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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-60049-CR-ROSENBAUM

UNITED STATES OF AMERICA,
Plaintiff(s),
vs.
Fort Lauderdale, Florida
January 23, 2014

ROGERIO CHAVES SCOTTON,
Defendant(s).

JURY TRIAL
VOIR DIRE AND OPENING STATEMENTS
BEFORE THE HONORABLE ROBIN S. ROSENBAUM
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF(S): Bertha Mitrani, Esquire
United States Attorney's Office
500 East Broward Boulevard
Seventh Floor
Fort Lauderdale, Florida 33301

FOR THE DEFENDANT(S): Rogerio Scotton, Pro Se

STANDY COUNSEL: Jason Kreiss, Esquire
The Kreiss Law Firm
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REPORTED BY: Tammy Nestor, RMR
Official Court Reporter
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1 Thereupon,
2 the following proceedings began at 9:23 a.m.:

3 (Thereupon, the prospective jurors entered the
4 courtroom at 9:23 a.m.)

5 THE COURT: Let me ask you if you would, did you want
6 them in the front row?

7 THE COURTROOM DEPUTY: Yes.

8 THE COURT: I'm sorry, can I ask you to come in the
9 front row.

10 A PROSPECTIVE JUROR: Sorry.

11 THE COURT: That's okay. Thank you very much. Please
12 make yourselves comfortable. It always takes a few minutes to
13 get everybody in. While we are doing that, please feel free to
14 sit down. Make yourselves comfortable.

15 All righty. Please be seated. And I would like to
16 welcome all of you to the United States District Court for the
17 Southern District of Florida. For those of you who might not
18 be familiar with the court, the Southern District of Florida
19 extends from Key West in the south all the way up to Vero Beach
20 in the north. There are three federal districts in the State
21 of Florida, and as I mentioned, we are in the Southern District
22 of Florida.

23 You all are here today to potentially serve as jurors
24 in a criminal case. I am going to tell you a little bit about
25 that in just a moment, but first I want to introduce some of

1 the folks in the courtroom here. My name is Robin Rosenbaum
2 and I am the judge who will be presiding over this trial.

3 Right here we have Ms. Nestor. She is the court
4 reporter, and as you can see, she is taking down all of the
5 proceedings. So if at a point in time later anybody needs to
6 know what happened during this trial, they can consult the
7 written record.

8 You've already met Mr. Creary. He is the courtroom
9 deputy and he will be assisting you throughout your time with
10 us. This is Officer Hildebrand, and he also will be assisting
11 you during your stay with us.

12 I would like to let the parties introduce themselves
13 at this time. Let me start by turning to the government.

14 MS. MITRANI: Thank you, Your Honor. Good morning,
15 members of the jury. My name is Bertha Mitrani. I am an
16 assistant United States attorney. And with me at counsel's
17 table is Roy Van Brunt. He is a special agent with the FBI.
18 And seated next to him is Nathan Frank who is a staff
19 operations specialist with the FBI. And the three of us will
20 be presenting the case on behalf of the United States.

21 THE COURT: Thank you, Ms. Mitrani.

22 Mr. Scotton.

23 MR. SCOTTON: Good morning, ladies and gentlemen of
24 the jury. My name is Rogerio Scotton. I am the defendant in
25 this case and I will be representing myself at this point. I

1 would appreciate your time here today, and let's see how this
2 is going to end up. Thank you.

3 THE COURT: Thank you, Mr. Scotton.

4 All right. And let me let all of you know that this
5 case, as Mr. Scotton pointed out, he is representing himself.
6 And I am sure you are all familiar with the right to be
7 represented by counsel. In this case, Mr. Scotton has elected
8 to represent himself so he will be doing so throughout this
9 trial. We will talk a little bit more about that in a few
10 minutes, but I did want to let you know that at this point.

11 This is a criminal case in which Mr. Scotton is
12 charged with defrauding Federal Express, DHL Express, and UPS
13 by using false information to open shipping accounts with these
14 companies under names and addresses other than his own and then
15 using these accounts to ship packages without paying Federal
16 Express, DHL, and UPS for their shipping services.

17 Mr. Scotton denies that he did any of these things and
18 that he defrauded anyone.

19 In addition, Mr. Scotton is charged with making
20 materially false statements on his I485 application and to an
21 officer of the United States Citizenship and Immigration
22 Services relating to immigration matters. Mr. Scotton denies
23 that he made any false statements on his I485 application and
24 to any officer of the United States Citizenship and Immigration
25 Services.

1 I want to tell you a little bit more about the case
2 before we get started on jury selection. First I want to thank
3 all of you for being here. I know it wasn't optional, but we
4 all appreciate it anyway. Doing jury service is a very
5 important part of being a United States citizen.

6 You may be aware that our United States Constitution
7 and the 6th Amendment in particular guarantees every criminal
8 defendant an impartial jury trial. And we could not make good
9 on that promise without citizens who are willing to serve their
10 jury service and do their civic duty. So it's a very important
11 thing you do.

12 We cannot have our judicial system function if we do
13 not have people like you who are willing to come in and serve
14 as required. So on behalf of all of us, both of the parties
15 and the Court, we want to thank you for your time.

16 We recognize that jury service presents an
17 inconvenience, and we all have our everyday lives that we need
18 to deal with. We are going to try our best to accommodate any
19 concerns or issues that you might have that just cannot be
20 changed. But I do need to let you know a few things.

21 First of all, if you are selected for this jury, then
22 you are on the jury, it will be too late to tell me about any
23 conflicts that you might have at that time because you will be
24 selected at that point. So you will notice that all of you
25 have a questionnaire with 14 questions on it on your chairs.

1 In a few minutes, we are going to go ahead and swear you and
2 ask each one of you to answer all of the questions on that
3 questionnaire.

4 The 14th question asks you whether there's any other
5 reason that you could not be fair sitting on this jury, and
6 after you answer that, if there is any conflict that you have
7 that you just cannot change, then you need it tell us about it
8 at that time. If you don't tell us about it, as I said, and
9 you get selected for the jury, it will be too late after that.
10 So I want to just repeat, if you have a conflict that you
11 cannot work around, please tell us about it at that time.

12 Along the same lines, I would ask that if you do have
13 any such conflicts, that you please really think about whether
14 they are the kinds of conflicts that cannot be worked around,
15 whether things cannot be rescheduled or things of that nature
16 because, as I said, we need to be able to have jurors who can
17 serve in order to make good on our constitutional promise of a
18 jury trial for all criminal defendants.

19 All right. And now on to the news that you are
20 probably all wondering about. This trial, it's not a precise
21 science, we can't say with certainty exactly how long it will
22 be, but we anticipate that it will be somewhere between six and
23 eight weeks. We try the case on Mondays through Thursdays. We
24 have Fridays off. If you have particular conflicts, we may be
25 able to work around them. But as I said, you need to let us

1 know what they are.

2 I see some of you looking a bit exasperated, which I
3 can understand. It is a big commitment. We do realize that we
4 are asking a lot of you. And we are going to try to finish it
5 sooner than that. But I would rather have you know on the
6 front end what we think the worst case scenario would be so
7 that you won't be unpleasantly surprised and so that you can
8 make arrangements if you need to do that in order to be here.

9 While that certainly seems like a long time and is a
10 long time, I also want to let you know that on the bright side,
11 this isn't one of our cases that has lasted eight months which
12 we have had in the past. Six to eight weeks is a long time,
13 but at least it's not eight months. And we will do our best to
14 try to get you through this as efficiently as we can while
15 still being fair to the parties.

16 I want to give the government an opportunity to state
17 the names of any and all witnesses that might be presented
18 during the trial so that you all can hear their names, and if
19 any of you know any of these people or any of the other
20 personnel in the courtroom, I am going to give you an
21 opportunity to let us know that.

22 Ms. Mitrani.

23 MS. MITRANI: Thank you, Your Honor. The following is
24 a list of witnesses who the government may call during the
25 trial of this matter. Luis Becerra; Scott Baker; David

1 Bonilla; Fred Brooks; Brett Cahbot, who is a special agent with
2 the FBI; Kelly Chaboudt; Anderson Chaboudt; Carlos Colon;
3 Marina Colon; Samuel Cory; Christian Driskill; Jim Esposito;
4 Scott Everett; Carlos Padron; Otto Fernandez, who is a United
5 States postal inspector, also law enforcement; Nathan Frank;
6 Dianne Garcia; Raul Grande; Rihab Hamade; Rickie Harris; Susan
7 Johnson; Scott Kamlet; Evan Keller; Fred Kennicutt; Laverne
8 Kerr; John Lawrence; Lanier Lima; Ivor Levy; Rodrigo Mafra;
9 Bruce Marmar; Nestor Mascarell; Renata Mezentsef; Larry
10 Midyett; Ailyn Mollinedo; Janice Morrison; Nicole Nelson;
11 Carlos Padron; Joe Santiago; William Seligstein, Junio Silva;
12 Juan Tezak; Sean Toner; Chris Turner; and Special Agent Roy Van
13 Brunt.

14 In addition there would likely be one or two records
15 custodians from Bank of America and another financial
16 institution, but I don't have their names at this point.

17 THE COURT: All righty. Thank you.

18 Let me ask, is there anybody here who knows or
19 recognizes any of the court personnel or any of the names that
20 have just been read by the government? If so, raise your hand
21 for me now.

22 Yes.

23 A PROSPECTIVE JUROR: Hello.

24 THE COURT: Hello.

25 A PROSPECTIVE JUROR: How are you?

1 THE COURT: I'm fine. Thank you. How are you doing?

2 A PROSPECTIVE JUROR: My name is Mindy Taub, and I
3 know you.

4 THE COURT: Just for the purposes of the parties, so
5 they understand, can you give a brief and general description
6 of how you know me.

7 A PROSPECTIVE JUROR: I used to work for your father.

8 THE COURT: All right. Thank you.

9 A PROSPECTIVE JUROR: Thank you. And I'm also
10 traveling out of town next week, but that's not the reason.

11 THE COURT: All right. Thank you. Let me ask you
12 something also. Is there anything about your prior knowledge
13 of me that in any way would affect your ability to be fair to
14 either the government or to Mr. Scotton in this case?

15 A PROSPECTIVE JUROR: I don't think so, but I don't
16 know. You know, it's one of those things. I mean, I know you
17 very well, I mean, you know.

18 THE COURT: Okay. All right.

19 A PROSPECTIVE JUROR: All right.

20 THE COURT: Thank you. All righty. With that, we are
21 going to go ahead and we are going to swear the jurors. So if
22 you wouldn't mind, please stand and raise your right hands for
23 me.

24 (Thereupon, the prospective jurors were sworn.)

25 THE COURT: Thank you. Please be seated.

1 All righty. Now as we go through and we answer these
2 questions, if there are any questions that are on there that
3 cause you concern or that you don't want to answer in front of
4 everybody here, you can simply let me know. We will have a
5 sidebar. You can just come up to this side and it will be
6 myself, the government attorney, and Mr. Scotton and you. We
7 have a little bit of white noise that we put on in the
8 background and you can answer the questions under those
9 circumstances. And please feel comfortable doing that. It's
10 no problem at all if you wish to do so.

11 The second thing I want to let you know is we will
12 take breaks every hour and a half to two hours. If for some
13 reason, you know, you have an emergency that you need to use
14 the restroom or something like that and we haven't taken a
15 break and you need one, raise your hand and I will certainly
16 try to be attentive to that. All right.

17 We are going to take a break in just a moment. Before
18 we do that though, let me just say also this: If you have any
19 kind of back problems or anything of that nature, then you
20 should feel free to stand up and stretch if you need to do so.
21 You don't have to ask my permission. It's fine even if there
22 are proceedings going on. Just do it in place.

23 I understand that we need to have a restroom break so
24 what we are going to do is we will do that now. We will come
25 back at ten of 10:00. That should give everybody who needs to

1 use the restroom an opportunity to do so. Please be on time.
2 We cannot start until everybody is here. And with that, we
3 will rise for the jury.

4 All rise for the jury. We will see you at ten of
5 10:00.

6 (Thereupon, the prospective jurors exited the
7 courtroom at 9:39 a.m.)

8 THE COURT: All righty. We will start up again at ten
9 of 10:00. We want to make sure we start right on time if
10 everybody is here from the jury, so it would be terrific if
11 everybody could be on time from here. Thank you.

12 (Thereupon, a recess was taken at 9:40 a.m.)

13 THE COURT: All righty. I think we don't have any
14 jurors in the courtroom.

15 Mr. Kreiss, was there something?

16 MR. KREISS: Yes, Judge. I have been contacted by
17 counsel for certain defense witnesses and I believe the
18 government has also been contacted, maybe even your deputy
19 court clerk has been contacted, and my understanding is there
20 may be some witnesses who are going to file motions to quash
21 subpoena.

22 THE COURT: Okay. If they do that, we will deal with
23 it.

24 MR. KREISS: I have instructed my office if any
25 counsel make inquiry on behalf of witnesses, to serve

1 Mr. Scotton directly.

2 THE COURT: Okay. Very good. Thank you.

3 MR. KREISS: Unless the Court desires otherwise.

4 THE COURT: No, I think that's the best way to go.

5 Thank you.

6 I should let you know, Mr. Scotton, it's customary not
7 to ask the defense to read its witness list in case the defense
8 decides not to put on any witnesses at a later point in time.
9 But if you want for me to ask you to read your witness list, I
10 will be happy to do that. But you do not have any obligation
11 to read it which is why I did not ask you.

12 MR. SCOTTON: No, I'm not going to.

13 MS. MITRANI: Would Your Honor, though, consider
14 toward the end of the government's case requiring the defendant
15 to turn over a witness list to the government?

16 THE COURT: We will address that as it comes. Thank
17 you.

18 Let me just make sure that it's on the record
19 Mr. Scotton's response. Mr. Scotton, did you want me to ask
20 you to read the witness list or not?

21 MR. SCOTTON: No, Your Honor.

22 THE COURT: All right. Thank you.

23 MR. KREISS: Your Honor, am I correct that one is the
24 corner closest to Your Honor in the front?

25 THE COURT: Yes

1 (Thereupon, the prospective jurors entered the
2 courtroom at 9:53 a.m.)

3 THE COURT: Thank you. Welcome back. Please be
4 seated. And let me double-check make sure we have everyone.
5 It looks like we do. Mr. Creary?

6 THE COURTROOM DEPUTY: Yes Judge.

7 THE COURT: Thank you. Thank you all for being on
8 time. We are going to go ahead and get started with Mr. Diaz.
9 We are going to give you a microphone, and if you would, please
10 answer the 14 questions on the sheet. And as I said, if you do
11 have any conflicts, please bring them to our attention when you
12 answer question No. 14. Thank you.

13 A PROSPECTIVE JUROR: My name is Jonathan Diaz,
14 D-I-A-Z. I live in Pembroke Pines, Florida. I used to live in
15 New York City. I am currently employed as a graphic designer
16 at Minuteman Press. I am not married. No children. I have
17 served as a juror before, last week.

18 THE COURT: Welcome back.

19 A PROSPECTIVE JUROR: It was a civil case. I was not
20 the foreperson. We were able to reach a verdict. No. 8 is no.
21 No. 9 is no. No. 10 is no. No. 11, no. My spare time, I do a
22 lot of designing, painting, sports, work out. No. And 14 is
23 no.

24 THE COURT: Thank you very much. Let's go to
25 Mr. Marx.

1 A PROSPECTIVE JUROR: My name is Michael Marx,
2 M-A-R-X. I live in Dania Beach. I have lived there for three
3 years. Previous to that was Hollywood. I have been in south
4 Florida for almost ten years. I am employed. I am an analyst.
5 I work for a real estate firm and also I work -- within that, I
6 investigate fraud with realtors.

7 I am single. No children. I have never been on a
8 jury. 8, I really don't know how to answer 8. Immediate
9 family, no, but family, yes. I have an aunt and an uncle that
10 are police officers.

11 10, no. 11, no. Spare time I travel. 13, no. 14,
12 the only issue for me is I have an 81-year-old grandmother and
13 she's been in and out of the hospital. I'm the closest
14 relative here to her. So that would be my only issue. Thanks.

15 THE COURT: And, Mr. Marx, if you would rather do it
16 sidebar, that's okay, but I do need to ask you, you said you
17 don't know how to answer 8, but I need to get whatever you can
18 give me in response to 8.

19 Would you rather come sidebar?

20 A PROSPECTIVE JUROR: It doesn't matter. It's not me.
21 It's them. It doesn't matter. I have family member who -- I
22 don't know how to say it. Yeah, I will come up there.

23 THE COURT: Come on up.

24 MS. MITRANI: Should the parties approach?

25 THE COURT: Yes, please do.

1 (Thereupon, the following was heard sidebar.)

2 THE COURT: All righty. Say it into here because
3 she's taking it down.

4 A PROSPECTIVE JUROR: I have family members who have
5 been in prison, out of prison, fraud. Sicilian background,
6 that's it. I'll leave it at that.

7 THE COURT: Anybody have any questions regarding that?

8 MR. SCOTTON: You said Sicilian?

9 A PROSPECTIVE JUROR: Uh-huh.

10 MR. SCOTTON: So Italian?

11 A PROSPECTIVE JUROR: Yes.

12 MS. MITRANI: I do, Your Honor. Does the fact that
13 you have family members who have been in and out of prison, do
14 you have any negative feelings towards law enforcement?

15 A PROSPECTIVE JUROR: No.

16 MS. MITRANI: Do you feel like they were treated
17 fairly?

18 A PROSPECTIVE JUROR: Do I feel my family --

19 MS. MITRANI: The people in and out of person, do you
20 feel they have been treated unfairly by the system?

21 A PROSPECTIVE JUROR: No.

22 THE COURT: Is there anything about the fact that you
23 have had family in and out of prison and through the system
24 that would cause you either to have feelings that would be
25 unfair to the government or to Mr. Scotton?

1 A PROSPECTIVE JUROR: No, because on the other side of
2 that, I have an aunt and uncle who are police officers so it --

3 THE COURT: It balances out?

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: I got you. Any other questions?

6 MS. MITRANI: No, Your Honor.

7 MR. SCOTTON: No.

8 THE COURT: Thank you very much.

9 (Thereupon, the following was heard in open court.)

10 THE COURT: All righty. We are going to go to, is it
11 Ms. Baczyk?

12 A PROSPECTIVE JUROR: Baczyk. My name is Roma Baczyk,
13 B-A-C-Z-Y-K. I presently live in Sunrise. I have been there
14 for like 16 months. I'm in Florida 19 years. Prior to that, I
15 grew up in New York City. I'm a hospital safety specialist,
16 Jackson Safety System.

17 I'm married. He's unemployed. I have two children,
18 25 and 22. The older one is a freight and customer service
19 specialist. I wasn't chosen as a juror, but I was called in.
20 A family member did have a criminal case. It was financial.
21 My sister-in-law, I guess you would call it law enforcement,
22 she's an attorney for U.S. Immigration.

23 I don't believe any of us was a witness in a trial. I
24 don't belong to any clubs, organizations at the time. I like
25 to read, walk, enjoy sports. No religious convictions that

1 would prevent me from rendering a judgment. And no, there is
2 no reason that I could not be fair. No, I could be fair.

3 THE COURT: Thank you very much. Let me ask you
4 something, Ms. Baczyk. Is there anything about your family
5 members' experience with the criminal system that causes you to
6 have either ill feelings against the government and perhaps
7 feelings in favor of a defendant or to the contrary, good
8 feelings for the government and perhaps feelings against the
9 defendant?

10 A PROSPECTIVE JUROR: No. I'm okay.

11 THE COURT: Okay. Thank you very much. You could be
12 fair to both parties?

13 A PROSPECTIVE JUROR: Yes, I can.

14 THE COURT: Terrific.

15 A PROSPECTIVE JUROR: Joseph Page, P-A-G-E. I lived
16 in Hollywood, Florida all my life. Currently employed with
17 McNeil Group Insurance. I write flood.

18 I am not married. No kids. I have served as a juror
19 before in a civil case. And yes, we came up with a verdict.

20 No to family members for a criminal prosecution. Yes,
21 I have a lot of family members in law enforcement. Two BSO one
22 Davie detective. No, no one's ever witnessed a trial. No, no
23 clubs, organizations. Hobbies are basic things like hanging
24 out, playing video games. No religious convictions or no
25 religious judgment really. Yeah, I can be fair to both

1 parties.

2 THE COURT: Thank you. Now, let me just ask you
3 something. You indicated that you have family members who have
4 worked for BSO and the Davie Police Department. Is there
5 anything about the fact that you have family members who have
6 worked in law enforcement that would cause you not to be able
7 to be fair to Mr. Scotton or not to be able to be fair to the
8 government?

9 A PROSPECTIVE JUROR: Well, I see their hardships
10 every day, but I'm pretty sure I can be fair to both parties.

11 THE COURT: Okay. You understand they are not going
12 to be participating in this?

13 A PROSPECTIVE JUROR: Absolutely.

14 THE COURT: And I certainly appreciate that you are
15 pretty sure that you can be fair. A thing we often hear in
16 here is if you were on an airplane and the pilot said to you,
17 I'm pretty sure I can land this plane, would you want to take
18 off with him? You might not want to do that. So I have to ask
19 you, and I appreciate your candor here, but I do need to ask
20 you whether you can be fair and whether you know you can be
21 fair to both parties because otherwise, if we get through the
22 trial and you find that you can't be fair to Mr. Scotton or to
23 the government or whoever it is, then that would be a problem.

24 A PROSPECTIVE JUROR: Honestly, I guess maybe I can't
25 because I want to say yes, but I don't think I can.

1 THE COURT: All right. Well, let me ask you
2 something. I am going to give you all an instruction that you
3 need to consider any testimony of any law enforcement officers
4 in the same way that you would consider the testimony of any
5 other witness, that is that law enforcement officers are not
6 entitled to be believed more or less simply because they are
7 law enforcement officers. You have to evaluate their testimony
8 the same way that you would evaluate anybody's testimony who is
9 not a law enforcement officer. Do you understand that?

10 A PROSPECTIVE JUROR: Yes.

11 THE COURT: And could you follow that instruction?

12 A PROSPECTIVE JUROR: Yes.

13 THE COURT: All right. You could follow that
14 instruction. And let me ask you this also: Do you understand
15 that the government always has the burden in a criminal case
16 and always must prove beyond every reasonable doubt the
17 defendant's guilt? Do you understand that?

18 A PROSPECTIVE JUROR: Uh-huh.

19 THE COURT: I need you to say yes or no because it's
20 hard to type.

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Thank you very much. I appreciate that.
23 And understanding that, would you be able to hold the
24 government to its burden to prove beyond every reasonable doubt
25 that Mr. Scotton did the things that they accused him of before

1 you would return a guilty verdict on any of the charges?

2 A PROSPECTIVE JUROR: Yes, I can.

3 THE COURT: All right. So knowing all of these
4 things, is it fair to say, and -- well, let me ask you, can you
5 be fair in this case to both Mr. Scotton and to the government.

6 A PROSPECTIVE JUROR: Yes, I can.

7 THE COURT: All right. I thank you for that.

8 A PROSPECTIVE JUROR: Angela Scarbrough,
9 S-C-A-R-B-R-O-U-G-H. I currently live in Davie. Before that,
10 I was in Plantation and grew up in Kentucky. I'm currently
11 employed. I am a marketing manager for a furniture
12 manufacturer.

13 I am not married. I have no children. I have served
14 on a jury before five times including last week. I have been
15 on both civil and criminal cases. And they were all able to
16 reach a verdict.

17 No. 8, no. I have some cousins that are in law
18 enforcement. No. 10, no. No. 11, no. Hobbies, I travel. I
19 work out. I make jewelry parts.

20 No. 13, no. No. 14, I can be fair, but I do have some
21 already committed to work responsibilities. I manage the trade
22 shows and I have three of them coming up in the next month and
23 a half.

24 THE COURT: Can I ask you when those are, please.

25 A PROSPECTIVE JUROR: One starts next week. It starts

1 Monday.

2 THE COURT: What are the dates if you know?

3 A PROSPECTIVE JUROR: It's the -- I'm trying to think
4 what today is. The 27th, I think, is Monday.

5 THE COURT: Yes.

6 A PROSPECTIVE JUROR: The 27th through that Friday, so
7 it's --

8 THE COURT: The 31st.

9 A PROSPECTIVE JUROR: The 31st. And then again on the
10 2nd through the 7th, and then again on the 10th through the
11 14th.

12 THE COURT: All right. And all of these are all-day
13 affairs out of town, is that right?

14 A PROSPECTIVE JUROR: Yes.

15 THE COURT: Thank you.

16 A PROSPECTIVE JUROR: My name is Melinda Florez,
17 F-L-O-R-E-Z. I currently live in Coral Springs, Florida. I
18 have lived there for about seven years. I have resided in
19 south Florida for about eight. I used to live this Houston,
20 Texas before I moved here. I am currently employed as a sales
21 associate at the Home Depot.

22 I am not married. I have no children. I have served
23 as a juror before twice. One was last week. They were both
24 civil. I was not the foreperson. And they were both able to
25 reach a verdict.

1 8 is no. 9 is no. 10 is no. 11 is no. 12, I like
2 to watch movies. 13, no. 14, no. I do attend class every day
3 at 5:00 except Friday.

4 THE COURT: All right. And where is the class
5 located? How far from here?

6 A PROSPECTIVE JUROR: I go to central campus in Davie,
7 and I also go to the north campus in Coconut Creek, Broward
8 College.

9 THE COURT: What time would you have to leave here to
10 get there?

11 A PROSPECTIVE JUROR: To the north campus, I would say
12 maybe about an hour, that's traffic. Davie, probably like 30
13 minutes ahead.

14 THE COURT: And how often are the courses at the north
15 campus?

16 A PROSPECTIVE JUROR: I go twice a week north campus
17 and then twice a week at central campus.

18 THE COURT: Thank you very much.

19 Ms. Cabral.

20 A PROSPECTIVE JUROR: Elizabeth Cabral, C-A-B-R-A-L.
21 I currently live in Plantation, Florida. Been there for about
22 two years. Born and raised in south Florida. I am currently
23 employed as an administrative assistant at a local university.

24 I am married. My spouse is a retail manager, store
25 manager. No kids. I have been on a jury, actually last week,

1 it was a criminal case, and we did reach the verdict.

2 No. 8, no. Law enforcement, a cousin that's an FHP
3 officer. No. 10, no. 11, no. 12, shopping. 13, no. And 14,
4 I could be fair.

5 THE COURT: Thank you very much.

6 A PROSPECTIVE JUROR: Could I talk to you though?

7 THE COURT: Sure. Come up sidebar.

8 (Thereupon, the following was heard sidebar.)

9 THE COURT: Just one minute until we get everybody
10 here.

11 Go ahead.

12 A PROSPECTIVE JUROR: I am pregnant at the early
13 stages, so I just want to --

14 THE COURT: Congratulations. If you need to take
15 breaks to use the bathroom or anything or doctors
16 appointments --

17 MR. SCOTTON: I didn't get it.

18 THE COURT: She's pregnant.

19 A PROSPECTIVE JUROR: And I do have a doctor's
20 appointment on February 17, and I'm sure they just follow.

21 THE COURT: Okay. It will probably be once a month.

22 A PROSPECTIVE JUROR: Probably. Just had it
23 yesterday.

24 THE COURT: Thank you for letting us know.

25 (Thereupon, the following was heard in open court.)

1 THE COURT: Let's hear from Mr. Lang.

2 A PROSPECTIVE JUROR: Good morning. My name is John
3 Lang, L-A-N-G. I live in Plantation. I've lived in south
4 Florida for 55 years. I am retired fire rescue, 25 years with
5 the City of Lauderdale Lakes, and Broward Sheriff's Office took
6 us over. And I worked with them for seven years before
7 retiring.

8 Not married. I have two children, 26-year-old son
9 who's presently working to crack into the fire service. He's
10 working at an ambulance company and also a voluntary fire
11 department and going to school, a 19-year-old, going to school,
12 son.

13 No. 7, I was picked for jury duty last Monday, the
14 13th -- well, I wasn't picked. I was just selected. No. 8,
15 no. No. 9, no, however, I do have a lot of friends in law
16 enforcement. No. 10, no. No. 11, I'm in an organization for
17 retired firefighters. We build programs for a new concept of
18 training for new recruit firefighters.

19 Spare time, I've got a little farm house up north that
20 I work on, anything outdoors, taking classes in horticulture.
21 No. 13, no. And No. 14 should be no.

22 THE COURT: Great. Thank you so much. We are going
23 to take the microphone to Ms. Evans.

24 A PROSPECTIVE JUROR: My name is Naeesha Evans,
25 E-V-A-N-S. I reside in Tamarac. I have been there for two

1 years. I have been in south Florida for 25 years. Before that
2 was the Virgin Islands.

3 Yes, I'm employed. I am a clerical slash driver for
4 Smith Community Mental Health. Yes, I am married but he
5 resides in another country. Yes, I have a child. He's six
6 years old. Yes, I served as a juror, civil case.

7 No. 8 is no. No. 9 is no. No to 10. 11, no. My
8 hobbies is I like playing board games and playing with my son.
9 13 is no.

10 14, I do have a conflict because I don't have no one
11 to pick him up from school and he gets out of school at 2:00.
12 Last week when I was on the -- had to serve for the jury, I had
13 that arranged with my sister's husband. But he can't do it
14 because he started a new job this week. And my mom, she cannot
15 drive, so I didn't even let him go to school today. I let him
16 stay home with my mom because I have no transportation.

17 THE COURT: All right. Thank you.

18 Mr. Sheer.

19 A PROSPECTIVE JUROR: William Sheer, S-H-E-E-R. I
20 reside in Coral Springs, Florida. I have been at that address
21 26 years. We haven't lived in south Florida all of our lives.
22 In 1980 we lived in England and '84, '5, and '6 in Melbourne,
23 Florida.

24 Not currently employed. Retired. Formerly worked for
25 Tyco International product line for a line of software

1 products.

2 I am married. Wife formerly, before she retired, was
3 a payroll administrator. Three children, two surviving. One
4 is a treasury manager for NASCAR, and the other one works for
5 Florida Department of Transportation as a specifications
6 engineer.

7 I have served as a juror before three times. All were
8 criminal. I was a foreperson in one. We reached verdicts in
9 two. The third trial ended abruptly with some agreement
10 between the parties.

11 I have -- I don't know if this is immediate family or
12 not, my youngest son's wife's father was a party in a lawsuit.
13 He took out a loan from the Federal Farm Bureau backed up by
14 collateral and then sold the collateral and that was a problem.

15 I have a son in law that is retired BSO. No. 10, no.
16 10 is no. 11 is no at the moment. I have a boat that I mostly
17 just work on. 13 is no. And 14, no.

18 THE COURT: All right. Thank you. Let me ask you, is
19 there anything about the fact that your son is in law -- is
20 retired BSO that would cause you not to be able to be fair to
21 either the government or to Mr. Scotton in this case?

22 A PROSPECTIVE JUROR: No, nothing at all.

23 THE COURT: All right. Thank you. Let's go to
24 Mr. Blandford.

25 A PROSPECTIVE JUROR: Yes, good morning. My name is

1 Gregory Blandford, B-L-A-N-D-F-O-R-D. I live this Miramar City
2 for 12 years. I born in Panama City.

3 I employed. I work in Mohan Industry as a forklift
4 operator. I am married. I have three children, 30, 24, and 13
5 years. My daughter works as a manager assistant in insurance
6 company. No. 7 is no. No. 8 is no. No. 9 is no. No. 10 is
7 no. No. 11 is no. My hobby, I like to fishing. No. 13 is no.
8 No. 14, no.

9 THE COURT: Thank you very much.

10 All right, Ms. La Barbera.

11 A PROSPECTIVE JUROR: I'm Amy La Barbera,
12 L-A-B-A-R-B-E-R-A. I was born and raised in south Florida with
13 the exception of when I went away to college. Came right back
14 home. I live in Sunrise currently. I am a third grade teacher
15 at Imagine Charter School.

16 I am currently separated. My husband is an operations
17 manager. I do have a five-year-old. She is not employed. I
18 have never served as a juror before. I do have two uncles who
19 were defendants in a criminal case involving drug trafficking.
20 I do not have any family in law enforcement. I've never been a
21 witness in a trial, civil or criminal. I am not a member of
22 any organizations. I enjoy spending time with my daughter,
23 reading and learning about education, child development. No
24 religious convictions, and I do think I can be fair.

25 THE COURT: Thank you very much. Let me ask you, is

1 there anything about your uncle's experience that would cause
2 you either not to be able to be fair to the government or not
3 to be able to be fair to Mr. Scotton?

4 A PROSPECTIVE JUROR: No.

5 THE COURT: All right. Thank you very much. Let's go
6 to Ms. Colon --

7 A PROSPECTIVE JUROR: Colantuono. My name is Dawn
8 Colantuono, C-O-L-A-N-T-U-O-N-O. I currently live in Oakland
9 Park, Florida. I was there for six years. Before that I was
10 in Long Island.

11 I am not employed at the moment, but when I am, I am a
12 project manager. I am not married. I don't have any children.
13 I have served as a juror, but I have never been on a case. My
14 mother was involved in a lawsuit, but it was injury related
15 with the supermarket. And my brother was arrested on drug
16 possessions so I'm not sure if that's relevant. I have a
17 brother-in-law who is a lieutenant in Brooklyn, New York. I
18 have never been a witness nor has my family in a trial.

19 I'm not a member of any clubs. My spare time, I like
20 to cook, work out, go to the beach. I have no religious
21 convictions, and I think I could be fair.

22 THE COURT: Thank you very much. Let me ask you, you
23 said that you have a brother who faced some drug charges and a
24 brother-in-law who is a lieutenant in New York. So the same
25 question I have been asking everybody else in these

1 circumstances, is there anything about your brother's situation
2 with the drug charges that -- let me ask you, is it state or
3 federal, do you know?

4 A PROSPECTIVE JUROR: It was state.

5 THE COURT: Okay. Is there anything about your
6 brother's situation with the drug charges that might cause you
7 to be unfair either to the government or to Mr. Scotton?

8 A PROSPECTIVE JUROR: No, not at all.

9 THE COURT: How about with respect to the fact that
10 your brother-in-law is a police lieutenant in New York, is
11 there anything about that that would cause you not to be able
12 to be fair to either party?

13 A PROSPECTIVE JUROR: No.

14 THE COURT: All right. Thank you. All righty. Let's
15 go to Ms. Maria.

16 A PROSPECTIVE JUROR: My name is Ana Maria. I live in
17 Fort Lauderdale for 11 year. I moving from Dominican Republic.
18 And I work Steven Foster Elementary. I am married. I have
19 three children. One is 16 years old, 9, and 8.

20 No. 7, no. No. 8 is no. No. 9 is no. No. 10 is no.
21 No. 11, no. My hobby is read and travel. And No. 13, no. I
22 have some reason to can't be fair because I travel on
23 February 18 to Israel.

24 THE COURT: How long are you going to be there?

25 A PROSPECTIVE JUROR: Ten days.

1 THE COURT: All right. Thank you.

2 A PROSPECTIVE JUROR: My name is Donna DeFronzo,
3 D-E-F-R-O-N-Z-O. I presently live in Deerfield Beach. I have
4 been there 18 years. I have been in Florida for 35 years. I
5 am originally from Boston. I am currently employed by the City
6 of Deerfield Beach as director of senior services and community
7 development. I am also employed by Florida Atlantic University
8 as a professor.

9 No. 5 and No. 6 are no. No. 7 is yes, both criminal
10 and civil. Last week was on a criminal jury for four days.
11 And I was an alternate.

12 No. 8 is no. No. 9 is yes, cousins. No. 10 is no.
13 No. 11, I would serve on many, both personal and professional,
14 organizations and clubs. No. 12, I like to travel, clowning,
15 and reading. No. 13 is no. No. 14, I have a very sick uncle
16 in Boston and I have some major special events coming up based
17 on my work obligations.

18 THE COURT: I'm sorry to hear about your uncle. Let
19 me ask you with respect to the work obligations, when are
20 those?

21 A PROSPECTIVE JUROR: One is on a Friday, which is
22 March 21 which is our 30th annual awards day luncheon, and then
23 I have a major food and wine tasting coming up on April 23rd.

24 THE COURT: Okay. And with respect to your uncle in
25 Boston, spending time up there, is that what you are saying?

1 A PROSPECTIVE JUROR: No, if, God forbid, he passes
2 away, he's under Hospice care, I would have to go to those
3 services for two or three days.

4 THE COURT: That's understandable. What subject do
5 you teach at FAU?

6 A PROSPECTIVE JUROR: I teach in the college of
7 business, currently health delivery systems primarily with the
8 health administration program on Thursday evenings.

9 THE COURT: Thank you. And what time does your class
10 begin?

11 A PROSPECTIVE JUROR: It's on the Boca campus. It
12 begins at 7:10, but I usually need to be there at 7:00.

13 THE COURT: Thank you. With respect to your cousins,
14 who were witnesses? What kinds of cases -- .

15 A PROSPECTIVE JUROR: They weren't witnesses. One was
16 a police officer, City of Coral Springs, the City of Hollywood.
17 They have both since retired. And I have some cousins in law
18 enforcement in the Boston area.

19 THE COURT: Is there anything about your cousins' law
20 enforcement service that would cause you not to be able to be
21 fair?

22 A PROSPECTIVE JUROR: No, ma'am.

23 THE COURT: Thank you very much. All righty. Let's
24 go to, is it Mr. Rodas?

25 A PROSPECTIVE JUROR: My name is Diego Rodas, last

1 name R-O-D-A-S. Resident that I am right now four years.
2 Before that, ten years. I was born in Ecuador. Came to the
3 United States about 17 years ago. No. 4, I do have a company
4 that makes strobe lights, emergency lights for police vehicles,
5 tow trucks, and that type.

6 Question 5, I do have a wife. She works as an officer
7 manager. Do you have any children? Yes, I do have one on the
8 way.

9 THE COURT: Congratulations.

10 A PROSPECTIVE JUROR: Thank you. My wife is about 35
11 weeks. So, you know, could be any moment now.

12 No. 7, I was here last week. We were able to come to
13 an agreement. It was a criminal case. No. 8, I was arrested
14 back in high school. We were playing and fooling around in
15 Target. The cops came in and I didn't have any ID with me.
16 They arrested me. Later on charges were dropped, and really
17 nothing happened.

18 No. 9, I am a criminal justice major. I have
19 volunteered with the City of Miramar the Department of Interior
20 big surplus law enforcement, so I do know a lot of people
21 especially a lot of police officers.

22 You know, No. 10 is about the same. No. 11, no.
23 No. 12, you know, I have a baby, so I spend a lot of time
24 getting stuff and things for the baby. Religious, I wouldn't
25 have any issues with that. And for No. 14, I would like to

1 approach.

2 THE COURT: Of course.

3 (Thereupon, the following was heard sidebar.)

4 A PROSPECTIVE JUROR: I have a criminal justice so I
5 do have some information how things work. But I will
6 appreciate and, you know, in good conscious it will be really
7 hard for me to know that I have a wife, you know, going through
8 labor and all of that. And so I would appreciate if you take
9 that into consideration when you make your decision based on
10 that. Four weeks after we have the baby, because we are from
11 Ecuador, we are planning to travel to Ecuador so the family
12 gets to know the baby. We appreciate if you take that into
13 consideration.

14 MS. MITRANI: Sure.

15 THE COURT: Anybody have been any questions?

16 MS. MITRANI: I assume you want to -- were you
17 planning to take time off from work --

18 A PROSPECTIVE JUROR: Yes, absolutely.

19 MS. MITRANI: -- when the baby was born?

20 A PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Any questions?

22 MR. SCOTTON: Just make sure you watch the world cup
23 from there and enjoy.

24 (Thereupon, the following was heard in open court.)

25 THE COURT: Mr. Roberts.

1 A PROSPECTIVE JUROR: Good morning. My name is Phil
2 Roberts, last name spelled R-O-B-E-R-T-S. I live in Miramar
3 currently. I have lived there for just about two years. I
4 have lived in south Florida for about ten years. Prior to
5 south Florida, I lived in Antigua. That's where I resided
6 before. I'm currently employed. The company is called Kia
7 Fusion. I am a pixus technician there.

8 No. 5, yes, I am married. My spouse is a student.
9 Six, no children. 7, no. 8, no. 9, no. 10, no. 11, no.
10 Spare time I play instruments, musician also. 13 is no. 14 is
11 no.

12 THE COURT: Thank you very much. All righty. Is it
13 Ms. Michel?

14 A PROSPECTIVE JUROR: Michel.

15 THE COURT: Michel, thank you.

16 A PROSPECTIVE JUROR: Tatyana Michel, M-I-C-H-E-L. I
17 live in Fort Lauderdale. I have lived here all my life. I am
18 currently employed at Marshals Department Store. I am single.
19 I have no children. I was called in last week as a juror, but
20 I wasn't picked. 8 is no. 9 is no. 10 is no. 11 is no. 12,
21 I enjoy sleeping. 13, no.

22 THE COURT: As long as you don't do it during the
23 trial.

24 A PROSPECTIVE JUROR: 14, I do have an issue. I
25 attend classes at central campus in Davie on Mondays and

1 Wednesdays from 9:30 to 10:45, I mean 10:45 a.m., and I catch
2 the bus so it's like a 40-minute --

3 THE COURT: Okay.

4 A PROSPECTIVE JUROR: That's it.

5 THE COURT: Thank you. Mr. --

6 A PROSPECTIVE JUROR: My name is Cesar Tano, T-A N-O.
7 I live in Cooper City. I have lived there for the last about
8 16 years. Before that, I lived out of the country in Costa
9 Rica. I am currently employed with Broward County at the
10 aviation department.

11 My wife -- I am married. My wife is a dialysis
12 technician. I have two children, one 15 and the other one 10.
13 I have not -- I have been on a jury, but I wasn't selected.
14 No. 8 I would like to do sidebar.

15 9, no. 10, no. 11, no. 12 is basically play sports
16 with my kids. 13 is no. And 14 is no.

17 THE COURT: All right. Thank you. Why don't you come
18 up sidebar for a moment, please.

19 (Thereupon, the following was heard sidebar.)

20 THE COURT: Hello. How are you?

21 A PROSPECTIVE JUROR: My wife is convicted of -- she
22 had a no contest to a shoplifting charge.

23 And my other conflict is my two kids' sports. Between
24 school activities and sports activity, I really don't have
25 time. I am pretty much set from the time I get home.

1 Sometimes I don't make it home. I go straight to the parks.
2 They have different schedules. One plays in Weston. One plays
3 across the street from my house. Even though I juggle it with
4 my mom, but it's difficult. My wife is a dialysis technician
5 so when she's out, she basically works nursing hours, so she's
6 not really there for that part.

7 THE COURT: Is there anybody you could carpool with or
8 anything like that for the next few weeks just so you could
9 serve on this jury.

10 A PROSPECTIVE JUROR: Not really. I don't trust my
11 kids too much with anybody. That's my only issue.

12 THE COURT: Anybody have any questions?

13 MS. MITRANI: Yes, sir. So your wife shoplifting and
14 pleaded no contest?

15 A PROSPECTIVE JUROR: Yes.

16 MS. MITRANI: Do you have any bad feelings about the
17 criminal justice system? Do you think she was treated
18 unfairly.

19 A PROSPECTIVE JUROR: Kind of, yeah, but there's
20 nothing I can do about it. And I work with background checks
21 because I do the backgrounds for people that want to work at
22 the airport.

23 MS. MITRANI: But you feel like your wife -- was it
24 BSO? Was it local?

25 A PROSPECTIVE JUROR: I think it was local. I believe

1 it was Pembroke Pines.

2 MS. MITRANI: So do you harbor some resentment or bad
3 feelings to law enforcement for doing this to your wife?

4 A PROSPECTIVE JUROR: In that case, yes. The other
5 cases, I think they do a great job, but it's just my point of
6 view.

7 MR. SCOTTON: So this is because the schedule?

8 MS. MITRANI: Sure.

9 MR. SCOTTON: Based on the schedule and everything
10 else, you don't think you can be fair? Your mind is going to
11 be more outside than concentrate on the case and be fair with
12 me and the prosecutor?

13 A PROSPECTIVE JUROR: Definitely. I mean, that's the
14 only conflict I have.

15 THE COURT: Okay. Thank you.

16 MS. MITRANI: Thank you for your candor, sir.

17 (Thereupon, the following was heard in open court --)

18 THE COURT: Ms. Brzezniak.

19 A PROSPECTIVE JUROR: -- very good. Michelle
20 Brzezniak, B-R-Z-E-Z-N-I-A-K. I live in Fort Lauderdale. I
21 moved here in '92 so I have been here almost 22 years minus ten
22 months. I lived in Panama City, Panama 2008, 2009. I was born
23 in Buffalo, New York. I am employed. I work for Artica Ice
24 Cream via Ben and Jerry's. I do accounting, finance, and
25 sales. I work from home.

1 No. 5 is no. No. 6 is no. No. 7 is no. No. 8 is no.
2 No. 9, I had two uncles who are since deceased that were New
3 York State trooper in New York and one was a Buffalo City
4 police officer. My brother is currently a corrections officer
5 at Wende prison in New York State. Prior to that, he was at
6 Attica.

7 10 is no. 11, I volunteer with the hundred plus
8 abandoned dogs of the everglades, Florida. No. 12, yoga,
9 working out, hanging out. 13, no. 14, no.

10 THE COURT: Thank you very much. All righty. That
11 takes us to Ms. Cabral.

12 A PROSPECTIVE JUROR: Yes. My name is Robin Cabral,
13 C-A-B-R-A-L. I've lived here all my life in Hollywood,
14 Florida. I am employed at Little Rascals Academy, which is a
15 daycare center. And I do the centralized billing for -- we
16 have subsidized care at our daycare centers and that's what I'm
17 in charge of. I have never been married. Have no children. I
18 was on a jury. It was a criminal case and we did reach a
19 verdict.

20 No. 8, no. No. 9, no. 10, no. 11, no. 12, just
21 hanging out with my family. We are very family oriented. I
22 have no religious conflicts. And I believe I can be fair.

23 THE COURT: Thank you very much. All right.
24 Ms. Pinnock.

25 A PROSPECTIVE JUROR: My name is Carol Pinnock,

1 P-I-N-N-O-C-K. 2, Lauderdale Hills, six years, three years --
2 six years in Florida. 3, New York. 4, I am retired. Previous
3 job before in New York, I work with the Jamaican consulate as a
4 customer service rep. 5, single. 6, one child, 31. She's a
5 pharmacist. 7, yes, civil. No. Verdict, yes. 8 to 11, no.
6 12, cooking, gardening. 13 and 14, no.

7 THE COURT: Thank you very much.

8 Ms. Lalta.

9 A PROSPECTIVE JUROR: My name is Melissa Lalta,
10 L-A-L-T-A. I was born in Fort Lauderdale and I'm still here.
11 I have lived here my entire life. Currently unemployed;
12 however, I do do all the clerical work for my father's boat
13 constructing and repair business.

14 I am not married. No kids. Never been a juror. My
15 uncle is going to have a case in two weeks, federal, for
16 deportation. No member of my family is in law enforcement.
17 Never been a witness in a trial. No for No. 11, 12, 13, and
18 14.

19 THE COURT: Thank you. Ms. Lalta. With regard to
20 your uncle's case, this case also involves some immigration
21 matters. Is there anything about the fact that your uncle is
22 currently going through a case involving deportation that might
23 affect your ability to be fair either to the government or to
24 Mr. Scotton in this case?

25 A PROSPECTIVE JUROR: No.

1 THE COURT: All right. Thank you very much.

2 And Ms. Johnson-Kelly.

3 A PROSPECTIVE JUROR: Good morning. My name is Vicky
4 K-E-L-L-Y hyphen Johnson.

5 I lived in Florida 43 years. I am a Floridian. No,
6 I'm not employed. I am married but separated. He's not
7 working. I'm not either. I have four kids. I have a 21
8 autistic son. I have a 20-year-old that works at Racetrack gas
9 station in Pompano. I have a 17-year-old that goes to Ely and
10 an 18-year-old that goes to Ely high school.

11 Been picked twice for jury duty. I have never served.
12 8, I have to do a sidebar. 9, I have an aunt and a deceased
13 uncle in law enforcement. 10, I was a witness of a crime. 11,
14 no clubs. Hobbies, home with my kids and my godchildren. 13,
15 no religion. And I'm a fair person for 14.

16 THE COURT: Okay. Terrific. Can you come on up,
17 please.

18 (Thereupon, the following was heard sidebar.)

19 THE COURT: Good morning. How are you today?

20 A PROSPECTIVE JUROR: Good. My brother in the past,
21 my nephew, and my father right now --

22 MS. MITRANI: I'm sorry, ma'am.

23 A PROSPECTIVE JUROR: I'm not a high talker.

24 MS. MITRANI: You are looking that way. I'm sorry.

25 A PROSPECTIVE JUROR: My brother and my nephews and

1 brother had trials. My children father is now waiting on to be
2 taken to a trial. I was not arrested but a citation to meet
3 court argument between me and my brother that was found
4 withhold adjudication. I wasn't found guilty or nothing. It
5 was thrown out.

6 The case I was a witness of, a young boy was riding in
7 the back of a car and they was trying to jack him for the car
8 and they killed the young man in the backseat.

9 MS. MITRANI: That's terrible.

10 A PROSPECTIVE JUROR: I was younger. It was like when
11 I was 20-some years old.

12 THE COURT: I'm sorry to hear about that.

13 A PROSPECTIVE JUROR: But I'm a fair person.

14 THE COURT: Okay. Is there anything at all about your
15 prior experiences or the experiences of any of your relatives
16 with the criminal system that might affect your ability to be
17 fair either to the government or to Mr. Scotton in this case?

18 A PROSPECTIVE JUROR: No, because I believe everybody
19 is innocent until proven guilty.

20 THE COURT: Would anybody like to ask any questions?

21 MS. MITRANI: Yes, Your Honor. Thank you. And I
22 appreciate and understand that you can be fair, but sort of in
23 your heart of hearts, because so many people close to you have
24 been arrested or in trial, do you harbor any bad feelings?

25 A PROSPECTIVE JUROR: No, I don't.

1 MS. MITRANI: You don't feel like anybody got a bum
2 rap by the cops?

3 A PROSPECTIVE JUROR: No.

4 MS. MITRANI: You don't have any, we call it bias?

5 A PROSPECTIVE JUROR: No, I'm not biased.

6 MS. MITRANI: You think law enforcement just pick
7 people up for no reason?

8 A PROSPECTIVE JUROR: No.

9 MS. MITRANI: You don't think that?

10 A PROSPECTIVE JUROR: No.

11 MR. SCOTTON: For the reason you say your husband
12 employer -- I think you said your husband is separated. Do you
13 think being in court take your time from case is going to
14 affect your decision to rush or anything like that?

15 A PROSPECTIVE JUROR: No.

16 MR. SCOTTON: So you will be fair with us?

17 A PROSPECTIVE JUROR: Yes, I'm a fair person.

18 MR. SCOTTON: Thank you so much.

19 THE COURT: Thank you. You can be seated.

20 (Thereupon, the following was heard in open court.)

21 THE COURT: Thank you all for your patience, and I
22 think we are up to Mr. Hajdic.

23 A PROSPECTIVE JUROR: Ken Hajdic, H-A-J-D-I-C. I live
24 in Lighthouse Point. I have lived there 18 years. Prior to
25 that, I'm from the City of Chicago. I own a lawn and landscape

1 business with my wife. My wife and I run that. And I also
2 have a job as a produce broker.

3 I am married obviously. I have two children, one 12,
4 one 17. My 17-year-old works at Publix. My wife works with me
5 obviously in the lawn business.

6 I was a juror last week on a criminal case for four
7 days right here. And prior to that, on a criminal case in
8 county. I was not the foreperson and we did get to a verdict.

9 I have been charged twice. My company has been
10 charged twice in lawsuits that were both settled out of court.
11 I have a cousin that's a police officer in the City of Sunrise.
12 None of us have been a witness in a -- my cousin has been
13 witnesses in trials as a police officer. That's the only thing
14 I know of.

15 I am a cub master for -- I mean a scout master for the
16 Boy Scouts of America. I'm also on my church board. And I do
17 a lot of work with the City of Lighthouse Point. I am actually
18 the chairman of the founder's day which is coming up here in
19 February.

20 I spend a lot of time working with the police
21 department planning the parades, planning the events, the
22 concerts. I work hand in hand and made a lot of friends with
23 the police department in Lighthouse Point. And in the scouts,
24 the assisting scout master is an assistant U.S. attorney in
25 Fort Lauderdale.

1 THE COURT: Let me ask, I'm sorry to with interrupt,
2 can I find out the name of that person, please.

3 A PROSPECTIVE JUROR: Steve Petri.

4 THE COURT: Thank you.

5 A PROSPECTIVE JUROR: I don't have -- well, my hobbies
6 are basically the scouts, scouting and spending time with my
7 church. I don't have much spare time after that besides work.
8 No religious convictions. No. 14, I would like to approach.

9 THE COURT: All righty. Come on up.

10 (Thereupon, the following was heard sidebar.)

11 THE COURT: Just one second until we get everybody.

12 A PROSPECTIVE JUROR: Yes, ma'am.

13 THE COURT: Thank you.

14 A PROSPECTIVE JUROR: For No. 14, the only issue I
15 have is being able to concentrate on a trial this long because
16 I run this company with my wife. It's only my wife and I and
17 other employees.

18 THE COURT: It would be a financial hardship?

19 A PROSPECTIVE JUROR: It would really be hard for me
20 with that. I have another job. I'm working two jobs. I'm
21 trying to make -- just like everybody else at this time, the
22 economy is hard, but for me to not be there for six weeks -- I
23 served four days last week, there was no problem. I always
24 report. I have served before. If it's a short period of time,
25 it doesn't really affect me. I can make arrangements. But for

1 six weeks, I don't know what my wife would do without -- there
2 will be no one to run the equipment or the, you know --

3 THE COURT: It would be six weeks of no business?

4 A PROSPECTIVE JUROR: Six weeks of no lawn business.
5 And my other job, I have a job, and obviously they are required
6 to take care of me, so I don't think that would be a problem.
7 But the lawn business would probably be very difficult to work
8 without me.

9 THE COURT: Anybody have any questions?

10 MS. MITRANI: No.

11 A PROSPECTIVE JUROR: And I have no problem being a
12 juror obviously. I have been a juror twice. Just for that
13 amount of time would really hurt me.

14 THE COURT: We understand.

15 A PROSPECTIVE JUROR: Thank you.

16 (Thereupon, the following was heard in open court.)

17 THE COURT: All righty. We are going to hear from
18 Mr. Graham now.

19 A PROSPECTIVE JUROR: Good. My name is Henry Graham
20 G-R-A-H-A-M. I currently live in Lauderhill, Florida. I have
21 lived there over 20 years. I have resided in south Florida
22 since I was about three years old so that would be about 62
23 years. Born in South Carolina, so that would be where I lived
24 before.

25 I am not employed currently. I am a retired math

1 teacher from the fantastic Dillard High School. Let's see,
2 divorced. I have two adult children, both in education.

3 I have served as a juror before, not at the federal
4 level. I was not the foreman -- foreperson. And we did reach
5 a verdict.

6 No. 8 is no. 9 is no. 10, no. 11, retired educators
7 support groups for my school. 11, I love to read. I am a
8 member of a senior bowling league. I love to putz around in
9 the garden. I think I have a green thumb, but the flowers
10 don't know that yet. 13, no. 14, there is no reason why I
11 could not be fair; however, I do have a doctor's appointment on
12 the 24th of February.

13 THE COURT: Okay. Thank you very much.

14 And let's go to Mr. Monas.

15 A PROSPECTIVE JUROR: Yes. My name is Michael Monas,
16 M-O-N-A-S. I currently live in Coral Springs. I have been
17 there since 2005. Prior to that, I was 17 years in Summerset,
18 New Jersey. I am retired from Telcordia Technologies which is
19 a software company in New Jersey that provides to the
20 telecommunications industry, the former Bell Labs Bellcore
21 evolution.

22 My wife is also retired from Telcordia, but she works
23 out of the house for them occasionally as a contractor doing
24 technical writing. I have an adult stepdaughter, 45, who works
25 as Kohl's department store. I did serve on a jury in a

1 criminal case in New Jersey. We did not reach a verdict
2 because after some prosecution witnesses, there was an
3 agreement reached and the judge halted the trial.

4 No. 8, no. Normal parties to lawsuits. Family
5 members in law enforcement. My cousin's daughter is a
6 prosecutor here in Broward County. No. 10 is no. No. 11, I am
7 on the board of directors of the Coral Springs Museum of Art.

8 And spare time, besides devoting to the museum, I also
9 do photography and my wife and I like to travel. No problems
10 with religious convictions.

11 And No. 14, we do have a couple of trips scheduled.
12 We are leaving on a cruise this Sunday the 26th for a week,
13 coming back the following Sunday, and I believe it's the second
14 week in March. I would have to check my calendar, but that
15 would involve turning on my phone. We are going to Las Vegas
16 for a week.

17 THE COURT: Okay. Thank you.

18 And let's see. Ms. Raisman.

19 A PROSPECTIVE JUROR: Yes, good morning. My name is
20 Marlene Raisman, R-A-I-S-M-A-N. I currently live in Coconut
21 Creek and I have been there for ten years. I have been in
22 Florida for over 20 years. And I am from New York originally,
23 born in the Bronx. I am currently employed with Pediatrics
24 Medical Group. They are a nationwide company that specializes
25 in neonatology. Our doctors are contracted by the hospitals to

1 run the units, and I'm in charge of running the unit to make
2 sure it's running smoothly and efficiently.

3 I am not married. I do not have any children. I have
4 served as a juror before three times, one criminal, two civil.
5 I actually served last week on a civil case. I was the
6 foreperson. And in all, we reached -- in all cases, we have
7 reached the verdict.

8 No. 8 would be no. 9 is no. 10, no. 11, no. My
9 hobbies are fitness, health. I enjoy movies, especially the
10 old movies. I am a movie buff. I don't have any religious
11 convictions that would affect my judgment, and I can be fair to
12 both parties involved.

13 THE COURT: Thank you very much. Ms. Gutierrez.

14 A PROSPECTIVE JUROR: Good morning. My name is
15 Rebecca Gutierrez, G-U-T-I-E-R-R-E-Z. I currently live in
16 Miramar. I have lived there about 21 years. Previous to that,
17 I lived in New Jersey, Weehawken.

18 I am currently employed. I am a senior finance
19 manager at Bank United. Basically we do budgeting,
20 forecasting, presenting financials. I am married. My husband
21 is self-employed. He's a personal trainer. I have three kids
22 ages 19, 16, and 12 which is college, high school, and middle
23 school.

24 I have served on a jury before twice, as recent as
25 last week four days, and we were able to reach a verdict on

1 both cases. 8, if I can go sidebar on that one.

2 THE COURT: Sure.

3 A PROSPECTIVE JUROR: No. 9, no. No. 10, no. No. 11,
4 I belong to the parish of my church which is Blessed John XXIII
5 Catholic church. No. 12, just fitness and spending time with
6 my family. I am Catholic, but that wouldn't affect my
7 judgment, I could be fair, 14. If anything, what I am
8 concerned about is my work obligations. I haven't really been
9 at work the first week in January. I had a death in the
10 family. My stepmom's mom died and I had to send her away. She
11 presently takes care of my father who is an invalid due to
12 vascular dementia. I also participate in his care giving, so I
13 haven't been able to take him to the doctor. I do go with him
14 once a month to the neurology appointment and his practitioner
15 too as well. Currently in my job, I have two employees that
16 have resigned, so the burden of work is on myself and that's
17 why. Thank you.

18 THE COURT: All right. Thank you. Did you say you
19 needed to discuss something sidebar? Why don't you come on up
20 if you don't mind.

21 (Thereupon, the following was heard sidebar.)

22 THE COURT: Just one second.

23 A PROSPECTIVE JUROR: On No. 8, my husband served two
24 years due to a RICO charge.

25 THE COURT: Okay.

1 A PROSPECTIVE JUROR: So I just wanted to make that
2 known.

3 THE COURT: Thank you for letting us know that.

4 A PROSPECTIVE JUROR: Whether that affects my
5 judgment, I don't know. It was a difficult time with three
6 kids.

7 THE COURT: Does anybody have any questions at all for
8 Ms. Gutierrez?

9 MS. MITRANI: You were saying your husband had a
10 federal charge, I take it, RICO?

11 A PROSPECTIVE JUROR: Yes, and he did time. He did
12 two years.

13 MS. MITRANI: Do you feel he was treated unfairly? Do
14 you have bad feelings toward the prosecutors that put him in
15 jail?

16 A PROSPECTIVE JUROR: Yeah, he pleaded, but yes.

17 THE COURT: Do you think you can be fair to the
18 government and to Mr. Scotton in this case?

19 A PROSPECTIVE JUROR: I mean, I will try, but that was
20 a bad time for me personally with three kids and, you know --

21 MS. MITRANI: Was it here in Fort Lauderdale?

22 A PROSPECTIVE JUROR: In Florida.

23 MS. MITRANI: Was it the Southern District of Florida?

24 A PROSPECTIVE JUROR: Yes.

25 MS. MITRANI: Was it Fort Lauderdale or Miami?

1 A PROSPECTIVE JUROR: He wound up doing it in Hardy.

2 MS. MITRANI: The case, though, was in
3 Fort Lauderdale?

4 A PROSPECTIVE JUROR: Yes, it was in Florida.

5 THE COURT: It was in Florida.

6 MS. MITRANI: South Florida?

7 A PROSPECTIVE JUROR: South Florida.

8 THE COURT: Do you know who the judge or the
9 prosecutor were?

10 A PROSPECTIVE JUROR: It's been a while. It's been
11 about, I would say, seven years.

12 THE COURT: Okay. Anybody have any questions?

13 MR. SCOTTON: You say that because you have too much
14 obligation right now?

15 A PROSPECTIVE JUROR: Yeah, everything, my father has
16 vascular dimension. He's an invalid. He's at home being taken
17 care of by my stepmom. I do participate by helping him because
18 he doesn't speak. He is just in a hospital bed, changed and
19 fed, so that in itself and the three kids, this week in
20 general, she took the load off me, but I have to deplete -- I
21 mean, four and six weeks is a lot for me to bear as well as my
22 work. Otherwise, I did four days. I can do that.

23 MR. SCOTTON: You not be able to stay here and be fair
24 and take everything that is going to be presented in the trial
25 to be able to be fair, make decision, because your mind will be

1 outside thinking about family?

2 A PROSPECTIVE JUROR: Yes, I have to too much going
3 on. I have two employees leaving. We have a press release on
4 my bank. I am responsible for that. We are doing financials.
5 It's really bad timing.

6 THE COURT: Any other questions?

7 MS. MITRANI: No.

8 MR. SCOTTON: No.

9 (Thereupon, the following was heard in open court.)

10 THE COURT: We are going to pick up with Mr. Sabatini.

11 A PROSPECTIVE JUROR: Good morning. Matthew Sabatini,
12 S-A-B-A-T-I-N-I. I live in Deerfield Beach. I have been there
13 for about 12 years. 35 years in Florida about. Before that I
14 was born in New York. I am currently employed. I drive a
15 commercial vehicle, truck driver with Southeastern Freight
16 Lines.

17 I am married. My wife does coordinating for home
18 care. No children. I was here for jury last week. I did not
19 get selected. My parents were involved in a lawsuit, dog
20 biting case.

21 No. 9, just a friend of mine. He's a BSO. No. 10,
22 no. No. 11, just NRA. Hobbies, going to the gym, riding
23 motorcycles, and I go to the range. I do trap shooting. No on
24 13. And No. 14, eye couple things. My company does not -- it
25 would be a tremendous financial burden. My company doesn't pay

1 me for jury service after three days. I have already used two
2 of them for last Monday and today. And I drive a truck, so
3 basically if I'm not working -- I am in the freight business
4 also, so I don't know how fair I can be as far as this being
5 kind of a freight case. And I do help out with my parents with
6 my siblings, my sisters. They are elderly. They don't drive
7 anymore, and I help out with getting them, you know, to
8 doctors, grocery stores, between me and my sister.

9 THE COURT: Okay. Thank you.

10 A PROSPECTIVE JUROR: You're welcome.

11 THE COURT: All righty. Mr. Swanson?

12 A PROSPECTIVE JUROR: Yes, my name is Kirby Swanson,
13 S-W-A-N-S-O-N. And I have lived in Tamarac now for about nine
14 years, in south Florida for 19. Before that I lived about 17
15 years in Colorado and was born in Washington state on a farm.
16 I am employed as a middle school science teacher at Ramblewood
17 Middle School. I teach sixth grade science. My wife currently
18 is a caretaker for her elderly mother with Alzheimer's. I have
19 one son, he's age 30, who is unemployed.

20 No. 7 is no. 8 is no. 9, no. 10 is no. 11, I'm on
21 the board for my condo association. 12, I enjoy gardening,
22 landscaping, and kayaking. 13 is no. 14 is no. But I am
23 concerned, being a middle school teacher, with the length of
24 the trial, being out for a number of weeks, that my students
25 would have substitute teachers for that whole time, and a lot

1 of students do not do well with a substitute teacher. They
2 don't take their teacher seriously when their teacher is a
3 substitute.

4 THE COURT: All right. Thank you. Is it
5 Ms. De La Hoz?

6 A PROSPECTIVE JUROR: Yes, Maritza De La Hoz. Last
7 name is D-E L-A H-O-Z. I currently live in Dania. I have
8 lived there for about ten years. Previous to that I was in
9 California for four years. And previous to that, I was in
10 Miami.

11 Currently employed as an analyst for JM Family
12 Enterprises. I am not married. I don't have any children. I
13 did serve as a grand juror for the state. No. 8 is no. 9 is
14 no.

15 THE COURT: Just so everybody can feel better, how
16 long was your grand jury service?

17 A PROSPECTIVE JUROR: Six months.

18 THE COURT: Sorry. Go ahead. See how lucky we are.

19 A PROSPECTIVE JUROR: No. 10, no. 11, no. Hobbies,
20 travel, movies, reading. No. 13 is no. And No. 14 is no.

21 THE COURT: Thank you very much.

22 A PROSPECTIVE JUROR: You're welcome.

23 THE COURT: Mr. Russell.

24 A PROSPECTIVE JUROR: My name is David Russell,
25 R-U-S-S-E-L-L. I live in Parkland. I've lived there close to

1 20 years. I have been in south Florida 25 years. Lived in
2 North Carolina before Florida and many other states before
3 that. I am the engineering manager for the energy services
4 group of AE Com.

5 I'm married. My wife's a structural engineer. I have
6 one daughter in college. I have never been on a jury, but I
7 was here last week. I was part of a lawsuit in a civil case in
8 1986 through 1989. I have a cousin that's an ex-sheriff in
9 California.

10 I have never been a witness in a trial so 10 is no. I
11 am a member of two engineering societies. I play the guitar.
12 13, I don't have any religious convictions. I could be fair,
13 but I have a doctor's appointment Wednesday morning. I am
14 going on vacation the end of February. And with my job, I
15 would have to work nights because I approve the designs of my
16 engineers, and to keep the projects moving, I just would have
17 to work nights.

18 THE COURT: All right. Let me ask you a few questions
19 about that if you don't mind. With regard to working nights,
20 that would mean that if you sat on the jury, you would then go
21 to your work shift in the evening, is that correct?

22 A PROSPECTIVE JUROR: I would have to work from home
23 because I wouldn't go into the office but I would have to
24 review all their designs to keep the projects on schedule.

25 THE COURT: Would that be full-time, for example,

1 eight hours a day after you finished here?

2 A PROSPECTIVE JUROR: It would be whatever it takes.
3 It could be weekends. It could be nights. We have projects
4 that are due. We have projects that are throughout the
5 country, so I might be working four hours a night. I might be
6 working weekends. I don't know.

7 THE COURT: Do you currently, when you are not here,
8 do you work eight-days.

9 A PROSPECTIVE JUROR: I work probably 10-to 12-hour
10 days.

11 THE COURT: And five days a week or more?

12 A PROSPECTIVE JUROR: Or more.

13 THE COURT: And with respect to your vacation, you
14 said it's at the end of February, is that right?

15 A PROSPECTIVE JUROR: Right.

16 THE COURT: Do you know when that would be, how long?

17 A PROSPECTIVE JUROR: It's about a week. We are
18 leaving -- it's Wednesday. I think that's what, the 27th. And
19 we will be back March 4th or 5th. It's like Tuesday.

20 THE COURT: Okay. Thank you very much.

21 Ms. Taub.

22 A PROSPECTIVE JUROR: Hello. My name is Mindy Taub.
23 Last name is T-A-U-B. I live in Coral Springs. I have been
24 living there for ten years. And before that, I was in Georgia
25 for four. And before that, I was here in Margate. I have been

1 in the south Florida area for about 35 years. I am currently
2 employed. I work for Dr. Kenneth Levine. I am an office
3 administrator.

4 My husband is an accountant. Let me see. I have two
5 children. My daughter is an educator. She graduated last
6 year. My son is in college. I served on a jury last week. It
7 was a federal case here for four days. We did come to a
8 decision. I was not the foreperson.

9 8 is no. 9 is no. 10 is no. 11 is no. In my spare
10 time I do travel and I also do event planning which is part of
11 why I travel. No religious vacations. And I could be fair.

12 THE COURT: Thank you, Ms. Taub. Would you mind
13 coming up sidebar for just a moment, please.

14 A PROSPECTIVE JUROR: Sure.

15 THE COURT: Thank you.

16 (Thereupon, the following was heard sidebar.)

17 THE COURT: Just one second. We have to bring
18 everybody else up.

19 All righty. So Ms. Taub used to work at my father's
20 office for my father's dental partner. Is that right?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: And so she has known me as a kid growing
23 up.

24 A PROSPECTIVE JUROR: I was at your wedding.

25 THE COURT: Yes.

1 A PROSPECTIVE JUROR: A lot of family events.

2 THE COURT: Yes. But you understand that I -- it's my
3 job to be impartial, so I'm not going to be doing anything in
4 favor of one side or the other side?

5 A PROSPECTIVE JUROR: Right.

6 THE COURT: Do you understand that?

7 A PROSPECTIVE JUROR: Totally.

8 THE COURT: Knowing that, is there anything about the
9 fact that I am the judge on this case that would cause you not
10 to be fair to either the government or to Mr. Scotton?

11 A PROSPECTIVE JUROR: Absolutely not.

12 THE COURT: Does anybody have any questions for
13 Ms. Taub?

14 MR. SCOTTON: No, ma'am.

15 MS. MITRANI: No, Your Honor.

16 THE COURT: Thank you very much.

17 A PROSPECTIVE JUROR: I am traveling though.

18 THE COURT: When?

19 A PROSPECTIVE JUROR: Tuesday. I have three trips in
20 the next two weeks.

21 THE COURT: Tell me the dates.

22 A PROSPECTIVE JUROR: The 29th of January, and then
23 I'm back, and then I'm gone again February 6.

24 MS. MITRANI: The 29th through when, ma'am?

25 A PROSPECTIVE JUROR: 29th through the 2nd, and then

1 I'm away again on the 6th until Tuesday, which is -- I'm trying
2 to think of the dates -- the 8th. The 6th is Thursday until
3 that Tuesday, whatever it is.

4 THE COURT: Okay.

5 A PROSPECTIVE JUROR: So like the 11th, I guess.

6 THE COURT: Any other trips?

7 A PROSPECTIVE JUROR: Nothing that's not for a month
8 after that.

9 THE COURT: So in March?

10 A PROSPECTIVE JUROR: March.

11 THE COURT: When in March?

12 A PROSPECTIVE JUROR: Whatever the second week is, I
13 have a bar mitzvah in New York.

14 THE COURT: Just the weekend?

15 A PROSPECTIVE JUROR: Yes, just the weekend.

16 THE COURT: All right. Anybody have any questions?

17 MR. SCOTTON: No, Your Honor.

18 MS. MITRANI: No, Your Honor. Thank you.

19 (Thereupon, the following was heard in open court.)

20 THE COURT: I think we are up to Ms. Ruberto. Is that
21 correct?

22 A PROSPECTIVE JUROR: That's correct. My name is Lois
23 Ruberto, R-U-B-E-R-T-O. I live in Plantation. I have been
24 there 28 years. Prior to that, I was born in Rhode Island. I
25 work in the yachting industry. I work for a boat manufacturer.

1 My husband is deceased he was an attorney in
2 Fort Lauderdale. He did civil litigation. I have one son who
3 is a senior buyer for Whole Foods. I have served on a jury
4 before. I was not the foreperson.

5 I do not have any immediate family in a lawsuit.
6 No. 9, I have a cousin who was a police chief in Smithfield,
7 Rhode Island. No. 10, no. Clubs and organizations, just in
8 the yachting industry. Boating would be my hobby. No, nothing
9 with religious convictions. And yes, I can be fair to both
10 parties in this case. The only thing is my mother, who is 89,
11 has just arrived from Rhode Island and she's staying with me
12 and I am responsible for taking her to doctors' appointments
13 and things like that.

14 THE COURT: Okay. And I certainly understand that.
15 That would be a day here a day there, is that what you are
16 saying?

17 A PROSPECTIVE JUROR: That's correct.

18 THE COURT: Thank you for letting us know that.

19 Mr. Holbrook?

20 A PROSPECTIVE JUROR: Hi. My name is Tim Holbrook,
21 H-O-L-B-R-O-O-K. I live in Pembroke Pines for ten years.
22 Prior to that, 20 in Houston. Grew up in the State of
23 Washington. I am not currently employed. I just retired. I
24 worked 50 years in the hospitality business, retired from the
25 Department of Veterans Affairs as a canteen chief.

1 I am a widower. My wife was an accountant. I have
2 one son, 32 years old. And he's employed in the hospitality
3 business. I have never served as a juror. 30-some years ago,
4 I was involved in a lawsuit. I have a brother who is a State
5 of Washington probation officer and a sister-in-law who is a
6 county sheriff. No to witness in a trial. Belong to Moose and
7 that kind of thing. Love gardening, travel. No religious
8 convictions that would keep me from rendering a decision, and
9 yes, I could be fair.

10 THE COURT: Thank you. Mr. Holbrook, is there
11 anything about the fact that your brother is a probation
12 officer in Washington state and your sister-in-law is a county
13 sheriff that would cause you not to be able to be fair either
14 to the government or to Mr. Scotton?

15 A PROSPECTIVE JUROR: Absolutely not.

16 THE COURT: Thank you very much, Mr. Holbrook. Let's
17 go to Mr. Applebaum.

18 A PROSPECTIVE JUROR: Hello. My name is Allen
19 Applebaum, A-P-P-L-E-B-A-U-M. I live in Cooper City for the
20 last nine years. I have lived in south Florida for 40 years.
21 Before then, I lived in New Jersey. I am employed at Broward
22 College. I am a full-time professor. I teach accounting and
23 taxes. I own my own CPA firm. I have no employees. I have
24 over a hundred clients. This is tax season.

25 My wife is employed. She is a federal agent for the

1 treasury department. I have two children, 11 and 13, both
2 girls. Help me, please. I have served on juries, two criminal
3 cases. I was not the foreperson. And in both cases, we did
4 reach verdicts.

5 8 is no. 9 is no unless you consider my wife law
6 enforcement. 10, I was a witness for the government in a tax
7 trial. I am a former IRS agent, so I testified for the IRS.

8 I am a member of several professional associations. I
9 am the advisor to Phi Beta Lambda, the business fraternity at
10 Broward College, a treasurer for the United Faculty of
11 Florida. I am a treasurer for the Band Parent Association for
12 Pioneer Middle School.

13 In my spare time, I am basically a cab driver for my
14 children, taking them to soccer, basketball, and religious
15 school. No problem with my religious convictions. Yes, I can
16 be fair to both parties. I do have business travel scheduled
17 for February 4th to February 9th. And as a agent, my wife
18 works out of Washington, DC and she travels 25 percent of the
19 time. So she's gone one week a month, and I don't have anybody
20 else to take care of my children when she's gone.

21 THE COURT: They are in school, right?

22 A PROSPECTIVE JUROR: Middle school, yes.

23 THE COURT: So you need to pick them up from school
24 and drop them off, I imagine?

25 A PROSPECTIVE JUROR: Yes, in the morning and 3:30.

1 THE COURT: Okay. You would have to pick them up at
2 3:30, so you need to leave here by 3:00, is that correct?

3 A PROSPECTIVE JUROR: Sounds about right.

4 THE COURT: Okay. And is there anything about your
5 prior service as an IRS agent that would cause you not to be
6 able to be fair either to the government or to Mr. Scotton in
7 this case?

8 A PROSPECTIVE JUROR: I don't think so.

9 THE COURT: Are you sure?

10 A PROSPECTIVE JUROR: Oh, yeah, I can be fair.

11 THE COURT: Thank you.

12 Let's go to Mr. Tucker.

13 A PROSPECTIVE JUROR: Good morning. My name is George
14 Tucker, last name spelled T-U-C-K-E-R. I live in
15 Fort Lauderdale. I have been in south Florida for 15 years.
16 Previously North Carolina. I am employed full-time as a
17 marketing manager at a small company called Health Formula in
18 Hollywood.

19 I am married my wife is a CPA. I have one
20 three-and-a-half-year-old daughter. I have never served on a
21 jury before. 8, no. 9, no. 10, no. 11, no. 12, reading,
22 writing, parenting. No. 13, no. 14, my only concern is that
23 in my current position and two previous positions, I did work
24 extensively in logistics so I have relationships with freight
25 carriers, international freight carriers like DHL, UPS,

1 business relationships with many of those people. But I know
2 none of the witnesses that were listed previously. And I don't
3 think that would be a hindrance to my objectivity.

4 THE COURT: All right. Let me ask you, if you
5 wouldn't mind, Mr. Tucker, can you come up sidebar for just a
6 moment, please?

7 A PROSPECTIVE JUROR: Certainly.

8 THE COURT: Thank you.

9 (Thereupon, the following was heard sidebar.)

10 THE COURT: Thank you. I just want to give them a
11 chance to follow up a little bit. Let me ask the parties.

12 Mr. Scotton, are there any names that you wanted to
13 run by Mr. Tucker to see if he knows any of these people?

14 MR. SCOTTON: Do you know local people?

15 A PROSPECTIVE JUROR: Yeah, they are mostly, not so
16 much corporate office people, a few times I visited with
17 corporate office people. I was in south Florida.

18 MR. SCOTTON: Contractor from these companies?

19 A PROSPECTIVE JUROR: Sorry?

20 MR. SCOTTON: Contractor from the companies?

21 A PROSPECTIVE JUROR: No, the companies themselves,
22 Fed-Ex, UPS. I worked with some contractors, but not
23 personally. We employ them, but...

24 MR. SCOTTON: You have a knowledge on the shipping
25 aspect and international laws?

1 A PROSPECTIVE JUROR: Generally. It's not my
2 specialty.

3 THE COURT: Anybody have any questions for Mr. Tucker?

4 A PROSPECTIVE JUROR: Concerns or --

5 MS. MITRANI: No, I was going to ask you, you had your
6 business relations. Do you understand this case is completely
7 independent of whatever --

8 A PROSPECTIVE JUROR: Yes, absolutely.

9 MS. MITRANI: Can you be a fair juror?

10 A PROSPECTIVE JUROR: I do believe I can, yes.

11 THE COURT: Mr. Scotton, anything else?

12 MR. SCOTTON: No, that's it.

13 THE COURT: All right. Thank you.

14 (Thereupon, the following was heard in open court.)

15 THE COURT: Is it Ms. Souther?

16 A PROSPECTIVE JUROR: Samantha Souther, S-O-U-T-H-E-R.

17 I have lived in Fort Lauderdale for 24 years. I have been in
18 south Florida for 27 years. I am employed. I am a customer
19 service representative for Bed, Bath and beyond.

20 I am single, no kids. I have served as a juror once
21 for a civil case and also criminal case. I was not the
22 foreperson for either cases. We did reach a verdict in both.

23 8 is no. 9 is no. 10, no. 11 is no. 12, I enjoy
24 traveling, photography, and playing video games. 13, no. And
25 14, I do -- I can be fair, but I do have a conflict or two. My

1 grandmother did pass in the night.

2 THE COURT: I'm so sorry to hear that.

3 A PROSPECTIVE JUROR: Thank you. And we are
4 scheduling the funeral for Monday or Tuesday. And also, I have
5 classes Monday through Thursday mornings.

6 THE COURT: What time are those classes?

7 A PROSPECTIVE JUROR: Monday and Wednesdays I'm in
8 class from 10:00 to 11:50. I also have a 2:00 class on Monday
9 and Tuesdays. And Thursdays I'm in class from 9:30 in the
10 morning until about 11:00.

11 THE COURT: Okay. Thank you very much.

12 Mr.~Stoner.

13 A PROSPECTIVE JUROR: Donald David Stoner,
14 S-T-O-N-E-R. No. 2, Pembroke Pines 15 years. No. 3,
15 Louisville, Kentucky. No. 4, Ameritel, retired Ameritel,
16 management. No. 5, accountant. No. 6, daughter, 38, preschool
17 teacher. Son, 36, sales.

18 No. 7, no. No. 8, not that I'm aware of. No. 9, no.
19 No. 10, no. No. 11, no. No. 12, beach, travel, sports.
20 No. 13, no. No. 14, no.

21 THE COURT: I think that's a new record.

22 Let's go to Mr. Garcia.

23 A PROSPECTIVE JUROR: Hi. I'm Jose Garcia,
24 G-A-R-C-I-A. I currently live in Plantation. Been there 15
25 years. Been in south Florida maybe 43 years. Prior to that,

1 was born in Cuba. Currently employed with State Farm
2 Insurance. Part of the specialty fraud unit.

3 Married. Wife works in the medical field. I have two
4 boys, 19-year-old in college; 17, a senior in high school. 7
5 is 8 -- I'm sorry, 7 is no. 8, 10, and 14, if I could do
6 sidebar.

7 THE COURT: Sure.

8 A PROSPECTIVE JUROR: No. 9, no. No. 11, no. No. 12,
9 hunting and fishing. No. 13, no.

10 THE COURT: Thank you. Why don't you come on up if
11 you don't mind.

12 (Thereupon, the following was heard sidebar.)

13 A PROSPECTIVE JUROR: For No. 8, not me personally but
14 work-related I do a lot of trials, a lot of depositions,
15 mediations, that kind of stuff. If they are not going to
16 trial, they are going to trial, so...

17 Same thing for No. 10. And No. 14, kind of the same
18 thing. I have a lot of stuff set up already for either trial,
19 depositions, or mediation. I don't know the dates of those
20 times, so I wouldn't be able to tell you today when they are.

21 THE COURT: Okay. Would it be possible to set them
22 for the Fridays when we don't have trial days?

23 A PROSPECTIVE JUROR: It goes to all the attorneys and
24 investigating experts.

25 THE COURT: I totally understand, and I would be more

1 than happen to speak with the attorneys if that would be
2 helpful to you.

3 A PROSPECTIVE JUROR: Yeah. I mean, we could, again,
4 depending on what time frame it is, some weeks are very slow
5 and I don't have any appointments for that week, but sometimes
6 we go back to back for a particular week.

7 THE COURT: All right. Let me ask you something. The
8 fact that you investigate fraud -- do you investigate fraud?
9 Is that --

10 A PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: The fact that you investigate fraud and
12 this is a fraud case, is there anything about your experience
13 investigating fraud that would or could cause you not to be
14 able to be fair either to the government or to Mr. Scotton in
15 this case?

16 A PROSPECTIVE JUROR: No, I can be fair.

17 THE COURT: Anybody have any questions?

18 MS. MITRANI: No, Your Honor.

19 MR. SCOTTON: No, Your Honor.

20 (Thereupon, the following was heard in open court.)

21 THE COURT: Was it Mr. Jardon.

22 A PROSPECTIVE JUROR: That's fine, Jardon.

23 THE COURT: I was being fancy.

24 A PROSPECTIVE JUROR: No problem. Mario Jardon,
25 J-A-R-D-O-N. I live in Pembroke Pines. I have lived there for

1 15 years. I have lived in south Florida for about 30 years.
2 Prior to that, I'm originally from New Jersey. I am currently
3 employed as a product development engineer with AT&T Wireless.

4 I am married. My wife is the assistant principal of a
5 school in Southwest Ranches. I have two children, 14 and 15,
6 not employed. I have been -- no, I have never served on a jury
7 before. I have been called for jury duty, but never actually
8 selected on a jury.

9 No. 8, no. No. 9, I have a cousin who is a Miami-Dade
10 police officer. No. 10, no. No. 11, I am on the rules and
11 regulations committee and the board of my homeowners
12 association, and I am an NRA member. No. 12, in my spare time,
13 similar to someone else, I spend a lot of time driving my kids
14 to their various sports activities.

15 And 13, no. 14, I believe I can be fair, but I do
16 have a couple of things I would like to mention. My
17 father-in-law is currently hospitalized at Kendall Regional
18 Medical Center down in Miami and my wife helps take care of
19 him, so it puts more of a burden on me to care for the
20 children. I have a business trip scheduled to Atlanta
21 February 11 through the 13th. And because of the nature of my
22 role at AT&T, I would also have to work nights because the
23 projects that I am on would be stuck if I were not able to do,
24 you know, play my role. And I think that's it.

25 THE COURT: All right. Thank you.

1 Ms. Tovar.

2 A PROSPECTIVE JUROR: Good morning. My name is
3 Natalia Tovar, T-O-V-A-R. I currently reside in Pembroke
4 Pines. I have been living here for 23 years. I am originally
5 from Columbia. I am employee as a sale rep for wine and liquor
6 distributor in Miramar.

7 I am a single parent. I have a son, seven-year-old in
8 first grade. Yes, I was a juror last week for a criminal case
9 and I was the foreperson of the jury and we did reach a
10 verdict. No. 8 sidebar, please.

11 THE COURT: All righty.

12 A PROSPECTIVE JUROR: No. 9, my brother-in-law, it's
13 Metro Dade. My sister is 911 dispatcher for Metro Dade. And a
14 close friend of the family is BSO for the City of West Park.

15 No. 10, it's no. 11, no. I love to drink wine. No
16 religious convictions. And No. 14, sidebar, please.

17 THE COURT: All righty. Come on up.

18 (Thereupon, the following was heard sidebar.)

19 THE COURT: Let me ask you to wait one minute until we
20 have everybody here.

21 A PROSPECTIVE JUROR: On No. 8, I just was -- I just
22 found out two nights ago that my uncle, is's criminal felon for
23 drugs, trafficking of drugs, and he's being transferred to here
24 to go in front of a deportation judge. I think he's about to
25 serve already his 17 year, so he wants to go back home. I

1 don't know if that would be one of them.

2 And the other one is I could be fair to both parties;
3 however, I work based on commissions. So last week I already
4 served here as a juror for four days. So that kind of puts me
5 in a hardship financial for my son and I. And my boss is going
6 on vacation back home for about two weeks, so there's no one to
7 cover my territories.

8 THE COURT: Okay. Anybody have any questions?

9 MS. MITRANI: Yes, Your Honor. You said your uncle
10 has been in prison for 17 years, and now he's facing
11 deportation?

12 A PROSPECTIVE JUROR: Oh, yeah.

13 MS. MITRANI: Is there anything about his case that
14 you feel he was treated unfairly, you don't like prosecutors,
15 you don't like law enforcement because they put him in jail.

16 A PROSPECTIVE JUROR: We really don't know the details
17 of it. My cousins would not really discuss the details, so I
18 wouldn't know. I know he's been in jail for his entire life.

19 MS. MITRANI: So in other words, you don't have any
20 feelings against prosecutors or government, you would just
21 listen to the evidence if you were chosen and be fair?

22 A PROSPECTIVE JUROR: Yeah.

23 MS. MITRANI: If the government proves its case and if
24 the government doesn't prove it case beyond a reasonable doubt,
25 you would find him not guilty?

1 A PROSPECTIVE JUROR: Yes.

2 THE COURT: Anyone else have any questions?

3 MR. SCOTTON: You are a single mother?

4 A PROSPECTIVE JUROR: Yes. I have a seven-year-old
5 boy that goes -- that's another reason. I start my master's
6 program yesterday so now I have classes twice a week, Saturday
7 classes. And then last week was arrangements to pick up. Now
8 these are going to be a long period of time spending here. It
9 would just totally --

10 MS. MITRANI: With your child care?

11 A PROSPECTIVE JUROR: I have my master's program, my
12 job, and my child.

13 THE COURT: And no commissions?

14 A PROSPECTIVE JUROR: Exactly.

15 THE COURT: Thank you for your candor.

16 A PROSPECTIVE JUROR: Thank you.

17 (Thereupon, the following was heard in open court.)

18 THE COURT: Let's go to the next person. Is it
19 Ms. Gangi.

20 A PROSPECTIVE JUROR: Gangi, right. Rita Gangi,
21 G-A-N-G-I. I currently live in Miramar. I have lived there
22 for nine years and I have resided in south Florida my entire
23 life. I am currently employed for the City of Miami Beach. I
24 am a program coordinator for a middle school program,
25 curriculum-based.

1 I am not married. I do not have any children. I have
2 been a juror before for a civil case, not a foreperson. A
3 verdict was made. Both of my parents were involved in a
4 lawsuit, a civil lawsuit, an injury case. No family members.
5 No. 10 is my parents were witnesses. 11, no.

6 What I do for fun is travel, spend time with my
7 family. 13, no. And 14, I will be fair. The only concern
8 would be my work obligations as being coordinator of the youth
9 program. It's a Monday through Thursday program and we are
10 currently just recruiting for the middle school students in the
11 local schools in Miami Beach.

12 THE COURT: Is there somebody who might be able to --
13 I'm sure it wouldn't be the same without your being there, but
14 is there someone who could step in for the time you are here?

15 A PROSPECTIVE JUROR: I only have a part-time
16 employee. She's currently in training because we recently
17 hired her. We also do transportation of the children home from
18 the program, so that would be my concern because I drive the
19 city van as well.

20 THE COURT: Is there anyone else who could drive it?

21 A PROSPECTIVE JUROR: Yeah, there would be other
22 people in the department that may be able to do it.

23 THE COURT: Okay. Thank you very much.

24 A PROSPECTIVE JUROR: Thank you.

25 THE COURT: Ms. Gehring?

1 A PROSPECTIVE JUROR: Gehring, very good. Janet
2 Gehring, G-E-H-R-I-N-G. I live in Davie, Florida. I have
3 lived there seven years. Prior to that Cooper City for 11
4 years. I have been in south Florida for 34 years. I am
5 currently employed with Sheraton Health Care. I serve in an
6 executive capacity responsible for revenue cycle management. I
7 am married. My husband is retired. He's a retired diesel
8 mechanic.

9 I have two children, ages 24 and 14. The 24-year-old
10 recently served four years in the United States Coast Guard and
11 now is a deck hand for Tow Boat U.S.

12 I have not served as a juror before. I have not
13 personally been a party to a lawsuit but have been involved in
14 numerous lawsuits for my employer. My sister and her husband
15 are -- my stepsister and her husband are both corrections
16 officers in the Florida prisons. I serve as a corporate
17 representative and witness often. The cases have all settled.
18 They have not gone to trial. And I am currently serving as
19 corporate representative in a case that is ongoing, and I was
20 deposed this week.

21 No. 11, no. 12, as many people here have said, I
22 spend the majority of my time at the softball field with my
23 daughter. No. 13, no. And No. 14, no.

24 THE COURT: Thank you very much.

25 All right. Mr. Feingersch.

1 A PROSPECTIVE JUROR: Yes. My name is David
2 Feingersh, F-E-I-N-G-E-R-S-C-H. I live in Coral Springs. I
3 have lived there for 20 years. I have been in south Florida
4 for 22 years. Prior to south Florida, I was in New York for a
5 year and a half. I am currently employed as a business systems
6 analyst at Assurance Management Services. I am also employed
7 in the evenings as a Hebrew school teacher. Previous to that,
8 I worked for 17 years in the Last Mile Delivery industry in the
9 IT part of it.

10 I am married. My wife is a yoga teacher. I have two
11 children, ages 20 and 22. My daughter works canvassing for
12 environmental organizations in be Washington, D.C. I have
13 never served as a juror. Would like to do a sidebar on No. 8.
14 No family member involved in law enforcement. I have had
15 extensive work with the courts as a witness and on the
16 prosecution side when I worked with the foster care system for
17 several years. I am a member of the men's club at my
18 synagogue. I ride motorcycles. I enjoy going to movies and
19 dining out with friends. I don't have any religious
20 convictions that would prevent me from rendering a judgment,
21 but I will be unavailable on any Jewish holidays. And there is
22 no reason I could not be fair to both parties, but I do want to
23 approach on that also.

24 THE COURT: Okay. Come on up, please.

25 (Thereupon, the following was heard sidebar.)

1 THE COURT: Go ahead.

2 A PROSPECTIVE JUROR: Okay. So I went through a
3 bankruptcy in federal court in 1986. When I was a kid, I was
4 arrested. Well, it was 37, 38 years ago. I was arrested for
5 possession of marijuana and a weapons charge. I had a pocket
6 knife on me. But it didn't go to trial. I, what do they call
7 it, bargained for disorderly conduct, I believe. It was so
8 long ago, I barely remember. My nephew just got out of prison.
9 He served two years for armed robbery.

10 THE COURT: Was it state or federal, do you know?

11 A PROSPECTIVE JUROR: State.

12 THE COURT: Okay.

13 A PROSPECTIVE JUROR: My aunt was involved in a
14 personal injury case. She fell in a restaurant. And I also
15 had a motorcycle accident when I was in my twenties and sued on
16 that.

17 THE COURT: Okay. Let me ask you a few things. Let
18 me start, you mentioned that you would be out for the Jewish
19 holidays and some people think of the Jewish holidays as like
20 Purim and.

21 A PROSPECTIVE JUROR: Purim doesn't count.

22 THE COURT: That's what I'm saying.

23 A PROSPECTIVE JUROR: But Passover does, the first two
24 days.

25 THE COURT: No problem.

1 A PROSPECTIVE JUROR: Of course, Saturdays.

2 THE COURT: Right. Don't worry, we won't be in
3 session on Saturdays or the people who work in the court who do
4 the security, when you come up, they will not be happy with me,
5 so...

6 A PROSPECTIVE JUROR: Okay. My aunt is also in
7 Hospice at home in New York. And whenever I get the call, I
8 have to go before she dies. They said they would let me know
9 when the time comes.

10 THE COURT: I'm sorry to hear that.

11 A PROSPECTIVE JUROR: She lives with her daughter.

12 THE COURT: Anybody have any questions for
13 Mr. Feingersch?

14 A PROSPECTIVE JUROR: One thing. You look very, very
15 familiar to me. I don't know where, but I have met you
16 somewhere.

17 MS. MITRANI: Pandora's Box. I'm sorry, sir, you
18 don't look familiar to me. Maybe we have crossed paths because
19 your face and name don't ring a bell.

20 A PROSPECTIVE JUROR: Your name doesn't ring a bell.

21 MR. SCOTTON: Being on a jury is not going to
22 interfere with your job right now?

23 A PROSPECTIVE JUROR: My job, I would just like the
24 other David. I would have to leave here and go to my next job.
25 They are open until 10:00. They hired me as a project manager

1 business analyst and I would have to go from here to there so I
2 can just disappear for that length of time and not follow
3 through on the projects. I'm the only one that does it.

4 THE COURT: Any other questions?

5 A PROSPECTIVE JUROR: I didn't understand your
6 question. I'm sorry.

7 MR. SCOTTON: I want to know if anything else is going
8 affect you being as a juror here or if you are going to be in a
9 rush to make decision or to review evidence that is presented.

10 A PROSPECTIVE JUROR: No, I wouldn't be in a rush.

11 MR. SCOTTON: I appreciate it.

12 MS. MITRANI: Sir, is there anything about the fact
13 that your nephew is convicted, charged with armed robbery, you
14 had that instance long ago, I don't know if that counts, but do
15 you have any negative feelings toward law enforcement? Do you
16 think the government is unfair, the cops are unfair?

17 A PROSPECTIVE JUROR: I say people are innocent until
18 proven guilty, but I have seen, if you have money and a good
19 lawyer, it doesn't affect the verdict but it does affect your
20 sentence.

21 MS. MITRANI: Notwithstanding what happened to you
22 many moons ago and your nephew, in other words, could you
23 listen to the evidence in this case?

24 A PROSPECTIVE JUROR: Yes, of course.

25 MS. MITRANI: If the government proves its evidence

1 beyond a reasonable doubt, would you be able to say guilty?

2 A PROSPECTIVE JUROR: I'm sure I could. I don't see
3 any reason why I could not.

4 MS. MITRANI: If the government does not meet its
5 burden, you would say not guilty?

6 A PROSPECTIVE JUROR: Yes.

7 MR. SCOTTON: You mentioned you are Jewish. You have
8 holidays coming up. You know --

9 A PROSPECTIVE JUROR: Depends how long the trial
10 lasts. I think Passover would be the only barrier to that. I
11 don't have the calendar on me.

12 THE COURT: It's in April. Can I ask you something.
13 I don't need to know which one, where generally is your
14 synagogue located?

15 A PROSPECTIVE JUROR: Temple Beth Tora. I have been a
16 teacher there for 27 years now.

17 THE COURT: Okay.

18 MR. SCOTTON: I am not a United States citizen. I am
19 from Brazil. Does that make a difference to you?

20 A PROSPECTIVE JUROR: It would not make any difference
21 to me.

22 THE COURT: Anything else?

23 Thank you so much.

24 (Thereupon, the following was heard in open court.)

25 THE COURT: Usually we would take one break in the

1 morning and it will be about 15 minutes. We took our first
2 break early and I don't want you all to sit here for two hours
3 without a break. We are going to take a shorter break this
4 time. We will come back once again at ten of. This time it
5 will be ten of 12:00. And we will see you then.

6 All rise for the jury. And we very much appreciate
7 your being on time last time and we will get started right at
8 ten of if everybody is right back.

9 (Thereupon, the prospective jurors exited the
10 courtroom at 11:39 a.m.)

11 THE COURT: All righty. We will see you back here at
12 ten of. Let me ask before we break, is there anything we need
13 to address?

14 MS. MITRANI: No, Your Honor.

15 THE COURT: And I hear nothing from the defense.
16 Okay. We will see you back here at ten of.

17 (Thereupon, a recess was taken at 11:41 a.m.)

18 THE COURT: All righty. It looks like we have
19 everybody here. Mr. Creary, is anybody missing?

20 A PROSPECTIVE JUROR: One, Your Honor.

21 THE COURT: One missing, thank you very much.

22 (Thereupon, the prospective jurors entered the
23 courtroom at 11:51 a.m.)

24 THE COURT: Welcome back. And we are going to pick up
25 with Mr. Davilma.

1 A PROSPECTIVE JUROR: My name is Lyse Davilma,
2 D-E-V-I-L-M-E. I live in Fort Lauderdale. I have been here
3 for 13 years. I was born in Haiti. I work at 7-Eleven.
4 Married. My husband is security officer. I have two children,
5 three and four, and one on the way.

6 No. 7 is no. 8 is no. 9 is no.

7 THE COURT: Congratulations.

8 A PROSPECTIVE JUROR: Thank you. 7 is no. 8 is no.
9 9, no. 10 is no. 11, no. 12, I like to spend it with my
10 children. 13, no. And 14, yes, I can be fair, but I have to
11 pick up my kids at daycare and I have to go to my doctor
12 appointments.

13 THE COURT: Okay. What time do your kids need to be
14 picked up?

15 A PROSPECTIVE JUROR: 5:45 p.m.

16 THE COURT: So what time would you have to leave here
17 to get them?

18 A PROSPECTIVE JUROR: I would say 5:00, 5:30.

19 THE COURT: Okay. That's not a problem. And of
20 course, I would understand that you have to go to your doctor
21 appointments. Do you know how frequent they are? Are they
22 about once a month?

23 A PROSPECTIVE JUROR: It's every two weeks.

24 THE COURT: Every two weeks?

25 A PROSPECTIVE JUROR: Yes.

1 THE COURT: Okay. All righty. Thank you.

2 Mr. Alcazar.

3 A PROSPECTIVE JUROR: Yes. My name is Jose Alcazar,
4 A-L-C-A-Z-A-R. I presently live in Pembroke Pines. I have
5 been in Florida 40 years. I work at the Miami Aviation
6 Department. Been there 31 years. My line of work is security
7 and public service. Be retiring in two months. And at the
8 present we are pretty understaffed.

9 Married. My wife is a retired teacher. We have two
10 children. My daughter is a physical therapist, 33 years old.
11 The boy is 27, firefighter trainee.

12 Been called like four times before for jury duty, but
13 have not been picked. 8, 9, 10, 11 are nos. 12, I enjoy the
14 beach, travel, sports. 13 and 14 are nos.

15 THE COURT: Thank you.

16 Ms. Keane.

17 A PROSPECTIVE JUROR: Hi. My name is Barbara Keane.
18 I have lived in south Florida for 19 years. I have born in
19 Ireland. I work for AT&T Business Ops as an administrator. I
20 am divorced. I have no idea what he's doing. I don't care
21 either. I'm sorry. I have no children. Never been on a jury.
22 8, no. 9, no. 10, no. 11, no. 12, the beach, house
23 projects, reading. 13, no. 14, no.

24 THE COURT: Thank you very much.

25 Mr. Leonard.

1 A PROSPECTIVE JUROR: Hi. My name is Steve Leonard,
2 L-E-O-N-A-R-D. I live in Pompano Beach for four years. Before
3 that I lived in Londonderry, New Hampshire. I am not employed.
4 I'm divorced. I have four kids, 25, 22, 16, and 15.

5 No. 7 is no. 8, no. 9, no. 10, no. 11 is SCCA.
6 12 is swimming, skydiving, music, beach. And no
7 religion. And 13 and 14 is no.

8 THE COURT: Okay. Thank you. And I hope you will
9 excuse my ignorance, but can you tell me what SCCA is.

10 A PROSPECTIVE JUROR: Sport Club Car of America.

11 THE COURT: Thank you.

12 All righty. Ms. Bidlofsky.

13 A PROSPECTIVE JUROR: Yes, Rochelle Bidlofsky,
14 B-I-D-L-O-F-S-K-Y. I live in Plantation for five years. Born
15 and raised in south Florida with the exception of college.
16 Roll Tide. I am employed for Atlantis in the Bahamas.

17 I'm not married. No children. Never been a juror.
18 No. 8, 9, and 10 are nos. 11, no. No. 12, I like to shop and
19 run. No. 13, no. And No. 14, I can be fair.

20 THE COURT: Great. Thank you.

21 Ms. Gromnicki.

22 A PROSPECTIVE JUROR: I am Alina Gromnicki. I live in
23 Coral Springs for the past 18 years. Prior to that, I lived
24 three years in New York and I moved there from Poland. I am
25 employed as a financial examiner for the State of Florida.

1 Prior to that, I have been also a financial crimes
2 investigator.

3 I am divorced and my ex-husband is a chief of cargo
4 ships. I have one son, 29, and he works in the sporting
5 equipment business.

6 I served as a juror in the county courthouse. It was
7 criminal. And we reached a verdict. I was not the foreperson.

8 And 8 is no. 9 is no. 10 is no. 11, no. 12, I like
9 puzzles. 13, no. And 14, no.

10 THE COURT: Thank you very much. Let me ask you a
11 question before we hand the microphone down. You indicated
12 that you previously served as a financial crimes investigator
13 and that you are a financial --

14 A PROSPECTIVE JUROR: Examiner.

15 THE COURT: Yes. Is there anything about either of
16 those positions that you have had that would cause you not to
17 be able to be fair either to the government or to Mr. Scotton
18 in this case?

19 A PROSPECTIVE JUROR: No, Your Honor.

20 THE COURT: All right. Thank you very much. And
21 let's go to Mr. Fernandez.

22 A PROSPECTIVE JUROR: Good morning. My name is Jesus
23 Fernandez, F-E-R-N-A-N-D-E-Z. I live in Hollywood for 30-some
24 years. Prior to that, I came from Havana, Cuba, 1961. I am
25 self-employed. What I do is maintenance.

1 I'm not married. I have no children. I serve as a
2 juror almost two years ago and it was suspended. The No. 8 is
3 no. No. 9 is no. 10, no. 11, no. I do travel and going to
4 sports. 13 is no.

5 14, I can be very fair, Your Honor. I'm hard of
6 hearing and I have a lot of trouble hearing some of these
7 people. If you could turn the volume up, I would appreciate
8 it. Thank you.

9 THE COURT: Okay. Thank you very much. We will just
10 remind everybody to please speak into the microphone. Can you
11 hear me okay?

12 A PROSPECTIVE JUROR: I can hear you fairly well, but
13 not the rest. Excuse me. I can hear you fairly well, but not
14 the rest of the people. Like the two gentlemen and the lady
15 here, I never got their names.

16 THE COURT: All right.

17 A PROSPECTIVE JUROR: I'm sorry.

18 THE COURT: That's all right. Just to be clear, why
19 don't we have Ms. Mitrani and Mr. Scotton introduce themselves
20 again and please make sure to use the microphone.

21 A PROSPECTIVE JUROR: Thank you.

22 MS. MITRANI: Good morning, Mr. Fernandez and
23 everybody else again. Can you hear me now?

24 A PROSPECTIVE JUROR: Yes.

25 MS. MITRANI: All right. My name is Bertha Mitrani.

1 I'm an assistant United States attorney. And this is Roy Van
2 Brunt. He's with the FBI. And that is Nathan Frank, and he's
3 also with the FBI.

4 A PROSPECTIVE JUROR: Thank you.

5 MS. MITRANI: Thank you, sir.

6 MR. SCOTTON: How are you doing, sir? My name is
7 Rogerio Scotton, and I'm a defendant, not the lawyer. It's
8 just a suit. I'm defending the case pro se. I'm not a lawyer.

9 A PROSPECTIVE JUROR: Mr. Scott, right?

10 MR. SCOTTON: Yes, sir.

11 A PROSPECTIVE JUROR: All right.

12 MR. SCOTTON: Thank you.

13 THE COURT: Thank you very much.

14 Let's go to Mr. Craig.

15 A PROSPECTIVE JUROR: Tucker Craig, C-R-A-I-G. I live
16 in Lighthouse Point. I have lived there 55 years after moving
17 there when I was two. I am employed as an attorney locally
18 across the street with Billing, Cochran, Lyles, Mauro & Ramsey.

19 Married. My wife is a realtor. I have two children,
20 two boys, 29 and 27. One is a yacht broker. The other is a
21 mechanical engineer. I never served as a juror before. No. 8
22 I would like to go sidebar.

23 No. 9, I was a prosecutor in the early mid '80s for
24 about four and a half years. I also currently represent BSO,
25 the City of Fort Lauderdale. I don't think I have any

1 police-related cases involving the city now. I also represent
2 the Broward County Clerk, and occasionally I will handle bond
3 forfeiture matters which are quasi-criminal in nature.

4 No. 10, no. No. 11, no. No. 12, going to the gym,
5 fishing, reading, traveling. 13, no. 14, no.

6 THE COURT: Thank you. Why don't you come up,
7 Mr. Craig, and there was somebody else in the back that said
8 they needed to come sidebar and I neglected to ask that person,
9 so we will get to that person after we get to Mr. Craig. I
10 apologize.

11 (Thereupon, the following was heard sidebar.)

12 A PROSPECTIVE JUROR: Hi. I was a plaintiff in an
13 auto negligence case about 20 years ago, but that's not why we
14 are up here. One of my boys currently has a DUI charge pending
15 against him. About five years ago he was charged with
16 disorderly conduct, and about ten years ago, as I recall, he
17 was charged with, it may have been as a juvenile, but I think
18 it was pot or something like that, so...

19 THE COURT: All in the state system?

20 A PROSPECTIVE JUROR: In the state system.

21 THE COURT: Okay. Let me ask you, is there anything
22 about your son's experiences that would cause you not to be
23 able to be fair either to the government or to Mr. Scotton in
24 this case?

25 A PROSPECTIVE JUROR: No, ma'am.

1 THE COURT: All right. Thank you. And you said you
2 represent the clerk, that's the clerk of the --

3 A PROSPECTIVE JUROR: Broward County court.

4 THE COURT: Broward County court. Any questions for
5 Mr. Craig?

6 MS. MITRANI: No, Your Honor.

7 MR. SCOTTON: No, Your Honor.

8 THE COURT: Thank you very much.

9 MR. SCOTTON: The first gentleman in the silver shirt,
10 they want to talk you to.

11 THE COURT: I know. I am going to call them when I'm
12 done with everybody else.

13 (Thereupon, the following was heard in open court.)

14 THE COURT: I apologize. Was it Ms. Bidlofsky who
15 had -- no, it wasn't. All right. Ms. Gromnicki? No? Maybe I
16 just imagined this. Was there somebody else in the back row
17 who had a sidebar issue that they needed to discuss?

18 All right. Then let's go ahead and bring up Mr. Lang.

19 (Thereupon, the following was heard sidebar.)

20 THE COURT: Good morning. How are you?

21 A PROSPECTIVE JUROR: Good, good, Your Honor. I
22 apologize. I got my notice for jury duty. I was up north
23 taking care of my little farm up there through the freezes and
24 everything else. I flew down on the 11th to be here, rented a
25 car, did all those things, and I kept calling, calling,

1 calling, and then I was on standby, did the thing on Monday,
2 and I was just never picked.

3 We just got another freeze Tuesday, and yesterday was
4 really bad. The neighbor said, John, your pump houses are
5 frozen solid, you need to get back. I discussed it with the
6 family. I go, what do I do. They go, you are not going to get
7 picked, you got two days left. I'm like, okay. I booked a
8 flight early because I was scheduled for Saturday to leave.
9 Now, of course, something else happened.

10 So I have a 4:00 flight today. So now I'm like, what
11 do I do. Last night I got back to the rental car place to rent
12 a car for today just to get here because they called me.

13 THE COURT: Okay. Let me ask you something. Could
14 you be -- you would just be gone for today and tomorrow and
15 Friday?

16 A PROSPECTIVE JUROR: It's a weather thing. I would
17 have to drive back down at that point.

18 THE COURT: Okay. But you would expect to be able to
19 be back down by Monday, is that fair to say?

20 A PROSPECTIVE JUROR: I'm guessing.

21 THE COURT: Okay. Any questions?

22 MR. SCOTTON: No, Your Honor.

23 MS. MITRANI: No, Your Honor.

24 A PROSPECTIVE JUROR: And I apologize for that. And I
25 wasn't going to do it. They just kind of, ah, you're not going

1 to get picked, book your flight. I'm sorry.

2 (Thereupon, the following was heard in open court.)

3 THE COURT: Let's go to, is it Mr. Ochoa?

4 A PROSPECTIVE JUROR: Yes. Hi. My name is John Paul
5 Ochoa. Last name O-C-H-O-A. I live in Davie, Florida. I have
6 been there about six and a half months. Before that I was in
7 Sunrise, Florida. I live in south Florida for about 28 years.
8 Before that I was in Houston, Texas. I am employed. I'm
9 department manager for Publix supermarkets.

10 I am married. My wife works in the medical field. I
11 have two children, a six-year-old and a one-year-old. I have
12 never been on a jury before. No members. No. 8 would be a no.
13 No. 9 would be a no. No. 10 would be a no. No. 11, I'm not in
14 any clubs. No. 12, I do enjoy time with my kids and my wife.
15 I don't have any religious convictions. And No. 14 would be a
16 no.

17 THE COURT: Thank you very much.

18 Last but not least, Mr. Vega.

19 A PROSPECTIVE JUROR: My name is Augusto Vega,
20 V-E-G-A. I presently live in Miramar. I have been living in
21 Miramar for the past two years. 25 years in south Florida.
22 Before that, I lived in Lima, Peru. I am currently employed.
23 Company name is Heartware. I am a supply chain manager.

24 I am single. I don't have any children. I served as
25 a juror last week. It was a criminal case. I was not the

1 foreperson. And we reached a verdict.

2 I would like to approach the sidebar for No. 8. No
3 family members in law enforcement. No. 10 is no. No. 11, no.
4 No. 12, ride bicycle, ride motorcycle. No. 13 is a no. And
5 No. 14, I would like to approach sidebar.

6 THE COURT: All right. Come on up.

7 (Thereupon, the following was heard sidebar.)

8 THE COURT: Hello. How are you?

9 A PROSPECTIVE JUROR: Good, thanks. So in 1988 my
10 brother was arrested on a drug trafficking case and he was
11 found -- convicted. He was convicted. In 1990, I was arrested
12 for a similar case, and I did two years probation. And so that
13 to No. 14, I think I would not be fair to both parties because
14 of the arrests.

15 THE COURT: Anybody have any questions?

16 MS. MITRANI: No.

17 MR. SCOTTON: Did you say you would not be fair
18 because you don't think the justice system is fair?

19 A PROSPECTIVE JUROR: Yes.

20 THE COURT: Any other questions?

21 A PROSPECTIVE JUROR: Besides that, I play a critical
22 role where I work. I work for a medical device manufacturing
23 company. It's a life-sustaining device and I'm responsible for
24 distribution. And being two months on here, it might affect
25 the patients. Like I say, it's a life-sustaining device. So

1 somebody's life might be affected by it.

2 MS. MITRANI: My notes are correct, two years
3 probation on a drug trafficking matter?

4 A PROSPECTIVE JUROR: At the ended, it was drug
5 possession on mine.

6 MS. MITRANI: Okay.

7 THE COURT: Any other questions?

8 MR. SCOTTON: No, Your Honor.

9 (Thereupon, the prospective juror returned to his
10 seat.)

11 MR. SCOTTON: Your Honor, am I understand wrong or not
12 they say that people that is convicted before, they are not
13 supposed to be a juror?

14 THE COURT: Right, if it's a felony.

15 MR. SCOTTON: I see other members who come up and say
16 they have problem with the law.

17 THE COURT: They can get their rights restored. So
18 they may have had their rights restored. Is there a particular
19 one you want to ask about?

20 MR. SCOTTON: I have to see which one. How would the
21 Court know if rights have been restored?

22 THE COURT: There's no way for me to know, but we can
23 ask them and they are under oath. They should hopefully be
24 truthful.

25 MR. SCOTTON: All right. Thank you.

1 (Thereupon, the following was heard in open court.)

2 THE COURT: There are a few more questions I needed to
3 ask to all of you. I want to start by letting you know a few
4 things. First of all, I need to ask all of you to refrain from
5 discussing the case with each other or with anybody else or
6 doing any research into the case, if there are any articles
7 written, any articles, or listening to any media accounts of
8 the case. And the reason I ask you to do this is two-fold.

9 First, I ask you not to discuss the case with anyone
10 because that can lead to premature deliberations and that
11 wouldn't be fair since you haven't heard any of the evidence
12 yet. And we don't want the jury to begin deliberating until it
13 hears all the evidence.

14 And the second reason I ask you to do this is because
15 sometimes if you hear a story about a case or you read a story
16 about a case, there may be information that is in that story
17 that may or may not be accurate. And there's no way to know
18 whether the information is accurate because, unlike what
19 happens in this courtroom where both of the parties have an
20 opportunity to test the credibility of the information that's
21 put on through questioning of the witnesses and arguments to
22 you, with anything that you might review outside of this
23 courtroom, the parties have no idea what that would be and they
24 have no way of testing it.

25 So if you receive mistaken information about the case,

1 there is no way that the parties will be able to correct that.
2 And that really wouldn't be fair if you decided the case in
3 part based on that information that might not be accurate.

4 So with that in mind, let me ask, is there anybody
5 here who has happened to review any kind of media accounts
6 relating to this case? If so, please don't be shy. We do need
7 to know that. Go ahead, raise your hand for me now, please.

8 I see no hands. I thank you all for that. As I
9 mentioned at the beginning of this matter, Mr. Scotton has
10 elected not to be represented by a lawyer, but he is
11 representing himself. This is permitted by the constitution
12 and the rules of the court. But Mr. Scotton is expected to
13 abide by the federal rules of criminal procedure and the
14 federal rules of evidence which govern the way in which the
15 trial can proceed.

16 So during the course of the trial the government may
17 make objections to Mr. Scotton's questions or raise other
18 procedural issues, and Mr. Scotton may make objections to the
19 government's questions or raise other procedural issues. Each
20 party does have the right to do this.

21 I do need to ask, is there anybody here -- and I am
22 instructing everybody that Mr. Scotton should be evaluated in
23 the exact same way as you would evaluate him if he were
24 represented by an attorney. And you should hold -- you should
25 treat him with the same view that you would treat someone who's

1 represented by an attorney, that is, he doesn't receive special
2 treatment, but he also doesn't have to do anything extra.

3 And just to be very clear about all of this, he
4 doesn't have to do anything at all because it's always the
5 government's verdict in this case to prove Mr. Scotton's guilt
6 beyond every reasonable doubt.

7 So Mr. Scotton can just sit there and do nothing
8 throughout the whole trial if he chooses to do that. He can
9 decide not to put on any evidence. He can decide not to
10 testify. He has all of those rights. And those things may not
11 be held against him.

12 Let me ask, is there anybody here -- and we do need
13 you to be straightforward with us, let us know, is there
14 anybody here who would not be able to follow my instruction and
15 would feel that they would have to hold it against Mr. Scotton
16 if he did not put on any evidence or did not testify? Is there
17 anybody here at all who feels that way? If so, please be
18 honest and raise your hand for me now.

19 Let's see. All right. That is Mr. Feingersch, is
20 that right? Mr. Feingersch, let me ask you, do you understand
21 that our constitution gives every criminal defendant the right
22 to remain silent? Do you understand that?

23 A PROSPECTIVE JUROR: Yes.

24 THE COURT: And so under our constitution, we have
25 decided as a nation that we are not going to hold it against

1 somebody if they decide not to testify and not to present any
2 evidence. Do you understand that?

3 A PROSPECTIVE JUROR: Yes, that's not my issue.

4 THE COURT: Okay. I also want to make sure you also
5 understand it's always the government's burden to prove the
6 case beyond every reasonable doubt. Do you understand that?

7 A PROSPECTIVE JUROR: Yes.

8 THE COURT: Let me ask you to come up sidebar if you
9 wouldn't mind. Thank you.

10 (Thereupon, the following was heard sidebar.)

11 THE COURT: First let me say I appreciate your
12 straightforwardness. We need to have candid answers. Thank
13 you for that. Let me hear what you have to say.

14 A PROSPECTIVE JUROR: One, I think it's weird he
15 doesn't have an attorney. Okay. Two, I would be more likely
16 to give him the benefit of the doubt. That's just my reasons.
17 I think it's the government coming down on an individual --

18 THE COURT: Okay.

19 A PROSPECTIVE JUROR: -- without an attorney.

20 THE COURT: You understand that --

21 A PROSPECTIVE JUROR: It's his choice.

22 THE COURT: -- he has a right to represent himself?

23 A PROSPECTIVE JUROR: Yes. And I think it's weird
24 that he is. I have always grown up in this country and we have
25 all heard that the lawyer who represents himself has a fool for

1 a client.

2 THE COURT: Anybody have any questions for
3 Mr. Feingersch?

4 MR. SCOTTON: Your Honor, would the jury need to know
5 that I represented myself?

6 THE COURT: We are not going to talk about any of
7 that. Do you have any questions for Mr. Feingersch.

8 (Thereupon, the prospective juror returned to his
9 seat.)

10 MS. MITRANI: I know you asked --

11 THE COURT: I haven't. I'm going to get back to it.

12 MS. MITRANI: Thank you, Your Honor.

13 (Thereupon, the following was heard in open court.)

14 THE COURT: Getting back to the fact that Mr. Scotton
15 is representing himself, is there anybody here who would either
16 hold it against the government or hold it against Mr. Scotton
17 because he is representing himself? If so, go ahead raise your
18 hand for me now.

19 I see no hands. Let me ask it to you this way: If
20 the government objects, is there anybody here who is going to
21 hold it against the government for doing what it thinks that it
22 needs to do under the law even though Mr. Scotton is not a
23 lawyer?

24 Again, I see no hands. And same thing, let me ask it
25 this other way, is there anybody here who if Mr. Scotton

1 objects is going to hold it against Mr. Scotton because he's
2 not a lawyer and he's objecting?

3 And again, I see no hands. I do want you to feel free
4 to speak up, so if there is anything on any of these things, we
5 would appreciate it if you let us know because we want to make
6 sure we pick a fair jury.

7 All righty. So is there anybody here who other than
8 we have already heard who has had any experience good or bad
9 with DHL, Fed-Ex, or UPS?

10 Thank you. And if you would, please, just state your
11 name again for the record so that the court reporter can write
12 it down. We are going to get you a microphone.

13 A PROSPECTIVE JUROR: Michelle Brzezniak,
14 B-R-Z-E-Z-N-I-A-K. I managed an office for Haagen Dazs
15 distributor, and I dealt directly with Fed-Ex and DHL, both
16 good and bad.

17 THE COURT: Okay. Was there anything about that
18 experience that knowing that this case involves allegations
19 that Fed-Ex and DHL and UPS were defrauded, is there anything
20 about the fact that you have worked with these companies in the
21 past that would cause you to come into this case with any
22 preconceived notions or cause you not to be able to be fair
23 either to Ms. Mitrani or Mr. Scotton?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Okay. Thank you.

1 Anyone else? All right. Mr. Feingersch, I think we
2 are good. I think you may have told us about this sidebar.
3 Let me double-check my notes.

4 Mr. Feingersch, I think we are going to -- why don't
5 you give me a brief explanation, if you don't mind.

6 A PROSPECTIVE JUROR: I worked on integrating
7 technology with both DHL and UPS.

8 THE COURT: Okay. Thank you. And was there anything
9 about your experience working with them that would cause you
10 not to be able to be fair either to the government or to
11 Mr. Scotton?

12 A PROSPECTIVE JUROR: No.

13 THE COURT: Thank you very much. Anyone else?

14 All righty. In this case, the investigating agency
15 was the Federal Bureau of Investigation. Is also known as the
16 FBI. Is there anybody here who has had any experience either
17 good or bad with the FBI? If so, go ahead raise your hand for
18 me now, please. Mr. Ochoa, I think we have already -- not
19 Mr. Ochoa, Mr. Vega, I think you may have discussed this with
20 us. Is that correct?

21 A PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. Thank you. Is there anyone else?

23 All right. Mr. -- is it -- Craig back there?

24 A PROSPECTIVE JUROR: No, Jardon.

25 THE COURT: Okay. Mr. Jardon.

1 A PROSPECTIVE JUROR: Sorry. Only that I have two
2 friends that have been special agents with the FBI and I have
3 known them to be excellent people. So in general, I hold
4 special agents in high regard.

5 THE COURT: Let me ask you this. And I appreciate
6 that. You didn't hear their names here today?

7 A PROSPECTIVE JUROR: No, I didn't. One of them is
8 retired, and the other one I'm not sure where he's stationed
9 currently.

10 THE COURT: Just for everybody's benefit, I mentioned
11 it before, but law enforcement witnesses including FBI agents
12 have to be evaluated as witnesses in the same way that any
13 other witness has to be evaluated.

14 So that is they don't get sort of like a head start
15 because they are law enforcement if you will, nor should there
16 be additional expectations on them. They are evaluated as you
17 would evaluate any other witness.

18 If I instruct you in that later in this trial, will
19 you be able to follow that instruction and be fair to both the
20 government and Mr. Scotton?

21 A PROSPECTIVE JUROR: To the best of my ability. I
22 mean, I'm just making the comment that, yeah, I hold them in
23 high regard. I don't know if that's going to bias me or not.
24 I would hope it doesn't, but...

25 THE COURT: All right. Thank you, Mr. Jardon.

1 Mr. Craig, did you have something as well?

2 A PROSPECTIVE JUROR: I have been involved in a couple
3 of meetings with the FBI in connection with a matter that I am
4 handling. And going way back in time, I believe I had some FBI
5 witnesses in an OCD matter that I was handling for the state.

6 THE COURT: And was there anything --

7 A PROSPECTIVE JUROR: Those experiences were fine.

8 THE COURT: Was there anything about that experience
9 that would cause you not to be able to be fair either to the
10 government or to Mr. Scotton?

11 A PROSPECTIVE JUROR: No, ma'am.

12 THE COURT: Thank you. Was there anybody else who has
13 had any experience with the FBI?

14 And I see no hands. Thank you.

15 Other than the people that we have already spoken to
16 about this, is there anyone who has any bad or good feelings
17 towards law enforcement such that it might affect their ability
18 to be fair to either the government or to Mr. Scotton in this
19 case? And if you want to come sidebar to answer it, that's
20 fine too. Is there anybody here who feels that way, please go
21 ahead and raise your hand if you haven't already advised us of
22 it.

23 I see no hands. And other than the folks who have
24 already let us know, is there anyone here who either personally
25 or who someone close to them has been investigated or arrested

1 by any law enforcement agency if you haven't already let us
2 know? And if so, again, if you wish to come sidebar, that's no
3 problem. Is there anybody? All right, sir.

4 A PROSPECTIVE JUROR: My son has.

5 THE COURT: All right. Thank you.

6 A PROSPECTIVE JUROR: Sidebar?

7 THE COURT: Yes, absolutely.

8 (Thereupon, the following was heard sidebar.)

9 A PROSPECTIVE JUROR: Mr. Swanson.

10 THE COURT: One second until we get everybody up here.
11 This is Mr. Swanson.

12 A PROSPECTIVE JUROR: My son has schizophrenia and he
13 was arrested for loitering in West Palm and I think he was
14 arrested as a teenager also, same type of thing, loitering and
15 being in the wrong place.

16 THE COURT: Was there anything about that experience
17 that would cause you not to be able to be fair either to the
18 government or to Mr. Scotton in this case?

19 A PROSPECTIVE JUROR: No.

20 THE COURT: Anybody have any questions?

21 MR. SCOTTON: No, Your Honor.

22 MS. MITRANI: What is Mr. Swanson's juror number?

23 THE COURT: Juror No. 31.

24 MS. MITRANI: Thank you.

25 THE COURT: You can be seated. Why don't you wait up

1 here because I think there's another hand.

2 (Thereupon, the following was heard in open court.)

3 THE COURT: I think I may have seen another hand.
4 Mr. I'm -- sorry, Mr. Hajdic, would you please come on up
5 unless you wish to address it from here.

6 A PROSPECTIVE JUROR: This is fine. I have a first
7 cousin in Chicago that was convicted of tax evasion and is
8 doing time up in Wisconsin. I don't know if first cousin is
9 considered immediate family or not.

10 THE COURT: That's okay. Is there anything about the
11 experience that your cousin had that would cause you not to be
12 able to be fair either to the government or to Mr. Scotton in
13 this case?

14 A PROSPECTIVE JUROR: No, ma'am.

15 THE COURT: Thank you. And I saw a couple of other
16 hands.

17 A PROSPECTIVE JUROR: I forgot to mention my son has a
18 DUI.

19 THE COURT: I'm sorry. For the record, are you Mr. --

20 A PROSPECTIVE JUROR: Holbrook.

21 THE COURT: Holbrook, thank you. Is there anything
22 about the experience that your son has had with the DUI charge
23 that would cause you not to be able to be fair either to the
24 government or to Mr. Scotton in this case?

25 A PROSPECTIVE JUROR: No, ma'am.

1 THE COURT: All right. Thank you. And I think that
2 we need to speak with Ms. Baczyk. Is that right? Come on up.

3 (Thereupon, the following was heard sidebar.)

4 A PROSPECTIVE JUROR: It was my husband for grand
5 theft.

6 THE COURT: Your husband for grand theft. Was there
7 anything at all about that experience that causes you any grief
8 towards either the government or toward Mr. Scotton that would
9 cause you not to be able to be fair?

10 A PROSPECTIVE JUROR: I would be fair. I just have
11 anger towards my husband.

12 THE COURT: Anger towards your husband?

13 A PROSPECTIVE JUROR: Yes.

14 THE COURT: I'm sorry to hear that. You wouldn't hold
15 that against Mr. Scotton?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Thank you. Or against the government?

18 A PROSPECTIVE JUROR: No.

19 THE COURT: Any questions for Ms. Baczyk?

20 MS. MITRANI: Do you have any anger against law
21 enforcement for --

22 A PROSPECTIVE JUROR: Oh, no.

23 MS. MITRANI: -- catching him, busting him, et cetera?

24 A PROSPECTIVE JUROR: No.

25 THE COURT: Mr. Scotton?

1 MR. SCOTTON: No, Your Honor.

2 THE COURT: Thank you very much.

3 (Thereupon, the following was heard in open court.)

4 THE COURT: Was there anyone that I missed?

5 A PROSPECTIVE JUROR: May I speak you to?

6 THE COURT: Yes, of course.

7 (Thereupon, the following was heard sidebar.)

8 THE COURT: I'm sorry --

9 A PROSPECTIVE JUROR: Donna DeFronzo. I forgot to
10 mention doctors' appointments. I know some other people came
11 after me. I switched an appointment last week to this Tuesday
12 at 4:00 and I'm waiting to hear from my transplant doctor. I'm
13 not sure when that's going to be, I have had a kidney
14 transplant.

15 THE COURT: So you will need to have another doctor's
16 appointment?

17 A PROSPECTIVE JUROR: Right. I have one I switched
18 from last week because I was on a jury to next Tuesday at 4:00.

19 THE COURT: No problem. If you get selected, we will
20 work around it.

21 A PROSPECTIVE JUROR: I served four days last week,
22 and every single night I had to report to work.

23 THE COURT: I appreciate that. Thank you for letting
24 me know.

25 (Thereupon, the following was heard in open court.)

1 THE COURT: I have a few more questions for you all.

2 A PROSPECTIVE JUROR: One more sidebar, please.

3 THE COURT: I'm sorry, I did not see you. Come on up.

4 (Thereupon, the following was heard sidebar.)

5 THE COURT: Just one second until we have everybody
6 here.

7 If you can state your name for the record.

8 A PROSPECTIVE JUROR: Steven Leonard.

9 THE COURT: Thank you.

10 A PROSPECTIVE JUROR: My son is in jail and I think
11 he's been wrongfully accused.

12 THE COURT: I'm very sorry to hear that.

13 A PROSPECTIVE JUROR: They have been harassing him all
14 the way up to the time they took him in.

15 THE COURT: Okay. Was it the state system or the
16 federal system?

17 A PROSPECTIVE JUROR: State.

18 THE COURT: And I can certainly understand why you
19 would be frustrated and upset if that's how you feel about it.
20 Is there anything about your son's experience in the state
21 system that would cause you not to be able to be fair either to
22 the government or to Mr. Scotton in this case which is a
23 federal case?

24 A PROSPECTIVE JUROR: At this moment I have a problem
25 with authority.

1 THE COURT: Anybody have any questions?

2 MS. MITRANI: By authority, you mean law enforcement.

3 A PROSPECTIVE JUROR: Anybody that's a superior figure
4 that overdoes their job, bullying type thing.

5 MS. MITRANI: Okay. Thank you, sir.

6 THE COURT: Anyone else?

7 MR. SCOTTON: No, Your Honor.

8 THE COURT: Okay. Thank you.

9 MR. SCOTTON: What number was he?

10 THE COURT: His number is 50.

11 (Thereupon, the following was heard in open court.)

12 THE COURTROOM DEPUTY: One more, Judge.

13 THE COURT: All right. Come on up.

14 (Thereupon, the following was heard sidebar.)

15 A PROSPECTIVE JUROR: I had forgotten about this. One
16 of my first cousins, this was years ago, he was involved in
17 fraudulent practices back in New York and he went under witness
18 protection program and I have never seen him since.

19 THE COURT: Okay. Let me ask you, for the record, can
20 I ask you to state your name, please.

21 A PROSPECTIVE JUROR: It's Marlene Raisman.

22 THE COURT: Thank you. Ms. Raisman, is there anything
23 about his experience that would cause you not to be able to be
24 fair either to the government or to Mr. Scotton in this case?

25 A PROSPECTIVE JUROR: Absolutely not.

1 THE COURT: Thank you. Does anybody have any
2 questions for Ms. Raisman?

3 MR. SCOTTON: No, Your Honor.

4 MS. MITRANI: No, Your Honor.

5 THE COURT: Thank you.

6 (Thereupon, the following was heard in open court.)

7 THE COURT: Just a few more questions before I'm going
8 to let you all go for a lunch break.

9 I think we have already covered this, but just in case
10 there's anybody who hasn't told us about these things, is there
11 anybody here who hasn't already told us if they have been a
12 victim of a crime or that anyone close to them has been a
13 victim of a crime?

14 Why don't we give you the microphone.

15 A PROSPECTIVE JUROR: I had my car stolen about nine
16 years ago.

17 THE COURT: All right. Thank you. And was there
18 anything about that experience that would cause you to hold it
19 against either the government or Mr. Scotton in this case?

20 A PROSPECTIVE JUROR: No, Your Honor.

21 THE COURT: Could you be fair to both parties?

22 A PROSPECTIVE JUROR: Yes, Your Honor.

23 THE COURT: Great. Thank you. Anyone else?

24 A PROSPECTIVE JUROR: Ms. Kelly Johnson.

25 THE COURT: Thank you very much.

1 A PROSPECTIVE JUROR: I had a lawsuit against a school
2 board of my son. He was molested.

3 THE COURT: I'm sorry to hear that. Let me just ask
4 you, is there anything about that experience that would cause
5 you not to be able to be fair in this case to either the
6 government or to Mr. Scotton?

7 A PROSPECTIVE JUROR: No, ma'am.

8 THE COURT: Thank you. I think it was Ms. Raisman.

9 A PROSPECTIVE JUROR: This is also quite a while ago.
10 I was in my car and someone tried to get into my car and
11 assault me, and luckily enough, by screaming and I gave him my
12 wallet, he ran away. I was pretty lucky about that.

13 THE COURT: Was there anything about that experience
14 that would cause you not to be able to be fair in this case
15 either to the government or to Mr. Scotton?

16 A PROSPECTIVE JUROR: No.

17 THE COURT: Thank you. Mr. Sabatini, did you have
18 something?

19 A PROSPECTIVE JUROR: Yeah, I had a vehicle stolen. I
20 have been robbed. And our accounts got compromised, our
21 banking accounts, but I don't think it would make me unfair.

22 THE COURT: Okay. Thank you. Anyone else? Okay.

23 I hesitate to ask the next one. Understanding that
24 jury service is an obligation that we all have as United States
25 citizens and we all enjoy the benefits of being United States

1 citizens, it may not be the thing that you are currently the
2 most excited about in your life, is there anyone here who is
3 unhappy, seriously unhappy, about being a juror?

4 Mr. Diaz?

5 A PROSPECTIVE JUROR: Actually, it's because of my
6 job. I have someone in my job right now that's out in surgery.
7 We have been pretty backed up because of last week I had to do
8 jury duty already. And because last week, we have been very
9 back up and my boss is actually pretty upset that I'm here
10 today.

11 THE COURT: All right. I understand. Let me say
12 this. If somebody is having a problem at their job, I'm more
13 than happy to provide you with a letter. And if your employer
14 needs to speak with me, I'm happy to make myself available to
15 do that. Anyone else, Mr. Sabatini?

16 A PROSPECTIVE JUROR: The only big real big thing, I
17 mean, I am in the freight business for nine years and I drive a
18 truck for about 10 to 12 hours a day. And I said earlier that
19 the financial burden of it is, you know, really a big hardship
20 for me.

21 THE COURT: Thank you.

22 A PROSPECTIVE JUROR: It's a lot of stress.

23 THE COURT: Anyone else who we haven't already heard
24 from about this subject?

25 A PROSPECTIVE JUROR: Again, it's the --

1 THE COURT: Ms. Evans, right?

2 A PROSPECTIVE JUROR: It's about picking up my son
3 from school. That's my major problem.

4 THE COURT: I understand. Thank you. All right.

5 A PROSPECTIVE JUROR: Mr. Jardon. Your Honor, only to
6 reiterate about the fact I have my father-in-law in the
7 hospital and with work and the kids and everything, it's a
8 juggling act and I don't know how I would get through.

9 THE COURT: Thank you. Let me just state, I know you
10 all would like to take a lunch break. It's important that we
11 get all the information out. But if we have already covered
12 it, we are aware of it, don't worry, there's not really a need
13 to say it again. If we haven't covered it, though, please do
14 let us know.

15 A PROSPECTIVE JUROR: Mr. Ochoa. I'm not unhappy.
16 It's just right now for my job, valentine's week is a very busy
17 holiday for us. And my assistant department manager will be
18 going on vacation right after that. But that's the only
19 trouble that I will have.

20 THE COURT: Okay. Thank you.

21 Anyone else? All right. Ms. Cabral? And it is
22 Ms. Elizabeth Cabral because we have two Cabrals.

23 A PROSPECTIVE JUROR: Correct. I just forgot to
24 mention that I do have classes on Thursday evenings.

25 THE COURT: Okay.

1 A PROSPECTIVE JUROR: At 5:00 p.m.

2 THE COURT: What time would you need to leave here?

3 A PROSPECTIVE JUROR: At least by 4:30.

4 THE COURT: Okay. Anyone else?

5 All right then. Mr. Scotton is from Brazil. Let me
6 ask whether there's anybody here who thinks he or she cannot be
7 fair to Mr. Scotton simply because he's not from the United
8 States but is from Brazil. Please raise your hand now. We do
9 need to know this.

10 I see no hands. I need to let you all know that, as
11 you know, Mr. Scotton is here because he is charged with the
12 crimes that I have previously discussed. He's charged by way
13 of document called indictment. An indictment is simply a
14 charging document. It is not evidence of anything. It is not
15 proof. He starts this trial with a clean slate. And if the
16 government did nothing at this point, you would have to find
17 Mr. Scotton not guilty. Only if the government proves its case
18 by and beyond every reasonable doubt can you find Mr. Scotton
19 guilty of any crime.

20 Is there anybody here who simply because Mr. Scotton
21 was charged with these crimes or arrested for them would
22 somehow hold that against Mr. Scotton? If so, we do need to
23 know that. Would you please raise your hand for me now. All
24 righty. And I see no hands.

25 And is there anybody here who knows anything about

1 Mr. Scotton or has heard anything about Mr. Scotton?

2 And I see no hands. I thank you all for that. What
3 we are going to do next is usually we will have about an
4 hour-long lunch break, but today it is going to be longer. The
5 reason being we are going to select the jury so when you return
6 we will be able to let you know whether or not you are on the
7 jury. And if you are not on the jury, we will be able to
8 release you after that. So we are going to take until -- it's
9 about 12:37 now. We are going to take until 2:15 to select the
10 jury. And so I'll need you all to go ahead and do what you
11 need to do, get yourselves some lunch. I hope you enjoy lunch
12 and we'll see being back here at 2:15. We can't start until
13 everybody is here so please be on time. We do appreciate
14 everybody's timeliness up to now. All rise for the jury.

15 (Thereupon, the prospective jurors exited the
16 courtroom at 12:39 p.m.)

17 THE COURT: What we are going to do now is go through
18 all the challenges for cause. Please be seated. Mr. Scotton,
19 what this means is basically there are two rounds, if you will,
20 of challenges. One is challenges for cause. And challenges
21 for cause are challenges where there is a legal reason why the
22 person cannot sit on the jury, that is, we have determined that
23 the person cannot be fair for some reason. That would be a
24 challenge for cause, or I will also allow challenges for cause
25 based on scheduling issues if the parties wish for me to

1 consider them. Because if we put someone on the jury with a
2 scheduling problem, we are going to have to work around there
3 problem. So if, for example, someone is going to be on
4 vacation for a week, and we put that person on the jury, we are
5 going to have a week-long break in the trial. And so if the
6 parties want to object for that purpose, I will consider -- I
7 will hear those kinds of objections.

8 And I will tell you that when it comes to, you know, a
9 week or more long inability to sit, it's going to be an all or
10 nothing thing. I don't want to pick and choose because I don't
11 think it's fair. With respect to people who have a week or
12 more that they cannot sit as a juror, I would entertain
13 challenges for cause on those individuals. But as I said, it
14 will be all of them go or none of them go and we will
15 accommodate because I don't know how we would pick who is for
16 cause and who isn't under those circumstances.

17 Usually I start with the government, anyone the
18 government wants to challenge for cause. After the government
19 is done, I will hear anyone Mr. Scotton wishes to challenge for
20 cause.

21 MS. MITRANI: One by one or state everybody at once?

22 THE COURT: Do it one by one and then we can evaluate
23 each one.

24 MS. MITRANI: Thank you, Your Honor. I guess our
25 first would be juror No. 5. She has three trade shows

1 including --

2 THE COURT: Yes, three weeks. She's not available the
3 week of January 27th through 31st, February 2nd through the
4 7th, and February 10th through the 14th. Do you have any
5 objection to my striking her for cause, Mr. Scotton?

6 MR. SCOTTON: No, Your Honor.

7 THE COURT: Then juror No. 5 will be stricken for
8 cause. Okay. Ms. Mitrani, any others?

9 MS. MITRANI: Many others, Your Honor.

10 THE COURT: Okay.

11 MS. MITRANI: Mr. John Lang. He is, I think, the one
12 with the freeze situation. He has a ticket this afternoon, et
13 cetera.

14 THE COURT: Mr. Scotton, your position? Mr. Lang is
15 the one who came up sidebar, said the pump houses were frozen,
16 and he had to fly up there because he has property damage and
17 that he would drive back down as long as he could but obviously
18 that would be tempered by the weather.

19 MR. SCOTTON: Well, he even mentioned that he would be
20 available to go back and return if he have to. I don't see
21 that -- he mentioned, but I don't see he's making big deal
22 about it that he don't want to be here.

23 THE COURT: I'll hold off on that one for now and we
24 can evaluate that one again later. That was No. 8, Mr. Lang.

25 All right. Who else?

1 MS. MITRANI: Ms. Juror No. 9, Ms. Evans, she has to
2 pick up her children at 2:00 p.m.

3 THE COURT: Right. We would have to end every day
4 probably about 1:15. I would be inclined to strike her as well
5 because this is going to go twice as long and we will have very
6 short trial days. Any objection, Mr. Scotton?

7 MR. SCOTTON: No, Your Honor.

8 THE COURT: No. 9 is stricken for cause. Anyone else?

9 MS. MITRANI: Yes, Your Honor. I have juror No. 14
10 Ms. Maria. She's going to Israel.

11 THE COURT: Right, she will be out for ten days,
12 February 18th to the 28th. Any objection, Mr. Scotton?

13 MR. SCOTTON: No, Your Honor.

14 THE COURT: All right. 14 is stricken for cause.

15 MS. MITRANI: Juror No. 16, Mr. Rodas, he's the one
16 his wife is 35 weeks pregnant. He's --

17 THE COURT: Needs to go to Ecuador.

18 MS. MITRANI: As well, he needs to go to Ecuador after
19 the baby is born, but he's going to need to be with his wife
20 when the baby is born.

21 THE COURT: Mr. Scotton, do you have any objection?
22 He probably wouldn't be able to concentrate anyway.

23 MR. SCOTTON: No, Your Honor.

24 THE COURT: 16 stricken for cause. Next?

25 MS. MITRANI: Juror No. 18, Ms. Michelle, I believe,

1 has classes ed from 9:30 a.m. to 10:45 a.m.

2 THE COURT: That is correct, on Mondays and
3 Wednesdays. So we would not be able to have court in the
4 mornings two of the four days a week. So I would be also
5 inclined to strike her for cause.

6 What is your feeling on that Mr. Scotton?

7 MR. SCOTTON: She didn't make a big deal about it,
8 Your Honor. I think she can make different arrangements.

9 THE COURT: Well, I think she didn't make a big deal
10 about it --

11 MR. SCOTTON: If she need to be here, she going to be
12 here. So she doesn't make any big deal if she miss one or two
13 classes.

14 THE COURT: I don't think she's going to miss one or
15 two classes. She's going to miss two classes at least every
16 week and it might be more than two because she said from 9:30
17 to 10:45. So I don't know if that's one long class or two
18 shorter classes. But she's going to miss two of those twice a
19 week, one or two of those twice a week. And if this lasts for
20 six to eight weeks, she's going to miss the semester. So I'm
21 going to -- I'm going to overrule the objection. I think that
22 if I force her to be here, she's not going to be able to
23 concentrate on this case and she's going to lose the money that
24 she paid for the schooling or else she's going to fail the
25 subject because she's not there, and I don't think that's fair

1 to ask her to do.

2 So I will grant that one. What else?

3 MS. MITRANI: Juror No. 19, Mr. Tano, he's talked a
4 lot about having to drive his kids to sports or activities and
5 not having the support of his wife in the caretaking
6 responsibilities.

7 THE COURT: Mr. --

8 MS. MITRANI: Juror No. 19, Your Honor.

9 THE COURT: Right, Mr. Tano. Mr. Scotton?

10 MR. SCOTTON: Your Honor, people always make
11 arrangements for their kids. I don't see that that's going to
12 be that much a problem. You know, everybody have kids.

13 THE COURT: Yes, I agree. Who else?

14 MS. MITRANI: Juror No. 25, he has the lawn business.

15 THE COURT: The financial hardship.

16 MS. MITRANI: Yes, Your Honor.

17 THE COURT: He said he wasn't going to be able to
18 concentrate if he's here. What do you think, Mr. Scotton?

19 MR. SCOTTON: Yes, Your Honor.

20 THE COURT: We will strike Mr. Hajdic for cause. All
21 right. Who else?

22 MS. MITRANI: Juror No. 27 is going on a cruise the
23 26th of January for a week and then has other vacation plans in
24 March. So he or she --

25 THE COURT: It's a he, Mr. Monas.

1 MS. MITRANI: So right off the bat at the beginning of
2 the trial he's not here.

3 THE COURT: Mr. Scotton?

4 MR. SCOTTON: I understand some people, they don't
5 want to be here for whatever reason. I mean, people might be
6 making excuses to not be here. I mean, what kind of search
7 that we know he's going to be traveling?

8 THE COURT: I understand what you are saying.

9 MR. SCOTTON: He making so much a big deal over that
10 that he has to travel. You know, he mentioned a way that --

11 THE COURT: I think he said he had a prepaid vacation
12 cruise. And you're right, I could force him to stay here, but
13 I'm not inclined to do that especially, and I can't -- I think,
14 I can't remember whether he was one or not, but I think I want
15 to say that he was one of the jurors from last week as well.

16 MS. MITRANI: He was.

17 THE COURT: So I'm not going to penalize him. I mean,
18 he did serve jury service last week. And I'm going to overrule
19 that objection.

20 Okay. So that is No. 27. Who else?

21 MS. MITRANI: Juror No. 29, Ms. Gutierrez.

22 THE COURT: Okay.

23 MS. MITRANI: She's concerned about her work
24 situation.

25 THE COURT: Right. She said.

1 MS. MITRANI: She had a death, so she was out of work.
2 Then I think she served last week or was here last week and she
3 has two new employees so she hasn't been around for January.

4 THE COURT: All right. Mr. Scotton?

5 MR. SCOTTON: I am going to object. I don't remember
6 her saying anything about has been in a jury here in the last
7 couple weeks, Your Honor.

8 THE COURT: She did. She said she was a juror last
9 week. It's in my notes. I'm sure she must have said it. She
10 also said she had two employees who recently resigned, and
11 because she was out last week, she has had some serious
12 problems at work and will have to catch up and being out six to
13 eight weeks would be very difficult. In addition, she said she
14 wasn't even sure that she could be fair because her husband had
15 had some RICO problems. So for all of those reasons, I'm going
16 to grant the challenge for cause.

17 Next.

18 MS. MITRANI: Juror No. 30, Mr. Sabatini made no
19 secret of the financial hardship to his freight forwarding
20 business and his -- you know, he wouldn't be concentrating here
21 and he wouldn't be making money.

22 THE COURT: Mr. Scotton?

23 MR. SCOTTON: Yes, Your Honor. I agree with that.

24 THE COURT: Okay. So Mr. Sabatini, No. 30, is
25 stricken for cause.

1 Next.

2 MS. MITRANI: I have Mr. -- I have juror No. 39. Let
3 me refresh my recollection. Monday and Wednesday she's not
4 available from 10:00 to 11:50, and Tuesdays and Thursdays she's
5 not available from 9:30 to 11:00.

6 THE COURT: Mr. Scotton?

7 MR. SCOTTON: Your Honor, she doesn't look like
8 she's -- she's not married. She has no kids. I don't see that
9 she has that much, you know, schedule here that going to
10 prevent her to come here for this trial.

11 THE COURT: Okay. My notes say that she has classes
12 on Mondays and Wednesdays from 10:00 until 11:50 which again
13 seems to me that's probably two classes each of those days and
14 then again Monday at 2:00, and then Tuesday and Thursday from
15 9:30 to 11:00. The only way she could sit as a juror is if I
16 told her she can't go to her classes. I'm not inclined to do
17 that. It would be one thing if it were a week, but for six
18 weeks, we would be effectively telling her she cannot take that
19 semester in school which she has most likely already paid for.
20 I'm sorry, but I'm not going to do that.

21 Anyone else?

22 MS. MITRANI: Your Honor, may I be seated?

23 THE COURT: Yes, of course.

24 MS. MITRANI: So 39, Your Honor granted?

25 THE COURT: Yes.

1 MS. MITRANI: Thank you. Juror No. 42, Mr. Jardon.

2 THE COURT: Jardon.

3 MS. MITRANI: I made the same mistake. Check my
4 notes.

5 THE COURT: He said he would have to work nights.

6 MS. MITRANI: Right. He is very passionate about he
7 would -- you know, whether it would have to be eight hours at
8 night or four hours at night. He works on the weekend, and I
9 believe he said he works 8- to 12-hour days if my memory is
10 correct. I'm trying to check my notes. That's another person.

11 THE COURT: He said he worked 10- to 12-hour days, the
12 other one, but Mr. Jardon was 42. He said he is a development
13 engineer, product development engineer, with AT&t wireless and
14 that he's the only one who can handle the projects he's on. So
15 if he doesn't do it, it doesn't get done and he would have to
16 work nights. Mr. Scotton?

17 MR. SCOTTON: No objection.

18 THE COURT: All right. No 42 is gone for cause.

19 Anyone else?

20 MS. MITRANI: Your Honor, does the Court care what
21 order?

22 THE COURT: No, no, I don't care.

23 MS. MITRANI: Juror No. 43, Ms. Tovar, she's a single
24 parent. She has a seven-year-old child in first grade. She
25 says she was a juror last week.

1 THE COURT: She was the foreperson, in fact.

2 MS. MITRANI: And I think -- my notes are a little
3 cryptic, but I think she may have indicated she had some child
4 care --

5 THE COURT: She did. She said it would be a financial
6 hardship.

7 MS. MITRANI: Yes, she said, I could be fair, but I
8 work based on commission.

9 THE COURT: And she didn't get paid last week because
10 she was in --

11 MS. MITRANI: Exactly right, Your Honor.

12 THE COURT: Mr. Scotton, any objection?

13 MR. SCOTTON: No, Your Honor.

14 THE COURT: Strike 43 for cause.

15 Anyone else?

16 MS. MITRANI: Yes, Your Honor. Juror No. 50,
17 Mr. Leonard, clearly said he has problems with authority. His
18 son was just -- his son was in jail wrongly accused.

19 THE COURT: Mr. Scotton?

20 MR. SCOTTON: That's no reason for him not be here
21 doing his duty, Your Honor. I don't see the problem with him
22 being here.

23 THE COURT: Let me explain there are two reasons why I
24 would grant for cause at this point. One, because it's going
25 to disrupt the schedule so much which is the one I think you

1 are talking about. The other which I agree with you doesn't
2 apply here.

3 The other reason would be because a juror has either
4 said or demonstrated that he cannot be fair. And in this case,
5 the government is moving under the second reason to strike him
6 for cause. So the government's position is that he has said
7 and demonstrated that he cannot be fair in this case because he
8 is angry right now basically with law enforcement because of
9 his son's arrest and his feeling that his son has been
10 wrongfully charged. What is your position? Did you wish to
11 address that?

12 MR. SCOTTON: Yeah, Your Honor.

13 THE COURT: Okay.

14 MR. SCOTTON: In the beginning of the whole selection
15 here, he never mentioned anything at all. He doesn't look like
16 he's angry or anything at all. But then after the lunch, now
17 everybody start raising their hands. So to me looked like
18 everybody started putting excuse me right there to not be here.

19 So that issue should have come up in the first place
20 when he have the microphone and he went through the list of
21 questions. But everybody seems to take advantage of the system
22 here and say I don't want to be here, let me come up with
23 something. So I don't see that.

24 THE COURT: Okay. I understand what you are saying.
25 Although, the question that he responded to where he said this

1 I believe may have occurred after we came back from the break.
2 It's a little hard for me to remember the exact sequence
3 because there's been a lot of questioning at this time. I'm
4 going to overrule the objection, and I'm going to strike him
5 for cause. I think he did very clearly say he couldn't be
6 fair.

7 Anyone else?

8 MS. MITRANI: Yes, Your Honor. I'm going to back
9 because of the vagaries of how did I my notes.

10 THE COURT: Okay.

11 MS. MITRANI: Juror No. 33, David Russell, Jr., I
12 think he's the one, he's the one who said he works normally
13 10-, 12-hour days.

14 THE COURT: He's an engineering manager and he would
15 have to work nights because they have projects all over the
16 country that won't get done if he is out for six to eight
17 weeks, right?

18 MS. MITRANI: Yes, Your Honor.

19 THE COURT: He's also scheduled for a prepaid vacation
20 from February 27th to March 5th.

21 Mr. Scotton?

22 MR. SCOTTON: No objection.

23 THE COURT: All right. We will strike No. 33 for
24 cause.

25 Anyone else?

1 MS. MITRANI: Yes. Mr. Juror No. 46, Mr. Feingersch.

2 THE COURT: Feingersch.

3 MS. MITRANI: Yes, Your Honor. He has many reasons
4 for --

5 THE COURT: What are they?

6 MS. MITRANI: Okay. Let me see if I can get them all.
7 I recall that he said he would be biased towards the defendant
8 because he believes the defendant should be represented so he
9 would be biased towards him because he should have his own
10 lawyer, I think. The Court knows the phrase he used, the
11 person who has a lawyer for their own witness. He also said a
12 couple other things towards the end.

13 THE COURT: He said his kid was arrested for drugs --
14 no, as a kid, he was arrested for drugs and a knife. He went
15 through bankruptcy.

16 MS. MITRANI: Right. He said he went through
17 bankruptcy in '86 and his nephew was in prison for armed
18 robbery and he indicated he wasn't happy, I believe either
19 directly indicated or through his body language indicated he
20 was going to be biased against the government. He also
21 indicated that his aunt is in Hospice care and he would have to
22 leave.

23 THE COURT: I understand that, but I'm not going to do
24 it for that reason. There are lots of people unfortunately and
25 sadly on this panel in particular who have mentioned that and,

1 you know, unfortunately, if something like that happens, we
2 will break and, of course, allow them to attend to the funeral
3 or whatever they need to do.

4 MS. MITRANI: I understand, Your Honor. I guess my
5 point with this juror is many things cutting against him for
6 cause including his bias against the government because the
7 defendant is representing himself.

8 THE COURT: Mr. Scotton.

9 MR. SCOTTON: Your Honor, I'm going to object. I
10 guess he's tried to either be a funny guy or be a lawyer. He
11 no understand why I chose to be here. Why I'm a lawyer, I
12 represent myself. He just made his comment, you know. And for
13 whatever reason, I don't think this is a reason to strike him.

14 And he never mentioned any bad thing about his being
15 arrested for drug charges or anybody in his family. He just
16 put in the record that -- as a matter of fact, the judge asked
17 him well, did you going to be -- are you going to be able to be
18 fair here knowing that he had been arrested before, and he said
19 he would be fair.

20 In reference to say that I'm representing myself, I
21 feel more like he's just trying to get in my business. But I
22 don't see that he's going to be against the government because
23 I'm representing myself. This is not excusal.

24 THE COURT: I think he did very clearly say that he
25 understood that he was supposed to treat you the same way as if

1 you had a lawyer but that he still wouldn't be able to help it,
2 that he would give you the benefit of the doubt and he would
3 hold it against the government.

4 So I am going to grant that challenge for cause.

5 Any other ones?

6 MS. MITRANI: Yes, Your Honor. Juror No. 56, Mr. --

7 THE COURT: Vega.

8 MS. MITRANI: Mr. Vega said he was arrested.

9 THE COURT: And he doesn't believe he could be fair
10 because he doesn't believe the system is fair.

11 MS. MITRANI: Correct.

12 MR. SCOTTON: Which one is this one, Your Honor?

13 THE COURT: No. 56, Mr. Vega. Mr. Scotton, did you
14 have any thoughts on that?

15 MR. SCOTTON: I don't see him mention he's not going
16 to be able to be fair. He said he's going to be fair. Just
17 because he was arrested, we in Broward County jail, how many
18 people has not been arrested at this point as far as I
19 understand.

20 THE COURT: My notes say he would not be fair because
21 he does not believe the system is fair. That's what I wrote
22 down. I will tell you I don't have an independent recollection
23 one way or the other, but generally I write down what I hear so
24 I'm going to overrule the objection. Anything else?

25 MS. MITRANI: Your Honor, I have some concerns with

1 mr. Jesus Fernandez and his ability to hear. Even when
2 Mr. Scotton said his name as Scotton, he said Scott.

3 THE COURT: Here's what I will say about that. I will
4 leave it to the parties. If not, then you can use a peremptory
5 if you want to. He seemed okay once everybody spoke into the
6 microphone. We will just have to be sure everybody speaks into
7 the microphones.

8 Mr. Scotton, what is your position? Do you want him
9 stricken for cause or not?

10 MR. SCOTTON: No, Your Honor.

11 THE COURT: I will overrule that one. Any other ones?

12 MS. MITRANI: Can I have a moment, Your Honor?

13 THE COURT: Sure.

14 MS. MITRANI: No, Your Honor.

15 THE COURT: Okay. Mr. Scotton, did you have any for
16 cause?

17 MR. SCOTTON: Your Honor, yeah, I do.

18 THE COURT: I'm ready to listen.

19 MR. SCOTTON: I am trying to go here on recollection.
20 There's a juror here that say he has involvement with some FBI
21 agents and he would like to say that he believed they always
22 good person, they right. I don't think he would be fair to me
23 knowing that I have been arrested and charged with a crime.

24 THE COURT: I'm sorry, which juror was this? I'm
25 sorry, I don't remember which juror it was. I remember the

1 exchange. My recollection is I then asked him whether he would
2 be able to be fair to both the government and to you, and I
3 think we have already stricken him. I think it was Mr. Jardon.
4 It was Mr. Jardon. We already struck him for cause.

5 Anyone else?

6 MS. MITRANI: Actually, Your Honor, we have somebody
7 else.

8 THE COURT: Okay.

9 MS. MITRANI: Okay. Juror No. 23, Melissa Lalta.

10 THE COURT: What's the basis?

11 MS. MITRANI: Her uncle's involved in a federal case
12 and he's going to be deported in two weeks. There's
13 immigration issues, federal immigration, here.

14 THE COURT: What is Mr. Scotton's position?

15 MR. SCOTTON: Your Honor, she clearly stated that that
16 would not be a problem for her.

17 THE COURT: I agree. And the objection is overruled.

18 Mr. Scotton, did you have any other ones for cause?

19 MR. SCOTTON: Juror No. 1, Your Honor.

20 THE COURT: Juror No. 1. What is the basis?

21 MR. SCOTTON: He's pretty much say that, you know, he
22 will not be able to -- he don't even want to get involve.
23 Basically pretty much say that he's going to be forced to be
24 here and I mean pretty much he made comments like he wanted to
25 be excused. I don't want anybody to be here because by the

1 time they have to go inside and make the decision, he just want
2 to go home. He don't want to be here. He's not going to be
3 able to be fair with me and go over all the procedures and
4 rules and evidence and make a final decision here.

5 THE COURT: What's the government's position?

6 MS. MITRANI: On juror No. 1?

7 THE COURT: Yes.

8 MS. MITRANI: He didn't express the same level of
9 detail as to what the hardship would be, so we would object.

10 THE COURT: I have to say, I think he did express that
11 he was concerned, and then I thought that when I said I can
12 give you a note and I can speak with your employer, he said,
13 okay, that would help, and he seemed to me to be at ease after
14 that. Did you observe something that I'm not thinking of,
15 Mr. Scotton? Was there something else that I'm not
16 remembering?

17 MR. SCOTTON: It just doesn't look like he really want
18 to stay here at all.

19 THE COURT: I'm sorry to say, but I think that may be
20 the case for several people. But it is our obligation to be
21 here. If he has a good reason why he shouldn't be here, then
22 that's one thing, but not wanting to be here is another.

23 All right. So I'm going to overrule that objection.
24 Any other objections for cause?

25 MS. MITRANI: Did we address juror No. 19 yet, Your

1 Honor?

2 THE COURT: No, ma'am, we did not, Mr. Tano. No, we
3 did address him. You objected and I overruled the objection
4 or -- I overruled your challenge because Mr. Scotton objected,
5 and the reason was that he said he had driving conflicts.
6 That's what he said.

7 MS. MITRANI: Okay. Right. Also his wife was like no
8 contest for shoplifting, so he's had some negative involvement
9 with law enforcement.

10 THE COURT: And did he say at that time whether he
11 could put that aside?

12 MS. MITRANI: My notes are cryptic. I don't know.

13 MR. SCOTTON: Yes, Your Honor.

14 THE COURT: I thought he said so too.

15 MS. MITRANI: All right.

16 THE COURT: All right. And let's see. Is there
17 anyone else? If not, I want to bring up a couple because of
18 scheduling reasons. With respect to Mr. Swanson, he is the one
19 who is a sixth grade science teacher at Ramblewood.

20 MS. MITRANI: Which juror, Your Honor, I'm sorry?

21 THE COURT: Juror No. 31. He expressed concern for
22 his students being out of school and not being able to teach
23 them for six to eight weeks that they would have a substitute
24 teacher for that period. My concern is really for the students
25 at this point. I think we have enough jurors that we could

1 strike Mr. Swanson and still seat a jury today.

2 Let me ask the parties how they feel about this. As I
3 said, I would hate for the students to be unnecessarily
4 disadvantaged by not having their teacher present for six to
5 eight weeks of the school year.

6 MR. SCOTTON: What is the name for this one, Your
7 Honor?

8 THE COURT: Mr. Swanson, No. 31.

9 MS. MITRANI: The government agrees he should be
10 stricken for cause.

11 THE COURT: He's the one who -- okay, so he's from --
12 he's been in south Florida for 19 years. He was in Colorado
13 in, Washington state before that.

14 MR. SCOTTON: No objection, Your Honor.

15 THE COURT: Okay. We will strike Mr. Swanson for
16 cause. That's No. 31.

17 And Mr. Applebaum, I leave this to you, but I just
18 want to bring it to your attention.

19 MS. MITRANI: Which juror number, Your Honor?

20 THE COURT: He's No. 37. He's got business travel and
21 will be out for the week of February 4th through February 9th.
22 And when his wife is out of town, which is one week a month, he
23 will need to leave by 3:00 because there's no one else to get
24 his kids. His wife is a federal treasury agent as well, not
25 that that would be a reason, but just for memory as to who he

1 is. Any objection to striking him for cause?

2 MR. SCOTTON: No, Your Honor.

3 MS. MITRANI: No, Your Honor.

4 THE COURT: All right. Let's strike No. 37 then for
5 cause.

6 No. 34 is Ms. Taub. She indicated that she has --
7 she's going to be out on preplanned trips that she needs to
8 take for her event planning business, I think, is what she said
9 January 29 to February 2 and February 6 to February 11. We
10 would have to interrupt the trial for those periods. Is there
11 any objection to striking her for cause?

12 MR. SCOTTON: No, Your Honor.

13 MS. MITRANI: No.

14 THE COURT: We will strike juror No. 34, Ms. Taub, for
15 cause.

16 Ms. Florez is No. 6, and this is fine with me as long
17 as everybody understands that if she's impaneled, we are going
18 to have to allow her to leave by 4:00, about 4:00 or 4:30 two
19 times a week. She did sit on the jury last week. If the
20 parties agree, I'll strike her for cause because of the
21 scheduling issue. Otherwise, just understand we are going to
22 be stopping the trial days at 4:00 or 4:30 those days when
23 she's got a class.

24 MS. MITRANI: The government's okay with ending early
25 when she has class.

1 THE COURT: All right. Mr. Scotton?

2 MR. SCOTTON: No objection.

3 THE COURT: Okay. Let me just make sure. I think
4 that might be everybody I have except Mr. Lang.

5 MR. SCOTTON: Your Honor, can I go over the list with
6 the Court?

7 THE COURT: Yes.

8 MR. SCOTTON: No. 5 is off?

9 THE COURT: Yes. Do you want me to read through them?

10 MR. SCOTTON: Please.

11 THE COURT: No. 5, Ms. Scarbrough. No. 9, Ms. Evans,
12 No. 14, Ms. Maria. No. 16, Mr. Rodas. No. 18, Ms. Michelle.
13 No. 25, Mr. Hajdic. No. 27, Mr. Monas. No. 29, Ms. Gutierrez.
14 No. 30, Mr. Sabatini. No. 31, Mr. Swanson. No. 33,
15 Mr. Russell. No. 34, Ms. Taub. No. 37, Mr. Applebaum.
16 No. 39, Ms. Souther. No. 42, Mr. Jardon. No. 43, Ms. Tovar.
17 No. 46, Mr. Feingersch. No. 50, Mr. Leonard. And No. 56,
18 Mr. Vega.

19 All right. Did I miss anyone?

20 MS. MITRANI: No, Your Honor. I guess the only one we
21 have outstanding is Mr. Lang as to whether he's going to be
22 stricken for cause or not.

23 THE COURT: Right. If we don't strike Mr. Lang for
24 cause, we won't be able to start the trial today. We will have
25 to start it next week. Today is Thursday, so we would miss one

1 day.

2 MS. MITRANI: Your Honor, the government has
3 out-of-town witnesses. We have to have three -- we have three
4 out-of-town witnesses who have been waiting.

5 THE COURT: All right. Mr. Scotton, do you wish to be
6 heard on this at all?

7 MR. SCOTTON: Which juror, Your Honor?

8 THE COURT: No. 8, Lang. We are back to Lang. The
9 government has just explained that it has flown in witnesses at
10 expense to the government who have been waiting for trial. If
11 we don't strike him, we won't be able to start today. If we
12 don't start today, then the government will have to incur the
13 expenses for them either to fly home and fly back if they can
14 even get back in based on the snow storm that's currently up
15 north, or B, have them stay through the weekend and incur those
16 expenses. So I'm inclined to strike him.

17 MR. SCOTTON: I'm going to object to that, Your Honor.

18 THE COURT: I am going to overrule the objection. We
19 are going to go ahead and strike Mr. Lang.

20 If there are no other objections for cause, which I
21 don't believe there are any, then we are going to move on to
22 peremptory challenges.

23 MS. MITRANI: Can we have about five minutes, Your
24 Honor?

25 THE COURT: I'm going to do that in just a moment.

1 I'm just going to explain the process. The way this works,
2 Mr. Scotton, and I know we have discussed this previously, I
3 want to readdress it with you, the government has six
4 peremptory challenges, that is six strikes that it can make to
5 any of the six jurors. You know, they can strike any six
6 jurors if they wish to without stating a reason why. And you
7 have ten. You can strike up to ten. Do you understand?

8 MR. SCOTTON: Yes, Your Honor.

9 THE COURT: We do this in order. The way it works is
10 the government does one, and then you do two. And then the
11 government does one and you do two until there are equal
12 numbers remaining since you start out with more. So at some
13 point, we will get to a point where I think it's -- I can't
14 remember whether it's at four or two left, but at some point we
15 get to an equal number remaining, and then the government will
16 do one and you will do one until we are out of peremptory
17 challenges. Do you understand, Mr. Scotton?

18 MR. SCOTTON: Yes, Your Honor.

19 THE COURT: You can strike anyone on the entire panel
20 who has not already been stricken. It doesn't matter if you
21 strike for your first one -- for example, if you strike No. 40,
22 you can go back and strike No. 20 on your second one. Do you
23 understand it doesn't matter the order that you do them in?

24 MR. SCOTTON: Yes, Your Honor.

25 THE COURT: However, the first 8 numbered -- sorry,

1 the first 12 numbered jurors who remain after all the strikes
2 are gone are the ones who sit on the jury. Do you understand?

3 MR. SCOTTON: Yes, Your Honor.

4 THE COURT: So even if there are 20 jurors left and
5 some of them are near the end and some are near the beginning,
6 we are taking the ones at the beginning. Do you understand
7 that?

8 MR. SCOTTON: Yes, Your Honor.

9 THE COURT: What I want to do is I want to give you
10 each an opportunity to think about which ones you want to
11 strike so that when I ask you, we can try to do this in an
12 efficient way. So I'm going to take a break, but it's going to
13 be a working break for you all to sit in here and figure out
14 which strikes you want to exercise. How about if I come back
15 here in about ten minutes, will that work, or do you think you
16 all need more time?

17 MS. MITRANI: Ten is fine.

18 THE COURT: Mr. Scotton?

19 MR. SCOTTON: That's fine, Your Honor.

20 THE COURT: All right. I will come back in ten
21 minutes and I will hear the challenges at that time.

22 (Thereupon, a recess was taken at 1:15 p.m.)

23 THE COURT: Are we ready to proceed with the
24 peremptories?

25 MS. MITRANI: Yes, Your Honor.

1 THE COURT: Mr. Scotton?

2 Mr. Scotton?

3 MR. SCOTTON: Your Honor, can I have just one minute?

4 THE COURT: Are we ready, Mr. Scotton?

5 MR. SCOTTON: Yes, Your Honor.

6 THE COURT: I will hear the first peremptory from the
7 government.

8 MS. MITRANI: So does Your Honor -- in other words,
9 right now does Your Honor count like the first 12 and we do it
10 if there's any within the first 12?

11 THE COURT: No, you can do any one at any point. But
12 at the end, we are going to take the first 12 that are left.

13 MS. MITRANI: Okay. So that's a different strategy.

14 The government would strike juror No. 23, that is
15 Ms. Lalta, is that correct? I'm sorry, Your Honor, I misspoke.
16 I want to start with 24.

17 THE COURT: 24, Ms. Kelly Johnson?

18 MS. MITRANI: Yes.

19 THE COURT: Okay. And, Mr. Scotton, you have two.

20 MR. SCOTTON: No. 9 we already strike, right, Your
21 Honor?

22 THE COURT: We already struck No. 9 so you still have
23 two.

24 MR. SCOTTON: No. 15.

25 THE COURT: No. 15, Ms. DeFronzo?

1 MR. SCOTTON: Yes.

2 THE COURT: Okay. Anyone else?

3 Mr. Scotton, did you have another one?

4 MR. SCOTTON: Yeah, hold on a second, Your Honor. I
5 am going through the list here. 41.

6 THE COURT: No. 41, Mr. Garcia. Okay. Government,
7 you have one.

8 MS. MITRANI: Yes, Your Honor. I'm sorry, it's
9 getting late. Mr. Scotton just struck 41 and 15?

10 THE COURT: Yes.

11 MS. MITRANI: Okay. The government will strike
12 No. 40.

13 THE COURT: No. 40, Mr. Stoner. Okay. And for the
14 defense, you have two.

15 MR. SCOTTON: 52.

16 THE COURT: No. 52, Ms. Gromnicki, okay.

17 MR. SCOTTON: 54.

18 THE COURT: And 54, Mr. Craig. Okay. For the
19 government, you have one?

20 MS. MITRANI: Yes, Your Honor, No. 23.

21 THE COURT: No. 23, Ms. Lalta. Okay. For the
22 defense, you have two.

23 MR. SCOTTON: Okay, Your Honor. 36.

24 THE COURT: No. 36, Mr. Holbrook. Okay. Anyone else?

25 MR. SCOTTON: 53.

1 THE COURT: No. 53, Mr. Fernandez. Okay. For the
2 government?

3 MS. MITRANI: No. 19.

4 THE COURT: No. 19, Mr. Tano. And, Mr. Scotton, you
5 have two.

6 MR. SCOTTON: 44.

7 THE COURT: No. 44, Ms. Gangi. Okay. And for your
8 other one?

9 MR. SCOTTON: 35.

10 THE COURT: No. 35, Ms. Ruberto. Okay. Now, each
11 side has two remaining so we will go one and one. Government?

12 MS. MITRANI: No others at this point.

13 THE COURT: Okay. You can't save them until the end
14 though.

15 MS. MITRANI: Okay. We are done.

16 THE COURT: You will have another turn, but you won't
17 get this turn back at the end. So you have two now. If you
18 pass this one, you will have one.

19 MS. MITRANI: I understand. I'm sorry, Your Honor.
20 We will pass.

21 THE COURT: Okay. Mr. Scotton, you have one.

22 MR. SCOTTON: No. 4.

23 THE COURT: No. 4, Mr. Page. The government has one
24 more if the government wants.

25 MS. MITRANI: We will strike juror No. 11.

1 THE COURT: No. 11, Mr. Blandford. Last one for the
2 defense.

3 MR. SCOTTON: No. 2.

4 THE COURT: No. 2, Mr. Marx. Okay. So that leaves us
5 with No. 1, Mr. Diaz; No. 3, Ms. Baczyk; No. 6, Ms. Florez,
6 No. 7, Ms. Elizabeth Cabral; no. 10, Mr. William Scheer;
7 No. 12, Ms. LaBarbera; No. 13, Ms. Colantuono; No. 17,
8 Mr. Roberts; No. 20, Ms. Brzezniak; No. 21, Ms. Robin Cabral;
9 No. 22, Ms. Pinnock; and No. 26, Mr. Graham. I believe that is
10 12.

11 Now we are going to -- I think we should impanel three
12 alternates. Anybody think we need more than three?

13 MS. MITRANI: No, Your Honor.

14 THE COURT: Mr. Scotton?

15 MR. SCOTTON: No, Your Honor.

16 THE COURT: So we will impanel three alternates, and
17 what I am going to do is I am going to give each side one
18 peremptory to exercise on the three alternates. So right now
19 the alternates would be Ms. Raisman, Ms. De La Hoz, and
20 Mr. Tucker unless somebody exercises any preemptories. I will
21 turn to the government first if it wishes to exercise a
22 peremptory. Also, since Mr. Scotton might exercise a
23 peremptory, you could exercise it on Ms. Gehring or I guess
24 Ms. Davilma.

25 MS. MITRANI: I'm sorry, so we have juror No. 28,

1 juror No. 32.

2 THE COURT: And 38 are the first three. But because
3 each of you gets a peremptory, we could go up as high as 45 and
4 47. So you can do whichever you want.

5 MS. MITRANI: Yes, Your Honor. No, no strikes.

6 THE COURT: And for the defense, do you wish to
7 exercise a peremptory?

8 MR. SCOTTON: No, Your Honor.

9 THE COURT: So our three alternates are 28,
10 Ms. Raisman; 32, Ms. De La Hoz; and 38, Mr. Tucker. So we will
11 work around the conflicts that they have each brought up. Some
12 of them have doctors' appointments. From day to day, we will
13 get that information from them. Other than that, we will be
14 ready to start when we bring everybody back. I will read the
15 jurors off, and then we will swear them, and I will read the
16 preliminary instructions. Then we will have opening
17 statements. How long does the government want?

18 MS. MITRANI: I'm not quite sure how long it is, but I
19 would ask for an hour and a half.

20 THE COURT: For opening?

21 MS. MITRANI: Yes, Your Honor.

22 THE COURT: Mr. Scotton, is an hour and a half okay
23 for you?

24 MR. SCOTTON: I believe so, Your Honor. I got some
25 presentations.

1 THE COURT: You can't make presentations unless you
2 have already shown them to the Court because what you are going
3 to be putting into -- what you are -- you can't show things to
4 the jury unless they are going to be in evidence. You need
5 to -- unless it's a demonstrative exhibit, but I would need to
6 approve that first.

7 MS. MITRANI: Although, Your Honor, we have a Power
8 Point with items less on our exhibit list that we reasonably
9 expect are going to be admitted into evidence.

10 THE COURT: You need to show it to me first as far as
11 what the items are unless I have already ruled on them in a
12 motion in limine.

13 MS. MITRANI: No, not all them. So I can identify
14 them for the Court.

15 THE COURT: Okay.

16 MS. MITRANI: I can identify them for the Court, but
17 at the same time, I can put them on the screen so the defendant
18 can see them as well.

19 THE COURT: That's a good idea.

20 MS. MITRANI: Sorry, Your Honor. I didn't know that
21 was the Court's practice. I apologize.

22 THE COURT: That's okay.

23 MR. SCOTTON: You want to see what I want to use
24 during opening statement?

25 THE COURT: I tell you what, you know, I need to give

1 the court reporter lunch. If you have the materials, why don't
2 you hand them up to me and I will look at them. And when we
3 come back, I will be able to ask any questions. How about
4 that? And that way the court reporter can get lunch and so can
5 you.

6 MS. MITRANI: Would it be helpful if the government
7 handed out a copy of the Power Point to the Court and we will
8 give a copy to the defendant?

9 THE COURT: Yes, that would be helpful. Thank you.
10 Thank you very much. And anything the defense has,
11 I'll look at that as well.

12 MS. MITRANI: I have an extra one of that in my
13 office. What I will do is have it run over right now and
14 provide it to Mr. Scotton in the marshal's lockup.

15 THE COURT: This is it for the defense?

16 MR. SCOTTON: Yes, Your Honor.

17 THE COURT: What is it?

18 MR. SCOTTON: Thumb drive.

19 THE COURT: Okay. Can I ask what's on the thumb
20 drive?

21 MR. SCOTTON: Some photographs, some videos, some
22 fliers, presentation.

23 THE COURT: Have you showed it to the government?

24 MR. SCOTTON: No, Your Honor, I just collected
25 everything yesterday.

1 THE COURT: Well, as I explained previously, if you
2 are going to use it in the case, you have to have shown it to
3 the government.

4 MR. SCOTTON: I understand.

5 THE COURT: I think what we are going to do is this.
6 Is there a copy of this?

7 MR. KREISS: I haven't seen a disc. There was a disc
8 turned over.

9 THE COURT: The disc that was turned over this morning
10 has this on it, is that right?

11 MR. SCOTTON: Yes.

12 THE COURT: So everybody, I'm sorry we are not going
13 to have much of a lunch, but watch it, and let's see what we
14 can work out when we get back.

15 MS. MITRANI: In the interest of speed, would the
16 Court mind, I can make a copy of that in the igloo and I'll
17 provide it to --

18 THE COURT: Sure, I will do this one first.

19 MS. MITRANI: And then should I ask somebody to come
20 to chambers and provide it?

21 THE COURT: Yes, please.

22 MS. MITRANI: I'll call your courtroom deputy.

23 THE COURT: Thank you. Let's all try to get back at
24 ten after. Thanks.

25 (Thereupon, a recess was taken at 1:41 p.m.)

1 THE COURT: All righty. Did everybody have an
2 opportunity to -- let me ask, did the parties have an
3 opportunity to review each others's proposed exhibits?

4 MR. SCOTTON: Yes, Your Honor.

5 THE COURT: Do you have any objections, Mr. Scotton?

6 MS. MITRANI: I'm sorry, I apologize.

7 MR. SCOTTON: Do we have -- did we ever make a final
8 decision on the video because as far as I understand, the
9 expert is going to take a look the next couple days the video.

10 THE COURT: Right, the video, you can't put it in yet.
11 I told you I had -- I set a hearing yesterday for it. You did
12 not bring it, so I wasn't able to do that.

13 MR. SCOTTON: No, I'm talking about the government
14 video, Your Honor, the FBI undercover video.

15 MS. MITRANI: We have a screen shot in our Power
16 Point, but I'm happy to not talk about the undercover operation
17 if that's going to facilitate matters.

18 THE COURT: Let's skip the video.

19 MS. MITRANI: The screen shot, that's fine.

20 THE COURT: Any other objections, Mr. Scotton?

21 MR. SCOTTON: No, Your Honor.

22 THE COURT: Did the government have an opportunity to
23 review Mr. Scotton's proposed production?

24 MS. MITRANI: Yes, Your Honor. We had enough time,
25 but it seems like there is a lot of pictures of him and

1 Ms. Mollinedo. If we missed anything, I would appreciate
2 Mr. Scotton telling us that.

3 THE COURT: Let me tell you what else I saw in there.
4 I saw some other photographs of Mr. Scotton signing autographs,
5 Mr. Scotton at race car things, Mr. Scotton at the hospital
6 with a kid, Mr. Scotton with police officers with a sign that
7 says something like raising money for fallen officers. A bunch
8 of Brazilian newspaper articles and there appear to be two
9 video clips, but I could not play them so I don't know whether
10 there were video clips or not.

11 MS. MITRANI: We didn't hear that either.

12 THE COURT: Mr. Scotton?

13 MR. SCOTTON: Yeah, they are videos, Your Honor.

14 THE COURT: I am not going to be able to allow you to
15 play videos that I haven't had an opportunity to see first.
16 I'm sorry, I just can't do that. That's what yesterday was
17 about. You had an opportunity. You didn't bring it in. You
18 can't play the videos during opening.

19 MS. MITRANI: Your Honor, I'm advised the reason we
20 didn't see the pictures Your Honor described is I don't think
21 they are on our disc. You may have -- the universe of items
22 that you have reviewed I think exceeds what we have because we
23 didn't have the race car.

24 MR. SCOTTON: It's the same pictures, Your Honor.

25 THE COURT: All right.

1 MS. MITRANI: If he wants to show a couple pictures of
2 him and Ailyn, I don't have object.

3 MR. SCOTTON: I'm not going to be show any picture of
4 my wife. Everything they have on the CD here, this is a
5 quarter what is going to be on a open statement. On the CD has
6 a whole lot of my stuff that I am going to use as evidence
7 during trial. During the opening statement, I'm not going to
8 present anything about my wife.

9 MS. MITRANI: So I'm confused.

10 THE COURT: Okay. One minute. Mr. Scotton, I'm also
11 confused. What is it that you want to show during opening
12 statement? I thought you wanted to show everything that's on
13 that thumb drive that you gave me. Am I mistaken?

14 MR. SCOTTON: No, it is, but the government claimed
15 that they don't have what is inside this. They do have
16 everything that is inside here. They have more on CD.

17 THE COURT: Okay. In any case, you can't show
18 newspaper articles. Unless you have some reason why they would
19 be admissible, newspaper articles are almost never admissible
20 unless they are not taken for the truth of the matter asserted.
21 But it seems to me, although they are in Portuguese so I don't
22 profess to understand them completely, it seems to me that it
23 appears that you are going to try to introduce them for the
24 truth of the matter asserted. So I can't -- I'm sorry, but you
25 can't put that in. You can't refer to it during opening.

1 The photographs, what is the objection to the
2 photographs that he wants to put in? Why can't he refer to
3 those?

4 MS. MITRANI: Which ones? In other words, of him
5 signing autographs?

6 THE COURT: The ones I have just described.

7 MS. MITRANI: Well, one, we haven't seen them, and
8 two, I'm not sure of the relevance. If the Court wants to
9 allow them, I haven't seen them, I don't want to make a big
10 stink or delay things.

11 THE COURT: I understand. I understand why you think
12 they are not relevant. They probably aren't relevant. On the
13 other hand, he's representing himself and I am assuming he's
14 going to try to put it in as character evidence at some point.

15 MS. MITRANI: And the government completely
16 understands and respects the Court's rulings.

17 THE COURT: All right.

18 MS. MITRANI: Two things. At least on our -- and
19 again, in a sense, Mr. Scotton can do what he wants.

20 THE COURT: Let me stop you for just a second. Is
21 there anybody in the courtroom who is a juror? Very good.

22 MS. MITRANI: You know, forget that. The other issue
23 is in the Power Point, we had -- just so we are clear, there
24 are no surprises, part of the Power Point which Mr. Scotton
25 objected to are pictures of physical packages that I'm going to

1 use as demonstratives in my opening. They were on the Power
2 Point, but I don't want Mr. Scotton to think I'm talking about
3 something that wasn't in the power point.

4 THE COURT: Mr. Scotton, you can show whatever you
5 want from that disc except you cannot show the newspaper
6 articles because I can't think of any way that they would be
7 admissible. And I'm trying to think if there was something --

8 MR. SCOTTON: Your Honor, you said something about you
9 couldn't look the video?

10 THE COURT: You can't show the videos. I can't see
11 what's on them. I tried. They won't open.

12 MR. SCOTTON: I justed open them on my computer.

13 THE COURT: Maybe my computer doesn't have the right
14 software. I tried and I was not able to. Had you provided it
15 to me before 20 minutes before openings, I might have been able
16 to. Since I didn't have it, even though I asked for it, I
17 can't look at it now, I'm not going to slow the jury down. I'm
18 sorry, you can't use the videos. You can use the photographs
19 that we have talked about, just not the newspaper articles.
20 All right, Mr. Scotton?

21 MR. SCOTTON: All right, Your Honor.

22 THE COURT: All right. We are going to bring the jury
23 in.

24 MS. MITRANI: Your Honor, after the jury is impaneled,
25 are we going to go straight into opening?

1 THE COURT: Well, I'm going to swear them and then we
2 will do instructions and then we will do openings.

3 MS. MITRANI: Will we have like a break so we can set
4 up the podium?

5 THE COURT: They are going to need to move around so
6 you can do that, take the time you need when they are doing
7 that.

8 MR. SCOTTON: Your Honor, what is the procedure for me
9 to be able to show this to the jury? How is that going to
10 work?

11 THE COURT: I thought you brought a computer.

12 MR. SCOTTON: Yes.

13 THE COURT: So you will have to do that.

14 MS. MITRANI: Your Honor, I can do that now, correct?

15 (Thereupon, the prospective jurors entered the
16 courtroom at 2:18 p.m.)

17 THE COURT: All right. Welcome back. Mr. Creary, are
18 we missing anyone?

19 THE COURTROOM DEPUTY: No, we are not, Judge.

20 THE COURT: Very good. I hope everybody have had a
21 nice lunch. We are going to announce our jury. If I call your
22 name, you are on the jury. I always feel like I should say
23 this a couple times. One time the courtroom deputy had to run
24 down one of our jurors who was a little confused by my
25 instructions. So once again, if you hear your name, if I call

1 your name, you need to stay. If your name is not called, then
2 you are not on the jury. And let me thank all of you for
3 sitting through the process and for participating.

4 Okay. Our jurors are Mr. Diaz, Ms. Baczyk,
5 Ms. Florez, Ms. Elizabeth Cabral, Mr. Scheer, Ms. LaBarbera,
6 Ms. Colantuono, Mr. Roberts, Ms. Brzezniak, Ms. Robin Cabral,
7 Ms. Pinnock, Mr. Graham, Ms. Raisman, Ms. De La Hoz, and
8 Mr. Tucker. If your name was called, please stay. And if your
9 name was not called, you are excused. Mr. Creary, do they need
10 to call back in again tomorrow?

11 A PROSPECTIVE JUROR: Yes, they do.

12 THE COURT: You will need to call in tomorrow. Please
13 give your juror badges to Mr. Creary before you leave.

14 We are going to be let everybody clear out and then
15 I'll explain a little bit about what's going on.
16 Congratulations. Maybe you should play the lottery today. I
17 am just kidding. My brother-in-law tells me it's a tax on
18 people who don't understand math and I'm afraid because I don't
19 understand math.

20 All righty. Please be seated. What we are going to
21 do is we are going to play a little bit of musical chairs. We
22 are going to rearrange everybody so that we will have Mr. Diaz
23 in the front first seat up there where you wanted to sit
24 originally. You must have seen the future because that's where
25 you are going to be sitting, followed by Ms. Baczyk and down

1 the line until we get through all the jurors. And we will just
2 take a moment and reseal you all in order. We are going to
3 remove this first row of seats so you will be able to see if
4 anything is put up on the screen over there.

5 So whenever you're ready, if you would, please, we
6 don't have any music for musical chairs, but if you could just
7 find your seats, that would be terrific. Mr. Diaz is first in
8 the seat over here and he's going to be next to Ms. Baczyk
9 followed by Ms. Florez, Ms. Elizabeth Cabral, Mr. Scheer,
10 Ms. LaBarbera, Ms. Coluntuono.

11 Maybe we need to pull up one extra chair, Mr. Creary,
12 I don't know.

13 Mr. Roberts terrific, would you mind moving up to that
14 seat, please. Thank you.

15 Ms. Brzezniak, if you could scoot down here, please.
16 Thank you. Ms. Robin Cabral. Ms. Pinnock. Mr. Graham
17 Ms. Raisman. Ms. De~La~Hoz, and Mr. Tucker. And we may need
18 one more seat in the back there too.

19 Mr. Creary, would you mind very much, can we just move
20 these chairs away?

21 THE COURTROOM DEPUTY: Yes.

22 THE COURT: I haven't given you much time to do it.
23 Thank you.

24 Before we go ahead and swear the jury, I do just like
25 the jury to know, because I only think it's fair, you may have

1 noticed that there are more than 12 of you. And you may
2 remember from your high school civics that there are 12 people
3 on a jury. We have impaneled 15 of you. The reason for that
4 is this is a trial that you have already heard that we expect
5 to last maybe as long as six to eight weeks.

6 And over the course of that period, if we were to lose
7 any jurors and we were to go below 12, we would have to start
8 this trial over again.

9 So the alternate jurors who are 13, 14, and 15 here,
10 Ms. Raisman and Ms. De~La~Hoz and Mr. Tucker, you all have an
11 extremely important job because without you, as I said, if we
12 lost a juror, we would have to do this whole thing again, start
13 all over again. So it's very important that you all pay
14 attention as though you are already on the jury because you may
15 wind up on the jury.

16 In fact, I would say about 50 percent of the time we
17 wind up with at least one alternate juror and sometimes more on
18 our juries. So we all very much appreciate your willingness to
19 serve. I don't like to wait until the whole trial is over and
20 let you know that because I feel like you should know at the
21 beginning. But we all very much appreciate your being here.
22 It is a critical role that you play and I just want to ask for
23 your cooperation. Ms. Raisman, will you agree to pay attention
24 and focus on the evidence as though you were already on the
25 jury?

1 A PROSPECTIVE JUROR: Yes, Your Honor.

2 THE COURT: Thank you. And Ms. De La Hoz, how about
3 you?

4 A PROSPECTIVE JUROR: Yes.

5 THE COURT: Mr. Tucker?

6 A PROSPECTIVE JUROR: I will.

7 THE COURT: Thank you very much. We are going to
8 swear you all now.

9 (Thereupon, the jury was sworn.)

10 THE COURT: Thank you. Please be seated. Let me say
11 this also. Some of you had mentioned that you might have some
12 issues with work. If you have a problem with the employer,
13 even if you don't, but you just want to know, please let
14 Mr. Creary know. He will take care of that for you. Also,
15 Mr. Creary will be able to tell you how your employer can
16 contact my office. If your employer feels that he or she needs
17 to speak with me, I will be happy to speak with anyone.

18 All right. Once again, thank you on behalf of all of
19 us. We know that we are asking a lot of you and we really
20 appreciate your willingness to serve.

21 What we are going to do now is I am going to read you
22 some preliminary instructions. After I am done with that, we
23 are going to have opening statements in the case. I do want to
24 tell you that this part, that is when I read you the
25 preliminary instructions, may not be the most exciting part of

1 the case. I'm sorry about that. But it is an important part
2 of the case because it tells you some of the things that you
3 need to know for evaluating the evidence that you will hear in
4 the case.

5 Also, in case you are interested, the instructions
6 that I will be reading to you are the same instructions that
7 are read in every federal court in criminal trials in the
8 States of Florida, Georgia, and Alabama. They are produced by
9 the 11th Circuit Court of Appeals which is the federal court of
10 appeals for the States of Florida, Alabama, and Georgia. So
11 this will probably take me about ten minutes to read through.
12 As you will find out, you will be permitted to take notes if
13 you wish to do so. We will give you paper and pen if you want
14 to do that. But we won't give that to you until the evidence
15 begins.

16 All righty. Members of the jury, now that you have
17 been sworn, I need to explain some basic principals principles
18 about a criminal trial and your duty as jurors. These are
19 preliminary instructions. At the end of the trial, I will give
20 you more detailed instructions.

21 It will be your duty to decide what happened so you
22 can determine whether the defendant is guilty or not guilty of
23 the crime charged in the indictment.

24 At the end of the trial, I will explain the law that
25 you must follow to reach your verdict. You must follow the law

1 as I explain it to you even if you do not agree with the law.

2 You must decide the case solely on the evidence
3 presented here in the courtroom. Evidence can come in many,
4 many forms. It can be testimony about what someone saw or
5 heard or smelled. It can be an exhibit admitted into evidence.
6 It can be someone's opinion. Some evidence proves a fact
7 indirectly such as a witness who saw wet grass outside and
8 people walking into the courthouse carrying wet umbrellas.

9 Indirect evidence sometimes called circumstantial
10 evidence is simply a chain of circumstances that proves a fact.

11 As far as the law is concerned, it makes no difference
12 whether evidence is direct or indirect. You may choose to
13 believe or disbelieve either kind and should give every piece
14 of evidence whatever weight you think it deserves.

15 It's A little warm in here. Usually it's the opposite
16 problem. We are going to see if we can do something about the
17 air. We have got -- we don't actually control the thermostat
18 in here, believe it or not. It's controlled from downstairs.
19 So we have emailed the appropriate people and hopefully we will
20 get that working soon.

21 Certain things are not evidence and must not be
22 considered. I am going to list them for you now. Statements
23 and arguments of the lawyers. In their opening statements --
24 and I should say in this case statements and arguments of the
25 parties that are not from the witness stand. In their opening

1 statements and closing arguments, the government, Ms. Mitrani,
2 and Mr. Scotton will discuss the case, but their remarks are
3 not evidence.

4 And it's probably important for me to explain at this
5 point that because Mr. Scotton is acting as his own attorney, I
6 do need to distinguish between what he says and his role as his
7 own attorney and what he says in his role as a witness if he
8 chooses to be one. And as I previously explained, he is under
9 no obligation to be a witness in this case and you cannot hold
10 that against him if he chooses not to.

11 However, if he wishes to be heard and to have evidence
12 come in from himself, he must be sworn as a witness, and that
13 evidence will come from him on the witness stand while he is
14 under oath.

15 Just like what the government's attorney says, when
16 the government is giving its opening statement, it's closing
17 arguments, and asking questions of other witnesses, what
18 Mr. Scotton says when he's doing those same things, that is,
19 when he's not under oath and on the witness stand, those things
20 are not evidence. Does everybody understand that? If anybody
21 has any question about that or I have been confusing in any
22 way, please go ahead and raise your hand. I want to make sure
23 everybody understands.

24 Terrific. Thank you. As I mentioned a moment ago,
25 questions and objections by either Ms. Mitrani or Mr. Scotton

1 when Mr. Scotton is serving in his role as the lawyer are also
2 not evidence.

3 Only the witnesses's answers are evidence. You should
4 not think that something is true just because a lawyer's
5 question suggests that it is. For instance, if a lawyer asks a
6 witness, you saw the defendant hit his sister, didn't you, that
7 question is no evidence whatsoever of what the witness saw or
8 what the defendant did unless the witness agrees with it.

9 There are rules of evidence that control what can be
10 received into evidence. When a lawyer asks a question or
11 offers an exhibit and a lawyer on the other side thinks it is
12 not permitted by the rules of evidence, that lawyer may object.
13 If I overrule the objection -- and I should say Mr. Scotton can
14 object to what the government does as well as the government
15 can object to what Mr. Scotton does. If I overrule the
16 objection, then the question may be answered or exhibit
17 received. If I sustain the objection, then the question may
18 not be answered and the exhibit not be received.

19 Whenever I sustain an objection to the question, you
20 must ignore the question and not try to guess what the answer
21 may have been. Sometimes I may order that evidence be stricken
22 and you disregard or ignore the evidence. That means that when
23 you are deciding the case, you must not consider that evidence.

24 Some evidence is admitted only for a limited purpose.
25 When I instruct you that an item of evidence has been admitted

1 for a limited purpose, you must consider it only for that
2 limited purpose and no other.

3 In reaching your verdict, you may have to decide what
4 testimony to believe and what testimony not to believe. You
5 may believe everything a witness says or part of it or none of
6 it. In considering the testimony of any witness, you may take
7 into account the opportunity and ability of the witness to see
8 or hear or know the things testified to, the witness's memory,
9 the witness's manner while testifying, the witness's interest
10 in the outcome of the case, and any bias or prejudice. Whether
11 other evidence contradicted the witness's testimony, the
12 reasonableness of the witness's testimony in light all of the
13 evidence, and any other factors that bear unbelievability. I
14 will give you additional guidelines for determining credibility
15 of witnesses at the end of the case.

16 As you know, this is a criminal case. There are three
17 basic rules about a criminal case that you must keep in mind.

18 First, the defendant is presumed innocent until proven
19 guilty. The indictment against the defendant brought by the
20 government is only an accusation, nothing more. It is not
21 proof of guilt or anything else. The defendant therefore
22 starts out with a clean slate.

23 Second, the burden of proof is on the government until
24 the very end of the case. The defendant has no burden to prove
25 his innocence or to present any evidence or to testify. Since

1 the defendant has the right to remain silent and may choose
2 whether to testify, you cannot legally put any weight on a
3 defendant's choice not to testify because it is not evidence.

4 Third, the government must prove the defendant's guilt
5 beyond a reasonable doubt. I will give you further
6 instructions on this point later, but please bear in mind for
7 now that the level of proof required is high. Our law requires
8 jurors to follow certain instructions regarding their personal
9 conduct in order to help insure a just and fair trial.

10 I will now give you those instructions. Do not talk,
11 please, among yourselves or with anyone else about anything
12 related to this case.

13 You may tell the people with whom you live and your
14 employer that you are a juror and give them information about
15 when you will be required to be in court, but you may not
16 discuss with them or anyone else anything related to the case.

17 Do not at any time during trial request, accept, agree
18 to accept, or discuss with any person any type of payment or
19 benefit in return for supplying any information about the
20 trial. You must promptly tell me about any incident you know
21 of involving an attempt by any person to improperly influence
22 you or any member of the jury.

23 Please do not visit or view the premises or place
24 where the crime charged was allegedly committed or any other
25 premises or place involved in the case. And you must not use

1 Internet Maps or Google Earth or any other program or device to
2 search for a view of any location discussed in the testimony.
3 Do not read, watch, or listen to any accounts of discussions
4 related to the case which may be reported by newspapers,
5 television, radio, the internet, or any other news media.

6 Do not attempt to research any fact, issue, or other
7 law related to this case whether by discussions with others, by
8 library or internet research, or by any other means or source.
9 In this age of instant electronic communication and research, I
10 do need to emphasize that in addition to not talking face to
11 face to anyone about the case, you must not communicate with
12 anyone about the case by any other means including by
13 telephone, text messages, email, internet chat, chat rooms,
14 blogs, or social networking websites such as Facebook, My Space
15 or Twitter.

16 You must not provide any information about the case to
17 anyone by any means whatsoever. And that includes posting
18 information about the case or what you are doing in the case on
19 any device or internet site including blogs, chat rooms, social
20 websites, or any other means.

21 You also must not use Google or otherwise search for
22 any information about the case or the law that applies to the
23 case or the people involved in the case including the
24 defendant, the witnesses, the lawyers, or the judge. It's
25 important to understand why these rules exist and why they are

1 so important.

2 Our law does not permit jurors to talk with anyone
3 else about the case or to permit anyone to talk to them about
4 the case because only jurors are authorized to render a
5 verdict. Only you have been found to be fair and only you have
6 promised to be fair. No one else is so qualified.

7 Our law also does not permit jurors to talk among
8 themselves about the case until the Court tells them to begin
9 deliberations because premature discussions can lead to
10 premature deliberations and a premature final decision.

11 Our law also does not permit you to visit a place
12 discussed in the testimony. First, you can't be sure that the
13 place is in the same condition as it was on the day in
14 question.

15 Second, even if it were in the same condition, once
16 you go to a place discussed in the testimony to evaluate the
17 evidence in light of what you see, you may become a witness or
18 you do become a witness, not a juror. And as a witness, you
19 may now have a mistaken view of the scene that neither party
20 may have a chance to correct, and that would not be fair.

21 Finally, our law requires that you not read or listen
22 to any news accounts of the case and that you not attempt to
23 research any fact, issue, or law related to the case. Your
24 decision must be based solely on testimony and other evidence
25 presented in this courtroom.

1 Also, the law often uses words and phrases in special
2 ways so it's important that any definitions you hear come only
3 from me and not from any other source. It wouldn't be fair to
4 the parties for you to base your decision on some reporter's
5 view or opinion or upon other information you acquire outside
6 the courtroom.

7 These rules are designed to help guarantee a fair
8 trial, and our law accordingly sets forth serious consequences
9 if the rules are not followed. I trust that you understand and
10 appreciate the importance of following these rules. And in
11 accord with your oath and promise, I know that you will do so.

12 Moving on now, if you wish, you may take notes to help
13 you remember what the witnesses said. If you do take notes,
14 please do keep them to yourself until you and your fellow
15 jurors go to the jury room to decide the case.

16 Please don't let note taking distract you so that you
17 do not hear other answers by witnesses. When you leave the
18 courtroom, your notes should be left in the jury room. Whether
19 or not you take notes, you should rely on your own memory on
20 what was said. Notes are to assist your memory only. They are
21 not entitled to any greater weight than your memory or
22 impression about the testimony.

23 And the trial is going to begin now. First the
24 government will make an opening statement which is simply an
25 outline to help you understand the evidence as it comes in.

1 Next, Mr. Scotton may, but does not have to, make an opening
2 statement. Opening statements, as I have previously said, are
3 neither evidence nor argument.

4 The government will then present its witnesses and
5 Mr. Scotton may cross-examine them. Following the government's
6 case, Mr. Scotton may, if he wishes, present witnesses whom the
7 government may cross-examine. After all of the evidence is in,
8 the attorneys will present their closing arguments to summarize
9 and interpret the evidence for you and I will instruct you on
10 the law. After that, you will go to the jury room to decide
11 your verdict.

12 All right. Before we begin with the opening
13 arguments, I just want to double-check and make sure nobody has
14 any timing issues today. Was there anybody who had a timing
15 issue? I think that is the 4:00 -- is it 4:00 or 4:30 that you
16 need to leave by?

17 A JUROR: 4:30.

18 THE COURT: No problem. We will end by 4:30. I want
19 you to rest assured so you don't worry. If for some reason I
20 seem to have forgotten, raise your hand and I will make sure we
21 finish at 4:30. With that, let's go to the government.

22 MS. MITRANI: May it please the Court, Mr. Scotton,
23 members of the jury. Why are we here today? What is this case
24 about? This is a case of lies, theft, and deception. During
25 the course of this trial, we, the United States, are going to

1 prove to you beyond any reasonable doubt that the defendant,
2 this person right here, Rogerio Scotton, opened dozens, dozens
3 of fraudulent accounts with shipping companies, shipped
4 thousands of packages using these fraudulently created
5 accounts, and didn't pay those accounts.

6 Why did Mr. Scotton ship all these packages? Because
7 Mr. Scotton, the defendant, was in the business of shipping
8 packages. The defendant, Mr. Scotton, operated websites where
9 he would offer things for sale, electronic goods, a variety of
10 matters. His customers would purchase these items and request
11 that they be shipped to Brazil. Mr. Scotton, the defendant,
12 would then send these items to Brazil on behalf of his
13 customers using the shipping companies.

14 And the defendant offered his clients great prices to
15 ship to Brazil. You are going to hear during the course of
16 this trial it's very expensive to ship internationally to
17 Brazil.

18 There's a second aspect of the defendant's case,
19 business. He offered what I term freight forwarding services.
20 What that means is his customers already had stuff, they had
21 items, they had things that they wanted to ship to Brazil. The
22 defendant then would ship these items for his customers to
23 Brazil, or at the very least, he would provide them with the
24 shipping label already filled out so all his customers would
25 have to do would be slap the label on the package and put it in

1 the mail for delivery.

2 And these freight forwarding clients also got great
3 prices to ship to Brazil. The defendant was able to offer his
4 clients great prices to ship to Brazil and make a lot of money
5 for himself because he didn't pay for the shipping services.
6 In a sense, it was a double win for the defendant because his
7 customers would pay him to ship, and then he would ship without
8 paying DHL, Fed-Ex, or UPS.

9 So, members of the jury, in this case, the theft, the
10 theft of the shipping services is mail fraud.

11 There is a second aspect to this case as well, members
12 of the jury. The defendant, as you heard, is Brazilian. He's
13 from Brazil. And he wanted to obtain status, legal permanent
14 resident status, and ultimately citizenship here in the United
15 States. So he married a Cuban national. Her name is Ailyn
16 Mollinedo. And he sought to gain his residency through this
17 marriage to Ms. Mollinedo. And in connection with his
18 application to the United States citizenship and immigration
19 services, he gave them an application. He said a lot of things
20 in the application. And there is also an interview.

21 First thing for purposes of this trial is he said that
22 he was living with Ms. Mollinedo as husband and wife. That was
23 not true. That was a lie. Mr. Scotton, the defendant, was not
24 living with Ms. Mollinedo as husband and wife. He wasn't
25 living with her at all.

1 The second aspect of what we call false statements,
2 and you will hear that's what the charges are, was he told
3 immigration and citizenship services that his last entry, his
4 last entry in the United States was in 1992. That wasn't true
5 either. We are going to prove to you that the defendant's last
6 entry to the United States was sometime in 2008.

7 The significance, as we will prove to you beyond any
8 reasonable doubt and as the evidence will show, is that
9 Mr. Scotton knew that the circumstances under which he entered
10 the country in 2008 would have prevented him from adjusting his
11 status to permanent residence. So therefore he lied. He said
12 his last entry was in 1992. That entry, the method of entry
13 then would not have precluded his adjustment of status to legal
14 resident.

15 Looking at the clock, I lose track of time, good
16 afternoon, members of the jury. Let me reintroduce myself.
17 It's been a long day, I realize. Again, my name is Bertha
18 Mitrani. I am honored to carry the title of assistant United
19 States attorney. And together with Roy Van Brunt, who is a
20 special agent with the FBI, and Nathan Frank, who is an analyst
21 although that is not his formal title, it will be our pleasure
22 and privilege and honor to present the evidence to you
23 throughout the course of the trial.

24 Now, as the judge, as Her Honor indicates to you,
25 these are opening statements. This is not evidence. This is

1 just my opportunity to highlight what we believe the evidence
2 is going to show during the course of this trial.

3 You can think of it like the coming attractions in a
4 movie trailer and the trial itself is the movie. Though I warn
5 you, coming attractions these days give the whole movie. But
6 I'll try to summarize it as best and as concisely as I can.

7 I want to talk a little bit about the charges. As Her
8 Honor indicated, there's been charges filed. And it's called
9 and indictment. And in this case, it's called a second
10 superseding indictment. The only reason I say that is because
11 you will actually see that document at the end of the case.

12 And in that document, in that charging document, there
13 are 27 counts of mail fraud. The defendant has been charged
14 with 27 counts of mail fraud. The exact language of mail fraud
15 is a bit wordy. We will talk about it at the end of the trial.
16 But what I would like to say is, in essence, what mail fraud is
17 is when an individual devises a plan to cheat and steal and to
18 execute or to carry out that plan to cheat and steal. There's
19 either the use of the mail, United States Postal Service, or
20 what's known as private carriers, private, if you will, private
21 mail. And in this case, it's not the United States Postal
22 Service that forms the basis of mail fraud. It's DHL, Fed-Ex,
23 and UPS which I will refer to as the shipping company.

24 So what we intend to prove to you is that the
25 defendant devised a scheme to cheat and steal from Fed-Ex, DHL,

1 and UPS, and to execute, to carry out that scheme, he mailed
2 packages. And each of the 27 counts in the indictment is a
3 specific mailing, each of the -- and we will talk more about it
4 at the end.

5 The last two counts are the false statements counts
6 those two false statements that I have already outlined, he's
7 charged with making a materially false and fraudulent statement
8 to an agency of the government, and we will talk more about the
9 law at the end.

10 So I am going to have the assistance of a Power Point
11 to outline some of the evidence here.

12 Your Honor, do you mind if we dim the lights a little
13 so the jury can see better?

14 THE COURT: Sure, we can do that.

15 MS. MITRANI: Thank you, Your Honor.

16 THE COURT: How's that?

17 MS. MITRANI: Thank you. I think that makes it a
18 little clearer.

19 So that's the name of the case, United States versus
20 Scotton. And as I indicated, the majority of these packages
21 went to Brazil.

22 So the defendant operated a website, many websites,
23 but one was Brazil Express Import and Export. As you can see
24 in the bottom, he has pictures of stuff that he would offer for
25 sale. And I want to draw your attention to the bottom, you

1 will see a phone number, 561-368-7348. You are going to be
2 seeing that number a lot during the course of this trial, so
3 just highlighting it now.

4 The defendant also had another company called Sky Air,
5 Sky Air Global. And there are variations of names, the same
6 name but with slight changes. You are going to see that during
7 the course of this trial. In any event, similar to Brazil
8 Express, the website. And I want you to also notice the
9 airplane emphasizing the delivery aspect, also offered items
10 for sale, and you can even see shipping, shipping throughout
11 there and the goods for sale.

12 As I indicated, how did Mr. Scotton, the defendant,
13 get these items to Brazil? Through the shipping companies,
14 Fed-Ex, DHL, and UPS.

15 Now, how the defendant carried out his scheme had
16 variations, but in essence, the defendant would contact these
17 shipping companies pretending to be Target, Wal-Mart, Triunfo,
18 Apple, Amazon, Citrix, and others, and would open an account
19 under the Wal-Mart name, under the Target name, and he would
20 get an account number and then he would start shipping on those
21 account numbers.

22 Now -- actually, before we get to that, let me tell
23 you that he would open these accounts in one of three ways. He
24 would either open them online or over the telephone. That's
25 going to be a significant factor in this trial because you are

1 actually going to hear recordings. And I want to focus, I
2 think, on one of the companies not listed there, but I want to
3 talk about a company known as Impulse Energy Drink. We expect
4 the evidence is going to show you are going to hear evidence of
5 how and when this Impulse Energy Drink account was opened. You
6 are also going to hear evidence -- I have to hold packages, so
7 if you can't hear me, let me know and I will go back to the
8 microphone.

9 I'm showing you two packages and the shipping labels
10 up on the Power Point. These two packages illustrate the
11 defendant's scheme. Fed-Ex seized these packages once it
12 started catching on to the fraud. So if you look at this
13 package, you will see that it says Impulse Energy Drink. It
14 pretends to be from Impulse Energy Drink. And it has the
15 address of 2234 North Federal Highway, Boca Raton, Florida.
16 This address you are going to be seeing a lot during the trial
17 because this address belonged to the defendant.

18 What you are seeing here, members of the jury, is
19 these -- when you open a private mailbox with Pak Mail Super
20 Postal Center, other of these stores that offer their customers
21 the opportunity to have private mailboxes, you have to fill out
22 forms. So what you can see here is that the defendant's name,
23 Rogerio Scotton, Brazil Express, opening the 2234 North Federal
24 Highway mailbox.

25 Fed-Ex has a right to inspect these packages, which it

1 exercised. And you see inside the packages the brochure from
2 Brazil Express, the defendant's company, which we will prove to
3 you beyond any reasonable doubt. And inside was a shipping
4 label. And the shipping label was a DHL shipping label from
5 Maria Machado to an individual in Brazil. Ms. Machado wanted
6 to send a Christmas kit, as you can see, to Brazil, contacted
7 the defendant's Brazil Express for the freight forwarding
8 service, and got this DHL mail label, weigh bill. You are
9 going to be hearing that term through this Fed-Ex.

10 Of course, Impulse Energy Drink wasn't the defendant's
11 company, another company, and those bills were never paid.
12 Likewise, the same thing, Fed-Ex seizes a package here. It's a
13 different name. It's Paulo from Impulse Energy Drink,
14 different address, PO Box 629, Boca Raton, Florida, which is
15 the defendant's PO box.

16 So this is actually a PO box. It's not a private box.
17 It's actually a post office box that was opened at a postal
18 center -- post office. I think that's what they are called
19 these days. Again, you can see the defendant's name, name of
20 applicant, Roger Scotton, name of his company, Brazil Express,
21 not Impulse Energy Drink, with Box 629.

22 So inside this second Fed-Ex, similar items. The
23 Brazil Express brochure and a DHL label from Muriel Martins to
24 an individual in Brazil. She wanted to forward a baby stroller
25 so that was going to be accomplished through the DHL label.

1 And just to tie a big bow around the Impulse Energy
2 Drink account, you are going to see that, before I explain this
3 check, let me explain that you are going to hear evidence that
4 if you ship with any of these shipping companies, let's say
5 there is a problem with your shipment, it gets damaged, it gets
6 lost, you could make a claim. You could call Fed-Ex, DHL, hey,
7 there's a problem with my claim. You fill out claim forms and
8 DHL settles with you.

9 So the defendant made a claim on the Impulse Energy
10 Drink on a package, and there you can see Fed-Ex cut him a
11 check, Impulse Energy Drink, at the defendant's address, 2234
12 Federal Highway, and this check was deposited into the
13 defendant's bank account. You will hear evidence of all these
14 checks being deposited to various different bank accounts that
15 the defendant controlled.

16 We have spoken about two addresses so far. There are
17 a lot more addresses that you are going to be seeing throughout
18 the course of this trial they feature prominently. Let me just
19 highlight them. By the end of the trial, you might be able to
20 recite them yourself. You are going to see 934 North
21 University Drive, No. 329, Coral Springs, Florida. That's a
22 Pak Mail. 160 West Camino Real, No. 152, that's a Super Postal
23 Center. 398 Southeast Mizner Boulevard, Apartment 1921, Boca
24 Raton, that's where the defendant lived. And 7797 Golf Circle
25 Drive in Margate, that's where the defendant's mother and

1 stepfather live. You are going to see these addresses on
2 packages. You are going to see them on all sorts of documents
3 related to this case.

4 Okay. As part of the investigation, members of the
5 jury, the FBI Special Agent Van Brunt worked with what we term
6 a source. And he will testify here. His name is Rodrigo
7 Mafra. He's Brazilian. I don't know if you noticed that the
8 websites were in Portuguese. They weren't in English. So
9 Agent Van Brunt had his source access the defendant's website.
10 It was Sky Air. And on February 22, 2011, he accessed
11 www.skyaironline.com. He ordered a Sony cybershot digital
12 camera for \$219.99. He inputted an address in Brazil as the
13 destination. He was billed, and these communications happened
14 over email, just so you know.

15 He was billed \$344.99. He was told that \$125 would be
16 to ship to Brazil. He was instructed, the source, through
17 email to deposit this into a TD Bank account or a Bank of
18 America account, either one, which he did. He chose, working
19 of course with Special Agent Van Brunt, this was basically
20 Special Agent Van Brunt directing him to do it and he was
21 monitored by Special agent Van Brunt, the FBI deposited the
22 money into the Bank of America account 2582 which is registered
23 to Sky Air Global. The defendant is listed as the vice
24 president. The other one is registered to Sky Air Online Corp.
25 But we didn't pays twice. They paid once. And lo and behold,

1 a Sony cybershot camera was, in fact, shipped to Brazil. Only
2 it was shipped on an account of Citrix, a fraudulent account of
3 Citrix, not on a Sky Air account, and of course, it wasn't
4 paid.

5 And there's going to be other evidence. As I
6 indicated, I'm trying hard to make these coming attractions not
7 the whole show. But Special Agent Van Brunt had interactions
8 with the defendant directly, and you are going to be hearing
9 about that. And you are going to be seeing documents, all
10 sorts of different kinds of documents.

11 Oh, what you see on the Power Point, that is the
12 shipping label, the DHL shipping label, and as you can see it
13 says Citrix with an address in Fort Lauderdale. And like we
14 indicated, it made it all the way to Brazil. DHL was aware of
15 the investigation, came back, and it's our intention to show
16 you the package with the camera that was shipped on the
17 fraudulent Citrix account.

18 Hopefully this gives you a flavor of what the
19 government expects to prove. As I indicated, there is a second
20 aspect of the case, and you are going to see a copy, certified
21 copy, of this form. This form is called an I485. It is the
22 form that the defendant filled out to adjust his status to that
23 of permanent legal resident. And as I indicated earlier, he
24 puts his last date of arrival as 1992. We are going to prove
25 that's not true. And he listed Ailyn Mollinedo, his wife. He

1 indicates they are living together.

2 You are going to see a recording. Mr. Scotton, the
3 defendant, had actually an interview with immigration and
4 citizenship services, and he makes a lot of statements there
5 including that he was living with Ms. Mollinedo. But we will
6 prove to you that he wasn't.

7 So with that, members of the jury, I thank you for
8 your time and attention and we look forward to presenting the
9 case for you. And the next time you will get to hear from me
10 directly is during closing arguments where we get to summarize
11 the evidence for you and talk, as I indicated before, more
12 about the law. Just remember, mail fraud applies to the
13 shipping company. If you have a scheme to cheat and steal,
14 that's mail fraud. Thank you so much.

15 THE COURT: Thank you very much.

16 All righty. Mr. Scotton, would you like me to turn
17 the lights back on or would you like me to leave them like
18 this?

19 MR. SCOTTON: I'm trying to understand how I am going
20 to drag this computer to the jury, please.

21 THE COURT: Just one moment, please.

22 MR. SCOTTON: Or if there is a way.

23 THE COURT: Just one moment.

24 Can I have Ms. Mitrani and Mr. Scotton up here for
25 just a minute, please.

1 (Thereupon, the following was heard sidebar.)

2 THE COURT: Hello. Can we have Mr. Scotton plug his
3 computer into the system over there?

4 MS. MITRANI: Of course. Do you want to maybe take a
5 ten-minute break?

6 THE COURT: We can do that. We will do that. Thanks.

7 MR. SCOTTON: Your Honor?

8 THE COURT: Just one minute. Okay?

9 (Thereupon, the following was heard in open court.)

10 THE COURT: We are going to take a brief break so that
11 we can set up Mr. Scotton's computer for the system, and that
12 way if anybody needs to use the restroom or anything, you can
13 do that now while we are changing the scenery a little bit.

14 Let's all rise for the jury and we will come back at
15 3:15. Remember my instructions, don't discuss the case with
16 anyone, don't disburse any information about the case, and
17 don't do any independent research into the case. We will see
18 you at 3:15.

19 (Thereupon, a juror exited the courtroom at 3:07 p.m.)

20 THE COURT: All right. Mr. Scotton, since we don't
21 have the jury here, if you would please return to your seat and
22 that way we can have everything on the microphone.

23 Was there something we needed to address before we set
24 up for your opening?

25 MR. SCOTTON: Your Honor, since I am going to be use

1 my computer and the only one video that I was trying to present
2 during this opening statement, I cannot show to the Court and
3 the prosecutor right now through the computer. It's not a big
4 deal. It's just one interview, shows some events that
5 participated here with the community. I want the jury to know
6 what they are dealing here.

7 THE COURT: You can't show an interview anyway. So we
8 are not -- the time -- I'm sorry, Mr. Scotton, I gave you time
9 yesterday and I told you I would see any videos you had. You
10 didn't have them. Now, I would like to see it, but we don't
11 have time. I'm not going to make the jury wait while I watch
12 the video. So you can put on the photographs that I have
13 already told you you can put on. The only things you cannot
14 put on are the newspaper articles that are in Portuguese
15 because these are hearsay and the two videos because, although
16 I tried to watch them on my computer in the 20-minute lunch
17 break, I wasn't able to do so. For whatever reason, it
18 wouldn't play. I apologize, but you can't put the videos on.
19 If you want me to consider whether the videos can come in as
20 evidence during your trial, I will be happy to do that once we
21 have excused the jury. Okay?

22 MR. SCOTTON: Okay.

23 THE COURT: All right. Let's's go set up for
24 Mr. Scotton, please.

25 THE COURT: While we have all the parties here,

1 Mr. Creary advised me that Ms. LaBarbera advised him that her
2 significant other works for Citrix. So after I excuse the jury
3 at 4:30, I can keep her behind and we can ask her follow-up
4 questions and that would be my intention of how to deal with
5 this. Does anybody have an objection?

6 MS. MITRANI: No, Your Honor.

7 THE COURT: Mr. Scotton?

8 MR. SCOTTON: I was --

9 THE COURT: You didn't hear?

10 MR. SCOTTON: Yeah.

11 THE COURT: Okay. Mr. Creary advised me that
12 Ms. LaBarbera advised him that her significant other works for
13 Citrix. So what my intention is after we excuse the rest of
14 the jurors at 4:30, we will keep Ms. La Barbera here, and I
15 will just inquire to make sure that there is not a reason why
16 she cannot stay on the jury. All right?

17 MR. SCOTTON: Yeah.

18 THE COURT: And I need you to say yes or no, please,
19 Mr. Scotton.

20 MR. SCOTTON: Yes, Your Honor.

21 THE COURT: Thank you.

22 Have we been able to get it to work?

23 MR. KREISS: Not yet.

24 THE COURT: I think we are in the process of trying to
25 get in touch with the IT guy. Mr. Creary went to see if he

1 could find a computer that the Court has that he could use.

2 Here's Mr. Creary with the Court's computer. We can
3 try that one if you want. If we are going to try that one, we
4 do need to get it set up. Mr. Scotton, it's your choice.
5 Would you like us to see if we can get that one set up?
6 Mr. Scotton, would you like us to see if we can get the Court's
7 computer to work there?

8 MR. SCOTTON: I think I found a way here because I
9 have the software so I adjust read what I needed.

10 THE COURT: It's not showing up on the computer, is
11 what I am saying.

12 MR. KREISS: I have it on here. They are going to be
13 able to put it on --

14 THE COURT: We don't know if we can or not. We are
15 willing to try if you want us to, but you need to let us know
16 now because the jury is waiting. All right.

17 Mr. Scotton, I'm sorry, what was your decision?

18 MR. SCOTTON: The court laptop.

19 THE COURT: All right.

20 MR. KREISS: Your Honor, may I step out for a moment
21 to make a telephone call?

22 THE COURT: Yes.

23 Mr. Scotton is going to need to use that plug, I
24 think. Got it?

25 All right. Are we ready?

1 MS. MITRANI: Your Honor, if I could take something up
2 real quick.

3 THE COURT: Sure. Mr. Scotton, are you listening?
4 Mr. Scotton?

5 MR. SCOTTON: Yes, Your Honor.

6 THE COURT: All right. Ms. Mitrani.

7 MS. MITRANI: I don't think I have the transcript, but
8 it's my understanding that you ruled that the recordings with
9 the exception of the undercover were admissible. Is my
10 understanding correct? And right now I'm referring --

11 THE COURT: What I ruled was that I hadn't heard
12 anything at this point that would suggest that there was an
13 authenticity problem. Now, if Mr. Scotton presents some kind
14 of evidence when you attempt to introduce that, then I would
15 rule on it. But I didn't rule on it yet.

16 MS. MITRANI: I may, when he's done, I may ask him if
17 he's going to have any objections to something I may introduce
18 this afternoon and that will determine how quickly or how
19 slowly.

20 THE COURT: Mr. Scotton, are we almost ready?
21 Mr. Scotton, are we almost ready?

22 MR. SCOTTON: Yes, Your Honor.

23 THE COURT: And can we turn it off of the screens
24 until the jurors are here and Mr. Scotton is ready to use it?

25 Thank you. Let's all rise. We will bring the jury

1 in.

2 (Thereupon, the jury entered the courtroom at
3 3:22 p.m.)

4 THE COURT: Welcome back. Please be seated. Thank
5 you. I'm sorry it took us a few more minutes that we
6 anticipated, but I think we have it under control now.
7 Everybody please be seated.

8 Mr. Scotton, whenever you are ready, you may proceed.

9 MR. SCOTTON: Good afternoon, ladies and gentlemen.
10 My name is Rogerio Scotton. First of all, I want to hope you
11 guys have a little patient to me. As the jury instruct, I'm
12 not a lawyer. I am representing myself during this trial here.
13 If anybody do not understand my accent, please don't feel, you
14 know, uncomfortable to let me know. I need to make sure you
15 guys understand what this case is all about.

16 I'm going to try to put some pictures on the screen in
17 a little bit. I want you guys to get familiar with my
18 character, who I am.

19 I have been in this country for 25 years. During this
20 time in my life in here, I have been a huge part of this
21 community. I have helped so many organization, even the
22 Department of Justice. Now been incarcerated for 22 months for
23 mail fraud.

24 THE COURT: All right. Sidebar, please.

25 (Thereupon, the following was heard sidebar.)

1 THE COURT: You are not allowed to refer to the fact
2 that you are in custody. I'm sorry, but you can't.

3 MR. SCOTTON: I don't know that.

4 THE COURT: I'm telling you now, don't do it again.
5 You also can't refer to punishment at all. That's a matter for
6 only the Court to decide and only if you are convicted. The
7 jurors are not allowed to take into account any kind of
8 punishment.

9 Does the government have anything else?

10 MS. MITRANI: No.

11 THE COURT: Thank you.

12 (Thereupon, the following was heard in open court.)

13 THE COURT: You may proceed, Mr. Scotton.

14 MR. SCOTTON: Government has accused me of mail fraud.
15 They say they have such huge evidence that I commit such a
16 thing. Investigation, they say they started this investigation
17 in 2008. I am going to present to you guys that even before
18 they start this investigation, I have report many times the
19 Department of Justice such a fraud. And those reports are
20 going to show that they told me it is not a fraud. It is a
21 civil matter.

22 I am going to present evidence also to the jury here
23 that I used to use a shipping company that used to handle every
24 aspect of shipping. Prosecutor has put on the screen for you
25 guys to see look like I have this huge operation. I have

1 several different websites. That is not true either. At one
2 point I have a company called Brazil express. During a lot of
3 issues and problems with with Brazilian customs, I decided to
4 stop the business.

5 Later on, the shipping company has offered me a better
6 service. I started the company Sky Airline. For to I have six
7 different address is not true either. If it is, then they
8 missed two. I used to live in Boston and New York City a long
9 time ago. Those addresses to be PO boxes.

10 Those pack and ship stores is companies that I was
11 hiring to pack all my goods. I need someone to take care to
12 pack properly that I can ship to Brazil. The first company I
13 use, they have a problem with me because I have too much auto
14 parts, hugh parts, bumper, door, they couldn't handle. So I
15 have to find another one. So I went into this other place in
16 Boca Raton in 161 -- 160 West Camino Real. It is a company
17 there the fact that it's too much huge parts, they don't have
18 space for me to store my parts. I found a place close to my
19 mother's house on the address Margate Boulevard. I start doing
20 business with them. Until Federal Express offer me to open a
21 store in Boca Raton.

22 So for four years they say that I steal money from
23 them. In 2011 they offer me to open an authorized shipping
24 center. I'm stealing, but they offer me license to represent
25 them. So I will be able to prove that to the jury. All these

1 years of a professional race car driver, I'm going to show the
2 jury that's what I am. I am a professional race care driver.
3 Everything I know is race.

4 I tried to start a business, thought this might be
5 something good. I trust people to handle the business and they
6 done what they done. I am going to be able to produce to the
7 jury all the proof, all the factors here that I am the one been
8 scammed here. This is not about mail fraud case here. We are
9 not here for this. Definitely not here for that.

10 We are here because I find out that those companies
11 been involved in huge drug scam and I blow the whistle. I have
12 evidence, major people from the corporate office involved in
13 the drug scam. I am going to be able to bring in pictures with
14 packages with opium shipping all over the U.S. You know how
15 they do that? They use third party shipping companies because
16 God forbid something happen. It is our name on the line, not
17 them. UPS has paid the government last year stop the
18 investigation \$40 million. That's right, jury. That's the
19 easy way to go ahead and blackmail someone. Start with the
20 stop the investigation, pay us the money. No one went to jail.
21 No one. No one has been indicted, but they get to pay
22 \$40 million.

23 Fed-Ex is right now under the investigation for the
24 same illegal drug charge. But I am the one here charged with
25 fraud. When I report, they claimed it is not a fraud, it is a

1 civil matter. Look at me here in front of you today trying to
2 fight for my rights, try to fight for my life, go back to my
3 race career.

4 The person has done this also has left the country.
5 He's in Brazil right now enjoying life and I'm here fighting
6 for mine. I will be able to present to the jury also that the
7 claims of the government say that I engaged to a fraud marriage
8 is not true either. I living here for 25 years right now,
9 jury, 25 years of my life. I have been previous married to
10 Brazilian woman. They can't do anything for me. My mother can
11 do. She's a citizen. My brother also is a citizen.

12 Even before I met my wife, I have two visas approved
13 from immigration. They approved me two visas. They claim that
14 I enter United States to live in 2008, and I am going to prove
15 that I didn't live in 2008 in this country.

16 If immigration made a mistake, put it in the system.
17 Why are they going to make me pay for it. Besides of the point
18 if I entered this country 2008 legal, why they approve me two
19 different visas from race teams that will have applied for me.
20 They got the technology so they can all say, oh, we don't know.
21 Well, they know because I don't live under the bridge. My life
22 is all over the internet. My life all over YouTube as a race
23 car driver, interviews, show. I mean, people seems to know me.

24 As a matter of fact, a couple days ago someone just
25 passed by like, oh, you race car driver. How you know. But

1 people know me as race car driver.

2 They claim I engage in a sham marriages. The
3 government is going to try to bring a lot of witnesses here. A
4 lot of the witnesses has been intimidated. The reason they
5 have been intimidated, because they have done crime of their
6 own and because now they face prosecution. That is why they
7 are doing that.

8 MS. MITRANI: Objection, Your Honor.

9 THE COURT: Sustained. There's no evidence that any
10 witness has been intimidated. You will be able to
11 cross-examine the witnesses, Mr. Scotton.

12 MR. SCOTTON: Yes, Your Honor, I understand, but
13 there's no --

14 THE COURT: We are not going to argue about it now,
15 Mr. Scotton, but you can continue your opening.

16 MR. SCOTTON: People are going to come here to lie to
17 you guys because in all the cost, that's what their job is, to
18 send people to jail to get a conviction. That's what they are
19 here for. It doesn't matter. You are not guilty to them.
20 This is all about fair or not fair. This is the system, right?
21 But I'm going to be able to prove this to this jury that I have
22 not committed the charge that they charged me for.

23 I trust people to handle my business. There's a lot
24 of people from those companies involved in this kind of
25 business. They the one that do wrong. They defraud their own

1 company. This evidence I am going to present to you guys going
2 to prove that because they are involved. I blew the whistle.
3 They didn't shut me up. That's the way to shut me up, put him
4 in jail and then later on let's deport him out of this country.
5 That's what they tried to do.

6 MS. MITRANI: Your Honor, objection. Sidebar?

7 THE COURT: All right. Let's have a sidebar, please.

8 (Thereupon, the following was heard sidebar.)

9 MS. MITRANI: Your Honor, I want to say, I loathe to
10 object during openings. I can probably count on one hand and
11 have fingers left over how many times I have done it in my
12 career. Your Honor told him not to talk about jail and
13 incarceration and he keeps on doing it.

14 THE COURT: Mr. Scotton.

15 MR. SCOTTON: When did I talk about incarceration?

16 THE COURT: You just talked about jail. You can't
17 talk about jail.

18 MR. SCOTTON: Your Honor, when did I talk about jail
19 just now?

20 THE COURT: I'm not going to argue with you,
21 Mr. Scotton?

22 MR. SCOTTON: I'm not going to talk about jail.

23 THE COURT: Don't talk about jail. All right?

24 MR. SCOTTON: Yeah, I didn't talk about jail.

25 THE COURT: Very good. Thank you.

1 (Thereupon, the following was heard in open court.)

2 MR. SCOTTON: This is a race, jury.

3 THE COURT: We are going to give you a microphone,
4 Mr. Scotton, in just a moment, please. You have Officer
5 Hildebrand.

6 MR. SCOTTON: This is one of the race that I done they
7 called 12 hours of LeMans in Atlanta. As you can see, you
8 know, I need to marry a Cuban citizen, you know, when I can
9 choose so many different ones.

10 As you see during my life in this country here, I come
11 in here with a dream. And I work really hard for. I arrive
12 back to this country in 1989. I first job selling books on the
13 streets of New York City. I did everything to survive, work
14 construction, delivering pizza. I put myself through school
15 and I fight for my dreams and later on I became a professional
16 race car driver.

17 Government say that so many checks of claim has going
18 to my account. That is true. Those companies, there's a lot
19 of failures, a lot of negligence. They lots of employees
20 stealing and they pay the claims. If I ship a package, they
21 lost my package, they need to pay me.

22 But the funny thing also, the jury going to be able to
23 see in records here and evidence is that if those claims, if
24 those accounts was fraudulent, why they paid the claim?
25 Through this process, you are going to learn how long it take

1 to pay a claim. What is the process really for claim? Not
2 like the prosecutor just say, hey, give a call and say we lost
3 a package, pay me. No, it's not like that. She's a lawyer.
4 And she's a good one. I can tell. But she don't know this
5 business as much I do because I have been involved in this
6 business for five years. Yes, I have been shipping packages to
7 Brazil to my clients. People buy auto parts, electronics from
8 my website, and I ship it by using another company.

9 Some of the accounts they say is fraudulent, there is
10 not fraudulent accounts. Fraudulent accounts is something you
11 create yourself, right, you just falsify things and create it
12 yourself. Those accounts are real accounts and belonging to
13 those companies. They sold by those employees to the parts
14 shipping company. And I have a lot of evidence that I am going
15 to prove to the jury here, accounts that has been sold during
16 those years of the operation of other third party shipping
17 companies, involvement of management from those companies. It
18 so easy to point the finger at one person. They point a finger
19 to me for whatever reason I have. Because I blow the whistle
20 on drug scam they have going on.

21 I am going to have some police officer come here to
22 testify, and they are going to tell who I am. They are going
23 to tell how many times that I called them to report some
24 behaviors like that. But every single time, I don't
25 understand. Every single time I go to the Department of

1 Justice to report those behavior, it seems never is a problem
2 and nobody seems to want to investigate it.

3 Four years later, they charge me with that crime, the
4 crime that I have been reporting since 2007. You are going to
5 see some evidence, some witness testify of those companies, not
6 only one company, different third party shipping companies.

7 A lot of those companies over there in Brazilian
8 community specialize in shipping international to Brazil. And
9 that's what I have to hire, one of them, because I am not a
10 shipping company. I took advance on the job, yeah, that
11 service, yeah, I did it. I resold the service they give to me.
12 I sold it. But I did not commit this fraud they accuse me for.

13 I did not make any false statement to immigration this
14 government try to accuse me for. You are going to see so much
15 evidence on that. You are going to see immigration office come
16 here to testify. You are going to see immigration lawyers here
17 to testify.

18 Unfortunately you are going to see some people here
19 come and try lie, but they have a reason to lie. They have to.
20 They have to defend themselves, their life, right. When you
21 get to that point that the ship is going to go down, you know
22 how that goes people throw you under the bus. People have to
23 save their own life. Better them than me.

24 This government claim they have such a strong case
25 against me, so much evidence that easily make the jury convict

1 me. One thing I am going to tell this right now, the jury
2 never going to hear me say one thing like I didn't ship it
3 back. I did it. I have a company. Only way they claim to us.
4 I never hide my name. I never hide my identity.

5 For four years, they seem to know me. Seems to be
6 every single person knows me. Fed-Ex knows me. All the
7 employees in Fed-Ex knows me. Vice president of Federal
8 Express doing sponsorship with me in 2004. They sponsor whole
9 season of car for Fed-Ex. Every single person in that company
10 knows me.

11 I am stealing from you, you are going to approve me to
12 open a store in 2011? It doesn't fit, and I'm going to prove
13 you why. It doesn't make any sense, not to me.

14 I hope the jury have a patient with me. I'm going to
15 be so emotional. This is the story of my life. For many years
16 I thought I was safe living in United States. I used to
17 believe in justice. Not anymore. After I saw so far, after
18 everything I have done for this country, I don't believe in
19 justice anymore. People going to come in here to stand in
20 front of you guys to lie. They need the conviction, jury.
21 That's what they need. That's what they here for. I'm just
22 here to go ahead and make you understand what this business all
23 about and people was involved and why are they doing this to
24 me.

25 My marriage is destroyed, no doubt. It's gone. It's

1 over. This will be the third marriage. My family is
2 devastated with this whole situation. But for every worst
3 thing to happen in life, somehow we can take good things too.
4 I believe in God. That's why I'm standing in this trial for.
5 I refuse to sign any deal with the government when they offer
6 me because I'm innocent. I'm not signing a deal.

7 If they discuss the rest of my career, rest life, I
8 have to get deported back to Brazil, until the day I die, I am
9 innocent. Within my knowledge that I have, I am going to try
10 to prove to you guys.

11 Like I say, people are going to come in here and lie
12 to you guys. They have commit crime of their own. Some of
13 them even looking for a better deal for jail. They made a lot
14 of deals with the government. Let's make the best deal we can
15 here and go ahead and throw these guys in jail.

16 Have patience with me, please. That's all I ask. And
17 you guys are going to be at the end of this whole trial day,
18 it's going to take a month or even two weeks, I really hope in
19 my best knowledge that I can prove to you guys the government
20 has no idea what they talking about.

21 No one can go ahead and commit such a fraud for four
22 years. We are talking about authorized companies. They have
23 their own security companies. If they know my address, how
24 come I didn't get a bill? If they know where I live or who I
25 am, nobody come to say anything to me. Let's go ahead and give

1 you my store. He's a good thief. He's doing so well. We will
2 give him a store. Let's give him a license and represent our
3 company. Something here is fish. Something here stinks.

4 As you guys saw those pictures, I got a good family.
5 My father is Brazil, work for the government. Last year he run
6 to become a senator in Brazil. Unfortunately, he have to drop
7 because cancer is really killing him little by little. I have
8 a great mother that living here 70 years old, legally blind.

9 I always involved with kids. I always help Miami
10 Children Hospital. You saw some of the pictures. You will see
11 more evidence here. Even the Justice Department, I contribute.
12 I raise money for them. I used to have a sergeant from
13 sheriff's department used to live with me for two months. This
14 whole time in my life here, I have been associated myself with
15 the police office, Department of Justice. You know, and these
16 people now try to claim that after 25 years I live in this
17 country become a criminal. Of what, shipping packages?

18 You guys going to see 2012 I lost a huge contract of
19 \$2.5 million to run full-time in NASCAR because of this
20 accusation. I lost that contract. Someone making money in
21 race really going to ship packages and not pay the shipping
22 costs? Something here stinks and hurts.

23 You know what it is to be accused, get so desperate to
24 prove you have not done anything wrong, but I can prove that.
25 This is insane. I cannot believe this happened to my life. I

1 didn't come -- I left Brazil when I was 18 years old. Now I'm
2 43 years old. I didn't left Brazil for this. I didn't went
3 put myself through school become a race car driver to be now
4 called a scumbag or some kind of guy to defraud people. That's
5 not me. This is not me.

6 They, the government, they got power, they got money,
7 and they need to keep the rates up. It's all about conviction
8 for them.

9 I appreciate for you guys' time. I know you guys got
10 your own life outside. I wish we not even here having this
11 conversation today. I don't have to tie up your life because
12 my life now is in a hole. But I promise you in the end of this
13 case, the evidence I'm going to prove to you guys, you guys are
14 going to come back and say that I'm not guilty. And I am going
15 to go back to my life. I hope I can get health again and back
16 to my normal life race car. Thank you.

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

4/10/15

s/ Tammy Nestor
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