 *(Court was adjourned at 7:00).*

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1 STATE OF TEXAS)

2 COUNTY OF BEXAR)

3 I, CRAIG CARTER, Official Court Reporter in
4 and for the 408th District Court of Bexar County, State
5 of Texas, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all portions
7 of evidence and other proceedings requested orally or in
8 writing by counsel for the parties to be included in this
9 volume of the Reporter's Record, in the above-styled and
10 numbered cause, all of which occurred in open court or in
11 chambers and were reported by me.

12 I further certify that the total cost for
13 the original and/or a copy of this Reporter's Record is
14 \$1770.00 and was to be paid by Mr. Jim Flegle.

15 WITNESS MY OFFICIAL HAND this the 11th day
16 of December, 2014.

17
18
19 /s/Craig Carter

20 E-mail: libmr2@yahoo.com
21 408TH DISTRICT COURT
22 SAN ANTONIO, TEXAS 78205

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