

1 indicator; didn't do it. That's all violations of  
2 Statute; it's negligence.

3 I don't have a second opportunity to address  
4 you. The Plaintiff will have a second opportunity. We  
5 don't get to do a rebuttal that's cause it's their burden  
6 of proof.

7 So I would just like to finish by thanking you

1 Defendant's was negligent and if that negligence -- or --  
2 and -- and if that negligence was a cause of this  
3 collision.

4 What Mr. Ervin does not have to prove is that  
5 he wasn't negligent. If you're gonna find that he's  
6 contributorily negligent, the Defense has the burden of  
7 proof of showing beyond -- I'm sorry -- that the Defense  
8 has to show that it's more likely than not that my client  
9 was negligent in what he did.

10 And you heard the Judge instruct you as to how  
11 you evaluate Mr. Ervin's decision making process. You  
12 can't evaluate Mr. Ervin's decision making process  
13 through the lens that we have here today of six  
14 uninvolved people who are Monday morning quarterbacking  
15 what somebody did in a split second when faced with a --  
16 an obvious and serious danger.

17 The instructions the Court gave are that you're

1                   What he did is what a reasonable person would  
2           have done. He swerved away from it as quickly as  
3           possible.

1 isn't any.

2 Ms. Young can't say whether Mr. Ervin was

1 Well, everything that happened for this accident to have

2 ~~happened is that this driver didn't do what he~~

1 constant at 35 or 40 miles an hour and that's consistent

2 she said she was going 25 or

1 see the white Honda either which would have been right

2 ~~was that his truck she didn't see~~ Her testimony is.

1 diagram what I see, what I think is what most likely



1 answer question -- the question pertaining to Baltimore  
2 Tank Lines that one, the Baltimore Tank Lines vehicle was  
3 negligent. And two, that that negligence was the cause  
4 of the accident.

5 You should evaluate Mr. -- what Mr. Ervin did  
6 as you're required to under the law through the light of  
7 the situation he was in a clear and present serious  
8 danger right there to him. He did what a reasonable  
9 person would do in trying to get away from it. And we  
10 can't Monday morning quarterback what he did from our  
11 comfortable position in the courtroom.

12 Also, he doesn't have the burden to show that  
13 he didn't do something negligent. The Defense has the  
14 burden to show that he did and you've heard no evidence  
15 that he did anything negligent.

16 Thank you, ladies and gentlemen.

17 THE COURT: Okay.

18 At this stage we'll release our alternate who  
19 is Juror Number 30. Thank you for your participation  
20 today. If you'd call the jury commissioner after 5:00  
21 they'll let you know if you're needed tomorrow.

22 30; yeah.

23 Okay, swear the Bailiff please.

24 THE CLERK: You do solemnly promise and declare  
25 that you shall well and truly keep this jury together in