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2 You'll talk about it, right. You guys are
3 the finders of the fact. You apply the law. And we
4 think the result is 100 percent. You may find that
5 it's not 100 percent. We would say it's 100 percent
6 or something very close to 100 percent.

7 THE COURT: Let's take a very short break.

8 COURT OFFICER: All rise for the jury,
9 please.

10 (Whereupon the jury panel departed the
11 courtroom.)

12 (Whereupon a recess was taken.)

13 COURT OFFICER: All rise for the jury,
14 please.

15 (Whereupon the jury panel entered the
16 courtroom.)

17 THE COURT: Okay. You can continue.

18 MR. BLOCK: Thank you everyone for all your
19 patience. I know we're -- we're getting close to
20 lunch. And I have one last topic to discuss with
21 you, and it's a very important topic, which is
22 Ralph's damages. And you remember in jury selection
23 I spent a lot of time talking with each of you about
24 damages. I think you can see why. Because now
25 you're on the jury, and I'm going to review the
26 evidence with you about damages.

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2 And there is no dispute about damages. I
3 mean, Mr. Fanning said that Mr. North is suffering.
4 That he has suffered. That this is a horrible,
5 incredibly painful cancer. And the instruction is
6 going to talk about pain and suffering. You're going
7 to hear that you can consider physical pain and
8 suffering. So, actually feeling pain, whether it's
9 discomfort, shortness of breath, chest pain, a
10 procedure where they are doing something invasive,
11 operating on you.

12 You also can consider emotional pain and
13 suffering. Knowing that you have a terminal cancer.
14 Everyday waking up with that. Just the emotional
15 loss of not being able to do the same things you used
16 to do.

17 Ralph said that -- Mr. Thompson said if you
18 did not have mesothelioma, where would you be right
19 now. And I thought it was really telling. He said
20 he would be with his daughter Amy in Florida with her
21 two month old. And you heard that Amy is a school
22 teacher. She and her husband are school teachers in
23 Florida. So, they can't come up here. They have a
24 two month old. Obviously they have their hands full.

25 I'm going to ask you to value everything like
26 that. What is the loss just of that. Of raising a

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2 daughter who was born with a heart condition. Taking
3 care of her. Watching her flourish. Helping her get
4 educated. Seeing that education blossom and at one
5 point becoming a school teacher. Then she has a
6 baby. And because you have a disease from your work,
7 you can't go, go see your grandchild. Hold your
8 grandchild. Be there for your daughter.

9 I mean, there is no way that I can present to
10 you every moment that requires compensation. But all
11 these damages require compensation.

12 Loss of enjoyment of life. It's in the jury
13 charge. The enjoyment of life. Something that is
14 held so dear to all of us, that it is actually in the
15 jury instruction. And we have to look at, in terms
16 of looking at the enjoyment of life, you need to look
17 at what is the life that Ralph built. What is the
18 life that he built. And what is being then taken
19 away from him.

20 I think that at the start of the case I think
21 you knew that Ralph was a builder. He is a welder.
22 Welders help build things. They help take metal and
23 join them together so things could be built. But
24 he's not just a builder of things. Ralph is a
25 builder of -- he was the builder of a marriage. He
26 built a marriage. And you heard Andrea talk about

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the love that Ralph had with his wife Anita.

You heard that Ralph is a man who has built strong relationships. And there is Andrea, who testified, and you see Ralph, even though he's working overtime and, you know, working as much as he can to support his family, he's in that pool with Andrea. She's on his shoulders. He built strong relationships. Ralph built a family.

And you heard that Andrea was five when her mom and Ralph started dating. And how these five became a very close knit family. And you heard that -- Bless you -- that the building of this family extended to grandchildren. And I'm going to ask you to -- what is the loss of not being able to get on the floor with a grandchild. I mean, is there anything more valuable to someone whose raised their children, who has grandchildren, to get down on the floor and put your grandson on your back and watch him laugh and, you know, just have joy by being on your back? Just from that. What are the damages of having to sit there and not be able to do that? To have your grandchildren be a little bit scared of you because they know you're the sick grandfather. You're the one whose dying. The one who can't get on the floor.

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2 And you heard that Ralph, he lived
3 independently. He lost his wife. And he lived
4 independently, until he's not able to live
5 independently anymore. And Charlie and Charlie's
6 wife and their daughter have moved in with Ralph into
7 his house. You know Ralph, like any adult, enjoyed
8 being able to live independently. Right. Take pride
9 in taking care of yourself. Not have to ask your
10 children, you know, for things.

11 (Continue on the next page.)
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1 Summation - Plaintiff - Mr. Block

2 MR. BLOCK: (Continuing) You know. And he's had
3 to have his son and his family move in with him. That's
4 difficult, you know. His other grandchildren, the losses
5 in terms of how much time he's able to spend with all his
6 grandchildren. You know, they call these the golden years
7 because they're gold.

8 You know, those are tough years when Ralph is
9 raising his kids and trying to -- you know, every time he
10 had to work overtime, he had to, you know, he was not going
11 to see his kids. Right? But then he retires, and those
12 years are gold, gold. They're worth their weight in gold.
13 Being able to be with those grandchildren, being able to
14 have rituals. You know, you heard that Ralph
15 would -- simple rituals. You know, he liked to walk to the
16 bank. You know, instead of drive, just take a walk. He
17 can't do that any more.

18 So Ralph built a close family. And you heard
19 that -- you know, you didn't hear a lot of, about a lot of
20 hobbies. I mean, gardening at the home or taking care of
21 the home. Ralph's life was his family, the relationship
22 with his family, and taking care of his home. Right?
23 That, that was, that was, that's, that's his life. And,
24 you know, you didn't hear about Ralph going to play golf
25 or, you know, anything like that.

26 I mean, this is what they did. They would have

1 Summation - Plaintiff - Mr. Block

2 family functions, you know. They would get together,
3 they'd work together on the lawn, they'd clean the house
4 together, they'd have dinner together. You heard about the
5 family rituals, eating dinner, cleaning up together in the
6 kitchen. A simple, beautiful life.

7 And Ralph also, he built character. After he had
8 built character in himself from being in the Marines and
9 from working hard, he built and instilled character in his
10 children. And you heard about Andrea and how she credits
11 Ralph for building her character and instilling a work
12 ethic in her. And you heard the same thing from Charlie.
13 And this goes to the enjoyment of life. I mean, he, he,
14 he's -- these are his crowning achievements, his children
15 who have achieved all these things. And they've gotten to
16 the point where he can enjoy their achievements and just
17 revel in them. Look at what I did. Look at what Anita and
18 I did together. And this is being taken away from him.

19 You heard about, you know, the work he used to
20 like to do around the house. This is Ralph's identical
21 twin brother. He has a twin brother who's genetically the
22 same, who's healthy, who's going to live a full life. I
23 mean, is that traumatic or what? That there is a person
24 who has the same genetics as Ralph North, but who was not
25 wrongfully exposed to asbestos, who is going to continue to
26 live a full life. He says he can't give keep up with his

1 Summation - Plaintiff - Mr. Block

2 brother. His brother has these big projects, he tries help
3 him out; but like his brother is healthy, you know, Ralph
4 isn't.

5 You heard that Ralph's mother lived until she was
6 over a hundred years old. You heard that Ralph's father, I
7 think, lived until he was 86. So he's being robbed, he's
8 being robbed of these years and all the enjoyment of these
9 years.

10 We also learned that Ralph cares for others. He
11 takes enjoyment by caring for others. You heard how he
12 cared for his wife. You heard how even the garbage man.
13 You know, Ralph's doing the landscaping, he's got a big
14 pile of stuff from the lawn with his work he would do. He
15 would take it out there in little pieces, you know, maybe
16 like six bags, you know, one by one because he didn't want
17 to like lay on the garbage man a whole pile of stuff, you
18 know, and mess up what the garbage man's trying to do. So
19 he cared for his fellow human beings, and he does care for
20 his fellow human beings.

21 You heard that Ralph's been taking the subway
22 now. I mean, this guy is unbelievable. He's taking the
23 subway down to the court every day of this trial, even when
24 they read documents for an hour. He came down here every
25 day on the subway, and giving up his seat to others.

26 And so mesothelioma is taking everything away

 JEANETTE LAKE-MASON, CSR, RMR, Official Court Reporter

1 Summation - Plaintiff - Mr. Block

2 that Ralph built. And he is fighting, he is fighting. I
3 mean, he is fighting like the strongest brick house; but
4 it's chippin' into him.

5 And you heard that the suffering that Ralph has
6 had from the mesothelioma started in the summer of 2012.
7 It's right there in that medical record from Memorial
8 Sloan-Kettering in January of 2013. It said that, the
9 patient came in and was complaining about chest wall
10 discomfort and shortness of breath starting in the summer.
11 Some of the other records said for several months, but
12 we're talking about two years. So this man's suffering,
13 has already gone past what we would normally see in a
14 mesothelioma case. He was not supposed to even be alive
15 right now.

16 And you heard that Ralph is not a complainer. I
17 mean, if you walk unto Ralph after the verdict and have a
18 chance to speak to him, he'll tell you he's fine.
19 I'm okay, I'm okay. How you doin' Ralph? I'm okay.

20 He's never gonna to complain. He's never gonna
21 complain, all right. That's who he is. He's not going to
22 start complaining for a lawsuit. But we know, and we've
23 seen what's happening to his body. We know there's pain
24 there. We know there's shortness of breath; we know
25 there's, there's, there's things that hurt.

26 And Charlie didn't know. So Ralph's having this

1 Summation - Plaintiff - Mr. Block

2 pain in the summer of 2012, he's not telling anybody. So
3 Hurricane Sandy comes, it fills Ralph's basement with all
4 this water. Charlie comes over. And you heard they're
5 cleaning up together. And Charlie notices, you know, my
6 dad, there's something going on here. You know, and
7 Ralph's still not complaining.

8 And you heard that Ralph's brother told Charlie
9 and his sisters around Christmas of 2012 we got to do
10 something. Your father is not right. There's
11 something -- he doesn't sound well at all.

12 And so you heard how he went to Good Samaritan
13 Hospital. He had pleural effusion. So he's got six liters
14 of fluid in his lung that's causing pain. That would cause
15 severe pain. His left lung is collapsed. That's severe
16 pain and shock and emotional distress. I mean, you have a
17 collapsed lung. And you heard that the shock the family
18 had about the mesothelioma diagnosis. They couldn't
19 believe what they were being told.

20 You heard about the procedures at the Good
21 Samaritan Hospital. All of this requires compensation.
22 Fluid drained from the lung, pleural catheter because the
23 fluid re-accumulates. The VATS procedure you heard about,
24 where they go in and they're trying to keep the fluid from
25 re-accumulating; and the shock and the stress and
26 the -- all the emotional anguish from being told you have a

1 Summation - Plaintiff - Mr. Block

2 terminal disease.

3 And many people would have said, I just don't
4 want to do anything, I just want to live my time out and
5 that's it. But you heard that Ralph has, he has an
6 extraordinary will to live; and so he went to Memorial
7 Sloan-Kettering in January of 2013, and he stayed in that
8 hospital and he underwent -- I mean, this is a brave man.
9 They're giving him a vaccine that has like a small pox
10 derivative; and they're coming in with hazmat suits
11 essentially, with a crowd of people because they're telling
12 him that he's the first person in the United States
13 who's ever had this. And he's basically signing his life
14 away, and he's saying bring it on, I want to have live.
15 And so he did.

16 And that involved more invasive procedures, the
17 VATS procedure, and another pleural biopsy. And it
18 actually didn't make the mesothelioma go away; but it had
19 some effect, you know, for a number of months. And then,
20 unfortunately, in October of last year the mesothelioma
21 started to spread; the fluid started building up. And you
22 heard about this procedure, a left thoracotomy and the
23 pleurectomy. So the pleurectomy is they're scraping, they
24 are attempting to scrape all of the tumor off his lung.

25 And so you have to try to put yourself there and
26 picture this man. And I think you heard he got there

1 Summation - Plaintiff - Mr. Block

2 early, you know remember, and he had to wait, and he had
3 this procedure. I mean, this is a major surgery; and we
4 can't put you in that room. You know, we're not going to
5 bring in a video of the surgery or what he looked like in
6 his recovery; but this actually happened, and it must be
7 compensated.

8 And, you know, we show showed you this picture,
9 not to -- you know, not because it's unpleasant to look at;
10 but because this, I mean, look at, look at the incision.
11 It goes around to the -- it goes around. I mean, so he had
12 major surgery. And you heard what Ralph said. You know,
13 this is the only time you heard an acknowledgment of pain
14 from Ralph. Even my hair hurt. It hurt.

15 And he got out of the hospital for four or
16 five -- after four or five days. He went, he left early
17 because he had to get out of there. All these hospital
18 visits; it's terrible to be in the hospital, you know, for
19 anything, you know, much less a serious surgery. This is
20 all suffering. These are all damages that have to be
21 compensated.

22 And you heard from Charlie that -- about that
23 surgery, and he said this surgery was different than the
24 others. He said he had severe pain. He even told me that.
25 And I think he mentioned earlier that his hair hurt. Like
26 every part, fiber of his body was in pain. He wanted pain

1 Summation - Plaintiff - Mr. Block

2 medication, which is somewhat out of character for him. I
3 mean, he barely takes Tylenol or aspirin years ago, so,
4 yeah, he was in severe pain.

5 So Charlie, you know, views this as like, wow, my
6 dad actually took pain medication. I mean, this is a man
7 with a very high tolerance for pain clearly. So he's going
8 to experience the pain, and he's going to try to tolerate
9 it, and that's going to be what's going to happen going
10 forward.

11 And can you blame him?

12 I mean, he doesn't want to be, you know, on
13 codeine and on, and on drugs that don't make you feel good,
14 you know. I mean, he's been enduring the pain.

15 Ralph had radiation treatments. I think we heard
16 for like 30 or 31 straight days he took radiation. And it
17 went into his chest area, but also the field takes in some
18 of your throat and esophagus. And you heard that he had a
19 burning of his esophagus and he's had a constant dry cough
20 from the radiation.

21 You know, and some of us -- I mean, obviously,
22 all of us have coughs. Some one gets coughs for three or
23 four days, and it could be very brutal and keep you up
24 night. But this has not gone away; I mean, this is
25 from -- this is almost going on a year, I mean, that -- and
26 we heard from Charlie because Ralph, you know, Ralph's

1 Summation - Plaintiff - Mr. Block

2 going to say I'm fine, I'm fine; and but, you know, Charlie
3 living with him is able to give you eyewitness testimony.
4 And he says he has this cough now because when they
5 radiated his lung, they got to do the whole section. As
6 part of that, they had to touch other tissue. They
7 radiated part of his esophagus. And it says, because of
8 that he has a hacking cough now. It basically keeps him
9 up. He wakes up at three o'clock every morning to take
10 cough medicine. He takes it two or three times a day, and
11 he's up three or four times a night just because of his
12 cough and he has to spit up.

13 What's the value of a good night's sleep? The
14 feeling of being up at night and not being able to sleep,
15 being awoken, being uncomfortable in the dark of the night,
16 the loneliness of it, and how terrible it is when you just
17 can't wait for it to be light out so the sun will come up.

18 You know, he's dealing with this disease every
19 day. And those are damages, and those damages have to be
20 compensated.

21 And you heard about the side effects from the
22 radiation from Ralph. He said that he still does not have
23 a good appetite. I mean, it's a basic human pleasure of
24 life, enjoying a good meal. Wow, this meal tastes great.
25 It feels so good to eat. I've been hungry, and now I could
26 eat. He has no appetite; so that means he's eating to

1 Summation - Plaintiff - Mr. Block

2 sustain himself, but he's not able to get any pleasure from
3 it. There's no appetite there. And, you know, he doesn't
4 know if it's ever going to go away, you know, the side
5 effects he has from radiation.

6 Yet Ralph is willing to do more. And he
7 undergoes another unproven experimental treatment, this WT1
8 vaccine; but in July of 2014 it's noted in the medical
9 records that you have -- all the medical records are
10 admitted into evidence -- that Ralph's' oncologist noted
11 that he was experiencing chest wall discomfort, hacking
12 cough, and decreased appetite. And those are the symptoms
13 we told you about. Those are the pain and suffering that
14 he's been having.

15 And we showed you this. And, you know, there was
16 a CT and a chest X ray that showed progression of disease;
17 but I think this really, this is -- I mean, this just, this
18 shows it. I mean, this man is amazing because he is coming
19 down in the subway every day for this trial; and this is
20 the amount of air that he has in his left lung. The
21 mesothelioma is strangling his left lung. And he's strong
22 enough to come down here, you know; but this is, this is
23 going to produce pain all day, every day, every moment
24 you're awake. And that's it, that's the image.

25 So, you know, we don't have a complainer; you
26 know, we don't have someone who's going to come in and like

1 Summation - Plaintiff - Mr. Block

2 do a lot of complaining and complain to anyone or complain
3 to you. But we know the pain is there, we know it's there
4 all the time, okay, based upon the procedure he's had; and
5 that this has been going on for two years. Look at his
6 left lung. That's what happens with mesothelioma. That's
7 a healthy lung, healthy pleura. This is tumor, and it's
8 literally strangling the left lung.

9 But Ralph was determined to live. Could anyone
10 forget this question and answer from this trial from
11 Mr. Thompson to Mr. North.

12 "QUESTION: And we have talked about your
13 treatments, all the different treatments you have received,
14 the experimental nature of them.

15 Why are you doing all these treatments?

16 "ANSWER: Well, because I want to live. I mean,
17 there are no alternatives, or there is, but I -- you know,
18 that's the final alternative; so I just keep trying.
19 Whatever Sloan-Kettering has, I will accept. No matter
20 what type of research medication it is, I'll take it
21 because I don't want to die, really. I still think I got
22 years ahead of me, you know.

23 So Ralph is willing to do everything he can to
24 live, anything; but he knows that the best case scenario is
25 that he might have a few years left with disease because
26 Ralph knows, and he accepts that it's a terminal disease.

 JEANETTE LAKE-MASON, CSR, RMR, Official Court Reporter

1 Summation - Plaintiff - Mr. Block

2 He knows that there's no cure. And yet he's going to fight
3 to live as many years as he can, just like he's done right
4 up until now.

5 And you're also going to be asked to award
6 damages for Ralph's future. And there is no cure for
7 mesothelioma; and that means, you know, Ralph will die from
8 mesothelioma. He will die from mesothelioma in the future.
9 He understands that. He will do everything he can to live
10 as long as he can to get as much enjoyment of life as he
11 can, but that is what we know about the disease.

12 And I mean, the burden of proof is that, you
13 know, we have to prove our claims; that it's more likely
14 than not. So we can't, you know, you can't evaluate the
15 case based on a miracle or a prayer; it's based upon what
16 we know about the medical science. And you heard
17 Dr. Millers's testimony. I asked him about this, about the
18 future.

19 And Ralph is here in this closing argument. This
20 is his case, okay, he's entitled to be here. And I'm not
21 going to ask him to leave, but I'm also not going to repeat
22 anything that Dr. Miller said about Ralph's future. You
23 heard what Dr. Miller said, and I'm not going to repeat it.
24 And you all, obviously, have paid very close attention; and
25 I'll just leave it at that. But the most important thing I
26 want to say about this is we can't come back. We can't

1 Summation - Plaintiff - Mr. Block

2 come back when it gets worse and say, look, see what
3 happened, you know, look, see what the mesothelioma is
4 doing to him now. You know, look, see, he can't get out of
5 bed. Look how it's taken his life. We can't come back.

6 This is the only jury. You are the only people
7 who will ever evaluate the damages of Mr. North; and so
8 your verdict has to reflect the total damages, the total
9 damages, past and future, that you find for his injuries
10 from whatever exposures, from whatever companies that you
11 believe are responsible for all of this. You're the one
12 jury who's going to do it. And you're going to, on the
13 verdict sheet, have to put in a -- you're going to be asked
14 how much. And two years of past pain and suffering for the
15 worst cancer that a person could have -- this is a case of
16 the highest magnitude in our civil justice system.

17 I'm going to suggest for past pain and suffering
18 \$5 million. And, you know what, ladies and gentlemen, it's
19 not enough, but it's your call.

20 This is the worst thing that a person can deal
21 with, that he's been dealing with it for two years. And I
22 believe \$5 million is reasonable. You may find that it
23 should be more.

24 Future pain and suffering, I'm going to suggest
25 to you -- I mean, let's look at the evidence. We have a
26 fighter, we have a fighter here. You know, Ralph may live

1 Summation - Plaintiff - Mr. Block

2 for years with this disease. But, again, you all, you all
3 know what cancer does; you know what mesothelioma does.
4 You've heard the testimony. And I think that it's fair to
5 point out that the future pain and suffering will be more
6 than the past pain and suffering; that dying from a disease
7 is worse from even suffering from it; that the advanced
8 stages are going to be the worst. So for future pain and
9 suffering, I would suggest to you that \$10 million is a
10 reasonable and fair amount of money, which would be twice
11 as much as his past pain and suffering.

12 So that's a total of \$15 million, and that is a
13 significant amount of money, but the -- but what Mr. North
14 is suffering from and what he's losing are the most
15 valuable things in life. More valuable than a lot of the
16 things, you know, we see out there in our society. You
17 know more, valuable than a salary of a baseball player.
18 More valuable than a, you know, of an airplane that someone
19 might fly on, a private jet. More valuable than some of
20 these apartments, you know, in New York City that are now
21 going for \$10 million. What Ralph North, what's being
22 taken away from him are the most valuable things that a
23 human could have. And so I believe that the numbers I've
24 suggested to you are fair and appropriate.

25 So can't thank you enough. You all have been
26 tremendous jury. You've been here when you were supposed

1 Summation - Plaintiff - Mr. Block
2 to be here. You've obviously paid such close attention.
3 And it's been my honor and Mr. Thompson's honor to
4 represent Ralph North, true honor, and to have you as our
5 jury. And I ask you to listen to the Court's instructions
6 and to render a verdict that you believe is just.

7 Thank you very much.

8 THE COURT: Okay, members of the jury, you've now
9 heard their closing statements.

10 Pursuant to our discussion yesterday in mapping
11 this out, you are now excused for the day. Please, keep an
12 open mind. No independent research. I think during the
13 period that you're not here is a good opportunity to really
14 put it all back and sort of decompress; and then you all
15 come back and report sharply at 9:30 Monday morning, when I
16 will give you instructions on the law, we will pick our
17 jury from the group of nine; and you will begin your
18 deliberations and render a verdict in this case.

19 You are excused for the day.

20 COURT OFFICER: All rise for the jury, please.

21 (Whereupon, the jury leaves the
22 courtroom.)

23 THE COURT: Okay.

24 MR. BLOCK: Okay.

25 THE COURT: I will see you Monday.

26 Where relevant, Happy New Year.

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Proceedings

MR. BLOCK: Shana Tova.

THE COURT: And we will see -- Mr. North, we will see you and the family on Monday.

CHARLES NORTH: Thank you.

(Whereupon, the matter is adjourned to September 29, 2014, at 9:30 a.m.)

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