

RAS C-228

1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF OHIO
 3 WESTERN DIVISION
 4 UNITED STATES OF AMERICA,) Docket No. 3:06CR712
 5 Plaintiffs,) Toledo, Ohio
 6 v.) October 1, 2007
 7 DAVID GEISEN, ET AL.) Jury Trial
 8 Defendants.)

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 10 TRANSCRIPT OF JURY TRIAL VOLUME 1 OF 15
 11 BEFORE THE HONORABLE DAVID A. KATZ
 12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiffs: Office of the U.S. Attorney-Cleveland
 15 By: Christian Stickman
 16 Suite 400
 17 801 Superior Avenue, W
 18 Cleveland, Ohio 44113
 19 (216) 622-3818

20 U.S. Department of Justice
 21 Richard A. Poole
 22 Thomas T. Ballantine
 23 3rd Floor
 24 1400 New York Avenue, NW
 25 Washington D.C. 20005
 (202) 514-0838

For the Defendants:

On behalf of David Geisen:
 Miller & Chevalier
 By: Andrew T. Wise
 Richard A. Hibey
 Suite 900
 655 Fifteenth Street, NW

TEMPLATE= SECY 032

DS 03

1 Washington, DC 20005
2 (202) 626-5818

3 On behalf of Rodney Cook:

4 Gordon & Ermer
5 By: Denis F. Gordon
6 John F. Conroy
7 Suite 640
8 1828 L Street, N.W.
9 Washington, DC 20036
10 (202) 833-3400

11 Court Reporter: Angela D. Nixon, RPR, CRR
12 1716 Spielbusch Avenue
13 Toledo, Ohio 43624
14 (419) 260-5259

15 Proceedings recorded by mechanical stenography, transcript
16 produced by notereading.
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1 THE COURT: For approximately 50 minutes before
2 court The Judge and counsel conferred on matters relevant
3 to the trial. One of the issues which came up was the
4 issue of Mr. Geisen's motion to admit the deferred
5 prosecution agreement, which was offered to him. After
6 discussion, the court indicated that it would deny the
7 motion but defer doing so until the end of the government's
8 case in -- in the event that issues which arose during the
9 government's case changed The Court's opinion.

10 The second issue which was discussed was the
11 motion for reconsideration of The Court's ruling as to
12 Mr. Davis -- Dr. Davis and his right to testify in a
13 limited fashion. The Court indicated and so rules that the
14 motion for reconsideration will be denied and opinion will
15 follow.

16 With respect to separation of witnesses, the
17 government has requested that Dr. Davis be present. He
18 will only be permitted to be in the courtroom for his own
19 testimony and the testimony of other witnesses -- expert
20 witnesses called by the government. And, of course, after
21 he has testified, he may remain in the courtroom to assist
22 the government in its cross examination of additional
23 experts who may be called by the defense.

24 With respect to case agent Joe -- Joseph Ulie,
25 U-L-I-E, Court has in the past and will in this instance,

1 permit Mr. Ulie to be at conference at the -- at the
2 government's table throughout, but The Court has cautioned
3 the government that depending on the flow of evidence, it
4 might -- The Court might prohibit Mr. Ulie from testifying
5 in the area in which the government intends to offer him,
6 and do so through another case agent present during the
7 conferences with either or both of the defendants, and that
8 determination will be made immediately before Mr. Ulie is
9 to testify.

10 With respect to objections, The Court is granting
11 the defendants a continuing objection as to expert
12 witnesses Davis and Holmberg. They need not object further
13 on the record. All other objections are to be kept at a
14 minimum. If the reason for the objection is obvious, such
15 as hearsay or relevance, no rule need be stated.

16 Just so it is amply clear, Mr. Conroy has
17 indicated to The Court that there is a -- has been a death
18 in his family, a very close brother in law, and that he has
19 conferred with his client and has his client's approval to
20 leave mid day on Wednesday. And The Court has, obviously,
21 agreed to that and will instruct the jury that his absence
22 should be not -- should not be considered by them for any
23 reason. And The Court will advise them that -- of the
24 reason for his absence from the trial. Anything further?

25 MR. POOLE: No, Your Honor.

1 MR. HIBEY: Thank you, Your Honor.

2 THE COURT: Thank you. Would the jurors please
3 rise and be sworn?

4 (Jurors sworn).

5 THE COURT: Good morning, everyone. I'm sure you
6 will agree that we owe a debt of gratitude to Magistrate
7 Judge Vernelis Armstrong for having conducted the voir dire
8 in this case. As always, we are very grateful to Judge
9 Armstrong.

10 Ladies and gentlemen, now that you've been sworn,
11 I'm going to give you some preliminary instructions to
12 guide you in your participation in this trial. And I'll
13 call your attention to the words that I use preliminary
14 instructions. For at the end, as I will remind you, I will
15 give you detailed instructions, but these instructions are
16 intended to help guide you through this trial.

17 As jurors, it will be your duty to find from the
18 evidence what the facts are. You and you alone are the
19 judges of the facts. You will then have to apply to those
20 facts the law as I, The Court, will give it to you. And
21 you must follow those instructions regarding the law
22 whether you agree with it or not. Nothing I may say or do
23 during the course of the trial is intended to indicate nor
24 should be taken by you as indicating in any way what my
25 opinion is with respect to the verdict. The verdict will

1 be your verdict.

2 I've used the word evidence. We've all heard it.
3 The evidence from which you will find the facts will
4 consist of the testimony of witnesses, documents and other
5 things received into the record as evidence, and any facts
6 which the lawyers agree to stipulate to, or that The Court
7 may instruct you to find as a matter of law. Certain
8 things are not evidence and must not be considered by you
9 as such. I'm going to list them for you now.

10 First, statements, arguments and questions by
11 lawyers are not evidence.

12 Second, objections to questions are not evidence.
13 Attorneys have an obligation to their client to make an
14 objection when they believe evidence being offered is
15 improper under the rules of evidence. And you should not
16 be influenced by the objection or by The Court's ruling on
17 that objection. If the objection is sustained, ignore the
18 question. If it is overruled, treat the answer like you
19 would any other. If you are instructed that some item of
20 evidence or some testimony is received for a limited
21 purpose only, you must follow that instruction and treat it
22 for that limited purpose for which it has been admitted.

23 Third, testimony that I have excluded or told you
24 to disregard is not evidence and must not be considered.

25 And fourth, anything you may have seen or heard

1 outside this courtroom is not evidence and you must
2 disregard it. You are to decide this case solely on the
3 evidence presented and admitted in this courtroom before
4 you as jurors.

5 There are two kinds of evidence, direct and
6 circumstantial. Direct evidence is direct proof of a fact
7 such as the testimony of an eye witness, particularly one
8 we're very familiar with, eye witnesses to an automobile
9 accident.

10 Circumstantial evidence, on the other hand, is
11 proof of facts in evidence from which you, the jury, may
12 draw reasonable inferences or conclude that other facts
13 exist. And I'm going to give you further detailed
14 instructions on these as well as other matters at the end
15 of the case, but keep in mind you may consider both kinds
16 of evidence, direct and circumstantial. And it will be up
17 to you to decide which witnesses to believe, which
18 witnesses not to believe and how much of any particular
19 witness's testimony to accept or reject. At the end of the
20 case, I will give you some guidelines for -- to assist you
21 in determining the credibility of witnesses.

22 Now, as you know, this is a criminal case. Only
23 these two defendants, David Geisen and Rodney Cook, are on
24 trial before you. And there are three basic rules about a
25 criminal case which you must keep in mind.

1 First, a defendant is presumed innocent until
2 proven guilty. The indictment against the defendants
3 brought by the government is only an accusation, nothing
4 more. It is not proof of guilt or anything else. The
5 defendants, therefore, start out with a clean slate and the
6 presumption of innocence.

7 Second, the burden of proof is on the government
8 until the very end of the case. The defendants have no
9 burden to prove their innocence or to present any evidence
10 or to testify. Since the defendants have the right to
11 remain silent, the law forbids you in arriving at your
12 verdict from considering that the defendants may not have
13 testified.

14 Third, the government must prove the defendant's
15 guilt beyond a reasonable doubt. Proof beyond a reasonable
16 doubt must be proof of such a convincing character that a
17 reasonable person would not hesitate to rely and act upon
18 it in the most important of his or her affairs. Again, I
19 will give you further detailed instructions on this point
20 later, but bear in mind that in this respect a criminal
21 case is different from a criminal case (sic). A criminal
22 case requires proof beyond a reasonable doubt.

23 An indictment is merely the document through
24 which the defendant in a criminal case is advised of the
25 charges brought against him by the government. It is not

1 evidence, and should not be considered as such by you, the
2 jury. You've already read -- heard a reading of the
3 indictment by Magistrate Judge Armstrong. The full
4 indictment will be given to you in hard copy at the end of
5 the case, and you will be able to take that with you to the
6 jury room during the deliberations. As you know, that
7 indictment charges the defendant with crimes including
8 violation of statutes, United States Code Title 18 sections
9 1001 and 2. And there are five counts.

10 Title 18 of the United States Code, Section 1001
11 provides, in pertinent part, A, accept as otherwise
12 provided in this section, whoever in any manner within the
13 jurisdiction of the executive legislative or judicial
14 branch of the government of the United States, knowingly
15 and willfully, one, falsifies, conceals or covers up by a
16 trick, scheme or device, a material fact: Two, makes any
17 materially false, fictitious or fraudulent statement or
18 representation or; three, makes or uses any false writing
19 or document knowing the same to contain any materially
20 false, fictitious or fraudulent statement or entry, has
21 committed a crime.

22 18 United States Code section two provides in
23 pertinent part, A, whoever commits an offense against the
24 United States or aides, abets, counsels, commands, induces
25 or procuress its commission is punishable as a principle.

1 B, whoever willfully causes an act to be done,
2 which if directly performed by him or another, would be an
3 offense against the United States, is punishable as a
4 principle.

5 Both of these sections of Title 18, section 1001
6 and 2 apply to all five counts of the indictment. Please
7 remember that as to all counts, it is agreed by the parties
8 that The Nuclear Regulatory Agency, which will probably be
9 referred to many times as the NRC, is an agency of the
10 executive branch of the United States Government. And also
11 please remember that at the end of this case, I will
12 instruct you more completely on each of the crimes the
13 government contends the defendants committed, and on the
14 burden of proof the government must sustain.

15 These are preliminary instructions. Keep them in
16 mind. Don't try to remember them verbatim. You will have
17 complete instructions at the end in hard copy and you will
18 be permitted to take those instructions into the jury room
19 as you deliberate. Excuse me.

20 Now, but a few words about your conduct as
21 jurors. As you know, this trial is expected to take
22 somewhere between three and five weeks. It could take
23 somewhat longer. In a long trial, especially in a criminal
24 case, the instructions which follow are extremely
25 important. So important that they will be repeated ad

1 nauseam. Listen to them carefully.

2 First, you're instructed during this trial you
3 are not to discuss this case with anyone or permit anyone
4 to discuss it with you. And that includes discussing it
5 with one another. Until you retire to the jury room at the
6 end of the case to deliberate on your verdict, you simply
7 are not to talk about this case. The attorneys and the
8 defendants are not permitted to talk to you. And should
9 they see you outside the courtroom, please understand that
10 they are not being discourteous. If you should pass them
11 in the courthouse hallways or outside the courtroom at a
12 break or lunch, they are not to talk to you, nor are you to
13 them.

14 Second, do not read, listen to or watch anything
15 touching on this case in any way. That includes
16 newspapers, radio, television, et cetera. And with others
17 in the home, you should ask them to look at the newspapers
18 and screen out for you anything which may touch on this
19 case, and you should not read it. You are not, therefore,
20 to read any newspaper articles or watch or listen to any
21 news broadcast touching in any way on this matter,
22 including but not limited to anything about Messrs Geisen,
23 Cook or Siemaszko, Davis-Besse, its nuclear power station
24 or First Energy Nuclear Operating Company or any of its
25 affiliates or subsidiaries.

1 Third, do not try to do any research or make any
2 investigation about this case on your own.

3 Fourth and finally, do not form any opinion until
4 all the evidence is in. Always keep an open mind until you
5 start your deliberations at the very end of the case after
6 you've heard all of the evidence, heard the closing
7 arguments of counsel and the instructions of The Court.

8 As you know, you may, if you wish, take notes.
9 However, no juror is required to take notes. The taking of
10 notes is entirely a matter of personal choice for each of
11 you. The fact that the notes taken by a particular juror
12 support his or her recollection of a matter in no way makes
13 that juror's memory more reliable than that of the juror
14 who decided not to take notes.

15 A word of caution, please don't let the taking of
16 notes divert your attention from what is being said or what
17 is happening in this courtroom during the trial. In other
18 words, take notes if you wish, but don't permit note taking
19 to interfere with your concentration on the testimony and
20 witnesses or the examination and explanation of exhibits.
21 In other words, always be aware of what is going on around
22 you in this courtroom. All notes are confidential and for
23 the use and consideration of the juror taking those notes.
24 They are not to be read to another juror as a method of
25 persuasion or to attempt to reflect the exact testimony.

1 Those notes to reflect -- the notes are to assist only the
2 note taker in refreshing his or her recollection. Each
3 juror taking notes is to take the notebooks to the jury
4 room at breaks and leave them with the courtroom deputy
5 during lunch and at the end of each trial day. At the end
6 of the trial, all notes and notebooks must be returned to
7 The Court for destruction of the notes.

8 With respect to the time in the courtroom, this
9 week, as you undoubtedly know, The Court has obligations on
10 Thursday and Friday and there will be no trial. And I will
11 give you notice preliminarily and subject to change about
12 days we will not be in trial. This is tentative. Monday,
13 a week from today, the 8th, is a holiday, and we will not
14 be in session. Monday through Wednesday of the following
15 week, October 15th through 17th, we will not be in session
16 due to a judge's conference. We will not be in session on
17 Monday, October 22nd. I believe that's enough. And I will
18 remind you of these at the end of each week.

19 We will try and start promptly at 9:00 each
20 morning we are in session. There will be a break in the
21 morning and a break in the afternoon of approximately 15
22 minutes. We will have a lunch break varying on the needs
23 of the jury and matters which come to the attention of The
24 Court which need to be handled over the noon hour, and that
25 time for lunch will vary between an hour and an

1 hour-and-a-half. At the end of the day we will try and be
2 done between 4:00 and 5:00. If there are issues which a
3 juror needs to raise with regard to a particular time of
4 ending on any particular day, please talk to Cindy, my
5 courtroom deputy. We'll discuss that. If there is a
6 witness on the witness stand who we can finish by going
7 over 5:00, we will do so on those rare occasions. And if
8 there is a witness on the witness stand or about to be
9 called from out of town, we'll -- and it's not going to
10 take too long, we'll attempt to accommodate that witness as
11 well.

12 Timeliness. I will attempt to be on time both at
13 the beginning of each day and at the end of breaks, as will
14 counsel. But there are going to be times when other duties
15 incumbent upon me to perform may make me five minutes late,
16 and I apologize in advance for that.

17 Additionally, you will see us sometimes speaking
18 at side bar. We will try and keep those intrusions at a
19 minimum, but sometimes it's quite necessary to discuss
20 those matters not for your hearing at side bar. And I will
21 then turn on what we call white noise, and you'll recognize
22 it.

23 We will now begin the trial in earnest. First,
24 the government will make an opening statement, which is
25 simply an outline to assist you in understanding the

1 evidence as it will come in.

2 Next, each of the defendants, through counsel,
3 may, but are not required to do so, may make an opening
4 statement. As I've told you, opening statements are
5 neither evidence nor arguments. They are statements which
6 will attempt to set the stage for you and to provide a road
7 map through the testimony and evidence.

8 Once opening statements have been completed, the
9 government will then present its witnesses. Counsel for
10 the defendants may cross examine them. Following the
11 government's case, the defendants, if they wish, but as you
12 know they are not required to do so, may present witnesses
13 whom the government will have the opportunity to cross
14 examine. After all of the witness -- all of the evidence
15 is in, The Court will instruct you on the law. The
16 attorneys will make their closing arguments to summarize
17 and interpret the evidence for you. And you will then
18 retire to deliberate on your verdict.

19 Mr. Ballantine, are you ready for opening
20 statement?

21 MR. BALLANTINE: Government is, Your Honor.

22 THE COURT: Please. Another word, this courtroom
23 is equipped with electronics. Electronics, like human
24 beings, are subject to error. We will try and keep those
25 errors at a minimum, but they will, as you will see as this

1 trial progresses, be of great assistance to you as jurors.

2 MR. BALLANTINE: Good morning. We are here today
3 because the defendants, David Geisen and Rodney Cook,
4 concealed information from the Nuclear Regulatory
5 Commission, the NRC, when the NRC asked them about a
6 safety-related issue to do with this part. It's called a
7 CRDM nozzle control rod drive mechanism nozzle at the
8 Davis-Besse Nuclear Power Station out in Oak Harbor.

9 We are here today because when the NRC came back
10 and asked for more information about the things that had
11 been kept back to begin with, the defendants simply lied to
12 the NRC.

13 That is why we're here today, the issues that
14 they were talking about and writing about and presenting to
15 the NRC matter. They were of great concern to the Nuclear
16 Regulatory Commission. They had to do with how a nuclear
17 power plant operates. And you're going to hear some about
18 how these plants work. And it mattered a good deal to the
19 defendants and their company, because it involved when the
20 Davis-Besse station would shut down, and you'll hear that
21 shut down's a big deal and it costs a lot of money every
22 day, hundreds of thousands of dollars. That's why we're
23 here. We're here because the defendants kept back
24 information from the NRC. And when keeping back the
25 information didn't accomplish what they wanted, they simply

1 told a lie.

2 In presenting that evidence, you're going to hear
3 about three kinds of things. You're going to hear about
4 the basics of how a pressurized water reactor like
5 Davis-Besse operates, the very basics. It's a complicated
6 subject without question, but the basics, I think, you'll
7 find are understandable, and you'll need to have a sense of
8 them, not a sense of nuclear power, you don't have to be an
9 atomic physicist at all, but you have to have a sense of
10 what's going on at the power plant and what's going on with
11 this part and into this is the -- called a reactor vessel
12 head. We'll get to that in a moment.

13 The second kind of evidence that you're going to
14 hear about is about the interaction between Davis-Besse and
15 the NRC, and that interaction took place on this issue
16 between September of 2001 and late November of 2001. The
17 defendants worked on a team that -- that provided that
18 interaction, provided the Davis-Besse side of that
19 interaction. They had two roles. Rodney Cook coordinated
20 the communications with the NRC, specifically documents
21 that are called serial letters. And he collected the
22 information that went into those letters, and sometimes he
23 drafted answers to NRC questions himself. He was a
24 contractor, consulting contractor to Davis-Besse, and he
25 worked out of the Regulatory Affairs Group at Davis-Besse.

1 And he's an experienced person in the nuclear industry.

2 And you'll hear about David Geisen's role,
3 Defendant Geisen's role. He was a manager of design
4 engineering at Davis-Besse, was very familiar with the
5 problem the NRC was asking about, because he served on an
6 industry steering committee that had addressed it. And
7 because he was the person that Davis-Besse management
8 looked to to tell them about what was going on. So you'll
9 hear about their role and how they contributed to the
10 interaction between Davis-Besse and the NRC, and you'll
11 hear about how -- what was said to the NRC was false, or
12 concealed information, important information. That's the
13 second kind of evidence that you're going to hear about.

14 The third kind is evidence that the defendants
15 knew that what they were telling the NRC held back things
16 that the NRC was entitled to, and when that didn't work,
17 that the information they gave the NRC was false. Those
18 kinds of evidence fit into the crime that's been charged,
19 and Judge Katz read you the statute. The government needs
20 to prove those things, that they were false statements
21 submitted to the NRC, that they mattered, that the
22 defendants knew that they were false, or the defendants
23 knew that they were concealing information by trick, scheme
24 or devise, from the NRC.

25 So for the next 30 minutes or so I wanted to go

1 through, present you an outline of what that evidence is
2 going to look like, those three kinds of evidence, starting
3 with the basics of how a pressurized water reactor like
4 Davis-Besse operates. That's the Davis-Besse reactor.
5 It's a lot like many kinds of other kinds of power plants.
6 An atomic power plant uses -- nuclear power plant uses
7 atomic fission to make heat the same way that a similar
8 coal fire power plant uses coal to make heat. What they
9 then do is they use that heat to make steam, and then they
10 use the steam to turn turbines to drive an electric
11 generator. And this diagram that you see now is an
12 illustration of that. You can see the turbines, the
13 generator, something called a steam generator, which takes
14 water and uses the heat of the nuclear reaction to heat it
15 up and make it into steam. And then over on the very far
16 left, a thing called a reactor vessel. And you see the
17 heat from that comes out of that reactor vessel and goes
18 through that device called a steam generator and then goes
19 back in to be recycled and heated back up again. The way
20 that works is there's a -- that reactor vessel is a big --
21 it's a big pot. It's a container and it's filled with
22 water. It's called reactor coolant water. And the fuel --
23 the uranium is inside that container in something called a
24 fuel assembly, and inside that fuel assembly there's
25 uranium and it breaks apart. When an atom breaks apart,

1 lets go heat, lets go radiation and lets go two or three
2 particles, they're called neutrons. And they can then, in
3 turn, be absorbed into another atom of the radion which can
4 break apart, let go heat, let out two or three more
5 neutrons. They may go on into another atom, cause it to
6 break apart, more heat, more neutrons, more radiation. And
7 it's called a chain reaction. As I describe it, each one
8 can cause another one to break apart, fission, and let off
9 heat and reaction continues, becomes self-sustaining, and
10 it's a very powerful form of energy.

11 So that 'chain reaction has to be controlled. You
12 can't just have it continuing on its own. And the way that
13 it's controlled at a nuclear power plant is two ways, one
14 is with something called control rods. And the other is
15 with the introduction of boric acid into that reactor
16 vessel.

17 The illustration that's up now is a close-up of
18 that reactor vessel. And it's a little bit complicated
19 looking at the bottom part. The purple part that you see
20 is that fuel assembly. Up above that is where the control
21 rods go up and down. And then on top is a lid. And this
22 is a model of the lid, it's an 18th scale model of the lid
23 that you see at the top of that illustration. It has a
24 lid, because like a pressure cooker in your kitchen, I
25 don't know if anybody still uses a pressure cooker or not

1 but the -- the reactor pressure vessel is filled with this
2 reactor coolant water and it's kept at very high pressure,
3 2,000 pounds per square inch. Just like at your home, it
4 allows the water to heat up to a higher temperature inside.
5 The Davis-Besse reactor, that is about 600 degrees
6 Fahrenheit, so you keep the water under such high pressure
7 that it can heat up to 600 degrees Fahrenheit. And just
8 like a pressure cooker in your house has a lid, this is the
9 lid to the Davis-Besse reactor, and it comes off. And the
10 reason it comes off is to take things out and put things
11 back in. You take out spent fuel and you put new fuel in.
12 The lid is a little bit different from a pressure cooker
13 because the control rods have to be raised and lowered with
14 devices that attach to the top of the lid. And these --
15 these silver things you see here in the model of the
16 reactor vessel head is something called a control rod drive
17 mechanism nozzle. And this is a full scale model of the
18 nozzle. So the reason for the nozzle -- there's two
19 reasons. One is it allows the attachment up here on this
20 flange of machinery that can reach down through the hollow
21 nozzle, get ahold of those control rods and pull them up
22 and let them down. And I think I mentioned that there are
23 two ways of controlling the nuclear reaction, and one of
24 them is control rods. And the illustration, the photograph
25 that's up on the screen now shows a fuel assembly. That's

1 the bottom metal part, all of those tubes. Those would be
2 full of -- those would each be fuel rod, uranium.

3 And at the very top, you see a bundle that's
4 inserted down into that fuel assembly, and those are
5 control rods. That's what it looks like down inside the
6 fuel assembly. And through these control -- CRDM nozzles
7 machinery reaches down and can pull those up. If you
8 insert the control rods into the fuel assembly, the nuclear
9 reaction stops. And if you pull it back up again, it can
10 start up. The other important thing about these CRDM
11 nozzles is they form part of what's called pressure
12 boundary of a nuclear power plant. And all that means is
13 that -- I don't know if I can turn my mike down a little
14 bit if that's why -- the other -- the other reason for the
15 nozzles. The other aspect about them is they form part of
16 the pressure -- I mentioned everything inside that reactor
17 vessel is at -- a pressure of 2,000 pounds per square inch.

18 Well, this dips down into the reactor vessel, and
19 so it has to be able to stand that 2,000 pounds per square
20 inch pressure. And the way that happens is that these
21 nozzles are welded. These -- I don't know if folks in the
22 back can see, but there's a little silver thing marking
23 here at the bottom. And this is the inside of this, the
24 6-inch thick reactor vessel head. It may be easier to show
25 it on the other nozzle model. So at the base of each of

1 these nozzles, there'll be a weld. And when this is
2 manufactured, bolts are cut through the top of the reactor
3 vessel head and nozzles are inserted, and then they're
4 welded along the inside with a particular kind of weld.
5 Those weld cause problems. These things are manufactured
6 20, 30 years ago. And over that time, it turned out that
7 those welds could start to crack, and the cracks in the
8 weld could start to cause cracks in the nozzle itself. And
9 I'll get to that in just a moment. The other -- the other
10 way to control the reaction that I described is with boric
11 acid. And if control rods going in and out can start and
12 stop the reaction, boric acid is a way to control -- to
13 adjust how fast it goes.

14 So as I mentioned, this whole reactor vessel is
15 full of reactor coolant water, and the operators are able
16 to cause boric acid to be absorbed into that rear -- in the
17 same way that control rods block the neutrons that keep the
18 chain reaction going. Boric acid blocks the neutrons, and
19 it doesn't stop the reaction but it controls how fast it
20 goes so it's an important part -- an important aspect of
21 this case.

22 The other thing about reactor vessel head that
23 you're going to hear evidence about is that it has on top
24 of it something called a service structure, so this darker
25 gray part here is the service structure at Davis-Besse.

1 This model cuts off here but, in fact, the whole service
2 structure comes out to be higher, and inside are the -- are
3 the machinery that raise and lower the control rods that
4 are attached to these flanges. What you should notice
5 about this service structure is if you want -- you wanted
6 to look here at these nozzles -- if you wanted to see up on
7 top of the reactor vessel head, the only way to do that is
8 through these holes, and they're about 4 1/2 inches by 7
9 inches, so they're a little bit bigger than a 4 by 6 inch
10 photograph. So the access to these nozzles is by looking
11 up these holes, and that's important because, as I said,
12 these nozzles can start to crack. And when they do start
13 to crack, the NRC asked pressurized water reactors around
14 the country to say how they had done and what inspections
15 they had done of the head to nozzle interface right here.
16 At Davis-Besse, inspections were done through these weep
17 holes, and they're called either weep holes and sometimes
18 they're referred to as mouse holes. Pretty big mouse, but
19 a pretty small hole to look up on top of the head with.

20 Here's how they did it. They attached a camera
21 onto a stick, onto a rod, and then they put -- put it up
22 through the weep hole. And as you can see in the video
23 that you're watching, you can see the -- you can see the
24 rod right there. He's putting it up underneath the weep
25 hole. And then they record all that on videotape so they

1 have a record of the inspection that they had done.

2 So that's the basics of the situation about these
3 nozzles that you're going to hear about. Witnesses who
4 will explain it better than I have are going to tell you
5 how nuclear power works, talk about the cracking, this
6 potential for cracking in these nozzles and explain
7 inspections through the weep holes.

8 The second kind of evidence, as I said you were
9 going to hear about, is about the interaction between
10 Davis-Besse and the NRC about these cracks. And to
11 understand that, you're going to hear evidence about how
12 the industry became aware of this cracking problem here in
13 the United States. What you're going to hear is that an
14 alert engineer at the Oconee Nuclear Power Station in South
15 Carolina saw a very small amount of boric acid residue here
16 at the interface between the CRDM nozzle and the head of
17 the reactor. That's what it looked like. So what's
18 happening is the crack -- the nozzle is cracking, and that
19 boric acid, which is under high pressure, runs up through
20 and is coming out at the interface between the nozzle and
21 the reactor vessel head. And the reactor coolant is very
22 hot. It's 600 degrees Fahrenheit. But by the time it got
23 to the top of the head, the coolant, the water can
24 evaporate. But the boric acid that's dissolved inside the
25 water gets left behind, and you get deposits like these.

1 Initially at the first reactor that found these
2 kinds of cracks, it wasn't a huge concern because the
3 crack, as they found, went up and down along the length of
4 the nozzle. Probably because it is going through the
5 pressure boundary, there's a leak, but it wasn't as much of
6 a problem with respect to the nozzle itself because the
7 strength of this pipe -- and this is just a pipe, the
8 strength of it being pushed this way is -- it's still
9 pretty strong. It may have a crack in it but it's still
10 pretty strong. The same utility found another crack in the
11 spring -- I'm sorry. The crack that was first found was in
12 December of 2000.

13 In spring of 2001 a different facility found
14 another crack in another one of these reactors, and that
15 one turned a corner around the circumference of a nozzle.
16 The difference there is that if it starts to go around the
17 circumference of the nozzle, it can eventually get big
18 enough to let the nozzle break. If the nozzle breaks, it
19 would just let go and leave a hole in the head of the
20 reactor pressure vessel. And through that hole, the
21 600 degree Fahrenheit water could escape, turn immediately
22 to steam and leave that fuel assembly I talked about
23 without water to keep it from overheating. And that's what
24 people talk about when they talk about a meltdown. It's
25 the fuel assembly meltdown. Now there are safety systems

1 at nuclear power plants to deal with just this kind of
2 accident.

3 Well, what happened in this situation is you have
4 a loss of *** those safety systems would have to come into
5 operation. But the NRC described the failure of this kind
6 of nozzle in a bulletin it sent around to utilities in the
7 United States as a catastrophic failure if that would have
8 happened. In response to the discovery of these kind of
9 cracks in the United States, the NRC asked the industry
10 what it was going to do about it, sent an information
11 notice out to the industry and eventually decided it had to
12 have information back from the pressurized water reactors
13 about how they had responded and what evidence they had
14 that they were safe to continue to operate, because all of
15 a sudden there's a problem showing up in reactors around
16 the United States.

17 So in the summer of 2001, the NRC sent a
18 bulletin, and it's a particular kind of document that the
19 NRC can send to licensees, people who hold licenses from
20 the NRC. And this bulletin was called 2001-01. It was the
21 first one in 2001. The bulletin specifically told the
22 pressurized water reactor utilities that the old assumption
23 that they had had about this problem -- because this was a
24 problem that had been detected in France, they have similar
25 reactors in France, and the industry knew that it was a

1 kind of thing that might come up. They looked at it in the
2 past, and their old assumption was if you started to see
3 that if a nozzle cracked, you need lots and lots and lots
4 of that boric acid residue on top of the head. That was
5 the old assumption. Now at Oconee, they found a crack, the
6 evidence of that very small amount of boric acid you saw a
7 few moments ago. The NRC noted that and said our initial
8 analysis of this problem is different from what we now
9 believe it to be. Because it's hard to detect, the NRC is
10 concerned about that circumferential crack being it would
11 catastrophically fail, and they were also concerned that
12 that might happen before you get a chance to visually
13 detect it the way they had in Oconee, South Carolina.

14 So the NRC in bulletin 2001-01 asked every
15 pressurized water reactor -- Davis-Besse is one of those --
16 to send back a response saying what inspections have you
17 done in the last four years that would detect this kind of
18 a nozzle cracking, and tell us the results of those
19 inspections and tell us anything that would impede those
20 kinds of inspections. And you're going to have the
21 bulletin, and you're going to see the evidence of it and
22 you're going to read the text of that questioning data.

23 Throughout the country, pressurized water
24 reactors sent responses back into the NRC, and one of the
25 things the NRC had asked is tell utilities -- tell us how

1 you know that you are going to be safe to operate until the
2 end of -- unless you're planning to shut down and inspect
3 before the end of 2001, tell us why you'd be safe to
4 operate past that date. And most of the utilities came
5 back and told the NRC either the date they planned to shut
6 down and take the lid off of the top of the reactor, they
7 were going to be refueling anyway, or they would plan a
8 special shutdown, a short -- short outage to do an
9 inspection in the meantime.

10 Davis-Besse indicated it planned to wait until
11 its March 2002 refueling. So the NRC had set the end of
12 the year as a milestone. And Davis-Besse wanted to wait
13 until its March 2002 refueling outage. The reason for that
14 is that any outage is expensive. And if you can do the
15 kinds of inspections they're talking about doing during a
16 refueling outage, you save time. NRC didn't agree with the
17 analysis that Davis-Besse initially sent them and told them
18 so, and said we think you should really consider shutting
19 down before December 31st, 2001 and doing one of these
20 inspections, but Davis-Besse pushed back. And these men,
21 the defendants, were part of the team that pushed back.
22 For instance, as soon as the NRC came back and said we
23 think you should consider a shutdown on September 28th, the
24 NRC phoned them up and told them we think you should
25 reconsider your response.

1 And they had a teleconference with the NRC on
2 October the 3rd, and that was the beginning of this push
3 back that I talked about. The defendant, Dave Geisen, told
4 the NRC at that point that the inspection that had been
5 done, the last inspection in the spring of 2000, was
6 100 percent inspection with the reactor vessel head with
7 the exception of five or six nozzles at the top -- the top
8 of the reactor vessel head. As you're going to come to
9 learn, that was false. The 2000 inspection was almost
10 worthless for the -- to detect the kinds of boric acid
11 deposits that they were looking for.

12 Now, I want to go back and go through just
13 specifically a little more detail about the documents and
14 the interaction between the NRC and Davis-Besse. So we
15 worked forward until NRC had gotten the response from
16 Davis-Besse. And the NRC had said we don't like that
17 response, and Davis-Besse management, Davis-Besse, decided
18 to push back.

19 Now, I want to go back and talk about that first
20 response. And that first response was serial letter 2731.
21 And you're going to hear about five serial letters through
22 the course of this case, 2731, 2735, 2741 and 2744 and
23 2745. Those numbers just -- they're just whenever FENOC,
24 the First Energy Nuclear Operating Company, communicated to
25 the NRC to give that letter a number, and they just keep

1 counting up. So if there's some gaps in there, I guess
2 they sent NRC letters about something else. But those are
3 the key letters in this case.

4 Serial letter 2731 was put together by Rod Cook,
5 or Defendant Cook. Mr. Cook, as I said, worked in the
6 Regulatory Affairs Department in a group. He was a
7 contractor consultant, an engineer. He assembled that
8 response from information from other people. He collected
9 it, and then he collected comments on that. And some of
10 those comments, you're going to hear, told him that
11 information that was going into the response concealed the
12 true nature of that inspection in 2000, and there was a
13 previous inspection in 1998. And ultimately, they talk
14 about an inspection in 1996. This document up here --
15 you're going to hear about these. These are called
16 greensheets, or you can see the title at the top, review
17 and approval report. It indicates at the top that serial
18 letter 2731, you see that in the upper right, was prepared
19 by Rod Cook. That's in the left-hand block. He's marked
20 down below and has initialed the letter as cognizant
21 regulatory affairs individual and you'll also see a number
22 of other people sign off on the letter, including on
23 another page, at the top of the initial blocks there, the
24 design engineering manager Defendant Geisen. The point of
25 these sheets is that at a nuclear power plant,

1 communication with the NRC, are a big deal. In fact, there
2 is a regulation requirement that they be complete and
3 accurate in every material respect. So this document is
4 for that purpose, it's to make sure that when something's
5 going out to the NRC, gets a review, and the people who
6 review it are sure about the accuracy in it. When you look
7 down at block 14, the initiating in this case, Mr. Cook,
8 enters the desire to viewers technical accuracy with
9 response of the NRC responsibility of the director and
10 manager assigning the action. Defendant Geisen took the
11 lead from the management side in responding to this
12 bulletin.

13 All right. So serial letter 2731 is the first
14 response to the NRC. And what you're going to find is that
15 when you see it -- and you'll hear the NRC -- NRC was to
16 talk about it, the NRC asked about inspections down here.
17 With respect to the 2000 inspection, serial letter 2731
18 talks about inspections up here of these flanges, which is
19 where the equipment that raise and lowers the control rods
20 are attached. They're talking about flange inspections
21 more than they talked about the head inspections in 2000.
22 They said inspections 69 RPV head nozzles area indicated
23 some accumulation of boric acid deposits, no visible
24 evidence of nozzle leakage was detected.

25 Well, you're going to see for 2000 the video

1 record of that inspection. And you're going to be able to
2 judge for yourself whether some accumulation of boric acid
3 deposits is a fair characterization. The letter -- as I
4 mentioned before, the bulletin asks for indications of --
5 asks for the licensees to tell the Nuclear Regulatory
6 Commission about any impediments to inspecting reactor
7 vessel head. And there's no mention in serial letter 2731
8 that these weep holes were blocked with boric acid. Big
9 chunks of boric acid that didn't let you put a camera up
10 through the weep hole, that wasn't listed in the impediment
11 to the inspection. In fact, Rod Cook received an e-mail
12 warning him that inspection from somebody who had done
13 these inspections -- inspection weep hole, creates
14 impediments to 100 percent visual.

15 In fact, how much can you see with a camera on a
16 stick? You can put a camera on the end of a stick and push
17 it up through these weep holes. That in and of itself may
18 be an impediment to inspecting the top nozzles in here.
19 And the letter indicated that the inspection was a bare
20 metal -- they inspected the bare metal head that was
21 accessible through the weepholes in accordance with boric
22 acid control program, but they didn't indicate how many of
23 these nozzles had seen 90 percent to majority of the
24 nozzles eventually took out any mention of how many nozzles
25 had been inspected. And evidence will show why that was,

1 that, in fact, they knew Defendant Cook now that
2 inspections of the head were badly -- this 2000 inspection
3 was worthless for the purpose of the NRC. The boric acid
4 corrosion control program is, in this case, throughout the
5 serial letters, in four of them, first four, the defendants
6 indicated that the inspections that had been done in
7 accordance with this boric acid control program because
8 boric acid is corrosive. It can erode away carbon steel
9 components. And that's something that Davis-Besse had
10 dealt with in the past. So they had a problem to make sure
11 when they saw boric acid, it was dealt with in the right
12 way. In each of those letters, the NRC indicate -- to the
13 NRC, it was indicated that inspections of the reactor
14 vessel head was done in accordance with that program. And
15 one of the things that program said is that if boric acid
16 is found, you need to look and see if the component
17 underneath it has been affected by that boric acid.

18 Well, at Davis-Besse, they found in 2002 that, in
19 fact, the boric acid was on the head of this reactor had
20 affected the carbon steel head underneath it. What they
21 found was that the cavity had developed in the top of the
22 head. That's the cavity.

23 Now, you are not going to hear any evidence that
24 the defendants knew that this cavity existed when they
25 communicated with NRC. No one in the nuclear industry

1 would on -- nobody in the nuclear industry would run a
2 nuclear plant with that kind of a hole in the head of a
3 reactor. What you're going to hear is that there is
4 evidence showing that their claims that they had done these
5 inspections in accordance with the boric acid corrosion
6 control program were simply false.

7 Dr. James Davis, who's a Ph.D. in metallurgy, is
8 going to take the stand and say that with that cavity in
9 2002 and with other evidence that he knows about the
10 operation of the Davis-Besse plant, it is his opinion that
11 a cavity somewhat smaller existed in 2000 during the spring
12 of 2001 during the last outage. So if they had done an
13 inspection in accordance with that program, if they had
14 done a whole head visual inspection down to the bare metal
15 cavity, it would have been found.

16 After serial letter 2731 went out, I explained to
17 you what happened next. The NRC reviewed it, they didn't
18 think it was acceptable, they talked about, and you'll hear
19 about this, that Davis-Besse -- the serial letter did
20 maintain regulatory marking that they had an insignificant
21 technical basis to say they could safely operate past
22 December of 2001. And after that internal review, the
23 commission went back and asked Davis-Besse to reconsider
24 its decision to operate past to the end of the year. And
25 as I said, Davis-Besse -- folks from Davis-Besse pushed

1 back and they had a teleconference on October 3rd, which
2 I've already talked about. And then they continued to push
3 back. They -- at the end of that October 3rd meeting, the
4 NRC re -- supplemental information and Defendant Cook
5 started checking that supplemental information, and it
6 became serial letter 2735.

7 In the meantime, Defendant Geisen traveled to
8 Washington D.C. and met with congressional representatives
9 for Ohio to talk about this issue and met with the
10 technical assistants for the commissioners. There are five
11 commissioners of the NRC, and each of them has a technical
12 assistant who helps them understand these kinds of issues.
13 So Defendant Geisen and the rest of the team from
14 Davis-Besse met with the technical assistants and gave them
15 a presentation about this issue. The NRC staff, after they
16 learned about this, felt that they were -- they were -- it
17 was a mad attempt to get around their analysis. During
18 that presentation, Defendant Geisen represented that it was
19 a fact that all CRDM penetrations, these -- these were
20 verified to be free from popcorn type boron deposits using
21 video recordings from 11 RFO or 12 RFO. And you're going
22 to be able to assess when you see these video records
23 whether it's possible to do what he said was done.

24 Serial letter 2735 is the next letter that went
25 to the NRC, and it repeats a lot of the inspection

1 information that I've already talked about, including the
2 idea that the inspection was of a bare metal head that was
3 accessible through the weep holes, and that the inspection
4 was done in -- with the boric acid corrosion control
5 program. It also adds as a false nozzle-by-nozzle summary
6 of past inspections of the reactor vessel head. And that
7 was prepared by Andrew Siemaszko, who, as Judge Armstrong
8 told you, is a defendant in this case but is not somebody
9 who's going to appear -- you're not going to be the jury
10 in -- for Mr. Siemaszko. And when you're assessing the
11 case, come to think of it, Andrew Siemaszko knew something
12 or didn't know something. That isn't knowledge that the
13 defendants had, but he did prepare this table and they had
14 knowledge of the underlying facts. And they signed off on
15 serial letter 2735, and it was sent to the NRC knowing that
16 the table contained falsehoods. That table went out in the
17 next two serial letters after 2735. And this is what it
18 showed.

19 Now, there are a couple things about this. First
20 of all, you'll see that when you -- when you hear the
21 evidence, that the table goes back on the earlier
22 descriptions of the 1998, 2000 inspection. In this serial
23 letter, they stepped back from their earlier claims about
24 those first inspections. It's because when you -- when you
25 look at them, they just weren't up to -- they were

1 worthless for what the NRC was asking about. They start to
2 rely on 1996. And this is supposed to be a summary, a
3 nozzle-by-nozzle summary of those -- that 1996, 1998, 2000
4 inspection, and you can see that the first column, 1996, is
5 blank. And there's an explanation for that at the bottom
6 of the table. And you'll see it's a footnote, it says in
7 1996 during 10 RFO the entire RPV head was inspected.
8 Since the video was void of head orientation narration,
9 each specific nozzle view could not be correlated. And
10 later in a serial letter signed -- signed off on by the
11 defendants, explicitly relied on that idea in 1996 there
12 had been an inspection of the entire reactor vessel head.
13 They were using something called a probabilistic risk
14 assessment to tell the NRC they were safe. So again, this
15 was a fact that mattered.

16 And the two things about that statement that you
17 need to pay attention to: One, they're saying the entire
18 reactor vessel head was inspected. And two, that the
19 reason they couldn't go nozzle-by-nozzle is that the record
20 didn't have something called head orientation narration.
21 And what you'll come to understand from the evidence is
22 that if you take your camera on a stick on a pole, this
23 just happens to be an idea scale, this is a 6-foot long
24 scale. If you take a camera and put it up through this
25 weep hole but you don't say which weep hole you're going

1 through, you don't give some indication of where you are in
2 this -- in this head, you're not going to know what nozzle
3 you're looking at. So head orientation narration let's you
4 say this is nozzle number 31 or this is nozzle number
5 three. This is the video record from 1996.

6 (Video being played).

7 MR. BALLANTINE: What you see in the background
8 around that nozzle is boric acid. So the claim that they
9 made an inspection of the entire reactor vessel head when
10 what they're looking for are those little small deposits of
11 boric acid, you be the judge of that.

12 Second thing that you should take away from the
13 1996 tape --

14 (Video playing for the jury).

15 MR. BALLANTINE: -- looking through hole two.
16 That is what -- that is head orientation narration.

17 After the serial letter 2735 went to the NRC,
18 Davis-Besse met again with the NRC staff. This time they
19 were presenting this thing that I mentioned before, it was
20 a probabilistic risk assessment. What that means is
21 they're looking at different -- different things that might
22 or might not happen and building a tree of those to see
23 whether at the end of the day the plant is safe to operate.
24 And this is a technique that they used in determining
25 whether they can do this or do that, or whether they need

1 to do a particular inspection now or if it can wait. This
2 is a tool that's used in the nuclear industry. The chance
3 that something's going to happen or not is based on certain
4 assumptions. And for this probabilistic risk assessment,
5 they needed -- in order to show the plant was safe, they
6 needed for the 1996 inspection to be a good one.

7 Defendant Geisen went to the NRC staff on
8 October 24th, met with them and again presented -- he
9 presented this slide. Represented as a fact that all CRDM
10 penetrations were verified to be free from popcorn type
11 boron deposits using video recordings from 10 RFO, 11 RFO
12 or 12 RFO. And you're going to get a sense from the
13 witnesses you already hear what that meant for this
14 probabilistic risk assessment and, as you reviewed the
15 video records, you'll be able to assess whether or not
16 that's a true statement or not, whether it could be a true
17 statement.

18 After that meeting, there had been a formal
19 request for additional information from the NRC because
20 they had a sense that there was something -- they wanted to
21 know more about what was going on with these inspections.
22 So they sent a formal list of questions to Davis-Besse, and
23 those were called requests for additional information.
24 This letter, serial letter 2741 was Davis-Besse's response.
25 And Defendant Cook was more involved in this than he was

1 with the next one, which is serial letter 2744. They both
2 went out on the same day, on October 30th of 2001.
3 Defendant Cook drafted answers to specific questions that
4 narrowed in on the question that we are looking at in this
5 case. And in his draft, he has there are areas of the RPV
6 head that are not viewable due to the presence of boric
7 acid crystal deposits. That explicit statement hadn't been
8 in any of the previous serial letters. Do you remember
9 what they said? They said inspections were done through
10 the weep holes, and it said that the inspections were
11 done -- that -- I'm forgetting. I want to try and quote it
12 exactly but this kind of explicit statement of -- that
13 there were parts of this reactor vessel head that couldn't
14 be seen because of boric acid.

15 Defendant Cook also alluded to the next
16 inspection, which was something else that the NRC had asked
17 about. In 2002 they had a scheduled shutdown. They had a
18 planned shutdown and they were going to have to do
19 inspections for this kind of cracking again. One of the
20 things the NRC wanted to know is whether that future
21 inspection was going to be reliable. And in drafts of an
22 answer to serial letter 2741, Defendant Cook noted that
23 certain nozzles on the head of the reactor are not going to
24 be able to be inspected visually because boric acid was
25 left around them at the end of the spring of 2000 refueling

1 outage. Neither of those things made it into serial letter
2 2741, which, again, Rod Cook was preparing, he was
3 assembling the answers on it, and he drafted the answers to
4 these letters. The statements here are more true -- are
5 true statements that they had dropped from serial letter
6 2741.

7 And again, that letter repeats the inspection
8 information from 2735, including the allegation -- the
9 suggestion -- the claim, the false claim that past
10 inspections had been done in accordance with the boric acid
11 corrosion control program.

12 Next letter that went out the same day, Defendant
13 Geisen was much more involved in. It announced a photo
14 album of pictures taken from -- actually the videos taken
15 from these weep holes of nozzles, and you're going to see
16 that. And you're going to see captions. The photographs
17 were captioned by Andrew Siemaszko. The captions were
18 written by David Geisen, Defendant Geisen. Those captions
19 and the introduction to the photo album falsely claimed
20 that the pictures of the nozzles that are being sent to the
21 NRC are representative of the condition of the reactor
22 vessel head. And again, you're going to see the video
23 record and you're going to be able to judge for yourself
24 whether that's a true statement or not. The table that
25 I've talked about before from serial letter 2735 was

1 attached to this serial letter.

2 And the final one that I want to talk about is
3 serial letter 2745. This was the formal letter that
4 eventually the NRC -- that allowed Davis-Besse to continue
5 to operate until its next scheduled refueling outage. This
6 is a formal probabilistic risk assessment.

7 The one key statement, the one that's necessary
8 for the probabilistic risk assessment to show that
9 Davis-Besse was safe to operate, and the statement that is
10 false, that is that in 1996, 100 percent of the CRDM
11 nozzles were inspected with the exception of four nozzles
12 in the center of the head. Defendants reviewed and
13 approved this letter to go out.

14 The third category that I said I was going to
15 talk to you all about was evidence that defendants knew
16 that what I just mentioned, all the things that I've talked
17 about in these serial letters and presentations to the NRC,
18 that the defendants knew that they contained falsehoods,
19 whether they conceal material information from the NRC.
20 The way you're going to be able to judge that and the
21 evidence that you're going to hear about that is the
22 background knowledge that they had.

23 As to Defendant Cook, he was the guy who was
24 preparing the serial letters, so back at 2731, he had to
25 answer the NRC's questions about these past inspections.

1 And it started out with 90 percent of the nozzles had been
2 inspected in 2000 and had dropped from there down to a
3 majority. What is that, 51 percent of the nozzles had been
4 inspected in 2000?

5 Finally, they dropped any reference to the number
6 of nozzles at all. Ultimately, serial letter 2731 read the
7 scope of the visual inspection was to inspect the bare
8 metal RPV head carrier. It was accessible through the weep
9 holes to identify any boric acid leak deposits. Why did
10 they drop any reference to the number of nozzles that had
11 been inspected? The NRC had asked for the results of those
12 past inspections. Rob Cook, when he told people that he
13 was making this change, sent an e-mail that said this is to
14 ensure that we state that not all of the head was
15 accessible or inspected for inspection for whatever reason.

16 Once you've seen those inspections, once you've
17 seen the warnings he got from others about the ability to
18 inspect the head, you can judge whether the first statement
19 does what Defendant Cook says that it does in the second
20 statement.

21 Defendant Cook was also warned by his colleagues
22 during the preparation of the serial letter 2731. He got
23 notes back from another person in regulatory affairs who
24 told him very explicitly that serial letter 2731 was not
25 complete and accurate as it was required to be

1 under regulation. And it was very specific about the
2 problems that had to be corrected. And you'll be able to
3 see whether Defendant Cook made appropriate changes to
4 reconcile the final version of serial letter 2731 with its
5 comments.

6 He also got an e-mail saying very explicitly the
7 discussion of the 1998 and 2000 inspections, gives the
8 impression that we were able to look at all the CRDMs. It
9 is very difficult to look at the CRDMs when there is boric
10 acid around them. And they got another warning e-mail. We
11 do not see anywhere in that inspection through the mouse
12 holes creates an impediment to 100 percent inspection. As
13 I mentioned before, he drafted truthful answers and he was
14 preparing material for serial letter 2741 but then took
15 those out. He also knew the record. He indicated to the
16 NRC that he had pulled the 1996 report about that
17 inspection and that report truthfully said that only 50 to
18 60 percent of the head could be inspected. He retracted
19 that statement, and you're going to have to judge whether
20 to believe his first statement or the retraction.

21 Over the course of his preparation of the serial
22 letters, he received photos of leakage from other plants.
23 And he saw -- he admits he saw the inspection videos in
24 October, sometime in October of 2001. This was boric acid
25 leakage from a different -- different from the first ones

1 that I showed you that he received during the period they
2 were responding to the NRC bulletin. This is the video
3 record of a 2000 inspection starting from the very
4 beginning. It's going to run about a little bit -- about a
5 minute, two minutes.

6 (Video playing).

7 MR. BALLANTINE: What you're seeing here is the
8 camera moving around. It's on the end of a stick, and
9 they're putting it up through the weep holes and recording
10 that on videotape. That's the video record of the 2000
11 inspection which Defendant Cook admitted he saw sometime
12 during October 2001. Defendant Geisen also admitted that
13 he saw these inspection videotapes. He told -- after that
14 cavity was found, he told internal NRC -- internal
15 Davis-Besse consultants, investigators that he had seen the
16 inspection videos from August of 2001 in preparation for
17 the bulletin responses. He vouched for these videos on
18 multiple occasions before the NRC. He told them in
19 October -- October 3rd teleconference that past inspection
20 was 100 percent of the reactor vessel head with the
21 exception of five or six nozzles on the top. And he said
22 that those were done, that he knew that based on videos of
23 the 10th, 11th, and 12th refueling outage.

24 You'll hear about those, the photo album that I
25 talked about. Those photos were available earlier during

1 the preparation for serial letter 2735. They went out for
2 2744, but they were available earlier. And David Geisen's
3 director, person above him, challenged him about those
4 videos, asked him how do we know that that boric acid there
5 or that, you know, little streak there isn't a problem?
6 And Defendant Geisen told Steven Moffitt that he knew
7 because with a different camera angle here -- or the tape
8 goes a little further and sees something else. He was the
9 presenter from the First Energy New Operating Company --
10 I'm sorry, the First Energy Nuclear Operating Company, who
11 took those videos to the NRC November 8th. He took them
12 there, presented them to a group of NRC staff and then took
13 them away, took them back to the plant. And he was warned
14 by his colleagues and by consultants at Davis-Besse, e-mail
15 during August of 2001 saying, warning, that it was pointed
16 out that we cannot clean our head through the mouse holes,
17 and Andrew Siemaszko is requesting three large holes be cut
18 in the service structure for viewing and cleaning. Those
19 three large holes, other plants had cut holes in the
20 service structures so they can get better access than
21 through these 4 by 6 or 4 by 7 1/2 inch holes.

22 And later after this first serial letter went out
23 but before the subsequent ones, he received a report. It
24 was put on his desk from a consultant to Davis-Besse, and
25 that report said explicitly, first of all, there was boric

1 acid left on the head at the end of 2000. And secondly,
2 access through the weep holes is severely restricted. So
3 that's that third kind of evidence, the evidence of how the
4 defendants -- how you can tell when the defendants knew
5 that they concealed material information from the NRC, and
6 that they had told false statements -- knowingly told false
7 statements.

8 That's an outline of the evidence the government
9 is going to present over the next couple weeks. At the end
10 of the presentation of evidence, Mr. Stickan is going to
11 come up and argue that evidence to you and connect it to
12 the law that Judge Katz tells you about. And after that
13 argument, the government will ask you to deliberate and to
14 return a verdict of guilty as to the five counts against
15 Defendant Geisen and guilty of four counts against Rodney
16 Cook. Thank you.

17 THE COURT: Ladies and gentlemen, we'll now take
18 a brief recess to a little after a quarter of. Between a
19 quarter of and 10 of 11. And during that recess, please do
20 not discuss this case among yourselves, nor with anyone
21 else. Do not read or listen to anything that could touch
22 on this case in any way. Please take your notebooks with
23 you and bring -- bring them back when you return. We'll be
24 at rest for 10 to 15 minutes.

25 (A brief recess was had.)

1 THE COURT: Please be seated, ladies and
2 gentlemen. I'm going to suggest that you set your watches
3 to that clock as I have and all counsel have sometime
4 through the morning. Mr. Wise?

5 MR. WISE: Ladies and gentlemen, good morning. I
6 have good news for you. This case is not about science.
7 It's not about nuclear engineering. It's not about CRDM
8 nozzles or crack growth rates. This case is much more
9 simple than that, because this case is about honesty. It
10 is about integrity, and this is about truth.

11 Ladies and gentlemen, Davis Geisen does not sit
12 before you, charged with failing to do his job well. That
13 is not a crime. He doesn't sit here in this courtroom
14 charged with being negligent or sloppy. That is not a
15 crime. He sits here because the government tells you that
16 he lied, that he schemed to deceive the NRC. That one day,
17 Dave Geisen turned his back on a lifetime and professional
18 career of integrity, of excellence and of honesty and
19 knowingly and intentionally decided to commit crimes
20 against the United States of America.

21 And ladies and gentlemen, at the end of the
22 evidence, you will know because the evidence will show that
23 that just didn't happen. Dave Geisen did not make any
24 statements to the NRC that he knew were false. He did not
25 submit any writings to the NRC that he knew to be false,

1 and he certainly did not scheme to deceive the Nuclear
2 Regulatory Commission.

3 Let me tell you a little bit about this man the
4 government tells you is a schemer. He was raised here in
5 the midwest. You'll hear that he graduated from Marquette
6 University in 1982 and that year married his wife Kathy
7 with whom he has three children; Ashley, Megan, Nick. In
8 1982, he joined the U.S. Navy where he served for four
9 years in the Navy. After that six years and after he was
10 honorably discharged in 1988, he joined First Energy and
11 moved his family to Toledo, where he lived for the next 14
12 years.

13 Ladies and gentlemen, what the government wants
14 you to believe is that Dave Geisen concealed, schemed and
15 hid information about safety flaws at the nuclear plant
16 that he worked at while he and his family lived 25 miles
17 away. So how is it that Dave Geisen ends up in this
18 courtroom today? How does one go from being Dave Geisen,
19 father, respected engineer to be Defendant Geisen, sitting
20 in a courtroom being pointed at by a federal prosecutor and
21 called a liar and a criminal?

22 Ladies and gentlemen, the evidence is going to
23 show that Dave Geisen is here today because the NRC was
24 embarrassed by what happened at Davis-Besse. This is an
25 agency that is charged with protecting the public safety.

1 And though you will hear in no uncertain terms, that what
2 happened to Davis-Besse was not a public safety risk. The
3 agency was embarrassed. And when Mr. Ballantine talked to
4 you about a catastrophic event, you will learn that that is
5 a scientific term, that there's nobody out there who
6 suggests that there was about to be a mushroom cloud over
7 Toledo, Ohio. But the NRC was embarrassed. You will hear
8 that the government, in order to deflect attention away
9 from the NRC, put this case based completely on hindsight.
10 What people didn't know then will be used against them now.

11 You're going to hear that the investigation that
12 led to Mr. Geisen sitting in this courtroom started shortly
13 after the hole was discovered. But this was not an
14 investigation to figure out what had happened. This was an
15 investigation to figure out who can we blame. And more
16 specifically, who at First Energy can we blame? You will
17 hear that if witness accounts did not match the
18 investigators' theory of how this must have happened, the
19 witnesses -- and if scientific evidence was developed that
20 contradicted the investigators' theory of how they had been
21 deceived, that evidence was dismissed.

22 What you will note into this case is what the
23 evidence will show is that an investigation concocted this
24 way and run this way ends up with an innocent man sitting
25 here charged with crimes he didn't commit. Mr. Ballantine

1 told you a lot in his opening about things at first more
2 about the history of the plant.

3 Ladies and gentlemen, First Energy is not on
4 trial today. Dave Geisen is on trial today. Bulletin
5 2001-01, government circumferential cracking, and it dealt
6 with inspection. And this is what you're going to learn
7 from the evidence. Dave Geisen had virtually nothing to do
8 with either. You will hear about what his duties were at
9 the plant. He did not conduct a single inspection of the
10 reactor vessel head. He did not conduct a single cleaning
11 of the reactor vessel head. And aside from one instance in
12 2000 when he was assisting a colleague, he was not involved
13 in these issues to any degree that would give him knowledge
14 of the details. Let's go back to 2000 because that really
15 is where this starts for Mr. Geisen.

16 You will hear that in 2000 Dave Geisen was
17 promoted to a job that's called a design basis engineering
18 manager. And in essence what the design basis group does
19 at First Energy is they invent and design, for lack of a
20 better word, fixes for the entire plant, from the smallest
21 thing to the largest thing. They're the designers. You
22 can think of them, I think, as the architects.

23 In 2000 when Mr. Geisen took that job, it was
24 right before one of the plant outages. And the outages
25 which you will hear a lot about in this trial are times of

1 great activity in the plant. It is when the plant is not
2 at full power so things can be done that would otherwise
3 not be able to be because the reactor vessel is at
4 600 degrees. Dave Geisen got his first real view of just
5 how dysfunctional the department was that he had worked in
6 in 2000. And you will hear that means that things that
7 were supposed to be fixed weren't getting fixed, designs
8 weren't done on time and the outage for the design basis
9 group was a real problem. At that point, it became clear
10 to Dave Geisen that his job over the next two year was to
11 get this department back functioning, get it integrated
12 back into the plant doing the jobs it needed to do and in a
13 timely fashion. Ladies and gentlemen, you're going to hear
14 that virtually none of these things had anything to do with
15 inspecting or cleaning the head.

16 But in 2000 Dave Geisen did first come into
17 contact with issues that relate to this case because you're
18 going to hear that at some point during that outage, he was
19 sitting in what's called outage central. Outage central,
20 you will hear, is just a fancy word as a conference word
21 for on the fourth floor -- hundreds of things going on
22 during an outage will go on smoothly. The way the
23 government tells you, you will believe that the only thing
24 that goes on during the outage is cleaning and inspection
25 of the head, but that's just not the case. You will hear

1 there's activities throughout the whole range of plant
2 performance at some point during the outage of 2000.

3 You will hear that Andrew Siemaszko came to
4 outage central with an issue, and the issue had to do with
5 the cleaning of head. You'll learn that Mr. Siemaszko was
6 a systems engineer who had been tasked with doing the
7 inspection -- excuse me, the cleaning of the head in 2000,
8 and that when he did the inspection, he found boric acid on
9 the head. This was not a surprise to any of the managers
10 in outage central because you'll learn that Davis-Besse had
11 a long history of flange leakage, which is part of the
12 model that Mr. Ballantine showed you that was over the
13 flange line, which is the insulation. For years, the
14 flanges at Davis-Besse had been leaking and boric acid had
15 been pouring down the nozzles and down on the head. That
16 was no surprise. In fact, if Andrew Siemaszko had come to
17 outage central in 2000 and said the head was perfectly
18 clean in 2000, that would have been a surprise.

19 Mr. Siemaszko was also charged with cleaning the
20 head. And at that point, during the cleaning, he came to
21 outage central and told the manager he was having problems
22 cleaning the head. He wanted to use hot water to clean the
23 head. There was some discussion about whether or not using
24 hot water was a smart idea because there was some worry
25 that if you spray water on the boron, it was no longer dry

1 and harmless but might be wet and corrosive, but it was
2 resolved that that was not a safety issue and that was a
3 better thing to clean the head using water.

4 The relevance of this, ladies and gentlemen, is
5 simply this, that at the time leaving the 2000 outage you
6 will learn that Dave Geisen believed that the head of the
7 reactor had been cleaned. That turns out not to be true,
8 but that is what he believed. There are other things that
9 happened during the 2000 outage, and you will hear and see
10 pictures and photos of the condition of the head. But this
11 will be clear to you, in 2000, when the managers and the
12 other folks from First Energy and outage central saw the
13 pictures and learned of the condition of the head, no one
14 believed that what was on the head was anything other than
15 leakage from flanges.

16 And there's more. Because you're going to hear
17 that one of the photographs that documented the condition
18 of the -- that head was given to the NRC resident inspector
19 at the plant. The NRC, you will learn, has inspectors on
20 site that are the eyes and the ears of the NRC at each
21 plant. They have access to the head. They have access to
22 the entire plant. They have access to the condition
23 reports, which are documents that speak to potential
24 problems. And you're going to hear that the photograph was
25 brought to the NRC resident inspector who did not sound any

1 warnings about it. You will know that it was because at
2 that point the NRC resident inspector believed the same
3 thing that the folks at FENOC believed, that it was flange
4 leakage and not a safety concern.

5 Now, the government's going to tell you that that
6 was wrong, that this actually was not flange leakage that
7 was being seen on the head. The scientific evidence, I
8 submit to you, will not be clear. You will hear from
9 Dr. James Davis, as Mr. Ballantine told you. You will
10 learn that his methodology, the way he's reached his
11 conclusion is deeply flawed, that it is grounded in
12 conclusions that he drew about four months after the hole
13 was found, and that it has continued to be his opinion in
14 complete denial of recent scientific developments to prove
15 that is incorrect.

16 But here's the thing, ladies and gentlemen, all
17 of that doesn't matter because the evidence will show that
18 there's not a single person who believed in 2000 that what
19 was on that head was coming out of anything other than
20 flanges, not anyone at Davis-Besse, not anyone at FENOC and
21 not the NRC resident inspector.

22 And ladies and gentlemen, this case is about what
23 Dave Geisen knew, not what he should have known, not what
24 he should have guessed, not what others knew. It's about
25 what he knew. And on this floor, the evidence will be

1 clear. You're going to hear a bit of evidence about what
2 happened after the outage in 2000 up to the time resulting
3 in this issue. You'll hear about what Mr. Geisen was doing
4 in his job as manager. You'll hear how little of it had to
5 do with cleaning the head. There were small issues that
6 came up. You will hear about the discussion when
7 Mr. Geisen was part of his budget to get what's called a
8 crawler which is a piece of equipment that can go up to the
9 top of the head to make the inspections easier to do. You
10 will hear that Davis-Besse decided to procure a crawler for
11 their next inspection, and that they were planning to do
12 different kinds of inspections in 2002 than they had done
13 in 2000 in part because of what was discovered at Oconee.

14 But the other thing that you will learn, this was
15 not Dave Geisen's job. There was a man at First Energy, a
16 very capable engineer named Mark McLaughlin, who was in
17 charge of preparing for the 13th refueling outage, which
18 was another name for the 2000 inspection. It was
19 Mr. McLaughlin's job to make sure that the plant was ready.
20 It was Mr. McLaughlin's concern to make sure that they were
21 ready to do what they needed to do at the next inspection.
22 This was not a design basis issue. This was not one of
23 Dave Geisen's responsibilities. In August, the bulletin is
24 issued. Mr. Ballantine told you about what the bulletin
25 asked for. I'm not going to repeat that, but here's what's

1 interesting. It's a funny thing about this scheme that the
2 government tells you that Mr. Geisen and Mr. Cook were
3 involved in because what you're going to learn is before
4 they had the good fortune of sitting in this courtroom next
5 to each other, these two gentlemen barely knew each other.
6 The evidence is going to show they had almost no
7 interaction in August and September and very limited
8 interaction in -- excuse me, in October and November. They
9 did not work closely together. And why is that? The
10 government tells you that when 2731 was issued, and that is
11 the first Davis-Besse response, that Dave Geisen was the
12 managing director from the engineering department. I may
13 have misquoted Mr. Ballantine, but that was, in essence,
14 what the government told you in opening, that Dave Geisen
15 was heavily involved in drafting 2731.

16 Ladies and gentlemen, the evidence will show you
17 that is not true. You will hear about meetings and
18 discussions and phone calls about the language that goes in
19 2731. You will not hear that Dave Geisen was involved in
20 those conversations. You will see e-mails, you will see
21 drafts. You will see edits to the language that appeared
22 in 2731. You will not see Dave Geisen involved in that
23 process. What you will see is that he signed off on the
24 greensheet which Mr. -- Mr. Ballantine showed you. And
25 what the evidence will show is that what Dave Geisen did

1 was check to make sure that people who had the relevant
2 knowledge, who have been involved in the processes that
3 were being described in that bulletin, whose job it was to
4 do those tasks, had reviewed and participated in the
5 drafting of that bulletin. And then he signed off on it.

6 I misstated a date, and it's only important
7 because of what happens next. You'll learn that the
8 bulletin was actually filed by First Energy on
9 September 4th. I told you it was filed on September 28th
10 so I missed it by 24 days, which you will hear about those
11 24 days. Because there was no discussion about the
12 bulletin at Davis-Besse, certainly there was no discussion
13 of the bulletin involving Mr. Geisen. He was working on
14 his other jobs, his other projects, and what you will learn
15 is that there is no one at Davis-Besse with a sense that
16 there was going to be more interaction with the NRC. But
17 on September 28th, there was a call from the NRC sayings
18 we're not satisfied with your response, and unless you can
19 provide us better information or more information, we're
20 going to want you to shut down by the end of the year.

21 A couple things, you're going to hear that
22 December 31st, 2001 as a potential shutdown date was not a
23 date that the NRC derived through science or prediction of
24 what might happen at these plants. It was about five
25 months away from when they issued the bulletin and it was a

1 date that they picked because they believed that it gave
2 plants enough time to shut down, but it was not a date that
3 had any scientific meaning.

4 The second thing that exists, you're going to
5 hear that the NRC was not particularly helpful in telling
6 Davis-Besse what it was that they had a problem with with
7 Davis-Besse's first responses, that when Davis-Besse asked
8 for the technical basis for the NRC's decision, they .
9 were -- the NRC responded that it was predecisional and
10 they couldn't say. But on October 3rd, there was a
11 conference call, and you will learn between September 28th
12 when the call came from from the NRC to First Energy on
13 October 3rd when the call was held, that there was a flurry
14 of information. People were asked to gather information
15 that might be relevant to what the NRC was considering.
16 You will hear that information was gathered and you will
17 hear that on October 3rd, there was a conference call. The
18 government tells you that on October 3rd, Dave Geisen makes
19 statements about the past inspection. I submit to you the
20 evidence is not entirely clear whether it was Davis-Besse
21 that made the statements. But this will be absolutely
22 clear, if it was Dave Geisen who made the statements about
23 the past inspections, he did so believing that what he was
24 saying was true.

25 After October 3rd, ladies and gentlemen, you're

1 going to hear that there are a number of tasks assigned to
2 various managers at Davis-Besse, and Dave Geisen was
3 assigned two tasks because the NRC had said we want more
4 information. One of the tasks that Dave Geisen was
5 assigned to was manage the effort to create a risk model
6 that would predict all of the terrible things that could
7 happen if Davis-Besse was allowed to operate past
8 December 31st. You'll hear this called a number of --
9 cracked growth rate model, you will hear it called
10 probabilistic risk assessment. I'm not going to try to
11 tell you the difference.

12 Ladies and gentlemen, the other thing that Dave
13 Geisen was tasked with doing was presenting information
14 about the prior inspections. He was not an expert in
15 either of these areas. The evidence will show he was not
16 expected to be an expert in either of those areas. He was
17 supposed to manage the people who had the expertise. You
18 will hear that after October 3rd, Dave Geisen worked with
19 Ken Byrd and Bob Richell (phonetic) on the risk model. And
20 he worked with Andrew Siemaszko on the past inspections.
21 At some point after October 3rd you will hear that Dave
22 Geisen went to Andrew Siemaszko's cubicle and looked over
23 Andrew Siemaszko's shoulders to see how Andrew Siemaszko
24 was making the calls on the nozzle-by-nozzle inspection.
25 What you're going to hear about the videos is that they

1 were on tape, and they were intended to be played in a VCR.
2 But because it was difficult for Mr. Siemaszko to make
3 judgments based on the tape because he was unable to stop
4 it without the lines going through the television, it was
5 converted from a videotape to a digital format on a disc
6 and Mr. Siemaszko was then able to freeze the disc and look
7 at specific nozzles.

8 At some point, you're going to hear that
9 Mr. Geisen sat down with Mr. Siemaszko and got a download
10 on how Mr. Siemaszko was making these calls. You'll hear
11 that Mr. Siemaszko told him he was looking for boron on the
12 downhill side of the side of the nozzles. You remember the
13 model Mr. Ballantine had with the slope. And Mr. Siemaszko
14 told Mr. Geisen that that was boron on the downhill side
15 that looked like popcorn. That's what they found at
16 Ocone. Mr. Siemaszko showed Mr. Geisen the freeze frame
17 of some of the nozzles on the screen. And Mr. Geisen was
18 satisfied that Mr. Siemaszko was doing his job the correct
19 way, was using sound methodology.

20 Andrew Siemaszko never was the plant expert in
21 doing these inspections. And Mr. Geisen was managing that
22 effort. The government wants you to believe that at this
23 point, Dave Geisen had poured over the videotapes. Ladies
24 and gentlemen, the evidence will show that is just not
25 true. You will learn that Dave Geisen had not sat down and

1 watched the videotape.

2 Ladies and gentlemen, you have now seen more of
3 the 2000 video running than Dave Geisen had in early
4 October. And remember, this is not a case about whether or
5 not he should have seen those videos. It is a case about
6 whether he did. The evidence will show you, first of all,
7 that he was absolutely reasonable. And when The Judge
8 instructs you on the law, you will know that that's the
9 issue.

10 On October 11th, Mr. Geisen did go to Washington
11 for meetings with the NRC, but let's be clear about how
12 those meetings unfolded. Dave Geisen did not jump on a
13 plane and fly out to Washington himself on a lone mission
14 to meet as congressional folks to the NRC. He went as a
15 team from First Energy. He did not set the meeting. He
16 did not set the agenda. He was asked to participate to
17 describe the two tasks that he had been designated to
18 manage. On October 11, he did that. You will hear that he
19 talked about the cracked growth rate issues, and then he
20 talked about the past inspections. And the evidence will
21 show that what he told the NRC on the 11th of October is
22 based on what he had learned from Andrew Siemaszko who was
23 still in the process of completing the nozzle-by-nozzle
24 table. You will learn that Mr. Siemaszko did not finish,
25 but that based on conversations with Mr. Siemaszko, based

1 on his review of the disc and based on general
2 conversations about what Mr. Siemaszko believed to be true
3 about past inspections, Dave Geisen believed that you could
4 see most of the nozzles on the 2000 inspection and the ones
5 you couldn't see, you can see back in 1998.

6 That's what led to the slide Mr. Ballantine
7 showed you, but he hasn't told you everything about that
8 slide. Because the evidence will show that that slide was
9 different than the first draft of the slide, that the first
10 draft of the slide said something about the 2000 inspection
11 that actually made it sound better than what Dave Geisen
12 believed was the case on October 11th. And so Mr. Geisen,
13 before the presentation, edited the language to make it
14 consistent with what he believed. They may not have been
15 right, but the evidence will show it was consistent with
16 what he believed to be true and that he made sure that
17 language that made it sound better was changed.

18 After the 11th, Mr. Geisen met again with
19 Mr. Siemaszko at some point between the 11th and the 17th,
20 probably closer to the 15th or 16th. You will hear
21 Mr. Siemaszko presented Mr. Geisen with the results of the
22 nozzle-by-nozzle table that he had done in 1998 and 2000,
23 and Dave Geisen saw the data, he realized that what he had
24 told the NRC on October 11th was wrong, that you couldn't
25 take nozzle -- that you couldn't see in 2000 and see them

1 in 1998. You will see the table that Mr. Siemaszko
2 prepared. And it became clear to Mr. Geisen when he saw
3 the data, that they had gotten it wrong. So what did Dave
4 Geisen do? Did he bury the evidence to avoid the personal
5 embarrassment of having to go to his bosses, I said
6 something that wasn't true? No. Did he try to conceal the
7 information so that the case that First Energy was
8 presenting to the NRC would be strong? No. He went to his
9 boss. You will hear that he was distraught. He said we
10 got it wrong, what should we do to fix it? And it was
11 decided that they would fix it through another form of
12 submission to the NRC, which was serial letter 2735, which
13 was filed on October 17th.

14 That submission then became Andrew Siemaszko's
15 table. The government will tell you that table contained
16 false information. Some of the information that the
17 government tells you is false, I submit to you the evidence
18 will show may not be so clearly false. Other information
19 on the table which is false, according to the government,
20 the evidence will show may well have been an honest
21 mistake.

22 But again, ladies and gentlemen, those questions
23 are besides the point, because what the evidence will show
24 beyond any doubt is that when Dave Geisen signed off on
25 2735, he believed the information in Mr. Siemaszko's table

1 to be correct. There were meetings that followed the
2 October 17th submission. We heard about another meeting on
3 October 24th. You will hear that Dave Geisen presented
4 much of the same information that he had been running on
5 with the table since 2735 had been filed.

6 And then on October 30th, 2744 was filed. 2744
7 was the document that Mr. Ballantine described as a photo
8 album. You will see this document. You will see the
9 photographs that are contained in the document. You will
10 see the captions that are contained in the document. And
11 this is what the evidence will show. 2744 did not contain
12 any statements that Dave Geisen knew or believed to be
13 false.

14 And 2744 told the NRC how Davis-Besse was making
15 their judgments. The evidence will not be clear on whether
16 the NRC read 2744, but as to the issue that pertained to
17 Dave Geisen, the evidence will be very clear. You will see
18 the pictures. You will hear how Dave Geisen got the
19 pictures. He got the pictures by going to Mr. Siemaszko
20 saying give me representative photos off the outages.
21 Mr. Siemaszko brought Mr. Geisen the photos. Mr. Geisen
22 said these photos are -- you will hear about what the
23 caption said about the photograph and what they said is
24 what the captions told the NRC is how Mr. Siemaszko was
25 making his calls. You will see the captions that say, for

1 example -- and this is not a quote, this is just a guess,
2 but this is basically what the captions said. It said this
3 photograph shows boron that's rolled down the head and is
4 sitting on the nozzle on the uphill side. Since we expect
5 to see popcorn boron on the downhill side of the leaker,
6 this nozzle is considered to be a non leaker.

7 The government's going to call a witness up there
8 who's going to tell you about how he did his own
9 independent review of the tapes and how he came to
10 conclusions that are different from what Mr. Siemaszko came
11 to.

12 Ladies and gentlemen, that evidence won't prove a
13 thing to you because it will be made with complete
14 disregard for what FENOC told them. You will know from
15 2744 that Davis-Besse and First Energy were not trying to
16 mislead the NRC. But you also know this, that to the
17 extent there's statements in that documents that are
18 contributed to Mr. Geisen, he believed them to be true.

19 About a week later, Dave Geisen went to
20 Washington D.C. to present more information to the NRC on
21 the cracked growth rate that he had been working on with
22 Mr. Byrd and Mr. Richell. And you may hear Mr. Byrd was
23 also on this trip. And when Dave Geisen got to Washington
24 D.C., he was told that he had been chosen by his colleagues
25 to take videotapes to the NRC and show them. You will hear

1 that on November 8th, Mr. Geisen was handed three videos
2 and asked to go to the NRC offices to accompany to show
3 them. The evidence will show that Dave Geisen did not pick
4 the tapes. He did not set the meeting. He did not set the
5 agenda. He was asked to do it and he did it. You'll hear
6 that he took the tapes to the NRC, got to the room, stuck a
7 tape in the machine, turned it on, hit play. And then he
8 tried to explain to the NRC what it was that they were
9 seeing on the video based on what he learned from
10 Mr. Siemaszko and based on what he knew from his knowledge
11 of the head. You'll hear he described how the head was
12 built, how the nozzle was constructed, that they were
13 seeing the support structure above. But the NRC wanted
14 more. They wanted to know which nozzle is that, which
15 number is -- is it, and how did you make a designation that
16 that nozzle was a non leaker, which nozzle is this on the
17 table. You will learn that prior to this meeting, Dave
18 Geisen had not watched the videotapes and that this meeting
19 was, for all intents and purposes, worthless because
20 Mr. Geisen could not answer the questions that the NRC was
21 asking.

22 Ladies and gentlemen, The Government tells you
23 that Mr. Geisen saw the videos in August of 2001. And what
24 the evidence will show is that that is just not true. They
25 will call a gentleman by the name of Jack Martin.

1 Presumably they told Mr. Geisen, said this to the internal
2 investigator. What you will see from the evidence is that
3 if Mr. Martin tells you that Mr. Geisen said he saw the
4 tapes in 2001, he will be wrong and that everybody that was
5 working on the case should have known it, because according
6 to Mr. Martin, Dave Geisen didn't -- he didn't say he
7 viewed the videotapes in August of 2001 to prepare for a
8 bulletin. He said he saw the videotapes, according to
9 Mr. Martin, in August of 2001 to be prepared to interact
10 with the NRC. The evidence will show that David Geisen was
11 not preparing to interact with the NRC at all in August of
12 2001, in September of 2001. And you will know because the
13 evidence will show that prior to that meeting on
14 November 8th, Dave Geisen had not seen these videos.
15 Mr. Geisen left the NRC on the 8th.

16 And you will hear what happened next. Andrew
17 Siemaszko was sent to the NRC to tell the NRC how he had
18 done the inspection, how he had done the cleaning, to
19 answer the questions that Dave Geisen couldn't answer. You
20 will hear about that. You will hear that Mr. Siemaszko
21 described what he had done, and importantly, you will hear
22 at no point did anyone from the NRC say to Dave Geisen,
23 Mr. Geisen, this just ain't a cut. We don't agree with the
24 way you've done these calls. We think that your
25 conclusions are just wrong. You can't call these things

1 that way. There was never a conversation like that, which
2 will be important because the question is did Dave Geisen
3 know that the information he was providing was false.

4 You're going to hear that over the next two
5 weeks, there were a number of conversations between the NRC
6 and Davis-Besse about Davis-Besse's desire to remain open.
7 There were discussions about what were called, excuse me,
8 compensatory measures, which was -- it was really just a
9 word for steps that Davis-Besse would take to try to
10 convince the NRC that they would be safe enough to operate
11 for an additional six weeks. And based on those
12 discussions about compensatory measures, the NRC allowed
13 Davis-Besse to remain open until February 16th, not based
14 on the bulletins.

15 Ladies and gentlemen, this is going to be a long
16 case. You're going to hear from a number of witnesses from
17 that stand. As you hear from them, ask yourselves how much
18 of what they're telling you is based on hindsight on what
19 they know now as opposed to what was known at the time that
20 Mr. Geisen is accused of making false statements. Ask
21 yourself what their motive is to shade their recollections,
22 to protect their own reputation, to protect our agency.
23 Ask yourselves what they tell me now is matched up with
24 their actions then. You are also going to see a number of
25 documents. As the documents roll past you, ask yourselves

1 whether Dave Geisen even saw the documents, the context
2 that the words that are in the document, what the meaning
3 was.' You're going to hear that Davis-Besse is a place
4 where e-mails flew all over the place. And a lot of what
5 the government is going to show you is one line on the
6 fourth page of an e-mail that Mr. Geisen was CC'd on. Some
7 of the documents will be documents that Davis-Besse never
8 got. Look closely at the documentary evidence. And as the
9 witnesses tell you about interactions between Davis-Besse
10 and the NRC, keep in mind the entire context of the
11 conversations, what had the highly trained scientists at
12 the NRC been told before, what were the assumptions that
13 everybody knew to be the case, what was the context of the
14 conversation?

15 If you do that, ladies and gentlemen, you will
16 know because the evidence will show that Dave Geisen did
17 not make any statements that he knew to be false, did not
18 submit any writings that he knew to be false, and certainly
19 did not scheme to deceive the NRC. And at the end of the
20 evidence, we will come back to you and ask you to return
21 the only verdicts that are consistent with the evidence in
22 this case, and that is not guilty on each and every count.
23 Thank you.

24 THE COURT: Thank you, Mr. Wise. Mr. Conroy?

25 MR. CONROY: Thank you, Your Honor. Ladies and

1 gentlemen, I'm bringing my water because I've never been
2 able to go without a little sip.

3 Let me endorse as a matter of fact the things
4 that Mr. Wise has been telling you about what went on at
5 Davis-Besse. But as I've been sitting there listening,
6 I've been trying to figure out what might be the most
7 useful thing I could do for you to give you some guidance
8 as to what's going to come forward on the witness stand
9 here as we go along. And one of the things that I think
10 you can start, on behalf of Mr. Cook, by telling you is
11 that nothing that the government has said is so -- is so.
12 That makes a real divide that you folks are going to have
13 to conquer. But having resolved all of the obstinate
14 issues in the case, I think it might be appropriate to
15 introduce our side, the Cook group, because some of you
16 have not had an opportunity to meet my partner, Mr. Denis
17 Gordon, who is going to be working with us in defending
18 Mr. Cook. Mr. Cook is seated -- there's Mr. Gordon popping
19 up immediately. To his outside is Mr. Cook and, then our
20 paralegal Hanna Robinson is seated just to my partner's
21 right.

22 This is not a case about nuclear energy. It's a
23 case about lying. Mr. Wise has told you that. I endorse
24 that entirely. It is not a case in which you are going to
25 have to wrestle with reasonable doubt, failure of proof, a

1 witness who comes in and surprises. There is no case here
2 against Mr. Cook from the beginning.

3 With regard to what Mr. Cook did and didn't do,
4 it's important to understand how this situation sets up.
5 And I'm not going to go back to the facts because what I
6 concluded was it's going to get too complicated. There's a
7 risk of overload if we give you a little bit more
8 information than can be absorbed so quickly. So what I
9 would like to do is give you a format with which to assess
10 the evidence as it comes forward. And with regard to
11 Mr. Cook, let me just give you some background on his role
12 in this, and then see if we can't get to a format, a
13 structure upon which you can base your evaluation of the
14 witnesses who come forward.

15 Mr. Cook is a professional nuclear engineer. He
16 has been since 1973. He runs his own business, the New
17 Tennessee Energy Services, the chief product of which is
18 his own services. He's an independent contractor. He
19 moves around the country. He goes from power plant to
20 power plant and fills in as needed, and then he can go home
21 to his family in Milington, Tennessee, which is why he
22 wants to do it the way he does it, because he always wants
23 to go home.

24 Now, in the past, going back to 1985, Mr. Cook
25 has worked at Davis-Besse. He's worked at that plant for a

1 five-year period in the '80s. He came back once in 1999,
2 and he came back in March of 2001. That's important in
3 this case because of two critical reasons, the background
4 of this case is going to involve three inspections of the
5 reactor pressure vessel head, one in 1996, one in 1998 and
6 one in 2000. At no time when any of those inspections were
7 taking place did Mr. Cook work at Davis-Besse. He came
8 back to Davis-Besse in 2001, in March of 2001, a year after
9 the last inspection, to look at the head that's involved in
10 this case was over. And he went to work in an area of the
11 plant known as regulatory affairs. Regulatory affairs has
12 nothing to do with inspecting the equipment in the plant.
13 The reason there is a regulatory affairs section at
14 Davis-Besse is because there is a need, a continuing
15 ongoing need to communicate with the government that is
16 regulating the power plant from the power plant. They have
17 to be able to speak to each other and know that they're
18 talking about the same thing, otherwise the regulators will
19 not know that they are getting their questions answered.
20 And so engineers, in Mr. Cook's case a nuclear engineer
21 drafts responses for the -- for the Nuclear Regulatory
22 Commission from Davis-Besse so that the communication can
23 remain open and clear.

24 And one of those communications is this bulletin
25 we're all talking about, it came in in August of 2001, had

1 to be answered in 30 days. Mr. Cook came on board in March
2 of 2001, and he was not assigned any responsibilities
3 having to do with answering this bulletin. The bulletin,
4 in fact, did not exist at that time. He was hired as a
5 staff augmentation engineer in regulatory affairs to help
6 get the paper moved, to help get things, correspondence
7 done, business done, with the Nuclear Regulatory
8 Commission. When the bulletin came in on the 3rd of
9 August, the guy who should have been or normally would have
10 been assigned to the job of drafting up the response,
11 gathering the information for the response, was tied up
12 doing something else, and they assigned my client,
13 Mr. Cook, on the 8th of August to get out a response by the
14 4th of September to this thing.

15 Now, this bulletin had multiple parts. It had
16 multiple paragraphs with multiple subparts. It had
17 attachments, it had charts, it had drafts. It was a major
18 undertaking to get this document out. And the reason that
19 Mr. Cook wouldn't have any personal knowledge of what is
20 going on when he's gathering this information is because
21 that's his assignment. There is a written express
22 procedure at Davis-Besse that says to him as he is
23 collecting his information to respond to the bulletin you
24 gathered it up. You make sure you get it all. You make
25 sure it makes sense in the language that the NRC will

1 understand. But you do not seek to verify the factual
2 accuracy of the technical information in it because you
3 don't have time. That's not your job. You've got to get
4 this thing together. And as you are going to learn, as the
5 evidence comes forward, this process was not dissimilar in
6 the time period allowed to be heard -- every time that
7 Mr. Cook thought he had something collected, somebody would
8 shoot up one direction or another direction. He had to
9 gather them all and head them all in the same direction
10 again so he could get his response out. That was the core
11 of his job. He was not verifying information. He didn't
12 have to. Why didn't he have to? Because, and you heard
13 this term mentioned, there is a greensheet that goes with
14 these communications. When Mr. Cook begins to gather
15 information to put in his response, he's getting it from
16 all sorts of sources. And he's getting comments back from
17 what he writes because he's sending it back. When that
18 process is completely resolved, when everybody agrees that
19 the answer that he's now come up with satisfactory, they
20 all agree that my area of technical expertise has been
21 satisfied and they sign his greensheet. So his -- his
22 method of verifying that, what he has written is correct,
23 is by sending it out to everybody who made input, getting
24 them to agree, yeah, that's right, then he passes it along
25 to his superiors for signature.

1 He is just the engineer who's putting it all
2 together. That being the case, I'm going to ask you -- as
3 a matter of fact, in your questionnaires when you were
4 being selected for this jury, you were asked did you ever
5 watch law shows or detective shows on TV. And some of you
6 may have answered yes to that question. But the thing I
7 noted about it was that almost everyone who answered yes to
8 that indicated, oh, yeah, but we know that's fiction.
9 That's not the way it really is. Well, that's true. But
10 you are now, I hope, going to take the opportunity to play
11 detective on your own, as the evidence comes on, to try to
12 figure out whether or not evaluating Mr. Cook's situation
13 independently and individually just on the basis of what he
14 did or did not do. He really comes across as a potential
15 suspect, as a potential suspect in this case.

16 And so, therefore, I am going to ask you to
17 consider three things.

18 I'm going to turn to my paralegal, Ms. Robinson,
19 who hopefully is going to cause something to pop up on your
20 screens. It is not. It is.

21 Three things, when you are considering whether or
22 not, as the detectives you are about to play, somebody is a
23 legitimate suspect in this case, please keep three things
24 in mind. Did he have a motive? Did he have the means, the
25 knowledge, the wherewithal to commit the crime? And did he

1 have the opportunity, which is to say did he think he could
2 get away with it? Did he understand that this was an
3 opportunity for him to successfully commit a crime if, in
4 fact, he decided he wanted to commit it in the first place?

5 As you evaluate the witnesses that you're dealing
6 with and you're dealing with motive, ask yourself this,
7 please. Is this witness convincing me that Rodney Cook, a
8 successful, professional engineer, runs his own business,
9 makes very good money at it, has a family back in Tennessee
10 up to and including grandchildren, is going to put his
11 professional reputation and career on the line to tell a
12 lie that involves a plant for which by whom and for which
13 he -- he is not employed to stay open an extra two months
14 before they do an inspection? Is it logical? Is it
15 reasonable to conclude that this man had a motive to keep
16 that plant open for an additional six weeks so powerful
17 that it would implicate his personal career, his
18 professional background, his reputation and his wealth?

19 If he had a motive to do anything other than the
20 best he could, who asked him to do it? Was there anybody
21 who said, Rod, lie? If not, why would he have done it?
22 What was his motive? He worked at Davis-Besse pursuant to
23 a term contract that they call a purchase order contract,
24 and it was for a year in duration. It had no incentive
25 clauses. He wasn't eligible for a bonus. He couldn't get

1 promoted. He could do his job and he could leave. And if
2 he had to leave because of some dispute, he had been 28
3 years in the business working all over the country. And he
4 knew, as a professional engineer, that it was suicide to
5 lie to the NRC. If he got caught, what would he do? What
6 was his motive?

7 Let me see if I have any other motive information
8 for you. Oh, yeah. He didn't know that he needed to lie.
9 There was nothing in the bulletin, about which everyone is
10 so concerned, that said if Davis-Besse doesn't conduct an
11 inspection by the end of the year, we're going to shut it
12 down. The question was, if you don't plan to conduct an
13 inspection by the end of the year, tell us your reasons.
14 So as he is gathering information, there's no threat to
15 Davis-Besse. He's putting an answer together that says
16 here's what you wanted to know, but if you don't like it,
17 there's nothing that suggests to him that this is going to
18 mean the plant gets shut down. All it says is tell us what
19 your plans are to make sure you remain in compliance with
20 regulations. That's what they thought they were doing.
21 What motive would he have to lie if he didn't think there
22 was even a threat to the plant?

23 So we've got no one asking him to do it. He's
24 got no background that indicates he would do it. There's
25 no financial incentive. In fact, dramatic financial

1 disincentive for him to do it. He put his whole career on
2 the line by lying, and there wasn't any necessity for it.

3 Let's talk about the means that he had to violate
4 the statute that we're talking about. Mr. Cook had no
5 background in this issue of circumferential nozzle cracking
6 that we're going to hear more about. It wasn't his area.
7 When he went to Davis-Besse, he was not involved in what
8 went on inside of the containment building. That was
9 engineering responsibility. Engineering were the people
10 who were gathering up the hard information for him to take
11 and put in the response. When they did that, he had no
12 basis, nor any call or any obligation to check further into
13 what they were -- what they were telling him, and he
14 didn't. He was not supposed to, and he didn't. He didn't
15 have the time, and he was sending the document back to him
16 for verification anyway. So by the time it was signed off
17 on, it was going to be satisfactory to him. He also got
18 comments on what he wrote from everybody, and he attended
19 to all of those. He paid attention to what people were
20 telling him they liked, they didn't like. He finally
21 manufactured a document.

22 This has been a -- I hate to get into facts too
23 much, but this is a lot of talk about, oh, 90 percent, 80
24 percent, 70 percent, majority of the nozzles. Well, all of
25 that has got to be played out for you. But the fact of the

1 matter is, that was an open debate about what the engineers
2 could and couldn't see. He didn't know what the answers
3 were. He wasn't down there. He didn't work when this
4 information was gathered. He didn't have the knowledge to
5 commit the violation that we're talking about, deliberately
6 lying to the government. He wasn't there. He didn't know
7 that. He became involved on the 8th of August. The
8 response had to go out by the 4th of September. There were
9 vacations in there for people who knew the answers. There
10 was a short period of time, there were weekends. There was
11 not a lot of time to gather the information itself. There
12 was no time to do an independent investigation of the
13 facts. He had to rely on the information that he was
14 given. There were a number of responses.

15 Keep in mind, if you will, that what this whole
16 case is talking about is one subparagraph of a
17 multi-paragraph, multi-tort, 24-page response that had to
18 be gathered up in three weeks with attachments, with
19 graphs, charts with outside reports. Mr. Cook had to make
20 contact both inside and outside the company to make sure
21 that answers that were being given made sense in context.
22 If one plant over here says, oh, it's -- you know, what
23 we're going to do is A, Davis-Besse said what we're going
24 to do is B, well, there may be a problem with the NRC
25 saying which one of you guys knows what we're talking

1 about, they talk to each other to make sure they are
2 getting a straight answer. That's okay. That's understood
3 in the industry. But it's also -- it's part of what he has
4 to do. He has to get all of that information here.

5 The information on past inspections was in the
6 possession of one engineer whose name you've heard, Andrew
7 Siemaszko. He did the past inspections. He drafted up the
8 response for that portion of the -- of -- of the response
9 and he gave it to Mr. Cook. He never told Mr. Cook what --
10 what might be deemed true information if the information he
11 gave him was false. He gave him the information. Mr. Cook
12 accepted it. He circulated it around. Everybody else said
13 yeah, that's fine. That's how it went out. No one to whom
14 Cook spoke or claimed to have any knowledge of information
15 regarding that reactor head told him anything other than
16 that after the last inspection that head was left clean.
17 And that's what he put down. And that's what went forward.
18 And that's what he understood to be the case. He's
19 involved in this thing because of his job, because of where
20 he sat in the process, not because of what he did or didn't
21 do.

22 There are later responses, the big one -- the one
23 that really had to be assembled the most was the first.
24 That was the one that required the most time because then,
25 a little bit the inquiries narrowed.

1 On the 3rd of October, the plant agreed to send
2 out further responses to the NRC. Mr. Cook was in charge
3 of getting that together. In that instance he had about 90
4 days to get a response together.

5 Thereafter, there was a -- there was a third
6 response, which is the 2741 response. That response came
7 in the day or the day after the last one went out. And low
8 and behold -- and this is, I think, something that the
9 government wishes to make a great deal of. I don't think
10 it's worth much. You're going to hear that Mr. Cook did up
11 a draft of a paragraph response -- beg your pardon,
12 subparagraph response to one -- to this third letter. And
13 that it was in error. Was it ever. The question was what
14 are you going to do -- I'm sorry, the question that they
15 wanted answered was what have you done in past inspections?
16 Mr. Cook thought the question was what are you going to do
17 in your next inspection. He answered the wrong question in
18 draft. He wanted to get something out there, get people
19 starting to think about it, and he answered the wrong
20 question. They did not send that into the NRC, shock of
21 shocks. Of course they're not going to send it in. It's
22 the wrong answer. They didn't want to send it in, and the
23 fact that the government claims there is information in it
24 that is more true than what they did send in, we'll deal
25 with when it happens. But he did not have any knowledge,

1 he did not have any means to follow what the government
2 insists he did.

3 Now, let's talk about opportunity. I think that
4 it is reasonable to conclude that if you are going to
5 commit a lie on a form that you're going to send to the
6 government, that you would contemplate the need to get away
7 with it, to be successful at it, because it really wouldn't
8 make a great deal of sense to take your career and
9 everything about it and pitch it down the drain if you're
10 going to get caught right away.

11 Remember that the indictment in this case charges
12 Mr. Cook with acting alone, not charged with anything other
13 than his own activity either by co-mission or omission. It
14 is what he himself decided to do and did. If that is the
15 case, how did he anticipate that he could lie successfully
16 in this circumstance? The document that was being drafted
17 up was being circulated for approval as to validity, to the
18 very people who knew the answers to the questions, which he
19 did not. Why would they let him do that? They're not
20 accused of it, nobody's suggesting they did anything wrong.
21 Why would they think he did and was going to be able to get
22 away with it? They would have said you can't do that.
23 This is not right. But everybody agreed that the answers
24 were right because everybody believed it was the truth.

25 You are going to find that there was no agreement

1 to do anything between Mr. Cook and anybody else. You are
2 going to find that -- and particularly this is true with
3 regard to this paragraph that he drafted that didn't make
4 it into the final -- if you're going to do things like
5 that, and in this particular case, it's a necessary element
6 of the violation, you're going to conceal it. If you are
7 going to take a draft which contains information that is
8 true and not give it to the government, you're clearly, if
9 you intend to succeed in what you're doing, going to hide
10 it.

11 Fact of the matter is, Mr. Cook did not realize
12 he made a mistake in that draft of 2741 and sent it out to
13 both people in the plant and to people outside of the
14 plant. It was circulated all over the place. It was not
15 concealed at all. And the reason is it was a complete
16 mistake. And the fact that it was circulated all around
17 indicates perhaps more about the people who were reviewing
18 it even than Mr. Cook because it stayed in -- it stayed in
19 the proposed bulletin response for nine days before
20 somebody realized, oh, you're answering the wrong question,
21 and they took it out and they fixed it.

22 Motive, means, opportunity. Why would he have
23 done it? How would he have known enough to do it? What
24 did he think his chances were of getting away with it?

25 If you can't answer all of those questions after

1 you've heard the evidence in a strong affirmative fashion,
2 you've got to exclude Mr. Cook. And that's what would
3 happen because this case is not credible. Thank you.

4 THE COURT: Ladies and gentlemen, we're now going
5 to take our lunch break. I know that some of you are
6 eating in and some of you are not. We'll take until 12 --
7 1:15 for our lunch break.

8 Please remember my previous admonitions to you.
9 Please do not discuss this case among yourselves nor with
10 anyone else. Do not make up your minds because you've
11 heard none of the evidence, until you have heard all of the
12 evidence. Closing arguments of counsel and The Court's
13 instructions are not evidence. Do not read, listen to or
14 watch anything touching on this case. Do not talk to
15 anyone about this case.

16 Please enjoy your lunch hour. Those of you who
17 are going out, make sure that you have an umbrella. We'll
18 see you at 1:15. Thank you.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

Angela D. Nixon, RPR, CRR

Date

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