

1 Seattle for 18 and a half years and at the start of the  
2 new year have been sent out to Kent to do a tour of  
3 duty out here for one year. The year 2008 I will spend  
4 here and I am delighted to be here on a sunny day like  
5 this. Perhaps now Mt. Rainier will be making an  
6 appearance out the window soon.

7 I have had a chance to review all of  
8 the written submissions and they are fairly numerous in  
9 a case like this. The case was only reassigned to me  
10 just yesterday. It had been with a different judge,  
11 obviously, for the past year. So, I don't have the  
12 history with the case, but I have taken a look at the  
13 Court file as well as the motions that are raised to be  
14 addressed this morning before we get a jury panel in  
15 here and choose 12 people who he will ultimately make  
16 the decisions in this case as it proceeds.

17 So, without further ado then, let's  
18 start taking a look at some of those motions, unless  
19 there is some other preliminary housekeeping or other  
20 matters that ought to be addressed. Ms. Koehler?

21 MS. KOEHLER: The only issue that I would like  
22 to address now so that we can make a phone call if  
23 needed is I did talk to Welchman. We are having to  
24 reschedule all of our witnesses and our orthopedic  
25 surgeon had an absolute cow, and is refusing to come;

1 and so, I would like to take his perpetuation  
2 deposition. Our doctors in this case have all required  
3 and now we have noted down four of these 6:00 o'clock  
4 in the morning depositions. And Mr. Welchman is well  
5 acquainted with that procedure. And he is saying that  
6 the date he could do it would be Friday at 6:00 o'clock  
7 in the morning. So, that's my request that we be  
8 allowed to do that rather than dragging in a ortho by  
9 the hair.

10 THE COURT: Sure. Well we will be dark on  
11 Friday. We won't be in session. So, if there was a  
12 more convenient time during the day on Friday, that  
13 would be great. But the doctor may be insisting on the  
14 6:00 a.m.

15 MR. WELCHMAN: That's been his past practice,  
16 your Honor, but if somehow he could be persuaded to do  
17 it later in day, I would sure appreciate it.

18 THE COURT: Yeah. Well, tell him he's got to  
19 whole day, assuming you are --

20 MS. KOEHLER: His words to me were, I will do  
21 it at 4:00 o'clock in the morning or 5:00 o'clock in  
22 the morning or 6:00 o'clock in the morning, your  
23 choice.

24 THE COURT: You made the best chose of those  
25 three I would say. All right. Well, is there any

1 objection to proceeding with the perpetuation  
2 deposition.

3 MR. WELCHMAN: No, your Honor. I think it may  
4 be necessary to go back to sleep, but it's not an  
5 objection.

6 MS. KOEHLER: I do appreciate that.

7 THE COURT: Yeah, it's a shared unhappiness I  
8 am sure. And so, you will do that with videotape?

9 MS. KOEHLER: Yes, your Honor. We will do  
10 that; and I just wanted to get that done so we could  
11 schedule that.

12 THE COURT: Which witness was that?

13 MS. KOEHLER: This is doctor Chi.

14 THE COURT: Chi. I have the witness list in  
15 front of me and we talked a little bit on the phone  
16 yesterday about who you each were likely to call. I  
17 think the discussion was kind of framed in by my  
18 inquiry as to who the long witnesses would be. You  
19 each had mentioned that there are a number of shorter  
20 witnesses and maybe you could indicate who all you  
21 anticipate calling.

22 MS. KOEHLER: Yes, your Honor. If you look at  
23 the joint statement of evidence we will not be calling  
24 Dick Dow, who is No. 10. You could strike his name.  
25 And we probably won't calling 17 just because there are