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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

MARIA LUISA JOHNSON, CARMELIA DAVIS-RAINES,))	
CHERYL MUSKELLY, PAULINE ROBINSON, ELAINE))	
SEAY-DAVIS AND TONI WILLIAMSON,)	
)	
PLAINTIFFS,)	CASE NO.
)	15-2-03013-2
VERSUS)	SEA
)	
SEATTLE PUBLIC UTILITIES, a department of))	
CITY OF SEATTLE, a municipality, RAY))	
HOFFMAN, individually, SUSAN SANCHEZ,))	
Individually, DEBRA RUSSELL, individually,))	
and GUILMETTE REGAN, individually,))	
DEFENDANTS.)	

Proceedings Before Honorable SUZANNE PARI SIEN

KING COUNTY COURTHOUSE
SEATTLE, WASHINGTON

DATED: AUGUST 15, 2016
AFTERNOON SESSION
A P P E A R A N C E S:

FOR THE PLAINTIFFS:

BY: JACK SHERIDAN, ESQ.

FOR THE DEFENDANTS:

BY: PORTIA MOORE, ESQ.,
 TED PROSISE, ESQ.,
 ARTHUR SIMPSON, ESQ.,
 SARAH TILSTRA, ESQ.,
 GIANCARLO UREY, ESQ.,
 DOLORES A. RAWLINS, RPR, CSR, CRR, CRC, RSA
 OFFICIAL COURT REPORTER FOR
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P R O C E E D I N G S

(AFTERNOON SESSION)

THE BAILIFF: All rise.

Court is in session.

The Honorable sue Suzanne Parisien, presiding in the Superior Court, in the State of Washington, in and for King County, Department 42.

THE COURT: Please be seated, everyone. Thank you.

All right, this is the last batch of jurors that we have. Let's hope that we have some good luck.

MR. SHERIDAN: Your Honor, before we bring them in, I would like to put something on the record.

THE COURT: Sure.

MR. SHERIDAN: So, I could be wrong, but I think that it appears that the panel that we have so far are pretty much all caucasian folks.

In light of the court's decision in the Saint Caille case, I think that we ought to maybe try to do better, if I may just read a snort passage for the record. Judge justice.

THE COURT: Everyone feel feel to sit.

MR. SHERIDAN: Justice Wiggins wrote:

"For a practical standpoint, studies suggest that

1 to compare the diverse jury, all-white jurors tend to spend
2 less time deliberating, make more errors and consider fewer
3 perspectives." That is from the justice's imperative
4 report.

5 He writes:

6 "In contrast, diverse juries were significantly
7 more able to access reliability and credibility and avoid
8 presumptions of guilt and fairly judge criminally accused
9 in a criminal case. By every deliberation measure
10 heterogenous groups outperformed homogenous groups."

11 These studies seem to confirm what seems obvious
12 from reflection: A more diverse group of juries has a
13 result of a more diverse trial.

14 I know that it is of nobody's making, but this is
15 the reality that it appears that we are about to be put in
16 a position where we are picking a jury that is just going
17 to be caucasian men and women. Even if we bring in 20
18 more, they are going to be -- we know that, once you are
19 down past a certain point there is no meaningful way to get
20 to them, even if they are persons of color.

21 I think that even though that it is a delay, I
22 think that we ought to try to figure out a way of picking a
23 new panel that has something more representative of the
24 group.

25 I think that this -- I think that this 14 percent
Dolores Rawlins, RPR, CSR, CCR, CRR, CRC, RSA, Official Court Reporter

1 Asian people in the King County and something like 8
2 percent African Americans, we ought to be able to have
3 better diversity, I think that it would give us a better
4 trial. I have said my piece.

5 THE COURT: Counsel -- I will let you speak in a
6 moment, counsel. But let me say that I am very familiar
7 with that case. I have had it brought up to me before in
8 the criminal context.

9 I will say what I said in the criminal context,
10 which is unless there is evidence of deliberate exclusion
11 from jury pools there is nothing that I can do.

12 MR. SHERIDAN: Yes. I want to throw something out
13 there.

14 THE COURT: It is the law.

15 MR. SHERIDAN: You and I go through this all of
16 the time, right, when there is a long trial, we strike all
17 of the people, who were working for minimum wage, black,
18 white, everybody, because we just do, because they can't
19 afford it.

20 THE COURT: Right.

21 MR. SHERIDAN: Perhaps what we should be thinking
22 about is creative ways to let them to be on the juries,
23 perhaps.

24 I know this this happens in Japan or stuff like
25 that, perhaps we should have trial two days a week and have

1 people on the panel, who then can work their five days and
2 come to us and beyond. So that the juries aren't made up
3 of Microsoft and Boeing engineers, which is really what we
4 have.

5 THE COURT: I agree. What I can tell you is that,
6 as you may know, that is lawsuit right now pending just
7 filed against King County Superior Court for lack of
8 effective jury pay. That that leads to the problems that
9 we have.

10 I am not sure how that is going to resolve. But I
11 don't have the authority to do that. I suggest that we --
12 that that mechanism, although that it is appealing, would
13 end up excluding all sorts of other people, who can't take
14 off two months working two days a week, childcare issues,
15 all kinds of other things. I think that we need to be
16 thinking of more creative things.

17 But today, right now, sitting where I am, I can't
18 do anything.

19 I can't empaneled a new jury. I certainly can't
20 ask folks to do it just two days a week. I hear what you
21 are saying.

22 MR. SHERIDAN: I understand.

23 The one thing that I did want to say, I hope that
24 you will at least spend a moment reconsidering our motion
25 for our expert it is right along Justice Wiggins'

1 statements.

2 THE COURT: I understand. I don't believe that
3 Dr. Greenwald's opinions not play in this. I understand
4 your argument. I have heard it.

5 MR. SHERIDAN: Thank you.

6 MS. MOORE: Just quickly, we have a number of
7 potential jurors of Asian descent, a juror who is of Indian
8 descent. We have a juror coming up, juror number 91, who
9 may know my co-counsel.

10 THE COURT: We will find out. We will flush it
11 out. No worries. What is her number, number 91?

12 MR. MOORE: Number 91 I believe that juror is
13 African American.

14 MR. SHERIDAN: Thank you, judge.

15 THE COURT: Let's try to get some bodies in the
16 box.

17 (Jurors entered the courtroom.)

18 THE COURT: Ladies and gentlemen of the jury,
19 please, feel free to sit. We are standing for you out of
20 respect. You don't need to stand for each other. We
21 assume that you respect each other.

22 Good afternoon, everyone. Please be seated.
23 Thank you so very much for sticking with us today. We are
24 going to get right down to it here.

25 First, I want to say I am Judge Parisien. I am
Dolores Rawlins, RPR, CSR, CCR, CRR, CRC, RSA, Official Court Reporter

1 happy to have you here. Hopefully, you saw the video and
2 heard from a judge this morning. We know how grateful we
3 are for your service, particularly when it is sunny out in
4 August. We are very, very grateful. We will get right
5 down to it and try to figure out who among you may have
6 some hardships that will make service impossible.

7 so I will have you all please stand to swear you
8 in and make sure that you are all under oath.

9 (The clerk of the court swore in the jurors.)

10 THE COURT: Please be seated, everyone.

11 So we are going to talk about hardships. Let me
12 first tell you a little bit about this case, so then that
13 you can think about whether or not you actually have a
14 hardship.

15 This is a civil case. So it is not a criminal
16 case. It involves allegations of work-place
17 discrimination. It is anticipated that this case will take
18 four weeks to try.

19 So we expect to have you folks all done and
20 resuming your otherwise scheduled activities around
21 September 9th. We are not in session on Fridays. So on
22 Fridays, you will do your whatever it is that you would
23 like to do on Fridays, including work or others things, or
24 you will have that day to yourself.

25 The only exception could be if we are

1 deliberating. If you folks are in deliberation that last
2 Friday, on the 9th, we don't do trial on Friday. We don't
3 do testimony of the witnesses. We do allow, of course,
4 jurors to deliberate. That is the only exception.

5 Let me tell you what I mean by hardship. I know
6 that different judges have different standards. I see
7 hardship as a pretty -- I mean it when I say hardship. I
8 know that everyone is sacrificing already to be here today.
9 It is a big deal. We are grateful to you.

10 But our country doesn't ask that much of us as
11 citizens. Some of us can serve in the military, some of us
12 can't. This is one of the few things that our country asks
13 of us. That is why you look around I see all of the
14 pictures on the wall are all courtroom cases and all are
15 involving jurors.

16 To me, two things, one, I think that they are
17 beautiful. Also I want to show jurors and parties how
18 important that I think that our system is and how important
19 jurors are. I have them hanging on my wall. Let me tell
20 you what I consider to be a hardship inconvenience is not a
21 hardship. I know that you are all inconvenienced. That is
22 the way that that is.

23 Hardship means if you have tickets, you are going
24 to Vancouver, you have tickets to go to Chicago, wedding,
25 blah, blah, blah, tickets purchased already in your pocket

1 that is a hardship.

2 You know, if you work for yourself or you work for
3 a small employer, or an employer that doesn't pay you to be
4 on the jury service and you are losing that money would
5 mean that you couldn't pay your primary bills, you know,
6 your rent, your food, utilities, that is a hardship.

7 If it means that you will have less money for
8 discretionary things at the end of the month, that is not a
9 hardship. That is just a sacrifice that we ask that you
10 make.

11 If you have a young children or perhaps vulnerable
12 adults or parents that you take care of and you have no one
13 to relieve you, that would be a hardship. If you have a
14 schedule medical procedure not an annual exam, a procedure
15 that has long been scheduled and cannot easily be
16 rescheduled, that could be a hardship.

17 Other than that I consider that a category of
18 inconvenience. I know that I am confident that you -- if
19 you are chosen to serve on this jury you will find the
20 experience to be completely rewarding and worth the
21 inconvenience because about 90 percent of all jurors polled
22 said that they found it to be satisfying and they are glad
23 that they did it.

24 That is my take on it. Having said that, please,
25 raise your card, your jury number cards nice and high and

1 please leave it up until I rattle off your number, all
2 right. If you think that you have a hardship based on what
3 I just said, raise your card for me.

4 All right. Juror numbers 81, 82, 83, 91, 85, 86,
5 95, 96, 88, 89, 99, and 90. All right.

6 So, juror number 81, tell me what your hardship is
7 please.

8 A JUROR: Tickets to Hawaii on the 31st, a wedding.

9 THE COURT: Juror number 82.

10 A JUROR: I am self-employed. If I am not there to
11 open my store, the store stays closed and I don't make my
12 overhead and don't make any money at all.

13 THE COURT: Thank you, juror number 82.

14 Juror number 83.

15 A JUROR: I have family that I have to check in and
16 take care of.

17 THE COURT: You are taking care of relatives?

18 A JUROR: Yes.

19 THE COURT: That is what you do, your primary work
20 during the day is caring for family members?

21 A JUROR: Once in a while, but upcoming.

22 THE COURT: Upcoming?

23 A JUROR: Yes.

24 THE COURT: Like how many days are we talking
25 about.

1 A JUROR: I don't know yet. It is on call, maybe
2 have to have some time available to allow the schedule to
3 fit in there. Otherwise, I can -- I don't know if my, what
4 I am saying, I can't come here and can't be two places at
5 once.

6 THE COURT: These are relatives that you take care
7 of?

8 A JUROR: Yes.

9 THE COURT: Juror number 91.

10 A JUROR: Yes, I have business travel.

11 THE COURT: Tell me about a bit about that.

12 A JUROR: Going to Denver on the 23rd and on the
13 24th.

14 THE COURT: All right.

15 THE COURT: Your employer's inconvenience is not
16 your hardship. I know that sounds cold.

17 Tell me about this meeting and what is involved
18 and whether or not it can proceed without you.

19 A JUROR: Sure.

20 I have an invest relations with the company that I
21 worked for. So I travel with the CEO and CFO to speak to
22 prospective investors.

23 THE COURT: You said on the 23rd and the 24th.

24 A JUROR: Right. They could go without me. That
25 is a possibility but that is my job to be there. But they

1 could go without me.

2 THE COURT: That is the 23rd and the 24th, next
3 Tuesday and Wednesday, right? Thank you very much, juror
4 number 91, I appreciate that.

5 Juror number 85.

6 A JUROR: I also have business travel overseas,
7 first week of September. I am the only representative from
8 my company and I am on the agenda to present several things
9 over a week. I may also have another meeting to support
10 the week after also in Dublin. I could be gone for up to
11 two weeks.

12 THE COURT: All right.

13 You said that is the first week of September?

14 A JUROR: Yes, the first Tuesday and Wednesday,
15 the first meeting and following Tuesday and Wednesday for
16 the second meeting, I would probably be in Ireland the
17 duration.

18 THE COURT: Thank you.

19 Juror number 86.

20 A JUROR: Business travel and personal travel.

21 THE COURT: Tell me where and when.

22 A JUROR: Washington, D.C., 29th, and then I am
23 going to Las Vegas as well.

24 THE COURT: Tell me about the business travel, how
25 long are you scheduled to be gone for?

1 THE JUROR: One week.

2 THE COURT: One week?

3 A JUROR: Yes.

4 THE COURT: What kind of business do you?

5 A JUROR: Asset manager for real estate investment
6 trust.

7 THE COURT: No one can make this trip in your --

8 A JUROR: It is an industry conference that we have
9 already prepaid for.

10 THE COURT: Juror number 95.

11 A JUROR: I am three months into a new role with
12 the company. We are on the short team, small team. You
13 may have convinced my employer I will say that I am not
14 sure what I would be allowed to get from, A, considering
15 that I have been there for three months.

16 Beyond that I also have personal travel for my
17 family vacation plan for the last week of August. I have
18 already wrote down the down payment on the resort rooms. I
19 would be out of money there.

20 THE COURT: That is the end of this month.

21 A JUROR: Yes.

22 THE COURT: Thank you.

23 Juror number 96?

24 A JUROR: I have narcolepsy. I am currently
25 pregnant. I can't take my medications. I randomly nap. I

1 am not too much -- I will be gone from August 27th until
2 September 8th.

3 THE COURT: September 8th? Thank you, juror
4 number 96.

5 Juror number 88.

6 A JUROR: I am also self employed and would be
7 unable to bill hours. A month would be a long time not for
8 me to have an income.

9 THE COURT: Even if we get out at 4 o'clock we
10 have Fridays off, that --

11 A JUROR: Usually I am coordinating other people's
12 time. I have to show up at meetings and so forth. There
13 is some things that I could do after hours but a lot of it
14 has to be done within business hours.

15 THE COURT: Thank you.

16 Juror number 89.

17 A JUROR: I am a care giver for my child who is out
18 of school for the summer and my husband travels.

19 THE COURT: No friends or family that can help
20 out?

21 THE COURT: I don't have any family here. We just
22 moved here recently.

23 THE COURT: How old is your child?

24 A JUROR: 10.

25 THE COURT: Juror number 90.

1 A JUROR: My employer won't pay for that time off.
2 I am single, that would be a hardship financially for me to
3 be able to pay my bills for a month without having a
4 salary.

5 I also have a trip planned in August to visit
6 family, friends in Ohio that has been elderly and been sick
7 for a while. I was planning to visit them during that
8 timeframe.

9 THE COURT: Thank you.

10 Juror number 99.

11 A JUROR: I have bought tickets to fly out of town
12 for my sister's 40th anniversary party. I will be gone
13 from the 25th of August to the 1st of September.

14 THE COURT: 25th of August to the 1st of
15 September. You have already purchased tickets for that?

16 A JUROR: Yes.

17 THE COURT: All right.

18 A JUROR: Excuse me, I forgot to raise my number,
19 juror number 93.

20 THE COURT: All right, let's hear what your issue
21 here is. Tell me your juror number 93, tell me about that.

22 A JUROR: I have tickets to go back to school and
23 get moved in my new apartment for this semester.

24 THE COURT: When do you leave?

25 A JUROR: September 5th.

1 THE COURT: Where do you go to school, sir?

2 Can you speak up for a little bit. Where do you
3 go to school, sir?

4 A JUROR: California Poly.

5 THE COURT: You are leaving on September 5th.
6 When do classes start?

7 A JUROR: They start on the 21st, I think.

8 THE COURT: Of September?

9 A JUROR: Yes.

10 THE COURT: You are going quite a bit early. Is
11 that something that you have to go back quite a bit early?
12 Classes start on the 21st, so are you telling us that you
13 have to go that early?

14 A JUROR: Well, the lease starts early. So I would
15 be money lost for not living there. We move in early. My
16 roommates are going to be there. We have already bought
17 the plane tickets. They are really expensive.

18 THE COURT: All right.

19 Thank you.

20 Anyone else that I didn't hear from, who believes
21 they may have had a hardship? No. All right.

22 Juror number 91, I know that you sounded so
23 gracious about maybe being able to miss your work meeting.
24 My other question for you is do you know Ms. Tilstra in the
25 front row here who believes that she might know you?

1 A JUROR: I don't think so. Maybe we do.

2 THE COURT: If you don't think so --

3 A JUROR: I know a lot of people.

4 THE COURT: If you don't think that you know
5 her --

6 A JUROR: I don't think so.

7 THE COURT: -- I am not concerned about any kind
8 of a conflict.

9 A JUROR: Sorry, I don't remember.

10 MS. TILSTRA: That is all right.

11 THE COURT: No problem, you don't need to be
12 sorry, when I call your number, this means that you have
13 been excused. We thank you for your service. You can
14 leave your juror number on your chair and head back down to
15 the jury assembly room. There may be other cases that they
16 have for that are shorter in duration.

17 Again, thank you for your service. We will thank
18 and excuse juror numbers 81, 82, 83, 85, 86, 95, 96, 88,
19 89, 90, 93 and 99.

20 Do you want to bring in our other jurors?

21 THE BAILIFF: They were given a little afternoon
22 break. They will be ready at 2:15.

23 THE COURT: They just got back from lunch. All
24 right. We have our other -- just so you folks know we have
25 been, this was our third round of people. We will join the

1 other jurors having to come in and then we will start again
2 with our new pool.

3 So they are downstairs?

4 THE BAILIFF: Yes, Your Honor, they should be
5 coming up in a few more minutes. Perhaps I could step
6 outside with these jurors and let them know get ready to
7 go.

8 THE COURT: Sure.

9 Follow my bailiff, Mr. Morrison. He will take you
10 out and get you lined up in your nice little new numbers.
11 We will see you back very, very shortly.

12 THE BAILIFF: Please rise for the jurors.

13 (Jurors left the courtroom.)

14 THE COURT: Everyone may be seated.

15 MR. MOORE: Do you know what is going on with
16 juror number 42?

17 THE BAILIFF: I sent back an email. They were
18 going to send her back up with the remainder of the panel
19 if she came back after lunch. I don't know that yet.

20 THE COURT: All right.

21 THE BAILIFF: I need to printout a seating chart.

22 THE COURT: Take your time.

23

24 (Open court.)

25

1 THE BAILIFF: All please rise for the jurors.

2 (Members of the jury entered the courtroom.)

3 THE COURT: Feel free to be seated, everyone.

4 welcome back, everyone. Thank you for sticking
5 with us.

6 So we are going to continue on in our voir dire
7 process, that is that French word to speak the truth.

8 Before we do that, I want to tell you just a little bit
9 more about the case, small amount more.

10 I will have the attorneys identify themselves for
11 you and their clients and then we will ask you some more
12 general questions and then if we still have time, I will
13 turn it over to the attorneys and they will get to ask you
14 more specific questions.

15 Let me say this about jury selection, I am sure
16 that you probably know it. You know, if you get thanked
17 and then excused, don't take it personal. I am sure that
18 you know that. But you know not all cases are right for
19 all people. Everyone in this courtroom wants the parties
20 to have a fair trial. That requires people who can be
21 neutral and decide cases based only on the facts that they
22 hear in here and not else, that requires that folks would
23 be able to set aside any of their own personal biases or
24 strongly held opinions or anything else at the door, leave
25 them there and decide the case based only on what you hear

1 in here.

2 We all come to the table with our own strongly
3 held beliefs and opinions about things and our past
4 experiences and experiences of our friends and our family
5 members, these shape who we are.

6 We don't ask that you, you know, not have that.
7 But what we do ask is that you can set that aside and
8 decide the case only on what you hear in this courtroom.

9 Having said that, if you get excused don't take it
10 personal. The attorneys have the job that is their job to
11 do that to find folks who are fair and impartial.

12 Judges get excused too. Every time a lawsuit is
13 filed, both of the parties on the case have the opportunity
14 to strike a judge for no reason at all, just I don't think
15 that this case will be right for this case. I don't think
16 that he or she would be fair. We get excused all of the
17 time.

18 I understand from the bailiffs that some of you
19 have updated information about hardships, raise your cards
20 if you want to hear about hardships. This is a lot of
21 folks to be speaking again about hardships.

22 I am hoping that that is not reflective -- thank
23 you, juror numbers 7, 3, 15, 23, 25, 73, 60, 63, 32, and
24 42.

25 All right, juror number 3, tell us what is going
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1 on.

2 A JUROR: Yes, I just started a job at the
3 beginning of June. I didn't know their policy on this. I
4 am not covered. I just checked with my husband we can't
5 pay daycare and rent if I am out of work for that long.

6 THE COURT: Thank you.

7 Juror number 7.

8 A JUROR: Also for financial hardship, my employer
9 is very liberal with the amount of time that they offered
10 but beyond the two weeks would be a hardship.

11 THE COURT: All right. You won't be able to pay
12 your primary bills if you don't -- if you miss the two
13 weeks of work?

14 THE JUROR: That's right.

15 THE COURT: Juror number 15.

16 A JUROR: Also, financial hardship, my employer
17 will cover 10 days, but beyond that there would be a
18 financial hardship covering rent and daycare.

19 THE COURT: Thank you.

20 Juror number 23.

21 THE JUROR: My employer gives us 15 working days
22 which takes me through September 8th. So that is --

23 THE COURT: That is pretty good, September 8th, we
24 will be done on the next day. You can take one day off
25 without pay, right?

1 A JUROR: Sure.

2 THE COURT: What a great employer you have. Thank
3 you, juror number 23.

4 Juror number 25.

5 A JUROR: It would also be a financial hardship for
6 me. Also my boss doesn't give me any kind of leniency. I
7 work at preschool with only one other person and 12 kids.
8 It would be kind of impossible to get work off of them.

9 THE COURT: I am sorry, now you are trailing off,
10 please speak nice and loud.

11 A JUROR: It would be impossible to get work off,
12 but I am invested in this kind of a case but I can't be
13 away from work so long.

14 THE COURT: All right.

15 Now, is it your employer's situation that is
16 making it a hardship or are you telling the court that you
17 wouldn't be paid and that would represent a financial
18 hardship? Because they are different.

19 A JUROR: Financially.

20 THE COURT: Thank you.

21 Juror number 73.

22 A JUROR: My employer will only pay 10 business
23 days. So it is four weeks the other 10 days would not be
24 paid.

25 THE COURT: Wouldn't be able to pay your primary

1 bills?

2 A JUROR: Yes, that is a financial hardship.

3 THE COURT: Thank you.

4 Juror number 60.

5 A JUROR: Yes, it is the same situation, my
6 employer covers 10 days. I am honestly working, living
7 paycheck to paycheck.

8 I will not be able to pay my primary bills without
9 payment.

10 THE COURT: Thank you, juror number 60.

11 Juror number 63.

12 A JUROR: I have a trial by affidavit that I have
13 to miss a day for. It is August 25th, on Thursday. It is
14 only the one day.

15 THE COURT: All right.

16 So, that you have your own court situation that
17 requires your attendance --

18 A JUROR: Yes.

19 THE COURT: -- on August 25th?

20 A JUROR: Just that one day.

21 THE COURT: Juror number 63, is that right?

22 A JUROR: Yes.

23 THE COURT: That is in the morning?

24 A JUROR: Actually, in the afternoon, going to be
25 at 1:30. I do have a lawyer but I still have to be present

1 for it. It is a family case.

2 THE COURT: Is that here?

3 A JUROR: No, Kent.

4 THE COURT: At the RJC?

5 A JUROR: Yes.

6 THE COURT: Thank you very much.

7 Juror number 32.

8 A JUROR: My hospital will pay me for jury duty.

9 THE COURT: They will. Thank you for checking. I
10 appreciate that.

11 Juror number 42.

12 A JUROR: I think that I misunderstood you this
13 morning I thought that I was excused. I am self-employed
14 with counseling. I have blocked off this week, but I have
15 scheduled many people for the next four weeks.

16 THE COURT: So is it -- again this goes back to
17 hardship for other people doesn't necessarily mean hardship
18 for you. I know it probably would be hard to reschedule
19 those folks, but tell me more about that.

20 A JUROR: Well, I probably would be little of both.

21 THE COURT: I missed that, it would be.

22 A JUROR: A little of both. It would be a hardship
23 for me. It would be a hardship for them.

24 THE COURT: Ah-hum.

25 Friday, you would be free and evenings wouldn't be

1 able to account for your missed time?

2 A JUROR: Probably not.

3 THE COURT: All right.

4 Thank you.

5 I am going to thank and excuse the following
6 folks: Juror numbers 3, 7, 15, 25, 73, 60 and 42. Thank
7 you for your service. You can leave your card on your
8 chair. You are excused.

9 Head on back down to the jury assembly room and
10 again thank you for your service.

11 (Jurors left the courtroom.)

12 THE COURT: I am waiting to get some calculations
13 here.

14 THE BAILIFF: Your Honor, I believe we have 38
15 left, but I will have to double check.

16 THE COURT: Is that roughly what you folks have.

17 MR. SIMPSON: I have 38, Your Honor.

18 THE COURT: We will continue on, folks.

19 what I was saying before about when we ask you
20 questions, I want to make sure that I have -- I will ask
21 you questions first then the attorneys will have an
22 opportunity to ask you questions.

23 I should just want to assure you we are not trying
24 to get into your personal affairs or intrude upon your
25 personal life, but some of the questions just may be of a

1 personal type.

2 We are not trying to embarrass you. We just know
3 that that is -- actually particularly in a case of
4 discrimination, these things are important, that the
5 attorneys would be able to ask you questions, just know
6 that.

7 I wanted to ask also, when you folks came in this
8 morning did any of you receive, was there someone outside
9 handing out a leaflet?

10 No one got -- it is called "A Jury of Peers"?

11 A JUROR: I got one.

12 THE COURT: Did you get one? No one else? You got
13 one.

14 A JUROR: I did too. I haven't had a chance to
15 read it.

16 THE COURT: You don't have to read it. I am not
17 telling you what you have to read. I want to discuss it
18 real quickly.

19 Some folks have been handing these out,
20 newsletters, two-pages. It talks about the issues of mass
21 incarceration and disproportionality affecting really our
22 criminal justice system. But I wanted to point that out
23 that this case does involve allegations of race
24 discrimination. That is something -- that is certainly
25 something that is very much in the forefront in the media

1 right now. There is a lot going on in our country.

2 To the extent that, again, this is a civil case.

3 The issue is raised in this flyer may not be
4 relevant at all to you but in the event that it brings up
5 things for you around these topics, feel free, the
6 attorneys might explore it with you, they might not. I
7 wanted to acknowledge that this is being handed out in the
8 front of the entry way, in front of the courthouse, in case
9 you got one, it is on your mind feel free to discuss it
10 with the attorneys.

11 Let me tell you a little bit about the case, then
12 I am going to have the attorneys and introduce themselves
13 to you and their clients as well.

14 First you met my bailiff Mr. Morrison. He is in
15 charge of jurors. He will do -- be your number one go to
16 guy, if you are impaneled and you can go to him for really
17 anything. The only thing that you can't do is ask him
18 facts about the case. But he will be your good guy to ask.
19 He is very nice about that.

20 Ms. Jones is our court clerk. She is makes sure
21 that the exhibits and documents that happen in the trial,
22 there will probably be a lot in this case, are handled
23 correctly, and admitted correctly.

24 Our court reporter, we have two that will switch
25 off and they are making sure that everything is getting

1 taken down, that is called the lower bench.

2 In this case there are seven plaintiffs in this
3 case. In a few minutes Mr. Sheridan will introduce his
4 clients for you. But the plaintiffs are bringing claims of
5 race and age discrimination and retaliation under the
6 Washington Law Against Discrimination, which prohibits
7 discrimination by employers.

8 The plaintiffs have filed this suit against the
9 Seattle Public Utilities, which is a department within the
10 City of Seattle and the plaintiffs claim that race and/or
11 age were a substantial factor in the decision to terminate,
12 discipline, or place them on administrative leave.

13 Some of the plaintiffs also claim that they were
14 retaliated against for opposing what they allege to be
15 improper treatment.

16 The defendants in this case claim that the City of
17 Seattle terminated and/or disciplined the plaintiffs for
18 legitimate and non-discriminatory reasons and denied that
19 it retaliated against any of the parties. That is a loose
20 description of what the case is about.

21 At this point I will have counsel identify
22 themselves and their clients.

23 MR. SHERIDAN: Yes, thank you, Your Honor.

24 Good afternoon, my name is Jack Sheridan. I am an
25 attorney here in Seattle. I am representing the seven

1 plaintiffs. I would like to introduce you first to Melanie
2 Kent, who is our legal assistant.

3 Carmella Davis-Raines, please stand up so they can
4 see you, Toni Williamson, Lynda Jones, Elaine Seay-Davis,
5 Pauline Robinson, and Ms. Cheryl Muskelly -- and I am
6 sorry, Maria Luisa Johnson, I am sorry I forgot your name
7 after a year, in the heat of battle. Thank you very much.
8 Sorry about that.

9 THE COURT: All right.

10 MR. MOORE: Good afternoon, ladies and gentlemen.
11 I am Portia Moore I represent Seattle Public Utilities with
12 me is my co-counsel, this is Sarah Tilstra also. Our
13 clients representative who is Guilemette Regan, who is
14 going to be here.

15 During the trial you may see some of the younger
16 attorneys, Mr. Arthur Simpson and Mr. Urey.

17 Thank you.

18 THE COURT: I am going to start off, folks,
19 reading off the list of the people that are expected to
20 testify in this case. We need to know if you think that
21 you might know these folks.

22 As I read these names if you think that you know
23 these people hold your card for me nice and high. When I
24 write down your number can you put it down. There is quite
25 a few. Just start thinking to yourself whether these folks

1 the names sound familiar I will try to spell out their
2 names if it is unusual. All right. Ready.

3 Paul Torelli, T-o-r-e-l-l-i, Anthony Greenwald,
4 G-r-e-e-n-w-a-l-d, Maria Luisa Johnson, Carmella
5 Davis-Raines, Cheryl Muskelly, Pauline Robinson -- these
6 are the plaintiffs, just so you folks know, Elaine
7 Seay-Davis, Toni Williamson, Lynda Jones, Shaun Johnson,
8 that is spelled S-h-a-u-n, Johnson, Glenn Amy, A M Y,
9 Kimberly Collier, C-o-l-l-i-e-r, Nancy Coyle, Verlene
10 Davis, Mary denzel, Diana Douglas, Kelly Enright,
11 E-n-r-i-g-h-t, Roger Faustino, F-a-u-s-t-i-n-o, Lynda
12 Ferriera, F-e-r-r-i-e-r-a, Beverly Flowers, Theresa Flores,
13 F-l-o-r-e-s, Ray Hoffman, H-o-f-f-m-a-n, Mark -- juror
14 number 31, do you think that you that you know Mr. Hoffman.

15 A JUROR: I have met him. I don't know him well.

16 THE COURT: You have just met him professionally
17 or --

18 A JUROR: I am a consultant. I sometimes work for
19 the utility on the capital and group projects. I have met
20 him at a celebration one time.

21 THE COURT: But you don't know him personally it
22 sounds like.

23 A JUROR: We are not friends.

24 THE COURT: Thank you for letting us know. Tell
25 us your jury number again.

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A JUROR: 31.

THE COURT: Mark Holmes, H-o-l-m-e-s, Robin Howe, H-o-w-e, Tom Hughes, H-u-g-h-e-s, Marcus Jackson, David Jones, Robinn R-o-b-i-n-n, Lea, L-e-a, Charlene MacMillan-Davis, Michael Mannery, M-a-n-n-e-r-y, Mike Mar, David Marshal, Mariam, M-a-r-i-a-m, Mason, Jim Miller, Rebra Moreland, Steve Oliver, Nick Pealy, P-e-a-l-y, Fred Podesta, P-o-d-e-s-t-a, Podesta, Dan Potapenko, P-o-t-a-p-e-n-k-o, again Guillemette Regan, R-e-g-a-n, Debra Russell, Andy Ryan, Susan Sanchez, Lynda Saunders, Laura Southard, S-o-u-t-h-a-r-d, Megumi Sumitani, M-e-g-u-m-i S-u-m-t-a-n-i, Melina Thung, T-h-u-n-g, Wendy White, Lynn Andrews, Wayne Barnett, Diane Clemmett, James or Jim Green, Anthony Harris, Elaine Herrera, formerly known as Elaine Webster, Gary Keese, K-e-e-s-e, Doug MacDaniel, Venus Navarro, N-a-v-a-r-r-o, Mike Thwing, T-h-w-i-n-g, all right.

Now I am going to ask you folks some general questions.

If the answer to these questions is yes, or probably yes, raise your card and, again, leave it up until I have an opportunity to write down your number. There is a very good chance that the attorneys may follow up on these areas with individual people. Just make sure that you hear me rattle off your card number before you put it

1 down.

2 Have any of you ever been a plaintiff in your
3 lawsuit, ever brought a lawsuit? If so raise your jury
4 number. Juror number 23. Anyone else?

5 Any one ever been a defendant in a lawsuit? Being
6 sued? Juror number 50. Thank you. Defendant in the
7 lawsuit. Thank you.

8 Any one ever serve before on a jury trial? 84,
9 91.

10 Can you turn it around for me, is it 91 or 16?

11 A JUROR: 16.

12 THE COURT: All right. 16, 2, and 84, and 97.

13 You have all served before.

14 Were those civil cases.

15 If it was a civil case, raise your card. 97 and
16 23, were civil cases. All right.

17 Anything about that experience make you think that
18 you would not be able to sit on this jury?

19 A JUROR: Actually, Your Honor, juror number 97.

20 THE COURT: Can you stand up?

21 A JUROR: Yes, I should have answered no to that,
22 my service was on a criminal case.

23 THE COURT: Criminal.

24 The civil folks, juror number 93. Where are you?
25 Wasn't it 93 who said that they were on civil case?

1 23, I am sorry, is there anything that you want to
2 not repeat it.

3 A JUROR: No.

4 THE COURT: Thank you.

5 How about criminal folks, who have served on the
6 juror criminal trials? Juror number 16 and 97 and 84.

7 Was there anything about that experience that
8 makes you not want to do it again?

9 No.

10 Next juror number 84, all right, juror number 97.

11 A JUROR: No.

12 THE COURT: Juror number 16?

13 A JUROR: No.

14 THE COURT: Terrific, thank you.

15 A JUROR: Juror number 2 as well.

16 THE COURT: All right, juror number 2?

17 A JUROR: No.

18 THE COURT: Thank you.

19 How many of you have ever filed any type of a
20 claim or a complaint?

21 Again not a lawsuit but some type of a claim or a
22 complaint, formalized complaint? Raise your card if you
23 have done that before. Juror number 9.

24 A JUROR: Actually, the other way, the complaint
25 was filed against me, nothing happened.

1 THE COURT: Thank you. The attorneys might follow
2 up with that juror number 9.

3 Anybody else?

4 Juror number 11.

5 A JUROR: Insurance claim.

6 THE COURT: Thank you.

7 Juror number 100?

8 A JUROR: Yes.

9 THE COURT: What was that?

10 A JUROR: It was work place -- I am sorry, did you
11 mean work place? Somebody here is asking about insurance
12 claims.

13 THE COURT: Sure, any complaints or claim.

14 A JUROR: Yes, a work place sexual harassment.

15 THE COURT: That you brought?

16 A JUROR: That's right.

17 THE COURT: Thank you, juror number 100.

18 Juror number 55.

19 A JUROR: Never on my own behalf but on behalf of
20 clients.

21 THE COURT: In the work place?

22 A JUROR: Never in the work place.

23 THE COURT: Juror number 63.

24 A JUROR: Just a car accident claim.

25 THE COURT: Thank you.

1 Juror number 92.

2 A JUROR: Work place injury as well as a car
3 accident.

4 THE COURT: Thank you.

5 Juror number 48.

6 A JUROR: Insurance claims and products and service
7 claims.

8 THE COURT: Thank you very much.

9 I want to ask about employment, has anybody been
10 disciplined or terminated for any reason from their place
11 of employment.

12 Raise your card if the answer to that is yes or,
13 well, yes, would be the answer not maybe, all right. That
14 is number 9, 23, 79, 100, 61, 84, 32, 92, 67. Thank you
15 all. Did I get -- did I miss someone?

16 Juror number 9 I got you. Thank you.

17 The attorneys I am sure may have follow up
18 questions for you. I am just trying to identify folks on
19 their -- for them so they can take it from there.

20 of the folks there were, nine of you, did you feel
21 that the discipline or the termination was unjust in your
22 view?

23 Juror number 79, 100. Anyone else? All right.

24 Juror number 32? All right. Thank you.

25 I want to ask a few questions about race

1 discrimination in the workplace.

2 Raise your hand if you think that racial
3 discrimination in the work place is quite common these
4 days. Raise your card up until I have a chance to call it
5 out.

6 Juror numbers 8, 11, 52, 55, 100, 31, 32, 91, 71,
7 98. Thank you.

8 How many of you feel that it is particularly
9 common in the Pacific Northwest and in Seattle more
10 specifically? Raise your card if that describes your
11 belief.

12 Juror number 71.

13 Anyone else? No. Thank you.

14 A JUROR: You can write me down as yes for the
15 first question and no for the second question.

16 THE COURT: Yes, being that it is common in the
17 work place, but not necessarily so in this area.

18 A JUROR: Not specific language but you somewhat
19 common or common enough, I can't recall what you said.

20 THE COURT: What is your number?

21 A JUROR: I agree that it happens.

22 THE COURT: Juror number 87, thank you very much.

23 Has any one here ever felt that they have
24 experienced racial discrimination in the work place, please
25 raise your card.

1 Juror number 91 and 98. I am sure that the
2 attorneys will have more questions for you on that. Thank
3 you.

4 Does it give more weight to the issue of racial
5 discrimination in the charge is made by a number of
6 minorities against leadership or management?

7 In other words, does the fact that there are seven
8 non-caucasian plaintiffs in this case mean that you think
9 that there is likely an issue of discrimination in the way
10 that SPU handled itself?

11 I am going to write down the cards, juror number
12 2, 8, 11, 52, 53, 72, 100, 79, 27, 38, 65, 92, 67 and 71.
13 Thank you.

14 Now, I am going to ask about you to raise your
15 cards if you think that age discrimination is increasingly
16 common these days in the work place.

17 Juror number 2, 8, 11, 5, 6, 16, 53, 72, 100, 79,
18 84, 87, 63, 91, 38, 65, 92, 94, 71 and 48.

19 Has any one here experienced what they believe to
20 be age discrimination in the work place?

21 Juror number 52. Anyone else? Just juror number
22 52, thank you.

23 Now, I am going to turn it over to the attorneys
24 who are going to ask you questions. Please just make sure
25 before you start to speak that the attorneys, if he doesn't

1 ask you your card number, you say it on the record. It is
2 very important that we can attribute everything that is
3 said by a perspective juror to a juror number.

4 I should have said this before. We are not
5 calling you by your name not because we don't respect you,
6 we do it as it is just easier and more organized if we use
7 numbers. Also, it a confidentiality thing as well.

8 So that is why we have been calling you by a
9 number.

10 Mr. Sheridan.

11 MR. SHERIDAN: Thank you very much. Thank you all
12 for your service in advance.

13 I apologize for being distracted. I am actually
14 going to talk to you today about something that I have
15 never spoken to jury before about, but I first want to get
16 on the record.

17 Could you raise your hand if you identify yourself
18 as being something other than a caucasian?

19 THE COURT: I am going to write this down, juror
20 numbers 52, 57, 80, 84, 63, 91, 32 and 65.

21 MR. SHERIDAN: All right. For number 52 can you
22 please state on the record how you identify yourself.

23 A JUROR: Half white, half Mexican.

24 MR. SHERIDAN: 57.

25 A JUROR: Vietnamese.

1 MR. SHERIDAN: Thank you.

2 Juror number 80.

3 A JUROR: Asian.

4 MR. SHERIDAN: Juror number 84.

5 A JUROR: Quarter Puerto Rican and an 8th Indian
6 and the rest white.

7 MR. SHERIDAN: 64, did I miss? 32?

8 A JUROR: Portuguese and Hawaiian.

9 MR. SHERIDAN: 65.

10 THE JUROR: East Indian.

11 MR. SHERIDAN: Did I miss any one? 63? Yes,
12 ma'am.

13 A JUROR: Mexican American.

14 MR. SHERIDAN: Last one juror number 91.

15 A JUROR: African American.

16 MR. SHERIDAN: Here is the thing that I want to
17 talk to you about.

18 There has been a lot of studies about whether or
19 not juries that are not diverse can be fair. I am going to
20 read you something, then I want with you about it and see
21 how we all feel about this, because it is not going to go
22 away. We have to address it, we have to decide what to do.

23 MR. MOORE: Your Honor, I believe that this is
24 improper to read from what he just read to us --

25 THE COURT: All right.

1 MR. MOORE: -- outside of the presence of the
2 jury.

3 THE COURT: All right. Let's have a quick
4 side-bar conference.

5 MR. SHERIDAN: Sure.

6 (Side-bar conference.)

7 MR. SHERIDAN: All right. So here is the
8 question: Can a jury that is all caucasian be a fair to
9 people who are persons of color?

10 Sir, please hold up your number, what do you
11 think?

12 A JUROR: No.

13 MR. SHERIDAN: Why not?

14 A JUROR: I personally believe that from my studies
15 in college and from the experience being around people of
16 color and minorities, that oftentimes there is an invisible
17 white privilege that exists sometimes, not necessarily all
18 caucasian people but in some situations it is a lot harder
19 for those of caucasian heritage or ethnicity to identify
20 with those of minorities in terms of economics,
21 socioeconomic struggles or work place issues and that kind
22 of thing.

23 MR. SHERIDAN: For the record you are caucasian.

24 A JUROR: Yes.

25 MR. SHERIDAN: Juror number 5, how about you?

1 A JUROR: I agree that an entirely Caucasian jury
2 would probably not be impartial.

3 Definitely would be hard for someone who hasn't
4 been in their shoes to understand what they have been gone
5 through.

6 MR. SHERIDAN: Does anybody disagree with that?
7 Yes, sir.

8 Please stay your number. Thank you so much, juror
9 number 9?

10 A JUROR: I would like to disagree. I think that
11 it is a matter of definition of race and racial.

12 MR. SHERIDAN: Please explain.

13 A JUROR: Well, it would be like look at the
14 greater things maybe over the Facebook and over the
15 internet and people like Morgan Freeman, they say that
16 racism is something that we thought of because we are
17 looking for it.

18 If we continue moving along these lines we create
19 after effects like discrimination. But if we treat
20 everybody as human species, one species then the problem
21 doesn't exist.

22 MR. SHERIDAN: Your number again, sir, I am sorry?

23 A JUROR: Juror number 9.

24 MR. SHERIDAN: Does anybody also agree with juror
25 number 9 that basically racism is a construct in our mind,

1 if we ignore it, it won't be a problem?

2 Did I say that right?

3 A JUROR: Yes.

4 MR. SHERIDAN: Anybody else?

5 Juror number 8, I am going to get to you next,
6 what do you think?

7 A JUROR: My gut reaction is that the voices of the
8 others, of non-Caucasian would not be present on that jury
9 for them to speak their story and of their experience and
10 share that with others.

11 I can advocate possibly the plaintiffs' story as
12 much as I can, but because I don't walk in their shoes and
13 wake up every day as a non-white, I don't know that story.

14 So that the lack of those that walk that every day
15 concerns me that that would not be on the jury.

16 MR. SHERIDAN: How about you, juror number 2?

17 A JUROR: I don't believe that racism is a
18 construct, first of all.

19 I have great faith in my fellow citizens'
20 abilities to show up here and be open-minded. I can only
21 speak for what is in my mind and heart. But I wanted to
22 try to really hard to do that. Of course I bring my own
23 sense and background and everything else to this
24 experience. But, I believe we work with that with the
25 court and trying to make that.

1 MR. SHERIDAN: Also how about being aware of the
2 fact that it may happen?

3 If the panel at the end of the day is all
4 Caucasian, you will be making -- the decision makers.

5 Is there anything that you can do to ensure that
6 you are being fair and that you are not using bias to
7 perhaps that you can't even articulate the major bias that
8 we all make.

9 How about you, sir? What is your number?

10 A JUROR: Juror number 16.

11 MR. SHERIDAN: What do you think about this
12 conversation?

13 A JUROR: I think in all Caucasian they will all
14 come to the correct decision. I don't think that it is
15 being judged by a jury of your peers. I think that it
16 would be better if it was a mixed. I think that you would
17 get a better conversation with your fellow jurors, I think
18 that you would gain something as a juror. But I think that
19 you could -- it could be done.

20 MR. SHERIDAN: How about you, ma'am?

21 A JUROR: I believe that it could be fair. However
22 the perspective and perception of our plaintiffs might
23 actually might not necessarily perceive it as being fair.
24 Juror number 23.

25 MR. SHERIDAN: Thank you.

1 Let me ask you some questions to see if I can have
2 you think about being bias, but not the kind of bias that
3 you read about in the paper where somebody is mean because
4 somebody is a person of color. The other kind of bias, the
5 subtle bias that we might have in us.

6 Let me give you an example.

7 You are in a car. You and your spouse or lover or
8 friend, you are driving down an empty street at night in
9 the poor neighborhood. Standing on the corner are three
10 African American teenagers.

11 You pulling up to the stop sign. They are going
12 to be eight to 10 feet away from you. You roll up your
13 window. You lock your door.

14 Or do you feel fine?

15 How about let's see, how about you, young man,
16 what is your number, juror number?

17 A JUROR: Juror number 27.

18 MR. SHERIDAN: How do you react to that?

19 A JUROR: Probably become slightly uncomfortable.
20 what I would usually do in that sort of a situation is mind
21 my own business.

22 MR. SHERIDAN: All right.

23 What about you, sir, juror number 31?

24 A JUROR: Actually, I think a lot about this. I
25 live in a poor neighborhoods and I do have reaction that is

1 different that I recognize, if it was black kids versus
2 white.

3 THE COURT: I can barely hear you. I have to ask
4 you to speak up a little louder.

5 THE JUROR: I am 31. I recognize that have
6 subconscious difference in reaction sometimes based on the
7 kids that see wherever are black or white or maybe samoli,
8 or whatever, yes.

9 MR. SHERIDAN: Let's talk about the hypotheticals.
10 Let's make it on the same street corner that you see three
11 thin college kids with -- white kids with blond hair
12 wearing their lettered sweater. Are you going to feel
13 worried?

14 How about you, sir, 32?

15 A JUROR: In that neighborhood still?

16 MR. SHERIDAN: Same neighborhood, just hanging
17 out.

18 A JUROR: Depends upon the circumstances, I guess.

19 MR. SHERIDAN: Here is the thing. If we take with
20 us, if we come into this trial having felt -- realizing
21 that we have certain sort of knee jerk reactions may or may
22 not be valid, may have kept us alive or not be with us
23 alive.

24 MR. SHERIDAN: Are you able to put those feelings
25 aside and recognize and talk about them when you are

1 deliberating?

2 Does anybody feel like that is not a conversation
3 that a jury ought to have?

4 Juror number 32, what did you want to say?

5 A JUROR: I apologize, I was holding up my number
6 for the court reporter.

7 MR. SHERIDAN: All right.

8 How about you, ma'am? Your number?

9 A JUROR: Juror number 38.

10 THE COURT: Can you stand and talk to us a little
11 louder, juror number 38. Thank you.

12 A JUROR: I have traveled overseas extensively for
13 the last 15 years and I have been in the situations in the
14 foreign countries I am not the majority.

15 I have been in tough neighborhoods that I tend to
16 be a little bit more situational aware doesn't necessarily
17 mean that I have bias one way or another. I know if in
18 poor neighborhoods I need to be a little bit more aware.

19 MR. SHERIDAN: How about you, ma'am, juror number
20 46?

21 A JUROR: I was taught very young don't judge a
22 book by its cover -- get to know the person.

23 I thought that we were here to listen to the facts
24 and to leave our biases outside.

25 MR. SHERIDAN: Do you feel like you are

1 comfortable and able to do that?

2 THE JUROR: Very comfortable.

3 MR. SHERIDAN: Sir, your number.

4 A JUROR: 47.

5 MR. SHERIDAN: How do you feel about this?

6 A JUROR: I recognize that I had just do have
7 biases but I try to recognize them ahead of time. If I
8 have a knee jerk reaction I immediately try to sit back
9 just because those guys have letter jackets on, doesn't
10 mean that they are -- whatever.

11 MR. SHERIDAN: In deliberating this case, do you
12 think that you would be able to leave all of those at the
13 door?

14 A JUROR: I hope that I would be able to.

15 MR. SHERIDAN: Ma'am, what is your number?

16 A JUROR: 98.

17 A couple times I have been sitting by the bus stop
18 a lot of times what will happen is that -- like somebody
19 will start cursing, that tends to really freak me out. No
20 matter what. I have noticed it is usually uncovered that
21 tends to do it.

22 MR. SHERIDAN: I guess that the question then
23 becomes if you had a bad experience with the person of
24 color in a different setting, can you put that aside when
25 you are listening to the facts in this case and not assume

1 that any of that has anything to do with these seven
2 plaintiffs?

3 A JUROR: Yes.

4 MR. SHERIDAN: How about you, ma'am, what is your
5 number?

6 A JUROR: 48.

7 MR. SHERIDAN: How do you feel about all of this?

8 A JUROR: I believe that there is unconscious
9 bias.. I believe that personally think it is very
10 situational. I try to do the right thing at all times, but
11 I recognize them.

12 MR. SHERIDAN: Fair enough.

13 A JUROR: I feel like I am trained and I can't stop
14 it.

15 MR. SHERIDAN: Excellent. Anybody have hesitation
16 to sit on the case involving allegations of race and age
17 discrimination?

18 How about juror number 9? sir, do you feel any
19 uncomfortable at all being in a case like this?

20 A JUROR: No.

21 MR. SHERIDAN: I want you to think for a minute
22 about these words: "Practices of discrimination against
23 any inhabitants in Washington threatens not only the rights
24 and the proper privileges of the inhabitants but menaces
25 the institutions and foundations of the Democratic State."

1 Juror number 9, how do you feel about that, the
2 idea that discrimination actually threatens our freedom?

3 A JUROR: I don't feel anything about it.

4 MR. SHERIDAN: Do you think that it is a valid
5 idea or not a valid idea?

6 A JUROR: Did the statement have the word
7 Washington in there?

8 MR. SHERIDAN: Yes, let's say Washington State.

9 A JUROR: Washington State?

10 MR. SHERIDAN: Yes.

11 A JUROR: No, I don't think that it is true.

12 MR. SHERIDAN: You don't think that is true?

13 A JUROR: No.

14 MR. SHERIDAN: We are going to be in a situation
15 where the judge is going to instructs you on what the legal
16 standard is for discrimination.

17 Is there anything in your framework of how you
18 view the world that makes it hard for you to follow her
19 instructions?

20 A JUROR: I don't think so.

21 MR. SHERIDAN: If she told you that, I don't know,
22 that in order to find race discrimination there is certain
23 elements that have to be proven, would you be willing to
24 talk to everybody and share your views and be willing to be
25 convinced that the discrimination has been proven in the

1 case, if the facts support it?

2 A JUROR: I am not sure what you mean here.

3 THE COURT: Mr. Sheridan, if I may.

4 MR. SHERIDAN: Yes.

5 THE COURT: Folks, this is a great opportunity to
6 discuss this issue that Mr. Sheridan is touching upon. One
7 of my jobs will be to at the end of the case give you jury
8 instructions. That will tell you what law is to be applied
9 to the facts that you have heard, everything, the evidence.

10 The question is even if you were to disagree with
11 the instructions that I give you, do you think that you
12 could decide the case based on the law that I give to you
13 no matter how you feel about the law personally?

14 Any one think that that would be hard for them,
15 that they have a very firm idea of what they think that the
16 law should be, you are you not going to accept the law from
17 me?

18 If you think that might be you, can you raise your
19 card for us?

20 Juror number 11?

21 Anyone else think that they might have a hard time
22 taking the law from me without questioning it? All right.

23 There you go, Mr. Sheridan.

24 MR. SHERIDAN: Juror number 11, what is your
25 concern?

1 A JUROR: The concern I don't know all of the laws.
2 Obviously there is human rights versus what the law might
3 actually be. So my personal feelings might be different
4 than what the actual law may say.

5 MR. SHERIDAN: But if we are in a framework here
6 where we have to present evidence, the judge is going to
7 instruct you, so the system only works if you listen to the
8 instructions, following them and apply the facts to the
9 law.

10 Do you feel like you have hesitancy in being able
11 to do that?

12 A JUROR: Slight hesitancy towards, yes, if I don't
13 necessarily agree with the way that the law is written, I
14 might have some biased towards the disagreement.

15 MR. SHERIDAN: Do you feel that you favor one side
16 or the other instinctually?

17 A JUROR: Not really instinctually.

18 MR. SHERIDAN: Is there any way that you think
19 that you favor one side or the other?

20 A JUROR: I have some historical basis, based on
21 some of my work history in the past.

22 MR. SHERIDAN: Such as what, sir?

23 A JUROR: A year or so ago my company made some
24 some choices that I felt was age discrimination and laid
25 off some individuals and kept some others.

1 MR. SHERIDAN: You felt that was -- you felt that
2 was age discrimination.

3 THE COURT: Is that a yes? We need a yes or a no.

4 A JUROR: That is a yes.

5 MR. SHERIDAN: In this case do you feel that you
6 can set that aside and come to the best result?

7 A JUROR: I can give it my best effort.

8 MR. SHERIDAN: Would you be able to talk to the
9 jury in order to discuss your views with them?

10 A JUROR: Yes.

11 MR. SHERIDAN: How about you, juror number 90, do
12 you feel that you can discuss with your fellow jurors with
13 your views, if you feel convinced to move from your views?

14 A JUROR: Yes, of course.

15 Your Honor, how much time do I have?

16 THE COURT: 3:25, so 10 minutes.

17 MR. SHERIDAN: Thank you.

18 Let me switch topics here, who here is familiar
19 with the Volkswagen pollution scandal? Who remembers that?
20 wow, that is pretty much everybody. I am not going to read
21 off all of your numbers.

22 Could juror number -- could you tell us what you
23 recall, juror number 2.

24 A JUROR: what I recall is that Volkswagen found a
25 way to gain the emission tests so that their cars passed

1 the emission test even though that they really didn't.

2 MR. SHERIDAN: Right. That is about right . We
3 have it about right?

4 Here is my question. In order to pull that off,
5 if you are Volkswagen, how many people have to know about
6 it and do nothing at the company?

7 Lets see, who haven't I talked to, how about you,
8 ma'am, in the corner.

9 A JUROR: Many would need to know about it.

10 MR. SHERIDAN: What is your number?

11 A JUROR: Number 30. I am sorry not 30, number 50.

12 MR. SHERIDAN: Right. That is it.

13 THE COURT: 50 is the new 30, right?

14 A JUROR: Yes.

15 MR. SHERIDAN: So, why pick a number, why not one
16 lone engineer pulling off this big coup?

17 A JUROR: Because many people are required not only
18 to design but assemble the machine that is in that complex.

19 MR. SHERIDAN: Tell me this, do you think that the
20 top guys would have known about it?

21 A JUROR: Of course.

22 MR. SHERIDAN: Ma'am, how about you in the blue,
23 number 55, what do you think?

24 A JUROR: I don't know how many, but I am assuming
25 that some of them probably did know.

1 MR. SHERIDAN: How about the middle management do
2 you think that you could pull that off without middle
3 management? Ma'am, your number.

4 A JUROR: Juror number 52. I assume that there
5 would be at least a handful in the middle management that
6 would know about it.

7 MR. SHERIDAN: Here is the next question, number
8 31 --

9 A JUROR: I am juror number 31.

10 I don't know enough about their structure to know
11 to what level something like that would need to rise. I
12 don't know that you can put your nose in and tell it would
13 be some devious software person have any knowledge of it?
14 I don't know.

15 MR. SHERIDAN: Fair enough.

16 In that particular situation, you may recall that
17 the guy at the head of the company finally kind of said,
18 okay, boy, did we mess up.

19 He fessed up, but not everybody did.

20 If you want to pull something like that off, how
21 do you think that you keep everybody quiet?

22 What would you do to keep them quiet? Let's see,
23 how about juror number 97?

24 A JUROR: I have worked in a large bureaucracy. My
25 general experience is that in large bureaucracy people at

1 the top often aren't highest levels -- what they call the
2 executive level aren't intimately aware. But certainly
3 from my experience is you go down and you get closer to
4 what I will call the front line, you have to do it.

5 To answer your second part of your question, I
6 mean every organization has a culture. Every organization
7 has both formal and sort of informal cultures.

8 So, I think that probably the informal formal
9 culture is the most likely the strongest one, at least in a
10 really large organization.

11 MR. SHERIDAN: What about in government like the
12 VA hospital?

13 Does everybody remember that scandal from a couple
14 years ago they were lining people up to say, we are going
15 to see everybody in 14 days and people behind the counter,
16 clerk level people, would changing things so it would give
17 false information.

18 Does anybody remember that one? Ma'am, juror
19 number 8, what do you recall about that?

20 A JUROR: Many people were coerced, that were
21 probably threatened with their job security, to falsify
22 documentation to support what the higher ups needed to
23 appear positive and in a public view.

24 MR. SHERIDAN: Is there anybody here who just sort
25 of trusts government, thinks that government would never do

1 something wrong?

2 Juror number 98, what do you think?

3 A JUROR: I do, because, you know, before you can
4 even be in government you have to pass all of these tests.
5 Yeah, you wouldn't be approved to work in the government.

6 MR. SHERIDAN: If you didn't pass the test.

7 A JUROR: Yes.

8 MR. SHERIDAN: Anybody else feel like that you
9 would trust government because it is government people?
10 More credibility if you are working with the government?
11 All right.

12 THE COURT: Five minutes, counsel.

13 MR. SHERIDAN: Thank you, Your Honor.

14 So, is there anybody here who has a family member
15 that is an employee of the City of Seattle?

16 Anybody here?

17 Juror number 5 and juror number 9.

18 Let's hear juror number 5 tell me about that.

19 A JUROR: My mother is a high school teacher in
20 Seattle public schools. I believe that counts as the City
21 of Seattle.

22 MR. SHERIDAN: Yes.

23 Do you have any concerns that if you were to make
24 a finding in favor of the plaintiffs, and to the detriment
25 of the City of Seattle it might hurt your mom?

1 A JUROR: No, I don't believe so.

2 MR. SHERIDAN: From your perspective no conflict.

3 A JUROR: No.

4 THE COURT: How about you juror number 9?

5 A JUROR: My wife was an employee of City of
6 Seattle, Age and Disabilities Department.

7 MR. SHERIDAN: Is she no longer employed there?

8 A JUROR: She is into longer, might be in the
9 future, but I don't know in the future.

10 MR. SHERIDAN: Does the fact that she could be re-
11 employed with the City in any way concern you if you would
12 have ruled in the favor of the plaintiffs against the City
13 it might hurt her chances?

14 A JUROR: I don't think so. I don't have a
15 concern.

16 MR. SHERIDAN: Anybody else? Juror numbers 50,
17 91, 71. Let's do juror number 50 first.

18 A JUROR: My husband works for Seattle Public
19 Schools but I don't see a conflict or a connection.

20 MR. SHERIDAN: Next one, juror number 91.

21 A JUROR: My husband is a public school teacher but
22 I am not worried.

23 MR. SHERIDAN: Who else?

24 A JUROR: Public school teacher in Seattle.

25 MR. SHERIDAN: Are you afraid?

1 A JUROR: I am not afraid.

2 A JUROR: Definitely heard many similar cases.

3 MR. SHERIDAN: Fair enough.

4 Who here said that they were a defendant in a
5 civil case? Juror number 50. What happened to you?

6 A JUROR: I actually don't remember it well. I was
7 more than 20 years ago. It was a case brought against my
8 mother and I for a rental dispute. We didn't actually go
9 to court.

10 MR. SHERIDAN: Anything else that soured you in
11 the legal system making it hard to be fair? You said that
12 you are juror number 50.

13 A JUROR: Yes.

14 MR. SHERIDAN: Anybody here been a foreperson on a
15 jury? Juror number 2. Anyone else? Foreperson on a jury?
16 How is that experience for you?

17 A JUROR: It was a good experience.

18 It was interesting. Yes, about 20 years ago.

19 MR. SHERIDAN: What kind of a case?

20 A JUROR: Criminal case. It was about a protection
21 orders, somebody, whether they had violated a protection
22 orders.

23 MR. SHERIDAN: Did the jury reach a verdict?

24 A JUROR: They did.

25 MR. SHERIDAN: Thank you. Your Honor, that is all

1 I have for now.

2 THE COURT: Terrific.

3 Everyone please give your attention to Ms. Moore.

4 MR. MOORE: Thank you.

5 MR. SHERIDAN: I am sorry, Your Honor, to
6 interrupt. One of our plaintiffs needs to take an
7 immediate break.

8 THE COURT: All right.

9 MR. SHERIDAN: I don't know if she needs help.
10 May I inquire?

11 THE COURT: Sure.

12 She can use the -- should we put her in the jury
13 room?

14 THE BAILIFF: Yes.

15 THE COURT: Use the jury room right there.

16 THE COURT: Are you all right go to 4 o'clock? I
17 wanted to make sure. All right. Thank you.

18 MR. SHERIDAN: Thank you, Your Honor.

19 MS. MOORE: Good afternoon. Excuse me if I seem a
20 little disoriented. I don't know where to look because
21 there is so many of you. I am going to try to be fair and
22 even.

23 Mr. Sheridan talked a lot about implicit bias.

24 How many of you believed that we all have implicit
25 bias? Let me do it a different way.

1 Is there anybody here who thinks that they do not
2 have an implicit bias against some group or some type of
3 person?

4 Juror number 63.

5 Anybody else?

6 Juror number 63; you don't believe that you have
7 any implicit bias against anybody.

8 A JUROR: I don't think so.

9 MR. MOORE: You believe that you can be fair, is
10 that correct?

11 A JUROR: Yes.

12 MR. MOORE: Obviously, if you have seen we have
13 six plaintiffs here who are African American and one
14 plaintiff who is of Asian descent -- I believe that
15 Ms. Johnson is Philippino, is that correct?

16 How many of you feel that because you are not
17 African American you cannot be fair, you cannot listen to
18 the facts, you cannot consider the evidence, and you cannot
19 be fair solely because these plaintiffs are African
20 American?

21 I see a number of potential jurors in the box who
22 are appearing to be of Asian descent. If there is anybody
23 of Asian descent, please raise your hand for me.

24 THE COURT: Turn your card around for me, sir.

25 57, 80, 65. Thank you.

1 MR. MOORE: For those three jurors who raised
2 their hand, you see that we have one plaintiff here is of
3 Asian descent who is Filipino.

4 Is there anything about that that causes you to
5 believe that you are going to favor Ms. Johnson because you
6 are of Asian descent because she is of Asian descent?

7 Let me are start with juror number 57.

8 A JUROR: No.

9 MR. MOORE: Why not, sir?

10 A JUROR: I don't know, I see everybody as
11 equality. I don't know. I don't know, I don't favor just
12 because they are Asian.

13 MR. MOORE: How about juror number 80.

14 A JUROR: Same here.

15 MR. MOORE: How about juror number 65?

16 A JUROR: I am actually East Indian, but I work
17 with a lots of East Asian people in the company. I don't
18 believe that I am biased.

19 MR. MOORE: How many of you here believe that race
20 can be used as an excuse not to follow your employer's
21 policy or laws?

22 Does anybody think that?

23 Juror number 6, you said in questions from
24 Mr. Sheridan that an all white jury could not be fair. Did
25 I get that correctly?

1 A JUROR: Yes.

2 MR. MOORE: You feel that if you are sitting on
3 this jury and if it is all white, that there is no way that
4 you can be fair to the plaintiffs?

5 A JUROR: Not necessarily.

6 what I -- to rephrase sort of my thinking, I
7 believe that in terms of a case involving a clear multi-
8 racial group that I think that it would be fair because
9 America is a jury of the peers, that it should be a multi-
10 racial jury.

11 In the case that there is 12 Caucasian jurors,
12 that is the way that the attorneys have decided to pick,
13 but in my opinion, I think that it should be a multiracial
14 jury. It could be eight Caucasian, four of other races. I
15 don't think that 12 of one race is very -- like, I guess in
16 my opinion it doesn't represent America's melting pot of
17 diversity.

18 MR. MOORE: You see that in this jury pool we
19 appear to have one person who appears to be of African
20 American descent, is that correct, juror number 91?

21 A JUROR: That is correct.

22 MR. MOORE: Does that bother you, that you hold it
23 against me or my co-counsel, as the people who are
24 representing SPU, that more black people could not be in
25 the jury poll?

1 THE JUROR: Can you rephrase your question, I am
2 trying to understand your question.

3 MR. MOORE: Yes.

4 Are you going to hold it against me as the counsel
5 for SPU or my co-counsel, or my client, SPU, the fact that
6 there weren't more African Americans in the jury pool?

7 A JUROR: Absolutely not.

8 MR. MOORE: Does everybody understand that we have
9 no control over who is in the jury pool?

10 Do you get that?

11 You guys got called you had to come. All right.

12 A JUROR: To add, though I want to add --

13 THE COURT: Juror number, please.

14 A JUROR: Juror number 6.

15 THE COURT: Thank you.

16 A JUROR: My personal opinion the attorneys both of
17 the plaintiffs and the defendants have the right to dismiss
18 jurors.

19 Now, I know that most likely they won't agree by
20 race or any other issue other than that they would be
21 biased against the case, but because they have the option
22 of picking and removing, I believe there is two ways that
23 they can dismiss jurors, one of them being the one that you
24 can use frequently but one of them has a limited number.

25 The fact that you can dismiss without explanation could be

1 from any sort of reason personally.

2 MR. MOORE: I don't understand what you are
3 saying.

4 Are you excusing --

5 A JUROR: Not I am not accusing of siding with the
6 plaintiff or the defendant at all. I am saying from my
7 recollection of the video that we saw, the attorneys can
8 dismiss jurors based on two ways. One of them they can use
9 over and over and over again. The other they -- I believe
10 that they don't have to explain why they are dismissing
11 them. Am I correct?

12 THE COURT: That is correct.

13 A JUROR: In that situation the attorney could very
14 well have reasons to themselves why they can dismiss the
15 juror. It could be for any reason including race.

16 MR. MOORE: Are you going to assume if there are
17 strikes here that either me or Mr. Sheridan are doing its
18 for an improper reason?

19 A JUROR: I am not going to assume anything. I am
20 here because I know that you guys are here to do your jobs.
21 I assume that you guys are going to be impartial and fair.

22 MR. MOORE: Can I see a show of cards if you think
23 in a lawsuit or a conflict between an employer and an
24 employee, that you would tend to favor the employee?

25 That is just kind of your natural tendency between

1 an employer and an employee, conflict or a lawsuit?

2 How many of you can I see a show of cards thinks
3 that you would have a tendency to favor the employee?

4 THE COURT: 71, 52, 11, and 8. I believe that I
5 have them all, thank you.

6 MR. MOORE: Juror number 52, why do you think that
7 you would favor the employee over the employer?

8 A JUROR: I mean, it is really hard to challenge
9 someone who is in an authority over you.

10 I mean, my natural reaction would be to think that
11 if somebody is going to big enough to feel that you bring a
12 lawsuit about it, there is probably a little bit of
13 substance to your claim, especially there is so much to
14 risk by challenging the person who hates you.

15 MR. MOORE: You think by the fact that the case
16 has gotten all the way to the court, there must be some
17 validity to the claim?

18 A JUROR: My natural tendency is to lean that way.
19 I also don't know anything about this case so far.

20 I wouldn't say that I am entirely on one side or
21 another.

22 MR. MOORE: How about juror number 52? 52? That
23 was juror number 52. I am sorry.

24 Number 71.

25 THE COURT: Nice and loud, standing up helps us

1 hear you. Thank you very much.

2 A JUROR: One of the classes that I teach is a
3 class called margin and centers of powers. I have also
4 done a lot of studying and tracking of issues of people who
5 lack power and people who haven't.

6 The story of corporations or businesses who are
7 able to spend money or spend power, capital, to silence
8 voices of just individual workers, just something that I
9 look at over and over again.

10 Also, as a teacher in the Seattle Public Schools,
11 I have seen this within our system a lot. I do tend to
12 trust.

13 MR. MOORE: Thank you. Let me ask you a question
14 about that. Do you ever believe that there is an instance
15 where an employee can get terminated that is just or fair?

16 A JUROR: Yes.

17 MR. MOORE: But your tendency is to assume that
18 the employee is right?

19 A JUROR: Yes.

20 MR. MOORE: Would that be fair to say?

21 Juror number 11.

22 A JUROR: I echo both the 52 and 71s answers. My
23 tendency is to err on the side of the employee to start
24 with, but I am sure that there are cases where the employer
25 may be the one who is not at fault.

1 MR. MOORE: Juror number 8?

2 A JUROR: I have been over 30 years in large
3 corporations and I have seen many people dismissed and
4 fired, treated unfairly, that appear to be race or age.

5 MS. MOORE: Is there ever an instance where an
6 employer can terminate an employee or suspend an employee
7 where you believe that would be fair?

8 A JUROR: Absolutely.

9 MR. MOORE: What would you need to see in order to
10 determine whether or not it was fair?

11 A JUROR: The facts.

12 MR. MOORE: A number of you, I will ask you
13 specific questions that a number of you responded
14 positively to the judge.

15 I believe that juror numbers 79, 100, 32 said that
16 they had been terminated from a job they felt that that was
17 unjust. Do I have that correct?

18 Let's start with juror number 79.

19 Can you stand up. I have a hard time hearing and
20 seeing you.

21 THE COURT: Is your card number -- did we get it?

22 A JUROR: 79. I was kicked out of the Army for
23 when they shrunk the force down here a couple years ago. I
24 was pretty upset. Four years and serving in Afghanistan,
25 13 years, they cut me off right before retirement.

1 MR. MOORE: Thank you for your service, by the
2 way. I am sorry about that.

3 How about juror number 100?

4 A JUROR: Right here. I was fired twice from a
5 job. I think that the first time I would say unfairly when
6 I was 18. I was planning on leaving my employer, told a
7 couple of people, who worked in my office, who told my
8 boss.

9 I had not -- it didn't -- I didn't tell my boss
10 first. He fired me that day, which I think is unfair.

11 MR. MOORE: You thought that it was unfair because
12 your employer terminated before you got a chance to tell
13 them that you were leaving?

14 A JUROR: Right.

15 MR. MOORE: How about juror number 32?

16 A JUROR: I need to clarify I wasn't actually let
17 go. I was put on administrative leave for accusation by a
18 coworker and my employer pursued it. It fizzled out. But
19 I was potentially going to seek help from the union to seek
20 some type of --

21 MR. MOORE: But were you able --

22 A JUROR: I was able to keep my job, yes, ma'am.

23 MR. MOORE: I know that these questions are really
24 personal, but do you mind telling us what the claim was?

25 A JUROR: That I was on narcotics or drugs while I

1 was at work.

2 MR. MOORE: All right. Thank you.

3 Juror number 100, you said that you also filed a
4 work place sexual harassment suit; is that correct?

5 A JUROR: I did.

6 MR. MOORE: Can you tell us about that.

7 A JUROR: Yes, I was contracted for a major
8 software company and I -- at a work place sponsored event
9 but outside of work hours, I was inappropriately touched by
10 a coworker.

11 When I reported this to the vendor who staffed
12 this company, I was technically employed by the vendor and
13 also employed by the software company, even though that is
14 software company didn't recognize me as their employee,
15 they basically -- it was a very long crew, they told me
16 that it was kind of my problem to deal with. They asked me
17 why I didn't hit this person.

18 It was pretty unprofessional. I went to software
19 company that I had actually worked for.

20 MR. MOORE: My question was, I am not clear, I was
21 asking did you actually file a lawsuit?

22 A JUROR: No.

23 MR. MOORE: So you just made a complaint?

24 A JUROR: I did.

25 MR. MOORE: You didn't file a lawsuit?

1 A JUROR: No.

2 MR. MOORE: How come you didn't file a lawsuit?

3 A JUROR: I didn't file a lawsuit because I had had
4 this sort of thing happened to me so frequently, sexual
5 harassment in a work place, that it was something that I
6 had to move on from in my life and find another job. That
7 was my solution.

8 MS. MOORE: Again, I am really sorry that I appear
9 to be asking very intimate questions.

10 A JUROR: That is fine, that is what I am here
11 for.

12 MR. MOORE: We are trying to get a jury that is
13 fair.

14 Juror number 55, you said that you filed claims on
15 behalf of your clients?

16 A JUROR: Yes, I am an attorney.

17 MR. MOORE: All right.

18 A JUROR: That is what I do.

19 MR. MOORE: All right. What type of claims do you
20 file?

21 A JUROR: I am trying to think that I used to work
22 as energy attorney, so we have what we have filed lawsuits
23 and torts, done a lot of civil cases. I recently moved
24 in-house, so I am away from it.

25 MR. MOORE: All right.

1 Does anybody here feel that because there is
2 implicit bias, because it exists, that if you are sitting
3 on this case, you have to give the plaintiffs the benefit
4 of the doubt.

5 Does anybody feel -- I guess I am asking you, do
6 you feel guilty for being white?

7 Does anybody feel guilty for being white?

8 THE COURT: Juror number 31. Thank you.

9 MR. MOORE: Do you want to tell us about that,
10 sir?

11 A JUROR: I am privileged. I am privileged because
12 I am a white person. Sometimes I do feel guilty about
13 that.

14 MR. MOORE: If you have a guilt, do you think that
15 your guilt would affect your ability to listen to the
16 evidence in this case and to reach a fair verdict?

17 A JUROR: No.

18 MR. MOORE: I want to talk a little bit about age
19 discrimination, because one of the claims in this case is
20 age discrimination.

21 Can I just see a show of hands or placards, how
22 many of you believe that employers often terminate older
23 employees in order to save money?

24 THE COURT: 2, 8, 11, 5, 6, 16, 72, 100, 79, 57,
25 84, 87, 63, 91, 38, 47, 71, 65, 48, 47, 92.

1 MR. MOORE: Thank you, Your Honor.

2 Juror number 92, can you stand up?

3 what type of evidence would you have to see in
4 order to determine that an employer had terminated an older
5 employee simply because he wanted to save money?

6 THE JUROR: I would be looking for somebody being
7 reprimanded for things that people who are younger were not
8 being reprimanded for.

9 I worked for big companies as well. A lot of
10 bureaucracy. You can kind of see when somebody is looking
11 for a reason to let someone go.

12 There is a pattern after a while. I think if you
13 look at everything piling up, I would be looking for a
14 pattern of not one instance, but multiple instances.

15 MR. MOORE: What about if the work force was an
16 older work force to begin with?

17 Do you think that because the work force is an
18 older work force that older employees should not be held to
19 the same standards as everybody else?

20 How many people believe that?

21 Juror number 98, I will get you that in a minute.
22 Do you believe that, ma'am?

23 A JUROR: I think that everybody should be treated
24 equally. Obviously we get older certain things that are
25 harder to do, I believe.

1 But all people doing the same job should be held
2 to the same standard.

3 MR. MOORE: Does anybody believe -- I think that
4 juror number 98 just raised their cards, do you believe
5 that because an employee is older they should not be held
6 to the same standard in the work place?

7 A JUROR: It depends. Because, like, you know just
8 because you are old and you have like a bum knee, you know,
9 that shouldn't exclude you from being able to do your job.
10 I mean that would not be able to do your job.

11 MR. MOORE: Thank you.

12 I think that this has already been asked. Does
13 anybody here have any relatives, family or friends who work
14 for Seattle City Light or Public Utilities, family,
15 relatives or friends?

16 Juror numbers 11, 55, 100.

17 Juror number 11, who do you have?

18 A JUROR: A wide variety of friends who work for
19 Seattle City Light.

20 MR. MOORE: Have they said anything to you which
21 would cause you to think poorly of Seattle City Light and
22 SPU as a result of their work experiences?

23 A JUROR: I don't think that they were treated
24 very fairly, when they were with Seattle City Light.

25 MR. MOORE: Did they leave on their own?

1 A JUROR: One of the members was a line worker, who
2 fell and hurt her back and had very lengthy trial and court
3 case with Seattle City Light back then.

4 MS. MOORE: In this case, this case is obviously
5 the plaintiffs worked for SPU, but they worked closely with
6 Seattle City Light.

7 Is there anything about that experience that would
8 cause you, do you think to tends to favor the plaintiffs
9 over my client?

10 A JUROR: Not that I can think of.

11 MR. MOORE: Juror number 55.

12 A JUROR: Full disclosure, the firm that I worked
13 at I believe represents SPU and Seattle Public Utilities
14 from time to time. I didn't work on those cases. I
15 haven't done them before personally.

16 MR. MOORE: Thank you. How about juror number
17 100?

18 A JUROR: I can't think of a specific people that I
19 went to grad school here for public administration so many,
20 many of my peers ended up at SPL and -- SPU -- excuse me,
21 and Seattle City Light as well as I think that actually, I
22 am thinking 55 is reminding me that I was previously a
23 consultant. I am sure that we represented one or both.

24 MR. MOORE: Thank you.

25 A JUROR: But I didn't work on this.

1 MR. MOORE: Is there anything about that that
2 causes to you believe that you would favor the plaintiffs
3 over my client, SPU?

4 A JUROR: No.

5 THE COURT: Thank you.

6 I could barely hear you.

7 MR. MOORE: We have heard in the case --
8 Mr. Sheridan talked to you about a number of cases, we have
9 heard in the newspapers about cases that a number of people
10 think are frivolous. I don't know if any of you remember
11 the McDonald's case where the hot coffee was spilled on
12 somebody, somebody got a huge verdict there was a huge out
13 cry about the verdict.

14 We didn't know the facts of the case, but people
15 were upset about it. But how many people, or any of you,
16 can you raise or I will call them paddles but I can't
17 remember what to call them, can you raise your paddle if
18 you believe that monetary damages awards are the best way
19 to gain attention or to change the social fabric?

20 Does anybody believe that that is what we need to
21 do to get the attention of the employer, the company,
22 whatever, we need to award huge damages?

23 A JUROR: Could you rephrase the question, please.

24 MS. MOORE: Yes.

25 Does anybody believe that in order to change the

1 social landscape, in order to address the unconscious bias,
2 in order to teach the employer a lesson, the best way to do
3 that foist award large damages?

4 Juror number 52.

5 A JUROR: I believe that, I mean for example the
6 McDonald case, that you did just describe, the woman who
7 got the coffee on her, suffered absurdly severe burns all
8 over her body.

9 One of the reasons that McDonald's was forced to
10 pay so much money was to deter them from serving coffee
11 that is so hot that it can send you to the emergency room.

12 MR. MOORE: All right. I think that 65, hang on,
13 I have to take these down, 65, 71.

14 THE COURT: 97, 63 and 27 and 11 over here in the
15 jury box.

16 MR. MOORE: All right.

17 Juror number 27. Where is 27? Can you stand up?

18 THE COURT: Was it 97? I am sorry, it was 97.

19 MR. MOORE: Can you stand up, sir, and explain it
20 to me.

21 A JUROR: Sure.

22 I would just first preface it by saying that there
23 is a huge -- I don't know what that means but I do believe
24 that monetary penalties are effective tools.

25 I think that to me is obvious. It doesn't mean

1 that there has to be what you would call, in your words, a
2 huge settlement or a huge award granted.

3 But the case with Volkswagen, I mean, that was one
4 where the company on its own initiative with its own
5 interests went out and offered a rather sizable package of
6 compensation to people who had bought their vehicles.

7 MR. MOORE: But we are not Volkswagen. Do you
8 understand that?

9 A JUROR: No, I understand that.

10 MR. MOORE: No where -- nothing like Volkswagen.

11 A JUROR: Right.

12 MR. MOORE: If there were violations in the work
13 place of work policies and procedures, you had work place
14 rules that you were supposed to abide by, if a bunch of
15 employees violated policies and the procedures that were in
16 the work place, and some of the employees who violated the
17 policies were minority and some were white or non-minority,
18 please raise your paddle if you believe that in most
19 instances, that the discipline given to the minorities
20 would be more severe than the discipline given to the
21 non-minorities who did the same, who committed the same
22 violations?

23 Does anybody believe that?

24 THE COURT: Juror numbers 6, 100, 72.

25 MR. MOORE: 6, 100 and 72.

1 Juror number 72, please stand up and can you tell
2 me why you believe that, sir.

3 A JUROR: I think that is one of the ways that
4 implicit bias demonstrates itself. I wouldn't think that
5 it would be something that people would consciously but I
6 know that I have seen in my life, because I am a white
7 male, consequences tend to play themselves out more fairly
8 or beneficially for me.

9 I would imagine that would be one specific way
10 implicit bias would manifest.

11 MR. MOORE: Are you going to assume that in any
12 case?

13 A JUROR: Absolutely not. It would have to depend
14 upon the numbers.

15 MR. MOORE: It would depends upon --

16 A JUROR: The numbers. If the white employees were
17 punished less severely than African American or minority
18 employees, that would be a kind of a red flag.

19 MR. MOORE: Number 100.

20 A JUROR: Yes, I agree. If you are speaking
21 probabilistically and implicit bias is as prevalent as I
22 believe it to be, then, yes, more often this would be one
23 way that implicit bias would show itself.

24 MR. MOORE: Juror number 6, very quickly. All
25 right.

1 A JUROR: Yes.

2 Actually in my opinion I believe that it is less
3 of a problem here. In my -- I am readily a younger person.
4 In my short amount of time in living in the City of Seattle
5 and having relatives from both Texas and Mississippi, I can
6 tell from personal accounts from my family members there is
7 lots of implicit bias in states where there is -- in my
8 opinion an obvious clear racist choice in terms of who they
9 fire, how the punishment is delivered to the
10 person-to-person, whether the person is color, or
11 Caucasian.

12 MR. MOORE: Since we have been talking about
13 implicit bias, since all of you admit that implicit bias
14 exists, that implicitly biased against people, everybody
15 but one person thought that they implicitly biased, how are
16 you going to be able to decide in a case where you have
17 African Americans or people of color, how are you going to
18 be able to decide that implicit bias did not play a role?

19 THE COURT: Juror number 97.

20 A JUROR: 97, I think that the key thing is to ask
21 questions both of your jurors and if needed of the counsel
22 and the judge to basically ask for information and then be
23 able to have the conversations focus as much as possible on
24 what I will call more factual information, things like what
25 is the relative range of discipline, suspensions of two

1 weeks or more, that kind of a thing.

2 MR. MOORE: That was a bad question. Let me
3 rephrase the question.

4 How are you going to decide whether the employer
5 was fair if you know that the people who were bringing suit
6 are people of color, how are you going to know that the
7 employer is fair?

8 Or let me ask you another way, is there anybody
9 who is just going to assume that the employer was biased
10 because the employees were people of color?

11 How many of you are going to assume that the
12 employee in this case, SPU, was bias because the people
13 disciplined were people of color?

14 Is there anybody?

15 What are you going to look for to determine
16 whether or not the employer was fair?

17 I want to talk to somebody who hasn't spoken
18 before. Juror number 2.

19 A JUROR: 2. Facts; and my own personal conscious
20 of making sure that that is what I am listening to and
21 checking myself, if I feel that bias is coming through.

22 MR. MOORE: Number 91.

23 A JUROR: I agree. I think that facts, I think,
24 that is also important to have a diverse jury so all
25 opinions can be represented and you might be able to glean

1 something from a fellow juror that you wouldn't necessarily
2 have the experience for that can give you some perspective.

3 MR. MOORE: But we aren't in charge of the jury
4 pool, we just got here.

5 So assuming that we have a jury that is largely
6 white, but may have other people of color, how are you
7 going to determine whether or not the employer was fair?
8 Juror number 65.

9 A JUROR: Definitely facts but also look for
10 patterns, to see if the situation is an anomaly or if it
11 has been going on for a while and there is a pattern to it,
12 which indicates the concerns of the concerns of the issues.

13 MR. MOORE: Anybody else wants to say anything?

14 THE COURT: Two more minutes, counsel.

15 A JUROR: 92, I just wanted to add I worked in HR
16 for many years. Policies and procedures are being applied
17 across the board then that to me shows that the employer is
18 being fair. When things are not being applied equally that
19 is when I feel that there is a problem.

20 MR. MOORE: How many believe that if policies and
21 procedures are applied fairly across the board, it doesn't
22 matter whether the employees are white, yellow, black, blue
23 or green?

24 All right. I think that I have a minute left,
25 Your Honor.

1 THE COURT: All right.

2 MR. MOORE: Thank you. Thank you all.

3 I apologize if I asked very personal questions,
4 but thank you.

5 THE COURT: All right.

6 Folks, well, thank you for your honesty and
7 hanging in there with us today. I am going to excuse you
8 for the rest of the day. We will have you come back. They
9 need to go downstairs tomorrow or not?

10 THE BAILIFF: Yes, go downstairs tomorrow and the
11 jury room will tell you when to come up.

12 THE COURT: Go downstairs 8:45 report to the jury
13 assembly room downstairs. Please leave your cards our
14 seat.

15 Let me give you really important instruction and
16 for those of you who are going to be fortunate enough to be
17 on this jury -- I say that fortunate because it is a great
18 experience -- you will hear me say this instruction over
19 and over and over again, but it is super important.

20 We are going to ask that you not discuss anything
21 that you heard about this case, anything that went on today
22 during jury selection process and anything about the
23 parties in this case, anything about the issues that we
24 have discussed, basically nothing, amongst yourselves or
25 even with your family, friends, anything like that.

1 Please don't do any kind of outside research. We
2 are so used to plugging things into our phone all of the
3 time. I wonder about some case about against the City.
4 Let's see what comes up. We can't do that. We are
5 trying -- I will tell you about the problem across the
6 country cases being reversed on the appeals, mistrials, all
7 kinds of problems that are happening because most of the
8 time it is not intentionally.

9 We are so much more engaged on the social media,
10 talking about trials that we are on, somebody responds,
11 "oh, boy, too bad you are on that trial. What kind of a
12 case?"

13 All kind of the things that are happening people
14 reading about, "I was reading about discrimination when I
15 went home" and it was in a case and they come back and talk
16 to the jurors that comes out in the open. That is a
17 mistrial. We have to really ask that you would be so
18 discreet and silent about what is going on in this jury
19 selection process.

20 No social media, no texting, none of that, no
21 Facebooking about this process.

22 Have a great night. We so appreciate your
23 service.

24 Juror number 6.

25 A JUROR: Just a question for you, we don't have to
Dolores Rawlins, RPR, CSR, CCR, CRR, CRC, RSA, Official Court Reporter

1 call the hotline. We are guaranteed to be here by 8:45
2 tomorrow.

3 THE COURT: I like that way to that you say that.
4 It is a privilege, you have got a spot. Everyone, juror
5 number 6 is on it.

6 You are privileged, we will see you back in the
7 morning, everyone, leave your jury cards here, and report
8 back tomorrow, jury assembly room at 8:45.

9 Thank you.

10

11 (Members of the jury left the courtroom.)

12 THE COURT: Please be seated, everyone.

13 I want to put a quick note on the record about the
14 side-bar that we had. We had a side-bar conference right
15 in the beginning of the voir dire. Mr. Sheridan appeared
16 like he was going to discuss the saintecalle case and read
17 direct quotes about that case about the discrimination
18 about how it sometimes plays out in the trials.

19 Ms. Moore objected and I sustained that objection.

20 I just wanted to put that on the record.

21 Anything to add anything to what I reported please
22 do?

23 MR. SHERIDAN: My intent was not to disclose the
24 language of Justice Wiggins, just to read the passage, not
25 to attribute it to anything, to get it going. It turned

1 out we got them going any way.

2 THE COURT: Yes, a great discussion in my view.
3 Anything else or was I accurate?

4 MS. MOORE: No, Your Honor, it was accurate.

5 THE COURT: Anything to discuss before we depart
6 for the day?

7 MR. SHERIDAN: No. We are on for tomorrow. We
8 each get another half hour. We do the opening, and we call
9 the first witness.

10 THE COURT: Boom.

11 MR. MOORE: Can you tell us who the witnesses are?

12 MR. SHERIDAN: I already did. Can you tell me if
13 Howe is better.

14 MR. MOORE: Ms. Howe is not better.

15 MR. SHERIDAN: That is what I said this morning.

16 MR. MOORE: Mr. Jones.

17 MR. SHERIDAN: Ms. Sumitani, Jones, number 2,
18 Pauline number 3. I may send you another email, just in
19 case it goes shorter.

20 MR. MOORE: That would be good.

21 THE COURT: I know that I talked about this before
22 I hate to waste jurors' times, apologize to them, tell them
23 that you have a very stringent judge on that.

24 If they have to end up waiting a little bit,
25 please bring a good book and apologize. But I would rather

1 have them waiting than the jurors.

2 MS. MOORE: That is why I asked because he is
3 calling City people.

4 THE COURT: Yes.

5 MR. MOORE: That is why he needs to give us more
6 than one or two.

7 MR. SHERIDAN: Hoffman will be the first in the
8 box on the Wednesday.

9 THE COURT: Terrific. I would be surprised if we
10 got through three witnesses tomorrow just knowing that you
11 have another hour and then the openings.

12 MS. TILSTRA: You will disrupt that order if we
13 don't get through three tomorrow?

14 MR. SHERIDAN: Let's see where we are. I want to
15 say -- Your Honor, I want to say I apologize forgetting the
16 book so late from Ms. Russell.

17 when you are ready, let us know. I have to do a
18 little tweaking to get the video up and running.

19 THE COURT: Yes, sure. I haven't looked at it
20 yet.

21 MR. SHERIDAN: You just got it.

22 THE COURT: I will look at it tomorrow if not
23 tonight.

24 Anything else, Ms. Moore?

25 MR. SHERIDAN: Nothing, Your Honor.

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MR. MOORE: Nothing, Your Honor.

THE COURT: Thank you everyone.

Thank you for your hard work today.

MR. SHERIDAN: Yellow sheets stay in the
courtroom?

THE COURT: Yes, can't take those out.

MR. SHERIDAN: Thank you, judge.

THE CLERK: All please rise.

(Court was adjourned.)