

## 1 Proceeding

2 that there are alternative jurors does not mean  
3 any regular juror is free to excuse him or herself  
4 from this case. As a duly chosen juror, you are  
5 obliged under law to be available throughout this  
6 trial. A description of the trial procedures, the  
7 rules governing your conduct, and the legal  
8 principles I've discussed with you, I believe will  
9 make it easier for you to understand the trial as  
10 it goes on and to reach a just result at its  
11 conclusion.

12 We're going to take a break because I need to  
13 figure out if we could proceed forward openings.  
14 Juror number two, you have something going on  
15 today.

16 JUROR TWO: Yes. I was able to move it  
17 to 6 P.M.

18 THE COURT: Perfect.

19 JUROR TWO: Yes.

20 THE COURT: So counsel then we're not  
21 going to take a break. We're going to go right  
22 into opening statements so we could try to get you  
23 out of here as expeditiously as possible.

24 JUROR TWO: Thank you.

25 MR. RUBINOWITZ: Thank you. May it  
26 please the court, counsel, members of the jury.



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2 for the City of New York. She had no idea that  
3 her life would be turned upside down and she  
4 wouldn't be able to move in a hospital bed for  
5 months. And she had no idea that the injuries  
6 that she suffered that day would be with her for  
7 the rest of her life, but they will be. And we  
8 will outline them for you so that you fully  
9 understand what happened.

10 So let me take you back in time first to  
11 introduce you to our client. We represent this  
12 young woman over here, the woman in the white  
13 shirt sitting between her two parents. That's HUI  
14 Sang Park. Her parent is on either side of her  
15 and as I mentioned in jury selection her parents  
16 don't speak English. They speak Korean. Hui Sang  
17 Park speaks English and she will be testifying for  
18 you that way. She was born in Korea, in South  
19 Korea. She grew up there. When she was younger,  
20 in fact, throughout her schooling she had a very  
21 strong work ethic and I don't think anyone would  
22 ever say anything other than that because what she  
23 did was she worked very hard to do well in school  
24 and excel in her studies. She went to grade  
25 school, high school, and universities in South  
26 Korea and she learned English. When I said she

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2 learned English, it's true that she's not as  
3 fluent as you and I might be. We mentioned that  
4 in jury selection as well, but certainly she was  
5 taking the time to learn English so that she could  
6 perhaps get ahead in life, perhaps work on what  
7 she wanted to do which was to work with  
8 international trade in fashion, in commerce, in  
9 economics. She wanted to be able to do all of  
10 this. So when she was 21 years old or  
11 approximately 21 years old she applied as an  
12 exchange student to come from Korea to the United  
13 States where she would come in the American  
14 University in Washington D.C. for a semester  
15 because she wanted to learn what it was like to  
16 study abroad, to study in the United States, and  
17 to have the advantages that some of the students  
18 in the United States have. And she really wanted  
19 to do as well as she possibly could. Her work  
20 ethic allowing her to do this. What takes place  
21 is this. She comes to the United States and when  
22 she comes here she's not as fluent in English as  
23 she might have been, but she's taking her classes  
24 at the American University studying international  
25 commerce and trade. What she would do to show you  
26 the type of person she is, the type of student,

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1  
2 when I say strong work ethic, I mean just that.  
3 What she would do is actually ask the professor if  
4 she could record the lessons so she could hear  
5 what the professor is saying and then at night she  
6 would spend an extra two hours dissecting those  
7 lectures so she could get the nuances of what was  
8 being said in English so she could learn what it  
9 is they were saying because she really cared and  
10 wanted to know what they are saying. She did  
11 well. She worked at it and did well which is  
12 exactly what students should be doing if they are  
13 working hard. And that's exactly what she did.  
14 Before she finished the semester in the American  
15 University, she applied to another school in the  
16 United States to the Fashion Institute Technology  
17 right here in New York City. And the Fashion  
18 Institute of Technology has courses in exactly  
19 what she was looking for International Trade.  
20 Fashion commerce, all of these things that she was  
21 interested in. And she applied and she was  
22 accepted based in part on her work ethic, on her  
23 grades that she had received, and she was going to  
24 be coming to New York City. Let's fast forward.  
25 Now she's coming to New York City. She's going to  
26 be living here, spend the first part of the time

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2 she's here in the dorms. The school itself is on  
3 27th and 7th Avenue and she spends time in the  
4 dorm and eventually she moves like most students  
5 do to an apartment sharing another apartment with  
6 another young woman, one bedroom apartment 5th  
7 floor walk-up on 39th Street between 5th and 6th.  
8 Although one bedroom apartment she takes the  
9 living room and they put up a temporary wall. She  
10 stays there. The other student has the bedroom.  
11 That's fine. She's working and she's doing  
12 exactly what she should be doing and she's going  
13 to school.

14 Now, when she's going to school she's doing  
15 exactly the same sort of thing that I was telling  
16 you about, where she would ask the professors may  
17 I record your lectures, because I really want to  
18 understand what's being said. I want to  
19 understand it fully, and then at night she would  
20 take extra time to learn the lessons. She's doing  
21 this and she's receiving high grades. She's doing  
22 very well this, but she's working at it also.

23 Let's fast forward the start of the next  
24 semester. We're actually through the first year.  
25 She's done very well. It's now 2013. She's  
26 beginning the third semester. And when she begins



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2 clear, fairly clear day, little overcast in the  
3 parks, not rain, roads are dry, but when she  
4 leaves an at 8:30 in the morning, 8:30 coming on 9  
5 o'clock you could imagine New York City it's rush  
6 hour. Rush hour not just for vehicular traffic,  
7 but rush hour for pedestrians as well. We all  
8 know what that's like in New York City. She's on  
9 her way. She walks up to 6th Avenue, crosses over  
10 to the west side of the street where she's going  
11 to be walking downtown going south. And sure  
12 enough, she stops off at Duane Reade drug store.  
13 Why? She wants to pick up a candy bar, a  
14 chocolate bar for later on for a snack during  
15 class. Okay. She does just that. She gets her  
16 candy bar and now she's gonna be coming out and  
17 when she comes out of the Duane Reade drug store  
18 she continues south and gets to the intersection  
19 of 31st and 6th Avenue. That's the intersection  
20 where the accident occurred. To understand how  
21 this accident took place and why the accident took  
22 place, I have to tell you about the intersection  
23 itself. This intersection is a major intersection  
24 in New York City. 6th Avenue actually runs  
25 northbound, one way northbound with about six  
26 lanes in it. 31st Street, three lanes running

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1  
2 westbound only. To help you out, let me show you  
3 a photograph. We agreed that certain exhibits  
4 would be in evidence before we actually brought  
5 you out today. We marked certain exhibits in  
6 evidence. This happens to be one of them. I show  
7 you this just to show you the intersection where  
8 the accident took place. What I'm pointing to  
9 right now the major street right here this is 6th  
10 Avenue, and the cross street running westbound  
11 31st Street. So what's happening is our client  
12 Ms. Park is now walking and she's walking on the  
13 sidewalk coming to this intersection. It's around  
14 8:50 in the morning or so. Heavy traffic as I  
15 mentioned, because of heavy pedestrian traffic  
16 it's rush hour. What she does is when she gets to  
17 this intersection she waits behind certain people.  
18 One of the things you'll see with Ms. Park, she is  
19 a very polite young woman. She's not pushy.  
20 She's very courteous and waits behind other people  
21 not pushing her way to the front. See, her  
22 parents they bow. It's cultural. She comes here.  
23 She's waiting behind certain people. People are  
24 waiting for the walk, don't walk sign to change.  
25 And that's exactly what it is. There is a sign  
26 over here walk, don't walk. I could show you if I

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1  
2 may, just so you'll see another view. This would  
3 be the view that she would have as she's crossing  
4 the street. So you could see right here the walk,  
5 don't walk sign. So what's happening is she's  
6 going to be crossing the street. What she does is  
7 she waits with a group of people. The light  
8 changes for her to walk, and as she does she's  
9 crossing right in the crosswalk, right in this  
10 crosswalk where I'm pointing. Right now she is  
11 not outside of the crosswalk. She is not west of  
12 the crosswalk. She is right in the crosswalk.  
13 There are people in front of her. She doesn't  
14 know if there are people behind her, but what she  
15 doesn't know is that the defendant driver is  
16 coming northbound on 6th Avenue. And he's going  
17 to be making a left hand turn over here. She has  
18 the light in her favor. You would think he has  
19 the light in his favor because they are actually  
20 going in the same direction. If you think about  
21 it this way when I say the same, the same traffic  
22 control direction. In other words, she's going to  
23 be crossing going south. North would have the  
24 same light in its favor because people are  
25 crossing both ways in the crosswalk. When she's  
26 three quarters of the way across, maybe a little

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2 bit more, the defendant driver turns and as he  
3 makes this turn without looking, without seeing,  
4 he turns into her.

5 Mr. Brooms is the gentleman back here wearing  
6 the white shirt and blue tie. He's the driver of  
7 the car -- excuse me the van. He's actually  
8 driving at the time. He's driving a large van.  
9 So that you get an understanding and an idea what  
10 this van looks like, I'll show it to you. This is  
11 the van that he was driving. It's a large van.  
12 She weighed approximate little 110 pounds at the  
13 time. The van many thousands of pounds. He makes  
14 the turn. She had waited for the light. She  
15 looked both ways. She crossed. She's almost  
16 across and he makes a turn into her. And when he  
17 makes the turn into her, it actually hits her on  
18 her left side. After all, she's walking this way  
19 going southbound, he makes the turn and now it  
20 hits her. And I'm going to tell you it crushes  
21 her. When I say crushes her, make no mistake  
22 about it. She is crushed. On the left side this  
23 becomes important and I'll explain why in a little  
24 while. The defendant driver Mr. Brooms comes  
25 across. He hits her. He knocks her out of the  
26 crosswalk. Obviously the weight of the van is

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2 significant, pushes her out of the crosswalk a  
3 little bit and then he stops his van. He never  
4 sees her. The police are called. And when the  
5 police are called an ambulance is also called and  
6 they come to the scene. Before the police and the  
7 ambulance get there, Ms. Park is on the street.  
8 She has been crushed. She has been run over by  
9 this van. It struck her. And when I say crushed,  
10 I mean just that. She is down on the ground. Her  
11 leg has been badly fractured. What I'm pointing  
12 to right now the mid shaft of the tibia, her knee  
13 has been severely damaged. Her pelvis has been  
14 shattered. Her shoulder has been injured. Her  
15 wrist has been shattered. There are more  
16 significant injuries and I'll go through them in a  
17 little while. But understand what happens. An  
18 ambulance comes. The plaintiff comes. The first  
19 thing she tries to do when she's on the ground,  
20 she actually looks at her leg. When she looks at  
21 her foot where the toe is supposed to be pointed  
22 forward, it's facing the other way. It's  
23 completely twisted around. It's an angulation and  
24 a rotational injury of the tibia and the fibula.  
25 It is very very dangerous and I'll explain why,  
26 something called compartment syndrome is going to

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1  
2 develop. What's happening is she is bleeding and  
3 she is bleeding internally. Her pelvis has been  
4 fractured so that the pelvis which is actually an  
5 area that protects part of the skeletal system,  
6 protects for a woman the vaginal area. It  
7 protects the bladder. It protects the intestines.  
8 Its protects what's known as the retroperitoneum,  
9 the area where the spinal cord is. It has been  
10 shattered. It has been shifted away from its  
11 normal anatomic position. She has been very very  
12 badly injured. She knows that she is bleeding on  
13 the street. She's in a lot of pain and thankfully  
14 a pedestrian runs over to her just to try to  
15 comfort her. Somebody from New York. She doesn't  
16 even know who it is, but somebody took the time to  
17 try to comfort her while the police get there and  
18 while an ambulance comes. She's going to be taken  
19 to the hospital shortly. The police come and they  
20 speak with Mr. Brooms. And when they speak with  
21 Mr. Brooms at this time he says something that's  
22 as important as anything gets in this case. And  
23 what he says is this. "I never saw the  
24 pedestrian, nor where she came from." Two  
25 statements. "I didn't see the pedestrian." He  
26 admits he never saw her nor where she came from.

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2 That becomes important because you're going to see  
3 what happens in this case. He's going to return  
4 back to his office, to his office at the  
5 Department of Transportation in Maspeth Queens.  
6 This is a man who has been driving for many years.  
7 You're going to learn he had been in the Navy at  
8 one point in his life. He had been a security  
9 guard at JFK Airport. He's now working for  
10 Department of Transportation and his office is in  
11 Maspeth. When he gets to Maspeth something very  
12 different happens. He already told the police  
13 officer I never saw her Ms. Park nor where she  
14 came from. Now when he gets back to the shop in  
15 Maspeth something very very different is going to  
16 take place. A defense is going to be created. A  
17 defense that has no bearing in reality. A defense  
18 that is speculation, pure guesswork, pure creation  
19 of facts. But before I tell you about that, I  
20 want to tell you what happens to Ms. Park. The  
21 ambulance attendants arrive. And when they come,  
22 they look at her leg and they realize immediately  
23 that they are going to have to straighten it out  
24 before putting her on a stretcher. They put her  
25 in a neck brace and they are concerned about  
26 spinal injuries. They have actually to secure her

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2 pelvis to a back board. She is in incredible pain  
3 at this point in time, something that she has  
4 never ever felt in her life. And I will tell you  
5 for her she just wants to be out of pain at this  
6 moment. They cannot give her any pain medication  
7 in the ambulance. And there is a reason they  
8 can't give her any pain medication because they  
9 don't want to mask the symptomatology so the  
10 doctors know how to appropriately treat her when  
11 they get to the hospital. They take her to New  
12 York Presbyterian Hospital and bring her to the  
13 emergency room. And one of the very first thing  
14 they do, cut her clothes off, cut her underwear  
15 off. It's obvious there is an open fracture of  
16 her leg. When I say an open fracture, the best  
17 way I could explain the injuries to you by just  
18 explaining some of the anatomy. When we suffer  
19 fractures, there are fractures that we could have.  
20 For example, a non displaced fracture where the  
21 bones in a maze position. The displaced fracture  
22 where the bones actually separate. As it gets  
23 more serious there is something known as a  
24 comminuted fracture where the bones actually  
25 shatter out of place. And the worse type of  
26 fracture that anyone could suffer is something

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2 known as an open or compound comminuted fracture  
3 where the bones not just come through the fascia,  
4 not just come through the muscle, not just come  
5 through the nerves through the skin, but actually  
6 come right out into the open air. The problem is  
7 when bone comes through the, excuse me, the skin  
8 in this way, it's exposed to contaminants and the  
9 doctors are always concerned about infection. And  
10 that's what they are worried about now. When they  
11 bring her into x-ray which they are going to do  
12 right away, they want to see what para fracture  
13 she has. And one thing that they will see  
14 immediately is that her pelvis has been shattered.  
15 As I mentioned the pelvis is a ring for, whether  
16 you're a man or a woman, but since we're dealing  
17 with Ms. Park, I'll explain it this way. It's a  
18 ring surrounding the skeletal system. It helps to  
19 support our weight, but it provides protection,  
20 protection for internal organs for which the  
21 vagina, the uterus, the bowels, the bladder, the  
22 spinal cord, and all of the tissue inside. There  
23 are many other organs that I haven't mentioned,  
24 but I'm just giving you an overview right now.  
25 When she was struck by this van, she was struck on  
26 the side, but what happened was the pelvic ring



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2 important, but what the doctors now have to do is  
3 actually find a way to stabilize her body. Before  
4 I tell you what they do as far as stabilization, I  
5 will tell you right now the doctors are working  
6 with what they call and this is a quote from the  
7 orthopedics, damage control orthopedics. It's not  
8 my words. This is what the orthopedic surgeons,  
9 the doctors who work with the bones and the  
10 joints, they know they have to try to find a way  
11 to stabilize these unstable fractures, otherwise  
12 it could result in total damage for her and there  
13 is something else that's going on. In the lower  
14 leg itself where the bones came through many  
15 vessels were damaged. Not just damaged, but I  
16 mean actually bleeding, so that you have blood  
17 coming out in different compartments in the leg.  
18 In our lower leg we have here four compartments,  
19 four muscular compartments, so for example,  
20 sometimes when lactic acid opens up builds up,  
21 those of us who are athletes we know that of  
22 course it sometimes hurts when we play, but can  
23 imagine if blood continues to pour into these  
24 compartments actually separated by a fibrous  
25 membrane around them, so there are four muscular  
26 compartments. If the blood bleeds out and



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2 told you at the scene of the accident the  
3 defendant driver told the police officer I never  
4 saw her nor where she came from. He calls  
5 control. He calls up his supervisor within 10  
6 minutes of the accident. The supervisor's name is  
7 a man by the name of David Allen. We'll call him  
8 to the witness stand as well and he speaks with  
9 him. After speaking with him he drives back to  
10 Queens and then he meets with Mr. Allen. Three  
11 hours later he fills out a report.

12 Now, understand what's going on. He never  
13 saw her. He doesn't know where she came from and  
14 he admitted that to the police officer he is  
15 making a left hand turn, but he fills out an  
16 official Department of Transportation report and I  
17 want you to understand what's going on right now.  
18 Because there are times when somebody will try and  
19 create something that never existed. There are  
20 times when somebody will try to create a defense  
21 where no defense existed and there are times when  
22 somebody will try and create something out of thin  
23 air when it never ever should have been created.  
24 Unfortunately, that's what was going on here. I  
25 want to read to you Mr. Brooms' notes, within  
26 three hours of coming back to the shop. Remember

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2 that. He admitted to the police officers. And he  
3 will admit to you, I never saw her nor know where  
4 she came from. This is what he writes in his  
5 report on the very day of the accident. I was  
6 making a left turn down 31st Street off 6th  
7 Avenue. This is what he says. Waited until the  
8 crosswalk was clear before proceeding. So now  
9 he's saying I came over here and I waited. He  
10 stopped. Well, we had an opportunity to question  
11 him and he's going to tell you I stopped for more  
12 than ten seconds, continues, waited until the  
13 crosswalk was clear before proceeding. A woman  
14 came from between two parked vans. Now he's going  
15 to say there was two parked vans over here on the  
16 south side of the street and Ms. Park came from  
17 between two parked vans coming this way coming  
18 northbound exactly where she was not coming from.  
19 She was in the crosswalk doing exactly what she  
20 should be doing, continuing down to the school.  
21 But what he says is a woman came from between two  
22 parked vans and then the defense that he's created  
23 gets even stronger, and this is what it says. And  
24 she tripped. So now she's coming from between two  
25 parked cars and she just happened to trip. And  
26 then it continues. Woman came from between two

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1  
2 parked vans and tripped. The back tire of the van  
3 I was driving rolled over her. And it's signed  
4 Richard Brooms and it's dated. And it's also  
5 signed by Richard Allen his supervisor and dated  
6 the very day of the accident. There is a problem  
7 with the defense. And the problem with the  
8 defense is he has never ever seen her, but now he  
9 has something that's being created where he's  
10 saying she came from between two parked vans.  
11 Problem is remember I said the injuries are on the  
12 left side as she's crossing because of course  
13 she's going southbound and struck this way. If  
14 she was coming from between two parked vans, it  
15 would have been on this side. He didn't know the  
16 extent of the injuries at the time he filled out  
17 the report. He didn't know where the injuries  
18 were. He knew she was taken away in an ambulance  
19 because he waited at the scene for about 45  
20 minutes. He knew she was taken away. He knew she  
21 was hurt badly, but something else. We had an  
22 opportunity to question Mr. Brooms at his  
23 deposition over a year later. And when we  
24 questioned him we asked him about this statement a  
25 woman came from between two parked vans and his  
26 answer at the deposition certainly knew there was

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1  
2 no truth to what he had written in this report, so  
3 he says this. "Oh, I was just speculating. I was  
4 just guessing." I was just conjecturing. In  
5 fact, that what was happening was he made a  
6 conscious decision when he wrote this report not  
7 to say the one thing that he knew for sure. And  
8 the one thing that he knew for sure was this. I  
9 never saw her, nor where she came from. And he  
10 admits that's the truth. But when you wrote this  
11 report, nowhere does this report or any other  
12 report that he has written and we'll show you all  
13 of them ever state what the truth was that he knew  
14 the truth, that he had never seen her nor where  
15 she came from. And he had an obligation to see  
16 her. She was in the crosswalk more than three  
17 quarters of the way across when she was struck.  
18 Now, he's created a defense that's a perfect  
19 defense because if she was coming from between two  
20 cars two vans and he trips in front of them and  
21 she has no time to react, she must be completely  
22 at fault, except none of that ever happened. None  
23 of that ever took place. That is complete  
24 creation and complete creation of a defense that  
25 should never ever have been put down in an  
26 official record of the New York City Department of

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1  
2 Transportation. Ms. Park has been seriously  
3 injured. Let's go back to the hospital for a  
4 moment. The doctors are working with their  
5 damaged control orthopedic. The doctors are  
6 trying desperately to try to stabilize the  
7 fractures. And to stabilize the fractures they  
8 had actually filleted open her leg to open up the  
9 compartments to allow what's known as the  
10 fasciotomy to actually allow bleeding, to allow  
11 movement, to allow blood flow once again in the  
12 legs. That's what happened. She now has blood  
13 flow in the legs. The fractures are so unstable.  
14 They can't even lift the leg up. It would  
15 collapse down. They have to straighten it out.  
16 You see the X-rays where the toe is pointed in the  
17 wrong direction. So they now have to straighten  
18 that out and what they do is they actually use  
19 what's known as an external fixator. Basically a  
20 metal frame that they drilled right into the Tibia  
21 right into the femur and use these big metal rods  
22 that come right out of the skin to actually frame  
23 the leg so they could actually stabilize it and  
24 it's just a stabilization procedure, but they have  
25 to deal with the pelvis also because the pelvis as  
26 I mentioned to you was so badly shattered and

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1  
2 damaged. This was twisted in a way that was  
3 anatomically incorrect and they have to find a way  
4 to put the pelvic ring back into proper anatomic  
5 position. This is the area I'm talking about  
6 coming all the way around, all the way through the  
7 back. What they do is the orthopedist they  
8 actually drill large metal rods, directly into her  
9 pubic area and they put pins in to try and  
10 stabilize and hold her body together. But the  
11 problem is they have to actually straighten it  
12 out, so they actually take the right leg now which  
13 was not damaged, they actually drill a hole right  
14 through the tibia the bone that I am pointing to  
15 right now, and what they are going to do is they  
16 are going to put a pin right through the leg  
17 carefully not to damage the vascular structures  
18 they artery would then travel before the nerves,  
19 and they are actually going to hang weight off of  
20 it. (Siren) They are gonna hang weights off of  
21 this to try to pull down to allow the pelvis to  
22 come back into some sort of anatomic position.  
23 And that's what they do and they will actually fix  
24 it this way. You'll see photographs of the extent  
25 of the pelvic external fixator which she's going  
26 to have for weeks and weeks and weeks. This is

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1 just the first surgery that she's undergoing. She  
2 comes out of the first surgery and looks down at  
3 that time herself and can't believe what she's  
4 seeing because she sees these metal cages up. Her  
5 parents are in Korea. She's alone. A young girl  
6 she's 22 years old at this time and she's scared.  
7 She's scared out of her mind, trying to remain  
8 strong. Her parents have been called. They are  
9 on their way to visit her in the United States  
10 because of course they are concerned about their  
11 daughter as any parent would be. And so what  
12 happens is the doctors know that she's going to  
13 have many many more surgeries. One of the things  
14 that I haven't even told you about yet is the knee  
15 joint itself. The knee joint is the largest joint  
16 in the body. It's a huge joint. The bone from  
17 the hip going down to the knee is known as the  
18 femur. The ankle up to the knee is known as the  
19 tibia. And where they meet is known as the tibia  
20 plateau in the femoral condyle. The damage was so  
21 severe when that bumper hit her in the knee left  
22 side that it actually crushed the knee joint so  
23 that she suffered what's known as a depressed  
24 tibia plateau fracture. So that the bone was  
25 actually broken this way coming down and also  
26

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2 depressed meaning the femur was forced down on top  
3 of the tibia creating a depression. They would  
4 have to do more surgery and you'll see the number  
5 of plates and screws and pins she has in her body.  
6 They were able to successfully remove the external  
7 fixator when they did something else. They had to  
8 insert what's known as an intramedullary rod coming  
9 right through the tibia in the area where I'm  
10 pointing to right now, because the bones were so  
11 badly displaced, they actually have to drill a  
12 hole right through the entirety of the  
13 intramedullary canal. If you think of it as a  
14 marrow of the bone, they are drilling that out and  
15 they are going to be inserting a rod through the  
16 intramedullary canal. And they fix it to try to  
17 stabilize the leg. There is a problem though.  
18 The damage to the leg is so significant that the  
19 knitting process known as osteogenesis where the  
20 bones are actually knit back together, weren't  
21 working for her. Even though she's in the  
22 hospital and you'll learn that she remains in the  
23 hospital through March 26th, what happens there is  
24 the knitting isn't taking place so she has many  
25 many more surgeries. I'm just giving you an  
26 overview of this, but I'll assure you when the

## 1 Proceeding

2 doctor comes in I'll go through each one of them  
3 and I'll ask you to bear with us because it is our  
4 only opportunity to have you evaluate the nature  
5 and extent of the injuries. What happens she's  
6 going for more surgery. Her wrist they do an open  
7 reduction. They insert screws and plates because  
8 what's happened here is her shoulder what's known  
9 as the chromium process, from her shoulder. Some  
10 of you we had spoken to had certain injuries. The  
11 full extent of the injuries you have to understand  
12 when you take into conjunction with every other  
13 injury that she suffers, one of the worse things  
14 for her is this. She has no ability to go to the  
15 bathroom. She's got this huge external fixator  
16 coming through with pins this way. Sacroiliac  
17 joint has been so badly displaced she had to have  
18 pins placed right through the hip area that I'm  
19 pointing to right now. The sacroiliac joint to  
20 hold them in place for her to go to the bathroom.  
21 It was incredibly devastating to her because every  
22 time they tried to lift her up to get her body up  
23 a little bit, the fractures were unstable so the  
24 pain that she had was incredible while they were  
25 doing this. She had break through pain at the  
26 hospital where they would give her morphine or

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1  
2 other medications for pain. It would actually  
3 just break through. One thing you need to know  
4 about Ms. Park is this. She is anything but  
5 a complainer. When her mother came she came  
6 within 3 days as did her father. She didn't want  
7 her mom to know that she was in pain. And she had  
8 a reason for that. She didn't want to worry her  
9 mother. Because of that she purposely doesn't  
10 complain to her mother, but her mother, of course  
11 being her mother, knows what kind of pain her  
12 daughter is in. The nursing care at the hospital  
13 was good. The nurses tried very carefully so that  
14 when they would insert the bed pan or they were  
15 working with a Foley catheter to allow her to  
16 urinate, just to allow her to pee. The problem is  
17 every one of these movements hurt her. For the  
18 entire time she's in the hospital she could never  
19 go to the bathroom. She could never go on a  
20 toilet. She's got a bed pan. Every once in an  
21 awhile they would try to take her to a reclining  
22 chair, but moving her to the extent of the  
23 fracture to the pelvis was incredibly painful.  
24 What happens is after approximately 6 weeks or so  
25 March 26th, remember the accident February 15th,  
26 March 26th, 2013 she's transferred to a nursing

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1  
2 home in Queens for rehabilitation. When she's  
3 transferred to this nursing home, I'm not sure if  
4 any of you know what nursing homes are like. When  
5 she is transferred to this nursing home I'm  
6 telling you right now for her this was a window  
7 into hell. Because the care at that nursing home  
8 was none existent. She was used to actually being  
9 able to ring for a nurse in the hospital if she  
10 had to go to the bathroom. And they had to make  
11 sure even though she had all of this hardware on  
12 her, they had to make sure to try to turn and  
13 reposition her every two hours so she wouldn't  
14 develop what was known as decubitis ulcers bed  
15 sores. If you don't continuously move sometimes  
16 you notice from sitting too long you actually feel  
17 a little bit of pain. If you actually stop the  
18 circulation the skin will breakdown beginning in  
19 two hours. The problem she can't move at all at  
20 this point in time because she still has this  
21 external fixator on when she's in the nursing  
22 home. And she needs help. And she needs to go to  
23 the bathroom and she's calling them and no one is  
24 coming. It's an unfortunate thing that happens  
25 but it is the reality what took place. She  
26 couldn't hold it anymore and eventually she would

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2 pee in her sheets. When the urine soaks into the  
3 sheets, it actually comes back towards her bottom  
4 which is one of the heavier areas. The bed sores  
5 that were developing were now soaking in this  
6 caustic substance her urine and burning her and  
7 there was no one to help her. When her mother  
8 came she was delighted that her mother was there,  
9 but she couldn't wait to get out of this place.  
10 She was in that nursing home for about a week and  
11 she was transferred back to the Hospital for  
12 Special Surgery. When she got back to the  
13 Hospital for Special Surgery the one thing they  
14 was going to be doing at this point in time try to  
15 remove the external fixator covering her pelvis.

16 Now, I know I've said to you a lot about some  
17 of the surgeries. I'm just touching the tip of  
18 the iceberg on these. Please understand this.  
19 She was actually glad to be having this surgery  
20 for the removal of the external fixator on her  
21 pelvis. It's basically an elector set on her  
22 pelvis. The reason was she knew if they could do  
23 that eventually she would be able to transfer from  
24 the bed to the wheel chair, to the wheel chair to  
25 the toilet and back. They showed her how to do  
26 this through physical therapy and just like she

## Proceeding

1  
2 did with her studies, she was determined as  
3 determined as anyone could get to be able to do  
4 this. Although it took an hour just to try to get  
5 that exercise done to get to the bathroom, she was  
6 happy that she was actually able to do that. When  
7 they removed the external fixator it left scars in  
8 her pubic area in her pelvis. The scars from the  
9 leg had now created something known as  
10 denervation, where you have these very large  
11 scars. You don't have the ability to feel our  
12 nerves, provide two functions, one muscular to be  
13 able to move the other, to be able to feel or  
14 touch, to discern hot or cold. So when she  
15 actually had that filleting of the leg so in  
16 actually where they opened up her leg, it took  
17 away her ability to feel in these areas. That is  
18 something that will be with her the rest of her  
19 life as well as scars, scars in this area as well.  
20 You'll see different scars she's had from the  
21 surgery. As time goes by, by the way she's in the  
22 hospital for special surgery for about 9 days.  
23 She then comes out. She's starting rehabilitation  
24 and she's very happy to be starting  
25 rehabilitation. She want to try to get better.  
26 She wants to try to do for herself. It's the way

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2 she has guided herself throughout her life. So  
3 what happens is she's starting physical therapy,  
4 but the leg as I mentioned before the lower leg  
5 the bones aren't knitting together. There is a  
6 problem. There is too much displacement of the  
7 bones when they were shattered. She goes to a  
8 specialist at the hospital for special surgery, a  
9 doctor by the name of Doctor Lane who specializes  
10 in bone density to try to strengthen the bone.  
11 And he actually has to do another surgery of her  
12 in July. You're going to hear all of these  
13 surgeries that she's had multiple multiple  
14 surgeries where they took a portion of the cells  
15 from the hip and they actually are going to try to  
16 transplant it into her leg to allow for the  
17 osteogenesis, the bone growth to form once again.  
18 Throughout the summer she's working on her  
19 physical therapy. Her mother has now and her  
20 father her mother had actually gotten another  
21 apartment for her to stay with her daughter, but  
22 they are living in a one bedroom apartment, but it  
23 has an elevator. She could actually use her  
24 wheelchair there. She's not able to go back to  
25 school of course, but as time goes by she's trying  
26 very hard with the physical therapy. Problem is

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1  
2 the leg, the left leg, the knee which I had  
3 mentioned before had been shattered. As far as  
4 the depressed tibia plateau fracture there are two  
5 meniscus. They call it meniscus in between the  
6 big bone on the top is the femur and the tibia.  
7 If you think about it, when as we're coming close  
8 to Thanksgiving I guess I could use this analogy.  
9 If you take a look at a turkey bone, the very end  
10 of the turkey bone are smooth and something that's  
11 articular surface. No matter what joint in our  
12 body you think about it that's where the articular  
13 surface is. This allows for the free flowing and  
14 even movement of the bones one or the other. In  
15 fact, there is a fracture through the bone,  
16 through the articular surface, could result in  
17 arthritis, arthritic changes that could only get  
18 worse as time goes by. For her the cartilage in  
19 between the meniscus the lateral meniscus was torn  
20 and badly damaged. A portion of the bone from the  
21 top, the femoral condyle was actually avulsed.  
22 That means the force was so hard it actually  
23 pulled it and ripped it right off of her body. So  
24 by the time November comes around she's going for  
25 more surgery which they have to do something known  
26 as an arthrotomy, surgery to the bone as well as

## 1 Proceeding

2 to the meniscus. They are going to have to remove  
3 some of the pins and place of the leg. She is as  
4 determined as anyone gets. She wants desperately  
5 to go back to school as she does.

6 By time January comes around she has enrolled  
7 in school again. She's lost a whole year, but  
8 what's happening now is she's having difficulty  
9 getting around. She does not want to complain.  
10 She wants to continue with her studies so she's  
11 actually working through her studies and she's  
12 actually taking even more time with the classes.  
13 As I mentioned before, she would listen to the  
14 lectures, but now based on the pain that she's in  
15 medications that she has been taking what she's  
16 trying to do it's taking her even more time, but  
17 she is determined and she does well. She studies.  
18 She works hard. She does well. By the time the  
19 summer comes around the following year this is  
20 2014, she's trying to walk without assisted  
21 devices. As I mentioned she had used a wheel  
22 chair and rolling walker with one arm on the  
23 walker that could actually hold her leg up because  
24 this hand had been so badly injured in the area  
25 where I'm pointing right now the radius ulnar and  
26 she's trying to walk now without assisted devices,

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1  
2 trying to get by and she does. She wants her life  
3 to return to normal or as normal as it can be.  
4 She is exhausted by the end of day. She is having  
5 difficulty with pain. She is not complaining.  
6 She's trying to do everything she did before she's  
7 walking, use the subway, walking to school. She's  
8 trying to get to school. Her mother has been  
9 helping her. Thank God her mother was there to  
10 help her. You'll hear her mother had to treat her  
11 like a baby even wiping her, doing all sorts of  
12 things thank goodness a mother can do. The  
13 problem is this. In the future because of the  
14 damage to the pelvic ring it will affect her  
15 ability to bear children. It is a significant  
16 event for her. I'm going to share this with you  
17 and I recognize the privilege with this, but I do  
18 want you to understand what's happened with her.  
19 She had had a boyfriend before the accident. In  
20 fact, like many young women she had engaged in  
21 sexual relations before the accident. After the  
22 accident she did try and engage in sexual  
23 relations, but she found that the pressure on her  
24 pelvis was too great. The pain was too great for  
25 her and she stopped engaging in sexual  
26 relationship. And for that and other reasons she

## 1 Proceeding

2 does not have a boyfriend. It has affected her  
3 emotionally as far as what has happened to her.  
4 The knee itself has been getting worse as time  
5 goes by and you'll see that she's going to need a  
6 knee replacement and many others during the course  
7 of her life because the knee replacements the  
8 doctor have are not nearly as good as the ones God  
9 gave us. As time goes by, you'll also see that  
10 her back has become more painful because the  
11 danger of the sacroiliac joint and the fact that  
12 the fracture had gone through the neuro foramina.  
13 When I said to you during jury selection Ms. Park  
14 was doing everything she was supposed to be doing,  
15 crossing in the crosswalk where she should be,  
16 that's exactly what she should be. You have a man  
17 who actually says I never saw her, nor where she  
18 came from. And then creates a report. And  
19 creates a report to try and create a complete  
20 defense to this.

21 Now, I recognize he's probably a nice man,  
22 but when do you something like that, when you  
23 create facts when none exists, when you create  
24 facts out of thin air, that's improper. That's  
25 not appropriate. It is never ever right. You  
26 have the ability to render justice in this case

## 1 Proceeding

2 members of the jury. And it's for these reasons  
3 at the close of all the evidence in the case we're  
4 going to ask you to find the defendant driver in  
5 this case the City of New York 100 percent at  
6 fault. And we will also ask you to award a very  
7 very substantial amount of money to fully to  
8 fairly and to adequately compensate not just from  
9 the date of the accident until today, but for her  
10 future as well. Because what took place here  
11 never should have happened. And when you're  
12 creating facts out of thin air, that should not  
13 happen. We will ask you to return the one verdict  
14 that you as jurors can and that is to make sure  
15 that you return a verdict of 100 percent justice.  
16 Thank you all for listening to me. Thank you,  
17 your Honor.

18 THE COURT: Counsel.

19 MS. DICOLA: Thank you.

20 THE COURT: We're going to take five  
21 minutes.

22 MS. DICOLA: Okay.

23 COURT OFFICER: All rise. Jury exiting.  
24 (Whereupon, a brief recess is taken)

25 THE COURT: Please be seated.

26 MS. DICOLA: Good afternoon Ladies and