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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

FEB 24 1983

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF-RESPONDENT,)
)
VS.)
)
JOE HUNT, AKA JOSEPH HUNT,)
AKA JOSEPH HENRY GAMSKY,)
)
DEFENDANT-APPELLANT.)

SUPERIOR COURT
NO. A-090435

OCT 09 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
STATE ATTORNEY GENERAL
3580 WILSHIRE BOULEVARD
ROOM 800
LOS ANGELES, CALIFORNIA 90010

FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 6 OF 101
(PAGES 553 TO 643, INCLUSIVE)

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ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

NO. A-090435)

JOE HUNT, AKA JOSEPH HENRY GAMSKY,)

DEFENDANT.)

REPORTERS' DAILY TRANSCRIPT

THURSDAY, NOVEMBER 13, 1986

VOLUME 6

(PAGES 553 TO 643, INCLUSIVE)

APPEARANCES:

FOR THE PEOPLE:

IRA REINER, DISTRICT ATTORNEY
BY: FREDERICK N. WAPNER, DEPUTY
1725 MAIN STREET
SANTA MONICA, CALIFORNIA 90401

FOR THE DEFENDANT:

ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
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1 SANTA MONICA, CALIFORNIA; THURSDAY, NOVEMBER 13, 1986; 10:10 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE)
4

5 MR. BARENS: GOOD MORNING, YOUR HONOR.

6 THE COURT: FOR THE RECORD, I WILL MAKE AN ORDER ON THE
7 MOTION FOR PROPORTIONALITY. IT IS THE ORDER OF THE COURT THAT
8 THE MOTION WOULD BE DENIED.

9 THE COURT HAS NO POWER TO DETERMINE WHETHER OR
10 NOT IN THIS CASE THE DISTRICT ATTORNEY IS TO ASK OR SHALL NOT
11 ASK FOR THE DEATH PENALTY. THAT IS GOVERNED BY THE CASES AND
12 ALSO THE GOVERNMENT CODE WHICH VESTS IN THE DISTRICT ATTORNEY
13 THE BROAD AND QUASI-JUDICIAL POWER TO DETERMINE WHETHER
14 OR NOT THE DEATH PENALTY WOULD BE REQUESTED. ALL THE COURT
15 HAS THE POWER TO DO IS TO DETERMINE WHETHER OR NOT IT IS
16 RANDOM AND ARBITRARY AND THE COURT FINDS IN THIS CASE THAT
17 IT IS NOT RANDOM OR ARBITRARY AND THAT THERE WAS THE PROPER
18 EXERCISE OF PROSECUTORIAL DISCRETION.

19 MY REFERENCE IS LEO V. SUPERIOR COURT,
20 179 CAL.APP.3D, 373.

21 ALL RIGHT, DO YOU HAVE MR. ARCE HERE?

22 YOU HAVE SOME KIND OF MOTION AGAIN, WHAT IS IT?

23 MR. CHIER: I AM ASKING THAT THIS MATTER BE CONTINUED
24 UNTIL MONDAY ON THE GROUND THAT I AM EXTREMELY ILL. I HAVE
25 A ONE HUNDRED AND ONE DEGREE FEVER. I AM UNDER THE DOCTOR'S
26 CARE. I AM TAKING MEDICATION.

27 THE DEFENDANT HAS A STATUTORY RIGHT TO TWO COUNSEL
28 IN THIS CASE, MR. BARENS AND I ARE NOT FUNGIBLE.

1 MR. BARENS AND I HAVE DIVIDED UP THE WORK SO THAT
2 HE DOES SOME THINGS AND I DO OTHER THINGS. HE IS FAMILIAR
3 WITH SOME THINGS. I AM FAMILIAR WITH OTHER THINGS.

4 MR. BARENS CANNOT IN ALL CASES REPRESENT ME TO
5 THE DEGREE THAT MR. HUNT WOULD HAVE EFFECTIVE ASSISTANCE OF
6 COUNSEL AND WITH RESPECT TO THIS PARTICULAR HEARING, MR. BARENS
7 HAS ABSOLUTELY NO FAMILIARITY WITH IT AND IS NOT CONVERSANT
8 WITH THE ISSUES THAT ARE BEFORE THE COURT IN THIS MOTION.
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1 THE COURT: WELL, I TOLD MR. BARENS YESTERDAY THAT HE
2 HAD SUFFICIENT TIME TO READ THE TRANSCRIPT OF THE PROCEEDINGS
3 IN THE VALLEY WHERE MR. ARCE HAS TESTIFIED, TO BE PREPARED
4 TO KNOW WHAT QUESTIONS TO ASK.

5 IT IS A VERY SIMPLE MOTION. IT DOESN'T REQUIRE
6 TWO COUNSEL TO HANDLE IT.

7 MR. BARENS IS LEAD COUNSEL IN THIS CASE. I AM
8 SORRY ABOUT YOUR ILLNESS. BUT MR. BARENS COULD PROCEED WITH
9 THE CASE. HE IS LEAD COUNSEL.

10 MR. CHIER: WHAT DO YOU MEAN THAT HE IS LEAD COUNSEL?

11 THE COURT: YOU HAVE BEEN BROUGHT IN TO ASSIST HIM.

12 MR. CHIER: WHAT DO YOU MEAN? DO YOU MEAN THAT HE SPEAKS
13 FOR ME?

14 THE COURT: WILL YOU SIT DOWN, PLEASE? I HAVE HEARD
15 ENOUGH ABOUT IT NOW. PLEASE, LET'S GET ON WITH THE
16 PROCEEDINGS. THE MOTION IS DENIED.

17 MR. BARENS: YOUR HONOR, I BELIEVE THIS MORNING THAT
18 THERE ARE SOME QUALIFICATIONS IN THE ARCE TESTIMONY THAT
19 MR. WAPNER HAS BROUGHT TO OUR ATTENTION. I AM NOT SURE I
20 UNDERSTAND.

21 COULD I HAVE ONE MOMENT TO SPEAK TO HIM?

22 THE COURT: SURELY.

23 MR. WAPNER: IF I CAN BE HEARD JUST BRIEFLY, I WILL
24 SPEAK WITH MR. BARENS.

25 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

26 MR. WAPNER: YOUR HONOR, IF I MIGHT BE HEARD BRIEFLY,
27 I HAVE NO OBJECTION TO THIS MATTER AS FAR AS THE ARCE MOTION
28 GOING OVER UNTIL MONDAY OR WEDNESDAY.

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1 AS I WAS ABOUT TO INFORM THE COURT AND I JUST
2 INFORMED MR. BARENS, I HAD TOLD MR. BARENS AND MR. CHIER IN
3 THE HALLWAY THAT I TALKED TO MR. ARCE THIS MORNING IN MY
4 OFFICE.

5 HE TOLD ME THAT SURVEYS ARE DONE ON JURORS AS
6 THEY REPORT TO SANTA MONICA, TO GET A DEMOGRAPHIC BREAKDOWN
7 ON HOW MANY WHITES, BLACKS AND ET CETERA THAT WE GET ON PANELS.

8 FOR SOME REASON, THE JURY COMMISSIONER PEOPLE
9 IN SANTA MONICA HAVE NOT BEEN DOING THOSE SURVEYS SINCE JUNE.
10 IN JUNE, WE WERE STILL GETTING WILLIAMS PANELS, THAT IS, PANELS
11 DRAWN UNDER THE ORDER IMPLEMENTING THE WILLIAMS DECISION THAT
12 CAME FROM A 20-MILE RADIUS.

13 WE ARE NOT GETTING WILLIAMS PANELS NOW AND HAVE
14 NOT BEEN FOR MAYBE A MONTH OR SO. I AM NOT EXACTLY SURE.

15 MR. ARCE TOLD ME THAT IT WOULD BE POSSIBLE TO
16 DO A STUDY ON THIS PANEL AND ALSO ON THE NEW PANEL THAT COMES
17 IN ON MONDAY.

18 THEY COULD DO THE STUDY ON THE PANEL COMING IN
19 ON MONDAY AND HE COULD BE HERE WITH THE RESULTS OF THAT STUDY.

20 SO PERHAPS WHAT WE CAN DO TODAY, IF IT IS ALL
21 RIGHT WITH THE COURT, IS THAT WE CAN START WITH, BEFORE WE
22 BRING THE JURORS IN -- WE CAN START WITH A DISCUSSION OF HOW
23 WE ARE GOING TO DO THE HOVEY AND WITHERSPOON VOIR DIRE AND
24 THEN START WITH THAT.

25 THEN IN THE EVENT THE COURT GRANTS THE MOTION
26 TO QUASH THE ENTIRE PANEL, THEN OBVIOUSLY, WE JUST HAVE TO
27 START ALL OVER AGAIN. IF THE COURT DENIES THE MOTION, WE
28 HAVE NOT LOST ANYTHING.

1 THE COURT: IS THAT AGREEABLE WITH YOU?

2 MR. BARENS: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. WE'LL DO IT THAT WAY.

4 MR. WAPNER: SO, SHOULD I ASK MR. ARCE TO COME BACK
5 ON WEDNESDAY NEXT?

6 THE COURT: ANY TIME YOU WANT. WILL HE BE READY THEN?

7 MR. ARCE: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. MR. ARCE, COME BACK NEXT
9 WEDNESDAY, WILL YOU PLEASE?

10 MR. WAPNER: YOUR HONOR, WHILE MR. ARCE IS STILL HERE,
11 MAY I ASK COUNSEL ON THE RECORD, FOR A STATEMENT IF THEY HAVE
12 ONE, OF EXACTLY WHAT IT IS THAT THEY ARE OBJECTING TO AS FAR
13 AS THE MAKE-UP OF THESE PANELS, BECAUSE AS I WAS ATTEMPTING
14 TO PREPARE FOR THIS MOTION AND GOING OVER SOME INFORMATION
15 I HAD ON THE DEMOGRAPHICS, I DON'T KNOW EXACTLY THE THRUST
16 OF THE MOTION. IF IT COULD BE LAID OUT FOR ME AND FOR
17 MR. ARCE AND THE COURT, I THINK IT WOULD BE HELPFUL.

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1 THE COURT: ALL RIGHT.

2 MR. CHIER: YES, THE MOTION WILL BE ADDRESSED TO THE
3 FOLLOWING ISSUES:

4 FIRST, THAT THE JURORS DRAWN FOR THE WEST DISTRICT
5 ARE NOT COMPRISED OF A FAIR OR REPRESENTATIVE CROSS-SECTION
6 OF THE COMMUNITY.

7 THE COURT: IN WHAT RESPECT?

8 MR. CHIER: YOUR HONOR, WOULD YOU ALLOW ME TO FINISH?

9 THE COURT: I WANT TO KNOW NOW. YOU HAVE MADE A
10 STATEMENT. I WANT YOU TO SUPPORT IT.

11 IN WHAT RESPECT DOESN'T THIS REPRESENT A CROSS-
12 SECTION OF THE COMMUNITY?

13 MR. CHIER: I WAS ABOUT TO COMPLETE WHAT I WAS SAYING.

14 THE COURT: TELL US WHAT IT IS.

15 MR. CHIER: THAT THE JURORS ARE DRAWN FROM APPROXIMATELY
16 AN 11-MILE RADIUS OF THE COURTHOUSE. THAT THE 11 MILES IS
17 IN FACT NOT REALLY 11 MILES, THAT IT IS BECAUSE OF THE USE
18 OF THIS BULL'S-EYE SYSTEM, A MUCH MORE CLOSER DISTANCE FROM
19 THE COURTHOUSE.

20 THAT THIS JURY SUMMONS TECHNIQUE OR PROCEDURE
21 EXCLUDES COGNIZABLE GROUPS FROM THE JURY DRAW FOR THE WEST
22 DISTRICT WHICH IS OUT OF BALANCE WITH THE COUNTY-WIDE
23 DEMOGRAPHIC AND EVEN WITHIN THE DISTRICT-WIDE DEMOGRAPHICS.
24 THAT THE JURY COMMISSIONER OF THIS COUNTY FAILS TO FOLLOW UP
25 THE QUESTIONNAIRES SENT OUT TO JURORS WHO DO NOT RETURN THEM.

26 THAT THE METHOD OF SUMMONING THE JURORS FROM THE
27 DEPARTMENT OF MOTOR VEHICLES' ROLLS AND THE VOTER REGISTRATION
28 ROLLS ELIMINATES CONSCIOUSLY COGNIZABLE SECTIONS OF THE

1 COMMUNITY WHO ARE OTHERWISE ELIGIBLE TO SERVE AS JURORS SUCH
2 AS POOR PEOPLE, SUCH AS PEOPLE WHO DON'T DRIVE AND OTHER
3 WHEELER COGNIZABLE GROUPS.

4 THAT THE METHOD BY WHICH THE JURORS -- THAT THE
5 PRESENT PANEL OF JURORS THAT HAS BEEN DRAWN IN THIS CASE, THE
6 ETHNICITY OF THE PRESENT PANEL IS OFF BY AT LEAST 50 PERCENT
7 OR MORE FROM THE DEMOGRAPHICS OF THIS DISTRICT.

8 THAT THE PERSONS WHO ARE COMPRISING THE INSTANT
9 PANEL OF JURORS ARE PERSONS FROM WHITE, UPPER CLASS URBAN
10 AREAS.

11 THAT THERE IS A DELIBERATE EXCLUSION BY THE METHOD
12 BY WHICH THEY OPERATE FROM THE JURY PANEL OF BLACK PERSONS,
13 HISPANIC PERSONS AND POOR PERSONS.

14 THAT THE JURY COMMISSIONER HAS RECEIVED NUMEROUS
15 COMPLAINTS CONCERNING THE INADEQUACY OF THE PAY AND, NEVERTHE-
16 LESS, THE SYSTEM DOES NOT CHANGE, RESULTING --

17 THE COURT: PARDON ME. WHAT DOES THE JURY COMMISSIONER
18 HAVE TO DO WITH THE RATE OF PAY?

19 MR. CHIER: THE JURY COMMISSIONER CAN MAKE RECOMMENDATIONS
20 EITHER TO THE LEGISLATURE OR THE CITY COUNCIL, WHOEVER IS
21 RESPONSIBLE FOR THIS.

22 THE COURT: IS THAT PART OF HIS DUTIES?

23 MR. CHIER: PARDON ME, YOUR HONOR?

24 THE COURT: IS THAT PART OF HIS DUTIES?

25 MR. CHIER: I DON'T KNOW. WE CAN CERTAINLY DETERMINE
26 THAT AT THE HEARING.

27 THE COURT: ALL RIGHT.

28 MR. CHIER: WHAT IS ESSENTIALLY DRAWN FOR JURY SERVICE

1 IS A VOLUNTARY JURY, A JURY OF PERSONS WHO ARE WHOLLY VOLUNTARY
2 RATHER THAN PERSONS WHO ARE REQUIRED TO FULFILL THEIR CIVIC
3 OBLIGATION AND THAT AS SUCH, YOU GET AN OVER-REPRESENTATION
4 OF RETIRED PEOPLE, OF WEALTHY PEOPLE AND OF UPPER CLASS PEOPLE.

5 AND THOSE ARE THE ISSUES THAT I INTEND TO BRING
6 OUT AT THE HEARING.

7 THE COURT: MR. ARCE, HAVE YOU HEARD ALL THAT?

8 MR. ARCE: YES, YOUR HONOR, I HAVE.

9 THE COURT: YOU BE PREPARED WHEN YOU COME BACK NEXT
10 WEDNESDAY --

11 MR. ARCE: YES, YOUR HONOR.

12 THE COURT: -- TO COUNTER OR ANSWER ALL OF THOSE.

13 MR. BARENS: I HAD ONE THING I WANTED TO ADD TO THE
14 RECORD, YOUR HONOR. WHAT CONCERNED ME SPECIFICALLY, IT WAS
15 NOTICEABLE, YOUR HONOR -- YOUR HONOR WAS KIND ENOUGH TO INQUIRE
16 OF EACH OF THE RESPECTIVE HARDSHIP JURORS AS TO THEIR
17 RESIDENCE, FOR WHICH THE DEFENSE THANKS YOU, THERE WAS NOT
18 A SINGLE JUROR AMONGST THEM THAT CAME FROM EAST OF WESTERN
19 AVENUE IN LOS ANGELES. THERE WAS NOT ONE PERSON THAT WAS FROM
20 EAST OF THE CITY CENTER AT ALL BUT, SINGULARLY, EVERY ONE OF
21 THEM WAS FROM EITHER A COASTAL CITY OR THE WEST VALLEY. THERE
22 WAS NO EASTERN COUNTY OF LOS ANGELES REPRESENTATION AT ALL,
23 SIR.

24 MR. WAPNER: WELL, MAY I, BEFORE WE GET OFF ON STATEMENTS
25 ABOUT WHAT WE HAVE OR WHAT WE DON'T HAVE, BECAUSE I THINK THE
26 RECORD WILL SPEAK FOR ITSELF ON THAT, I HAVE TWO QUESTIONS
27 I WOULD LIKE THE COURT TO ASK COUNSEL: ONE, HE INDICATES THAT
28 THE METHOD THAT WE HAVE EXCLUDES COGNIZABLE GROUPS AND THAT

1 THOSE GROUPS ARE THEN OUT OF BALANCE, HE SAID, WITH THE
2 COUNTY-WIDE DRAW AND WITH THE JUDICIAL DISTRICT. HE DIDN'T
3 SAY WHAT THOSE GROUPS WERE AND THAT IS WHAT I WANT TO KNOW
4 IN TRYING TO PREPARE FOR THESE MOTIONS, ARE WE TALKING ABOUT
5 BLACKS, HISPANICS OR BOTH?

6 THE COURT: THAT IS WHAT HE INDICATED, BLACKS, HISPANICS
7 AND THE POOR.

8 MR. CHIER: AND THE POOR.

9 THE COURT: I DON'T KNOW WHETHER HE INCLUDES SKID ROW,
10 THAT WE HAVE TO GET THOSE PEOPLE ON SKID ROW TO BECOME JURORS;
11 IS THAT WHAT YOUR INTENTION IS?

12 MR. CHIER: NOT REALLY, YOUR HONOR, PROBABLY THEY WOULD
13 BE INELIGIBLE FOR MEDICAL REASONS.

14 THE COURT: ALL RIGHT.

15 MR. WAPNER: THE OTHER THING, I HAVE SPOKEN WITH MR.
16 ARCE, IT IS POSSIBLE TO ALSO HAVE THE PRESENT PANEL FILL OUT
17 THE SURVEY THAT THEY USED FOR DEMOGRAPHICS AND IF THERE IS
18 NO OBJECTION FROM COUNSEL, I THINK THAT WE CAN PROBABLY HAVE
19 THE JURORS IN THIS CASE FILL OUT THE SAME SURVEY THAT THEY
20 USED FOR ALL OF THE OTHER CASES SO WE WILL FIND OUT EXACTLY
21 WHAT WE HAVE.

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1 THE COURT: WHAT WE ARE GOING TO DO, IF IT GOES TO THE
2 WITHERSPOON, IS THAT THE FIRST QUESTION WILL BE ASKED OF EACH
3 ONE OF THE PROSPECTIVE JURORS, WHERE DO THEY LIVE SO THAT
4 A RECORD WILL BE MADE OF WHERE THEY COME FROM.

5 SO, THERE WILL BE NO POINT IN HAVING THEM MAKING
6 OUT ANY QUESTIONNAIRES. IT WILL BE ON THE RECORD, ANYWAY.
7 SO THEREFORE, THAT WILL BE COVERED.

8 MR. WAPNER: WELL, IT IS NOT ONLY WHERE THEY LIVE. I
9 GUESS WE CAN JUST MAKE A STATEMENT FOR THE RECORD AS TO WHAT
10 THE RACE OF THE PERSON IS.

11 THE COURT: WE CAN DO THAT.

12 MR. WAPNER: IF IT IS NOT CLEAR, I ASSUME THAT THE COURT
13 WILL INQUIRE.

14 THE COURT: WE NEED NOT MAKE ANY -- WE WILL HAVE IT
15 UNDERSTOOD, OF COURSE, WE WILL ASSUME THAT THEY ARE OF THE
16 WHITE RACE UNLESS THERE IS SOME OTHER INDICATION AND THAT
17 IS ABOUT ALL.

18 MR. CHIER: YOUR HONOR, THE DEMOGRAPHIC QUESTIONNAIRE
19 FROM THE JURY COMMISSIONER, IS NOT A SINGLE QUESTION IN THE
20 QUESTIONNAIRE FOCUSING ONLY ON PLACE OF RESIDENCE.

21 IT FOCUSES ON A LOT OF DEMOGRAPHIC INFORMATION
22 WHICH --

23 THE COURT: LIKE WHAT?

24 MR. CHIER: IT GOES INTO INCOME GROUP, RACE, WHETHER
25 THEY ARE PROFESSIONAL, EDUCATIONAL LEVEL AND THINGS THAT ARE
26 GENERALLY CONSIDERED AS FUNDAMENTAL DEMOGRAPHIC INFORMATION.

27 IT IS NOT SIMPLY WHERE THEY LIVE. AND IN ORDER
28 TO MAKE THE MOTION THAT I AM MAKING, IT IS NECESSARY TO HAVE

1 THAT.

2 IN OTHER CASES IN OTHER DISTRICTS, THE JURY
3 COMMISSIONER HAS THESE STUDIES AVAILABLE SO THAT THEY CAN
4 BE DISCUSSED IN AN INTELLIGENT WAY AND COMPARED TO OTHER
5 DISTRICTS AND TO THE COUNTY, ON A COUNTY-WIDE BASIS.

6 AND I WOULD LIKE TO ADD THAT ALSO WITH RESPECT
7 TO PROOF, THAT THE DEFINITION UTILIZED BY THE JURY COMMISSIONER
8 OF THE "COMMUNITY" IS ARBITRARY AND THAT THEY HAVE -- THERE
9 IS NO LEGISLATIVE OR STATUTORY GUIDANCE AND THEY HAVE
10 ARBITRARILY DETERMINED THAT THE COMMUNITY CONSISTS OF AT THE
11 PRESENT, AN 11-MILE RADIUS OF THE COURTHOUSE.

12 THE COURT: I DON'T KNOW WHERE YOU GET THAT 11 MILES.
13 HOW DID YOU DETERMINE THAT FROM THE QUESTIONS I ASKED AS TO
14 WHERE THEY LIVE?

15 DID YOU MEASURE OFF THE DISTANCE FROM HERE AT
16 THE COURTHOUSE TO WHERE THEY TOLD YOU THAT THEY LIVED IN
17 WOODLAND HILLS AND SOME OF THESE OUTLYING AREAS? THAT IS
18 MORE THAN 11 MILES.

19 MR. CHIER: THIS IS BASED UPON MY KNOWLEDGE AND
20 UNDERSTANDING AS TO HOW THEY ARE DRAWING OR SUMMONING --

21 THE COURT: AS TO HOW THEY ARE DRAWING? YOU SAID WHEN
22 I ASKED FOR THE RESIDENCES -- EACH ONE OF THE PROSPECTIVE
23 JURORS WHO CLAIM HARDSHIP, THEY INDICATED THAT THEY CERTAINLY
24 CAME FROM MORE THAN AN 11-MILE RADIUS.

25 MR. CHIER: NO THEY DIDN'T, JUDGE.

26 THE COURT: ALL RIGHT.

27 MR. WAPNER: YOUR HONOR, FOR THE RECORD, MR. ARCE HAS
28 GIVEN ME A COPY OF THE SURVEY THAT THEY GIVE TO JURORS. IT

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1 HAS CATEGORIES FOR AGE, SEX, MARITAL STATUS, RACE, NEAREST
2 INTERSECTION TO YOUR RESIDENCE, HIGHEST GRADE AT SCHOOL
3 COMPLETED, CURRENT OCCUPATION, ANNUAL INCOME.

4 AND THEN IT HAS A SEPARATE CATEGORY THAT IS CALLED
5 "SPANISH/HISPANIC ORIGIN." AND IT HAS SEVERAL BOXES FOR
6 MEXICAN, MEXICAN/AMERICAN, CHICANO AND ANOTHER BOX FOR
7 PUERTO RICAN OR CUBAN AND ANOTHER ONE FOR SPANISH/HISPANIC
8 WITH SPECIFY.

9 SO THAT IS THE QUESTIONNAIRE THAT MR. ARCE WOULD
10 HAVE THE JURORS --

11 THE COURT: NEXT WEDNESDAY WE WILL GO INTO THAT IN
12 DETAIL.

13 MR. WAPNER: WHAT I AM ASKING YOU IS, IF IT IS PERMISSIBLE,
14 TO HAVE THE QUESTIONNAIRE CIRCULATED TO THE PRESENT PANEL,
15 INCLUDING THE JURORS WHO WILL BE SERVING ON THIS CASE SO THEY
16 CAN HAVE THE RESULTS OF THAT BY WEDNESDAY.

17 MR. BARENS: WE IN FACT, MAKE A MOTION THAT THAT BE
18 DONE.

19 THE COURT: ALL RIGHT. I WILL GRANT YOUR MOTION.

20 MR. BARENS: THANK YOU, YOUR HONOR.

21 THE COURT: ALL RIGHT. HAVE YOU GOT ENOUGH FORMS FOR
22 THEM TO FILL OUT?

23 MR. WAPNER: SORRY?

24 THE COURT: HAVE YOU GOT ENOUGH FORMS FOR THOSE
25 PROSPECTIVE JURORS TO FILL OUT?

26 MR. WAPNER: I DON'T KNOW EXACTLY HOW IT IS DONE.

27 MR. CHIER: THEY PROVIDE THE FORMS, YOUR HONOR.

28 MR. WAPNER: WE'LL PROVIDE THE FORMS FOR THE JURORS

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1 TO FILL OUT.

2 THE COURT: ALL RIGHT. HOWEVER, WE CAN PROCEED WITH
3 THE WITHERSPOON, CAN'T WE, MEANTIME?

4 MR. WAPNER: YES. I DON'T SEE ANY -- BUT BEFORE WE
5 START WITH THE WITHERSPOON, WE HAVE TO DETERMINE EXACTLY WHAT
6 THE QUESTIONS ARE THAT THE COURT IS GOING TO ASK THE JURORS
7 ON WITHERSPOON. AND I THINK THAT --

8 THE COURT: WELL, THERE ARE FOUR QUESTIONS WHICH I HAVE
9 DONE IN ANY NUMBER OF CASES. DIDN'T WE DO THE SAME THING
10 IN THE PITTMAN CASE?

11 MR. WAPNER: YES. I THINK WE SHOULD PUT IT ON THE
12 RECORD SO THAT EVERYONE IS --

13 THE COURT: WELL, IT WILL BE ON THE RECORD WHEN WE HAVE
14 THEM EACH INDIVIDUALLY INTERROGATED.

15 IF YOU WANT TO BE EXCUSED, YOU MAY BE EXCUSED,
16 MR. CHIER.

17 MR. BARENS: YOUR HONOR, LET ME UNDERSTAND WHAT WE ARE
18 PROCEEDING WITH AT THIS POINT. WE HAD THE UNRESOLVED
19 QUESTIONS ON THE QUESTIONNAIRE YESTERDAY, YOUR HONOR. AND --

20 THE COURT: YES, THAT IS THE --

21 MR. BARENS: DID YOU WANT TO CONCLUDE THAT?

22 THE COURT: WE DON'T HAVE TO CONCLUDE THAT. WE CAN
23 DO THE WITHERSPOON FIRST, IF YOU WANT TO. THEN WE CAN CONCLUDE
24 THAT AFTERWARDS. WE CAN DO IT ANY WAY YOU WANT.

25 IF YOU WANT TO GO THROUGH THE REST OF THEM, BECAUSE
26 THAT CAN WAIT FOR THE TIME OF THE TRIAL BEFORE WE IMPANEL
27 THE JURY AND --

28 MR. BARENS: THERE WERE SOME QUESTIONS CONCERNING

1 PRETRIAL PUBLICITY VOIR DIRE, YOUR HONOR. I DON'T KNOW AT
2 WHAT JUNCTURE YOU WISH TO VENTURE INTO THAT.

3 WE DO HAVE THE HOVEY, YOUR HONOR.

4 THE COURT: YES.

5 MR. WAPNER: YOUR HONOR, MAY I INQUIRE OR ASK THE COURT
6 TO INQUIRE OF COUNSEL WHETHER OR NOT MR. CHIER INTENDS TO
7 BE PRESENT FOR THE HOVEY/WITHERSPOON PART OF THE VOIR DIRE?

8 THE COURT: WELL, I THINK THAT IN VIEW OF THE FACT THAT
9 HE IS ILL, I THINK MR. BARENS CAN HANDLE THAT WITHOUT
10 MR. CHIER, IF MR. CHIER WANTS TO BE EXCUSED.

11 MR. CHIER: NO. I WILL STAY HERE. MY CLIENT HAS A
12 RIGHT TO HAVE BOTH LAWYERS HERE.

13 THE COURT: NOT NECESSARILY. ANY NUMBER OF TIMES EITHER
14 ONE OF YOU HAS BEEN ABSENT DURING THE TIME THAT WE WERE TAKING
15 CARE OF THE HARDSHIP.

16 MR. CHIER: HARDSHIP WAS A MATTER ON WHICH WE COULD
17 GIVE EACH OTHER A PROXY WITHOUT ANY -- THIS HAS TO DO WITH
18 THE SELECTION OF PEOPLE THAT ARE GOING TO DECIDE WHETHER THIS
19 MAN LIVES OR DIES. I THINK HE IS ENTITLED TO TWO PEOPLE.

20 MR. BARENS: LET'S JUST PROCEED. MR. CHIER IS HERE.

21 THE COURT: IF HE WANTS TO STAY, HE CAN. ALL RIGHT?

22 MR. CHIER: I AM STAYING BECAUSE YOUR HONOR WILL NOT
23 ADJOURN THE PROCEEDINGS.

24 THE COURT: WELL, I WILL EXCUSE YOU IF YOU WANT TO BE
25 EXCUSED.

26 MR. CHIER: I UNDERSTAND THAT.

27 THE COURT: BUT I AM NOT KEEPING YOU HERE. I THINK
28 MR. BARENS CAN HANDLE IT EXTREMELY COMPETENTLY WITHOUT YOU

1 BEING PRESENT. HE HANDLED EVERYTHING ELSE VERY COMPETENTLY
2 UP TO THIS POINT.

3 I WILL HAVE THE JURORS COME IN.

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1 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE
2 HELD IN CHAMBERS:)

3 THE COURT: ALL RIGHT, THE RECORD WILL INDICATE WE ARE
4 PRESENTLY IN CHAMBERS.

5 I AM ADDRESSING MYSELF NOW TO THE DISTRICT ATTORNEY:
6 HAVE YOU ANY OBJECTION TO MY ASKING THE JURORS AND FOLLOWING
7 THE FORM WHICH HAS BEEN PRESENTED TO THE COURT BY DEFENSE
8 COUNSEL?

9 MR. BARENS: NO. I BELIEVE THAT IS THE D.A.'S FORM.

10 THE COURT: THIS IS THE D.A.'S?

11 MR. BARENS: YES, YOUR HONOR.

12 THE COURT: I THOUGHT IT WAS YOURS.

13 MR. BARENS: IF I MIGHT SEE, SIR.

14 MR. CHIER: I HAVE NEVER SEEN THAT BEFORE.

15 MR. BARENS: THAT IS MR. WAPNER'S FORMAT.

16 THE COURT: ALL RIGHT, FINE. DO YOU HAVE ANY OBJECTION
17 TO MY FOLLOWING THAT FORM?

18 MR. CHIER: WE AGREED ON THE ONE THAT WE WORKED OUT
19 OURSELVES.

20 THE COURT: WOULD THAT BE IT RIGHT THERE?

21 MR. BARENS: NO. THIS IS NOT IT, YOUR HONOR.

22 MR. WAPNER: I DON'T KNOW IF WE AGREED ON THAT ONE.
23 THAT IS THE ONE YOU SUBMITTED AS PART OF YOUR MOTION.

24 MR. CHIER: NO. THIS IS THE ONE THAT WE SPENT ABOUT
25 FOUR HOURS GOING OVER.

26 THE COURT: "PROCEDURE AND SCRIPT -- DEATH PENALTY CASE".

27 MR. CHIER: THAT IS THE SAME ONE.

28 MR. BARENS: THAT IS THE ONE MR. WAPNER PRESENTED.

1 MR. WAPNER: WAIT A SECOND. WHAT ARE YOU --

2 THE COURT: WHICH IS THE ONE YOU PRESENTED?

3 MR. CHIER: THIS ONE WE WORKED OUT TOGETHER. THE ONE
4 YOU WOULDN'T ALLOW DISTRIBUTED.

5 MR. WAPNER: THE ONE THAT WE WORKED OUT.

6 THE COURT: THIS IS THAT QUESTIONNAIRE THING?

7 MR. CHIER: YES.

8 THE COURT: I DON'T WANT A QUESTIONNAIRE.

9 I AM GOING TO TELL THE JURORS, LIKE I DO IN EVERY
10 OTHER CASE, AND I DON'T KNOW WHY THIS CASE SHOULD BE ANY
11 DIFFERENT, AND THAT INCLUDES DEATH PENALTY CASES, I AM GOING
12 TO TELL THE JURORS EXACTLY WHAT THIS CASE IS ALL ABOUT AND
13 THEN --

14 MR. CHIER: WHAT DO YOU MEAN BY WHAT IT IS ALL ABOUT,
15 YOUR HONOR?

16 THE COURT: I WILL READ FROM THE INFORMATION AND TELL
17 THEM WHAT THE CASE IS ALL ABOUT, WHAT YOU SUPPOSE I MEAN?

18 MR. CHIER: I DON'T KNOW WHAT YOU MEAN. THAT IS WHY
19 I AM ASKING.

20 THE COURT: I CAN ASK THE QUESTIONS, IF YOU WILL ALLOW
21 ME, PLEASE.

22 MR. BARENS: YOUR HONOR, ONE CAUTION THAT I WISH TO
23 EXPRESS THIS MORNING THAT I AM SENSITIVE TO IN THIS PART OF
24 THE PROCEEDING AND THAT IS, THAT EACH JUROR BE TOLD INDIVIDUALLY
25 THAT ALTHOUGH WE ARE DISCUSSING A PENALTY PHASE WITH THEM,
26 THAT THEY UNDERSTAND THERE IS NO IMPLICATION FROM THAT -- THERE
27 HAS BEEN NO EVIDENCE SUBMITTED -- THAT THEY ARE NOT TO PRESUME
28 THAT THEY WILL EVER GET TO A PENALTY PHASE BUT, RATHER, YOU

1 ARE PREPARING THEM IN THAT EVENT BUT THAT THEY ARE NOT TO
2 ASSUME THAT.

3 THE COURT: AFTER I TELL THEM WHAT THE CASE IS ALL ABOUT,
4 THIS IS WHAT I HAVE USED IN OTHER CASES WHICH HAVE BEEN
5 SUSTAINED AS FOLLOWS, AND I HAVE INDICATED IT BY READING THE
6 INFORMATION: THE DEFENDANT IS CHARGED IN THIS CASE WITH
7 MURDER, WHICH IT IS ALLEGED WAS COMMITTED UNDER SPECIAL
8 CIRCUMSTANCES.

9 IT IS INCUMBENT UPON ME AT THIS POINT TO EXPLAIN
10 TO YOU THE PROCEDURES THAT WE HAVE IN CALIFORNIA FOR HANDLING
11 THIS TYPE OF CASE. THEN I WANT TO MAKE SOME INQUIRY AS TO
12 YOUR PERSONAL VIEWS IN REGARD TO THEM.

13 AT THE OUTSET OF THIS TRIAL, THE COURT HAS NO
14 WAY OF KNOWING WHETHER OR NOT WE WILL GO THROUGH ALL OF THESE
15 PROCEDURES, BUT LET ME EXPLAIN THESE PROCEDURES TO YOU.

16 THE FIRST QUESTION THAT THE JURY WILL BE CALLED
17 UPON TO DECIDE IS THE QUESTION OF THE INNOCENCE OR GUILT OF
18 THE DEFENDANT OF THE CHARGE OF MURDER. WE HAVE TWO DEGREES
19 OF MURDER IN CALIFORNIA AND THOSE DEFINITIONS WILL BE GIVEN
20 TO YOU WHEN THE JURY IS INSTRUCTED ON THE LAW, BUT FOR NOW
21 YOU SHOULD KNOW THAT THEY ARE MURDER IN THE FIRST DEGREE AND
22 MURDER IN THE SECOND DEGREE.

23 IN THE EVENT, AND ONLY IN THE EVENT, THE JURY
24 FINDS THE DEFENDANT GUILTY OF MURDER IN THE FIRST DEGREE, AND
25 THAT MUST BE A FINDING BEYOND A REASONABLE DOUBT, THEN THE
26 JURY IN THAT SAME PROCEEDING WOULD BE ASKED TO DETERMINE THE
27 TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCES ALLEGED.

28 IN THE EVENT THAT THE JURY FINDS A SPECIAL

1 CIRCUMSTANCE ALLEGED TO BE TRUE, AND THIS FINDING ALSO MUST
2 BE BASED UPON PROOF BEYOND A REASONABLE DOUBT, THEN THE LAW
3 PROVIDES THAT THE SAME JURY IN ANOTHER PHASE OF THE TRIAL SHALL
4 DECIDE WHAT THE PUNISHMENT TO THE DEFENDANT SHALL BE.

5 IN THE EVENT, AND ONLY IN THE EVENT, THAT WE GET
6 TO THAT PHASE OF THE TRIAL, THAT IS, THAT, ONE, THE JURY HAS
7 FOUND BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY
8 OF MURDER IN THE FIRST DEGREE AND, TWO, THAT THE SPECIAL
9 CIRCUMSTANCE --

10 INCIDENTALLY, THERE IS ONLY ONE SPECIAL CIRCUMSTANCE
11 IN THIS CASE NOW LEFT, ISN'T THERE?

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1 MR. WAPNER: CORRECT.

2 THE COURT: ALL RIGHT. THAT IS MURDER IN THE COURSE
3 OF ROBBERY, IS THAT IT?

4 MR. WAPNER: CORRECT.

5 THE COURT: -- ALLEGED IS TRUE, THEN THE JURY MUST
6 DECIDE WHETHER THE PUNISHMENT SHOULD BE DEATH OR LIFE
7 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

8 THE COURT IS THEREFORE REQUIRED TO ASCERTAIN WHETHER
9 THERE IS ANY PROSPECTIVE JUROR WHO ENTERTAINS SUCH A
10 CONSCIENTIOUS OPINION REGARDING THE DEATH PENALTY THAT WOULD
11 PRECLUDE HIS OR HER FINDING THE DEFENDANT GUILTY OF MURDER
12 IN THE FIRST DEGREE, IF THE EVIDENCE SHOULD JUSTIFY SUCH A
13 FINDING; AND/OR WOULD PREVENT HIS FINDING OR HER FINDING OF
14 THE TRUTHFULNESS AS TO THE SPECIAL CIRCUMSTANCE ALLEGED, IF
15 THE EVIDENCE SHOULD JUSTIFY SUCH A FINDING OR FINDINGS; AND/OR
16 IF THAT JUROR, BECAUSE OF HIS CONSCIENTIOUS OBJECTION TO THE
17 DEATH PENALTY, WOULD UNDER NO CIRCUMSTANCES VOTE FOR A VERDICT
18 OF DEATH.

19 OR THE OPPOSITE OF THAT, THAT IS, DO WE HAVE ANY
20 PROSPECTIVE JUROR WHO HAS SUCH A CONSCIENTIOUS OPINION
21 REGARDING THE TWO POSSIBLE VERDICTS THAT HE OR SHE WOULD
22 AUTOMATICALLY, AND IN EVERY CASE, VOTE FOR A VERDICT OF DEATH,
23 AND UNDER NO CIRCUMSTANCES VOTE FOR A VERDICT OF LIFE
24 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?

25 MR. CHIER: UNDER NO CIRCUMSTANCES, DID YOU SAY?

26 THE COURT: UNDER NO CIRCUMSTANCES VOTE FOR A VERDICT
27 OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE?

28 IF YOU ENTERTAIN ANY SUCH CONSCIENTIOUS OPINIONS,

1 THE LAW PROVIDES THAT YOU WILL NOT BE PERMITTED OR COMPELLED
2 TO SERVE AS A JUROR IN THIS CASE.

3 NOW, LET ME REITERATE THAT I HAVE NO WAY OF KNOWING
4 AS WE START THIS TRIAL WHETHER OR NOT YOU WILL EVER BE CALLED
5 UPON TO MAKE THE DETERMINATION AS TO THE PUNISHMENT BECAUSE
6 THAT WILL DEPEND UPON YOUR FINDINGS, FIRST, AS TO THE CHARGE
7 OF MURDER AND, SECOND, AS TO THE TRUTHFULNESS OR FALSITY OF
8 THE SPECIAL CIRCUMSTANCE ALLEGED.

9 IN ARRIVING AT YOUR VERDICT IN THIS CASE AS TO
10 THE GUILT OR INNOCENCE OF THE DEFENDANT, THE SUBJECT OF PENALTY
11 OR PUNISHMENT IS NOT TO BE DISCUSSED AND IS NOT TO BE CONSIDERED
12 BY THE JURY, AS THAT IS A MATTER THAT IS NOT BEFORE THE JURY
13 DURING THE GUILT PHASE.

14 IN ARRIVING AT YOUR VERDICT IN THIS CASE AS TO
15 THE TRUTH OR FALSITY OF THE SPECIAL CIRCUMSTANCE ALLEGED,
16 SHOULD YOU ARRIVE AT THAT POINT, THE SUBJECT OF PENALTY OR
17 PUNISHMENT IS NOT TO BE DISCUSSED AND IS NOT TO BE CONSIDERED
18 BY THE JURY AS THAT IS NOT A MATTER BEFORE THE JURY DURING
19 THAT PHASE OF THE TRIAL. IT IS ONLY IN THE EVENT THAT THE
20 DEFENDANT IS FOUND GUILTY OF MURDER IN THE FIRST DEGREE AND
21 THE JURY FINDS ALSO THAT THE SPECIAL CIRCUMSTANCE ALLEGED IN
22 THE INFORMATION IS TRUE THAT WE WOULD GO INTO THE PENALTY
23 PHASE THAT I HAVE DESCRIBED. IN THAT PHASE OF THE TRIAL, SHOULD
24 WE GET THERE, EVIDENCE MAY BE PRESENTED BY BOTH SIDES AS TO
25 ANY MATTER RELEVANT TO AGGRAVATION, MITIGATION AND SENTENCE,
26 BUT THERE IS NO POINT IN GOING INTO THAT ANY FURTHER AT THIS
27 TIME.

28 I WOULD LIKE YOU TO ANSWER THE FOLLOWING QUESTIONS

1 YES OR NO, WITHOUT ANY FURTHER STATEMENT. IF THE QUESTION
2 IS UNCLEAR, PLEASE ASK THAT IT BE REPEATED BUT DO NOT GO
3 BEYOND THE QUESTIONS YES OR NO.

4 FIRST -- AND THEN THERE ARE THE FIRST QUESTIONS --
5 FIRST -- AND THESE ARE ALL WITHERSPOON --

6 CAN THE DEFENDANT--IF THE PEOPLE PROVE BEYOND A
7 REASONABLE THAT THE DEFENDANT IS GUILTY OF MURDER IN THE FIRST
8 DEGREE, WOULD YOU REFUSE TO VOTE FOR SUCH A VERDICT BECAUSE
9 OF YOUR CONSCIENTIOUS OPINION REGARDING THE DEATH PENALTY,
10 KNOWING THAT TO DO SO WOULD OBLIGATE THE JURY TO GET INTO THE
11 SECOND AND POSSIBLY THIRD PHASE OF THE TRIAL?

12 IN OTHER WORDS, REGARDLESS OF THE EVIDENCE AND
13 BCause OF YOUR CONSCIENTIOUS OBJECTIONS TO THE DEATH PENALTY,
14 WOULD YOU IN EVERY CASE AUTOMATICALLY --

15 MR. BARENS: YOUR HONOR --

16 THE BAILIFF: JUDGE, IS EVERYTHING GOING TO BE DONE IN
17 CHAMBERS HERE? THERE ARE A LOT OF PRESS PEOPLE THAT WANT TO
18 STAND IN THE BACK OF THE ROOM. I DON'T KNOW HOW YOU FEEL
19 ABOUT THAT.

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1 MR. CHIER: YOUR HONOR, SHOULD I --

2 THE COURT: (READING:)

3 "... OR SOMETHING OTHER THAN MURDER
4 IN THE FIRST DEGREE BECAUSE YOU KNOW THAT SUCH A
5 VERDICT WOULD END THE DEATH PENALTY QUESTION ONCE
6 AND FOR ALL?"

7 THAT IS THE FIRST QUESTION.

8 MR. BARENS: YOUR HONOR, I DID NOT TOTALLY UNDERSTAND
9 THE FIRST QUESTION.

10 THE COURT: WELL, LET ME READ IT TO YOU AGAIN.

11 MR. BARENS: SPECIFICALLY YOUR HONOR, WHEN YOU ARE
12 SPEAKING ABOUT THE SECOND AND THIRD PHASE, I UNDERSTAND THE
13 SECOND PHASE --

14 THE COURT: SECOND PHASE, NOT THE THIRD PHASE. NO,
15 CROSS THAT OUT. THERE IS NO THIRD PHASE.

16 MR. BARENS: ALL RIGHT. I DID NOT UNDERSTAND THAT.

17 THE COURT: (READING:)

18 "FIRST, IF THE PEOPLE PROVE BEYOND A
19 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF
20 MURDER IN THE FIRST DEGREE, WOULD YOU REFUSE TO
21 VOTE FOR SUCH A VERDICT BECAUSE OF YOUR CONSCIENTIOUS
22 OPINION CONCERNING THE DEATH PENALTY, KNOWING THAT
23 TO DO SO WOULD OBLIGATE THE JURY TO GET INTO A
24 SECOND AND POSSIBLY A THIRD PHASE?"

25 MR. WAPNER: YOUR HONOR, WHAT THAT REFERS TO, I THINK
26 THAT ALTHOUGH MAYBE THE TERMINOLOGY IS BAD, THIS IS WHAT I
27 THINK THAT REFERS TO.

28 IT IS A FINDING OF GUILT, AS OPPOSED TO A FINDING

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1 OF THE TRUTH OF THE SPECIAL CIRCUMSTANCES, WHICH I THINK IS
2 GOING TO COME UP IN THE --

3 THE COURT: WELL, THAT IS ONE. TWO --

4 MR. CHIER: I THINK IT IS COMPLETELY UNINTELLIGIBLE.

5 MR. WAPNER: WELL, THEY ARE NOT --

6 THE COURT: WELL, THIS HAS BEEN PASSED UPON IN ANY
7 NUMBER OF DEATH PENALTY CASES WHERE I HAVE ASKED ALL THOSE
8 QUESTIONS. AND THIS IS PREPARED BY A DEFENSE LAWYER WHO IS
9 EXTREMELY GOOD.

10 I HAVE USED THIS IN ALL DEATH PENALTY CASES. DO
11 YOU KNOW RICHARD HIRSCH?

12 MR. CHIER: YES.

13 THE COURT: ALL RIGHT. RICHARD HIRSCH PREPARED THIS.
14 YOU TAKE IT UP WITH HIM IF YOU DON'T THINK IT IS ANY GOOD.

15 MR. BARENS: I STILL DON'T UNDERSTAND WHAT HE MEANT
16 BY THE THIRD PHASE, YOUR HONOR.

17 THE COURT: WELL, I WILL CROSS OUT THE THIRD PHASE.
18 THE THIRD PHASE HAS TO DO WITH -- WHAT DO YOU WANT IT TO SAY?

19 MR. WAPNER: WELL, WHAT I AM TRYING TO SAY, WHEN HE
20 USES THE "PHASE," TO DESCRIBE THE SECOND AND THIRD, I THINK
21 THAT WHAT HE IS TRYING TO TALK ABOUT IS A DISTINCTION BETWEEN
22 VOTING FOR GUILT, AS OPPOSED TO A VOTE FOR THE TRUTH OR
23 FALSITY OF THE SPECIAL CIRCUMSTANCES.

24 THE COURT: NOW, THERE IS SOME AMBIGUITY. I WILL CUT
25 OUT THE THIRD PHASE. ALL RIGHT?

26 MR. BARENS: I SUBMIT THAT IF IT IS DIFFICULT FOR COUNSEL
27 TO FOLLOW, A JUROR IS GOING TO HAVE AN AWFULLY HARD TIME WITH
28 THAT CONCEPT.

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1 MR. WAPNER: I AGREE WITH YOU. I THINK THAT THE
2 LANGUAGE IS A LITTLE BIT --

3 THE COURT: HAVE YOU GOT ANY BETTER LANGUAGE? LET ME
4 HAVE IT.

5 MR. WAPNER: WELL, I --

6 THE COURT: WHAT IS YOURS? HAVE YOU GOT ANY QUESTIONS?

7 MR. CHIER: I HAVE AN OUTLINE OF IT.

8 MR. WAPNER: I WOULD LIKE THE EXPLANATION --

9 MR. CHIER: I WOULD ASK, IS THE COURT NOT GOING TO
10 PERMIT COUNSEL TO CONDUCT THE HOVEY VOIR DIRE AND THE
11 PUBLICITY VOIR DIRE?

12 THE COURT: AFTER I GET THROUGH WITH THEM, THEY WILL
13 BE HERE ONE AT A TIME. YOU CAN ASK QUESTIONS OF THEM. I
14 WILL NOT FORECLOSE YOU FROM DOING THAT.

15 MR. CHIER: IS IT NECESSARY TO ADMONISH THEM EN MASSE
16 ABOUT THE DEATH PENALTY THING OR CAN THAT BE DONE IN CHAMBERS?

17 THE COURT: NO. I TOLD YOU EXACTLY WHAT I AM GOING
18 TO DO. TO ALL OF THE JURORS, I AM GOING TO READ THIS.

19 MR. CHIER: THEY ARE NOT REQUIRED TO ANSWER ON THE SPOT?

20 THE COURT: NO, NO. NO, IT IS ONLY WHEN I BRING THEM
21 IN ONE AT A TIME.

22 MR. CHIER: WELL, I HAVE HERE IN THE BEGINNING OF THE
23 MOTION THAT WE WITHDREW, SIX QUESTIONS WHICH I THINK ARE --

24 THE COURT: SIX? I THOUGHT THERE WERE FOUR.

25 MR. WAPNER: WELL, I THINK FOUR IS CERTAINLY BETTER
26 THAN SIX. BECAUSE THE SIX THAT HE HAD --

27 MR. CHIER: WELL, IF YOU LOOK AT THE SIXTH QUESTION,
28 IT SAYS FOR EXAMPLE, "DO YOU UNDERSTAND THE ISSUE OF THE

1 DEATH PENALTY MAY OR MAY NOT OCCUR IN THIS CASE AND THAT THESE
2 QUESTIONS HAVE BEEN ASKED ..."

3 THE COURT: WELL, I ALREADY READ THAT TO YOU.

4 MR. CHIER: WELL YOUR HONOR --

5 THE COURT: I SAID TO YOU THAT THEY MIGHT NOT EVEN REACH
6 THAT STAGE.

7 MR. CHIER: WHY DON'T YOU READ THE FIVE QUESTIONS?

8 THE COURT: I WILL READ THOSE. IF YOU OBJECT TO THEM,
9 YOU OBJECT TO THEM.

10 MR. CHIER: WELL, THESE ARE A LITTLE MORE CLEAR.

11 THE COURT: I WILL NOT READ YOURS.

12 MR. CHIER: YOU HAVE NOT LOOKED AT THEM.

13 THE COURT: YES. I HAVE LOOKED AT THEM. I WILL USE
14 MINE.

15 I AM TELLING YOU, IF YOU HAVE ANY OBJECTION TO
16 THEM, STATE YOUR OBJECTION. THAT IS THE FIRST.

17 THE SECOND IS:

18 "IF THE PEOPLE PROVE BEYOND A REASONABLE
19 DOUBT THAT THE DEFENDANT IS GUILTY OF MURDER IN THE
20 FIRST DEGREE AND PROVE BEYOND A REASONABLE DOUBT
21 THE TRUTHFULNESS OF THE SPECIAL CIRCUMSTANCES
22 ALLEGED, WOULD YOU REFUSE TO VOTE FOR A VERDICT
23 OF THE TRUTHFULNESS OF THE SPECIAL CIRCUMSTANCES
24 BECAUSE OF YOUR CONSCIENTIOUS OPINION CONCERNING
25 THE DEATH PENALTY AND KNOWING THAT TO DO SO,
26 WOULD OBLIGATE THE JURY TO GET INTO THE PENALTY
27 PHASE?

28 "IN OTHER WORDS, REGARDLESS OF THE

1 EVIDENCE THAT MIGHT BE PRODUCED DURING THE COURSE
2 OF THIS TRIAL AND BECAUSE OF YOUR CONSCIENTIOUS
3 OBJECTION TO THE DEATH PENALTY, WOULD YOU IN EVERY
4 CASE, AUTOMATICALLY VOTE FOR A VERDICT OF UNTRUE
5 AS TO THE SPECIAL CIRCUMSTANCES ALLEGED BECAUSE
6 YOU KNOW SUCH A VERDICT WOULD END THE DEATH PENALTY
7 QUESTION THEN AND THERE?

8 "THIRD, DO YOU ENTERTAIN SUCH
9 CONSCIENTIOUS OPINIONS CONCERNING THE DEATH PENALTY,
10 THAT REGARDLESS OF THE EVIDENCE THAT MIGHT BE
11 DEVELOPED DURING THAT PHASE OF THE TRIAL, SHOULD
12 YOU GET THERE, WOULD YOU AUTOMATICALLY AND
13 ABSOLUTELY REFUSE TO VOTE FOR SUCH A PENALTY IN
14 THIS CASE?

15 "IN OTHER WORDS, REGARDLESS OF THE
16 EVIDENCE, THAT BECAUSE OF YOUR CONSCIENTIOUS
17 OBJECTION TO THE DEATH PENALTY PHASE, WOULD YOU
18 IN EVERY CASE, AUTOMATICALLY VOTE FOR LIFE
19 IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE AND
20 NEVER VOTE FOR A VERDICT OF DEATH?

21 "FOURTH, FINALLY, DO YOU ENTERTAIN
22 SUCH CONSCIENTIOUS OPINION CONCERNING THE DEATH
23 PENALTY, THAT SHOULD WE GET INTO THAT PHASE OF THE
24 TRIAL, WOULD YOU AUTOMATICALLY AND IN EVERY CASE
25 VOTE FOR A VERDICT OF DEATH AND UNDER NO
26 CIRCUMSTANCES VOTE FOR A VERDICT OF LIFE
27 IMPRISONMENT WITHOUT POSSIBILITY OF PAROLE?"

28 THOSE FOUR QUESTIONS HAVE BEEN TESTED AND THEY

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1 ARE THE QUESTIONS I AM GOING TO ASK.

2 MR. BARENS: DOES YOUR HONOR, ASIDE FROM READING THOSE
3 QUESTIONS, HAVE ANY COLLOQUY WITH THE JURORS? I AM SUGGESTING
4 AGAIN YOUR HONOR, THAT THERE BE COLLOQUY TO THE EFFECT THAT
5 ALTHOUGH YOU ARE PROCEDURALLY REQUIRED TO GO THROUGH AND
6 ADMONISH THEM ON THESE FOUR QUESTIONS IN ANY CASE IN WHICH
7 THE DISTRICT ATTORNEY SEEKS THE DEATH PENALTY, THAT THEY ARE
8 NOT TO GIVE ANY WEIGHT TO THE FACT AND THEY UNDERSTAND THERE
9 HAS BEEN NO EVIDENCE ADDUCED AND THAT THEY MAY NEVER GET TO
10 THIS? I MEAN, IN GENERAL?

11 THE COURT: I READ THAT TO YOU.

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1 MR. BARENS: YOUR HONOR, I SAY THAT TO YOU BECAUSE OF
2 THE IMPACT --

3 THE COURT: DO YOU WANT ME TO READ IT TO YOU AGAIN?

4 MR. BARENS: NO. I UNDERSTAND THAT YOU ARE GOING TO
5 READ IT.

6 THE COURT: I READ ALL OF THIS TO YOU. I WILL READ
7 IT TO ALL OF THE JURORS. I ADMONISH THEM THAT WE MAY NOT
8 GET TO THAT STAGE OF IT IF THE EVIDENCE JUSTIFIES IT AND SO
9 ON AND SO FORTH.

10 MR. BARENS: I AM SIMPLY ASKING YOUR HONOR, WITHOUT
11 YOUR HONOR READING FROM A FORMAT TO THE JURORS, IF YOUR HONOR
12 COULD ADDRESS THE JURORS ON THE PRINCIPLES OF LAW TO THE
13 EFFECT THAT IT MIGHT HAVE A BIGGER IMPACT ON THEIR MEMORIES,
14 YOUR HONOR, THAN READING FROM THE FORM, TO JUST GENERALLY
15 ADMONISH THEM THAT ALTHOUGH WE ARE DISCUSSING THE PENALTY
16 PHASE ISSUE WITH THEM NOW, THAT THEY ARE NOT TO THINK THAT
17 IN ANY WAY THERE HAS BEEN ANY DETERMINATION ABOUT MR. HUNT'S
18 GUILT OR INNOCENCE BY THE FACT WE ARE READING THIS.

19 I ONLY CITE TO YOUR ATTENTION YOUR HONOR -- I
20 HAVE THE TRANSCRIPT WITH ME OF JUDGE RAVELLE OF THE DOWNTOWN
21 SUPERIOR COURT, DOING THE RECENT HAWKINS TRIAL, WHICH WAS
22 ONLY A COUPLE OF MONTHS AGO, WHERE IN INDIVIDUAL VOIR DIRE
23 WITH EACH OF THE JURORS, SHE MADE IT A POINT OF TELLING THEM
24 THAT THIS HAD NOTHING TO DO WITH THE GUILT OR INNOCENCE OF
25 MR. HAWKINS, BUT RATHER WAS AN EXERCISE THAT THEY HAD TO
26 ADDRESS BECAUSE THE LAW REQUIRED THEM TO DO SO.

27 I CAN READ TO YOUR HONOR TWO SENTENCES THAT ARE
28 INDICATIVE OF --

B-2
1 THE COURT: GO AHEAD.

2 MR. BARENS: THIS IS AT A POINT ON PAGE 5084 OF THE
3 TRANSCRIPT. JUDGE RAVELLE SAYS:

4 "THAT BECAUSE I AM DISCUSSING PENALTY
5 RIGHT NOW, I WANT YOU TO UNDERSTAND I HAVE NO WAY
6 OF KNOWING WHETHER THERE WILL EVER BE A PENALTY
7 PHASE. WE HAVE NOT HAD ANY EVIDENCE. WE HAVE NOT
8 HAD ANY TRIAL. I DON'T KNOW WHETHER YOU ARE GOING
9 TO FIND MR. HAWKINS GUILTY OR NOT GUILTY OR WHATEVER
10 WILL HAPPEN."

11 THE COURT: I HAVE SAID IN MY OPENING STATEMENT --

12 MR. BARENS: I UNDERSTAND THAT, YOUR HONOR. I THINK
13 THE IMPACT OF THAT IS PARTICULARLY ENHANCED IF YOUR HONOR
14 WOULD MAKE A COMMENT LIKE THIS TO THE JURORS. INDIVIDUALLY
15 HEARING IT FROM YOUR HONOR IN A MORE TAILORED FORMAT THAN
16 COMING FROM A FORM --

17 THE COURT: I DON'T SEE ANY POINT IN REPEATING IT.
18 I HAVE TOLD THE JURORS IN OPEN COURT. AND YOU WANT ME TO
19 READ WHAT IS CONTAINED THERE. YOU WANT ME TO REPEAT THAT
20 WHEN THEY COME IN ONE BY ONE?

21 MR. BARENS: YES, YOUR HONOR. IT IS ABSOLUTELY
22 CRITICAL.

23 MR. CHIER: BECAUSE THE --

24 THE COURT: I WAS ASKING HIM --

25 MR. BARENS: WELL, MR. CHIER IS MAKING MY POINT. WHAT
26 I TRIED TO SAY BEFORE YOUR HONOR, THE PRESENTATION OF THAT
27 IN READING IT FROM A FORM TO MOST PEOPLE, AS OPPOSED TO HEARING
28 YOUR HONOR'S PERSONALITY INJECTED INTO IT, BY YOUR SAYING

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1 IT INDIVIDUALLY TO JURORS, I SUBMIT THAT THE IMPACT IS
2 DRAMATICALLY DIFFERENT.

3 THE COURT: ALL RIGHT. I WILL DO THAT. ALSO, I WILL
4 ASK EACH JUROR.

5 NOW, LET ME HAVE THAT --

6 THE CLERK: WE HAVE FOUR PEOPLE THAT CAME BACK WITH
7 HARDSHIP.

8 THE COURT: GET THEM IN ONE AT A TIME.

9 THE CLERK: ALSO, A WOMAN CALLED IN THIS MORNING. SHE
10 HAS A BLOOD VESSEL BEHIND HER EYE THAT BROKE. SHE IS AT THE
11 DOCTOR NOW. SHE SAYS SHE CAN'T SEE OUT OF IT.

12 THE COURT: SHE WILL BE EXCUSED WITH THE PERMISSION
13 OF COUNSEL.

14 THE CLERK: SHE WAS GOING TO CALL ME BACK TO SEE WHAT
15 THE STATUS WAS.

16 THE COURT: ALL RIGHT. LET'S SEE WHAT WE CAN DO.

17 THE CLERK: ALL RIGHT. AND ALSO, ONE OTHER WOMAN FORGOT.
18 SHE THOUGHT IT WAS 3 O'CLOCK TODAY.

19 THE COURT: WE CAN EXCUSE HER OR DO YOU WANT HER TO
20 COME?

21 MR. WAPNER: NO. I DON'T KNOW THAT WE NEED TO EXCUSE
22 HER. WE ARE NOT GOING TO GET ALL OF THE PEOPLE IN TODAY,
23 IN ANY EVENT.

24 THE CLERK: YES?

25 THE COURT: BUT SHE WILL HAVE TO BE HERE AT THE TIME
26 WE TELL THEM WHAT THE CASE IS ABOUT.

27 THE CLERK: THERE WERE TWO OTHER PEOPLE WE TOLD TO COME
28 BACK ON THE 17TH. THEY COULDN'T COME IN TODAY. I NOTED THEM

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1 DOWN AT THE BOTTOM.

2 THE COURT: WELL, SEE WHAT HAPPENS. MEANTIME, AS TO
3 THE HARDSHIP CASES, BRING THEM IN ONE AT A TIME.

4 THE CLERK: OKAY. SHALL I TELL MISS HEIMAN, THE ONE
5 THAT IS AT WORK -- WHAT?

6 MR. WAPNER: THE ONE WHO SAID SHE WAS GOING TO BE HERE
7 AT 3 O'CLOCK?

8 THE CLERK: YES. WHAT ABOUT THE LADY AT WORK?

9 THE COURT: WHAT DO YOU MEAN ABOUT A LADY AT WORK?

10 THE CLERK: SHE IS STILL AT WORK, WAITING FOR US TO
11 TELL HER WHAT WE WANT.

12 MR. WAPNER: THE ONE WHO SAID SHE IS GOING TO COME IN
13 AT 3 O'CLOCK.

14 THE COURT: THE ONE WHO IS GOING TO COME IN AT 3 O'CLOCK?
15 WHAT DO YOU WANT ME TO DO WITH HER?

16 THE CLERK: DO YOU WANT TO WAIT UNTIL MONDAY WHEN THE
17 OTHER TWO ARE GOING TO REPORT BACK?

18 THE COURT: NO. THEY HAVE TO BE HERE AT THE TIME I
19 AM GOING TO MAKE THE OPENING STATEMENT TO THE JURORS.

20 MR. WAPNER: WE HAVE TWO PEOPLE COMING BACK IN ON
21 MONDAY. ON MONDAY IN ANY EVENT, WE COULD CALL THIS WOMAN.
22 I DON'T KNOW IF SHE IS GOING TO BE HERE IN TIME FOR THE OPENING
23 STATEMENT. SO I THINK THAT WE SHOULD EITHER TELL HER TO BE
24 HERE AT 1:30 TODAY OR MONDAY.

25 PROBABLY MONDAY IS FINE. I THINK MAYBE SINCE
26 WE ARE DISCUSSING THIS -- COUNSEL, IF I MIGHT GET SOME INPUT
27 FROM YOU FOR A MOMENT? WE NEED TO TRY TO FIGURE OUT AS FAR
28 AS SCHEDULING, IF THERE IS SOME ESTIMATE THAT COUNSEL HAS,

1 SOME BALLPARK ESTIMATE OF HOW LONG IT MIGHT TAKE TO GO THROUGH
2 THE HOVEY/WITHERSPOON AND PUBLICITY QUESTIONS WITH EACH JUROR
3 AND THEREFORE HOW MANY WE MIGHT DO IN A DAY AND WHAT
4 APPOINTMENTS WE CAN MAKE WITH THESE JURORS IN TERMS OF WHEN
5 WE CAN TELL THEM TO COME BACK.

6 THE COURT: WELL, I THOUGHT WE WERE GOING TO -- YOU
7 MEAN THE WITHERSPOON QUESTIONS?

8 MR. CHIER: HOVEY AND THE PUBLICITY HAVE TO BE DONE
9 PRIVATELY.

10 THE COURT: I UNDERSTAND. HOVEY IS GOING TO BE DONE
11 BEFORE THE PUBLICITY ASPECT?

12 MR. WAPNER: AT THE SAME TIME.

13 THE COURT: AT THE SAME TIME.

14 MR. WAPNER: THERE IS NO POINT IN DOING IT SEPARATELY
15 AND THEN BRINGING THEM BACK AGAIN.

16 MR. BARENS: CONJUNCTIVELY.

17 MR. WAPNER: BUT THE QUESTION IS, HOW MANY PEOPLE DO
18 THEY THINK THEY CAN GET THROUGH IN A DAY, SO WE DON'T HAVE
19 90 PEOPLE SITTING HERE EVERY DAY.

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1 MR. CHIER: ABOUT HALF AN HOUR EACH, I WOULD ASSUME,
2 MY BEST GUESS IS.

3 THE COURT: NO.

4 MR. BARENS: WHAT IS YOUR ESTIMATE, MR. WAPNER?

5 MR. WAPNER: WELL, I DIDN'T REALIZE --

6 THE COURT: I THINK 15 MINUTES WOULD BE SUFFICIENT FOR
7 EACH ONE OF THEM, 20 MINUTES.

8 MR. BARENS: ALL I CAN SUBMIT, YOUR HONOR, IS THAT THE
9 CIRCUMSTANCES WILL ADDRESS THEMSELVES -- YOUR HONOR COULD WELL
10 BE CORRECT IN THAT, I DON'T KNOW.

11 THE COURT: WELL, WHY DON'T WE HAVE IT ON A TRIAL BASIS
12 FIRST AND SEE HOW LONG IT TAKES? WE CAN TIME IT.

13 MR. BARENS: THAT IS WHAT I MEAN.

14 I AM SENSITIVE TO THE ISSUE MR. WAPNER IS POSING.
15 I DON'T WANT TO INCONVENIENCE THESE PEOPLE ANY MORE THAN WE
16 HAVE TO.

17 THE COURT: THAT IS RIGHT.

18 MR. BARENS: I AM SAYING FOR TODAY, WE COULD OBVIOUSLY
19 EXCUSE ALL BUT -- IF YOUR HONOR WOULD GIVE ME ONE MOMENT.

20 MR. CHIER: WE COULD HAVE TEN OUT OF AN ABUNDANCE OF
21 CAUTION.

22 THE COURT: YOU SUGGESTED HOW MANY, SIX?

23 MR. WAPNER: I DIDN'T REALLY SUGGEST A NUMBER.

24 THE COURT: DIDN'T YOU ONCE MAKE AN ESTIMATE AS TO HOW
25 MANY WE SHOULD HAVE EACH DAY?

26 MR. WAPNER: WELL, ORIGINALLY I THOUGHT, I JUST PICKED
27 A FIGURE OUT OF THE AIR AT A MINIMUM AND I THOUGHT IT WOULD
28 TAKE AT LEAST TEN MINUTES, THAT IS WHAT I JUST DREW OUT OF

1 THE AIR. IT WAS ABSOLUTELY ARBITRARY.

2 MR. BARENS: WHY DON'T WE KEEP AT LEAST TEN PEOPLE HERE
3 TODAY?

4 MR. CHIER: NO. TODAY WE ARE TALKING ABOUT --

5 THE COURT: KEEP TEN OF THEM, YOU MEAN?

6 MR. CHIER: YES.

7 THE COURT: ALL RIGHT, I WILL KEEP TEN.

8 MR. WAPNER: THE ONLY REASON I BROUGHT THIS UP NOW --

9 MR. CHIER: THEN WE WILL HAVE A DAY AND SEE HOW LONG
10 IT TAKES, DO YOU FOLLOW ME, FRED? IT MAY BE LESS THAN THAT.
11 AS WE GO IT MAY BE EIGHT OR SIX BUT JUST FOR TODAY WE WILL
12 KEEP TEN.

13 MR. WAPNER: WELL, I UNDERSTAND EXACTLY WHAT YOU ARE
14 SAYING BUT THE POINT IS, WHAT DO WE TELL THE OTHER PEOPLE THAT
15 ARE EXCUSED? IN OTHER WORDS, WHAT I AM SUGGESTING IS WE
16 SHOULD GIVE THEM --

17 THE COURT: IT WILL TAKE THE REST OF THE DAY, ALL RIGHT?
18 THEN WE WILL EXCUSE THE REST OF THEM FOR TODAY.

19 MR. CHIER: AND HAVE THEM COME BACK MONDAY AND WE WILL
20 SCHEDULE THEM.

21 MR. WAPNER: THEY CAN COME BACK ON MONDAY FOR AN
22 APPOINTMENT AS TO WHEN THEY RETURN.

23 THE COURT: COME BACK ON MONDAY -- FIRST, WE HAVE GOT
24 TO SEE HOW MANY SURVIVE.

25 MR. WAPNER: OKAY. WHAT WE SHOULD DO THEN, WE SHOULD
26 KEEP TEN JURORS FOR TODAY AND WE SHOULD ALSO TELL THE BALANCE
27 TO RETURN ON MONDAY MORNING.

28 THE COURT: DO YOU WANT TO HAVE ANY TOMORROW?

1 MR. WAPNER: TOMORROW IS FRIDAY.

2 MR. BARENS: TOMORROW IS FRIDAY AND, FRIDAYS, YOUR
3 HONOR, WE ARE DARK.

4 THE COURT: ALL RIGHT. I THOUGHT ONLY DURING THE
5 COURSE OF THE TRIAL THAT WE WILL HAVE FRIDAYS OFF.

6 MR. BARENS: NO, YOUR HONOR.

7 MR. CHIER: WE MAKE ALL OF OUR APPEARANCES ON FRIDAY.

8 THE COURT: ALL RIGHT, WE WILL NOT HAVE IT TOMORROW.

9 MR. WAPNER: THEN WE WILL TELL THE BALANCE THEY HAVE
10 TO COME BACK MONDAY FOR AN APPOINTMENT AS TO WHEN THEY ARE
11 LIKELY TO BE QUESTIONED.

12 THE COURT: YES, OKAY.

13 MR. BARENS: THAT IS FINE.

14 THE COURT: LET'S GET THE FIRST ONE IN ON THE HARDSHIP,
15 PLEASE.

16 (PROSPECTIVE JUROR BOODAKIAN ENTERS CHAMBERS.)

17 THE CLERK: THIS IS MISS BOODAKIAN.

18 THE COURT: MISS BOODAKIAN?

19 MRS. BOODAKIAN: YES. IRENE BOODAKIAN.

20 THE COURT: IS THAT MISS OR MRS.?

21 MRS. BOODAKIAN: MRS.

22 THE COURT: MRS. BOODAKIAN, WHERE DO YOU LIVE?

23 MRS. BOODAKIAN: I LIVE AT 1211 MORNINGSIDE, VENICE,
24 CALIFORNIA, 90219.

25 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED AS A
26 TRRIAL JUROR IN THIS CASE?

27 MRS. BOODAKIAN: YES. MY EMPLOYER, THEY SAY THEY CAN
28 ONLY PAY FOR TEN DAYS.

1 THE COURT: WHO IS YOUR EMPLOYER?

2 MRS. BOODAKIAN: WESTERN FEDERAL SAVINGS & LOAN
3 ASSOCIATION.

4 THE COURT: YOU DON'T KNOW OF ANY CASE WHERE THEY HAVE
5 PERMITTED AN EMPLOYEE TO STAY LONGER THAN THAT?

6 MRS. BOODAKIAN: EXCUSE ME?

7 THE COURT: YOU DON'T KNOW OF ANY CASE WHERE THEY HAVE
8 HAD AN EMPLOYEE WHO WAS PERMITTED TO STAY MORE THAN TEN DAYS?

9 MRS. BOODAKIAN: OKAY. THEY SAY THEIR RULE IS ONLY
10 TEN DAYS.

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1 THE COURT: THAT IS ALL THEY PAY YOU FOR?

2 MRS. BOODAKIAN: YES.

3 THE COURT: OKAY, THANK YOU.

4 MR. BARENS: NO OBJECTION.

5 THE COURT: YOU WILL BE EXCUSED.

6 MRS. BOODAKIAN: OKAY.

7 THE COURT: YOU ARE TO GO TO THE JURY ASSEMBLY ROOM AND
8 TELL THE CLERK THAT YOU HAVE BEEN EXCUSED FROM THIS CASE BUT
9 YOU CAN SERVE FOR TEN DAYS.

10 MRS. BOODAKIAN: OKAY, THANK YOU.

11 (PROSPECTIVE JUROR BOODAKIAN EXITS
12 CHAMBERS.)

13 MR. WAPNER: SHE LIVES IN VENICE.

14 MR. BARENS: THAT'S CORRECT.

15 (PROSPECTIVE JUROR MORRIS ENTERS CHAMBERS.)

16 THE CLERK: THIS IS CLEVELAND MORRIS.

17 THE COURT: MR. MORRIS, WHERE DO YOU LIVE?

18 MR. MORRIS: WHERE DO I LIVE? I LIVE AT 1321 WEST 47TH
19 STREET.

20 THE COURT: WHERE IS THAT?

21 MR. MORRIS: L.A.

22 THE COURT: L.A., THAT IS DOWNTOWN, IS IT?

23 MR. MORRIS: NO, NOT QUITE. IT IS ABOUT FIVE TO SIX
24 MILES FROM DOWNTOWN.

25 THE COURT: WHAT IS THE PRINCIPAL STREET THERE?

26 MR. MORRIS: NORMANDIE AVENUE.

27 THE COURT: NORMANDIE?

28 MR. MORRIS: YES.

1 THE COURT: IS THAT FIVE MILES?

2 MR. MORRIS: IT IS ABOUT FIVE, SIX MILES, GIVE OR TAKE
3 A FEW.

4 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
5 JURY DUTY IN THIS CASE?

6 MR. MORRIS: CORRECT.

7 THE COURT: WHAT IS YOUR REASON FOR IT?

8 MR. MORRIS: BECAUSE I RECENTLY FOUND OUT THAT MY
9 EMPLOYER DOESN'T PAY .

10 THE COURT: WHO IS YOUR EMPLOYER?

11 MR. MORRIS: WESTERN SECURITY.

12 THE COURT: HOW LONG DO THEY GIVE YOU?

13 MR. MORRIS: HOW LONG?

14 THE COURT: YES.

15 MR. MORRIS: WHAT DO YOU MEAN?

16 THE COURT: HOW LONG A PERIOD OF TIME DO THEY PERMIT
17 YOU TO STAY ON JURY DUTY?

18 MR. CHIER: WITH PAY.

19 THE COURT: WITH PAY.

20 MR. MORRIS: THEY DON'T PAY AT ALL.

21 THE COURT: THEY DON'T?

22 MR. MORRIS: NO.

23 THE COURT: IT WOULD BE A HARDSHIP FOR YOU TO STAY THREE
24 MONTHS, WOULDN'T IT?

25 MR. MORRIS: YES, IT WOULD BE.

26 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL
27 BE EXCUSED.

28 MR. MORRIS: THANK YOU. YOU HAVE A NICE DAY, JUDGE.

1 THE COURT: FINE. YOU GO TO THE JURY ASSEMBLY ROOM AND
2 TELL THE CLERK YOU HAVE BEEN EXCUSED FROM THIS CASE BUT YOU
3 CAN STAY FOR A FEW DAYS IN ANY OTHER KIND OF CASE, IS THAT
4 ALL RIGHT?

5 MR. MORRIS: OKAY, GOOD.

6 THE COURT: THANK YOU.

7 (PROSPECTIVE JUROR MORRIS EXITS
8 CHAMBERS.)

9 MR. CHIER: I WOULD LIKE THE RECORD TO REFLECT THAT MR.
10 MORRIS WAS ONE OF FIVE BLACK PEOPLE ON THIS PANEL, WHO
11 HAS NOW BEEN EXCUSED.

12 MR. WAPNER: I DON'T KNOW IF THE NUMBER IS FIVE OR NOT.

13 THE RECORD SHOULD REFLECT HE IS BLACK.

14 THE COURT: YOU WEREN'T HERE FOR PART OF THE TIME AND
15 THERE WERE OTHER BLACKS THAT ARE HERE.

16 THE CLERK: APPARENTLY SEVERAL OF THE JURORS HAVE COME
17 UP, APPARENTLY, THEY WERE HEARING ABOUT THE HARDSHIP AND
18 THERE ARE OTHERS COMING UP. WE HAVE HAD NOW TWO MORE PEOPLE
19 THAT HAVE COME UP.

20 THE COURT: ON THE HARDSHIP?

21 THE CLERK: YES.

22 MR. BARENS: YOUR HONOR, I DON'T UNDERSTAND WHAT YOUR
23 CLERK MEANT. THE ONES THAT HEAR US?

24 THE CLERK: WELL, WE HAVEN'T MADE A GENERAL ANNOUNCEMENT,
25 ARE THERE ANY OTHER HARDSHIPS?

26 THE COURT: THESE PEOPLE, ARE ALL OF THOSE WHO HEARD
27 THAT BEFORE, THEY ARE THE ONES?

28 MR. CHIER: THEY ARE HEARING THE WORD "HARDSHIP" AND

1 SAYING "I HAVE A HARDSHIP"?

2 THE CLERK: YES.

3 MR. BARENS: I WONDER IF YOUR HONOR SHOULD INQUIRE AGAIN
4 BECAUSE IF WE START TRYING TO DO OTHER ASPECTS OF THE
5 QUESTIONING, WE WILL BE WASTING OUR TIME.

6 THE COURT: IT WILL BE A WASTE OF OUR TIME.

7 I WILL DO THAT.

8 WHO ELSE HAVE YOU GOT?

9 THE CLERK: WELL, THERE IS VIRGINIA BERG. AND THERE
10 IS ANOTHER WOMAN NAMED ERRIDGE, ANNETTE ERRIDGE IS OUT THERE
11 AND THEN ANOTHER WOMAN CAME UP. WE WERE JUST WONDERING IF
12 WE SHOULD PURSUE THE FACT THAT THERE ARE ANY MORE HARDSHIPS,
13 THE BAILIFF AND I.

14 THE COURT: ALL OF THOSE JURORS -- WELL, I DON'T WANT
15 TO SAY IT IN FRONT OF HER.

16 WHAT IS YOUR NAME AGAIN?

17 MRS. BERG: VIRGINIA BERG, B-E-R-G.

18 THE COURT: YES, THAT IS MISS OR MRS.?

19 MRS. BERG: MRS.

20 THE COURT: WHERE DO YOU LIVE, MRS. BERG?

21 MRS. BERG: CULVER CITY.

22 THE COURT: I UNDERSTAND YOU WANT TO BE FREED FROM JURY
23 DUTY IN THIS CASE.

24 MRS. BERG: YES, I WOULD.

25 THE COURT: WHAT IS YOUR REASON FOR IT?

26 MRS. BERG: WELL, MY HUSBAND HAS A VASCULAR DISEASE AND
27 HE CAN REALLY BE TAKEN TO THE HOSPITAL LIKE THAT (SNAPS
28 FINGERS.) HE CAN BLEED VERY EASILY AND I THINK I SHOULD NOT

1 BE AVAILABLE FOR A LONG EXTENDED PERIOD OF TIME.

2 MR. WAPNER: I HAVE NO OBJECTION.

3 MR. BARENS: NO OBJECTION.

4 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

5 YOU WANT TO SERVE FOR SOME SHORT PERIOD?

6 MRS. BERG: I COULD SERVE FOR A SHORT PERIOD, SURE.

7 THE COURT: WHY DON'T YOU TELL THE JURY CLERK YOU CAN
8 STAY FOR A SHORT PERIOD BUT YOU ARE EXCUSED IN THIS CASE?

9 MRS. BERG: THANK YOU VERY MUCH.

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1 THE COURT: SHOULD WE GO OUT AND FIND OUT IF THERE ARE
2 MORE?

3 MR. BARENS: I BELIEVE THERE ARE A LOT OF HARDSHIPS.

4 MR. CHIER: MAYBE THE BAILIFF CAN ASK THEM TO RAISE
5 THEIR HANDS AND SEND THEM IN.

6 MR. WAPNER: I THINK WHAT WE SHOULD DO IS IT SHOULD BE
7 ON THE RECORD SO WE KNOW WHAT WAS SAID, SO WE KNOW WHAT
8 STATEMENT WAS MADE TO THEM.

9 MR. CHIER: YOU ARE RIGHT.

10 MR. WAPNER: SO PEOPLE DON'T GET THE IDEA OF MAKING UP
11 THINGS OR WHAT WE ARE TALKING ABOUT.

12 MR. CHIER: YOU ARE RIGHT, FRED.

13 THE CLERK: WHILE I WAS OUT THERE, MORE PEOPLE ARE
14 APPROACHING THE BAILIFF ABOUT IT.

15 MR. WAPNER: I THINK WHAT WE SHOULD DO IS COME OUT AND
16 PUT IT ON THE RECORD.

17 MR. BARENS: RIGHT.

18 THE COURT: LET'S GO OUT.

19 MR. BARENS: WHY DON'T WE, JUDGE, AT THAT POINT GET A
20 TALLY OF HOW MANY PEOPLE THERE ARE? BECAUSE WE WANT TO
21 EXCUSE THE REST OF THEM UNTIL MONDAY BECAUSE YOU MAY HAVE
22 ENOUGH HARDSHIP PEOPLE TO KILL THE DAY.

23 MR. WAPNER: THE OTHER THING WE CAN PUT ON THE RECORD,
24 I DON'T KNOW HOW LONG THIS HARDSHIP WILL TAKE, BUT I DIDN'T
25 REALIZE MR. CHIER WAS GOING TO STAY EVEN THOUGH WE WEREN'T
26 GOING INTO THE ARCE THING TODAY AND WHILE MY CONCERN, AS THE
27 COURT'S, IS TO GET AS MUCH DONE AS WE CAN AND NOT WASTE TIME,
28 I THINK IT IS IN THE INTERESTS OF EVERYBODY'S HEALTH, INCLUDING

1 MY OWN -- EXCUSE ME FOR BEING SELFISH, BUT THAT HE NOT BE
2 AROUND --

3 THE COURT: WHY DON'T YOU LEAVE FOR THE DAY? I THINK
4 WE WON'T DO ANY MORE THAN THE HARDSHIP CASES.

5 MR. BARENS: ALL RIGHT, YOUR HONOR, IF YOUR HONOR WOULD
6 LIMIT IT TO THAT, I WOULD APPRECIATE IT AND I WOULD APPRECIATE
7 GIVING MR. CHIER THE OPPORTUNITY TO RECOVER.

8 THE COURT: ALL RIGHT, MR. CHIER, I HOPE YOU FEEL BETTER.
9 COME BACK ON MONDAY.

10 (WHEREUPON, MR. CHIER WAS EXCUSED FOR
11 THE DAY.)

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT:)

3 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
4 GENTLEMEN. ARE THERE ANY OF YOU WHO HAVE NOT BEEN SWORN IN?

5 (THERE WAS NO AUDIBLE RESPONSE.)

6 THE COURT: IF YOU RECALL, THE LAST TIME THAT YOU WERE
7 HERE, I ASKED QUESTIONS. I TOLD YOU THAT THERE WAS A VERY
8 SERIOUS FELONY CASE THAT WE ARE ABOUT TO TRY AND THAT IT IS
9 EXPECTED THE CASE WILL TAKE ABOUT THREE MONTHS TO TRY.

10 I ASKED YOU IF ANY OF YOU FEEL IT WOULD BE AN ECONOMIC
11 HARDSHIP FOR YOU OR BECAUSE OF HEALTH REASONS IF YOU WANTED
12 TO BE EXCUSED. AND THERE WERE A NUMBER OF YOU WHO SAID THAT
13 THEY WOULD.

14 THE REMAINDER OF YOU, WHO DID NOT SO INDICATE,
15 I ASKED YOU TO REPORT BACK TO THE JURY ASSEMBLY ROOM TODAY.
16 NOW, I UNDERSTAND THAT THERE ARE SEVERAL OTHERS OF YOU, WHO
17 HAVE INDICATED THAT YOU NOW HAVE A HARDSHIP AND WANT TO BE
18 EXCUSED.

19 WHICH OF YOU WOULD SO SIGNIFY?

20 (THERE WAS A SHOW OF HANDS.)

21 THE COURT: WHAT HAPPENED SINCE THE OTHER DAY?

22 A VOICE: WE UNDERSTAND THE RULES OF THE COMPANIES
23 BETTER.

24 THE COURT: ALL RIGHT. I GET THE IDEA. I WILL TELL
25 YOU WHAT YOU DO, THOSE JURORS WHO HAVE NOT RAISED THEIR HANDS
26 AND DEFINITELY WILL, IF THEY ARE SELECTED AS A JUROR, STAY
27 FOR THREE MONTHS, I WANT YOU ALL TO COME BACK ON MONDAY
28 MORNING. THAT WILL BE MONDAY MORNING, BECAUSE I HAVE TO ASK

1 ALL OF THOSE PEOPLE WHO HAVE RAISED THEIR HANDS, WHY THEY
2 WANT TO BE EXCUSED. THAT WILL TAKE SOME TIME. I DON'T WANT
3 YOU TO WAIT AROUND AND WASTE YOUR TIME.

4 SO ALL OF YOU WHO HAVE NOT RAISED YOUR HANDS,
5 YOU ALL COME BACK TO THE JURY ASSEMBLY ROOM AT 10 O'CLOCK
6 ON MONDAY MORNING.

7 THAT WILL BE 10 O'CLOCK NEXT MONDAY MORNING IN
8 THE JURY ASSEMBLY ROOM. YOU CAN ALL LEAVE NOW, THOSE OF YOU
9 WHO CAN STAY.

10 MR. LILES: I HAVE A QUESTION. I HAVE TWO AIRPLANE
11 TICKETS THAT I WOULD LIKE TO USE. I LEAVE ON THE 26TH OF
12 NOVEMBER AND GET BACK THE 3RD OF DECEMBER.

13 THE COURT: I THINK WE CAN EXCUSE YOU FOR HARDSHIP.
14 ALL RIGHT?

15 WE WILL THEN TAKE EACH OF THE REST OF YOU INTO
16 CHAMBERS AND I WILL ASK YOU QUESTIONS ABOUT IT.

17 BUT SINCE YOU HAVE ALREADY BROUGHT IT UP, YOU
18 WILL BE EXCUSED.

19 MR. WAPNER: MAY I ASK MR. LILES HIS AREA OF RESIDENCE,
20 PLEASE?

21 THE COURT: WHERE DO YOU LIVE?

22 MR. LILES: IN INGLEWOOD, 4850 WEST 94TH STREET.

23 THE COURT: HOW FAR AWAY IS THAT FROM HERE?

24 MR. LILES: ABOUT 10 OR 12 MILES, I GUESS.

25 MR. BARENS: IT WOULD BE IN BETWEEN.

26 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU WILL
27 BE EXCUSED.

28 A VOICE: YOUR HONOR, MY CORPORATION WILL ONLY PAY FOR --

1 THE COURT: YOU WILL ALL COME INTO CHAMBERS. I WILL
2 PUT IT ON THE RECORD IN CHAMBERS. EACH OF YOUR NAMES WILL
3 BE CALLED AND THEN I WILL HAVE YOU IN CHAMBERS. ALL RIGHT?

4 (THE FOLLOWING PROCEEDINGS WERE HELD
5 IN CHAMBERS:)

6 THE CLERK: THIS IS SUSAN BURNS.

7 (PROSPECTIVE JUROR BURNS ENTERED
8 CHAMBERS.)

9 THE COURT: IS THAT MISS BURNS?

10 MISS BURNS: YES.

11 THE COURT: MISS BURNS, WHERE DO YOU LIVE?

12 MISS BURNS: YOU WANT MY WHOLE ADDRESS?

13 THE COURT: NO.

14 MISS BURNS: I LIVE IN LOS ANGELES, WEST LOS ANGELES.

15 THE COURT: WHAT PART OF WEST LOS ANGELES? WHAT STREET?

16 MISS BURNS: I LIVE ON VETERAN.

17 THE COURT: UH-HUH.

18 MR. WAPNER: SO THAT WOULD BE WESTWOOD?

19 MISS BURNS: NO. MY MAILING ADDRESS IS LOS ANGELES.

20 THE COURT: ALL RIGHT. THANK YOU.

21 I UNDERSTAND THAT YOU WANT TO BE EXCUSED?

22 MISS BURNS: WELL, MY EMPLOYER WOULD LIKE FOR ME TO
23 BE EXCUSED.

24 THE COURT: HOW LONG WOULD HE PERMIT YOU TO STAY?

25 MISS BURNS: WELL, I BROUGHT A LETTER. IF I MIGHT,
26 YOUR HONOR?

27 THE COURT: THANK YOU.

28 MISS BURNS: BASICALLY, THE REASON THAT HE WOULD LIKE

1 FOR ME TO BE EXCUSED IS BECAUSE HE HAS BEEN CALLED ON JURY
2 DUTY NEXT WEEK. HE FEELS THAT IT WOULD BE A HARDSHIP FOR
3 OUR DEPARTMENT TO HAVE TWO KEY PEOPLE TO BE OUT ON JURY DUTY
4 FOR AN EXTENDED PERIOD OF TIME.

5 THE COURT: WOULD HE PAY YOU IF YOU STAYED OUT?

6 MISS BURNS: YES.

7 THE COURT: HE WOULD PAY YOU?

8 MISS BURNS: YES.

9 MR. WAPNER: WHO DO YOU WORK FOR?

10 MISS BURNS: COLLINS FOODS. OUR POLICY WILL PAY FOR
11 40 DAYS.

12 THE COURT: HOW MANY?

13 MISS BURNS: 40.

14 THE COURT: THAT IS ALL THEY PAY YOU FOR?

15 MISS BURNS: YES.

16 THE COURT: YOU HAVE TO PAY YOUR OWN EXPENSES AFTER
17 THAT?

18 MISS BURNS: WELL, FROM WHAT THE ATTORNEY TOLD ME AT
19 WORK, THEY WOULD COVER ME, ALTHOUGH IT ISN'T STATED IN THE
20 POLICY.

21 THE COURT: ALL RIGHT.

22 MISS BURNS: SECOND, OUR POLICY ALLOWS FOR PAYMENT FOR
23 ME NO MORE THAN 40 WORKING DAYS FOR JURY DUTY.

24 MR. BARENS: NO OBJECTION, THEN.

25 THE COURT: ALL RIGHT. THANK YOU. YOU WILL BE EXCUSED.

26 MR. WAPNER: CAN THE LETTER BE MARKED AS AN EXHIBIT?

27 THE COURT: YES.

28 MR. WAPNER: COULD THAT BE COURT'S 4?

A-
1 THE COURT: YES.

2 (PROSPECTIVE JUROR BURNS EXITED
3 CHAMBERS.)

4 THE CLERK: WHAT HAPPENED TO THE OTHER LADY? I GUESS
5 SHE WENT OUT IN A DIFFERENT DIRECTION?

6 THE COURT: EXCUSE ME.

7 THE CLERK: THIS IS GREG COFFEE.

8 (PROSPECTIVE JUROR COFFEE ENTERED
9 CHAMBERS.)

10 THE COURT: MR. COFFEE, WHERE DO YOU LIVE?

11 MR. COFFEE: I LIVE IN VENICE. IT IS ABOUT YOU KNOW,
12 FIVE MILES. IT IS NOT FAR AT ALL.

13 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
14 JURY DUTY IN THIS CASE?

15 MR. COFFEE: YES, SIR.

16 THE COURT: WHAT IS YOUR REASON?

17 MR. COFFEE: LAST WEEK I UNDERSTOOD YOU TO ASK IF IT
18 WAS FINANCIAL, YOU KNOW, TO RAISE YOUR HAND. IT IS NOT
19 FINANCIAL.

20 I WAS INVOLVED IN A CAR ACCIDENT IN 8/29/78. I
21 WAS IN A COMA FOR 14 DAYS.

22 AND MY MEMORY IS NOT WHAT IT USED TO BE. I USED
23 TO DO CALCULUS. WHEN I WENT BACK, I COULDN'T EVEN DO BONEHEAD
24 ARITHMETIC. BUT I GUESS THAT IS BESIDE THE POINT.

25 THE COURT: FOR MEDICAL REASONS YOU DON'T WANT TO BE
26 A JUROR?

27 MR. COFFEE: WELL, PARTLY. ALSO YOU KNOW, I AM IN THE
28 PROCESS OF TRYING -- I AM TRYING TO IMPROVE MY LIFE. I WAS

BA-5
1 HONORED TO GET THIS CALL FOR JURY DUTY.

2 I THINK HEY, IT IS A STEP IN THE RIGHT DIRECTION,
3 WORKING FOR THE RIGHT DEAL. AND THEN -- BUT SCHOOL, IF THIS
4 CASE IS GOING TO DRAG ON, I WAS THINKING OF STARTING SCHOOL
5 IN FEBRUARY.

6 THE WAY IT SOUNDS, THIS CASE WILL DRAG PAST IT.
7 SO THAT IS YOU KNOW, A COMBINATION OF THE TWO REASONS.

8 MR. WAPNER: NO OBJECTION.

9 THE COURT: ALL RIGHT?

10 MR. BARENS: NO OBJECTION.

11 THE COURT: THANK YOU. YOU WILL BE EXCUSED. YOU GO
12 TO THE JURY ASSEMBLY ROOM AND TELL THEM YOU WILL BE AVAILABLE
13 FOR A SHORTER PERIOD OF TIME ON JURY DUTY. YOU ARE EXCUSED
14 FROM THIS CASE.

15 MR. COFFEE: THANK YOU.

16 (PROSPECTIVE JUROR COFFEE EXITED
17 CHAMBERS.)

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1 (PROSPECTIVE JUROR CONSANI ENTERS
2 CHAMBERS.)

3 THE CLERK: THIS IS ROBERTA CONSANI.

4 THE COURT: WHAT IS THE NAME AGAIN?

5 MRS. CONSANI: CONSANI, ROBERTA.

6 THE COURT: IS THAT MISS OR MRS.?

7 MS. CONSANI: IT IS MS.

8 THE COURT: WHERE DO YOU LIVE?

9 MS. CONSANI: MALIBU.

10 THE COURT: UH-HUH. AND I UNDERSTAND THAT YOU WANT TO
11 BE EXCUSED FROM JURY DUTY?

12 MS. CONSANI: YES. I TEACH SCHOOL. TO BE OUT OF MY
13 CLASSROOM FOR THREE MONTHS, IS GOING TO BE A REAL HARDSHIP.
14 I TEACH JUNIOR HIGH SCHOOL AND I TEACH THE REDMEDIAL STUDENTS,
15 AS WELL AS THE ACCELERATED.

16 AND TO BE GONE FOR THREE MONTHS, IS REALLY GOING
17 TO CAUSE ME DISRUPTION.

18 THE COURT: BUT THEY PAY FOR YOU?

19 MS. CONSANI: THEY DO. BUT GETTING A SUBSTITUTE TO COME
20 IN, YOU KNOW, THEY GET PAID JUST A THIRD OF WHAT I DO.

21 SO FINDING A REGULAR PERSON, WHO WILL COME IN
22 CONTINUALLY AND KEEP THE PROGRAM GOING, IS NOT LIKELY TO HAPPEN.
23 I WILL GET A PARADE OF DIFFERENT PEOPLE IN AND YOU KNOW, IT
24 WOULD BE A REAL DISRUPTION IN THE PROGRAM.

25 I HAVE A LETTER FROM MY PRINCIPAL VERIFYING THAT
26 THAT WOULD BE DIFFICULT FOR THEM TO REPLACE ME.

27 MR. WAPNER: WHAT KIND OF STUDENTS?

28 MS. CONSANI: I HAVE REMEDIAL STUDENTS, AS WELL AS AN

1 HONORS PROGRAM.

2 MR. WAPNER: WHAT SCHOOL DO YOU TEACH AT?

3 MS. CONSANI: A.E. WRIGHTMIDDLE SCHOOL IN THE LAS VIRGINES
4 SCHOOL DISTRICT.

5 MR. WAPNER: CAN WE DISCUSS THIS BRIEFLY OUTSIDE THE
6 PRESENCE OF MS. CONSANI AND THEN ASK HER TO COME BACK IN?

7 THE COURT: ALL RIGHT. WOULD YOU WAIT OUTSIDE JUST A
8 MOMENT, PLEASE?

9 MR. WAPNER: COULD YOU GIVE US THE LETTER, SO WE CAN
10 TAKE A LOOK AT IT?

11 MS. CONSANI: SURE.

12 THE COURT: THANK YOU.

13 MS. CONSANI: YOU ARE WELCOME.

14 (PROSPECTIVE JUROR CONSANI EXITS
15 CHAMBERS.)

16 THE COURT: I WILL READ THE LETTER INTO THE RECORD.
17 I DON'T THINK IT IS A NECESSITY. I WILL MAKE IT AN EXHIBIT
18 BUT ALSO READ IT INTO THE RECORD:

19 "TO WHOM IT MAY CONCERN: IT HAS COME
20 TO MY ATTENTION THAT POSSIBLY ONE OF OUR TEACHERS,
21 ROBERTA CONSANI, MAY BE ASSIGNED TO A TRIAL WHICH
22 WOULD REQUIRE HER TO BE AWAY FROM SCHOOL FOR
23 SEVERAL MONTHS.

24 "SHOULD THIS OCCUR, I AM FEARFUL THAT
25 MS. CONSANI'S VERY SPECIALIZED TEACHING ASSIGN-
26 MENT WOULD PRESENT WITH AN UNTENABLE SUBSTITUTE
27 PROBLEM.

28 "MS. CONSANI'S PROGRAM REQUIRES HER

1 TO TEACH MOSTLY UPPER AND LOWER ENDS OF OUR SIXTH
2 GRADES COURSES. THESE COURSES REQUIRE A UNIQUE
3 ABILITY TO HANDLE BOTH REMEDIAL AND GIFTED
4 STUDENTS.

5 "BASED UPON THE INTEREST OF THE
6 STUDENTS, I WOULD RESPECTFULLY REQUEST THAT
7 ROBERTA BE EXEMPTED FROM TRIALS OF SUCH LENGTH.
8 THANK YOU FOR YOUR UNDERSTANDING."

9 MR. WAPNER: THE REASON THAT I ASKED THAT MISS CONSANI
10 BE EXCUSED IS THAT WE HAVE TOLD TWO OTHER TEACHERS THAT EVEN
11 THOUGH IT WOULD BE A HARDSHIP ON THE STUDENTS AND THE SCHOOL,
12 THAT THEY NEVERTHELESS, HAVE TO RETURN. IT SEEMS TO ME HOWEVER,
13 THAT THIS IS A SOMEWHAT DIFFERENT SITUATION IN VIEW OF THE
14 SPECIALIZED STUDENTS THAT ARE INVOLVED.

15 I AM AGREEABLE TO STIPULATING THAT SHE MAY BE EXCUSED,
16 IF COUNSEL IS.

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1 MR. BARENS: WHY DON'T WE HAVE HER BACK IN?

2 THE COURT: TELL MISS CONSANI TO COME IN.

3 (PROSPECTIVE JUROR CONSANI ENTERED
4 CHAMBERS.)

5 THE COURT: ALL RIGHT, THANK YOU VERY MUCH, MISS CONSANI,
6 YOU WILL BE EXCUSED.

7 MISS CONSANI: OKAY.

8 THE COURT: YOU WILL BE EXCUSED. YOU TELL THE JURY
9 CLERK IN THE JURY ASSEMBLY ROOM THAT YOU WILL BE EXCUSED FROM
10 THIS CASE BUT YOU CAN SERVE ON A SHORTER CASE, ALL RIGHT?

11 MISS CONSANI: ALL RIGHT, THANK YOU.

12 THE COURT: YOU ARE WELCOME.

13 (PROSPECTIVE JUROR CONSANI EXITED
14 CHAMBERS.)

15 THE CLERK: READY?

16 THE COURT: YES.

17 (PROSPECTIVE JUROR CONVERSE ENTERED
18 CHAMBERS.)

19 THE CLERK: THIS IS MELISSA CONVERSE.

20 MISS CONVERSE: HELLO.

21 THE COURT: HOW ARE YOU?

22 MISS CONVERSE: I AM AFRAID MY CURIOSITY GOT THE BEST
23 OF ME. LAST WEEK WHEN WE MET, THEY ASKED ME IF YOU HAVE ANY
24 TROUBLE WITH DOING JURY DUTY --

25 THE COURT: RIGHT.

26 MISS CONVERSE: AND I TOLD HER I SAID YES, I DO. I
27 AM SELF-EMPLOYED, I AM AN ACTRESS AND AT THIS TIME IT IS A
28 VERY IMPORTANT SEASON FOR ME, A BUSY SEASON AND SO SHE SAID,

1 "WELL, ALL YOU HAVE TO DO IS JUST WRITE A LETTER AND GET YOUR
2 AGENT, PUT YOUR AGENT'S PHONE NUMBER ON IT" AND SHE SAID YOU
3 WILL PROBABLY BE EXCUSED OR SOMETHING.

4 SO I SAID, "WELL, IS IT ALL RIGHT IF I STAY HERE
5 TODAY? BECAUSE I AM REALLY CURIOUS, I WOULD LIKE TO SEE WHAT
6 GOES ON."

7 SO UNBEKNOWNST TO ME, I GET THE JURY, DEPARTMENT C
8 AND CAME IN AND THEN LEFT.

9 I GOT THE LETTER AND BROUGHT IT THE NEXT DATE TO
10 NANCY AND NANCY SAID "OH, NO, YOU HAVE TO GO IN." SO THAT
11 IS WHY I AM TAKING UP THIS TIME.

12 THE COURT: YOU SAY IT WILL BE AN ECONOMIC HARDSHIP
13 FOR YOU?

14 MISS CONVERSE: YES, IT WILL. I'M AN ACTRESS.

15 THE COURT: WHERE DO YOU LIVE?

16 MISS CONVERSE: IN THE PALISADES, PACIFIC PALISADES.

17 THE COURT: OKAY?

18 MR. BARENS: NO OBJECTION.

19 MR. WAPNER: I HAVE NO OBJECTION.

20 THE COURT: ALL RIGHT, THANK YOU VERY MUCH YOU ARE
21 EXCUSED.

22 MISS CONVERSE: THANK YOU.

23 THE COURT: YOU CAN STAY FOR A SHORT TIME, CAN'T YOU?
24 TELL THE JURY ASSEMBLY ROOM CLERK THAT YOU CAN STAY FOR A
25 LITTLE WHILE.

26 MISS CONVERSE: OKAY.

27 THE COURT: YOU CAN STAY FOR A SHORT CASE, CAN'T YOU?

28 MISS CONVERSE: YES, YES.

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THE COURT: ALL RIGHT, THANK YOU.
(PROSPECTIVE JUROR CONVERSE EXITED
CHAMBERS.)

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1 (PROSPECTIVE JUROR DENNIE ENTERED
2 CHAMBERS.)

3 THE CLERK: THIS IS SUZANNE DENNIE.

4 IF YOU WOULD HAVE A SEAT RIGHT HERE, PLEASE.

5 THE COURT: WHAT IS THE NAME AGAIN?

6 MISS DENNIE: SUZANNE DENNIE.

7 THE COURT: THAT IS MISS DENNIE, IS IT?

8 MISS DENNIE: YES, UH-HUH.

9 THE COURT: MISS DENNIE, WHERE DO YOU LIVE?

10 MISS DENNIE: I BEG YOUR PARDON?

11 THE COURT: WHERE DO YOU LIVE?

12 MISS DENNIE: AT 12611 CASWELL IN LOS ANGELES.

13 THE COURT: WHERE IS THAT, WHAT IS THE PRINCIPAL STREET?

14 MISS DENNIE: IT IS JUST EAST OF MARINA DEL REY. IT
15 IS ABOUT TEN MINUTES FROM HERE.

16 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED?

17 MISS DENNIE: YES, SIR.

18 THE COURT: WHAT IS YOUR REASON FOR IT?

19 MISS DENNIE: FIRST OF ALL, I HAVEN'T REALLY HAD A CHANCE
20 TO SPEAK WITH OUR VICE PRESIDENT OF FINANCE BECAUSE HE IS
21 OUT OF TOWN AND, AS I UNDERSTAND, WE HAVE NO WRITTEN PROCEDURES
22 OF HOW MUCH MY COMPANY WILL PAY BUT I AM SINGLE AND SELF-
23 SUPPORTING AND IF MY COMPANY WON'T PAY FOR THREE MONTHS OF
24 JURY DUTY, THEN I HAVE NO MEANS OF SUPPORT.

25 THE COURT: YOU HAVE NO WAY OF KNOWING WHETHER THEY
26 WOULD OR WOULDN'T?

27 MISS DENNIE: NO, I WOULDN'T.

28 THEY MAY BEGRUDGINGLY BUT I DON'T KNOW IF I WOULD

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1 HAVE A JOB A MONTH LATER, TO BE HONEST WITH YOU.

2 MR. WAPNER: WILL YOU BE ABLE TO GET THIS INFORMATION?

3 THE COURT: WAIT A MINUTE. SHE SAID SHE WOULDN'T HAVE

4 A JOB.

5 MISS DENNIE: I REALLY -- I DON'T THINK THEY WOULD
6 IMMEDIATELY DISMISS ME BUT KNOWING THE COMPANY AS I DO,
7 THERE MAY BE SOME WAY THEY WOULD GET AROUND THE SITUATION.

8 MR. BARENS: WHO IS YOUR EMPLOYER?

9 MISS DENNIE: HUME PUBLISHING. IT IS IN WESTWOOD.

10 MR. WAPNER: WOULD THAT BE ON YOUR MIND IF YOU WERE
11 SERVING ON JURY DUTY, THAT THEY MIGHT BE THINKING OF WAYS
12 TO FIRE YOU AS YOU WERE SITTING ON JURY DUTY?

13 MISS DENNIE: YES, IT WOULD. I MEAN I WOULD LOVE TO
14 SERVE TO BE HONEST WITH YOU BUT --

15 MR. WAPNER: I HAVE NO OBJECTION.

16 MR. BARENS: NO OBJECTION.

17 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

18 YOU CAN GO BACK TO THE JURY ASSEMBLY ROOM AND
19 TELL THE CLERK THERE YOU ARE AVAILABLE FOR SHORTER CASES BUT
20 YOU HAVE TO BE EXCUSED FROM THIS ONE.

21 MISS DENNIE: THANK YOU.

22 (PROSPECTIVE JUROR DENNIE EXITED
23 CHAMBERS.)

24 (PROSPECTIVE JUROR DESLAURIERS ENTERED
25 CHAMBERS.)

26 THE CLERK: THIS IS TINA DESLAURIERS.

27 MISS DESLAURIERS: DESLAURIERS.

28 THE CLERK: HAVE A SEAT, PLEASE.

1 THE COURT: TINA DESLAURIERS, YES; IS THAT MISS?

2 MRS. DESLAURIERS: MRS.

3 THE COURT: WHERE DO YOU LIVE?

4 MRS. DESLAURIERS: IN HAWTHORNE.

5 THE COURT: HOW FAR IS THAT FROM HERE?

6 MRS. DESLAURIERS: 15 MILES.

7 THE COURT: 15 MILES?

8 MRS. DESLAURIERS: YES.

9 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED,
10 MRS. DESLAURIERS?

11 MRS. DESLAURIERS: YES.

12 THE COURT: WHAT IS YOUR REASON FOR IT?

13 MRS. DESLAURIERS: MY WORK ONLY PAYS ME FOR 22 DAYS
14 A YEAR.

15 THE COURT: WHOM DO YOU WORK FOR?

16 MRS. DESLAURIERS: THAT IS FOR JURY DUTY AND THAT IS
17 IT.

18 THE COURT: WHO?

19 MRS. DESLAURIERS: FOR JURY DUTY, THAT IS ALL THEY PAY
20 ME.

21 THE COURT: WHO DO YOU WORK FOR?

22 MRS. DESLAURIERS: TRW.

23 MR. BARENS: NO OBJECTION.

24 THE COURT: THANK YOU VERY MUCH. YOU ARE EXCUSED.

25 YOU GO TO THE JURY ASSEMBLY ROOM AND TELL THEM
26 YOU ARE EXCUSED FROM THIS CASE BUT YOU CAN SERVE ON OTHER
27 CASES UP TO 22 DAYS.

28 MRS. DESLAURIERS: OKAY, THANK YOU.

1 (PROSPECTIVE JUROR DESLAURIERS EXITED
2 CHAMBERS.)

3 (PROSPECTIVE JUROR ERRIDGE ENTERED
4 CHAMBERS.)

5 THE CLERK: THIS IS ANNETTE ERRIDGE.

6 THE COURT: IS THAT MISS ERRIDGE?

7 MISS ERRIDGE: YES.

8 I HAVE A LETTER FROM MY EMPLOYER, YOU CAN READ
9 IT.

10 THE COURT: WHERE DO YOU LIVE?

11 MISS ERRIDGE: OVER ON FRANKLIN IN SANTA MONICA.

12 (WHEREUPON, A DOCUMENT WAS HANDED TO
13 THE COURT BY THE PROSPECTIVE JUROR.)

14 THE COURT: YOU WORK FOR THE SANTA MONICA FAMILY YMCA?

15 MISS ERRIDGE: YES.

16 THE COURT: AND BECAUSE OF A CHANGE IN THE STAFF YOU
17 ARE NEEDED THERE; IS THAT IT?

18 MISS ERRIDGE: UH-HUH. THEY PUT ME ON THE NIGHTSHIFT
19 RIGHT NOW. I WAS WORKING FULL TIME DURING THE DAY.

20 THE COURT: THEY WANT TO POSTPONE YOUR JURY DUTY FOR
21 A MONTH, IS THAT IT?

22 MISS ERRIDGE: UH-HUH.

23 MR. WAPNER: PLEASE SAY YES. YOU HAVE TO SAY SOMETHING
24 SO THIS LADY CAN WRITE IT DOWN.

25 MISS ERRIDGE: ALL RIGHT.

26 MR. WAPNER: I HAVE NO OBJECTION.

27 MR. BARENS: HAVE THEY SAID THEY WON'T PAY?

28 MISS ERRIDGE: OH, THEY WILL. IT IS JUST THAT TWO

1 PEOPLE HAVE QUIT OF THE FOUR PEOPLE AND THERE ARE TWO SHIFTS
2 SO WE NEED MY BOSS TO WORK DURING THE DAY AND I TOOK THE
3 NIGHTSHIFT UNTIL THEY FILL THE POSITION.

4 MR. BARENS: MIGHT WE DISCUSS THIS A MOMENT, YOUR HONOR?

5 MR. WAPNER: CAN I ASK ANOTHER QUESTION BEFORE WE DO
6 THAT?

7 MR. BARENS: YES.

8 MR. WAPNER: IF YOU ARE WORKING THE NIGHTSHIFT AND YOU
9 ARE SERVING ON JURY DUTY, WILL YOU HAVE TO SERVE ON JURY DUTY
10 DURING THE DAY AND WORK AT NIGHT?

11 MISS ERRIDGE: I START WORK AT 1:00 TO 9:00. I USUALLY
12 GET OUT AT 9:00.

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1 MR. WAPNER: FOR THREE MONTHS, YOU WOULD HAVE TO GO TO
2 THE YMCA FROM, SAY, 12:45 UNTIL 9:00?

3 MISS ERRIDGE: LET'S SEE, THAT WOULD BE FINE WITH ME
4 IF MY BOSS WOULD OKAY IT.

5 MR. BARENS: IS THERE ANY WAY YOU COULD CALL YOUR BOSS
6 AND FIND OUT?

7 MISS ERRIDGE: I COULD.

8 MR. BARENS: COULD YOU POSSIBLY DO THAT?

9 MISS ERRIDGE: COULD I USE THE PHONE OUT THERE?

10 THE COURT: YES, SURE, YOU CAN USE IT IN THE COURTROOM.

11 (PROSPECTIVE JUROR ERRIDGE EXITED
12 CHAMBERS.)

13 MR. WAPNER: MAY I SEE THE LETTER THAT SHE SUBMITTED?

14 MR. BARENS: SHE DOESN'T LOOK OLD ENOUGH TO VOTE, THIS
15 GIRL.

16 (PROSPECTIVE JUROR HALDEMAN ENTERED
17 CHAMBERS.)

18 THE CLERK: THIS IS RUTH HALDEMAN. HAVE A SEAT HERE,
19 PLEASE.

20 MR. WAPNER: WE TALKED TO YOU BEFORE, MRS. HALDEMAN.

21 MRS. HALDEMAN: YES.

22 I WOULD LIKE TO BE EXCUSED BECAUSE I HAVE A
23 RETARDED SON WHO WORKS UP IN THE PALISADES AND I PICK HIM
24 UP DAILY AT 2:30.

25 I HAD HOPED POSSIBLY I COULD MAKE ARRANGEMENTS
26 TO HAVE SOMEBODY ELSE DO IT BUT FOR A THREE-MONTH PERIOD OF
27 TIME, IT IS JUST IMPOSSIBLE.

28 MR. BARENS: NO OBJECTION.

1 MR. WAPNER: I HAVE NO OBJECTION.

2 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU ARE
3 EXCUSED.

4 YOU GO TO THE JURY ASSEMBLY ROOM AND TELL THEM
5 THAT YOU ARE AVAILABLE IN SOME OTHER CASE, WILL YOU?

6 MRS. HALDEMAN: FINE. THANK YOU.

7 (PROSPECTIVE JUROR HALDEMAN EXITED
8 CHAMBERS.)

9 (PROSPECTIVE JUROR HALL ENTERED
10 CHAMBERS.)

11 THE CLERK: THIS IS GERTRUDE HALL.

12 HAVE A SEAT HERE, PLEASE.

13 THE COURT: MRS. HALL, WHERE DO YOU LIVE?

14 MRS. HALL: MALIBU.

15 THE COURT: YOU HAVE INDICATED YOU WANT TO BE EXCUSED
16 FROM JURY DUTY.

17 MRS. HALL: YES, BECAUSE OF THE FIRE ALERTS AND THE
18 SLIDES WE HAVE WHEN THE RAINY SEASON BEGINS. IF IT WEREN'T
19 SUCH A LONG PERIOD OF TIME, THAT IS THE REASON, IT WOULDN'T
20 MATTER OTHERWISE.

21 THE COURT: WHAT DO YOU MEAN, YOU ANTICIPATE THAT IN
22 THE THREE-MONTH PERIOD THERE WILL BE SOME SLIDES?

23 MRS. HALL: I BEG YOUR PARDON?

24 THE COURT: THERE WILL BE SOME SLIDES, IS THAT WHAT
25 YOU ARE AFRAID OF?

26 MRS. HALL: WELL, THERE IS A RED ALERT RIGHT NOW IN
27 MALIBU BECAUSE OF FIRES.

28 THE COURT: YOU MEAN YOUR ABILITY TO DRIVE DOWN HERE

1 WOULD BE AFFECTED, IS THAT IT?

2 MRS. HALL: YES.

3 AND THEN WHEN IT STARTS TO RAIN, WE ARE LIABLE
4 TO HAVE SLIDES AND WE CAN'T GET OUT AND IF WE DO GET OUT WHEN
5 THERE IS A FIRE, WE CAN'T GET BACK IN AGAIN.

6 MR. BARENS: IF WE MIGHT SPEAK ABOUT THIS WITH YOUR
7 HONOR.

8 MR. WAPNER: I THINK WE SHOULD, BUT CAN I ASK A COUPLE
9 MORE QUESTIONS?

10 MR. BARENS: YES.

11 MR. WAPNER: DO YOU LIVE BY YOURSELF?

12 MRS. HALL: NO. I HAVE A HUSBAND.

13 MR. WAPNER: AND DOES HE WORK OR IS HE HOME DURING THE
14 DAY?

15 MRS. HALL: NO. HE WORKS.

16 HE IS A DOCTOR. HE IS IN BRENTWOOD BUT WHEN THERE
17 IS A FIRE, WE BOTH STAY HOME.

18 MR. BARENS: I CAN'T BLAME HIM.

19 MR. WAPNER: IF WE COULD SPEAK TO YOUR HONOR.

20 THE COURT: YES. WILL YOU WAIT OUTSIDE JUST A SECOND,
21 PLEASE?

22 (PROSPECTIVE JUROR HALL EXITED
23 CHAMBERS.)

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1 MR. BARENS: I THINK THAT IT WILL BE A DANGEROUS
2 PRECEDENT. ANYBODY IN MALIBU WILL BE EXCUSED. FOR THAT
3 REASON, I WOULDN'T EXCUSE HER. IF ANYTHING HAPPENS AND SHE
4 CAN'T GET HERE OR IF THERE IS A FIRE OR SOMETHING, WE'LL HAVE
5 TO GET SOMEONE TO TAKE HER PLACE. THIS IS PURE SPECULATION.

6 THE COURT: HAVE HER COME BACK IN, PLEASE.

7 (PROSPECTIVE JUROR HALL REENTERS
8 CHAMBERS.)

9 THE COURT: MRS. HALL, THAT DOESN'T CONSTITUTE A LEGAL
10 EXCUSE. BECAUSE IF YOU WERE EXCUSED, WE WOULD HAVE TO EXCUSE
11 EVERY, SINGLE RESIDENT OF MALIBU, ANYBODY LIVING IN THAT
12 PARTICULAR AREA. WE CAN'T DO THAT.

13 MISS HALL: WELL, I JUST WANTED TO WARN YOU THAT IF
14 THERE WAS --

15 THE COURT: THAT'S RIGHT. IF BY ANY CHANCE, YOU ARE
16 SELECTED AS A JUROR AND YOU ARE UNABLE TO COME IN HERE, WE
17 MAY HAVE TO HAVE AN ALTERNATE JUROR WHO MIGHT TAKE YOUR PLACE.

18 ALL RIGHT. THANK YOU VERY MUCH. I THINK THAT
19 YOU MIGHT ENJOY THE EXPERIENCE. THANK YOU. YOU COME BACK
20 HERE TO THE JURY ASSEMBLY ROOM ON MONDAY AT 10:00 O'CLOCK.

21 MISS HALL: THANK YOU.

22 (PROSPECTIVE JUROR HALL EXITS
23 CHAMBERS.)

24 THE CLERK: THIS IS ANNETTE ERRIDGE.

25 (PROSPECTIVE JUROR ERRIDGE ENTERS
26 CHAMBERS.)

27 MISS ERRIDGE: THEY SAID, YOU KNOW, THAT IT WOULDN'T
28 BE POSSIBLE FOR ME TO GET THERE AT LIKE 4:45 BECAUSE THEY NEED

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1 ME TO COUNT MY MONEY AND GET THE SHIFTS SWITCHED OVER. AND
2 THEY HIRED SOMEONE NEW.

3 THEY WERE CALLED IN YESTERDAY BUT THEY COULDN'T
4 MAKE THE FIRST DAY. AND IT IS LIKE, IS HE GOING TO BE ABLE
5 TO MAKE IT TODAY? SO, I WILL HAVE TO HELP TRAIN, TOO.

6 MR. WAPNER: WELL, WILL THEY PAY YOU IF YOU SERVE THE
7 WHOLE TIME, DO YOU KNOW?

8 MISS ERRIDGE: AS FAR AS I KNOW I DO GET PAID WHILE I
9 AM ON JURY DUTY. I JUST HAVE TO GIVE MY CHECK TO THEM AT THE
10 END OF MY JURY DUTY. THAT IS, MY JURY DUTY MONEY THAT I GET.

11 MR. WAPNER: OKAY.

12 MR. BARENS: OKAY.

13 THE COURT: ALL RIGHT. WE WOULD LIKE TO HAVE YOU STAY
14 ON JURY DUTY. SO YOU TELL THEM THAT WE ARE TERRIBLY SORRY,
15 BUT THAT IS ONE OF THE OBLIGATIONS OF CITIZENSHIP, IS TO SERVE
16 ON A JURY.

17 IT MAY VERY WELL BE THAT YOU MAY NOT BE SELECTED.
18 WE HAVE MANY TO SELECT FROM, YOU KNOW. WE ONLY NEED 12 JURORS
19 AND MAYBE 4 ALTERNATES.

20 SO IT MAY VERY WELL BE THAT IT IS ACADEMIC. YOU
21 MIGHT NOT HAVE TO SERVE.

22 ALL RIGHT. COULD YOU COME BACK HERE AND COME TO
23 THE JURY ASSEMBLY ROOM ON MONDAY MORNING AT 10:00 O'CLOCK.
24 THAT IS 10:00, OKAY?

25 MISS ERRIDGE: THANK YOU.

26 THE COURT: THANK YOU VERY MUCH.

27 (PROSPECTIVE JUROR ERRIDGE EXITS
28 CHAMBERS.)

1 THE CLERK: THIS IS M. CATHERINE HANNEMANN.

2 (PROSPECTIVE JUROR HANNEMANN ENTERS
3 CHAMBERS.)

4 THE COURT: IS THAT MISS OR MRS.?

5 MRS. HANNEMANN: MRS.

6 THE COURT: WHERE DO YOU LIVE?

7 MRS. HANNEMANN: NATIONAL AND BARRINGTON.

8 THE COURT: FIVE MILES?

9 MRS. HANNEMANN: 11750.

10 THE COURT: IS THAT ABOUT FIVE MILES?

11 MRS. HANNEMANN: NO, NOT THAT FAR. I GUESS IT COULD
12 BE.

13 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
14 JURY DUTY?

15 MRS. HANNEMANN: YES.

16 THE COURT: WHAT IS YOUR REASON?

17 MRS. HANNEMANN: WELL, IN THE FIRST PLACE, I FOUND OUT
18 THAT THE COMPANY I WORK FOR, MARRIOTT/HOST, THEY PAY 30 DAYS.

19 BUT WHEN I TALKED TO OUR HEAD OF HUMAN RELATIONS,
20 THEY SAID NO WAY. THEY SAID NO WAY COULD I BE GUARANTEED THAT
21 THEY WOULD HOLD MY JOB FOR THREE MONTHS.

22 I HAVE BEEN THERE FIVE YEARS. I AM 60 YEARS OLD.
23 I DON'T WANT TO BE ON THE STREETS LOOKING FOR A NEW JOB.

24 THE COURT: WE WILL EXCUSE YOU.

25 MR. BARENS: NO OBJECTION.

26 THE COURT: WE WILL EXCUSE YOU.

27 MRS. HANNEMANN: YOU MEAN, I DON'T HAVE TO TELL ABOUT
28 THE TRIPLE BY-PASS?

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1 MR. BARENS: NO, MA'AM.

2 MRS. HANNEMANN: THAT WAS MY BACKUP.

3 MR. WAPNER: THAT WAS YOUR BACKUP?

4 THE CLERK: TELL THE JURY CLERK THAT YOU COULD STAY FOR A
5 SHORT PERIOD BUT NOT IN THIS CASE.

6 MRS. HANNEMANN: THANK YOU.

7 THE COURT: YOU ARE EXCUSED FROM THIS CASE.

8 MRS. HANNEMANN: THANK YOU. I HAVE ONE QUESTION. MY
9 HUSBAND HAD A SECOND TRIPLE BY-PASS AND IN THE NEXT FEW DAYS,
10 I WOULD LIKE TO TAKE CARE OF HIM --

11 THE COURT: YOU WOULD LIKE TO BE EXCUSED ALTOGETHER?

12 MRS. HANNEMANN: WOULD YOU?

13 THE COURT: DO YOU WANT TO BE EXCUSED ALTOGETHER?

14 MRS. HANNEMANN: YES.

15 THE COURT: YOU ARE EXCUSED.

16 MRS. HANNEMANN: THANK YOU.

17 THE COURT: TELL THEM IN THE JURY ASSEMBLY ROOM THAT
18 I EXCUSED YOU FROM ALL JURY DUTY.

19 MRS. HANNEMANN: THANK YOU.

20 (PROSPECTIVE JUROR HANNEMANN EXITS
21 CHAMBERS.)

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1 THE CLERK: THIS IS ANGELA HOUSTON.

2 (PROSPECTIVE JUROR HOUSTON ENTERS
3 CHAMBERS.)

4 THE COURT: MISS HOUSTON, WHERE DO YOU LIVE?

5 MISS HOUSTON: IN MARINA DEL REY.

6 THE COURT: HOW FAR AWAY FROM HERE?

7 MISS HOUSTON: I HAVE NOT -- FIVE MILES, PROBABLY.

8 THE COURT: I UNDERSTAND THAT YOU WANT TO BE EXCUSED
9 FROM JURY DUTY?

10 MISS HOUSTON: YES.

11 THE COURT: WHAT IS YOUR REASON?

12 MISS HOUSTON: MY EMPLOYER WILL ONLY PAY FOR 20 DAYS.

13 THE COURT: WHO DO YOU WORK FOR?

14 MISS HOUSTON: CITY NATIONAL BANK.

15 MR. WAPNER: DO YOU KNOW IF IT IS A FIRM POLICY OR DO
16 THEY MAKE EXCEPTIONS?

17 THE COURT: WELL, I KNOW GRAHAM GOLDSMITH. I WILL SEE
18 HIM AT LUNCH TODAY AND I WILL ASK HIM. HE IS THE CHAIRMAN
19 OF THE BOARD.

20 I KNOW HIM VERY WELL. I THINK THAT HE WON'T PAY
21 YOU FOR THREE MONTHS.

22 MISS HOUSTON: I THINK YOU ARE RIGHT.

23 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED.

24 YOU TELL THE CLERK IN THE JURY ASSEMBLY ROOM THAT
25 YOU ARE EXCUSED FROM JURY DUTY IN THIS CASE BUT YOU WILL SERVE
26 FOR A SHORTER TIME. OKAY?

27 MISS HOUSTON: THANK YOU.

28 THE COURT: ALL RIGHT. YOU ARE EXCUSED. WHERE DO YOU

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1 WORK? IN BEVERLY HILLS?

2 MISS HOUSTON: I WORK AT THE SUNSET/DOHENY BRANCH.

3 THE COURT: YES. ALL RIGHT. THANK YOU.

4 (PROSPECTIVE JUROR HOUSTON EXITS
5 CHAMBERS.)

0B 6 THE CLERK: THIS IS LEONARD JOSEPH.

7 (PROSPECTIVE JUROR JOSEPH ENTERS
8 CHAMBERS.)

9 THE COURT: MR. JOSEPH, WHERE DO YOU LIVE, SIR?

10 MR. JOSEPH: PARDON ME?

11 THE COURT: WHERE DO YOU LIVE?

12 MR. JOSEPH: 2266 SAN YSIDRO, IN BEVERLY HILLS.

13 THE COURT: I UNDERSTAND THAT YOU WANT TO BE EXCUSED
14 FROM JURY DUTY?

15 MR. JOSEPH: YES.

16 THE COURT: WHAT IS YOUR REASON FOR IT?

17 MR. JOSEPH: I HAD MY HOUSE FOR SALE. SUBSEQUENTLY I
18 SOLD IT, THE OTHER DAY.

19 MY ESCROW IS UP DECEMBER 16. I WAS MOVING TO PALM
20 SPRINGS.

21 I WON'T HAVE A PLACE TO STAY AFTER THE 16TH OF
22 DECMEBER.

23 MR. WAPNER: YOU DON'T WANT TO COMMUTE FROM PALM SPRINGS
24 TO HERE EVERY DAY FOR THE TRIAL?

25 MR. JOSEPH: NO, SIR.

26 THE COURT: THAT WILL ESTABLISH SOME KIND OF RECORD,
27 IF YOU WANT TO GET IN THE GUINNESS BOOK OF RECORDS?

28 MR. JOSEPH: NO, NO.

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1 THE COURT: ALL RIGHT. YOU WILL BE EXCUSED.

2 MR. JOSEPH: THANK YOU.

3 (PROSPECTIVE JUROR JOSEPH EXITS

4 CHAMBERS.)

5 THE CLERK: THIS IS PAVEL KAVETSKY.

6 (PROSPECTIVE JUROR KAVETSKY ENTERS

7 CHAMBERS.)

8 THE COURT: ALL RIGHT. MR. KAVETSKY, WHERE DO YOU LIVE?

9 MR. KAVETSKY: I LIVE IN CULVER CITY.

10 THE COURT: HOW FAR IS THAT FROM HERE?

11 MR. KAVETSKY: ABOUT SIX OR EIGHT MILES.

12 THE COURT: AND YOU WANT TO BE EXCUSED FROM JURY DUTY?

13 KAVETSKY: I DON'T MIND. BUT I HAVE A LIMITATION FROM

14 MY EMPLOYER. THEY ONLY COVER 30 DAYS, YOU KNOW.

15 THE COURT: WHO IS YOUR EMPLOYER?

16 MR. KAVETSKY: SAV-ON/OSKO.

17 THE COURT: IT WOULD BE AN ECONOMIC HARDSHIP FOR YOU

18 TO SERVE?

19 MR. KAVETSKY: THAT'S TRUE.

20 MR. BARENS: NO OBJECTION, YOUR HONOR.

21 MR. WAPNER: I HAVE NO OBJECTION.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU ARE
23 EXCUSED.

24 GO TO THE JURY ASSEMBLY ROOM AND TELL THE CLERK
25 THERE THAT YOU ARE EXCUSED FROM JURY DUTY IN THIS CASE BUT
26 YOU CAN SERVE FOR A SHORT PERIOD OF TIME.

27 MR. KAVETSKY: THANK YOU.

28 THE COURT: THANK YOU.

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1 (PROSPECTIVE JUROR KAVETSKY EXITS
2 CHAMBERS.)

3 THE CLERK: THIS IS HAROLD KNOX.

4 (PROSPECTIVE JUROR KNOX ENTERS
5 CHAMBERS.)

6 THE COURT: MR. KNOX, WHERE DO YOU LIVE?

7 MR. KNOX: WOODLAND HILLS.

8 THE COURT: HOW FAR IS THAT FROM HERE?

9 MR. KNOX: IT IS JUST ABOUT 15 MILES.

10 THE COURT: FIFTEEN MILES?

11 MR. KNOX: IT IS ON TOPANGA, ACTUALLY. IT IS AN
12 UNINCORPORATED AREA BUT A PART OF LOS ANGELES.

13 THE COURT: YES. I UNDERSTAND THAT YOU WANT TO BE
14 EXCUSED FROM JURY DUTY?

15 MR. KNOX: YES. MY COMPANY WILL ONLY PAY FOR 30 DAYS
16 OF JURY DUTY.

17 THE COURT: AND YOUR COMPANY IS?

18 MR. KNOX: LITTON SYSTEMS.

19 THE COURT: THE GUIDANCE AND CONTROL SYSTEMS OF LITTON?

20 MR. KNOX: YES.

21 THE COURT: AND THEY WILL -- THEY WON'T PAY FOR ANY
22 MORE; IS THAT RIGHT?

23 MR. KNOX: NO, THEY WON'T. THEY WOULD CONSIDER A LEAVE
24 OF ABSENCE. I WOULD BE ON MY OWN AFTER THAT.

25 THE COURT: AND YOU CAN'T AFFORD IT, CAN YOU?

26 MR. KNOX: NOT FOR TWO MONTHS' WORTH.

27 MR. BARENS: NO OBJECTION.

28 MR. WAPNER: NO OBJECTION.

1 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

2 TELL THE CLERK IN THE JURY ASSEMBLY ROOM THAT YOU
3 ARE AVAILABLE FOR OTHER CASES UP TO 30 DAYS, BUT EXCUSED FROM
4 THIS CASE.

5 MR. KNOX: THANK YOU.

6 (PROSPECTIVE JUROR KNOX EXITS
7 CHAMBERS.)

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1 THE CLERK: THIS IS VIC LARSON.

2 (PROSPECTIVE LARSON ENTERS CHAMBERS.)

3 THE COURT: MR. LARSON, WHERE DO YOU LIVE?

4 MR. LARSON: I LIVE IN MANHATTAN BEACH.

5 THE COURT: HOW FAR IS THAT FROM HERE?

6 MR. LARSON: WELL, I PUT MY SPEEDOMETER ON ZERO. BUT,
7 I DIDN'T LOOK AT IT. I ESTIMATE THAT IT IS ABOUT 20 MILES.

8 THE COURT: TWENTY MILES?

9 MR. LARSON: YES.

10 THE COURT: AND I UNDERSTAND YOU WANT TO BE EXCUSED FROM
11 JURY DUTY IN THIS CASE?

12 MR. LARSON: YES. LAST WEEK YOU ASKED ME WHETHER I
13 SHOULD BE EXCUSED. I WAS NOT CERTAIN ABOUT OUR COMPANY POLICY.
14 BUT THEN, I CHECKED WITH THEM. I WORK AT HUGHES AIRCRAFT.
15 THEIR LIMIT IS 22 DAYS.

16 THE COURT: ALL RIGHT.

17 MR. BARENS: NO OBJECTION.

18 MR. WAPNER: YOU SHOULD HAVE ASKED US, WE KNOW THAT
19 PRETTY WELL BY NOW.

20 MR. LARSON: YES.

21 THE COURT: YOU GO TO THE JURY ASSEMBLY ROOM AND TELL
22 THE CLERK THERE THAT YOU ARE AVILABLE FOR UP TO 20 DAYS.
23 YOU ARE EXCUSED FROM THIS CASE. OKAY?

24 MR. LARSON: THANKS.

25 (PROSPECTIVE JUROR LARSON EXITS CHAMBERS.)

26 THE CLERK: THIS IS DARRYL MILES.

27 (PROSPECTIVE JUROR MILES ENTERS CHAMBERS.)

28 THE COURT: MR. MILES, WHERE DO YOU LIVE?

1 MR. MILES: LOS ANGELES.

2 THE COURT: WHERE?

3 MR. MILES: VERMONT AND 91ST STREET.

4 THE COURT: PARDON ME?

5 MR. MILES: VERMONT AND 91ST.

6 THE COURT: VERMONT?

7 MR. MILES: AND 91ST.

8 THE COURT: ABOUT HOW MANY MILES IS THAT FROM HERE?

9 MR. MILES: ABOUT 19½.

10 THE COURT: YOU CLOCKED IT, HAVE YOU?

11 MR. MILES: CLOCKED IT.

12 THE COURT: ALL RIGHT. I UNDERSTAND YOU WANT TO BE
13 EXCUSED FROM JURY DUTY IN THIS CASE?

14 MR. MILES: YES.

15 THE COURT: WHAT IS YOUR REASON?

16 MR. MILES: WELL, AT FIRST I WAS WORKING EIGHT HOURS.
17 AND NOW I AM ON PART-TIME. I AM WORKING FOUR HOURS A DAY.
18 AND IT IS GOING TO BE --

19 THE COURT: IT WOULD BE AN ECONOMIC HARDSHIP FOR YOU,
20 SIR?

21 MR. MILES: IT WOULD BE AN ECONOMIC HARDSHIP, YES.
22 IT WOULD.

23 THE COURT: A FINANCIAL HARDSHIP?

24 MR. MILES: YES.

25 THE COURT: AND WHO DO YOU WORK FOR?

26 MR. MILES: I WORK FOR A.R.A. AT ROCKWELL.

27 THE COURT: THEY WON'T PAY YOU FOR --

28 MR. MILES: THEY AGREED TO PAY 20 HOURS A WEEK.

1 THE COURT: THAT IS ALL?

2 MR. MILES: THAT'S ALL.

3 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU ARE
4 EXCUSED.

5 MR. WAPNER: NO OBJECTION.

6 THE COURT: TELL THE CLERK IN THE JURY ASEMBLY ROOM THAT
7 YOU ARE EXCUSED IN THIS CASE BUT YOU CAN SERVE FOR SHORTER
8 PERIODS ON SOME OTHER CASE.

9 MR. MILES: THANK YOU.

10 (PROSPECTIVE JUROR MILES EXITS CHAMBERS.)

11 THE CLERK: THIS IS SUZANNE MUELLER.

12 (PROSPECTIVE JUROR MUELLER ENTERS
13 CHAMBERS.)

14 THE COURT: HOW ARE YOU? WHAT IS YOUR NAME AGAIN?

15 MISS MUELLER: SUZANNE MUELLER. I HAVE A LETTER
16 REQUESTING --

17 THE COURT: YOU WORK FOR TRANSAMERICA/OCCIDENTAL LIFE?

18 MISS MUELLER: YES.

19 MR. BARENS: WHERE DO YOU LIVE, MISS MUELLER?

20 MISS MUELLER: ALMOST WEST LOS ANGELES. IT IS LOS
21 ANGELES BUT IT IS JUST EAST OF THE 405 FREEWAY ON SEPULVEDA.

22 THE COURT: HOW MANY MILES IS THAT FROM HERE?

23 MISS MUELLER: SOMEWHERE BETWEEN FIVE AND SEVEN MILES.

24 THE COURT: WHAT IS THE COMMUNITY?

25 MISS MUELLER: IT IS STILL LOS ANGELES.

26 THE COURT: LOS ANGELES?

27 MISS MUELLER: YES.

28 THE COURT: YOU ARE A PROGRAM ANALYST?

1 MISS MUELLER: YES.

2 THE COURT: AND THE END OF THE YEAR PROCESSING IS A
3 COMPLEX AND VERY TIME-SENSITIVE PROJECT REQUIRING HEAVY
4 PARTICIPATION ON YOUR PART. YOU HAVE A KEY ASSIGNMENT. IT
5 WOULD BE A HARDSHIP FOR YOUR EMPLOYER.

6 BUT WOULD IT BE A HARDSHIP FOR YOU? WON'T THEY
7 PAY YOU?

8 MISS MUELLER: YES, THEY WILL.

9 THE COURT: THEY WILL PAY YOU?

10 MISS MUELLER: YES.

11 MR. WAPNER: CAN I ASK A COUPLE OF QUESTIONS?

12 THE COURT: SURE.

13 MR. WAPNER: GOING TO --

14 THE COURT: WOULD YOUR JOB BE IN JEOPARDY IN ANY WAY
15 WERE YOU TO STAY FOR THREE MONTHS?

16 MISS MUELLER: MY JOB?

17 THE COURT: YES.

18 MISS MUELLER: PERSONALLY, NO.

19 MR. WAPNER: OKAY. THEY WOULD BE ABLE TO HAVE SOMEONE
20 TAKE YOUR POSITION ON THE PROJECT IF YOU HAPPEN TO END UP ON
21 THE JURY?

22 MISS MUELLER: I WOULD THINK SO, YES.

23 THE COURT: PARDON ME?

24 MISS MUELLER: I WOULD THINK SO, YES.

25 MR. WAPNER: WOULD YOU PERSONALLY BE CONCERNED ABOUT
26 REPERCUSSIONS AT WORK IF YOU HAD TO STAY FOR THREE MONTHS?

27 MISS MUELLER: NO.

28 THE COURT: THANK YOU. ALL RIGHT. IT MIGHT BE

1 INCONVENIENT FOR YOUR EMPLOYER, BUT IT ISN'T INCONVENIENT FOR
2 YOU. YOU ARE GOING TO BE PAID.

3 SO THEREFORE, WE CANNOT JUSTIFIABLY EXCUSE YOU
4 FROM JURY DUTY IN THIS CASE. SO I WILL TELL YOU WHAT TO DO.

5 MONDAY, YOU COME TO THE JURY ASSEMBLY ROOM AT
6 10:00 O'CLOCK. OKAY?

7 MISS MUELLER: THAT'S FINE.

8 THE COURT: ALL RIGHT. THANK YOU.

9 (PROSPECTIVE JUROR MUELLER EXITS
10 CHAMBERS.)

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1 THE COURT: WHO ELSE DO WE HAVE?

2 MR. BARENS: THAT WAS DARRYL MILES.

3 CLEVELAND MORRIS, YOU EXCUSED.

4 (PROSPECTIVE JUROR RAINE ENTERED
5 CHAMBERS.)

6 THE CLERK: THIS IS BARBARA RAINE.

7 HAVE A SEAT HERE, PLEASE, MISS RAINE.

8 THE COURT: IS THAT MISS RAINE, IS IT?

9 (WHEREUPON, MISS RAINE NODS HER HEAD UP
10 AND DOWN.)

11 THE COURT: WHERE DO YOU LIVE?

12 MISS RAINE: PACIFIC PALISADES.

13 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
14 JURY DUTY.

15 MISS RAINE: NOT NECESSARILY. IT IS JUST THAT MONDAY,
16 ON MONDAY IS THE ONLY DAY I HAVE A DENTAL APPOINTMENT WHICH
17 I TRIED TO -- I TRIED TO CHANGE IT TO A SATURDAY AND HE DOESN'T
18 WORK ON SATURDAY.

19 I AM IN THE MIDDLE OF ROOT CANAL WORK, OTHERWISE
20 THAT IS WHY I DIDN'T TELL YOU THE OTHER DAY. I THOUGHT I
21 COULD CHANGE IT. I JUST CAN'T LET IT GO FOR THREE MONTHS.

22 IF I COULD JUST BE EXCUSED MONDAY, IT IS FINE.

23 MR. BARENS: OKAY, WE COULD EXCUSE HER MONDAY, I AM
24 SURE, YOUR HONOR.

25 THE COURT: WE CAN EXCUSE YOU THIS MONDAY.

26 MR. WAPNER: I DON'T THINK THAT IS A PROBLEM BECAUSE
27 WE ARE PROBABLY GOING TO HAVE OTHER JURORS TO DO HARDSHIP
28 AND TO HAVE THE HOVEY MATTERS, WHICH WILL TAKE SOME TIME.

1 THE COURT: I TELL YOU WHAT YOU DO, YOU COME BACK TO
2 THE JURY ASSEMBLY ROOM ON TUESDAY, WILL THAT BE ALL RIGHT?

3 MISS RAINE: THAT IS FINE.

4 THE COURT: ALL RIGHT, FINE. THANK YOU.

5 MISS RAINE: THANK YOU.

6 (PROSPECTIVE JUROR RAINE EXITED
7 CHAMBERS.)

8 (PROSPECTIVE JUROR ROOF ENTERED
9 CHAMBERS.)

10 THE CLERK: THIS IS DONALD ROOF.

11 THE COURT: MR. ROOF, WHERE DO YOU LIVE, SIR?

12 MR. ROOF: PACIFIC PALISADES.

13 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
14 JURY DUTY.

15 MR. ROOF: THAT IS CORRECT.

16 I GOT DISTURBING NEWS YESTERDAY THAT MY WIFE HAS
17 TO HAVE A CANCER OPERATION.

18 THE COURT: I AM SORRY TO HEAR THAT.

19 MR. ROOF: ON THE 21ST, FRIDAY THE 21ST.

20 MR. BARENS: NO OBJECTION, YOUR HONOR.

21 MR. CHIER: I HAVE NO OBJECTION.

22 THE COURT: YOU WILL BE EXCUSED. THANK YOU VERY MUCH.

23 I HOPE EVERYTHING TURNS OUT ALL RIGHT.

24 MR. ROOF: THAT IS THE REASON I DIDN'T STAND UP THE
25 OTHER DAY, I DIDN'T KNOW THEN.

26 THE COURT: I HOPE EVERYTHING IS ALL RIGHT.

27 DO YOU WANT TO BE EXCUSED FROM JURY DUTY ALTOGETHER?

28 MR. ROOF: YES.

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1 THE COURT: YOU TELL THE JURY CLERK YOU ARE EXCUSED
2 HENCEFORTH FROM JURY DUTY.

3 MR. ROOF: THANK YOU VERY MUCH, YOUR HONOR.

4 (PROSPECTIVE JUROR ROOF EXITED
5 CHAMBERS.)

6 (PROSPECTIVE JUROR SMITH ENTERED
7 CHAMBERS.)

8 THE CLERK: THIS IS DEBRA SMITH.

9 MRS. SMITH: HI.

10 THE COURT: IS THAT MISS OR MRS.?

11 MRS. SMITH: I AM SORRY, WHAT?

12 THE COURT: IS THAT MRS.?

13 MRS. SMITH: MRS., YES.

14 THE COURT: WHERE DO YOU LIVE?

15 MRS. SMITH: AT SHERMAN OAKS, 5017 BUFFALO.

16 THE COURT: HOW FAR IS THAT FROM HERE?

17 MRS. SMITH: IT IS A LITTLE OVER 17 MILES.

18 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
19 JURY DUTY.

20 MRS. SMITH: YEAH. MY WORK ONLY COVERS 30 DAYS AND
21 I CAN'T AFFORD IT.

22 THE COURT: YOU WON'T BE PAID AFTER THAT?

23 (WHEREUPON, MRS. SMITH SHAKES HER HEAD
24 FROM SIDE TO SIDE.)

25 THE COURT: IT WOULD BE AN ECONOMIC HARDSHIP FOR YOU?

26 MRS. SMITH: I HAVE A BABY THAT I WON'T BE ABLE TO AFFORD
27 A BABY-SITTER FOR.

28 THE COURT: ALL RIGHT, THANK YOU. YOU WILL BE EXCUSED

1 FROM JURY DUTY IN THIS CASE BUT TELL THE JURY CLERK IN THE
2 ASSEMBLY ROOM THAT YOU CAN STAY ON FOR SOME OTHER MATTERS,
3 IS THAT ALL RIGHT?

4 MRS. SMITH: YES.

5 THE COURT: FOR TEN DAYS OR WHATEVER IT MAY BE.

6 MRS. SMITH: YES.

7 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

8 MRS. SMITH: THANK YOU.

9 THE COURT: YOU ARE EXCUSED.

10 (PROSPECTIVE JUROR SMITH EXITED
11 CHAMBERS.)

12 (PROSPECTIVE JUROR VALAND ENTERED
13 CHAMBERS.)

14 THE CLERK: THIS IS KOKILA VALAND.

15 MISS VALAND: I HAVE A LETTER FROM MY EMPLOYER HERE.

16 (WHEREUPON, A DOCUMENT WAS HANDED TO
17 THE COURT BY THE PROSPECTIVE JUROR.)

18 THE COURT: THE EMPLOYER IS MEDICAL CENTER OF NORTH
19 HOLLYWOOD, AMI, AND THEY SAY THEY PAY FOR 30 DAYS OF JURY
20 DUTY ONLY.

21 MR. BARENS: NO OBJECTION, YOUR HONOR.

22 THE COURT: WHERE DO YOU LIVE?

23 MISS VALAND: SHERMAN OAKS ON WOODMAN AVENUE.

24 THE COURT: SHERMAN OAKS?

25 MISS VALAND: UH-HUH.

26 THE COURT: HOW FAR IS THAT FROM HERE?

27 MISS VALAND: ABOUT 15, 16 MILES.

28 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU ARE

11-5
1 EXCUSED.

2 YOU TELL THE CLERK IN THE JURY ASSEMBLY ROOM THAT
3 YOU ARE EXCUSED FROM THIS CASE BUT YOU WILL SERVE UP TO 10
4 OR 15 DAYS ON ANY OTHER KIND OF CASE, ALL RIGHT?

5 MISS VALAND: ALL RIGHT.

6 THE COURT: YOU WANT TO SERVE AS A JUROR, DON'T YOU?

7 MISS VALAND: YEAH.

8 THE COURT: ALL RIGHT, YOU TELL THEM THAT.

9 I WILL KEEP THIS.

10 MISS VALAND: CAN I GET A COPY?

11 THE COURT: YOU CAN KEEP IT, ALL RIGHT.

12 MR. WAPNER: SHOULD WE HAVE A COPY FOR THE RECORD?

13 THE COURT: I PUT IT ON THE RECORD AS TO WHO THE EMPLOYER
14 IS AND WHAT THE REASON FOR IT IS.

15 MR. BARENS: I WILL STIPULATE THE DEFENSE IS SATISFIED.

16 THANK YOU AND GOOD LUCK.

17 THE COURT: THANK YOU. YOU CAN KEEP IT.

18 GO TO THE JURY ASSEMBLY ROOM AND TELL THE CLERK
19 THERE YOU ARE AVAILABLE UP TO WHATEVER IT IS, 30 DAYS AND
20 THAT YOU ARE EXCUSED FROM THIS CASE.

21 MISS VALAND: UH-HUH. THANK YOU VERY MUCH.

22 THE COURT: YOU ARE WELCOME.

23 (PROSPECTIVE JUROR VALAND EXITED
24 CHAMBERS.)

25 (PROSPECTIVE JUROR VICK ENTERED
26 CHAMBERS.)

27 THE CLERK: THERE IS ONE MORE AFTER BETTY VICK.

28 JUST HAVE A SEAT, PLEASE, MA'AM.

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MRS. VICK: THANK YOU.

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THE COURT: IS THAT MRS. VICK?

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MRS. VICK: YES.

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THE COURT: MRS. VICK, WHERE DO YOU LIVE?

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MRS. VICK: I LIVE IN TORRANCE.

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1 THE COURT: TORRANCE, HOW FAR IS THAT FROM HERE?

2 MRS. VICK: ABOUT 20 MILES.

3 THE COURT: TWENTY MILES?

4 MRS. VICK: UH-HUH.

5 THE COURT: I UNDERSTAND YOU WANT TO BE EXCUSED FROM
6 JURY DUTY.

7 MRS. VICK: WELL, NOT REALLY EXCEPT THAT I HAVE A CASE
8 COMING UP IN THE TORRANCE COURT ON DECEMBER 4TH THAT I HAVE
9 BEEN WAITING A LONG TIME FOR THIS.

10 THE COURT: WHAT KIND OF CASE IS THAT, PERSONAL INJURY?

11 MRS. VICK: NO.

12 THE COURT: MALPRACTICE?

13 MRS. VICK: IT IS A PROPERTY MATTER.

14 THE COURT: PROPERTY? YOU DON'T KNOW WHETHER OR NOT
15 YOU ARE GOING TO BE TRIED ON THAT DATE, YOU DON'T KNOW THAT
16 THE CASE WILL GO FORWARD ON THAT DATE?

17 MRS. VICK: NO, BUT FROM THE SCHEDULE WE HAVE BEEN GIVEN
18 ON IT, WE HAVE HAD POSTPONEMENTS BECAUSE OF ONE OF THE LAWYERS
19 OR THE OTHER AND THIS IS THE LAST DATE.

20 THE COURT: THEN YOU THINK IT IS GOING TO BE GOING AT
21 THAT TIME?

22 MRS. VICK: I HOPE IT IS OVER. I MEAN I HOPE IT WILL
23 BE.

24 THE COURT: YOU WILL BE CONCERNED ABOUT THAT CASE IF
25 YOU WERE TO BE ON THIS JURY, YOU WOULD BE CONCERNED ABOUT
26 WHAT HAPPENED ON YOUR CASE; IS THAT RIGHT?

27 MRS. VICK: WELL, IT IS QUITE A BIT OF MONEY.

28 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

1 MR. BARENS: NO OBJECTION.

2 THE COURT: YOU WILL BE EXCUSED.

3 MR. WAPNER: NO OBJECTION.

4 THE COURT: WAIT A MINUTE. HOW ABOUT A SHORT PERIOD
5 OF TIME, YOU CAN SERVE THAT, CAN'T YOU, A WEEK OR SO?

6 MRS. VICK: YES.

7 THE COURT: ALL RIGHT. GO BACK TO THE JURY ASSEMBLY
8 ROOM AND TELL THEM YOU ARE AVAILABLE FOR A SHORT PERIOD OF
9 TIME.

10 MRS. VICK: ALL RIGHT, THANK YOU.

11 THE COURT: YOU WILL BE EXCUSED IN THIS CASE.

12 (PROSPECTIVE JUROR VICK EXITED
13 CHAMBERS.)

14 (PROSPECTIVE JUROR WILKES ENTERED
15 CHAMBERS.)

16 THE CLERK: THIS IS MRS. WILKES.

17 MR. BARENS: GOOD MORNING.

18 THE COURT: THAT IS WILKES, IS THAT IT?

19 MRS. WILKES: YES.

20 THE COURT: MRS. WILKES, WHERE DO YOU LIVE?

21 MRS. WILKES: IN SHERMAN OAKS.

22 THE COURT: THAT IS WHAT, ABOUT 16 MILES FROM HERE?

23 MRS. WILKES: I THINK I CLOCKED IT AT ABOUT 19 SOMETHING.

24 THE COURT: 19?

25 MRS. WILKES: UH-HUH.

26 THE COURT: ALL RIGHT. I UNDERSTAND YOU WANT TO BE
27 EXCUSED FROM JURY DUTY IN THIS CASE.

28 MRS. WILKES: JUST ON THIS ONE.

1 THE COURT: JUST THIS ONE?

2 MRS. WILKES: I DO WANT TO GO ON A JURY BECAUSE I THINK
3 IT WOULD BE EXCITING.

4 THE COURT: ALL RIGHT, YOU WILL BE ON JURY DUTY.

5 WHAT IS THE REASON THAT YOU WISH TO BE EXCUSED?

6 MRS. WILKES: WELL, I HAVE A SICK MOTHER-IN-LAW WHO
7 HAS HAD TWO HEART ATTACKS AND WHO LIVES IN THE STATE OF
8 WASHINGTON AND WHO IS FINANCIALLY IN TROUBLE AND WE ARE TRYING
9 TO CLEAR UP HER FINANCES TO MOVE HER DOWN HERE SO I CAN TEND
10 TO HER.

11 AND I DON'T KNOW WHEN, IF WE SELL HER TRAILER
12 WHICH IS WHAT WE ARE TRYING TO DO RIGHT NOW, I WILL PROBABLY
13 GO UP THE WEEK OF THE 13TH OR THE 14TH OF DECEMBER TO TRY
14 TO PACK HER UP AND MOVE HER DOWN. IF NOT, I DON'T KNOW HOW
15 LONG IT IS GOING TO TAKE US TO BE ABLE TO GET HER DOWN HERE.

16 WE HAD SOMEBODY TAKING CARE OF HER BUT THEY HAVE
17 FINANCIALLY RIPPED HER OFF A COUPLE OF TIMES AND I AM THE
18 ONLY ONE THAT IS AVAILABLE TO DROP EVERYTHING AND GO UP TO
19 HELP HER RIGHT NOW.

20 THE COURT: ALL RIGHT, WE ARE CONVINCED.

21 MRS. WILKES: OH, OKAY.

22 THE COURT: YOU WILL BE EXCUSED FROM JURY DUTY IN THIS
23 CASE.

24 IF YOU WANT TO STAY AND GO ON SOME OTHER CASE,
25 YOU CAN DO THAT, CAN'T YOU?

26 MRS. WILKES: YES, YES, DEFINITELY.

27 THE COURT: FOR A SHORT PERIOD OF TIME?

28 MRS. WILKES: YES.

1 THE COURT: YOU TELL THE JURY ASSEMBLY CLERK THAT IS
2 WHAT YOU WILL DO.

3 MRS. WILKES: YES. THANK YOU.

4 (PROSPECTIVE JUROR WILKES EXITED
5 CHAMBERS.)

6 MR. BARENS: YOUR HONOR, I THINK WE WILL SEE YOU MONDAY
7 IF THERE IS NOTHING FURTHER.

8 THE COURT: SURE.

9 MR. WAPNER: JUST BRIEFLY --

10 THE COURT: YOU DON'T WANT TO GO FORWARD ON THESE
11 QUESTIONS?

12 MR. BARENS: NO. I WOULD LIKE TO PROCEED WITH OTHER
13 THINGS.

14 MR. WAPNER: BY MY COUNT ON THIS LIST WE HAVE LOST 23
15 ADDITIONAL PEOPLE AND BY MY ROUGH COUNT I THOUGHT WE HAD 93
16 TO START WITH TODAY SO WE HAVE 70 --

17 THE COURT: 70 LEFT.

18 MR. WAPNER: WE HAVE 70 LEFT, SO IT SEEMS TO ME WE NEED
19 AT LEAST 30 MORE THAT CAN SERVE, WHICH MEANS BASED ON WHAT
20 HAS BEEN HAPPENING --

21 MR. BARENS: 45, 50.

22 MR. WAPNER: WE PROBABLY NEED 90 BECAUSE I'LL BET WE
23 LOSE TWO-THIRDS OF THESE PEOPLE.

24 MR. BARENS: ALL RIGHT.

25 MR. WAPNER: I DON'T KNOW HOW MANY WE WILL GO THROUGH
26 BUT WE WILL LOSE AT LEAST A HALF.

27 MR. BARENS: LET ME ASK YOU THIS BECAUSE --

28 THE COURT: ONE WAY OF CURING EVERYTHING ELSE IS TO

1 TAKE THE FIRST 12 YOU MIGHT HAVE IN THE JURY BOX.

2 THE DEFENDANT: I WILL STIPULATE.

3 MR. WAPNER: IT SHOULD BE ON THE RECORD THAT THAT WAS
4 A FACETIOUS REMARK AND COUNSEL WILL HENCEFORTH CAUTION HIS
5 CLIENT --

6 MR. BARENS: YES, AND IT WAS MEANT IN NO PEJORATIVE
7 OR CONTENTIOUS MANNER.

8 THE COURT: IT WASN'T PEJORATIVE.

9 MR. BARENS: NO.

10 THE DEFENDANT: I WILL SAY --

11 MR. BARENS: MR. HUNT --

12 THE DEFENDANT: I'LL SAY NOTHING FURTHER. SORRY.

13 MR. BARENS: PARDON ME WHILE I RECOVER, JUDGE.

14 THE COURT: THE CLERK HAD MENTIONED SOMETHING I THOUGHT
15 WE MAY WELL PUT ON THE RECORD HERE, WHICH IS A VERY NICE
16 THING ANYWAY IF IT HAD NO RELATIONSHIP TO THIS CASE, BUT
17 MR. HUNT WAS WITH THE MOTHER OF HIS GIRLFRIEND AND THEY WERE
18 EMBRACING OR SOMETHING IN FRONT OF THE JURORS, SO I WOULD
19 SUGGEST THAT THERE NOT BE ANY DEMONSTRATION OF ANY KIND IN
20 FRONT OF ANY OF THE JURORS, ALL RIGHT?

21 MR. BARENS: INDEED.

22 THE COURT: SO THEY DON'T GET ANY IMPRESSION ONE WAY
23 OR THE OTHER.

24 MR. BARENS: THANK YOU, YOUR HONOR.

25 THE COURT: IT MIGHT BE GOOD OR BAD, THEY MIGHT THINK
26 SHE WAS YOUR GIRLFRIEND AND SAY, WHAT IS HE DOING WITH AN
27 OLD WOMAN LIKE THAT?

28 THE BEST THING FOR YOU TO DO IS TO BE UNDEMONSTRATIVE.

1 MR. WAPNER: AS FAR AS HOW WE ARE GOING TO PROCEED, WE
2 HAVE NOW 73 JURORS COMING BACK ON MONDAY MORNING, GIVE OR TAKE
3 A FEW WHO ARE GOING TO COME ON TUESDAY.

4 IT SEEMS TO ME THAT WE CAN EITHER HAVE THEM COME
5 IN AND EXCUSE THEM AGAIN.

6 PERHAPS, ALTHOUGH IT IS PLACING A FAIRLY GREAT
7 BURDEN ON SOMEONE, WE COULD HAVE ALL THE PEOPLE CALLED AT
8 HOME AND TOLD NOT TO COME IN UNTIL TUESDAY. BECAUSE WE ARE
9 GOING TO HAVE TO GET A NEW PANEL ON MONDAY.

10 THEY COULD BE CALLED AND TOLD NOT TO COME IN ON
11 MONDAY OR THEY COULD BE CALLED AND TOLD TO COME IN MONDAY
12 AFTERNOON. BUT THAT IS PROBABLY NOT REALISTIC EITHER.

13 MR. BARENS: I SUBMIT THAT THE ONLY -- I WOULD FEEL THAT
14 IT WOULD BE FOOLISH ASKING THE STATE TO TRY TO CONVINC --
15 IF THEY WERE CALLED -- IF THEY TRIED TO CALL EVERY PERSON WHO
16 IS GOING TO BE HERE ON MONDAY THAT YOUR HONOR ORDERED TO COME
17 BACK, TO CALL THEM NOW DOESN'T SEEM LIKE A PRACTICAL THING
18 WITH HAVING ONE WORKDAY TO DO IT IN, WHICH IS A FRIDAY. RATHER,
19 I THINK ALL WE CAN DO IS EXCUSE THEM UNTIL TUESDAY AND TRY
20 TO --

21 THE COURT: MAY WE DO THIS? WE'LL PROCEED WITH WHAT
22 WE HAVE. WE WILL SEE HOW MANY WE HAVE LEFT OVER. AND THEN
23 WE WILL EXCUSE THOSE WHO ARE LEFT OVER FOR A SHORT PERIOD OF
24 TIME.

25 WE WILL GET A NEW PANEL IN. WE WILL SEE HOW MANY
26 MORE, INSTEAD OF WASTING ANY TIME.

27 MR. WAPNER: ARE YOU SAYING THAT WE WILL GO THROUGH
28 HOVEY AND WITHERSPOON WITH THE ENTIRE 73 THAT WE HAVE?

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1 THE COURT: THAT'S CORRECT. SO, WE WILL SEE HOW MANY
2 WE HAVE LEFT OVER.

3 MR. WAPNER: THEN WE WILL START ALL OVER?

4 THE COURT: THEN IF WE NEED MORE, WE'LL EXCUSE THEM
5 UNTIL WE GET SOME MORE. WE ARE NOT GOING TO WASTE ANY TIME.

6 MR. BARENS: ALL RIGHT.

7 THE COURT: ALL RIGHT.

8 THE BAILIFF: WE HAVE 24 EXCUSED.

9 THE COURT: WHAT DOES THAT LEAVE US?

10 THE BAILIFF: WE HAD 92 PLUS 2 THAT DIDN'T SHOW. ONE
11 WAS ILL AND THE OTHER ONE WE COULDN'T FIND.

12 THAT LEAVES 48 PLUS 20.

13 THE COURT: THAT WILL BE 70. ALL RIGHT. WE'LL PROCEED
14 ON THOSE.

15 MR. WAPNER: I ONLY HAD 23. WELL, I WILL GO OVER THE
16 LIST WITH YOU.

17 THE BAILIFF: HERE IS THE LIST. DID YOU GET THE LAST
18 ONE, WILKES?

19 MR. WAPNER: YES.

20 THE COURT: OKAY. SO WE'LL BEGIN WITH THE WITHERSPOON/
21 HOVEY ON MONDAY?

22 MR. WAPNER: YES. THANK YOU, YOUR HONOR.

23 THE COURT: THANK YOU. WE ARE IN RECESS.

24 (AT 12:05 P.M. AN ADJOURNMENT WAS TAKEN

25 UNTIL MONDAY, NOVEMBER 17, 1986 AT

26 10:00 A.M.)
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28