

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Aug 12 2015 12:49 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

\*\*\*  
ANDREA AWERBACH, an individual, } Supreme Court Case No. \_\_\_\_\_  
Petitioner, }  
vs. }  
The EIGHTH JUDICIAL DISTRICT } Dist. Court Case No.: A-11-637772-C  
COURT of the STATE OF NEVADA, in }  
and for the COUNTY OF CLARK, and the } Dist. Court Dept. No.: XXVII  
HONORABLE NANCY L. ALLF, District }  
Judge, }  
Respondents. }  
EMILIA GARCIA, an individual; }  
Real Party In Interest. }

PETITIONER'S APPENDIX  
TO PETITION FOR WRIT OF MANDATE OR, ALTERNATIVELY, FOR  
PROHIBITION

\* \* \*

VOLUME I of II

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**PETITIONER'S APPENDIX**

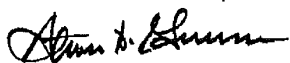
**(Alphabetical by Document Name)**

<b>Exh</b>	<b>Vol.</b>	<b>Document Name</b>	<b>Date Filed / Signed</b>	<b>Pages</b>
B	I	Amended Complaint	1/14/2013	3-9
A	I	Claims Notes from Liberty Mutual dated 1/17/2011	NOT APPLICABLE	1-2
J	II	Decision and Order Denying Defendant Andrea Awerbach's Motion for Relief From Final Court Order	4/27/2015	265-270
F	II	Decision and Order Denying Plaintiff's Motion to Strike Andrea Awerbach's Answer; Granting Plaintiff's Motion for Order to Show Cause; and Granting in part and Denying in Part Plaintiff's Motion to Strike Supplemental Reports	2/25/2015	227-232
G	II	Motion for Relief from Final Court Order	3/13/2015	234-245
C	I	Motion to Strike Defendant Andrea Awerbach's Answer w/Exhibits	12/02/2014	10-199
H	II	Opposition to Plaintiff Andrea Awerbach's Motion for Relief from Final Court Order	3/30/2015	246-257
D	II	Opposition to Plaintiff's Motion to Strike Answer	12/18/2014	200-214
I	II	Reply in Support of Motion for Relief from Final Court Order	4/6/2015	258-264
E	II	Reply in Support of Plaintiff's Motion to Strike Defendant Andrea Awerbach's Answer	1/7/2015	215-226

# EXHIBIT A

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/17/2011 04:44 PM	TERESA MERAZ	Coverage	none (Claim- level)	Occurrence	Original 01/17/2011 04:44 PM I called insd and was able to reach her. She states opac and his girlfriend were living w/ her. Opac has used her veh in the past when he was practicing to get his permit. Insd was home the day of ax. She had let opac have the keys earlier that day to get something out of her car. She usually keeps the car keys on the mantle. Opac does not have his own set of car keys. She thought opac had returned the keys but he didn't. Opac and his girlfriend were at a friend's home in same apt complex. His girlfriend came home but insd later got the call that opac was in ax and getting arrested. Insd did not know opac was going to drive her veh and did not give him permission. Redacted
Redacted					Redacted

# EXHIBIT B

  
CLERK OF THE COURT

1 **ACOM**  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

10 **EMILIA GARCIA,**

11 Plaintiff,

12 vs.

13 **JARED AWERBACH, individually, ANDREA**  
14 **AWERBACH, individually, DOES I - X, and ROE**  
15 **CORPORATIONS I - X, inclusive,**

16 Defendants.

) CASE NO. A637772  
) DEPT. NO. XXVII

) **AMENDED COMPLAINT**

16 Plaintiff EMILIA GARCIA, complains as follows:

17 **GENERAL ALLEGATIONS**

- 18 1. That Plaintiff EMILIA GARCIA (hereinafter "Plaintiff") is, and at all times  
19 mentioned herein was, a resident of the County of Clark, State of Nevada.  
20 2. That Defendant JARED AWERBACH is, and at all times mentioned herein was, a  
21 resident of the County of Clark, State of Nevada.  
22 3. That Defendant ANDREA AWERBACH is, and at all times mentioned herein was, a  
23 resident of the County of Clark, State of Nevada.  
24 4. That the true names and capacities of the Defendants designated herein as Doe or  
25 Roe Corporations are presently unknown to Plaintiff at this time, who therefore sues  
26 said Defendants by such fictitious names. When the true names and capacities of  
27 these defendants are ascertained, Plaintiff will amend this Complaint accordingly.  
28

- 1 5. That at all times pertinent, Defendants were agents, servants, employees or joint  
2 venturers of every other Defendant herein, and at all times mentioned herein were  
3 acting within the scope and course of said agency, employment, or joint venture,  
4 with knowledge and permission and consent of all other named Defendants.  
5
- 6 6. That at all times mentioned herein, Plaintiff was the owner and operator of a 2001  
7 Hyundai Santa Fe.  
8
- 9 7. That at all times mentioned herein Defendant JARED AWERBACH was the  
10 operator of a 2007 Suzuki Forenza (hereinafter referred to as the "Vehicle").  
11
- 12 8. That at all times mentioned herein Defendant ANDREA AWERBACH was the  
13 owner of the Vehicle.  
14
- 15 9. That on January 2, 2011, in Clark County, Nevada, Defendant JARED AWERBACH  
16 negligently failed to yield to Plaintiff's right-of-way, causing a collision with  
17 Plaintiff.  
18
- 19 10. At the time of the crash, Defendant JARED AWERBACH was driving under the  
20 influence of alcohol and/or an illegal drug substance.  
21
- 22 11. That as a direct and proximate result of the negligence of Defendant JARED  
23 AWERBACH, Plaintiff sustained injuries to Plaintiff's shoulders, back, bodily  
24 limbs, organs and systems, all or some of which condition may be permanent and  
25 disabling, and all to Plaintiff's damage in a sum in excess of \$10,000.  
26
- 27 12. That as a direct and proximate result of the negligence of Defendant JARED  
28 AWERBACH, Plaintiff received medical and other treatment for the aforementioned  
injuries, and that said services, care, and treatment are continuing and shall continue  
in the future, all to the damage of Plaintiff.
13. That as a direct and proximate result of the negligence of Defendant JARED  
AWERBACH, Plaintiff has been required to, and has limited occupational and  
recreational activities, which have caused and shall continue to cause Plaintiff loss of

1 earning capacity, lost wages, physical impairment, mental anguish, and loss of  
2 enjoyment of life, in a presently unascertainable amount.

3  
4 14. That as a direct and proximate result of the negligence of Defendant JARED  
5 AWERBACH, Plaintiff's vehicle was damaged and Plaintiff lost the use of that  
6 vehicle.

7 15. That as a direct and proximate result of the aforementioned negligence of all  
8 Defendants, Plaintiff has been required to engage the services of an attorney,  
9 incurring attorney's fees and costs to bring this action.

10 **FIRST CAUSE OF ACTION**

11 **(Negligence Against Defendant Jared Awerbach)**

12 16. Plaintiff incorporates paragraphs 1 through 15 of the Complaint as though said  
13 paragraphs were fully set forth herein.

14 17. Defendant JARED AWERBACH owed Plaintiff a duty of care to operate the  
15 Vehicle in a reasonable and safe manner. Defendant JARED AWERBACH  
16 breached that duty of care by striking Plaintiff's vehicle on the roadway. As a direct  
17 and proximate result of the negligence of Defendant JARED AWERBACH, Plaintiff  
18 has been damaged in an amount in excess of \$10,000.00.

19 18. The actions or omissions of Defendant JARED AWERBACH, at least in part, were  
20 willful and/or wanton and oppressive, in conscious disregard of the safety of others,  
21 and therefore, an award of punitive damages is appropriate in an amount to be  
22 determined at trial.

23 **SECOND CAUSE OF ACTION**

24 **(Negligence Per Se Against Defendant Jared Awerbach)**

25 19. Plaintiff incorporates paragraphs 1 through 18 of the Complaint as though said  
26 paragraphs were fully set forth herein.

27 20. The acts of Defendant JARED AWERBACH as described herein violated the traffic  
28

1 laws of the State of Nevada and Clark County, constituting negligence per se, and  
2 Plaintiff has been damaged as a direct and proximate result thereof in an amount in  
3 excess of \$10,000.00.  
4

5 **THIRD CAUSE OF ACTION**

6 **(Negligent Entrustment Against Defendant Andrea Awerbach)**

- 7 21. Plaintiff incorporates paragraphs 1 through 20 of the Complaint as though said  
8 paragraphs were fully set forth herein.  
9 22. Defendant ANDREA AWERBACH was the owner, or had custody and control, of  
10 the Vehicle.  
11 23. That Defendant ANDREA AWERBACH, did entrust the Vehicle to the control of  
12 Defendant JARED AWERBACH.  
13 24. That Defendant JARED AWERBACH was incompetent, inexperienced, or reckless  
14 in the operation of the Vehicle.  
15 25. That Defendant ANDREA AWERBACH actually knew or, by the exercise of  
16 reasonable care, should have known that Defendant JARED AWERBACH was  
17 incompetent, inexperienced, or reckless in the operation of motor vehicles.  
18 26. That Plaintiff was injured as a proximate consequence of the negligence and  
19 incompetence of Defendant JARED AWERBACH, concurring with the negligent  
20 entrustment of the Vehicle by Defendant ANDREA AWERBACH.  
21 27. That as a direct and proximate cause of the negligent entrustment of the Vehicle by  
22 Defendant ANDREA AWERBACH to Defendant JARED AWERBACH, Plaintiff  
23 has been damaged in an amount in excess of \$10,000.00.  
24

25 **FOURTH CAUSE OF ACTION**

26 **(Joint Liability Against Defendant Andrea Awerbach)**

- 27 28. Plaintiff incorporates paragraphs 1 through 27 of the Complaint as though said  
28 paragraphs were fully set forth herein.

1  
2 29. Pursuant to NRS 41.440 ANDREA AWERBACH is liable jointly and severally for  
3 damages resulting from JARED AWERBACH's negligence.

4 30. As a direct result of JARED AWERBACH's negligence, Plaintiff was damaged in an  
5 amount in excess of \$10,000.00, for which all Defendants' are liable.

6 **FIFTH CAUSE OF ACTION**

7 **(Driving Under the Influence Against Defendant Jared Awerbach)**

8 31. Plaintiff incorporates paragraphs 1 through 31 of the Complaint as though said  
9 paragraphs were fully set forth herein.

10 32. Defendant JARED AWERBACH knew or should have known that he was in no  
11 condition to operate his vehicle in a safe manner.

12 33. Plaintiff seeks an award of exemplary and punitive damages pursuant to NRS 42.001  
13 *et seq.* in an amount in excess of \$10,000.00 for Defendant JARED AWERBACH's  
14 despicable conduct with a conscious disregard of the rights or safety of others by  
15 operating the Vehicle while under the influence of an intoxicating liquor or  
16 controlled substance, which rendered Defendant JARED AWERBACH unable to  
17 safely operate the Vehicle in violation of the Nevada Revised Statutes.

18 WHEREFORE, Plaintiff, expressly reserving the right to amend this complaint prior to or at  
19 the time of trial of this action to insert those items of damage not yet fully ascertainable, prays  
20 judgment against all Defendants, and each of them, as follows:

- 21 1. For general damages sustained by Plaintiff in an amount in excess of \$10,000.00;  
22 2. For special damages sustained by Plaintiff in an amount in excess of \$10,000.00;  
23 3. For punitive damages in an amount to be determined at trial;  
24 4. For property damages sustained by Plaintiff;  
25 5. For reasonable attorney's fees and costs;  
26

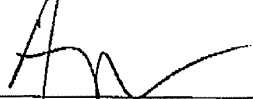
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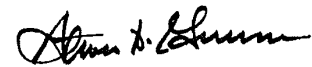
6. For interest at the statutory rate; and
7. For such other relief as the Court deems just and proper.

GLEN J. LERNER & ASSOCIATES

  
\_\_\_\_\_  
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Attorneys for Plaintiff

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# EXHIBIT C



CLERK OF THE COURT

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Adam D. Smith, Esq.  
3 Nevada Bar No. 9690  
Craig A. Henderson, Esq.  
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8 Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

11	EMILIA GARCIA, individually,	)	CASE NO. A637772
12	Plaintiff,	)	DEPT. NO. XXVII
13	v.	)	<u>PLAINTIFF'S MOTION TO STRIKE</u>
14	JARED AWERBACH, individually; ANDREA	)	<u>DEFENDANT ANDREA AWERBACH'S</u>
15	AWERBACH, individually; DOES I - X, and ROE	)	<u>ANSWER</u>
16	CORPORATIONS I - X, inclusive,	)	Date of hearing:
17	Defendants.	)	Time of hearing:
18		)	
19		)	

20  
21 Plaintiff Emilia Garcia, pursuant to NRCP 37 and this Court's authority as set forth in *Young*  
22 *v. Johnny Ribiero Building, Inc.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990), files this Motion to  
23 Strike Defendant Andrea Awerbach's Answer.

24 ///  
25 ///  
26 ///  
27 ///  
28

1 This motion is based on the Declaration of Craig A. Henderson (Exhibit 1), the following  
2 memorandum of points and authorities, the papers and pleadings on file with this Court, and the oral  
3 argument of the parties.

4 GLEN J. LERNER & ASSOCIATES

5  
6 By: /s/Craig A. Henderson  
Corey M. Eschweiler, Esq.  
Nevada Bar No. 6635  
7 Adam D. Smith, Esq.  
Nevada Bar No. 9690  
8 Craig A. Henderson, Esq.  
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9 4795 South Durango Drive  
10 Las Vegas, NV 89147  
(702) 877-1500  
Attorneys for Plaintiff

11  
12 **NOTICE OF MOTION**

13 Take notice that the foregoing Motion to Strike Defendant Andrea Awerbach's Answer will  
14 be heard on the **15** day of **JANUARY**, 2015 at **9: 30** a.m./p.m. in this Court, or as soon  
15 thereafter as counsel may be heard.  
16

17  
18 GLEN J. LERNER & ASSOCIATES

19  
20 By: /s/Craig A. Henderson  
Corey M. Eschweiler, Esq.  
Nevada Bar No. 6635  
21 Adam D. Smith, Esq.  
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Las Vegas, NV 89147  
24 (702) 877-1500  
Attorneys for Plaintiff

25  
26 ///

27 ///

28 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In this personal injury action, Andrea knowingly and willfully concealed evidence that is  
4 dispositive of the central issue to her defense – whether Andrea gave Jared permission to drive her  
5 car. In particular, Andrea secretly redacted claims notes she produced from her insurance company  
6 – removing the one conversation Andrea had with the insurer about permissive use. This  
7 conversation is neither privileged nor confidential, and Andrea did not reveal she deleted it.

8 In the deleted note, Andrea admits Jared had used her vehicle before the accident, Andrea  
9 gave Jared the keys on the day of the accident, and Andrea usually left the keys on the mantle. After  
10 concealing the note, Andrea was deposed twice. Andrea initially claimed she never let Jared drive  
11 her car before the accident. When this was rebutted by other evidence, Andrea admitted Jared had  
12 driven her car, but denied giving him the keys and denied ever leaving the keys out in the open. In  
13 fact, Andrea testified at length about her many hiding spots for the keys and how she would never  
14 leave them out. When questioned about Jared claiming Andrea left the keys on the counter, Andrea  
15 used Jared's drug use as a shield, arguing he cannot be trusted.

16 After Andrea twice gave sworn testimony, Emilia was finally able to independently obtain  
17 additional documents from Andrea's insurer through a third-party subpoena. The insurer, for the  
18 first time, provided the missing note detailing Andrea's admissions made two weeks after the  
19 accident. Andrea's concealment of the note was fraudulent and must result in severe sanctions –  
20 particularly considering the note was revealed shortly before trial and after extensive discovery was  
21 completed.

22 Andrea cannot blame her counsel for concealing the note. Even if counsel responded to the  
23 discovery requests, Andrea, not her counsel, contradicted her earlier statements and failed to  
24 disclose those statements were made. Andrea's tampering with evidence and sworn testimony  
25 covering up that tampering must result in striking of her answer. At this point, Andrea cannot be  
26 allowed to contest permissive use when she concealed evidence central to that issue.

27 ///

## II. FACTS

### A. Jared admits the purpose of his trip on January 2, 2011, was to sell a "substantial amount of marijuana."

This action arose on January 2, 2011, when Defendant Jared Awerbach, while driving an automobile owned by his mother, Defendant Andrea Awerbach, negligently caused a motor vehicle accident with a vehicle being driven by Plaintiff Emilia Garcia. In particular, on January 2, 2011, Jared received a phone call from the godmother of his child, Cherise Killian, who wanted "a substantial amount of marijuana." See Mar. 27, 2014, Jared Awerbach Trans., at 113:21-24, attached hereto as Ex. 1-A. Jared used his mother's car to drive to Cherise's apartment to sell her marijuana. *Id.*, at 113-115. Cherise lived in the Villa del Sol apartment complex on Rainbow Boulevard in Las Vegas. *Id.* Cherise has sworn under oath she "saw Jared smoking marijuana outside my apartment less than 20 minutes before the [January 2, 2011] accident." Ex. 1-B. After completing the marijuana sale and after smoking marijuana, Jared got back into his mother's car and proceeded to the driveway that exited the complex onto Rainbow Boulevard. *Id.* Jared intended to make a left turn from the driveway onto Rainbow. *Id.* As Jared was looking toward his left, he saw a city bus approaching in the right lane of the two southbound Rainbow travel lanes, and he saw Emilia's white car behind the bus. Ex. 1-A, at 114:12-115:12. After the bus passed in front of Jared, he initiated his left turn and crashed the front of his mother's car into the rear passenger quarter panel of Emilia's car. *Id.* Emilia's car spun 180 degrees. Ex. 1-C, at 24. Jared attempted to flee the scene of the accident but was unable to do so because his mother's car was rendered undriveable as a result of the accident. Ex. 1-A, at 114.

### B. Jared admits he was in possession of marijuana at the time of the accident.

The police were dispatched to the scene of the accident, and Officer Figueroa of the Las Vegas Metropolitan Police Department generated a Traffic Accident Report detailing his observations and conclusions regarding the accident. Ex. 1-D. Officer Figueroa smelled a strong odor of marijuana on Jared. Ex. 1-E, at 39. Jared admits he had marijuana on him at the time of the accident, and that he told Officer Figueroa he had smoked marijuana before the accident. Ex. 1-A, at 127-128. Officer Figueroa testified Jared admitted smoking marijuana. Ex. 1-E, at 39. Jared was

1 administered several field sobriety tests at the accident scene and failed all of them. *Id.* According  
2 to Officer Figueroa, Jared's breath also smelled strongly of "marijuana" and his eyes were  
3 "bloodshot," "watery," and "glassy." *Id.*; Ex. 1-D.

4 Jared admits (i) he is a "longtime consumer of [marijuana]"; (ii) he drove his mother's car on  
5 January 2, 2011, to sell "a substantial amount of marijuana;" (iii) he was in possession of a  
6 substantial amount of marijuana when the accident occurred; (iii) he smelled of marijuana when  
7 Officer Figueroa was speaking with him after the accident; and (iv) he told the officer he was  
8 smoking marijuana prior to the accident. *See* Defendant Jared Awerbach's Motions in Limine Nos.  
9 22-26, at 7:5-6 (conceding Jared is a "longtime consumer of cannabis"), on file with this Court.  
10 Indeed, Jared also admitted during his deposition that his mother was well aware of his marijuana  
11 use before the accident because she had caught him using marijuana on numerous occasions before  
12 the accident:

13 Q: When you were expelled for possession of marijuana, did they hold a hearing  
14 or any type of proceeding before they expelled you?

15 A. No, sir.

16 Q. Did they tell your mom?

17 A. Yes, sir.

18 Q. So your mom knew that you had possession of marijuana at Green Valley High  
19 School?

20 A. Yes, sir.

21 Q. Did your mom know that you were smoking weed since you were twelve?

22 A. Yes, sir.

23 Q. How did she know that?

24 A. From the multiple times that she caught me.

25 Ex. 1-A, at 18-20.

26 **C. Jared admits Andrea gave him the keys to her car prior the accident.**

27 Following the accident, Andrea's insurer, Liberty Mutual, opened a claim. On January 4,  
28 2011, days after the accident, Jared gave a recorded statement to Andrea's insurer, admitting he  
obtained the keys to Andrea's vehicle from the counter in the home they shared. Specifically, Jared

1 said Andrea knew he used her car prior to the January 2, 2011, accident:

2 TM: Do you normally drive the vehicle or have you driven the vehicle in the  
3 past.

4 JA: Yeah, I have in the past.

5 TM: Okay, and, um, how many times would you say you've driven the  
6 vehicle?

7 JA: I can't tell you, Ma'am.

8 \*\*\*

9 TM: Okay, and when you've driven the vehicle in the past, did your mother  
10 know about it then also?

11 JA: Uh, once or twice she knew about it when I was going to the store, but  
12 others times...

13 *See* Ex. 1-F, at 2 (emphasis added). Jared further admitted he obtained the keys by taking them off  
14 the counter where Andrea had left them:

15 TM: And where were the keys?

16 JA: They were on the counter.

17 *Id.* When Jared was asked why he was using Andrea's car on January 2, 2011, he said he needed to  
18 run an errand for his infant son:

19 TM: And, I did forget to ask one more question. Um, why were you using the  
20 vehicle at the time?

21 JA: Uh, I want to go see. I just had a child, so I was getting something for my  
22 son from her godmother.

23 *Id.*, at 6. Jared further confirmed he lived with Andrea at the time of the accident:

24 TM: So I'm showing that her address is the same apartment complex, do you  
25 have different apartments?

26 JA: Yeah, we, we did, we did, yeah, we did live together....

27 *Id.* In fact, within weeks of the accident, Andrea's insurer concluded Jared had permission to drive  
28 Andrea's car on January 2, 2011. *See* Ex. 1-G, at 1.<sup>1</sup>

<sup>1</sup> Evidence of liability insurance "is not admissible upon the issue whether the person acted negligently or otherwise wrongfully." It is, however, admissible "when it is relevant for another purpose, such as proof of agency, ownership or control, or bias or prejudice of a witness." NRS 48.135. Here, it is relevant to resolving the permission issue.

1           **D. Andrea initially admitted giving Jared permission to drive her car on January**  
2           **2, 2011.**

3           On March 25, 2011, Emilia initiated this lawsuit, suing Jared for negligence and Andrea for  
4 negligent entrustment.<sup>2</sup> *See generally*, Comp., on file with this Court. On January 23, 2012,  
5 Defendants answered Emilia's Complaint. Andrea admitted she "did entrust control of the vehicle  
6 to Jared Awerbach." *See* Comp., ¶ 23, on file with this Court (emphasis added); Defendants'  
7 Answer to Complaint, ¶ 2, on file with this Court.

8           **E. Andrea admitted giving Jared permission to drive her car in response to**  
9           **Emilia's requests for admission.**

10          On May 17, 2012, Emilia served Jared and Andrea with interrogatories, document requests,  
11 and requests for admission. *See* Ex. 1-H. One of Emilia's document requests to Andrea sought  
12 "[t]he entire liability insurance or risk department claims files relating to the accident at issue  
13 in Plaintiff's complaint." *Id.*, at Request No. 7 (emphasis added).

14          On June 14, 2012, Defendants responded to Emilia's interrogatories and requests for  
15 production of documents, confirming Andrea is Jared's mother. *Id.* Andrea, however, did not  
16 produce a copy of Liberty Mutual's claims notes from the accident. Instead, Andrea objected by  
17 claiming the information was attorney work product and protected from disclosure by the attorney  
18 client privilege. Ex. 1-H, at Request No. 7.

19           **F. Andrea changed her story and denied giving Jared permission to drive her car.**

20          Emilia filed her Amended Complaint on January 14, 2013. Defendants answered Emilia's  
21 amended complaint on February 2, 2013. *See* Amend. Comp., on file with this Court; *see*  
22 Defendants' Answer to Amended Complaint, on file with this Court. In her Answer to Emilia's  
23 Amended Complaint, Andrea changed her original story and for the first time denied giving Jared  
24 permission to drive her car on January 2, 2011. *See* Amend. Comp., ¶ 23; *see* Answer to Amended  
25 Complaint, ¶ 17, on file with this Court.

26       ///

27       ///

28       <sup>2</sup> After discovery opened, Emilia amended her complaint to assert a cause of action for punitive damages against Jared  
and joint liability against Andrea. *See* Amend. Comp., on file with this Court.

1           **G.     Andrea feigned production of the complete claims file from her insurer.**

2           On July 3, 2013, Emilia filed a Motion to Compel Andrea to produce the claims file from her  
3 January 2, 2011, claim with Liberty Mutual. *See* Plaintiff's Motion to Compel, on file with this  
4 Court. After Emilia filed her motion, Andrea agreed to produce the claims file and Emilia agreed to  
5 withdraw her motion to compel. *See* Notice of Withdrawal of Motion to Compel, on file with this  
6 Court. On July 22, 2013, Andrea produced what appeared to be the complete claims notes from her  
7 claim with Liberty Mutual. *See* Ex. 1-G.

8           **H.     Andrea, then, testified she did not remember how Jared obtained the keys to**  
9           **Andrea's car on January 2, 2011.**

10          Emilia first deposed Andrea on September 12, 2013. Andrea testified that, as of January 2,  
11 2011, she had personal knowledge Jared used illegal drugs, and had attended various counseling and  
12 treatment sessions with him.<sup>3</sup> Ex. 1-I, at 14-15. Andrea also testified she knew Jared did not have a  
13 driver's license on January 2, 2011, and to her knowledge, had never had a driver's license. *Id.*, at  
14 22:17-23. At that time, Andrea claimed she had never given Jared permission to drive her car prior  
15 to the accident. Andrea further testified she knew Jared used her car prior to January 2, 2011:

16          Q.     Before – well, as of January 2, 2011, were you aware that he had previously driven  
17 your car without your permission?

18          A.     Yes.

19          Q.     Do you know on how many occasions?

20          A.     No.

21          Q.     Prior to January 2, 2011, had he ever asked for permission to use your car?

22          A.     No, I don't think so.

23          *Id.*, at 17:18-18:9. When asked about how Jared obtained the keys to her car on January 2, 2011,  
24 Andrea was unable to provide an explanation:

25          Q.     How did he get the keys?

26          A.     I don't know.

27          <sup>3</sup> This evidence is relevant to proving Emilia's negligent entrustment claim against Andrea, and her negligence claim  
28 against Jared. Andrea's firsthand knowledge of Jared's illegal drug use makes it more likely (i) she breached her duty of  
care to Emilia by entrusting Jared with her vehicle, and (ii) Jared breached his duty of care to Emilia by driving with  
illegal levels of marijuana in his blood system.

1 Q. Where were the keys when he took the car?  
2 A. I don't know, because I don't know when he took them.  
3 Q. Do you know where you were when he took your car?  
4 A. No.  
5 Q. Would you have been home when he took your car?  
6 A. Yeah, I'd have to be.  
7 *Id.*, at 21:4-13. Andrea further claimed she "constantly" hid her keys, but could not identify where  
8 she hid them on January 2, 2011, and that she "doubts" the keys were left on the counter:  
9 Q: At the time, on January 2, 2011, was there a regular place where you kept your car  
10 keys in your house?  
11 A. I think I was answering based on January 2. No. I constantly hide the keys.  
12 Q. You didn't hide them that day, did you?  
13 A. Yes.  
14 Q. Now, Jared said the keys were left out on the counter. Is he not telling the truth?  
15 A. I doubt they were left on the counter.  
16 Q. You're not sure correct.  
17 A. I'm sure. I never leave the keys out on the counter.  
18 \*\*\*  
19 Q. Do you know where you hid the keys that day?  
20 A. No.  
21 *Id.*, at 21:1-22:23. Andrea further admitted she spoke with her insurer:  
22 Q: Have you ever given a statement to your insurance company about the  
23 accident?  
24 A. Yes.  
25 Q. When was that?  
26 A. I'm sure days following the accident. I don't remember the dates.  
27 Q. Do you know if they recorded that statement?  
28 A. I don't know.

1 Q. You know, sometimes they tell you, at the beginning of the call, we're going to  
2 be recording this.

3 A. Uh-huh.

4 Q. Do you recall if that happened?

5 A. Assuming that it happened.

6 MR. SMITH: Can I have you check into that, because I don't think we received a  
7 recorded statement from her.

8 MS. McLEOD: I'll be happy to recheck. But I'll tell you, for purposes of the  
9 record, that we've produced all recorded statements that were provided in the  
10 claims file. But I have no problem double-checking for you.

11 *Id.*, at 26:12-27:6. Despite this conversation, Andrea did not provide her statement to Emilia.<sup>4</sup>

12 **I. Andrea frivolously seeks summary judgment on the issue of permissive use.**

13 Instead of producing the concealed evidence, on November 8, 2013, Andrea filed a Motion  
14 for Summary Judgment claiming it was undisputed she did not give Jared permission to drive her  
15 car on January 2, 2011, and seeking judgment as a matter of law on Emilia's negligent entrustment  
16 claim and her claim for joint liability pursuant to NRS 41.440. Andrea's motion was based  
17 primarily upon Andrea's September 12, 2013, deposition testimony where Andrea testified, under  
18 oath, that she could not remember how Jared obtained her car keys on January 2, 2011, and that she  
19 "always" hid her keys from Jared. *See* Andrea Awerbach's Motion for Summary Judgment, on file  
20 with this Court. Jared opposed Andrea's motion, conceding he had used Andrea's car with  
21 permission prior to January 2, 2011, and that he obtained the keys to Andrea's car from the counter  
22 in the home they shared. *See* Defendant Jared Awerbach's Opposition to Andrea Awerbach's  
23 Motion for Summary Judgment, on file with this Court.

24 Emilia opposed Andrea's motion explaining the issue of implied permission was an issue of  
25 fact for a jury and that there is more than sufficient evidence in the record to support a finding of  
26 permission, whether express or implied. *See generally* Plaintiff's Opposition to Andrea Awerbach's  
27 Motion for Summary Judgment, on file with this Court. Days after Emilia and Jared opposed

28 <sup>4</sup> As detailed below, Andrea's statements furthered her ruse. In particular, Andrea produced a document showing she  
spoke to her insurer the day after the accident. She did not, however, produce the relevant note regarding a conversation  
she had two weeks after the accident.

1 Andrea's motion, Andrea withdrew the motion from the Court's consideration. *See* Defendant  
2 Andrea Awerbach's Withdrawal of Motion for Summary Judgment, on file with this Court.

3 **J. Jared admitted driving Andrea's car with her permission on January 2, 2011.**

4 On March 27, 2014, Jared was deposed. Jared testified that prior to January 2, 2011, he had  
5 used Andrea's car with her permission. Ex. 1-A, at 178-179. Jared also testified that on January 2,  
6 2011, Andrea "left them [the keys] on the counter the day of the accident." *Id.*, at 180:5-7. In other  
7 words, Jared's version of events contradicts Andrea's September 12, 2013, deposition testimony.

8 **K. Emilia subpoenaed Liberty Mutual's claims notes.**

9 On October 9, 2014, Emilia served a subpoena duces tecum on Liberty Mutual seeking its  
10 internal documents regarding insurance claims Andrea had made, including prior claims where  
11 Jared was driving Andrea's vehicle. Liberty Mutual initially objected to the subpoena through  
12 counsel. Ultimately, Liberty Mutual agreed to produce a claims file from the accident.

13 **L. Andrea continues to feign ignorance regarding how Jared obtained her car  
14 keys.**

15 On October 24, 2014, Emilia took a second deposition of Andrea. Andrea conceded Jared  
16 had driven her car on several occasions prior to January 2, 2011. Ex. 1-J, at 141:10-25. When  
17 asked how Jared obtained the keys to drive her car on those prior occasions, Andrea claimed she  
18 does not know how Jared obtained the keys because she claims she hid the keys in "[a]ny place she  
19 could think of":

20 Q: What were the hiding places that you used for your keys around the time of the  
January 2011 accident?

21 A: Under the bed. In the -- in his section of the bathroom like way behind in the  
22 cabinet under the sink while I was in the shower. In the closet in different  
23 purses. In the closet underneath things. In a briefcase and then I would hide the  
briefcase under the bed. In dresser drawers. Inside things. Inside garbage cans.  
24 Inside garbage I thought he wouldn't go through. In -- while I was cooking, in  
various drawers in the kitchen. Sometimes underneath several cushions on the  
couch, like underneath the couch. Under the recliner, under the recliner, so I'd  
25 have to get up and he'd have to lift the couch to find it. Any place that I could  
think of.

26 *Id.*, at 142:5-19; 158:23-159:14. Despite this, Andrea claimed she could not remember where she  
27 hid the keys on January 2, 2011, or if she had hidden them at all that day. *Id.*, at 158:23-159:21.

1 Further, when asked about Jared's testimony that he obtained the keys from the counter on January  
2 2, 2011, Andrea continued to spin her web of deception:

3 Q. You know Jared says that he took the keys off the counter; correct?

4 A. I have read that.

5 Q. Why would he lie about that?

6 MR. MAZZEO: Objection, mischaracterizes --

7 (Multiple parties speaking.)

8 MR. SMITH: Well, wait a minute. Let me ask you the question first.

9 BY MR. SMITH:

10 Q. Do you think he's lying about that?

11 A. I think he's mistaken. I think he may have seen them there earlier.

12 *Id.*, at 161:9-20. Ultimately, Andrea conceded "there's a chance" that the "keys were on the counter  
13 when [Jared] took them" on January 2, 2011. *Id.*, at 162:10-13.

14 **M. Andrea concealed her conversation with Liberty Mutual's adjustor.**

15 On November 10, 2014, after Andrea's second deposition, Liberty Mutual disclosed a  
16 version of Liberty Mutual's claims notes that are much different from the version Andrea disclosed  
17 in July, 2013. In particular, the first page of the notes Liberty Mutual produced contained a note  
18 detailing a January 17, 2011, conversation between Liberty Mutual adjustor, Teresa Meraz, and  
19 Andrea at 4:44 p.m.:

20 I called insd and was able to reach her. She states opac and his girlfriend were  
21 living w/ her. Opac has used her veh in the past when he was practicing to get his  
22 permit. Insd was home the day of the ax. She had let opac use her keys earlier  
23 that day to get something out of her car. She usually keeps the car keys on the  
24 mantle. Opac does not have his own set of car keys. She thought opac had  
25 returned the keys but he didn't. Opac and his girlfriend were at a friend's home in  
26 the same apt complex. His girlfriend came home but insd later got the call that  
27 opac was in accident and was arrested.

28 Ex. 1-K (emphasis added). Amazingly, this note appears to have been erased from the claims notes  
Andrea produced:

///

///

Andrea's version produced in July, 2013:

PrintPreview.jsp

Page 13 of 21

Type: Claim Subject: Claim Status Top  
Created By : TERESA MERAZ Created : 01/17/2011 04:29 PM Updated: 01/17/2011

VM rec'd from Geraldine at atty's office Glen Lerner & Assoc (702) 877-1500. She states they rep clmt but only for BI. We can still deal directly w/ clmt for PD. She is sending LOR. She states clmt tx at ER and is tx w/ chiro for s/t inj.

I returned the call to discuss, I was transferred to Geraldine's vm, left message.

Clmt is now atty rep'd. Per atty's office, clmt tx at ER and w/ chiro for s/t inj. ER bills expected around \$1k-\$2k since no dx testing done. Chiro specials expected around \$4k-\$5500 for about 3-4 mos of tx.

Opac cited for DUI and drug possession. Opac denies being under the influence

Waiting for LOR.

Type: Claim Subject: Total Loss Top  
Created By : GLORIA HEUSER Created : 01/17/2011 12:35 PM Updated: 01/17/2011

LIEN HOLDER: Wells Fargo

Contact Name/ Dept:  
Phone #/ Ext: 800-289-8004  
Fax #:  
Payoff Amount/ Date: \$4,441.03 till 2/1/11  
LOG Request Amount:  
Account #: 9380197988  
Gap Insurance:  
Payment address: Remittance Center, MACE2717-024, 15750 Alton Pkwy, Irvine, CA, 92618-3825  
Names on title: rep could not adv

Type: Claim Subject: Total Loss Top  
Created By : GLORIA HEUSER Created : 01/17/2011 12:28 PM Updated: 01/17/2011

ib  
Rovd c/ from copart, veh not released.

ob  
I did xfernce c/w/ th clmt, Emilia and Christy at shop, veh is released.

ob  
I adv copart.

Type: Claim Subject: Rental Management Top

Ex. 1-G, at Exhibit K thereto. In other words, Andrea made it look like the last note was on January 17, 2011, at 4:29 p.m. Instead, Andrea whited-out the 4:44 p.m. note before producing the claims notes to Emilia.

1 Andrea also produced an earlier note to further her ruse. In particular, Andrea produced a  
2 January 3, 2011, note showing she called her insurer the day after the accident. Then, when Andrea  
3 claimed during her deposition that she spoke with her insurer “days following the accident,” it  
4 would appear Andrea produced the relevant claims notes. All along, however, Andrea was  
5 concealing the January 17, 2011, note. Other notes also appear whited-out, and Defendants have not  
6 produced complete copies. In other words, while Defendants have repeatedly modified their story  
7 regarding permissive use, Defendants have been actively concealing relevant evidence regarding  
8 key issues. This, despite Emilia’s requests for the information. Moreover, Emilia has deposed  
9 Andrea twice regarding this issue without complete information. Both times, Andrea’s story  
10 directly contradicted the evidence she concealed.

### 11 III. ARGUMENT

#### 12 A. The Court is well within its discretion to strike Andrea’s pleadings.

13 Under NRCP 37(c)(1):

14 A party that without substantial justification fails to disclose information required  
15 by Rule 16.1, 16.2, or 26(e)(1), or to amend a prior response to discovery as  
16 required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use  
17 as evidence at a trial, at a hearing, or on a motion any witness or information not  
18 so disclosed. In addition to or in lieu of this sanction, the court, on motion and  
19 after affording an opportunity to be heard, may impose other appropriate  
sanctions. In addition to requiring payment of reasonable expenses, including  
attorney’s fees, caused by the failure, these sanctions may include any of the  
actions authorized under Rule 37(b)(2)(A), (B), and (C) and may include  
informing the jury of the failure to make the disclosure.

20 Under NRCP 37(b)(2)(A), (B), and (C), the Court may make:

21 (A) An order that the matters regarding which the order was made or any other  
22 designated facts shall be taken to be established for the purposes of the action in  
accordance with the claim of the party obtaining the order;

23 (B) An order refusing to allow the disobedient party to support or oppose  
24 designated claims or defenses, or prohibiting that party from introducing  
designated matters in evidence;

25 (C) An order striking out pleadings or parts thereof, or staying further  
26 proceedings until the order is obeyed, or dismissing the action or proceeding or  
any part thereof, or rendering a judgment by default against the disobedient party.

27 In addition, the Nevada Supreme Court has made clear the district courts have “inherent equitable  
28 powers to dismiss actions or enter default judgments for . . . abusive litigation practices” and

1 “[l]itigants and attorneys alike should be aware that these powers may permit sanctions for  
2 discovery and other litigation abuses not specifically proscribed by statute.” *Young v. Johnny*  
3 *Ribiero Building, Inc.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990) (deletion in original). Other  
4 courts agree:

5 [d]ismissal is an available sanction when a party has engaged deliberately in  
6 deceptive practices that undermine the integrity of judicial proceedings because  
7 courts have inherent power to dismiss an action when a party has willfully  
deceived the court and engaged in conduct utterly inconsistent with the orderly  
administration of justice.

8 *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 958 (9th Cir. 2006) (internal quotations omitted). In *Young*,  
9 the trial court found:

10 that appellant Bill Young (Young) willfully fabricated evidence during discovery.  
11 Based on this finding, the court sanctioned Young by dismissing his entire  
12 complaint, ordering Young to pay certain of the fees and costs of respondent  
Johnny Ribeiro Building, Inc. (JRBI), and adopting the accounting proposed by  
JRBI as the final accounting of Young’s and JRBI’s interests in the parties’  
partnership.

13 *Young*, 106 Nev. at 90, 787 P.2d at 778. The Nevada Supreme Court affirmed the sanctions. *Id.*  
14 Indeed, the Nevada Supreme Court has routinely upheld district court orders striking pleadings and  
15 entering terminating sanctions for discovery abuses. *See, e.g., Foster*, 126 Nev. Adv. Op. No. 6,  
16 227 P.3d 1042 (Feb. 25, 2010); *Bahena*, 126 Nev. Adv. Op. No. 26, 235 P.3d at 594-96; *Hamlett v.*  
17 *Reynolds*, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998); *Temora Trading Co. Ltd. v. Perry*, 98 Nev.  
18 229, 645 P.2d 436 (1982); *Kelly Broadcasting Co., Inc. v. Sovereign Broadcast, Inc.*, 96 Nev. 188,  
19 606 P.2d 1089 (1980) *Havas v. Bank of Nevada*, 96 Nev. 567, 613 P.2d 706 (1980).

20 Nevada is in line with other jurisdictions. For example, in *Berglund v. Boeing*, the plaintiff  
21 manipulated emails in order to support her whistleblower claim. The district court dismissed the  
22 claim on that basis:

23 Boeing charges Berglund altered email messages and lied about doing so while  
24 under oath at deposition. During discovery, Berglund produced hundreds of  
25 pages of email messages to Boeing she claimed were the same email messages  
provided to the government during its false claims investigation. Among these  
26 emails are Berglund’s exchanges with co-workers in late 2001 and early 2002,  
immediately before Berglund filed this case in February 2002, in which they  
27 discuss at length Boeing’s compliance with internal manufacturing specification  
BAC 5008. Boeing represents that it compared Berglund’s email messages to  
those produced by Boeing employees and found certain key emails key [sic]  
28 appeared repeatedly but differed in content. The record proves Boeing’s charge.

1 *Bergland v. Boeing Co.*, 835 F. Supp. 2d 1020, 1045 (D. Or. 2011). In *Ashton v. Knight*, the  
2 Defendants removed key pieces of evidence from an automobile crash scene in an attempt to  
3 conceal their involvement in the crash and then, as here, sought summary judgment based on the  
4 “missing evidence” in an attempt to escape liability. The court struck the defendants’ pleadings and  
5 their defenses to liability, explaining:

6       The Defendants’ attempts to conceal their involvement in the accident are highly  
7 relevant both to liability and potential damages. Indeed, the Defendants are well  
8 aware of this truth. Having failed in their attempts on summary judgment to  
9 argue that there was no evidence that Muthee struck Ashton, they attempted to  
10 stipulate to the very instruction the Court is now considering as a sanction. The  
11 stipulation was never formally agreed to by the Plaintiff because the Defendants  
12 insisted that the stipulation foreclosed the admission of evidence of their bad faith  
13 conduct at trial, obviously aware of its potential prejudicial effect. Obviously, a  
14 more severe sanction than an instruction similar to that already posed by the  
15 Defendants is appropriate.

16       Key to crafting the most appropriate remedy in this case is the requirement that  
17 the sanction serve as a deterrent to spoliation. A deemed admission or a less  
18 severe sanction such as attorneys fees caused by their conduct might conceivably  
19 encourage Muthee, Knight, and similar defendants to conceal and destroy  
20 evidence against them in the future. Why not, if it aids them in avoiding liability  
21 and carries minimal risk by way of consequences to the enterprise? It cannot be  
22 overlooked that here, if not for the displaced fairing left at the accident scene, it is  
23 unlikely that Muthee or Knight would have been tied to the accident scene.  
24 Defendants in similar accident situations must be on notice that fleeing the scene  
25 and destroying evidence of their involvement will carry a stiff penalty, a penalty  
26 so harsh that it stops this type of conduct in its tracks. Consideration of this  
27 requirement weighs heavily in favor of a harsher sanction.

28 *Ashton v. Knight Transp., Inc.*, 772 F. Supp. 2d 772, 804-05 (N.D. Tex. 2011). In other words, there  
is substantial precedent supporting striking a party’s answer and entering a finding of liability for  
willful concealment of relevant evidence.

**B. The Nevada Supreme Court’s factors support striking Andrea’s pleadings.**

The Nevada Supreme Court has explained that case terminating sanctions must be supported  
with an analysis of several factors, including:

the degree of willfulness of the offending party, the extent to which the non-offending  
party would be prejudiced by a lesser sanction, the severity of the sanction of  
dismissal relative to the severity of the discovery abuse, whether any evidence has  
been irreparably lost, the feasibility and fairness of alternative, less severe sanctions,  
such as an order deeming facts relating to improperly withheld or destroyed evidence  
to be admitted by the offending party, the policy favoring adjudication on the merits,  
whether sanctions unfairly operate to penalize a party for the misconduct of his  
attorney, and need to deter both parties and future litigants from similar abuses.

1 *Young*, 106 Nev. at 93, 787 P.2d at 780. The Court has since clarified that dismissal of an action as  
2 a discovery sanction need not be preceded by other less severe sanctions. *Bahena v. Goodyear Tire*  
3 *& Rubber Co.*, 126 Nev. Adv. Op. No. 26, 235 P.3d 592, 598 (June 1, 2010), *citing Young v. Johnny*  
4 *Ribiero Building, Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780 (1990). Further, the District Court's  
5 imposition of discovery sanctions, including case terminating sanctions, is reviewed for abuse of  
6 discretion, and "[e]ven if [the Nevada Supreme Court] would not have imposed such sanctions in  
7 the first instance, [it] will not substitute [its] judgment for that of the District Court." *Id.*, 106 Nev.  
8 at 92, 787 P.2d at 779. This case is no different.

9 **C. Andrea has willfully impeded discovery.**

10 Under *Young*, the first factor to consider is the degree of willfulness of the offending party.  
11 *Young*, 106 Nev. at 93, 787 P.2d at 780. Here, the record is clear Andrea willfully withheld critical  
12 information that is highly relevant to Emilia's claims and highly unfavorable to Defendants'  
13 defenses. Most importantly, Andrea produced claims notes that appeared complete. This, while  
14 knowing she intentionally deleted the most relevant note containing her admissions of liability.  
15 Andrea secretly redacted relevant factual information regarding how Jared obtained the keys to  
16 Andrea's car and confirming that Andrea, at a minimum, gave Jared implied permission to drive  
17 Andrea's car on January 2, 2011, by giving Jared the keys to her car that day. Andrea also failed to  
18 disclose she had previously said she usually left the keys on the mantle. Instead, Andrea testified at  
19 length during her depositions about allegedly hiding the keys at all times.

20 In fact, not only did Andrea hide this information from Emilia, she has amended her version  
21 of events, first admitting Jared had permission, then denying he had permission and claiming under  
22 oath she does not know how he obtained the keys to her car. This, while knowing the entire time  
23 she gave Jared the keys shortly before the crash and routinely made them available to him by  
24 leaving them on the mantle. Andrea's conduct also forced Emilia to expend significant time and  
25 money to conduct discovery regarding permissive use, including two depositions of Andrea and a  
26 lengthy deposition of Jared to investigate permissive use. This, while knowing the entire time  
27 Andrea was suppressing evidence that contradicted her sworn testimony and her answer to Emilia's  
28 amended complaint. Andrea willfully impeded discovery by challenging a critical issue to the case,

1 then withholding key information that effectively resolves the issue in Emilia's favor. This Court is  
2 well within its discretion under NRCP 37 and the court's inherent powers to punish abusive  
3 litigation practices to strike Andera's answer, enter a default on liability, and allow Emilia to prove  
4 her damages.

5 **D. Emilia would be prejudiced by a lesser sanction.**

6 Under *Young*, the court must next consider the extent to which Emilia would be prejudiced  
7 by a lesser sanction. *Young*, 106 Nev. at 93, 787 P.2d at 780. "A [party] suffers prejudice if the  
8 [offending party's] actions impair the [party's] ability to go to trial or threaten to interfere with the  
9 rightful decision of the case." *In re Phenylpropanolamine (PPA) Products*, 460 F.3d 1217, 1236  
10 (9th Cir. 2006), cited by *Foster*, 126 Nev. Adv. Op. No. 6, 227 P.3d at 1049. "In order to satisfy the  
11 prejudice requirement, the party seeking sanctions must demonstrate that the missing or altered  
12 evidence would have been relevant to her case." *Ashton*, 772 F. Supp. 2d at 801. "[L]ost or  
13 destroyed evidence is 'relevant' if a reasonable trier of fact could conclude that the lost evidence  
14 would have supported the claims or defenses of the party that sought it." *Id.* "Prejudice to the non-  
15 culpable party can range from an utter inability to prove claims or defenses to minimal effects on the  
16 presentation of proof. Generally, the prejudice element is satisfied where a party's ability to present  
17 its case or to defend is compromised." *Id.* This factor is particularly applicable here.

18 Emilia seeks to hold Andrea liable for Jared's conduct under NRS 41.440, providing that any  
19 liability imposed upon a defendant arising out of his or her driving a vehicle with the express or  
20 implied permission of the vehicle's owner is imputed to the vehicle's owner if the owner is a family  
21 member of the defendant. "The existence of the requisite permission...is to be determined by the  
22 trier of fact based on all the circumstances and inferences reasonably to be drawn therefrom."  
23 *Taylor v. Roseville Toyota, Inc.*, 138 Cal. App. 4th 994, 1004 (2006) (deletion in original, emphasis  
24 added). "Where the issue of implied permissive use is involved, the general relationship existing  
25 between the owner and the operator, is of paramount importance." *Id.*, at 1002. In other words,  
26 facts pertaining to Jared's prior use of Andrea's car and Andrea's pattern of making the keys easily  
27 available to Jared by leaving them on the mantle is critical to a jury's determination of permissive  
28 use.

1 In refusing to overturn a jury's determination of permissive use in *Casey v. Fortune*, the  
2 appellate court explained:

3 [e]ven though the testimony of the owner and the driver of the automobile was  
4 uncontradicted, the trial judge was not required to accept it. [The mother's]  
5 answers were evasive as to whether she had knowledge, prior to the night of the  
6 accident, that Robert had been driving the automobile...[S]he continued to keep  
7 the keys where they were easily obtainable by him, "in plain view" on the buffet  
8 where "We always keep our keys." The court may have concluded that, under  
9 circumstances, the keeping of the keys in such an accessible place refuted her  
10 testimony that he was told not to use the automobile.

11 *Casey v. Fortune*, 179 P.2d 99, 100 (Cal. 1947) (emphasis added).

12 Andrea's decision to withhold the January 17, 2011, claims note detailing the conversation  
13 between Andrea and Ms. Meraz threatens to interfere with the rightful decision of the case. This,  
14 because evidence showing Andrea routinely made the keys available to Jared prior to January 2,  
15 2011, and, in fact, gave Jared the keys on January 2, 2011, is critical to a jury's determination of  
16 permissive use. This is precisely why Defendants decision to withhold the January 17, 2011, note is  
17 so egregious. If Defendants had disclosed this note when they were required to, it would have  
18 allowed Emilia the opportunity to impeach Andrea during her deposition, and depose Liberty  
19 Mutual and its adjustor regarding the conversations with Andrea. Proper disclosure would also have  
20 saved Emilia a significant amount of time and expense deposing Andrea and Jared on the issue of  
21 permissive use. In addition, if Andrea had disclosed the complete claims note, Andrea would never  
22 have filed her motion for summary judgment, and Emilia would not have had to spend significant  
23 time and expense opposing the motion. Imposing any sanctions other than striking Andrea's answer  
24 effectively condones Defendants' abusive litigation practices and rewards their underhanded  
25 conduct. *Ashton*, 772 F. Supp. 2d at 804-05.

26 In the event the Court determines alternative sanctions are appropriate, Emilia requests that  
27 the court enter conclusive findings that Jared had permission to drive Andrea's car on January 2,  
28 2011, relieving Emilia of the burden of having to prove that fact during trial.

29 **E. The severity of, and the prejudice caused by, Defendants' willful discovery**  
30 **abuse, far outweighs the severity of striking Andrea's answer.**

31 The Court must next consider the severity of the dismissal sanction relative to the severity of  
32 the discovery abuse. *Young*, 106 Nev. at 93, 787 P.2d at 780. Allowing Defendants to thwart

1 Emilia's attempts to prove the required elements of her claims wholly upends the discovery process  
2 and places Emilia at a severe disadvantage in this case. "[T]he purpose of discovery is to aid a party  
3 in the preparation of its case." *Pac. Fisheries, Inc. v. U.S.*, 484 F.3d 1103, 1111 (9th Cir. 2007). An  
4 additional purpose of discovery "is to reveal what evidence the opposing party has, thereby helping  
5 determine which facts are undisputed...and which facts must be resolved at trial." *In re*  
6 *Phenylpropanolamine (PPA) Products*, 460 F.3d at 1239.

7 Here, Emilia has suffered severe prejudice as a result of Defendants' discovery abuses. Not  
8 only did Defendants refuse to properly respond to Emilia's written request for the entire claims file,  
9 Defendants produced the claims file and actively withheld unprivileged, discoverable information in  
10 the claims notes that is favorable to Emilia. Defendants' active concealment of the January 17,  
11 2011, note caused significant delay by forcing Emilia to depose Jared and Andrea on this issue to  
12 determine facts that already existed but that were hidden from Emilia. In short, the prejudice  
13 inflicted on Emilia as a result of Defendants' abusive litigation tactics far outweighs any prejudice  
14 Defendants will suffer if Andrea's Answer is stricken as a result of Defendants' intentional conduct.

15 **F. Less severe sanctions would likewise result in a finding of Andrea's joint**  
16 **liability anyway.**

17 The Court must also consider "the feasibility and fairness of alternative, less severe  
18 sanctions, such as an order deeming facts relating to improperly withheld or destroyed evidence to  
19 be admitted by the offending party." *Young*, 106 Nev. at 93, 787 P.2d at 780. Less severe sanctions  
20 would be unfair to Emilia. Emilia specifically requested Liberty Mutual's claims notes in order to  
21 obtain evidence regarding permissive use. If the Court enters less severe sanctions by making a  
22 finding that Jared did, in fact, have permission to drive Andrea's car on January 2, 2011, the  
23 outcome is the same, as Andrea will be deemed liable for Jared's conduct under the joint liability  
24 statute. In reality, less severe sanctions would be patently unfair to Emilia by forcing her to incur  
25 additional attorneys' fees in order to achieve the same end as striking Andrea's answer now.  
26 *Ashton*, 772 F. Supp. 2d at 804-05 ("A deemed admission or a less severe sanction such as attorneys  
27 fees caused by their conduct might conceivably encourage...similar defendants to conceal and  
28 destroy evidence against them in the future").

1           **G. By willfully obstructing discovery, Andrea has effectively waived her right to a**  
2           **trial on the merits.**

3           The court must next consider the policy of favoring adjudication a case on its merits. *Young*,  
4 106 Nev. at 93, 787 P.2d at 780. Although the Nevada Supreme Court has recognized that public  
5 policy favors resolution of a case on its merits, it has also recognized that policy is not advanced by  
6 permitting a party to flaunt its discovery obligations to the detriment of opposing parties. *Foster*,  
7 126 Nev. Adv. Op. No. 6, 227 P.3d at 1049. The policy of resolving an action on its merits  
8 presumes that both sides to an action will have equal opportunity to obtain the information  
9 necessary to advance their position. When a party fails to cooperate in the discovery process, the  
10 party itself frustrates this policy because it prevents the opposing party from being able to properly  
11 determine what facts remain disputed for trial. As the Ninth Circuit stated:

12           a case that is stalled or unreasonably delayed by a party's failure to comply with  
13 deadlines and discovery obligations cannot move forward toward resolution on the  
14 merits. Thus, we have also recognized that this factor 'lends little support' to a party  
15 whose responsibility it is to move a case toward disposition on the merits but whose  
16 conduct impedes progress in that direction.

17           *See In re Phenylpropanolamine (PPA) Products*, 460 F.3d at 1228.

18           In this action, Defendants' willful concealment of the January 17, 2011, claims note, and  
19 other information in the claims file, proves the lack of merit in Andrea's defense. That is, Andrea,  
20 at a minimum, gave Jared implied permission to drive her car by making the car keys readily  
21 available to him and giving him the keys on January 2, 2011. Otherwise, Andrea would have had no  
22 motivation to conceal the January 27, 2011, claims note. Andrea cannot complain about not having  
23 a liability trial on the merits when Andrea transparently attempted to thwart Emilia's right to a trial  
24 on the merits by concealing the proverbial smoking gun. By refusing to cooperate in the discovery  
25 process, Andrea has waived her right to trial on the merits and this factor "lends little support" to  
26 preserving that right. *Id.*

27           **H. Defendants themselves have chosen to willfully impede discovery.**

28           The court must also consider "whether sanctions unfairly operate to penalize a party for the  
misconduct of his attorney." *Young*, 106 Nev. at 93, 787 P.2d at 780. Although the attorney-client  
privilege prevents Emilia from inquiring into whether Andrea's discovery abuses are attributable to

1 Andrea, or to her counsel, Andrea's deposition testimony indicates Andrea is responsible for her  
2 own conduct. That is, Andrea claimed during her deposition that she did not give Jared permission  
3 to drive her car and that she does not know how he obtained her car keys. This was clearly an  
4 orchestrated ruse as Andrea was fully aware she gave Jared the keys because she told her insurer  
5 that 15 days after the accident. Andrea also testified at length about routinely hiding the keys from  
6 Jared. This, even though she told her insurer she usually kept the keys on the mantle. Again,  
7 Andrea's sworn testimony contradicted the statement she gave her insurer 15 days after the accident.  
8 At a minimum, if Emilia had the January 17, 2011, claims note during either of Andrea's two  
9 depositions, the note would have allowed Emilia to impeach Andrea using her prior statements.  
10 Jared, in contrast, readily concedes he had permission and that he used Andrea's car on several  
11 occasions prior to the date of the accident. From this, it is obvious that striking Defendants' answer  
12 would not punish Andrea for the conduct of her counsel, but instead punish Andrea for abusing the  
13 discovery process and her refusal to cooperate in the litigation process.

14 **I. Some evidence has been irreparably lost.**

15 The court must also consider whether evidence has been irreparably lost. *Young*, 106 Nev.  
16 at 93, 787 P.2d at 780. "[A] party is required to preserve documents, tangible items, and  
17 information relevant to litigation that are reasonably calculated to lead to the discovery of  
18 admissible evidence." *Bass-Davis v. Davis*, 122 Nev. 442, 450, 134 P.3d 103, 108 (2006). "The  
19 pre-litigation duty to preserve evidence is imposed once a party is on notice of a potential legal  
20 claim." *Id.* "A party is on notice when litigation is reasonably foreseeable." *Id.*

21 Without knowing what other information contained in the claims notes is being withheld, it  
22 is difficult for Emilia to know whether any evidence has been irreparably lost. Indeed, Emilia still  
23 does not know what other information has been redacted or omitted from the claims notes  
24 considering there are a number of blank spaces in the claims notes. Regardless, Andrea's  
25 depositions would have been significantly more effective if Emilia had known about the January 17,  
26 2011, note as Emilia could have asked Andrea about the note during either of her depositions.  
27 Instead, withholding the information effectively bought Andrea a significant amount of time,  
28 allowing her to fabricate a different version of events and, then, claim ignorance regarding the true

1 facts. Now, years later, memories fade, and evidence is lost. Indeed, Emilia only recently noticed  
2 Ms. Meraz's deposition because prior to receiving the complete claims notes, Emilia was unaware  
3 Ms. Meraz's testimony was critical to permissive use. Evidence has been lost as Ms. Meraz's  
4 memory has faded in the years since the accident and in the years since Andrea feigned production  
5 of the complete claims notes nearly a year and a half earlier.

6 **J. Terminating sanctions are necessary to deter other parties from engaging in**  
7 **similar conduct.**

8 Finally, the Court must consider the "need to deter both parties and future litigants from  
9 similar abuses." *Young*, 106 Nev. at 93, 787 P.2d at 780. As the United States Supreme Court has  
10 acknowledged, "[u]nfortunately, the cost of litigation in this country -- furthered by discovery  
11 procedures susceptible to gross abuse -- has reached the point where many persons and entities  
12 simply cannot afford to litigate even the most meritorious claim or defense." *Delta Air Lines v.*  
13 *August*, 450 U.S. 346, 363 n.1 (1981) (Powell, J. concurring). Striking Andrea's answer would  
14 deter Andrea and other parties from conducting themselves in the same manner in other litigation by  
15 willfully concealing critical evidence. *Foster*, 126 Nev. Adv. Op. No. 6, 227 P.3d at 1049 ("In light  
16 of appellants' repeated and continued abuses...the ultimate sanctions were necessary to demonstrate  
17 to future litigants that they are not free to act with wayward disregard of a court's orders"). Emilia  
18 has already expended tens of thousands of dollars litigating this case, all to have her efforts impeded  
19 and frustrated by Defendants' conduct over a nearly two year period. Imposing severe sanctions  
20 under these circumstances would likewise serve as a deterrent by showing that this Court will not  
21 tolerate willful and intentional discovery abuse, including knowingly and purposefully concealing  
22 evidence critical to a fair resolution of this case on its merits.

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**IV. CONCLUSION**

For the reasons set forth above, Emilia's motion should be granted and Andrea's answer stricken. At a bare minimum, Emilia is entitled to a conclusive finding that Jared did, in fact, have permission to drive Andrea's car on January 2, 2011.

GLEN J. LERNER & ASSOCIATES

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(702) 877-1500  
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of  
3 GLEN LERNER INJURY ATTORNEYS, and on the 2nd day of December, 2014, an electronic  
4 copy of **PLAINTIFF'S MOTION TO STRIKE DEFENDANT ANDREA AWERBACH'S**  
5 **ANSWER** was served on opposing counsel via the Court's electronic service system, WIZNET, to  
6 the following counsel of record:  
7

8  
9 Peter A. Mazzeo, Esq.  
10 Baron & Pruitt, LLP  
11 3890 W. Ann Road  
N. Las Vegas, NV 89031  
*Attorney for Defendant Andrea Awerbach*

12 Roger Strassburg, Esq.  
13 Mitchell J. Resnick, Esq.  
14 RESNICK & LOUIS, P.C.  
6600 W. Charleston, Suite 117A  
Las Vegas, NV 89146  
*Attorney for Defendant Jared Awerbach*

15  
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17 /s/ Miriam Alvarez  
An Employee of Glen Lerner Injury Attorneys  
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**EXHIBIT 1**

**EXHIBIT 1**

**DECLARATION OF CRAIG A. HENDERSON**

I, Craig A. Henderson, hereby declare the following under penalty of perjury of the laws of the State of Nevada:

1. I am an attorney at Glen J. Lerner & Associates, and counsel of record for Plaintiff in the above captioned action. I am competent to testify to the matters stated herein, which are based on personal knowledge unless otherwise indicated, and would do so if requested.

2. Attached hereto as Ex. 1-A is a true and accurate copy of excerpts from Jared's deposition transcript.

3. Attached hereto as Ex. 1-B is a true and accurate copy of Cherise Killian's affidavit.

4. Attached hereto as Ex. 1-C is a true and correct copy of excerpts from Emilia Garcia's July 10, 2013 deposition transcript.

5. Attached hereto as Exhibit 1-D is a true and accurate copy of Las Vegas Metropolitan Police Department Forensic Laboratory Toxicology Unit Report of Examination and Arrest Report and Traffic Accident Report.

6. Attached hereto as Exhibit 1-E is a true and accurate copy of excerpts from Officer Figueroa's deposition transcript.

7. Attached hereto as Exhibit 1-F is a true and accurate copy of Jared's recorded statement.

8. Attached hereto as Exhibit 1-G is a true and accurate copy of Defendants' Second Supplement.

9. Attached hereto as Exhibit 1-H is a true and accurate copy of Emilia's First Requests for Production to Andrea, and Andrea's responses.

10. Attached hereto as Exhibit 1-I is a true and accurate copy of excerpts from Andrea's September 12, 2013, deposition transcript.

11. Attached hereto as Exhibit 1-J is a true and accurate copy of excerpts from Andrea's October 24, 2014, deposition transcript.

1           12. Attached hereto as Exhibit 1-K is a true and accurate copy of Liberty Mutual's  
2 claims file produced November 10, 2014.

3           I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true  
4 and correct and that this declaration was executed this 2nd day of December, 2014, in Las Vegas,  
5 Nevada.

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8 CRAIG A. HENDERSON  
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**EXHIBIT 1-A**

**EXHIBIT 1-A**

DISTRICT COURT  
CLARK COUNTY, NEVADA

EMILIA GARCIA, individually,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. A637772
	)	DEPT. NO.: XXVII
JARED AWERBACH, individually;	)	
ANDREA AWERBACH, individually;	)	
DOES I - X, and ROE	)	
CORPORATIONS I - X, inclusive,	)	
	)	
Defendants.	)	

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VIDEOTAPED DEPOSITION OF JARED EMMANUEL AWERBACH

Las Vegas, Nevada

Thursday, March 27, 2014

REPORTED BY: PEGGY S. ELIAS, RPR  
Nevada CCR No. 274 - California CSR No. 8671  
JOB NO.: 206073

LITIGATION SERVICES & TECHNOLOGIES - 800-330-1112

JARED EMMANUEL AWERBACH - 3/27/2014

2 (Pages 2 to 5)

Page 2

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Videotaped deposition of JARED EMMANUEL AWERBACH

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taken at Glen Lerner Injury Attorneys, 4795 South

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Durango Drive, Las Vegas, Nevada, on Thursday,

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March 27, 2014, at 10:08 a.m., before Peggy S. Elias,

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Certified Court Reporter in and for the State of

6

Nevada.

7

APPEARANCES OF COUNSEL

8

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23

Also Present:

24

TERRELL HOLLOWAY, VIDEOGRAPHER

25

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1

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Exhibit 12 Xerox Copy of Photograph 234

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Exhibit 10 Drawing 229

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VIDEOTAPED DEPOSITION OF JARED EMMANUEL AWERBACH

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Thursday, March 27, 2014, 10:08 a.m.

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THE VIDEOGRAPHER: This is the beginning of

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Videotape No. 1 in the deposition of Jared Awerbach in

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the matter of Garcia versus Awerbach held at Glen

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Lerner at 4795 South Durango Drive, Las Vegas, Nevada

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89147, on March 27th, 2014, at 10:08 a.m.

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The court reporter is Peggy S. Elias. I am

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Terrell Holloway, the videographer, an employee of

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Litigation Services, located at 3770 Howard Hughes

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Parkway, Suite 300, Las Vegas, Nevada 89169. This

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deposition is being videotaped at all times unless

14

specified to go off the video record.

15

Would all present please identify themselves,

16

beginning with the witness.

17

THE WITNESS: I'm Jared Awerbach.

18

MR. STRASSBURG: Roger Strassburg. I'll be

19

speaking for Mr. Awerbach as his lawyer.

20

MS. COMPTON: Lilly Compton. I'm

21

Mr. Strassburg's paralegal.

22

MR. MAZZEO: Peter Mazzeo for Andrea

23

Awerbach.

24

MR. ESCHWEILER: Corey Eschweiler on behalf

25

of the plaintiff.

LITIGATION SERVICES & TECHNOLOGIES - 800-330-1112

<p style="text-align: right;">Page 6</p> <p>1 THE VIDEOGRAPHER: Will the court reporter 2 please swear in the witness. 3 Whereupon, 4 JARED EMMANUEL AWERBACH, 5 having been first duly sworn to testify to the truth, 6 the whole truth, and nothing but the truth, was 7 examined and testified as follows: 8 EXAMINATION 9 BY MR. ESCHWEILER: 10 Q. Can you state your name, and spell it for the 11 record, please. 12 A. My name is Jared Awerbach, J-a-r-e-d, 13 A-w-e-r-b-a-c-h. 14 Q. Do you have a middle name? 15 A. Yeah. My name is Jared Emmanuel Awerbach. 16 Q. How do you spell the middle name? 17 A. E-m-m-a-n-u-e-l. 18 Q. Have you ever had your deposition taken 19 before? 20 A. No, sir. 21 Q. Have you ever been a party to a lawsuit other 22 than this one? 23 A. No, sir. 24 Q. Have you ever been a witness in a lawsuit? 25 A. No, sir.</p>	<p style="text-align: right;">Page 8</p> <p>1 court reporter can't really take those down; so I'm 2 going to ask you to verbally respond to each of my 3 questions. 4 Is that fair? 5 A. Understood. 6 Q. Also, in order to make sure the record is 7 clear, I'm going to ask that you allow me to finish my 8 question before you begin your answer, and I'll allow 9 you the same courtesy to finish your answer before I 10 start by saying -- start my next question so that we're 11 not talking over each other to maintain the consistency 12 of the record. 13 A. Sounds good. 14 Q. Today is not an endurance contest. I don't 15 imagine that this will take more than two or three 16 hours, but if you need to take a break for any reason, 17 please let me know, and we can take a five- or 18 ten-minute break; bathroom, drink, whatever you need. 19 I would ask, though, that if there's a question 20 pending, you respond to the question before we break. 21 Is that fair? 22 A. Yes, sir. 23 Q. Last, if you don't understand any of my 24 questions, I'm going to ask that you tell me what you 25 don't understand. Otherwise I'm going to assume that</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Have you ever been placed under oath and 2 required to testify before? 3 A. No, sir. 4 Q. Let's go through some of the ground rules, 5 then, so we can all be on the same page moving forward 6 today. The oath that you just took is the same oath 7 that would be given in a court of law. Obviously, 8 we're not in a court of law, but we're in the informal 9 setting in my office. The oath, however, still carries 10 with it the penalty of perjury. 11 Do you understand that? 12 A. Yes, sir. 13 Q. The court reporter is -- is taking down my 14 questions. She's also going to be taking down your 15 answers. At the end of the deposition, she's going to 16 transcribe those into a booklet, and you'll be allowed 17 to review the booklet prior to trial. 18 I want to caution you, however, if you make 19 any changes to your responses in that booklet, I will 20 be able to comment on those changes at the time of 21 trial, and it may impact your credibility. 22 Do you understand that? 23 A. Yes, sir. 24 Q. Also, in normal conversation we may use 25 nonverbal signals or nods of the heads or uh-huhs. The</p>	<p style="text-align: right;">Page 9</p> <p>1 you understood all of the questions that I'm asking you 2 today if you respond. 3 Is that fair? 4 A. Yes, sir. Thank you. 5 Q. Do you have any questions about the process? 6 A. Not at this moment. 7 Q. Do you understand the ground rules? 8 A. Yes, sir. 9 Q. Is there any reason why we can't go forward 10 today? 11 A. No, sir. 12 Q. Is there any reason that you cannot provide 13 true and honest answers today? 14 A. No, sir. 15 Q. Are you on any medication that would prevent 16 you from responding truthfully to any questions? 17 A. Not -- no, sir. I'm on two medications but 18 not any medications that would alter my conscious. 19 Q. And not your ability to tell the truth? 20 A. No, sir. 21 Q. Does it -- does the medication you're on 22 affect your memory or your recall? 23 A. No, sir. 24 Q. Okay. Have you consumed any alcohol in the 25 last 24 hours that would impede your ability to tell</p>

<p style="text-align: right;">Page 10</p> <p>1 the truth?</p> <p>2 A. No, sir.</p> <p>3 Q. Any illicit drugs that would impede your</p> <p>4 ability to tell the truth?</p> <p>5 A. No, sir.</p> <p>6 Q. Thank you.</p> <p>7 What did you do to prepare for the deposition</p> <p>8 today?</p> <p>9 A. Reviewed the interrogatories. Reviewed the</p> <p>10 paperwork that my attorney sent to me.</p> <p>11 Q. Well, besides the interrogatories do you have</p> <p>12 a specific recollection of any -- reviewing any other</p> <p>13 documents?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you speak with anybody about the</p> <p>16 deposition today?</p> <p>17 A. Just my attorneys.</p> <p>18 Q. And when did you meet with them?</p> <p>19 A. Yesterday.</p> <p>20 Q. How long was the meeting?</p> <p>21 A. An hour and a half.</p> <p>22 Q. Where did you meet at?</p> <p>23 A. My house.</p> <p>24 Q. They came to your house?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 12</p> <p>1 attorney or your mother's attorney throughout the</p> <p>2 process. Unless they instruct you not to answer, you</p> <p>3 will be required to answer the question.</p> <p>4 A. Understood.</p> <p>5 Q. Okay. Thank you.</p> <p>6 Did you review any of your mom's responses to</p> <p>7 any documents that she's filed in this case?</p> <p>8 A. No, sir.</p> <p>9 Q. So the interrogatory responses that you</p> <p>10 completed and signed were the only thing that you</p> <p>11 reviewed in preparation for the deposition?</p> <p>12 A. Yes, sir.</p> <p>13 MR. STRASSBURG: He reviewed his statement.</p> <p>14 MR. ESCHWEILER: His recorded statement?</p> <p>15 MR. STRASSBURG: The transcript.</p> <p>16 MR. ESCHWEILER: Of the recorded statement?</p> <p>17 MR. STRASSBURG: Yes, sir.</p> <p>18 THE VIDEOGRAPHER: His mic is...</p> <p>19 MR. ESCHWEILER: Can we stop it? We'll go</p> <p>20 off for a second.</p> <p>21 THE VIDEOGRAPHER: Off the record at 10:15.</p> <p>22 (Discussion off the record.)</p> <p>23 THE VIDEOGRAPHER: Back on the video record</p> <p>24 at 10:18.</p> <p>25 ///</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Was anybody else present besides your</p> <p>2 attorneys?</p> <p>3 A. My mother was.</p> <p>4 Q. Your mother was present?</p> <p>5 A. She was in the home.</p> <p>6 Q. Well, was she participating in the meeting?</p> <p>7 A. No, sir.</p> <p>8 Q. Well, where was she?</p> <p>9 A. In her room.</p> <p>10 Q. Was the door closed?</p> <p>11 A. No, sir.</p> <p>12 Q. Could she hear what you guys were talking</p> <p>13 about?</p> <p>14 A. No, sir.</p> <p>15 Q. How do you know?</p> <p>16 A. She was occupied.</p> <p>17 MR. MAZZEO: Speculation.</p> <p>18 THE WITNESS: Huh?</p> <p>19 BY MR. ESCHWEILER:</p> <p>20 Q. You can answer.</p> <p>21 A. She was occupied.</p> <p>22 Q. Well, do you know what she was doing?</p> <p>23 A. Playing with her tablet.</p> <p>24 Q. Okay. Well, one other thing I didn't</p> <p>25 mention, there may be objections interposed by your</p>	<p style="text-align: right;">Page 13</p> <p>1 BY MR. ESCHWEILER:</p> <p>2 Q. Prior to the break, you were talking about</p> <p>3 documents that you had reviewed in preparation for the</p> <p>4 deposition, one of which was your interrogatory</p> <p>5 responses, and your attorney indicated that you had</p> <p>6 also reviewed the transcript of your recorded</p> <p>7 statement.</p> <p>8 A. Yes, sir.</p> <p>9 Q. Did that refresh your recollection about the</p> <p>10 events that transpired on January 2, 2011?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Any other documents that you recall?</p> <p>13 A. Should I tell him about going back to the</p> <p>14 scene or...</p> <p>15 Q. I'm just asking about documents right now.</p> <p>16 A. We -- no. No, sir.</p> <p>17 Q. Did you do anything else to prepare for the</p> <p>18 deposition?</p> <p>19 A. Well, what my attorney did was take me back</p> <p>20 to the scene and kind of played out for him step by</p> <p>21 step.</p> <p>22 Q. How long were you at the scene of the</p> <p>23 accident?</p> <p>24 A. 30 minutes.</p> <p>25 Q. Okay. And what exactly did you do to play it</p>

<p style="text-align: right;">Page 14</p> <p>1 out step by step?</p> <p>2 A. We took --</p> <p>3 MR. MAZZEO: Objection, attorney/client</p> <p>4 privilege.</p> <p>5 MR. STRASSBURG: You can answer.</p> <p>6 BY MR. ESCHWEILER:</p> <p>7 Q. Go ahead.</p> <p>8 A. We took pictures of -- reviewing the traffic</p> <p>9 in the area and reviewing the -- where the plaintiff</p> <p>10 was and where I was, the distance, and the -- pretty</p> <p>11 much how the accident happened.</p> <p>12 Q. Based upon your review of the recorded</p> <p>13 statement or your visit to the site within the last</p> <p>14 week, did it change your recollection of the events</p> <p>15 that transpired on January 2nd, 2011?</p> <p>16 A. No, sir.</p> <p>17 Q. Did you talk to your mom about the deposition</p> <p>18 today?</p> <p>19 A. Just the fact that we had a deposition.</p> <p>20 Q. You didn't talk to her about the deposition</p> <p>21 that she gave in this matter?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you review the transcript of the</p> <p>24 deposition she gave in this matter?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. On Brooks Street.</p> <p>2 Q. What's the cross street?</p> <p>3 A. Brooks and Revere.</p> <p>4 Q. And you said it's an adult high school?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Well, what's that mean?</p> <p>7 A. Adult education, like credit retrieval.</p> <p>8 Q. Well, why did you go to that specific high</p> <p>9 school?</p> <p>10 A. I had had problems at other schools as a</p> <p>11 juvenile, and I didn't want to return to a normal</p> <p>12 school, in a normal school environment, meaning peer</p> <p>13 pressure, being influenced by my peers and negative</p> <p>14 behavior. I kind of wanted to be serious about school.</p> <p>15 Q. Well, what problems?</p> <p>16 A. Just delinquent behavior.</p> <p>17 Q. Well, what do you mean by "delinquent</p> <p>18 behavior"?</p> <p>19 A. Like -- say like running around and smoking</p> <p>20 weed, ditching class, not taking school serious.</p> <p>21 Q. Was that a problem for you when you were a</p> <p>22 juvenile?</p> <p>23 A. Yes, sir.</p> <p>24 Q. What age did you start smoking weed?</p> <p>25 A. Like twelve.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. You had no discussion with her about the</p> <p>2 substance of your testimony today?</p> <p>3 A. No, sir.</p> <p>4 Q. When was the last time you talked to your</p> <p>5 mom?</p> <p>6 MR. STRASSBURG: Objection. About the case?</p> <p>7 MR. ESCHWEILER: No, at any time.</p> <p>8 THE WITNESS: Upon being dropped off at this</p> <p>9 location.</p> <p>10 BY MR. ESCHWEILER:</p> <p>11 Q. She drove you here today?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Did your mom tell you anything about the</p> <p>14 questions that she was asked?</p> <p>15 A. No, sir.</p> <p>16 Q. I want to talk a little bit about your</p> <p>17 background --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- before we get into the substance of the</p> <p>20 questions.</p> <p>21 Did you graduate from high school?</p> <p>22 A. Yes, sir.</p> <p>23 Q. What school?</p> <p>24 A. Desert Rose Adult High School.</p> <p>25 Q. Where's that located?</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Twelve?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Would you smoke weed at the house where you</p> <p>4 lived with your mom?</p> <p>5 A. No, sir.</p> <p>6 Q. Where would you smoke weed?</p> <p>7 A. Outside.</p> <p>8 Q. Outside the house where you lived?</p> <p>9 A. Outside the house or at -- when I was</p> <p>10 supposed to be at school.</p> <p>11 Q. Did you do any other drugs besides weed?</p> <p>12 A. At that time, no.</p> <p>13 Q. And you said you had a problem with missing</p> <p>14 school, as well?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Were you ever suspended or expelled from --</p> <p>17 from any school for missing class?</p> <p>18 A. Not for missing class, no.</p> <p>19 Q. Were you ever suspended or expelled from</p> <p>20 school for any reason?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What school?</p> <p>23 A. Green Valley High School.</p> <p>24 Q. What was the reason for the expulsion?</p> <p>25 A. Possession of marijuana.</p>

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<p>1 Q. What year was that?</p> <p>2 A. I don't remember.</p> <p>3 Q. Do you know what year of school you were?</p> <p>4 A. Ninth grade.</p> <p>5 Q. Ninth grade.</p> <p>6 When you were expelled for possession of</p> <p>7 marijuana, did they hold a hearing or any type of</p> <p>8 proceeding before they expelled you?</p> <p>9 A. No, sir.</p> <p>10 Q. Did they tell your mom?</p> <p>11 A. Yes, sir.</p> <p>12 Q. So your mom knew that you had possession of</p> <p>13 marijuana at Green Valley High School?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Did your mom know that you were smoking weed</p> <p>16 since you were twelve?</p> <p>17 A. Yes, sir.</p> <p>18 Q. How did she know that?</p> <p>19 A. From the multiple times that she caught me.</p> <p>20 Q. How would she catch you?</p> <p>21 A. She searched my room, drug tests.</p> <p>22 Q. Where would you hide your weed?</p> <p>23 A. Different places in the house.</p> <p>24 Q. And your mom drug tested you or a drug test</p> <p>25 at school or what?</p>	<p>1 Q. Was it after that expulsion that you ended up</p> <p>2 going to Desert Rose Adult High School?</p> <p>3 A. No, sir.</p> <p>4 Q. Well, where did you go after -- after you</p> <p>5 were expelled from Green Valley?</p> <p>6 A. I was in the juvenile drug court program, and</p> <p>7 I relapsed and I failed, and I was sent to Salt Lake</p> <p>8 City, Utah, and to a therapy group home called Odyssey</p> <p>9 House, and I was able to get myself together there.</p> <p>10 And it was upon return to Las Vegas that I</p> <p>11 decided I did not want to go back to the normal school</p> <p>12 environment. So I waited until I was seventeen and</p> <p>13 enrolled myself in Desert Rose.</p> <p>14 Q. Well, let's back up.</p> <p>15 When were you placed in the juvenile drug</p> <p>16 court system?</p> <p>17 A. In January.</p> <p>18 Q. Do you know of what year?</p> <p>19 A. No, sir, I don't. I don't remember what</p> <p>20 year. Maybe it was --</p> <p>21 Q. Was it --</p> <p>22 A. -- in 2008 or 2009.</p> <p>23 Q. I apologize for interrupting you.</p> <p>24 A. 2007 maybe. That's all right.</p> <p>25 Q. Well, was your placement in the juvenile drug</p>
Page 19	Page 21
<p>1 A. My mother drug tested me.</p> <p>2 Q. How often did your mom drug test you in the</p> <p>3 ninth grade?</p> <p>4 A. Pretty often.</p> <p>5 Q. Well, once a week, once a month?</p> <p>6 A. Yeah, it was like a once-a-week thing.</p> <p>7 Q. How often did you fail those tests?</p> <p>8 A. I don't know. A lot.</p> <p>9 Q. A lot?</p> <p>10 A. Yes, sir.</p> <p>11 Q. More than 50 percent of the time?</p> <p>12 MR. MAZZEO: I'm going to object to this</p> <p>13 whole line of questioning. It's not -- will not</p> <p>14 reasonably lead to the admissibility of evidence.</p> <p>15 BY MR. ESCHWEILER:</p> <p>16 Q. You can answer.</p> <p>17 A. (No audible response.)</p> <p>18 MR. STRASSBURG: You can go ahead.</p> <p>19 BY MR. ESCHWEILER:</p> <p>20 Q. You can answer.</p> <p>21 A. Yes, sir.</p> <p>22 Q. More than 50 percent of the time you failed?</p> <p>23 A. Yes, sir.</p> <p>24 Q. More than 75 percent of the time?</p> <p>25 A. Yes, sir.</p>	<p>1 court system as a result of your expulsion from Green</p> <p>2 Valley High School?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. What was the reason for the placement</p> <p>5 in the juvenile drug court system?</p> <p>6 A. Auto theft and possession of marijuana</p> <p>7 repeatedly.</p> <p>8 Q. What do you mean, "repeatedly"? You were</p> <p>9 busted more than once for auto theft?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How many times?</p> <p>12 A. Three or four.</p> <p>13 Q. In Las Vegas?</p> <p>14 A. Yes, sir.</p> <p>15 MR. STRASSBURG: As a juvenile?</p> <p>16 THE WITNESS: As a juvenile, yes, sir.</p> <p>17 BY MR. ESCHWEILER:</p> <p>18 Q. Were you convicted of those offenses?</p> <p>19 A. Yes, sir.</p> <p>20 Q. No, sir; is that what you said?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Yes, okay.</p> <p>23 Yes, you were convicted?</p> <p>24 A. Yes, sir.</p> <p>25 And part of the reason they placed me in the</p>

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<p>1 juvenile drug court program was because Judge Roy asked 2 me -- because I had marijuana on my person every time I 3 was arrested for auto theft, and Judge Roy asked me if 4 I was stealing any cars or just breaking into cars and 5 getting what I could to scavage to supply my habit, and 6 I told him it was to supply my habit, and he was kind 7 enough to place me in the drug court program. 8 Q. And when you say supply your habit, your 9 habit at that time was marijuana? 10 A. Yes, sir. 11 Q. Is it fair to say you've been addicted to 12 marijuana since you were twelve years old? 13 A. No, sir. 14 MR. STRASSBURG: Object to the form. 15 BY MR. ESCHWEILER: 16 Q. Well, what age would you say that you became 17 addicted to marijuana? 18 MR. STRASSBURG: Object to the form, 19 misconstrues his testimony. 20 Go ahead. Put it in your own words. 21 THE WITNESS: I'm not addicted to marijuana, 22 sir. 23 BY MR. ESCHWEILER: 24 Q. You're not? 25 A. No, sir.</p>	<p>1 A. No, sir. 2 Q. When you say "outside of school," what do you 3 mean? 4 A. Before school and after school. 5 Q. So on the school premises, just not in 6 school? 7 A. No, sir. 8 Q. Well, where? 9 A. Maybe across the street from the school. 10 Q. Okay. Did you ever have friends over to the 11 house where you sold them weed? 12 A. I had friends at the house, but I never sold 13 weed from my house at that time. 14 Q. Does your mom know that you've been dealing 15 weed since you were thirteen? 16 MR. MAZZEO: Objection, speculation, as to 17 what the mom -- what he knows the mom knows. 18 BY MR. ESCHWEILER: 19 Q. You can answer. 20 MR. STRASSBURG: If you know what's in her 21 mind. 22 THE WITNESS: Yes, sir. 23 BY MR. ESCHWEILER: 24 Q. What's that? 25 A. Yes, sir.</p>
Page 23	Page 25
<p>1 Q. You just had an admitted problem with 2 marijuana? 3 A. Yes, sir. 4 Q. And what was your problem with marijuana if 5 you weren't addicted? 6 A. I was attracted to the lifestyle that it 7 brought. 8 Q. Well, what do you mean, "the lifestyle"? 9 A. Girls like you, everybody wants to be your 10 friend, a little bit of extra cash circulates through 11 your hands. 12 Q. Well, were you also selling weed back then? 13 A. Yes, sir. 14 Q. Is that what you mean by the extra cash? 15 A. Yes, sir. 16 Q. At what age did you start selling marijuana? 17 A. Thirteen. 18 Q. Thirteen? 19 A. Yes, sir. 20 Q. Were you selling marijuana at school? 21 A. No, sir. 22 Q. Where were you selling it? 23 A. Outside of school. 24 Q. Were you selling it at the house where you 25 lived with your mom?</p>	<p>1 Q. And how do you know your mom knows that 2 you've been selling weed since you were thirteen? 3 A. My juvenile record. 4 Q. Did your mom ever attend any of the court 5 proceedings with you? 6 A. Yes, sir. 7 Q. So she understood the charges that were 8 against you -- 9 MR. MAZZEO: Objection -- sorry. 10 BY MR. ESCHWEILER: 11 Q. -- back when you were thirteen? 12 MR. MAZZEO: Objection, speculation. 13 BY MR. ESCHWEILER: 14 Q. You can answer. 15 MR. STRASSBURG: If you understand and know 16 what's in her mind. 17 BY MR. ESCHWEILER: 18 Q. That's not what I asked. I asked you if she 19 attended with you. 20 A. Yes, sir. 21 Q. And were the charges against you discussed at 22 those proceedings? 23 A. Yes, sir. 24 And on November 10th, 2005, I was struck with 25 brass knuckles at my middle school, and since then it</p>

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<p>1 A. Definitely.</p> <p>2 Q. Okay. Kids' toys?</p> <p>3 A. Definitely.</p> <p>4 Q. How -- in any given week, how often were you</p> <p>5 running errands?</p> <p>6 A. Once or twice.</p> <p>7 Q. Once or twice a week?</p> <p>8 A. Yeah. Not often.</p> <p>9 Q. Okay. And it -- would it work the same as it</p> <p>10 would for work; if you were going to run an errand, you</p> <p>11 know, the keys would be on the counter, and you'd say,</p> <p>12 hey, Mom, I'm -- I've got to run to pay bills at Nevada</p> <p>13 Power?</p> <p>14 A. I'd always ask.</p> <p>15 Q. Okay. And then she said okay?</p> <p>16 A. Yeah. Like a teenager would.</p> <p>17 Q. And if the keys weren't on the counter, your</p> <p>18 mom would know that you had the car, correct?</p> <p>19 A. Yeah. I mean, yeah. Sometimes, or sometimes</p> <p>20 she wouldn't know if she hadn't left her room.</p> <p>21 Q. You -- if you had to put an estimate on it in</p> <p>22 percentages, who used the car more, you or your mom?</p> <p>23 A. My mom.</p> <p>24 Q. Would it be 60/40?</p> <p>25 A. It'd be 85/15.</p>	<p>1 Nestle's Quik and --</p> <p>2 A. No, just things that were needed, yeah.</p> <p>3 She'd never send me out. It would always be if I was</p> <p>4 out.</p> <p>5 Q. Okay. So you would be -- she'd know that you</p> <p>6 had the car, and she'd call you to say --</p> <p>7 A. Yeah.</p> <p>8 Q. -- pick this up for me?</p> <p>9 A. And hurry up.</p> <p>10 Q. And hurry?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Did you ever call your mom while you were</p> <p>13 driving to check on your kids or ask your mom if you</p> <p>14 needed to bring anything home?</p> <p>15 A. Occasionally.</p> <p>16 But what I had was a headset. I had ear</p> <p>17 phones and a mic like this, and the phone would be in</p> <p>18 the console.</p> <p>19 Q. Okay. Do you recall were you -- I mean, we</p> <p>20 talked about the car seat, and there was some kids'</p> <p>21 toys, I think you said.</p> <p>22 Did you have any personal belongings in the</p> <p>23 car?</p> <p>24 A. No.</p> <p>25 Q. No clothes or anything?</p>
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<p>1 Q. Okay. Explain why you say that.</p> <p>2 A. Because we were very cautious about me</p> <p>3 driving.</p> <p>4 Q. Did it make a difference if it was a weekday</p> <p>5 or a weekend, whether she let you drive?</p> <p>6 A. Yeah.</p> <p>7 Q. And what -- what was the differential?</p> <p>8 A. If I didn't have a reason to drive, I</p> <p>9 couldn't drive.</p> <p>10 Q. So if you weren't going to work or running an</p> <p>11 errand for the family, you couldn't drive?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Did -- was there any ever instances where you</p> <p>14 were out running errands and she'd call you and say,</p> <p>15 hey, can you pick up a gallon of milk from the grocery</p> <p>16 store?</p> <p>17 A. Oh, yeah, definitely.</p> <p>18 Q. How often do you think that happened?</p> <p>19 A. A lot.</p> <p>20 Q. Okay.</p> <p>21 A. Ho-Hos and Nesquik.</p> <p>22 Q. That was her thing?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Anything else you can remember where she'd</p> <p>25 call you and say, hey, can you grab this, besides</p>	<p>1 A. I might have.</p> <p>2 Q. CDs?</p> <p>3 A. Yeah.</p> <p>4 Q. Okay. So your CDs were in the car?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Do you know what CDs you had in the car?</p> <p>7 A. No, I don't remember.</p> <p>8 Q. Do you know how many CDs you had?</p> <p>9 A. A few. DVDs.</p> <p>10 Q. What do you mean, "DVDs"?</p> <p>11 A. I think there were two DVDs in the car upon</p> <p>12 the accident.</p> <p>13 Q. So a couple DVDs and maybe some CDs?</p> <p>14 A. Yes.</p> <p>15 Q. And was there a CD player that you could play</p> <p>16 music out of?</p> <p>17 A. Yeah, there was a CD console.</p> <p>18 Q. And where were the DV -- there was a DVD</p> <p>19 player, also?</p> <p>20 A. No, sir.</p> <p>21 Q. Why would the DVDs be in the car?</p> <p>22 A. Somebody had lent them to me.</p> <p>23 Q. Okay. So you had went somewhere and picked</p> <p>24 them up and then had just left them in the car?</p> <p>25 A. I think we had went somewhere, my family had</p>

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<p>1 went somewhere, and I took the DVDs.</p> <p>2 Q. When you say your family, you, your mom --</p> <p>3 A. All of us took it.</p> <p>4 MS. COMPTON: Do you want to take a break?</p> <p>5 Are you okay?</p> <p>6 THE WITNESS: Yeah, I'm fine. Do you guys</p> <p>7 think I should take a break?</p> <p>8 MS. COMPTON: I don't know. I'm just asking</p> <p>9 you.</p> <p>10 MR. MAZZEO: I have a question.</p> <p>11 MR. ESCHWEILER: Let's go off for a second.</p> <p>12 THE VIDEOGRAPHER: Off the video record at</p> <p>13 12:15.</p> <p>14 (Discussion off the record.)</p> <p>15 THE VIDEOGRAPHER: Back on the video record</p> <p>16 at 12:16.</p> <p>17 BY MR. ESCHWEILER:</p> <p>18 Q. When you took the car on January 2nd, 2011, I</p> <p>19 believe you said there was nobody else in the car,</p> <p>20 correct?</p> <p>21 A. No, sir.</p> <p>22 Q. Prior to taking the car that day, you had</p> <p>23 been making marijuana deliveries throughout the day?</p> <p>24 A. No, sir.</p> <p>25 Q. No?</p>	<p>1 accident?</p> <p>2 A. No, sir.</p> <p>3 Q. Well, why not?</p> <p>4 A. I was doing different drugs.</p> <p>5 Q. What were you doing?</p> <p>6 A. Xstacy.</p> <p>7 Q. How much xstacy were you doing?</p> <p>8 A. One or two pills.</p> <p>9 Q. A day?</p> <p>10 A. Yeah.</p> <p>11 Some days I wouldn't do them.</p> <p>12 Q. Did you do any xstacy on January 2nd, 2011?</p> <p>13 A. No, sir.</p> <p>14 Q. January 1st, 2011?</p> <p>15 A. No, sir.</p> <p>16 Q. How about New Year's Eve 2010?</p> <p>17 A. No, sir.</p> <p>18 Q. When was the last time prior to the accident</p> <p>19 that you took xstacy?</p> <p>20 A. It was like December 28th.</p> <p>21 Q. Did you have one or two pills?</p> <p>22 A. Two.</p> <p>23 Q. Was it at night?</p> <p>24 A. During the day, twilight.</p> <p>25 Q. Dinnertime?</p>
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<p>1 A. No.</p> <p>2 Q. I thought when we talked about what you had</p> <p>3 done that day, you had needed to make up the \$275; so</p> <p>4 you made 30 to 40 transactions during the day.</p> <p>5 A. Which I sold throughout the community.</p> <p>6 Q. Okay. So -- but that happened on the day of</p> <p>7 the accident, correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Had you consumed any marijuana on the day of</p> <p>10 the accident?</p> <p>11 A. No, sir.</p> <p>12 Q. None?</p> <p>13 A. No, sir.</p> <p>14 Q. Had you consumed any other illegal drugs on</p> <p>15 the day of the accident?</p> <p>16 A. No, sir.</p> <p>17 Q. When was the last time you had consumed</p> <p>18 marijuana prior to January 2nd, 2011?</p> <p>19 A. Weeks.</p> <p>20 Q. Weeks?</p> <p>21 A. Yes, sir.</p> <p>22 Q. How often did you smoke marijuana prior to</p> <p>23 January 2nd, 2011?</p> <p>24 A. Often.</p> <p>25 Q. But not in the two to three weeks before the</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Other than weed and xstacy, what other</p> <p>3 illegal drugs did you do prior to the accident?</p> <p>4 A. Cocaine a couple weeks before.</p> <p>5 Q. How much cocaine did you ingest?</p> <p>6 A. I don't remember.</p> <p>7 Q. How often would you do cocaine?</p> <p>8 A. Occasionally.</p> <p>9 Q. A couple times a month?</p> <p>10 A. Yeah, a couple times a month.</p> <p>11 Q. And how often were you doing the xstacy?</p> <p>12 A. Often.</p> <p>13 Q. Four or five times a week?</p> <p>14 A. Say like three or four.</p> <p>15 Q. Any other drugs besides --</p> <p>16 A. No, sir, not at that time.</p> <p>17 Q. No meth at that point?</p> <p>18 A. No, sir.</p> <p>19 Q. Any prescription drugs?</p> <p>20 A. No, sir.</p> <p>21 Q. Tell me what happened that -- when you left</p> <p>22 the apartment that day to use your mom's car.</p> <p>23 A. So I got a call from Sheshe saying she wanted</p> <p>24 a substantial amount of marijuana and --</p> <p>25 Q. What's a substantial amount?</p>

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1 A. Like a quarter.  
 2 -- and so that was what I needed, actually,  
 3 like a hundred dollars, \$120, and so Mom was in the  
 4 shower. I waited till Mom was in the shower, and we  
 5 had asked her for a ride to Sheshe's, and she said, no,  
 6 she was tired.  
 7 So I waited till she was in the shower, and  
 8 the door was locked, and I noticed the keys were on the  
 9 counter; so I grabbed them. Told the children of my  
 10 mother [sic] to watch the door.  
 11 Took Cheyenne straight up to Rainbow, took  
 12 Rainbow to Villa Del Sol, went to go see Sheshe, make  
 13 the purchase, and leaving, I called the mother of my  
 14 children to check to see where we were, if I was in  
 15 trouble or not, if I was -- what I was coming home to,  
 16 and it was clear.  
 17 And begin to exit the apartments. Looked to  
 18 my left. I saw a bus. I waited for the bus to clear.  
 19 Looked to my right, the bus was clear. Looked to my  
 20 left. I saw the white vehicle begin to commit to the  
 21 turn, and as soon as I pulled into the turn, the woman  
 22 sped up.  
 23 And I tried to turn out of it, but we ended  
 24 up colliding, and we collided, and I tried to hit the  
 25 accelerator, tried to leave, leave the scene, but the

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1 case somebody else wanted some while I was there.  
 2 Q. And was anybody else at Sheshe's house when  
 3 you got there?  
 4 A. Yes.  
 5 Q. Who else was there?  
 6 A. I don't know the kids' names.  
 7 Q. So there was several people there?  
 8 A. Yes, sir.  
 9 Q. And you dropped off 7 grams of marijuana?  
 10 A. 6, actually.  
 11 Q. And how much money did you get?  
 12 A. I got \$120. Then I had \$60 on me already.  
 13 So I had \$180 on my person.  
 14 Q. And then how much marijuana did you have left  
 15 in your pocket?  
 16 A. 8 grams.  
 17 Q. 8 grams?  
 18 A. Yes, sir.  
 19 Q. How long were you at Sheshe's house?  
 20 A. 30, 45 minutes, not long.  
 21 Q. Did you consume any marijuana while you were  
 22 there?  
 23 A. No, sir.  
 24 Q. Did you do any illicit drugs while you were  
 25 there?

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1 car was immobile. So I got out of the car, ran over to  
 2 the white vehicle. I asked if she was okay, if there  
 3 was any injuries.  
 4 She said no. She said go back to your car  
 5 and wait till the police get here. And I said you're  
 6 calling the police. She said yes. I ran to my car,  
 7 hid the marijuana on my person, ditched the scale in  
 8 the car, hid the scale in the car, and sat in the car  
 9 till the police arrived.  
 10 Q. That was a lot; so let's go back.  
 11 You were -- you were leaving Sheshe's house?  
 12 A. I was leaving Villa Del Sol.  
 13 Q. So you -- had you already dropped off the  
 14 weed?  
 15 A. Yes, sir.  
 16 Q. But you still had weed in your pocket?  
 17 A. Yes, sir. I had 8 grams of marijuana.  
 18 Q. If you knew you were doing a delivery just to  
 19 Sheshe, why did you have extra weed in your pocket?  
 20 Were you going to go to somewhere else to make another  
 21 delivery?  
 22 A. She might have wanted more at the time.  
 23 Q. She didn't tell you when you called her?  
 24 A. She told me she wanted 7 grams, but I took a  
 25 half ounce in case she wanted the whole thing or in

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1 A. No, sir.  
 2 Q. What were you doing for 30 to 45 minutes?  
 3 A. Weighing out the weed, discussing with her,  
 4 you know, what our plan was going to be for the next  
 5 package, and then leaving.  
 6 Q. And you had brought your own scale --  
 7 A. Yes, sir.  
 8 Q. -- or did Sheshe have her own?  
 9 A. I brought my own.  
 10 Q. Okay. How many times have you been to  
 11 Sheshe's house?  
 12 A. A lot.  
 13 Q. Had you driven the car there before?  
 14 A. The children of my mother [sic] has.  
 15 Q. Pardon?  
 16 A. I mean the mother of my children has. I'm  
 17 sorry.  
 18 Q. Okay. You never have?  
 19 A. No, sir.  
 20 Q. This was the first time you ever drove to the  
 21 complex?  
 22 A. Yes, sir.  
 23 Q. Did you talk to Tikiera while you were at  
 24 Sheshe's house?  
 25 A. When I left.

<p style="text-align: right;">Page 118</p> <p>1 Q. Just when you left?</p> <p>2 A. In the parking lot, yeah.</p> <p>3 Q. Well, when you left the apartment, were you</p> <p>4 wearing your glasses?</p> <p>5 A. Yes, sir.</p> <p>6 Q. So you had your glasses on while you were</p> <p>7 driving?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Had your mom called at any point while you</p> <p>10 were at Sheshe's?</p> <p>11 A. No, sir.</p> <p>12 Q. And I think you said when you were pulling</p> <p>13 out of Sheshe's apartment building, which is Villa --</p> <p>14 A. Del Sol.</p> <p>15 Q. -- Del Sol, you saw a bus or a moving truck?</p> <p>16 What was it?</p> <p>17 A. A bus.</p> <p>18 Q. Like a MET bus?</p> <p>19 A. Like a CAT bus.</p> <p>20 Q. Okay.</p> <p>21 A. The older models.</p> <p>22 Q. Was it a one-story or a two-story?</p> <p>23 A. One-story.</p> <p>24 But it was like an extended cab.</p> <p>25 Q. And when -- when you looked to the left, did</p>	<p style="text-align: right;">Page 120</p> <p>1 A. No. I was on the phone before I exited the</p> <p>2 apartments.</p> <p>3 Q. So you weren't on the phone at any time</p> <p>4 before the accident?</p> <p>5 A. Before -- right before the accident.</p> <p>6 Q. Okay. So like --</p> <p>7 A. Before I was getting ready to make a</p> <p>8 left-hand turn into oncoming traffic.</p> <p>9 Q. So you were -- you were stopped at the stop</p> <p>10 sign --</p> <p>11 A. Yes, sir.</p> <p>12 Q. -- getting ready to pull out until --</p> <p>13 A. Well, I was stopped at that -- yeah, the</p> <p>14 entrance of the apartments.</p> <p>15 Q. Villa Del Sol?</p> <p>16 A. Yes. Yes, sir.</p> <p>17 Q. Okay. So you were stopped there waiting to</p> <p>18 pull -- you're waiting for the bus to clear --</p> <p>19 A. Yes, sir.</p> <p>20 Q. -- and then you're going to pull out?</p> <p>21 A. And I put my nose out to signal to the</p> <p>22 traffic that I'm getting ready to make a left-hand</p> <p>23 turn. My turn signal was on, and the bus clears. I</p> <p>24 go and I clear the first lane. The woman speeds up and</p> <p>25 tried to rear [sic] out of it. We collide, and we</p>
<p style="text-align: right;">Page 119</p> <p>1 you see the white car, or did you just see the bus?</p> <p>2 A. I saw -- I saw the white car.</p> <p>3 Q. Where was the white car?</p> <p>4 A. Maybe like six, seven feet away from the bus</p> <p>5 in the second lane. The bus was in the first lane.</p> <p>6 Q. And was the white car ahead of the bus or</p> <p>7 behind the bus?</p> <p>8 A. Behind the bus.</p> <p>9 Q. So it was six or seven feet behind the bus?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And how far away from the bus were you?</p> <p>12 A. I was relatively close. The bus had to pass</p> <p>13 me.</p> <p>14 Q. The bus wasn't stopped?</p> <p>15 A. No, sir. Getting ready to make a stop.</p> <p>16 Q. Well, was the stop before or after your</p> <p>17 driveway?</p> <p>18 A. After, like directly after.</p> <p>19 Q. So it would have had to cross your path and</p> <p>20 then stop?</p> <p>21 A. It would have crossed Villa Del Sol, turn</p> <p>22 into this lane, and then slow down to make its approach</p> <p>23 at the stop.</p> <p>24 Q. And when you're stopped waiting for the bus</p> <p>25 to clear, that's when you were on the phone?</p>	<p style="text-align: right;">Page 121</p> <p>1 both -- we both fishtailed.</p> <p>2 I spin out of control and end up in the</p> <p>3 middle lane, and she ends up in a different lane. I</p> <p>4 run over to her and ask her if she's okay. A patrol</p> <p>5 car was already at the scene a couple -- a couple</p> <p>6 apartments down.</p> <p>7 So the patrol car came and secured the scene</p> <p>8 and called the traffic cop to respond, and we had to</p> <p>9 wait in the car till the traffic cop came. Traffic cop</p> <p>10 said something to the woman and then said something to</p> <p>11 me, could smell the marijuana on my person because it</p> <p>12 was potent and a substantial amount, and asked me if I</p> <p>13 had been smoking.</p> <p>14 I said yes because I wanted to keep the weed</p> <p>15 and the money that I had, and I did not want him to</p> <p>16 find the weed. So I said yes. He pulled me out of the</p> <p>17 car to perform a sobriety test. I failed the sobriety</p> <p>18 test at the time due to being nervous at the time</p> <p>19 because I had marijuana on my person. I didn't want to</p> <p>20 get caught with it.</p> <p>21 And then they put me in cuffs and sat me down</p> <p>22 on the corner. I said do I have to go to jail. He</p> <p>23 said, yes, at this time you're being arrested for DUI,</p> <p>24 chemical solvent. And the woman driving the white car</p> <p>25 was like -- she's like why'd you do that, and I said</p>

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<p>1 it's not what you think, and she's like 2 (demonstrating). 3 Q. Was that the only communication that you had 4 with my client? 5 A. Yes, sir. Besides when I ran to the car and 6 asked her if she was fine. 7 Q. Was the first police officer that showed up 8 the one that smelled weed? 9 A. No, sir. 10 Q. Okay. So the first patrol officer that 11 was -- just happened to be driving by, he wanted to 12 clear the traffic. 13 Did you guys move the cars? 14 A. He wanted to secure the traffic and make sure 15 there wasn't another accident because that's an 16 accident-prone area, and so he wanted to make sure it 17 was secure. And the traffic cop responded, and once he 18 spoke to her and once he spoke to me, he told her to 19 pull the car over to the side, in the middle lane, I 20 think. 21 Q. And did you have to move your car, as well? 22 A. I couldn't move my car. 23 Q. It was -- 24 A. Totaled. 25 Q. -- inoperable?</p>	<p>1 A. Immediately. 2 Q. And at the point you started into the 3 intersection, where was -- where was my client? 4 A. Six or seven feet behind the bus. 5 Q. The bus? 6 A. With enough room for me to make the turn. I 7 was clear. I wouldn't say six or seven feet. I'd say 8 maybe a couple car lengths. 9 Q. Had -- had you nosed out while the -- before 10 the bus was passing? 11 A. Yes, sir, with my turn signal on, with my 12 left turn signal on. 13 Q. Do you think that my client had an 14 opportunity to see you pull out if the bus was six or 15 seven feet ahead of her? 16 A. Definitely. She sped up. 17 Q. Okay. How do you know she sped up? 18 A. I witnessed her speeding up. 19 MR. MAZZEO: It's -- objection, the witness 20 had corrected his prior statement, the six to seven 21 feet, by a couple car lengths between the plaintiff's 22 car and the bus. 23 BY MR. ESCHWEILER: 24 Q. So prior to the time that you had pulled out, 25 you saw -- you saw my client's car?</p>
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<p>1 A. Immobile. 2 Q. And you said something there, this was -- 3 this was an accident-prone area? 4 A. Yes, sir. 5 Q. Why do you think that? 6 A. Because it's an accident-prone area. 7 Q. So you've seen many accidents there? 8 A. Yes, sir. 9 Q. And what -- what kind of accidents? 10 A. Pedestrians being hit, people on mopeds being 11 hit, other car accidents, heavy traffic and narrow 12 lanes. 13 Q. So you've -- you've been to that intersection 14 and that driveway before? 15 A. Yeah. 16 Q. Many times? 17 A. I'd been to that area, yes, sir. 18 Q. Do you think when you were on the phone it 19 was distracting you from concentrating on the road? 20 A. No, sir. 21 Q. How long -- and you said the bus had cleared, 22 correct? 23 A. Yes, sir. 24 Q. How long after the bus had cleared before 25 you -- you proceeded into the intersection?</p>	<p>1 A. Yes, sir. 2 Q. And you said that was approximately how far 3 from the intersection? 4 A. A few car lengths. 5 Q. How far was the bus from you? 6 A. It just cleared. 7 Q. Okay. 8 A. Pretty close. 9 Q. And then you hit my client's car? 10 A. We collided. 11 Q. Okay. Well, why -- is there a distinction 12 between you hitting and there being a collision? 13 A. Me hitting means I ran into her, and 14 collision means an accident. 15 Q. You didn't run into her? 16 A. I mean, I ran into her, yeah. Not 17 deliberately. 18 Q. How fast were you going at the impact, do you 19 think? 20 A. I accelerated to make that left turn. 21 Q. Do you have an estimate of how fast you were 22 going? 23 A. Maybe like 20 to 30 miles an hour, for a 24 short distance. 25 Q. And once you guys hit, you said that you</p>

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<p>1 spun, correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And you were -- you were in this -- in the</p> <p>4 middle lane?</p> <p>5 A. I landed in the middle lane, yes.</p> <p>6 Q. And she spun, and was she in oncoming</p> <p>7 traffic?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. So you go over to see if she's okay?</p> <p>10 A. Immediately.</p> <p>11 Q. Okay. And she said, yes, I'm okay; I'm --</p> <p>12 A. She said --</p> <p>13 Q. -- calling the police?</p> <p>14 A. She said I'm okay; I'm fine. Go back to your</p> <p>15 car and stay in your car until the police come.</p> <p>16 Q. Okay.</p> <p>17 A. I said you're calling the police. She said</p> <p>18 yes. I said, oh, and then handled my situation that</p> <p>19 was happening in the car.</p> <p>20 Q. Okay. So you --</p> <p>21 A. Marijuana and the scale and the money.</p> <p>22 Q. When you got back to the car, did you make</p> <p>23 any phone calls?</p> <p>24 A. I called the mother of my children to let her</p> <p>25 know that I was in an accident, upon which time she --</p>	<p>1 because I had the marijuana on my person, and I didn't</p> <p>2 want to be caught with that.</p> <p>3 Because I was already facing two possession</p> <p>4 charges. I already had two possession of marijuana</p> <p>5 charges, and in the state of Nevada, if you get caught</p> <p>6 with three possession of marijuana charges, you do a</p> <p>7 year in county, and that was not an option.</p> <p>8 Q. So your testimony today is that you lied to</p> <p>9 the cop in order to avoid jail?</p> <p>10 A. My testimony has remained the same the whole</p> <p>11 time.</p> <p>12 Q. Okay. And then the reason that you failed a</p> <p>13 sobriety test was not that you were impaired from</p> <p>14 marijuana but that you were nervous about taking the</p> <p>15 test?</p> <p>16 A. I was nervous about being that close to an</p> <p>17 officer with that much weed on me. I was nervous about</p> <p>18 my current situation.</p> <p>19 Q. So it wasn't -- it wasn't any impairment from</p> <p>20 any marijuana?</p> <p>21 A. No, sir.</p> <p>22 Q. Anyone besides what we've talked about, the</p> <p>23 police officer, my client with the two -- I think you</p> <p>24 had two conversations with my client, correct?</p> <p>25 A. Yeah.</p>
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<p>1 I don't know what the situation was with my mother, but</p> <p>2 upon which time she called Sheshe and had everyone run</p> <p>3 out to make sure I was okay.</p> <p>4 Q. Okay. So Sheshe and whoever was at the</p> <p>5 apartment where you had just sold marijuana came to the</p> <p>6 accident scene?</p> <p>7 A. Yes, sir. It was right outside.</p> <p>8 Q. Did you have a conversation with Sheshe and</p> <p>9 the people?</p> <p>10 A. Yeah, I had a -- I had a conversation with</p> <p>11 the people that were out there.</p> <p>12 Sheshe wasn't out there, but the kids that</p> <p>13 were out there, because they asked me why I didn't run,</p> <p>14 and I had to explain that that was my mom's car, and</p> <p>15 I'm in better shape going to jail than going to home</p> <p>16 with a broken car.</p> <p>17 Q. Other than talking to my client immediately</p> <p>18 after the accident and then the people from Sheshe's</p> <p>19 apartment, did you talk to anybody else?</p> <p>20 A. Just the police officer.</p> <p>21 Q. And you said that when you talked to the</p> <p>22 police officer, you admitted that you smoked marijuana?</p> <p>23 A. He said, oh, God -- he's standing outside the</p> <p>24 car, and he said, oh, God, you smell like a Christmas</p> <p>25 tree. Have you been smoking? I said, yeah, yeah,</p>	<p>1 Q. Initially and then at some point she -- she</p> <p>2 was out of the car, as well?</p> <p>3 A. Yes. She was standing on the curb trying to</p> <p>4 figure out what was going on with me, looking around,</p> <p>5 trying to say things to my friends. My friends just</p> <p>6 went I don't know. They didn't -- they didn't speak to</p> <p>7 her. They said we're just out here to make sure he's</p> <p>8 okay.</p> <p>9 Q. Okay.</p> <p>10 A. And so she saw that I was placed under arrest</p> <p>11 and sitting on the curb, and she said why would you do</p> <p>12 that, and I said it's not what you think, and she</p> <p>13 said -- she kind of rolled her eyes and waived her hand</p> <p>14 at me.</p> <p>15 Q. Was she upset?</p> <p>16 A. She was crying.</p> <p>17 Q. Okay. Why did you --</p> <p>18 MR. MAZZEO: I'm sorry. She was what?</p> <p>19 THE WITNESS: Crying.</p> <p>20 MR. MAZZEO: Crying?</p> <p>21 THE WITNESS: Yes, sir.</p> <p>22 BY MR. ESCHWEILER:</p> <p>23 Q. Why didn't you call the police?</p> <p>24 A. Because she had already responded [sic] to</p> <p>25 the police, and the police were already at the</p>

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<p>1 location.</p> <p>2 Q. Well, what were the sobriety tests that they</p> <p>3 gave you or that the officer gave you?</p> <p>4 A. Take a few steps, stand on one foot, touch</p> <p>5 your nose. Repeat the same process with the opposite</p> <p>6 limbs.</p> <p>7 Q. That's it --</p> <p>8 A. Yes, sir.</p> <p>9 Q. -- those three?</p> <p>10 A. Yeah. Take a couple paces, stand on one</p> <p>11 foot, touch your nose, step down, take a few paces</p> <p>12 back, stand on one foot, touch your nose, follow my</p> <p>13 eyes -- follow my finger with your eyes.</p> <p>14 Q. Did the officer say which of the sobriety</p> <p>15 tests that you actually failed?</p> <p>16 A. All of them.</p> <p>17 Q. Okay.</p> <p>18 A. I received -- when we got to the jail --</p> <p>19 MR. MAZZEO: There's no question pending,</p> <p>20 objection.</p> <p>21 BY MR. ESCHWEILER:</p> <p>22 Q. Go ahead. What were you going to say?</p> <p>23 MR. STRASSBURG: What's the question?</p> <p>24 BY MR. ESCHWEILER:</p> <p>25 Q. All right. What were you going to say?</p>	<p>1 A. Chemical solvent.</p> <p>2 Q. -- and then possession of weed?</p> <p>3 A. I got arrested at the scene for a DUI,</p> <p>4 chemical solvent, a bunch of traffic violations, and</p> <p>5 the possession charge was added once I was at the jail.</p> <p>6 Q. And what were the traffic violations?</p> <p>7 A. Failure to yield, driving without a license.</p> <p>8 I don't know.</p> <p>9 Q. Do you remember anything else?</p> <p>10 A. No, sir.</p> <p>11 MR. ESCHWEILER: Okay. Why don't we take a</p> <p>12 ten-minute break.</p> <p>13 THE VIDEOGRAPHER: Off the video record at</p> <p>14 12:37.</p> <p>15 (Recess taken from 12:37 p.m. to 1:05 p.m.)</p> <p>16 THE VIDEOGRAPHER: This is the beginning of</p> <p>17 Videotape No. 3 in the continued deposition of Jared</p> <p>18 Awerbach. Back on the video record at 1:05.</p> <p>19 BY MR. ESCHWEILER:</p> <p>20 Q. Mr. Awerbach, you understand you're still</p> <p>21 under oath?</p> <p>22 A. Yes, sir.</p> <p>23 Q. At the end of the last session, before we</p> <p>24 took a break, you were -- you were explaining the</p> <p>25 accident.</p>
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<p>1 MR. STRASSBURG: Go ahead.</p> <p>2 THE WITNESS: I received traffic violations</p> <p>3 at the scene. They recovered the marijuana on my</p> <p>4 person at the scene. The same cops that came to secure</p> <p>5 the scene that were already there were the transport</p> <p>6 cops.</p> <p>7 And when I went to the jail, they searched me</p> <p>8 in the jail, and they asked me if I was sure I didn't</p> <p>9 have any weed on me before I crossed the red line, and</p> <p>10 I said, yeah, man, I've got some weed on me, and they</p> <p>11 pulled it out.</p> <p>12 And the traffic cop came -- came out of the</p> <p>13 back making a statement and said where'd this come</p> <p>14 from. I said I had it on me the whole time. He said</p> <p>15 so you're not as stupid as your face. I said, no, sir.</p> <p>16 He said you know I have to charge you for this; so it</p> <p>17 was a traffic violation and then the possession charge.</p> <p>18 BY MR. ESCHWEILER:</p> <p>19 Q. Did -- when he administered the sobriety</p> <p>20 test, did you think that you had passed?</p> <p>21 A. I was trying to.</p> <p>22 Q. So you were giving it your best effort?</p> <p>23 A. At the time, yes, sir.</p> <p>24 Q. And, ultimately, so you got arrested for</p> <p>25 DUI--</p>	<p>1 A. Yes, sir.</p> <p>2 Q. And you said that when you were stopped at</p> <p>3 the driveway, that you saw the bus and you saw my</p> <p>4 client six or seven feet or perhaps up to two car</p> <p>5 lengths behind the bus; is that correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. If you saw her before pulling out, why didn't</p> <p>8 you just wait for her to clear the driveway?</p> <p>9 A. I wasn't -- I hadn't spoken correctly at the</p> <p>10 time. I saw her car lengths distance away. I</p> <p>11 thought it was -- we were talking about a different</p> <p>12 location.</p> <p>13 Q. Okay. So what -- do you want to revise your</p> <p>14 testimony?</p> <p>15 A. Yes, sir, I would like to do that.</p> <p>16 Q. Okay. And so when you saw my client when you</p> <p>17 were stopped at the driveway, how far behind the bus</p> <p>18 was she?</p> <p>19 A. Three or four car lengths away.</p> <p>20 Q. Okay. So three or four car lengths?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And then you -- you edged out into the</p> <p>23 intersection.</p> <p>24 You waited for the bus to pass, correct?</p> <p>25 A. Yes, sir.</p>

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<p>1 against you when -- when those issues came up?</p> <p>2 A. Quite a lot.</p> <p>3 Q. And what would she do?</p> <p>4 A. Call my probation officer.</p> <p>5 Q. Who was your probation officer?</p> <p>6 A. Scott Walton.</p> <p>7 Q. How long were you on probation?</p> <p>8 A. Two years.</p> <p>9 Q. Was your probation ever revoked?</p> <p>10 A. No, sir.</p> <p>11 Q. Did they drug test you?</p> <p>12 A. Yes, sir.</p> <p>13 I was in the drug court program as a</p> <p>14 juvenile.</p> <p>15 Q. Well, were you clean, or were you using</p> <p>16 synthetic urine?</p> <p>17 A. I was clean.</p> <p>18 Q. So you stayed clean for two years?</p> <p>19 A. I had quite a few relapses, and I failed out.</p> <p>20 I ended up serving time and then returned to the</p> <p>21 juvenile drug court program to complete the program, in</p> <p>22 which I completed it.</p> <p>23 Q. Why did you get transferred to Odyssey, then?</p> <p>24 A. Because I relapsed too many times.</p> <p>25 Q. So at one -- at some point you were kicked</p>	<p>1 convicted of it.</p> <p>2 Q. Where does it stand right now?</p> <p>3 A. Waiting on a court date.</p> <p>4 Q. So other than that -- other than that pending</p> <p>5 charge, do you have any other arrests subsequent to</p> <p>6 this accident?</p> <p>7 A. After the accident? Besides the raid in</p> <p>8 March, no.</p> <p>9 Q. I believe we talked -- we talked about the</p> <p>10 raid --</p> <p>11 A. Raid.</p> <p>12 Q. -- the domestic violence, and now the --</p> <p>13 A. No, sir.</p> <p>14 Q. That's it?</p> <p>15 Are you on -- you're not on parole or</p> <p>16 probation right now, correct?</p> <p>17 A. No, sir.</p> <p>18 Q. Do you have an attorney for the felony count</p> <p>19 on the spice?</p> <p>20 A. No, sir.</p> <p>21 Q. Have they actually filed charges against you?</p> <p>22 A. No, sir.</p> <p>23 MR. MAZZEO: Corey, can we turn off the AC,</p> <p>24 want to turn it down a little bit; do you mind?</p> <p>25 MR. ESCHWEILER: Sure.</p>
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<p>1 out of the drug program?</p> <p>2 A. Yeah. Not kicked out. You go serve time,</p> <p>3 and you return back to --</p> <p>4 Q. Okay.</p> <p>5 A. That's how the juvenile --</p> <p>6 Q. So --</p> <p>7 A. -- drug court program worked.</p> <p>8 Q. And then when you returned back and relapsed</p> <p>9 again, that's when they sent you to Odyssey?</p> <p>10 A. No. I relapsed, sent me to Odyssey, came</p> <p>11 home, graduated the program.</p> <p>12 Q. Okay. Subsequent to the accident, we talked</p> <p>13 about -- I think it was March 2011 where you were</p> <p>14 raided.</p> <p>15 Other than that have you been arrested for</p> <p>16 felony possession of narcotics subsequent to that?</p> <p>17 A. I have a controlled substance charge. I was</p> <p>18 arrested and cited for possession of spice, and I have</p> <p>19 yet to follow up on that.</p> <p>20 Q. I apologize. What's spice?</p> <p>21 A. Spice is a product that they sell in smoke</p> <p>22 shops. It's an incense, and they have labeled it as a</p> <p>23 controlled substance.</p> <p>24 Q. Was this a felony?</p> <p>25 A. It's a felony conviction, yes. I'm not</p>	<p>1 THE VIDEOGRAPHER: Mic.</p> <p>2 MR. MAZZEO: Thanks.</p> <p>3 BY MR. ESCHWEILER:</p> <p>4 Q. Well, we've talked a little bit about your</p> <p>5 treatment and counseling before the accident. We've</p> <p>6 talked about the drug program, Odyssey.</p> <p>7 Was there any other facilities that you</p> <p>8 utilized prior to this accident for drug treatment or</p> <p>9 rehabilitation?</p> <p>10 A. No, sir.</p> <p>11 Q. And the drug court program and Odyssey, was</p> <p>12 your mom required to be involved in those programs?</p> <p>13 A. She was not required to be involved, but she</p> <p>14 chose to take an active position.</p> <p>15 Q. During any --</p> <p>16 MR. ESCHWEILER: Did I not get it?</p> <p>17 MR. MAZZEO: I think the fan was on. I think</p> <p>18 it's off now. I don't know.</p> <p>19 BY MR. ESCHWEILER:</p> <p>20 Q. Did she actually go to counseling sessions</p> <p>21 with you?</p> <p>22 A. Yes, sir.</p> <p>23 Q. In any of the times when your mom attended</p> <p>24 sessions or therapy with you, did you admit that you</p> <p>25 had been dealing drugs?</p>

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<p>1 A. No, sir.</p> <p>2 Q. Never admitted that --</p> <p>3 A. No, sir.</p> <p>4 Q. -- at counseling or therapy?</p> <p>5 A. No, sir. Not that I recollect.</p> <p>6 Q. And how long were you at Odyssey?</p> <p>7 A. Six months.</p> <p>8 Q. And you said that's in Salt Lake?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you know what the time frame was when you</p> <p>11 were there, what year?</p> <p>12 A. I was sixteen. I think 2008.</p> <p>13 Q. 2009?</p> <p>14 A. 2008.</p> <p>15 Q. Okay. What kind of program was Odyssey?</p> <p>16 A. A therapeutic group home.</p> <p>17 Q. Were you also going to class and school</p> <p>18 there?</p> <p>19 A. Yeah. It's -- they have school inside the</p> <p>20 facility.</p> <p>21 Q. Did your mom come visit you there?</p> <p>22 A. Yes, sir.</p> <p>23 Q. How many times in the six months?</p> <p>24 A. Three or four. And I would receive weekend</p> <p>25 visits, and we'd go to a hotel in Salt Lake because we</p>	<p>1 A. Yes, sir.</p> <p>2 Q. How often were you seeing the chiropractor</p> <p>3 after the eye injury?</p> <p>4 A. Two, three times week. Sometimes we'd stop,</p> <p>5 we'd go to another chiropractor, and we'd pick up</p> <p>6 somewhere else.</p> <p>7 Q. After the eye injury, why were you seeing the</p> <p>8 chiropractor?</p> <p>9 A. Due to the damage that might have been</p> <p>10 caused, my spine, my equilibrium, from the fall, damage</p> <p>11 that was caused at the actual assault.</p> <p>12 Q. So you had problems with your equilibrium, as</p> <p>13 well, after the assault in November of 2005?</p> <p>14 A. Yes, sir, as my body was beginning to</p> <p>15 readjust to accommodate the injuries.</p> <p>16 Q. Were you -- did this accident aggravate those</p> <p>17 injuries?</p> <p>18 A. No, sir.</p> <p>19 Q. Why were you seeing the chiropractor after</p> <p>20 this accident, then?</p> <p>21 A. Because the chiropractor was part of our</p> <p>22 lifestyle at the time.</p> <p>23 Q. So you -- you didn't go to see him because of</p> <p>24 anything related to the accident; it was just the</p> <p>25 equilibrium problems and the previous spine problems?</p>
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<p>1 weren't -- we didn't live there. Excuse me.</p> <p>2 Q. Subsequent to the accident, have you had any</p> <p>3 rehabilitation or drug counseling?</p> <p>4 A. I'm unaware of what "subsequent" means in</p> <p>5 this sentence.</p> <p>6 Q. After the accident.</p> <p>7 A. Yes, sir. I just received treatment from</p> <p>8 February 10th to March 18th.</p> <p>9 Q. And that was related to your use of drugs?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And that was when you were at Rawson?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Did you receive any injuries from the</p> <p>14 accident?</p> <p>15 A. Not that I can remember.</p> <p>16 Q. You don't remember any treatment that you</p> <p>17 received?</p> <p>18 A. No. We saw a chiropractor afterwards.</p> <p>19 Q. How many times?</p> <p>20 A. Two, three times a week.</p> <p>21 Q. For how long?</p> <p>22 A. A few months.</p> <p>23 But a chiropractor, I have been seeing a</p> <p>24 chiropractor since the assault.</p> <p>25 Q. The one where you had the eye injury?</p>	<p>1 A. No, sir.</p> <p>2 Q. Tell me. I'm confused, then.</p> <p>3 A. No, sir, the chiropractor visits were not</p> <p>4 related to the injury.</p> <p>5 Q. Okay.</p> <p>6 A. Or the chiropractor visits were not related</p> <p>7 to the accident. Excuse me.</p> <p>8 Q. What's the name of your chiropractor?</p> <p>9 A. I was at Active Life.</p> <p>10 Q. Who was the chiro?</p> <p>11 A. I don't remember his name.</p> <p>12 Q. Was there anybody else that you saw over</p> <p>13 there, maybe a physician's assistant?</p> <p>14 A. No.</p> <p>15 Q. What location?</p> <p>16 A. Simmons and Craig. Simmons and La Madre, I</p> <p>17 think the street is called.</p> <p>18 Q. Was your mom treating there, too?</p> <p>19 A. Yes, sir.</p> <p>20 Q. So you would have been treating there since</p> <p>21 2010?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Are you still treating there?</p> <p>24 A. No, sir.</p> <p>25 Q. When was the last time you saw anybody at</p>

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<p>1 Active Life Chiro?</p> <p>2 A. 2010.</p> <p>3 Q. Did you ever get referred to a specialist for</p> <p>4 the equilibrium or spine problems?</p> <p>5 A. Just the retina specialist.</p> <p>6 And I had -- I would wear protective lenses</p> <p>7 when I played sports.</p> <p>8 Q. And you said that the car at the accident</p> <p>9 scene was undriveable, correct?</p> <p>10 A. Totaled.</p> <p>11 Q. Ultimately, did they total it out?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Do you know what the amount of damage was?</p> <p>14 A. No, sir.</p> <p>15 Q. In social media do you go by the name Young</p> <p>16 Glasses?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Well, what's the significance of that?</p> <p>19 A. It's my nickname.</p> <p>20 Q. Why?</p> <p>21 A. That's the name I was given at 1827 West</p> <p>22 Gowan.</p> <p>23 Q. Why?</p> <p>24 A. That's my name.</p> <p>25 Q. But why were you given the name?</p>	<p>1 laws are from the Old Testament. Basically, the</p> <p>2 knowledge of the origin of the Bible is in the Old</p> <p>3 Testament.</p> <p>4 Q. And what -- what's -- what makes Song of</p> <p>5 Solomon your -- one of your favorite books?</p> <p>6 A. It's sweet.</p> <p>7 Q. What's that?</p> <p>8 A. It's sweet.</p> <p>9 Q. Why is that? Why is --</p> <p>10 A. It's a poem.</p> <p>11 Q. That's it?</p> <p>12 A. It's the song of songs.</p> <p>13 Q. We're going to go through some documents.</p> <p>14 I'll try to make this as quick as possible.</p> <p>15 MR. ESCHWEILER: Let's mark this as 1.</p> <p>16 (Exhibit No. 1 was marked for</p> <p>17 identification.)</p> <p>18 BY MR. ESCHWEILER:</p> <p>19 Q. Mr. Awerbach, I'm showing you what's been</p> <p>20 marked as Exhibit 1 to your deposition.</p> <p>21 If you could, turn to the page labeled</p> <p>22 GJL249. It's four pages in.</p> <p>23 A. (Witness complied.)</p> <p>24 Q. The number's on the bottom right corner.</p> <p>25 A. Got it.</p>
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<p>1 A. Because I wear glasses.</p> <p>2 Q. Who gave it to you?</p> <p>3 A. Some of my friends. That's --</p> <p>4 Q. That --</p> <p>5 A. That's actually my alias.</p> <p>6 Q. And I noticed on -- I don't know if it's</p> <p>7 Facebook or what, but I noticed that one of your</p> <p>8 favorite books is the Bible.</p> <p>9 A. Yes, sir.</p> <p>10 Q. Do you have any favorite verses or passages?</p> <p>11 A. I like Psalms 51. I'm fond of the Song of</p> <p>12 Solomon, as well.</p> <p>13 Q. Of the what?</p> <p>14 A. Song of Solomon. I'm an Old Testament kind</p> <p>15 of guy.</p> <p>16 Q. Why's that?</p> <p>17 A. The Old Testament is intense.</p> <p>18 Q. What do you mean, "intense"?</p> <p>19 A. The story of the Jews, the prophets,</p> <p>20 how it's -- the story of how Jesus came to be.</p> <p>21 Q. Why does that interest you?</p> <p>22 A. Because I grew up with -- I grew up in the</p> <p>23 church with the knowledge of Jesus and Jesus' stories</p> <p>24 and the disciples. I grew up with that. I had</p> <p>25 never -- I had never read the Old Testament, and our</p>	<p>1 Q. This is a State of Nevada Traffic Accident</p> <p>2 Report related to this accident.</p> <p>3 A. Yes, sir.</p> <p>4 Q. Have you seen this before?</p> <p>5 A. No, sir.</p> <p>6 Q. I'd like you to take a look at the</p> <p>7 description of the accident. It says Vehicle 2 was</p> <p>8 traveling southbound Rainbow Boulevard in the left of</p> <p>9 two travel lanes approaching Peak Drive. Vehicle 1 was</p> <p>10 traveling eastbound in a private drive north of Peak</p> <p>11 Drive approaching Rainbow Boulevard.</p> <p>12 Vehicle 1 stated that he thought that Rainbow</p> <p>13 Boulevard was clear of traffic. Vehicle 1 then</p> <p>14 traveled onto Rainbow Boulevard into the path of</p> <p>15 Vehicle 2 causing Vehicle 1 front to hit Vehicle 2</p> <p>16 right.</p> <p>17 Did I read that accurately?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Do you -- do you disagree with that rendition</p> <p>20 of -- from the police officer on how this accident</p> <p>21 happened?</p> <p>22 MR. MAZZEO: Objection, the document speaks</p> <p>23 for itself.</p> <p>24 THE WITNESS: She was already on Rainbow.</p> <p>25 ///</p>

<p style="text-align: right;">Page 170</p> <p>1 BY MR. ESCHWEILER:</p> <p>2 Q. So you disagree with this?</p> <p>3 MR. MAZZEO: I have one other objection. Can</p> <p>4 we establish what V1 and V2 is?</p> <p>5 MR. ESCHWEILER: Sure.</p> <p>6 BY MR. ESCHWEILER:</p> <p>7 Q. Do you understand who Vehicle 1 and Vehicle 2</p> <p>8 is?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Pardon?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay.</p> <p>13 A. I believe Vehicle 2 was already on Rainbow.</p> <p>14 Q. Okay. And doesn't it say Vehicle 2 was</p> <p>15 traveling southbound on Rainbow in the left of two</p> <p>16 travel lanes?</p> <p>17 A. Oh, yes, sir. I confused Vehicle 1 with</p> <p>18 Vehicle 2.</p> <p>19 Q. So --</p> <p>20 A. I apologize.</p> <p>21 Q. -- do you have any disagreement with this</p> <p>22 Traffic Accident Report?</p> <p>23 MR. STRASSBURG: Object to the form,</p> <p>24 foundation.</p> <p>25 THE WITNESS: No, sir.</p>	<p style="text-align: right;">Page 172</p> <p>1 BY MR. ESCHWEILER:</p> <p>2 Q. If you go to the last page of this exhibit,</p> <p>3 GJL255, I'm looking at the inventory of personal</p> <p>4 property. We -- over to the right, it says there was</p> <p>5 four tapes or CDs, and we had already discussed that</p> <p>6 you had a couple CDs and maybe a couple DVDs,</p> <p>7 correct --</p> <p>8 A. Yes, sir.</p> <p>9 Q. -- in the car; so those were yours?</p> <p>10 Were the two black phone chargers yours, as</p> <p>11 well?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What about the gray phone charger?</p> <p>14 A. Yes, sir.</p> <p>15 Q. The black hoodie?</p> <p>16 A. Yes, sir.</p> <p>17 Q. I assume the car seat was for Khaliyah?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Sketch book for Khaliyah?</p> <p>20 A. Yes, sir.</p> <p>21 Q. The menorah box, who was that for?</p> <p>22 A. My family is Jewish.</p> <p>23 Q. Okay. So was that yours? Was that -- whose</p> <p>24 was that?</p> <p>25 A. Our family's.</p>
<p style="text-align: right;">Page 171</p> <p>1 BY MR. ESCHWEILER:</p> <p>2 Q. And in the -- in the lower right, there's a</p> <p>3 box that says failed to yield right-of-way; do you see</p> <p>4 that?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Would you -- do you agree that it was your</p> <p>7 obligation to yield the right-of-way to my client?</p> <p>8 A. Yes, sir. I felt that I yielded to the bus</p> <p>9 at the time.</p> <p>10 Q. Okay. If we move over to GJL250, I'm looking</p> <p>11 at the box down -- it's the bottom right, where he has</p> <p>12 drugs marked. There's an X, and then method of</p> <p>13 determination, it says driver admission; do you see</p> <p>14 that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And then this is consistent with -- with your</p> <p>17 testimony today that you admitted that you smoked</p> <p>18 marijuana at the scene of the accident, correct?</p> <p>19 A. Yes, sir. That is what I had said to the</p> <p>20 police officer.</p> <p>21 MR. MAZZEO: Well, actually, he admitted at</p> <p>22 the scene of the accident that he had smoked marijuana,</p> <p>23 not that he had smoked it at the scene of the accident.</p> <p>24 THE WITNESS: Yes, sir.</p> <p>25 ///</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. Okay. Brown teddy bear, Khaliyah?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And miscellaneous clothing items, were those</p> <p>4 yours?</p> <p>5 A. They probably belonged to all of us.</p> <p>6 Q. Okay. And then underneath it says additional</p> <p>7 remarks, vehicle damage. Vehicle involved in wreck,</p> <p>8 extensive damage to front of vehicle.</p> <p>9 Did I read that correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Was that your -- what you witnessed, as well,</p> <p>12 at the scene of the accident?</p> <p>13 A. Yes, sir.</p> <p>14 MR. ESCHWEILER: We'll mark this as 2.</p> <p>15 (Exhibit No. 2 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. ESCHWEILER:</p> <p>18 Q. Mr. Awerbach, I'm showing you what's been</p> <p>19 marked as Exhibit 2 to your deposition. This is a</p> <p>20 printout from the State of Nevada Department of Motor</p> <p>21 Vehicle Central Services, Records Division. I want you</p> <p>22 to look at the Roman Numeral I where it says license</p> <p>23 information.</p> <p>24 A. Yes, sir.</p> <p>25 Q. Do you -- do you see that -- where it says</p>

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<p>1 original issue date right under driver's license 2 number? 3 A. Yes, sir. 4 Q. There's a date 3/31/2011, correct? 5 A. Yes, sir. 6 Q. Well, were you ever issued a license on 7 3/31/2011? 8 A. Not that I remember. 9 Q. Is that when you tried to get your permit? 10 A. No, sir. 11 Or wait. Yes, sir. 12 Q. So the 3/31/2011 is when you tried to get 13 your permit? 14 A. Yes, sir. I apologize. I was confusing 2011 15 with 2012. 16 Q. So this is the time when you went and took 17 the test and then didn't have enough money to pay for 18 the permit? 19 A. Yes, sir. 20 Q. And this is approximately two months after 21 the accident, right? 22 A. No, sir. No, sir. I apologize. This is 23 approximately two months after the accident. I'm 24 confusing 2011 with 2010. 25 Q. Okay. So you don't believe that you tried to</p>	<p>1 listing. The citation date is November 3rd, 2010. 2 Do you see that? 3 A. Yes, sir. 4 Q. Conviction date, 3/15/2011? 5 A. Yes, sir. 6 Q. Is this what you were talking about on the 7 broken headlight and then driving without a license? 8 A. Yes, sir. 9 Q. Do you have any idea how many times you've 10 been booked on a bench warrant? 11 A. No, sir. 12 Q. More than five? 13 A. Yes, sir. 14 Q. And what -- typically, why would you get 15 arrested for a bench warrant? 16 A. I lived my life on the run. 17 Q. So -- 18 A. At that time. 19 Q. So failing to appear for court dates? 20 A. Yes, sir. 21 Q. And you don't recall ever being -- 22 A. And -- 23 Q. Pardon me. I'm sorry. Go ahead. 24 A. At the time I wanted my situation to be that 25 if I was arrested, only the marshals could pick me up</p>
Page 175	Page 177
<p>1 get your permit on March 31st, 2011? 2 A. I had went to go get my permit in 2010. 3 Q. Okay. 4 A. I apologize. 5 Q. In going down to the -- to the next ID card 6 details -- 7 A. Yes, sir. 8 Q. -- do you see issue date 2/21/13? 9 A. Yes, sir. 10 Q. Did you -- did you get a new ID card in 2013? 11 A. Yes, sir. 12 Q. So the ID card that you were issued in 2010 13 expired? 14 A. Yes, sir. 15 I had a hole punched in it after the raid. 16 Q. Well, what's the hole punch mean? 17 A. It's invalid. 18 Q. And then if you move down to license detail, 19 it says type, class, status, and under that it says 20 revoked; do you see that? 21 A. Yes, sir. 22 Q. And do you know what -- why your permit was 23 revoked? 24 A. Not following up with the -- six months. 25 Q. And then at the bottom it says conviction</p>	<p>1 because the marshals are the ones that obtain you 2 for -- for warrants. That way I could avoid questions 3 from police officers. 4 Q. And you -- you said that you didn't believe 5 that you've ever been jailed for contempt; is that 6 correct? 7 A. No, sir, I haven't. 8 Q. Do you remember being arrested on a bench 9 warrant in August of 2012? 10 A. August. Excuse me. 11 Q. And the judge imposing a sentence of 25 days 12 for contempt? 13 A. That was the DUI charge. 14 Q. So you -- was it because you had failed to 15 complete part of the sentencing? 16 A. Because I never followed up with the 17 consequences to the DUI. 18 Q. Well, which part of the consequences? 19 A. Traffic school. 20 Q. Okay. Mr. Awerbach, I'm going to show you 21 what's been marked as Exhibit 3 to your deposition. 22 (Exhibit No. 3 was marked for 23 identification.) 24 BY MR. ESCHWEILER: 25 Q. I'm showing you Exhibit 3. It's a document</p>

Page 178	Page 180
<p>1 entitled defendant Jared Awerbach's opposition in 2 response to Andrea Awerbach's motion for summary 3 judgment. 4 I'm going to represent to you that this was a 5 document filed by your attorneys, Resnick &amp; Louis, in 6 this matter. I want you to turn to page 2 to begin. 7 I'm going to read a couple of these statements, and I 8 want you to tell me if they're accurate or not. 9 Under the section that says argument, the 10 second sentence, it says it is true that on 11 January 2nd, 2011, the day of the motor vehicle 12 accident that gives rise to -- gives rise to 13 plaintiff's amended -- strike that -- gives rise to 14 plaintiff's complaint and amended complaint, that 15 Andrea Awerbach did not give Jared permission to drive 16 her car. 17 Do you agree with that? 18 A. Yes, sir. 19 Q. The next sentence: It is also true that both 20 Jared and Andrea agree that there were times when Jared 21 drove his mother's car without permission. 22 A. Yes, sir. 23 Q. Do you agree? 24 A. Yes, sir. 25 Q. However, Jared has always said that there</p>	<p>1 the counter. She usually had them. 2 Q. Okay. 3 A. Leaving them out and about wasn't a constant 4 thing that she would do. 5 Q. She did leave them on the counter, though? 6 A. She left them on the counter the day of the 7 accident, yes, sir. 8 Q. Okay. And how much -- and prior to the day 9 of the accident, she had left them on the counter 10 previously, correct? 11 A. From time to time. 12 Q. Going to the page 3, to the next page, the 13 second sentence under No. 6: Prior to January 2nd, 14 2011 -- prior to the January 2nd, 2011, accident, 15 Andrea allowed Jared to drive her car -- drive her 16 vehicle both to run errands and to drive to work. 17 That was correct, right? 18 A. Yes, sir. 19 Q. With respect to the issue of permission to 20 drive Andrea's vehicle, Jared has at all times said 21 that Andrea gave him permission to drive her car in the 22 past, but he did not have permission the day of the 23 accident. 24 Do you agree with that? 25 A. Yes, sir.</p>
Page 179	Page 181
<p>1 were times when he drove Andrea's car with her 2 permission prior to January 2nd, 2011. 3 Do you agree with that? 4 A. Yes, sir. 5 Q. Additionally, from Jared's first very -- very 6 first interview with the insurance company through the 7 present time, Jared has consistently maintained that 8 Andrea usually left her car keys on the counter, and 9 she left them on the counter the day of the accident. 10 Do you agree with that statement? 11 A. No, sir. 12 Q. What don't you agree with? 13 A. My original statement was given while I was 14 in custody at North Las Vegas. I signed for it on the 15 14th. It was issued on the 21st. I never got to 16 revise -- I never got to review it. 17 Q. Well, what do you mean? 18 A. A man named Lee Grant came to speak to me 19 while I was in custody. He had me sign a piece of 20 paper on the 14th and typed up a report and issued it 21 on the 21st. I never got to review it before signing 22 it. 23 Q. My question to you is: What don't you agree 24 with in that statement? 25 A. The fact that she usually leaves her keys on</p>	<p>1 Q. Did your mom ever lock the keys anywhere? 2 A. Yes, sir. 3 Q. Where would she lock them? 4 A. In a lockbox or she would hide them, or she'd 5 take both sets with her. 6 Q. What do you mean, "she'd take both sets with 7 her"? 8 A. She'd take the spare key and the other key 9 with her. 10 Q. And then leave the house? 11 A. Yeah. Or she'd keep it in her pocket, or 12 she'd hide them somewhere. 13 Q. But if the car wasn't there, though, you 14 wouldn't be able to drive it, correct? 15 A. Yes, sir. 16 Q. And did you know where her hiding spots were? 17 A. Not at that time, no. 18 Q. And you said previously that you -- if you 19 wanted to, you could get into the lockbox, correct? 20 A. Very previous to the accident, almost years 21 previous to the accident. 22 Q. I'll show you what's been marked as 23 Exhibit 4. 24 (Exhibit No. 4 was marked for 25 identification.)</p>

<p style="text-align: right;">Page 182</p> <p>1 BY MR. ESCHWEILER:  2 Q. I'm handing you Exhibit 4, a document  3 entitled recorded statement of Jared Awerbach taken  4 January 6th, 2011.  5 Do you remember giving a recorded statement  6 to a woman named Teresa Meraz four days after the  7 accident?  8 A. Yes, sir.  9 Q. And if I can turn your attention to page 7,  10 Ms. Meraz asked you if the remarks you made in this  11 recording, your true version of -- to the best of your  12 knowledge, and you answered yes, ma'am, correct?  13 A. Yes, sir.  14 Q. And you understood all of her questions?  15 A. Yes, sir.  16 Q. And the recording was being made with your  17 full knowledge and consent?  18 A. Yes, sir.  19 Q. I want you to turn to page 2.  20 A. (Witness complied.)  21 Q. At the bottom you talk about this idea that  22 you thought you had a permit, but you didn't.  23 A. Yes, sir.  24 Q. So you -- you drove, from the beginning of  25 2010 when you thought you had a permit until the date</p>	<p style="text-align: right;">Page 184</p> <p>1 the white vehicle or it was a collision.  2 Do you see that?  3 A. Yes, sir.  4 Q. When you're saying there was a bus stopped,  5 what did you mean?  6 A. The bus had begin to make its stop for the  7 bus stop that is at the location.  8 Q. Well, was the bus beginning to make its stop  9 to the left of the driveway where you were stopped?  10 A. The bus had begin to turn into the first lane  11 and slow its speed in -- beginning to make its stop,  12 and when I looked it was on my right. I was more  13 cautious of the bus than traffic.  14 Q. So you were paying attention to the bus?  15 A. Yes, sir.  16 And it was an extended bus. It's not the  17 buses that they use now. The state -- the state has  18 received new buses. It was an older model.  19 Q. Going to page 4, at the bottom Ms. Meraz is  20 asking you about being under the influence or whether  21 you had marijuana on me, and your answer is: Correct,  22 um, does that matter to you guys?  23 Well, why would you ask that?  24 A. Because I wasn't aware of -- at the time I  25 had a few other legal things going on. I wasn't aware</p>
<p style="text-align: right;">Page 183</p> <p>1 of this accident, with no recognizing documents,  2 correct?  3 A. Yes, sir.  4 Q. And on the day of the accident, your mom  5 didn't actually tell you no, you couldn't take the car;  6 isn't that correct?  7 A. She did.  8 Q. She did?  9 A. Yes, sir.  10 Q. I thought you said that she was in the  11 shower?  12 A. She was.  13 Q. So did you -- did you ask her if you --  14 A. We asked -- we had -- I had asked her to take  15 us to the location, and she said no. I said can I take  16 myself, and she said no.  17 Q. Okay.  18 A. Can I have the mother of my children take me,  19 and she said no.  20 Q. If you go to page 3, down to your -- to your  21 explanation of the accident, it says that you were  22 making a left onto -- into oncoming traffic, and I saw  23 a bus, and a bus was ahead of me and a bus was stopped  24 and a bus, or behind the bus it looked clear, so I went  25 to make my left into oncoming traffic, and then I hit</p>	<p style="text-align: right;">Page 185</p> <p>1 at the time exactly what -- that this process was going  2 to take place now.  3 Q. You didn't think that they'd care if you were  4 under the influence or impairment of marijuana?  5 A. Well, what I was --  6 MR. STRASSBURG: Objection, mischaracterizes.  7 Go ahead.  8 THE WITNESS: What I was asking was does it  9 matter if it's a possession charge rather than a DUI,  10 meaning was it -- does it matter if I was avoiding a  11 criminal charge.  12 BY MR. ESCHWEILER:  13 Q. Then on page 6, about the middle of the page,  14 she -- she asks why you were using the vehicle, and you  15 say, Uh, I went to go see, I just had a child, so I was  16 getting something from my son -- for my son from her  17 godmother.  18 But that was inaccurate, correct?  19 A. Yes, sir.  20 I believe that that was a typo. That's not  21 what I had said. I don't have a son.  22 Q. Okay. Do you recall fabricating what you  23 told to Ms. Meraz?  24 A. I remember telling her I was going to get  25 something for my child from her godmother.</p>

Page 262	Page 264
1 have the right-of-way --	1 CERTIFICATE OF DEPONENT
2 Q. Okay.	2 PAGE LINE CHANGE REASON
3 A. -- because their traffic is flowing.	3 _____
4 Q. And you -- going back to my original	4 _____
5 question, from the point where you're standing a	5 _____
6 hundred feet from where Mr. Strassburg took the	6 _____
7 picture, what's your estimate of -- your best estimate	7 _____
8 of how long it would take for a car traveling 35 miles	8 _____
9 an hour to clear Mr. Strassburg?	9 _____
10 MR. MAZZEO: Objection, foundation, calls for	10 _____
11 expert opinion.	11 _____
12 BY MR. ESCHWEILER:	12 _____
13 Q. Go ahead.	13 _____
14 MR. STRASSBURG: Objection, contrary to fact.	14 _____
15 Go ahead.	15 _____
16 THE WITNESS: I couldn't give you an estimate	16 _____
17 of that nature.	17 _____
18 BY MR. ESCHWEILER:	18 DECLARATION OF DEPONENT
19 Q. Do you think it's more than five seconds?	19 I, JARED EMMANUEL AWERBACH, deponent herein,
20 MR. STRASSBURG: Object to the form. He	20 do hereby certify and declare under penalty of perjury
21 already answered that.	21 the within and foregoing transcription to be my
22 THE WITNESS: I can't give you an estimate of	22 deposition in said action; that I have read, corrected
23 that question.	23 and do hereby affix my signature to said deposition.
24 Like I said previously, I was expecting her	24 _____
25 to slow down and let me have the turn and -- opposed to	25 SIGNATURE _____ DATE: _____
	JARED EMMANUEL AWERBACH
Page 263	Page 265
1 her acceleration, but, realistically, I can't give	1 CERTIFICATE OF REPORTER
2 you an estimate. I can't --	2 STATE OF NEVADA )
3 Q. Okay.	3 ) ss:
4 A. -- give you an answer for that question.	4 COUNTY OF CLARK )
5 MR. ESCHWEILER: I don't have anything	5 I, Peggy S. Elias, a Certified Court Reporter
6 further.	6 licensed by the State of Nevada, do hereby certify:
7 MR. MAZZEO: Nothing further.	7 That I reported the deposition of JARED EMMANUEL
8 MR. STRASSBURG: Read and sign. And you're	8 AWERBACH, on Thursday, March 27, 2014, at 10:08 a.m.
9 done.	9 That prior to being deposed, the witness was
10 THE VIDEOGRAPHER: Off the video record at	10 duly sworn by me to testify to the truth. That I
11 3:38.	11 thereafter transcribed my said stenographic notes via
12 (Whereupon, the deposition was concluded at	12 computer-aided transcription into written form, and
13 3:38 p.m. this date.)	13 that the typewritten transcript is a complete, true and
14 * * * * *	14 accurate transcription of my said stenographic notes.
15	15 That review of the transcript was requested.
16	16 I further certify that I am not a relative,
17	17 employee or independent contractor of counsel or of any
18	18 of the parties involved in the proceeding; nor a person
19	19 financially interested in the proceeding; nor do I have
20	20 any other relationship that may reasonably cause my
21	21 impartiality to be questioned.
22	22 IN WITNESS WHEREOF, I have set my hand in my
23	23 office in the County of Clark, State of Nevada, this
24	24 6th day of April, 2014.
25	25 PEGGY S. ELIAS, RPR, CCR NO. 274

---

**EXHIBIT 1-B**

**EXHIBIT 1-B**

1 **AFF**

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2 Nevada Bar No. 6635

Adam D. Smith, Esq.

3 Nevada Bar No. 9690

Craig A. Henderson, Esq.

4 Nevada Bar No. 10077

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8 Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

11 EMILIA GARCIA, individually,

12 Plaintiff,

13 v.

14 JARED AWERBACH, individually; ANDREA  
15 AWERBACH, individually; DOES I - X, and ROE  
CORPORATIONS I - X, inclusive,

16 Defendants.

) CASE NO. A637772  
) DEPT. NO. XXVII

) **AFFIDAVIT OF CHERISE KILLIAN**

18  
19 I, Cherise Killian, hereby declare the following under penalty of perjury of the laws of the  
20 State of Nevada:

21 1. Jared Awerbach, who I call Glasses, was at my apartment on January 2, 2011, the  
22 day he was in a car accident.

23 2. I saw Jared smoking marijuana outside my apartment less than 20 minutes before the  
24 accident.

25 ///

26 ///

27 ///

28

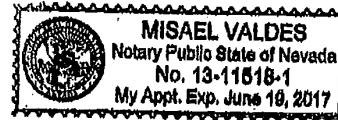
3. After the accident, someone came and got me and I saw Jared in handcuffs with the police outside my apartment complex.

I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true and correct and that this affidavit was executed this 9th day of July, 2014, in Clark County, Nevada.

CHERISE KILLIAN

SUBSCRIBED AND SWORN to before me

This 9 day of July, 2014.



**EXHIBIT 1-C**

**EXHIBIT 1-C**

DISTRICT COURT  
CLARK COUNTY, NEVADA

EMILIA GARCIA, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No.  
 ) A637772  
JARED AWERBACH, individually, )  
ANDREA AWERBACH, individually, )  
DOES I-X, and ROE CORPORATIONS )  
I-X, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF EMILIA GARCIA

LAS VEGAS, NEVADA

WEDNESDAY, JULY 10, 2013

REPORTED BY: KATHERINE M. SILVA, CCR #203

JOB NO.: 185791

LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

Page 22

1 A. Sunday.  
2 Q. Do you remember anything unusual about  
3 the conditions or the weather that day?  
4 A. No.  
5 Q. Do you recall whether it was raining or  
6 dry?  
7 A. Dry.  
8 Q. Do you know what the speed limit on  
9 Rainbow is?  
10 A. Thirty-five miles per hour.  
11 Q. Immediately prior to the accident do  
12 you recall how fast you were travelling?  
13 A. About 30 miles per hour.  
14 Q. When was the first time you saw the  
15 other vehicle that hit you?  
16 A. Out of the corner of my eye as I was  
17 trying to -- as I was driving straight, I saw him  
18 out of my corner of my eye real fast. I thought  
19 I could swerve somehow because I did see him  
20 coming really fast.  
21 Q. You said really fast. Are you able to  
22 estimate how fast the other car was going?  
23 A. No.  
24 Q. Would you like to take a break?  
25 A. No, I'm okay.

Page 23

1 Q. What side of your vehicle did the other  
2 car approach from?  
3 A. The right-hand side of my vehicle.  
4 Q. The passenger side?  
5 A. Yeah.  
6 Q. Okay. Could you tell me please how the  
7 accident happened?  
8 A. I was driving down Rainbow going  
9 towards Torrey Pines and there was a semi truck  
10 pulling into or parked, I can't remember  
11 correctly -- exactly into an apartment complex  
12 area and a vehicle pulled out really fast and hit  
13 me and my car spun around.  
14 Q. Do you know what part -- excuse me.  
15 Do you know what part of your vehicle  
16 was impacted by the other car?  
17 A. The rear passenger side on the  
18 right-hand side of the vehicle close to the rear  
19 tire. On the door but enough to where he did --  
20 I don't know -- I don't know if he hit the tire  
21 or not but I know the tire popped so somewhere in  
22 that area between the door and the tire and to  
23 where you couldn't open the door.  
24 Q. Were you driving a four-door vehicle?  
25 A. Yes.

Page 24

1 Q. When you say that you couldn't open the  
2 door, which door are you referring to?  
3 A. The right-hand passenger side rear.  
4 Q. And you said that the impact caused  
5 your car to spin?  
6 A. Yes.  
7 Q. Do you know how many times your car  
8 spun around?  
9 A. No.  
10 Q. Were you wearing your seat belt at the  
11 time of the accident?  
12 A. Yes.  
13 Q. I know it's probably not a pleasant  
14 thought but I'd like you to try as best you can  
15 to recall the moment of impact when you were hit  
16 by the other driver and tell me please what  
17 happened to your body when you were hit?  
18 A. I remember hanging onto the steering  
19 wheel and my body jerking and I did hit just the  
20 side of the door I guess with my body as I was --  
21 as the car was spinning and then it just came to  
22 a stop.  
23 Q. Do you recall hitting your head on  
24 anything inside your vehicle?  
25 A. No.

Page 25

1 Q. Do you recall hitting your legs on  
2 anything inside the vehicle?  
3 A. No.  
4 Q. Sometimes in an accident the seat belt  
5 locks up or goes rigid so that you can't move  
6 around in it. Do you recall whether that  
7 happened in this accident?  
8 A. The seat belt did get tighter.  
9 Q. Did your air bags deploy?  
10 A. No.  
11 Q. I imagine that as the car is spinning  
12 around you are sort of holding on for dear life,  
13 would that be an accurate description?  
14 A. Yes.  
15 Q. And once the car came to a rest, what  
16 did you do then?  
17 A. Shake.  
18 Q. Do you recall where your vehicle came  
19 to rest in the roadway?  
20 A. On the -- on the left-hand side lane  
21 facing the opposite of traffic, the opposite way  
22 into traffic.  
23 Q. And you say the left-hand lane, were  
24 you still on the same side of the street just in  
25 the left lane or did it push you into oncoming

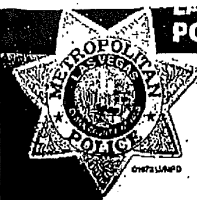
Page 102		Page 104	
1	So you answer me if I say how can I not	1	CERTIFICATE OF DEPONENT
2	fall back into my depression? How can I stay	2	PAGE LINE CHANGE REASON
3	fucking sane when my mood swings change from one	3	
4	pill to the next and, yes, I stopped taking that	4	
5	shit because I'm tired of drowning my sorrows in	5	
6	medication, that's only making me numb for the	6	
7	moment.	7	
8	And every morning I wake up and it's	8	
9	still the same shit, the same pain, the same	9	
10	problems and the same -- the same guilt that I	10	* * * * *
11	feel because I'm not the same person to my girls.	11	
12	I don't think I can say anymore.	12	I, Emilia Garcia, deponent herein,
13	Q. I'm certainly sorry to hear all that	13	under penalty of perjury do hereby certify and
14	and all the ways it affected you. It's important	14	declare the within and foregoing transcription to
15	for us to know but it doesn't make it any easier	15	be my deposition in said action; that I have
16	to have to ask those kind of hard questions.	16	read, corrected and do hereby affix my signature
17	I'd ask you if you need to take a break	17	to said deposition.
18	but I actually don't have any further questions	18	
19	for you.	19	Emilia Garcia, Deponent
20	I have kept you long enough today that	20	
21	counsel hasn't had a chance to ask you anything	21	
22	so I think we'll see each other again in the	22	
23	future but I don't have any further questions for	23	
24	you today.	24	
25	As I mentioned at the beginning of our	25	

Page 103		Page 105	
1	deposition, there will be a booklet that is typed	1	CERTIFICATE OF REPORTER
2	up and you'll have the opportunity to review that	2	STATE OF NEVADA )
3	and ensure that all the answers you gave were	3	SS:
4	accurate and were transcribed accurately unless	4	COUNTY OF CLARK )
5	you waive the review of your transcript.	5	I, Katherine M. Silva, a certified court
6	Do you know whether you would like to	6	reporter, Clark County, State of Nevada, do
7	review your testimony?	7	hereby certify: That I reported the taking of the
8	MR. ESCHWEILER: We'll review.	8	deposition of the witness, Emilia Garcia,
9	MS. McLEOD: We are off the record.	9	commencing on Wednesday, July 10, 2013, at 2:09
10	MR. PITEGOFF: Before we go off the	10	o'clock p.m.
11	record we are just going to try to reset the	11	That prior to being examined the witness was
12	deposition to take place as soon as I get my	12	by me duly sworn to testify to the truth. That I
13	calendar and I'll give you guys a call.	13	thereafter transcribed my said shorthand notes into
14	MR. ESCHWEILER: Sure.	14	typewriting and that the typewritten transcript
15	MR. PITEGOFF: All right.	15	of said deposition is a complete, true and
16	MR. ESCHWEILER: Thank you.	16	accurate transcription of said shorthand notes.
17	THE COURT REPORTER: Who would like a	17	I further certify that I am not a relative
18	copy?	18	or employee of an attorney or counsel of any of
19	MR. ESCHWEILER: I would.	19	the parties, nor a relative or employee of an
20	(Thereupon the deposition was	20	attorney or counsel involved in said action, nor
21	recessed at 5:10 p.m.)	21	a person financially interested in the action.
22	* * * *	22	IN WITNESS WHEREOF, I have hereunto set my
23		23	hand in my office in the County of Clark, State of
24		24	Nevada, this 17th day of July, 2013.
25		25	Katherine M. Silva, CCR #203

EXHIBIT 1-D

EXHIBIT 1-D



LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT

DOUGLAS GILLESPIE, Sheriff

Partners with the Community

STATE OF NEVADA       )  
                                  ) ss.  
COUNTY OF CLARK     )

May 22, 2012

AFFIDAVIT:

I, SUSANA S. MCCURDY, being duly sworn, on oath, depose and say:

That I am the Records Director of official police records maintained by the Las Vegas Metropolitan Police Department.

That I am in receipt of your Subpoena Duces Tecum served to us on May 10, 2012, requesting the diligent search for a copy of any and all records regarding the DUI investigation of Jared Awerbach, which occurred on 01/02/11, at Rainbow and Peak.

That the Las Vegas Metropolitan Police Department is prohibited from releasing to you privileged confidential criminal history records pursuant to NRS 179A.100. The subject of the inquiry may authorize release of his/her criminal history records by a written notarized authorization for release. No notarized release was provided. Therefore, the Las Vegas Metropolitan Police Department objects to the subpoena on the foregoing grounds pursuant to NRCP Rule 45(c)(2)(B) and will not be producing the records requested.

That the Las Vegas Metropolitan Police Department has redacted privileged private personal information in which a reasonable person would have a legitimate expectation of privacy. Therefore, the Las Vegas Metropolitan Police Department objects to the subpoena on the foregoing grounds pursuant to NRCP Rule 45(c)(2)(B).

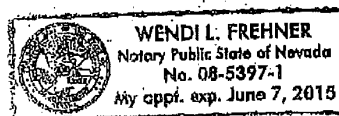
That I have provided true and correct copies of all responsive documents under my hand and not privileged by law, except as otherwise indicated above, seven pages in all.

Susana S. McCurdy  
Susana S. McCurdy

DIRECTOR, POLICE RECORDS BUREAU

SUBSCRIBED AND SWORN to before me  
this 22<sup>nd</sup> day of May, 2012, in the  
County of Clark, State of Nevada by Susana S. McCurdy

Wendi L. Frehner  
NOTARY PUBLIC



MAY 10 2012

LVMPD RECORDS

RECEIVED  
LYMPH  
PROBES SECTION  
2017 MAY 10 PM 1:36

Corey M. Eschweiler, Esq.  
Nevada Bar No. 6635  
Adam D. Smith, Esq.  
Nevada Bar No. 9690  
**GLEN J. LERNER & ASSOCIATES**  
4795 South Durango Drive  
Las Vegas, Nevada 89147  
Telephone: (702) 877-1500  
Facsimile: (702) 933-7043  
E-mail: ceschweiler@glenlerner.com  
asmith@glenlerner.com  
**Attorneys for Plaintiff**

DISTRICT COURT

CLARK COUNTY, NEVADA

Plaintiff,

v.

Defendants.

CASE NO. A637772  
DEPT. NO. XXVII

**SUBPOENA DUCES TECUM  
(RECORDS ONLY)**

**THE STATE OF NEVADA SENDS GREETINGS TO:**

**Custodian of Records**  
**Las Vegas Metropolitan Police Department — Records Bureau**  
**400 S. Martin Luther King Blvd., Building C**  
**Las Vegas, NV 89106**

**YOU ARE COMMANDED**, that all singular, business and excuses set aside, you produce all documents listed below on this Subpoena on the 29<sup>th</sup> day of May, 2012, at the hour of 9:00 a.m., at the offices of GLEN J. LERNER & ASSOCIATES, 4795 S. Durango Drive, Las Vegas, Nevada 89147. You are required to bring with you at the time of your appearance any items set forth below:

## I. ITEMS TO BE PRODUCED


1 1. A copy of any and all records regarding DUI investigation, DUI chemical testing and  
2 DUI arrest of Jared Awerbach which occurred on 01/02/2011 at Rainbow Boulevard,  
approximately 100 feet north of Peak Drive, in Las Vegas, Nevada.

3 Should you fail to produce these documents, you will be deemed guilty of contempt of Court and  
4 liable to pay all losses and damages caused by your failure to produce the records and in addition forfeit  
5 ONE HUNDRED DOLLARS (\$100.00).

6 Please see Exhibit "A" attached hereto for information.

7 IN LIEU OF APPEARANCE, THE REQUESTED DOCUMENTS MAY BE  
8 PRODUCED PRIOR TO MAY 29, 2012, BY MAILING TO: ADAM SMITH, ESQ., GLEN J.  
9 LERNER & ASSOCIATES, 4795 S. DURANGO DRIVE, LAS VEGAS, NEVADA, 89147.

10 GLEN J. LERNER & ASSOCIATES

11   
12 \_\_\_\_\_  
13 Corey M. Eschweiler, Esq.  
14 Nevada Bar No. 6635  
15 Adam D. Smith, Esq.  
16 Nevada Bar No. 9690  
17 4795 South Durango Drive  
18 Las Vegas, Nevada 89147  
19 (702) 877-1500  
20 Attorneys for Plaintiffs  
21  
22  
23  
24  
25  
26  
27  
28

Event Number: 110102-3282		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> SCENE INFORMATION SHEET Revised: 5/21/2003				Ident Number: LVMPD-110102-3282		
Code Revision:		<input checked="" type="checkbox"/> Preliminary Report <input type="checkbox"/> Resubmission <input type="checkbox"/> Hit and Run <input type="checkbox"/> Emergency <input type="checkbox"/> Office Report <input checked="" type="checkbox"/> Initial Report <input type="checkbox"/> Supplement Report <input type="checkbox"/> Private Property				<input checked="" type="checkbox"/> Property <input type="checkbox"/> Injury <input type="checkbox"/> Fatal Agency Name: S VEGAS METROPOLITAN PD		
Collision Date:	Time:	Day:	Beat/Sector:	County:	City:	Surface:	Intersection:	Paddle Markers:
1/2/2011	1757	SUNDAY	V6		LAS VEGAS	<input checked="" type="checkbox"/> Asphalt <input type="checkbox"/> Concrete <input type="checkbox"/> Gravel <input type="checkbox"/> Dirt <input type="checkbox"/> Other	<input type="checkbox"/> Four Way <input type="checkbox"/> > Four Way <input type="checkbox"/> T <input type="checkbox"/> Y <input type="checkbox"/> Roundabout <input type="checkbox"/> Unknown	<input checked="" type="checkbox"/> None <input type="checkbox"/> Left Side <input type="checkbox"/> Right Side <input type="checkbox"/> Both Sides <input type="checkbox"/> Unknown
Mile Marker	#Vehicles	#Non Motorists	#Occupants	#Fatalities	#Injured	#Restrained		
	2	1	2	0	0	0		
Occurred On: (Highway # or Street Name) RAINBOW BLVD								
<input type="checkbox"/> At Intersection With: <input checked="" type="checkbox"/> Approximate <input checked="" type="checkbox"/> Or: 100 Feet <input type="checkbox"/> Miles NORTH OF (Cross Street) PEAK DR								
<input type="checkbox"/> Parking Lot		<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural		Access Control		<input checked="" type="checkbox"/> None <input type="checkbox"/> Full <input type="checkbox"/> Partial		Total All Lanes: 5
Roadway Character		Roadway Conditions <input type="checkbox"/> Unknown		Total Thru Lanes		Average Roadway Widths		Roadway Grade
<input type="checkbox"/> Curve & Grade <input type="checkbox"/> Curve & Hillcrest <input type="checkbox"/> Curve & Level <input type="checkbox"/> Straight & Grade <input type="checkbox"/> Straight & Hillcrest <input checked="" type="checkbox"/> Straight & Level		<input type="checkbox"/> Dry <input type="checkbox"/> Slush <input type="checkbox"/> Ice <input type="checkbox"/> Standing Water <input type="checkbox"/> Wet <input type="checkbox"/> Moving Water <input type="checkbox"/> Snow <input type="checkbox"/> Sand/Mud/Oil/Dirt/Gravel		Main Road: <input type="checkbox"/> One <input type="checkbox"/> Two <input type="checkbox"/> Three <input checked="" type="checkbox"/> Four <input type="checkbox"/> Five <input type="checkbox"/> > 5 Cross Road: <input type="checkbox"/> One <input type="checkbox"/> Two <input type="checkbox"/> Three <input type="checkbox"/> Four <input type="checkbox"/> Five <input type="checkbox"/> > 5		Travel Lane: 12 Ft. Storage/Turn Lane: 0 Ft. Median: 0 Ft. Paved Shoulder: Inside 0 Ft. Outside 0 Ft.		Not Determined <input checked="" type="checkbox"/> Relatively Level Roadway <input type="checkbox"/> (+) Up Slope <input type="checkbox"/> (-) Down Slope Grade: %
Pavement Markings and Type <input type="checkbox"/> None				Highway Description		Weather Conditions <input type="checkbox"/> Unknown		
Centerline, Broken Yellow Centerline, Solid Yellow Centerline, Double Yellow 4 Lane Line, Broken White Lane Line, Solid White Other				Edge Line, Left, Yellow Edge Line, Right, White Center Turn Lane Lines Turn Arrow Symbols No Passing, Either Dir. Unknown		<input checked="" type="checkbox"/> Two-Way, Not Divided <input type="checkbox"/> Two-Way, Divided, Unpro. Median <input type="checkbox"/> Two-Way, Divided, Median Barrier <input type="checkbox"/> One-Way, Not Divided <input type="checkbox"/> Unknown <input type="checkbox"/> Other <input checked="" type="checkbox"/> Clear <input type="checkbox"/> Cloudy <input type="checkbox"/> Snow <input type="checkbox"/> Rain <input type="checkbox"/> Unknown <input type="checkbox"/> Blowing Sand, Dirt, Soil, Snow		
Light Conditions <input type="checkbox"/> Unknown		Vehicle Collision Type <input type="checkbox"/> Unknown		Location of First Event				
<input type="checkbox"/> Dusk <input type="checkbox"/> Dawn <input type="checkbox"/> Daylight <input type="checkbox"/> Other		<input type="checkbox"/> Head On <input type="checkbox"/> Rear to Rear <input type="checkbox"/> Rear End <input type="checkbox"/> Backing <input checked="" type="checkbox"/> Dark-Continuous Roadway Lighting <input type="checkbox"/> Dark-Unknown Roadway Lighting		<input checked="" type="checkbox"/> Travel Lane 1 <input type="checkbox"/> Turn Lane <input type="checkbox"/> Core <input type="checkbox"/> Median		<input type="checkbox"/> Inside Shoulder <input type="checkbox"/> Outside Shoulder <input type="checkbox"/> Ramp/ Private Property <input type="checkbox"/> Roadside <input type="checkbox"/> Intersection <input type="checkbox"/> Unknown <input type="checkbox"/> Other		
Highway/Environment Factors				Property Damage To Other Than Vehicle				
<input checked="" type="checkbox"/> None <input type="checkbox"/> Weather <input type="checkbox"/> Debris <input type="checkbox"/> Glare <input type="checkbox"/> Shoulders				<input type="checkbox"/> Road Obstruction <input type="checkbox"/> Worn Traffic Surface <input type="checkbox"/> Wgt. Icy, Snow, Slush <input type="checkbox"/> Ruts, Holes, Bumps <input type="checkbox"/> Active Work Zone <input type="checkbox"/> Inactive Work Zone <input type="checkbox"/> Animal in Roadway <input type="checkbox"/> Unknown <input type="checkbox"/> Other Environmental <input type="checkbox"/> Other Highway				
Code # 214				Description: 214 MOTOR VEHICLE IN TRANSPORT				
Collision With: 0				Describe Other Entries First Harmful Event Owner Name and Address: I hereby certify this is a full, true and correct copy of the ORIGINAL DOCUMENT (HARD COPY/COMPUTERIZED/MICROGRAPHIC COPY) on file with the Las Vegas Metropolitan Police Department.				
Description of Accident/Narrative				Record is Regulated by Law. Secondary Dissemination of any kind is Prohibited and could subject the offender to Criminal and Civil Liability. This Information Released To: Adam Smith By: [Signature] Date: 5/22/11 Las Vegas Metro Police Dept.				
Investigation Complete		Photos Taken		Scene Diagram		Statements		Date Notified
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		1/2/2011
Investigator		ID Number		Date		Reviewed By		Date Reviewed
D. FIGUEROA		9693		1/2/2011		6796 ROBERT GIBBS		1/9/2011
Event Number: 110102-3282		<b>STATE OF NEVADA</b> <b>TRAFFIC ACCIDENT REPORT</b> VEHICLE INFORMATION SHEET Revised 5/21/2003				Accident Number: LVMPD-110102-3282		
At Fault <input type="checkbox"/> Vehicle # 1		# Occupants 1				Agency Name: S VEGAS METROPOLITAN PD		
Vehicle Factors: <input type="checkbox"/> Unknown		Driver Factors: <input type="checkbox"/> Unknown		Traffic Control: <input type="checkbox"/> Unknown		(F-Functioning NF-Not Functioning O=Obstructed)		
<input checked="" type="checkbox"/> Fail to Yield Right of Way		<input type="checkbox"/> Ran Off Road		<input type="checkbox"/> Apparently Normal		F NP O		F NP O

<input type="checkbox"/> Disregard Control Device	<input type="checkbox"/> Hit and Run	<input type="checkbox"/> Had Been Drinking	<input checked="" type="checkbox"/> Speed Limit	<input type="checkbox"/> Stop Sign
<input type="checkbox"/> Too Fast for Conditions	<input type="checkbox"/> Road Defect	<input checked="" type="checkbox"/> Drug Involvement	<input type="checkbox"/> Signal	<input type="checkbox"/> Yield Sign
<input type="checkbox"/> Exceeding Speed Limit	<input type="checkbox"/> Object Avoidance	<input type="checkbox"/> Apparently Fatigued/Sleep	<input type="checkbox"/> Flashing Light	<input type="checkbox"/> R.R. Sign
<input type="checkbox"/> Wrong Way/Direction	<input type="checkbox"/> Driverless Vehicle	<input type="checkbox"/> Obstructed View	<input type="checkbox"/> School Zone	<input type="checkbox"/> R.R. Gauges
<input type="checkbox"/> Mechanical Defect	<input type="checkbox"/> Following Too Close	<input type="checkbox"/> Driver Ill/Injured	<input type="checkbox"/> Ped. Signal	<input type="checkbox"/> R.R. Signal(1)
<input type="checkbox"/> Drove Left of Center	<input type="checkbox"/> Unsafe Lane Change	<input type="checkbox"/> Other Improper Driving	<input type="checkbox"/> No Passing	<input checked="" type="checkbox"/> Marked Lanes
<input type="checkbox"/> Fail to Maintain Lane	<input type="checkbox"/> Made Improper Turn	<input type="checkbox"/> Driver Inattention/Distracted	<input type="checkbox"/> No Controls	<input type="checkbox"/> Tire Chains/Snow Req
<input type="checkbox"/> Aggressive/Reckless/Careless	<input type="checkbox"/> Over Correct Steering	<input type="checkbox"/> Physical Impairment	<input type="checkbox"/> Warning Sign	<input type="checkbox"/> Other: (2)
Direction of Travel: <input type="checkbox"/> North <input type="checkbox"/> South <input checked="" type="checkbox"/> East <input type="checkbox"/> West		Highway/Street Name: RAINBOW BLVD		Travel Lane# 1
<input type="checkbox"/> CDL <input type="checkbox"/> License Valid		Compliance <input type="checkbox"/> Restrict <input type="checkbox"/> Endorse	OLN: 1403552923	State: <input checked="" type="checkbox"/> NV License Status: 6
Endorsements	Restrictions	Speed Estimate:	From:	To: Limit: 35
<input checked="" type="checkbox"/> Driver Last Name: AWERBACH First Name: JARED Middle: Suffix:		<input checked="" type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Unk;		
Street Address: 1827 W GOWAN RD #1114		Transported To:	Person Type	Seating Position
City: NORTH LAS VEGAS	State: <input checked="" type="checkbox"/> NV Zip: 89032	By: <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Not Trans. <input type="checkbox"/> Unknown <input type="checkbox"/> Police <input type="checkbox"/> Other	1 13 N 2 0	Occupant Restraints 1 Injury Severity Airbags 4 Ejected 0 Trapped
Last Name:		First Name:	Middle:	Suffix:
Street Address:		Transported To:	Person Type	Seating Position
City:	State: <input type="checkbox"/> NV Zip:	By: <input type="checkbox"/> EMS <input type="checkbox"/> Police <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Not Trans.	Injury Severity	Injury Location
Veh. Yr.: 2007 Make: SUZUKI Model: FORENZA Type: P4 Plate/Permit Number: 687VGK State: NV Exp.: 05/24/2011 Color: SILVER VIN: KL5JD56227K593232		Registered Owner Name: (Same as) AWERBACH ANDREA MERRY Insured/Company: LIBERTY MUTUAL Policy Number: A02268633569409 Effective: 10/7/2010		
R.O. Address: 1827 W GOWAN RD APT 1114 NORTH LAS VEGAS NV 89032		Company Address: 800-225-CLAIMS		To: 10/7/2011
<input type="checkbox"/> Trailing Unit 1 VIN:		<input type="checkbox"/> Trailing Unit 2 VIN:		<input type="checkbox"/> Trailing Unit 3 VIN:
Plate #	State	Type	Plate #	State
1st Contact	Damaged Areas	Extent of Damage <input type="checkbox"/> None <input type="checkbox"/> Unk. <input type="checkbox"/> Minor <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Major <input type="checkbox"/> Total	Code #	Sequence of Events Description
	<input checked="" type="checkbox"/> Front <input type="checkbox"/> Right Side <input type="checkbox"/> Left Side <input type="checkbox"/> Rear	<input type="checkbox"/> Right Front <input type="checkbox"/> Right Rear <input type="checkbox"/> Top <input type="checkbox"/> Under Carriage	1st 214	MOTOR VEHICLE IN TRANSPORT
		<input type="checkbox"/> Left Front <input type="checkbox"/> Left Rear <input type="checkbox"/> Other <input type="checkbox"/> Unknown	2nd 214	MOTOR VEHICLE IN TRANSPORT
			3rd	
			4th	
			5th	
<input type="checkbox"/> Overdrive	Vehicle Towed: <input checked="" type="checkbox"/> By: EWING BROTHERS TOWING Removed To: IMPOUND			
<input type="checkbox"/> Under Ride				
Vehicle Action <input type="checkbox"/> Unknown		Vehicle Configuration		<input type="checkbox"/> Comm. Veh. <input type="checkbox"/> School Bus
<input type="checkbox"/> Straight <input type="checkbox"/> Backing <input checked="" type="checkbox"/> Left Turn <input type="checkbox"/> Right Turn <input type="checkbox"/> Wrong Way <input type="checkbox"/> Other	<input type="checkbox"/> Parked <input type="checkbox"/> U-Turn <input type="checkbox"/> Lane Change <input type="checkbox"/> Passing <input type="checkbox"/> Driverless Veh <input type="checkbox"/> Leaving Parked	<input type="checkbox"/> Entering Lane <input type="checkbox"/> Leaving Lane <input type="checkbox"/> Stopped <input type="checkbox"/> Racing <input type="checkbox"/> Other Turning <input type="checkbox"/> Enter Parked(1)	<input type="checkbox"/> Bus. 9-15 Occupants <input type="checkbox"/> Bus. >15 Occupants <input type="checkbox"/> Single 2 Axle & 6 Tire <input type="checkbox"/> Single >- 3 Axle <input type="checkbox"/> Any 4 Tire Vehicle	<input type="checkbox"/> Tractor Only <input type="checkbox"/> Tractor/Trailer <input type="checkbox"/> Tractor/Doubles <input type="checkbox"/> Tractor/Triples
		<input type="checkbox"/> Tractor/Semi-Trailer <input type="checkbox"/> Pass. Veh. (Haz-Mat) <input type="checkbox"/> Light Truck (Haz-Mat) <input type="checkbox"/> Other Heavy Vehicle		Source: <input type="checkbox"/> Driver <input type="checkbox"/> State Reg. <input type="checkbox"/> Log Book <input type="checkbox"/> Side of Vehicle <input type="checkbox"/> Shipping Papers/Trip Manifest
Carrier Name:		Power Unit GVWR: <input type="checkbox"/> <= 10,000 Lbs. <input type="checkbox"/> 10,001-26,000 Lbs. <input type="checkbox"/> >26,000 Lbs.		(HARD COPY/COMPUTERIZED/PHOTOGRAPHIC COPY) <input type="checkbox"/> Released
Carrier Street Address:		City:	State:	Zip:
Cargo Body Type <input type="checkbox"/> Unknown		Placard #:	ICC MC	
<input type="checkbox"/> Pole <input type="checkbox"/> Tank <input type="checkbox"/> Flatbed <input type="checkbox"/> Dump <input type="checkbox"/> Other	<input type="checkbox"/> Van/Box <input type="checkbox"/> Concrete Mixer <input type="checkbox"/> Auto Carrier <input type="checkbox"/> Garbage/Refuse <input type="checkbox"/> Not Applicable	Diamond #:	Single State <input type="checkbox"/> USDOT <input type="checkbox"/> None <input type="checkbox"/> Canada <input type="checkbox"/> Mexico	
NRS <input type="checkbox"/> CFR <input type="checkbox"/> CCMC <input type="checkbox"/> Violation		NOC	Citation Number	<input type="checkbox"/> Suspended License <input type="checkbox"/> Police Records Bureau <input type="checkbox"/> Other
<input type="checkbox"/> Pending				<input checked="" type="checkbox"/> Alcohol <input type="checkbox"/> Drugs
				Method of Determination <input checked="" type="checkbox"/> Driver Admission
				<input type="checkbox"/> Field Sobriety Test <input type="checkbox"/> Evidentiary Breath <input type="checkbox"/> Urine Test
				<input type="checkbox"/> Preliminary Breath <input type="checkbox"/> Blood Test <input type="checkbox"/> Test Results:
Investigator: D. FIGUEROA	ID Number: 9693	Date: 1/2/2011	Reviewed By: 6796 ROBERT GIBBS	Date Reviewed: 1/9/2011
				Page: 2 of 3

Event Number: 110102-3282		STATE OF NEVADA		Accident Number: LVMPD-110102-3282	
At Fault <input type="checkbox"/> Vehicle # 2		TRAFFIC ACCIDENT REPORT		Agency Name: S VEGAS METROPOLITAN PD	
		VEHICLE INFORMATION SHEET			
		Revised 5/21/2003			
Vehicle Factors: <input type="checkbox"/> Unknown		Driver Factors: <input type="checkbox"/> Unknown		Traffic Control <input type="checkbox"/> Unknown	
<input type="checkbox"/> Fail to Yield/Right of Way		<input type="checkbox"/> Ran Off Road		<input checked="" type="checkbox"/> Apparently Normal	
				F N F O	

<input type="checkbox"/> Disregard Control Device <input type="checkbox"/> Too Fast for Conditions <input type="checkbox"/> Exceeding Speed Limit <input type="checkbox"/> Wrong Way/Direction <input type="checkbox"/> Mechanical Defect <input type="checkbox"/> Drove Left of Center <input type="checkbox"/> Failed to Maintain Lane <input type="checkbox"/> Aggressive/Reckless/Careless		<input type="checkbox"/> Hit and Run <input type="checkbox"/> Road Defect <input type="checkbox"/> Object Avoidance <input type="checkbox"/> Driverless Vehicle <input type="checkbox"/> Following Too Close <input type="checkbox"/> Unsafe Lane Change <input type="checkbox"/> Made Improper Turn <input type="checkbox"/> Over Correct Steering		<input type="checkbox"/> Had Been Drinking <input type="checkbox"/> Drug Involvement <input type="checkbox"/> Apparently Fatigued/Sleep <input type="checkbox"/> Obstructed View <input type="checkbox"/> Driver Ill/Injured <input type="checkbox"/> Other Improper Driving <input type="checkbox"/> Driver Inattention/Distracted <input type="checkbox"/> Physical Impairment		<input checked="" type="checkbox"/> Speed 7 <input type="checkbox"/> Signal <input type="checkbox"/> Flashing Light <input type="checkbox"/> School Zone <input type="checkbox"/> Ped. Signal <input type="checkbox"/> No Passing <input type="checkbox"/> No Controls <input type="checkbox"/> Warning Sign		<input type="checkbox"/> Stop Sign <input type="checkbox"/> Yield Sign <input type="checkbox"/> R.R. Sign <input type="checkbox"/> R.R. Gates <input type="checkbox"/> R.R. Signal(1) <input checked="" type="checkbox"/> Marked Lanes <input type="checkbox"/> Tire Chains/Snow Req <input type="checkbox"/> Other: (2)	
Direction of Travel: <input type="checkbox"/> North <input checked="" type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West		Highway/Street Name: RAINBOW BLVD		Travel Lane/1					
<input type="checkbox"/> CDL <input type="checkbox"/> License Valid		Compliance <input type="checkbox"/> Restrict <input type="checkbox"/> Endorse		OLN: 2600352872		State: NV		License Status: 0	
Endorsements		Restrictions		Speed Estimate: From:		To:		Limit: 35	
Driver Last Name: GARCIA		First Name: EMILIA		Middle: AURORA		Suffix:		DOB: 1/14/1979	
Street Address: 3189 N MICHAEL WAY APT D		Transported To:		Person Type		Occupant Restraints		Seating Position	
City: LAS VEGAS		State: NV		Zip: 89108		By: <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Not Trans.		Injury Severity	
						<input type="checkbox"/> Unknown <input type="checkbox"/> Police		Airbags	
						<input type="checkbox"/> Other		Ejected	
Last Name:		First Name:		Middle:		Suffix:		DOB:	
Street Address:		Transported To:		Person Type		Occupant Restraints		Seating Position	
City:		State: NV		Zip:		By: <input type="checkbox"/> EMS <input type="checkbox"/> Police <input type="checkbox"/> Other		Injury Severity	
						<input type="checkbox"/> Unknown <input type="checkbox"/> Not Trans.		Airbags	
								Ejected	
								Trapped	
Veh. Yr.: 2001		Make: HYUN		Model: SANTA FE GLS		Type: LL - SUV		Plate/Permit Number: 884VFS	
State: NV		Exp.: 04/11/2011		Color: WHITE		VIN: KM8SC83D81U053810		Policy Number: 185582528	
Registered Owner Name: (Same as)		LAS VEGAS NV 89108-4115 EMILIA AURORA		Insured/Company: FARMERS		Effective: 8/31/2010		To: 2/28/2011	
R.O. Address: 3189 N MICHAEL WAY APT D LAS VEGAS NV 89108		Company Address: 249-3305							
<input type="checkbox"/> Trailing Unit 1		<input type="checkbox"/> Trailing Unit 2		<input type="checkbox"/> Trailing Unit 3		VIN:			
Plate #		State		Type		Plate #		State	
1st Contact		Damaged Areas		Extent of Damage		Code #		Sequence of Events Description	
				<input type="checkbox"/> None <input type="checkbox"/> Unk. <input type="checkbox"/> Minor <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Major <input type="checkbox"/> Total				Collision with Fixed Object	
		<input type="checkbox"/> Front <input checked="" type="checkbox"/> Right Side <input type="checkbox"/> Left Side <input type="checkbox"/> Rear		<input type="checkbox"/> Right Front <input type="checkbox"/> Right Rear <input type="checkbox"/> Top <input type="checkbox"/> Under Carriage		<input type="checkbox"/> Left Front <input type="checkbox"/> Left Rear <input type="checkbox"/> Other <input type="checkbox"/> Unknown		Most Harmful Event	
						1st 214		MOTOR VEHICLE IN TRANSPORT	
						2nd 214		MOTOR VEHICLE IN TRANSPORT	
						3rd			
						4th			
						5th			
<input type="checkbox"/> Override		Vehicle Towed: <input checked="" type="checkbox"/>		By: EWING BROTHERS TOWING		Removed To: TOW YARD			
<input type="checkbox"/> Under Ride									
Vehicle Action <input type="checkbox"/> Unknown		Vehicle Configuration		<input type="checkbox"/> Comm. Veh. <input type="checkbox"/> School Bus					
<input checked="" type="checkbox"/> Straight <input type="checkbox"/> Backing <input type="checkbox"/> Left Turn <input type="checkbox"/> Right Turn <input type="checkbox"/> Wrong Way <input type="checkbox"/> Other		<input type="checkbox"/> Parked <input type="checkbox"/> U-Turn <input type="checkbox"/> Lane Change <input type="checkbox"/> Passing <input type="checkbox"/> Driverless Veh <input type="checkbox"/> Leaving Parked		<input type="checkbox"/> Entering Lane <input type="checkbox"/> Leaving Lane <input type="checkbox"/> Stopped <input type="checkbox"/> Racing <input type="checkbox"/> Other Turning <input type="checkbox"/> Enter Parked(1)		<input type="checkbox"/> Bus 2-15 Occupants <input type="checkbox"/> Bus >15 Occupants <input type="checkbox"/> Single 2 Axle & 6 Tire <input type="checkbox"/> Single >- 3 Axle <input type="checkbox"/> Any 4 Tire Vehicle		<input type="checkbox"/> Tractor Only <input type="checkbox"/> Tractor/Trailer <input type="checkbox"/> Tractor/Doubles <input type="checkbox"/> Tractor/Triples	
						<input type="checkbox"/> Tractor/Semi-Trailer <input type="checkbox"/> Pass. Veh. (Haz-Mat) <input type="checkbox"/> Light Truck (Haz-Mat) <input type="checkbox"/> Other Heavy Vehicle <input type="checkbox"/> Truck with Trailer		Source: <input type="checkbox"/> Driver <input type="checkbox"/> State Reg. <input type="checkbox"/> Log Book <input type="checkbox"/> Side of Vehicle <input type="checkbox"/> Shipping Papers/Trip Mnfst.	
Carrier Name:		Power Unit GVWR:		<input type="checkbox"/> <= 10,000 Lbs. <input type="checkbox"/> 10,001-26,000 Lbs. <input type="checkbox"/> >26,000 Lbs.		<input type="checkbox"/> Haz-Mat <input type="checkbox"/> Released			
Carrier Street Address:		City:		State:		Zip:			
Cargo Body Type <input type="checkbox"/> Unknown		Placard #:		<input type="checkbox"/> ICC MC <input type="checkbox"/> Single State <input type="checkbox"/> USDOT <input type="checkbox"/> None <input type="checkbox"/> Canada <input type="checkbox"/> Mexican		NAS Safety Report #			
<input type="checkbox"/> Pole <input type="checkbox"/> Tank <input type="checkbox"/> Flatbed <input type="checkbox"/> Dump <input type="checkbox"/> Other		<input type="checkbox"/> Van/Box <input type="checkbox"/> Concrete Mixer <input type="checkbox"/> Auto Carrier <input type="checkbox"/> Garbage/Refuse <input type="checkbox"/> Not Applicable		<input type="checkbox"/> Grain, Gravel Chips <input type="checkbox"/> Bus 9-15 Occupants <input type="checkbox"/> Bus >15 Occupants		Diamond #:			
<input checked="" type="checkbox"/> NRS <input type="checkbox"/> CFR <input type="checkbox"/> CC/MC		Violation		NOC		Citation Number		<input type="checkbox"/> Suspected Impairment <input type="checkbox"/> Alcohol <input type="checkbox"/> Unknown <input type="checkbox"/> Drugs	
<input type="checkbox"/> Pending		NRS SUSPENDED LICENSE PLATES/REGISTRATION		0104		E10020798		Method of Determination <input type="checkbox"/> Driver Admission	
1)								Field Sobriety Test <input type="checkbox"/> Evidentiary Breath <input type="checkbox"/> Urine Test <input type="checkbox"/> Other	
<input type="checkbox"/> NRS <input type="checkbox"/> CFR <input type="checkbox"/> CC/MC		Violation		NOC		Citation Number		Investigator's Signature	
<input type="checkbox"/> Pending								Reviewed By: 6796 ROBERT GIBBS	
Investigator: D. FIGUEROA		ID Number: 9893		Date: 1/2/2011		Reviewed By: 6796 ROBERT GIBBS		Date: 1/9/2011	

MAY 22 2012

on file with the Las Vegas Metropolitan Police Department.  
 Susana S. McGurley  
 Director, Police Records Bureau Records Custodian

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Toxicology Unit		Distribution Date:  <b>MAR 31 2011</b>	
Subject(s):	AWERBACH, Jared	Case:	11 0102-3282
		Agency:	LVMPD
		Booked by:	D9693F
Incident:	DUICS	Requester:	Traffic

I, Stacy Sweeney, do hereby declare:

That I am a Forensic Scientist employed by the Las Vegas Metropolitan Police Department;

That I am a "chemist", as defined in Nevada Revised Statute 50.320, and my duties include the analysis of the blood of a person to determine the presence or quantification of a controlled substance, chemical, or prohibited substance;

That on March 27, 2009, I first qualified in the Eighth Judicial District Court of Clark County, Nevada, as an expert witness, to testify regarding the presence and amount of controlled substances in a biological fluid;

That I received a sealed blood sample in the above case from a secure refrigerator in the LVMPD Forensic Laboratory;


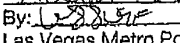
That I completed an analysis on the sample and identified:


$\Delta^9$ -TETRAHYDROCANNABINOL	3.3 ng/ml
THC CARBOXYLIC ACID (Marijuana metabolite)	47 ng/ml

That I sealed the sample and placed it in a secure refrigerator in the LVMPD Forensic Laboratory;

That the evidence was in my custody from the time I first obtained it until I resealed the sample, at which time it was in substantially the same condition as when I first obtained it.

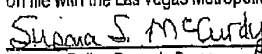
I declare under penalty of perjury that the foregoing is true and correct.

 3/31/11  
 Stacy Sweeney, P# 14210 Report Date  
 The dissemination of this  
 Record is Regulated by Law. Secondary  
 Dissemination of any kind is Prohibited  
 and could subject the offender to Criminal  
 and Civil Liability.  
 This Information Released To:  
 Adam Smith  
 By:  Date: 5/22/11  
 Las Vegas Metro Police Dept.

 8652  
 Reviewer

I hereby certify this is a full, true and correct copy of the:  
 ORIGINAL DOCUMENT  
 (HARD COPY/COMPUTERIZED/MICROGRAPHIC COPY)

MAY 22 2012

on file with the Las Vegas Metropolitan Police Department.  
  
 Director, Police Records Bureau Records Custodian

11 0102-3282

Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

DECLARATION FOR THE WITHDRAWAL OF WHOLE BLOOD SAMPLE

EVENT# 40102-3282

STATE OF NEVADA )

) AWERBACH, JARED  
(Name of Person Blood Drawn From)

COUNTY OF CLARK )

GEORGE YBINA being first duly sworn, deposes  
(PRINT NAME OF DECLARANT DRAWING BLOOD)

and says THAT I AM A: ☒ Registered Nurse ☐ Nurse Practitioner  
☐ Licensed Practical Nurse ☐ Medical Doctor  
☐ Laboratory Technician/ Assistant ☐ Other  
☐ Emergency Medical Technician  
☐ Physician Assistant

employed by: C.C.S.

That a regular part of my duties is the withdrawing of blood samples from persons and I am authorized to do so by:

☐ Nevada State Board of Nursing  
☐ Nevada Department of Human Resources/Health Division/Bureau of Licensure & Certification  
☐ Nevada Board of Medical Examiners (Doctors Only)

That on 1/2/11, at 1936 AM/PM, I withdrew a sample of blood in a medically  
(Date Drawn) (Time Drawn)

accepted manner (including using no alcohol solutions or alcohol-based swabs) from a person known to me

As AWERBACH, JARED  
(Print Name of Person Blood Drawn From)

That I kept the sample of blood in my sole custody or control and it remained in substantially the same condition

as when I first obtained it, until I delivered the sample to officer FIGUEROA PH 9693

of the Las Vegas Metropolitan Police Department. I, GEORGE YBINA, do hereby  
(Print Declarant Name)

declare under penalty of perjury that the foregoing is true and correct.

The Use and Dissemination of this Record is Regulated by Law. Secondary Dissemination of any kind is Prohibited and could subject the offender to Criminal and Civil Liability.

This Information Released To:

Adam Smith  
By: 1/2/11 Date: 1/2/11  
Las Vegas Metro Police Dept.

Declarant Signature

Declarant Title

Witness Signature

Date

(I hereby declare this is a full, true and correct copy of the: ORIGINAL DOCUMENT  
(HARD COPY/COMPUTERIZED/MICROGRAPHIC COPY))

MAY 22 2012

on file with the Las Vegas Metropolitan Police Department.  
Suparna S. McCurdy  
Director, Police Records Bureau Records Custodian

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
PROPERTY REPORT

Date Prepared 1-2-11 Time Prepared 11:00 2000 PAGE 1 OF 1

<input type="checkbox"/> Firearms Impounded		Incident <u>DUI-DWGS w/ACCIDENT</u>		<input type="checkbox"/> Felony <input type="checkbox"/> Gross <input checked="" type="checkbox"/> Misd.		Event # <u>110102-3282</u>						
Check 1-Box Only	<input type="checkbox"/> Recovered	<input checked="" type="checkbox"/> Evidence	<input type="checkbox"/> Found	Gang	<input type="checkbox"/> Yes	Name	CCW Permit <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
	<input type="checkbox"/> Safekeeping	<input type="checkbox"/> Seizure	<input type="checkbox"/> Other	Alleg.	<input type="checkbox"/> No							
Reporting Officer <u>Figueroa</u>		Unit <u>T3132</u>	P# <u>7693</u>	Supervisor Approving <u>[Signature]</u>		P# <u>5629</u>						
Property Physically Impounded By: <u>[Signature]</u>		Unit	P#	Property Checked Through: <input type="checkbox"/> Pawn <input type="checkbox"/> NCIS <input type="checkbox"/> SCOPE								
Property Physically Impounded By: (Signature) <u>[Signature]</u>		Connecting Reports - Type & Event #: I hereby certify this is a full, true and correct copy of the:										
S#	Last Name	First Name	MI	DOB	ORIGINAL DOCUMENT (HARD COPY) COMPUTERIZED/MICROGRAPHIC COPY							
<u>11</u>	<u>AWERBACH</u>	<u>JARED</u>			<u>Suspect #1</u>							
Street Address				Arrest Date Charge								
S#	Last Name	First Name	MI	DOB	ID#	AKA						
<u>11</u>	<u>AWERBACH</u>	<u>JARED</u>										
Street Address				Arrest Date Charge								
The Use and Dissemination of this Record is Regulated by P.R. Secondary Dissemination of any kind is Prohibited and could subject the offender to Criminal and Civil Liability.												
S#	Last Name	First Name	MI	DOB	ID#	AKA						
<u>11</u>	<u>AWERBACH</u>	<u>JARED</u>										
Street Address				Arrest Date Charge								
Recovered By <input checked="" type="checkbox"/> Reporting Officer		<input type="checkbox"/> Owner	Last Name	First Name	MI	DOB	SS#					
		<input type="checkbox"/> Finder										
Street Address		Home Phone		Business Phone								
Sector / Beat (Number & Street)		Bldg.#	Apt.#	City	State	Zip Code						
Owner Notified:	By	Date	VIA	Rd. to Owner?	Owner's Signature							
<u>Yes</u> <input checked="" type="checkbox"/> <u>No</u> <input type="checkbox"/>	<u>Figueroa</u>	<u>1-2-11</u>	<u>IN PERSON</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
Circumstances <u>Suspect #1 HAD CLEAR PLASTIC BAG INSIDE OF SHORTS RIGHT POCKET</u> <u>FRONT.</u>												
PKG #	ITEM #	OWNER #	Make or Brand	Model	Color	Caliber Size	Barrel Length	S-Serial # O=OAN M=Misc	Serial Number / OAN	Qty.	Description	If firearm Country Made / Importer
<u>1</u>	<u>1</u>	<u>1</u>			<u>GRN</u>					<u>1</u>	<u>CLUTCH PLASTIC BAGGY WITH GREEN LIME SUBSTANCE</u> <u>NIET FOR MARIJUANA</u> <u>8.8 GROSS WEIGHT.</u>	

↑ Corresponds to Incident Report Check here if property listing is continued on continuation page. ☐

LVMPD 67A (REV. 6-08)

DISTRIBUTION WHITE - RECORDS YELLOW - EVIDENCE VAULT PINK - FIREARMS DETAIL GOLDENROD - CITIZEN

<input type="checkbox"/> VEHICLE RECOVERY <input type="checkbox"/> SEIZURE OR <input checked="" type="checkbox"/> IMPOUND REPORT		<b>LAS VEGAS</b> <b>METROPOLITAN POLICE DEPARTMENT</b>		Report # (original if applicable) <b>110102-3252</b>	
Registered Owner's Name (Last, First, Middle) OR Firm Name <b>AWERBACH, ANDREA</b>				Report Date <b>1-2-11</b>	
Registered Owner's Address (Number & Street) <b>1827 W GOWAN RD APT 1114</b>				Sector / Beat <b>V6</b>	
Legal Owner's Name (Last, First, Middle) OR Firm Name <b>SA</b>				Res. Phone <b>557-5049</b>	
Legal Owner's Address (Number & Street) <b>SA</b>				Bus. Phone <b>N/A</b>	
Year <b>07</b>		Make <b>SUZUKI</b>		Reg. / License # <b>687-VGR</b>	
Body Type <b>4 DOOR HATCHBACK</b>		Model <b>SCARLETT</b>		Year <b>11</b>	
Color <b>RED</b>		Serial # / VIN <b>K153D5C227K59323R</b>		State <b>NV</b>	
CONDITION <input checked="" type="checkbox"/> Drivable <input type="checkbox"/> Damaged in Accident <input type="checkbox"/> Unknown If Drivable		METHOD <input type="checkbox"/> Hot Wire <input type="checkbox"/> Key <input type="checkbox"/> Other (explain)		Year <b>11</b>	
OF VEHICLE <input checked="" type="checkbox"/> Stripped <input type="checkbox"/> Plates Missing <input type="checkbox"/> Burned		OF THEFT <input type="checkbox"/> Ignition Punch		State <b>NV</b>	
Reason Vehicle Impounded		Location From Which Towed or Recovered (INCL. ZIP CODE) <b>2801 N RAGAN BLVD LAS VEGAS NV 89108</b>		<input type="checkbox"/> Garage <input type="checkbox"/> Parking Lot <input checked="" type="checkbox"/> Street <input type="checkbox"/> Desert	
LIC & VIN Checked Through NCIC? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		NIC #		Notified? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Vehicle used in Commission of Crimes? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Event #		The Use and Dissemination of this Record is Regulated by Law. Secondary dissemination of any kind is prohibited and could subject the offender to Criminal and Civil Liability.	
1 Name (Last, First, Middle) <b>AWERBACH, JARED</b>		Charge (s) <input type="checkbox"/> Suspect <input type="checkbox"/> Arrestee		I.O. Number <b>110102-3252</b>	
2 Name (Last, First, Middle)		Charge (s) <input type="checkbox"/> Suspect <input type="checkbox"/> Arrestee		I.O. Number <b>110102-3252</b>	
3 Name (Last, First, Middle)		Charge (s) <input type="checkbox"/> Suspect <input type="checkbox"/> Arrestee		I.O. Number <b>110102-3252</b>	
<b>CIRCLE IF PRESENT</b>					
7. CB Radio <input type="checkbox"/> 8. Type Rack <input type="checkbox"/> 9. Bellows <input type="checkbox"/> 10. Registration <input type="checkbox"/> 11. Air Cond. <input type="checkbox"/> 12. Bucket Seats <input type="checkbox"/> 13. Radio		14. Convertible <input type="checkbox"/> 15. T-Top <input type="checkbox"/> 16. Vinyl Top <input type="checkbox"/> 17. Hubcaps <input type="checkbox"/> 18. Auto Trans. <input type="checkbox"/> 19. Manual Trans. <input type="checkbox"/> 20. 4-Wheel Drive		21. Sunroof <input type="checkbox"/> 22. Hatchback <input type="checkbox"/> 23. Special Tires <input type="checkbox"/> 24. Missing Tires <input type="checkbox"/> 25. Special Plans <input type="checkbox"/> 26. Camper Top <input type="checkbox"/> 27. Roll Bar	
28. Spotlights <input type="checkbox"/> 29. Level Altered <input type="checkbox"/> 30. Hydraulic Lifts <input type="checkbox"/> 31. Tinted Windows <input type="checkbox"/> 32. Rear View Mirror <input type="checkbox"/> 33. Side View Mirror(s) <input type="checkbox"/> 34. Extra Antenna		35. Primer <input type="checkbox"/> 36. Rust <input type="checkbox"/> 37. Decorative Paint <input type="checkbox"/> 38. Metallic Paint <input type="checkbox"/> 39. Painted Inscription <input type="checkbox"/> 40. Sticker on Body <input type="checkbox"/> 41. Sticker on Window		42. Torn Sun/Vedliner <input type="checkbox"/> 43. Door Panels Gone <input type="checkbox"/> 44. Broken Windows <input type="checkbox"/> 45. Loud Muffler <input type="checkbox"/> 46. Spare Tire <input type="checkbox"/> 47. Jack <input type="checkbox"/> 48. Trailer Hitch/ Towbar	
49. Damage in Front <input type="checkbox"/> 50. Damage in Rear <input type="checkbox"/> 51. Damage to Side		Vehicle Keys (give #) <b>1</b>		Odometer Reading <b>71308</b>	
Tapes/CDs (give #) <b>4</b>		Trunk Inspected? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Trunk		Trunk Inspected? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Trunk	
INVENTORY OF PERSONAL PROPERTY <input type="checkbox"/> NONE - 2 BLK PHONE CHARGERS - 1 CAR SEAT - 1 SKETCH BOOK - 1 GRAY PHONE CHARGER - 1 BLK HOODIE - 1 MENORAH BOX - 1 BROWN JEWELRY BOX - 1 GRAY PHONE CHARGER - 1 MAX CLOTHING ITEMS					
ADDITIONAL REMARKS / VEHICLE DAMAGE <b>VEHICLE INVOLVED IN WRECK, EXTENSIVE DAMAGE TO FRONT OF VEHICLE</b>					
ADDRESS OF ORIGINAL EVENT, IF STOLEN (TAKEN FROM) <b>MAY 22 2012</b>					
O.K. To Release Vehicle? (Do NOT Place A Hold Only Because It Is Stolen) <input type="checkbox"/> YES <input type="checkbox"/> NO (If NO, Detail assigned follow up)				FOR SEIZURES ONLY: Remove Personal Property <b>on file with the Las Vegas Metropolitan Police Department</b>	
REASON FOR HOLD: <input checked="" type="checkbox"/> Ewing Bros. Towing <input type="checkbox"/> Quality Towing <input type="checkbox"/> Other (Name)				Director, Police Records Bureau <b>Suzanne S. McCarty</b>	
Tow Company Stock Number <b>173803</b>				Vehicle Released To: (Signature) <b>C. W. SAND</b>	
Impounding Officer(s) (Print) <b>C. W. SAND</b>				Supervisor Approving <b>SLC</b>	
Notification <b>9934</b>				Date <b>1-2-11</b>	
Time <b>11:11</b>				Vehicle Released To: (Print Name) <b>SLC</b>	

**EXHIBIT 1-E**

**EXHIBIT 1-E**

1  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

**CONDENSED  
TRANSCRIPT**

EMILIA GARCIA, individually, )  
Plaintiff, )  
vs. )  
JARED AWERBACH, individually; )  
ANDREA AWERBACH, individually; )  
DOES I - X, and ROE )  
CORPORATIONS I - X, inclusive, )  
Defendants. )

CASE NO. A637772  
DEPT. NO.: XXVII

DEPOSITION OF OFFICER DAVID FIGUEROA

North Las Vegas, Nevada

Friday, September 19, 2014

REPORTED BY: PEGGY S. ELIAS, RPR  
Nevada CCR No. 274 - California CSR No. 8671  
JOB NO.: 217677

OFFICER DAVID FIGUEROA - 09/19/2014

<p style="text-align: right;">Page 14</p> <p>1 A. Squad patrol, bicycle patrol, bicycle units 2 and indoor units, as in indoor motorcycle units, as 3 well. 4 Q. What's the location for South Central? 5 A. It's on Las Vegas Boulevard and Russell, just 6 south of. An address I cannot tell you. 7 Q. That's fine. 8 And how long did you work for Convention 9 Center? 10 A. Approximately a year. 11 Q. And what did that encompass? 12 A. That encompasses the same duties of -- patrol 13 duties, bicycle units, and indoor units, as well. 14 Q. What location? 15 A. Convention Center Area Command is on Swenson 16 and Desert Inn-ish, approximately. 17 Q. And can you describe the experience you have 18 in investigating motor vehicle accidents? 19 A. Five years experience, you know, with the 20 exception of the time I've been out. The necessary 21 classes related to investigations, I've taken several, 22 accidents. 23 Q. So, just so I understand this, you've worked 24 in the traffic bureau for five years; however, you had 25 an accident in March of 2011.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Fair enough. 2 And, generally, what I do when I ask this 3 question of officers, I break it down to what does it 4 come out to, let's say, per month or per year; can you 5 estimate? 6 A. Well, you average -- at that time we were 7 averaging three, four a shift. 8 THE REPORTER: Excuse me. My computer just 9 shut off. 10 (Discussion off the record.) 11 MR. MAZZEO: Back on. 12 BY MR. MAZZEO: 13 Q. All right. So, Officer, about 10 to 12 -- 14 about 10 to 12 a week would be 40 to 50 a month, 15 approximately, correct? 16 A. Correct. 17 Q. And then we can do the math for the 18 remainder. 19 And what kind of training did you receive for 20 accident reconstruction? 21 A. Accident reconstruction, you're required to 22 take an accident investigation class and several other 23 classes throughout the years. 24 Q. And is it correct to say that when you arrive 25 on the scene to investigate an accident, that one of</p>
<p style="text-align: right;">Page 15</p> <p>1 Is it fair to say that you have not worked a 2 patrol -- or as an investigating police officer since 3 your motor vehicle accident in March of 2011? 4 A. No. After March of 2011, I assumed -- I 5 resumed my duties, and the date that I went out in 6 reference to my injury was March 17th of '12, 2012. 7 Q. And is it fair to say, then, that since March 8 of 2012 until the present time, you have not worked as 9 an investigating police officer? 10 A. Yes, sir. 11 Q. So of the five years, then, is it fair to 12 say -- of the five years that you worked in the traffic 13 bureau, that you were active as an investigating police 14 officer for three of those years, approximately? 15 A. Approximately three years and a few months, 16 yes. 17 Q. Thank you. 18 And of the time -- the entire time that 19 you've been a police officer two with INMPO, can you 20 estimate the approximate number of accidents you have 21 investigated? 22 A. (No audible response.) 23 Q. In general. 24 A. In general, I can't put a number on it, but 25 it's numerous.</p>	<p style="text-align: right;">Page 17</p> <p>1 your duties is to secure the scene? 2 A. Yes. 3 Q. And can you describe for the record what that 4 means? 5 A. Well, if there's vehicles that are involved 6 in the accident causing a traffic situation, impeding 7 traffic, you would make sure that those vehicles can be 8 moved and, if not, have a tow truck arrive to assist in 9 that. 10 You elicit the help of patrol to do traffic 11 control if you need to divert traffic, debris that's on 12 the roadway, you make sure that that's cleared of 13 traffic -- impeding traffic, as well, and so forth. 14 Q. Thank you. 15 And in addition to that, would you agree that 16 your investigation on an accident scene includes 17 ascertaining whether any of the motorists or 18 individuals involved in the accident sustained 19 injuries? 20 A. Yes, sir. 21 Q. Also ascertaining how the accident occurred? 22 A. Yes, sir. 23 Q. Your investigation also includes speaking 24 with witnesses and motorists? 25 A. Correct.</p>

<p>Page 18</p> <p>1 Q. And assessing the area of initial contact of 2 the vehicles, if you can? 3 A. Yes. 4 Q. And also providing, I guess, a cursory 5 assessment of the vehicle damage, as well? 6 A. Yes. 7 Q. All right. And then also, as an 8 investigating officer, you are required to fill out 9 what's called a Traffic Accident Report? 10 A. Yes. 11 Q. Okay. 12 A. If certain criterion meets the -- the fact 13 that one is needed. There's certain issues -- 14 instances where you wouldn't take one. 15 Q. What are those instances? 16 A. Private property, very minor damage where the 17 drivers can exchange information, and you're basically 18 there to keep the peace and help facilitate the 19 exchange of information related to insurance, driver's 20 license, and so forth. In those instances a traffic 21 report is not needed. 22 Q. And has that -- was that always the case 23 since you've been a police officer with LVMPD, or did 24 that change in this past March of 2014? 25 A. That changed this past.</p>	<p>Page 20</p> <p>1 the vehicle still being able to be drivable. 2 Q. Okay. 3 A. So in that instance, if a complaint of injury 4 is made to the dispatcher, it would be an accident with 5 injury, and we will be dispatched. 6 Q. And I guess another way of asking it is if 7 it's claimed that there are no injuries reported by the 8 person calling 911 but there is a claim of minor 9 property damage, what does the dispatcher then do to 10 inquire as to make a determination whether you guys 11 should be responsive to it or not? 12 A. Today or -- 13 Q. Yes, post March of 2014. 14 A. Post March, I'm not versed on dispatcher's 15 protocols and what they use to determine if we come out 16 or not, but I'm assuming that there's a question -- 17 certain questions that they ask the caller and make 18 that determination. 19 Q. Thank you. 20 With respect to this accident, do you have an 21 independent recollection regarding this accident that 22 you investigated on January 2nd of 2011? 23 A. I do. 24 Q. And what is that recollection based on? 25 A. In terms of what? Can you be more specific?</p>
<p>Page 19</p> <p>1 Q. In what way did it change? 2 A. Accidents, minor accidents or accidents with 3 no injuries we're not coming out and taking an accident 4 report. 5 Q. And how would you -- what determination is 6 made as to how 911 or the LVMPD will deem an accident 7 as a minor property damage accident where they will not 8 respond to a scene? 9 A. Well, that information is received to us via 10 a dispatcher, who the people or parties involved 11 contact the dispatcher, and the information that they 12 relate to the dispatcher, the dispatcher makes that 13 decision if we are dispatched, and if they're not sure, 14 they will advise us and get input from us. 15 Q. And this is more of an aside for my own 16 edification, but if it's ascertained that the vehicles 17 are drivable, would that be a situation where the 18 dispatcher will make a determination that, you know, no 19 police response is necessary? 20 A. No. 21 Q. Can you give me a little clarification on 22 that? 23 A. Sure. The injuries can -- with my experience 24 in taking these accidents, injuries can be sustained or 25 a claim of injury can be sustained, I should say, with</p>	<p>Page 21</p> <p>1 Q. Yes, sure. 2 Given the number of accidents that you've 3 investigated over the course of your career -- and I 4 know this accident occurred shortly before you were 5 involved in your own accident, but if you're 6 investigating several accidents a day, I guess my 7 question is: Did you review any materials to refresh 8 your recollection as to this particular accident, or do 9 you have an independent recollection of -- 10 A. Okay. 11 Q. -- yeah, I remember this clearly, vividly, 12 the people, the names, et cetera? 13 A. I remember portions independently from 14 looking at the reports of the accident in reference to 15 the male driver. I did review reports of the accident 16 to recall the totality of the circumstances with this 17 accident. 18 Q. And the date of the accident I stated is 19 January 2nd of 2011, right? 20 A. Yes, sir. 21 Q. What was the approximate time of the 22 accident? 23 A. Evening, approximate. I'd have to refer to 24 the report, if I can. 25 Q. Sure. There you go.</p>

<p style="text-align: right;">Page 22</p> <p>1 MR. MAZZEO: I'm going to have the Traffic 2 Accident Report, consists of six pages -- we'll have 3 that marked as Exhibit A, and it's otherwise Bates 4 labeled GJL215 through 220. 5 (Exhibit A was marked for identification.) 6 BY MR. MAZZEO: 7 Q. So the first thing I'll ask you is: Do you 8 recognize this Traffic Accident Report marked as 9 Exhibit A as being the Traffic Accident Report that you 10 had completed with regard to this accident? 11 A. Yes, sir. 12 Q. So go ahead, take a look at it, and I guess 13 my question was the approximate time of the accident. 14 A. The time on the accident report reflects 15 5:57 p.m., military time 1757. 16 Q. And the location of the accident? 17 A. Was Rainbow and Peak Drive, just north of; 18 Rainbow Boulevard and Peak Drive, just north of. 19 Q. Now, was this the report that you had 20 reviewed to refresh your recollection as to this 21 particular circumstances and the individuals involved 22 in this accident? 23 A. Yes, sir. 24 Q. And what documents did you review in 25 preparation for your deposition today?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I do not. 2 Q. But you received a copy of it, or you had a 3 copy of it? 4 A. I was able to pull it from records. 5 Q. Oh, I see. Okay. 6 A. I don't keep those documents. 7 Q. Got it. 8 And so, in addition to the Traffic Accident 9 Report, you review that eight-, nine-, or 10 ten-page arrest packet in preparation of your depo 11 today? 12 A. Yes. 13 Q. And, I mean, ideally, that's something I 14 would like to have had -- 15 A. Yeah. 16 Q. -- at the time of your deposition, but, 17 anyway, we'll speak to it as -- I'm going to ask you 18 questions pertaining to it -- 19 A. Okay. 20 Q. -- as well. 21 So at this point we'll just go over the 22 Traffic Accident Report with you. So -- 23 MR. STRASSBURG: Pete? 24 MR. MAZZEO: Yes. 25 MR. STRASSBURG: Roger Strassburg here. I</p>
<p style="text-align: right;">Page 23</p> <p>1 A. I reviewed this -- MSP5 is the formal name of 2 this document. I reviewed this document as well as the 3 reports relating to the arrest that was made. 4 Q. And I'm not sure if I have copies of the 5 other reports but -- is this it? 6 A. Maybe. 7 Q. We'll take a look at this. I'm handing to 8 the officer a two-page Property Report. 9 A. I just saw -- no. 10 Q. That's not it? 11 A. That's not the original -- 12 Q. Yes, and -- which I don't have. 13 A. Okay. That's fine. 14 Q. And is it -- what's the title of that 15 document, arrest packet? 16 A. Arrest packet is -- I don't know -- eight, 17 nine, ten pages depending on things that were done; so 18 different forms to create the total packet. 19 Q. Sure. And I was looking through the 20 documents in preparation for your deposition today, and 21 that's what I was looking for. 22 A. Oh, I see. 23 Q. And I didn't find it. 24 Would you have that with you or in your 25 vehicle today?</p>	<p style="text-align: right;">Page 25</p> <p>1 E-mailed to both you and Adam the document that I 2 believe to be in response to my subpoena, which 3 contains all of the records I believe that are in the 4 arrest packet. 5 MR. MAZZEO: Okay. 6 MR. STRASSBURG: Maybe MaryAnn could copy 7 that off for you. 8 MR. MAZZEO: Yes. Did you -- 9 MR. SMITH: Well, we've produced those 10 previously, I think. I mean, I was going to wait -- I 11 was going to let Pete ask his questions, but we've 12 produced those documents previously, I think, you know, 13 when it's -- I don't mind giving them to Pete now, or I 14 can ask Officer Figueroa questions later to determine 15 whether the documents I have are what he's talking 16 about. 17 I'm not sure what we've produced or what 18 you've produced is what he's talking about, but I think 19 we can figure that out. 20 MR. MAZZEO: Well, yeah, I'm going to ask him 21 about it, and I'm going to take a break to get that 22 document. So, Adam, if you have a copy of it, I'd 23 certainly like to -- 24 MR. SMITH: There's two different things -- 25 MR. MAZZEO: -- take a look at it, and we can</p>

<p style="text-align: right;">Page 26</p> <p>1 get the officer ---</p> <p>2 MR. STRASSEBURG: And, Adam, you've got a copy</p> <p>3 of my subpoena return that I E-mailed to you?</p> <p>4 MR. SMITH: I did receive your E-mail</p> <p>5 yesterday, yes.</p> <p>6 MR. MAZZEO: Thank you.</p> <p>7 MR. STRASSEBURG: Okay.</p> <p>8 MR. SMITH: And, for the record, I just</p> <p>9 handed Mr. Mazzeo two sets of documents that are Bates</p> <p>10 stamp number GJL246 through GJL255 and GJL1674 through</p> <p>11 GJL1693.</p> <p>12 MR. MAZZEO: Okay.</p> <p>13 MR. SMITH: But I'm not necessarily saying</p> <p>14 that's what he's referencing, but it may be.</p> <p>15 MR. MAZZEO: Well, yeah, I'm going to have</p> <p>16 him look at it. Is this a copy for me?</p> <p>17 MR. SMITH: It is.</p> <p>18 MR. MAZZEO: Because what I want to do is</p> <p>19 break it apart.</p> <p>20 BY MR. MAZZEO:</p> <p>21 Q. Officer, I'm going to ask you to take a look</p> <p>22 at this document which is entitled Impaired Driving</p> <p>23 Report. It consists of seven pages and then attached</p> <p>24 to the back is a Temporary Custody Record, a chain of</p> <p>25 custody document consisting of two pages (handing).</p>	<p style="text-align: right;">Page 28</p> <p>1 Officer, you did testify it did, in fact, refresh your</p> <p>2 recollection with regard to this accident?</p> <p>3 A. Yes.</p> <p>4 But certain things of the accident were</p> <p>5 recalled reference the arrest report, which made me</p> <p>6 kind of get a general idea of the accident, when it</p> <p>7 took place and things, certain things about the</p> <p>8 accident report which recalled my memory.</p> <p>9 Q. Fair enough.</p> <p>10 And can you tell me -- before we get into the</p> <p>11 details of these reports, can you tell me what</p> <p>12 independent recollection you have concerning your</p> <p>13 investigation of this accident which -- concerning</p> <p>14 details which may not be reflected in either the</p> <p>15 Traffic Accident Report or the arrest report?</p> <p>16 A. The independent recollection I have is based</p> <p>17 off the arrest report. This particular subject who I</p> <p>18 arrested in reference to this accident had an issue</p> <p>19 where he was placed into custody after tests were done,</p> <p>20 and he was transported to jail, city jail.</p> <p>21 And a pat-down was conducted prior to the</p> <p>22 fact of any weapons before I entered the booking</p> <p>23 facility, and the correction officer -- as we entered</p> <p>24 the booking facility, the correction officer does what</p> <p>25 they're required to do to prepare him for accepting him</p>
<p style="text-align: right;">Page 27</p> <p>1 And take a look at that, and tell me if you</p> <p>2 recognize that as being related to this case in any</p> <p>3 manner.</p> <p>4 A. Yes, sir, these are related.</p> <p>5 MR. MAZZEO: Then we're going to have that</p> <p>6 marked as Exhibit B, the pages that I just described</p> <p>7 and which you've just reviewed, and we'll make a copy</p> <p>8 of it, so... When we take a break, I'll make copies of</p> <p>9 this, and then we'll have it marked by the court</p> <p>10 reporter.</p> <p>11 MR. SMITH: I have other copies.</p> <p>12 MR. MAZZEO: You have others, right?</p> <p>13 MR. SMITH: Do you just want another copy</p> <p>14 right now?</p> <p>15 MR. MAZZEO: Yeah, we can do that. I'm going</p> <p>16 to go over the Traffic Accident Report right now, and</p> <p>17 then I'll...</p> <p>18 MR. SMITH: For the record, what are the</p> <p>19 Bates stamp numbers that you were marking as Exhibit B?</p> <p>20 MR. MAZZEO: Sure. So Exhibit B consists of</p> <p>21 GJL1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, and</p> <p>22 1692 and 1693.</p> <p>23 (Exhibit B was marked for identification.)</p> <p>24 BY MR. MAZZEO:</p> <p>25 Q. In reviewing the Traffic Accident Report,</p>	<p style="text-align: right;">Page 29</p> <p>1 into booking.</p> <p>2 And he had a pair of gym shorts underneath a</p> <p>3 pair of long pants, and in those gym shorts, in his</p> <p>4 right front pocket, he had a clear plastic bag with</p> <p>5 green leafy substance, which later tested positive for</p> <p>6 marijuana, and the correction officer who was doing his</p> <p>7 business in front of me pulled out that clear plastic</p> <p>8 baggy and gave it to me.</p> <p>9 And then me and the subject had a</p> <p>10 conversation in reference to that, and that happened to</p> <p>11 me maybe twice.</p> <p>12 Q. Twice with --</p> <p>13 A. That -- where I'm preparing a subject for</p> <p>14 entering a facility and conducting pat-downs and so</p> <p>15 forth for any contraband or weapons, and I missed,</p> <p>16 because he had a pair of gym shorts underneath his</p> <p>17 pants, a small baggy of a green leafy substance. So</p> <p>18 that was what made me recall this incident.</p> <p>19 Q. Thank you.</p> <p>20 And what is the purpose for the Scene</p> <p>21 Information Sheet on this Traffic Accident Report?</p> <p>22 A. Which one are you referring to? The first</p> <p>23 page?</p> <p>24 Q. Yes.</p> <p>25 A. It's just -- I guess the best way I can sum</p>

OFFICER DAVID FIGUEROA - 09/19/2014

<p style="text-align: right;">Page 2</p> <p>1 Deposition of OFFICER DAVID FIGUEROA taken at  2 Barron &amp; Pruitt, 3890 West Ann Road, North Las Vegas,  3 Nevada, on Friday, September 19, 2014, at 9:27 a.m.,  4 before Peggy S. Elias, Certified Court Reporter in and  5 for the State of Nevada.</p> <p>6  7 APPEARANCES OF COUNSEL</p> <p>8 For Plaintiff:</p> <p>9  10 ADAM D. SMITH, ESQ.  11 Glen Lerner Injury Attorneys  12 4795 South Durango Drive  13 Las Vegas, Nevada 89147  14 702.877.1500  15 702.877.0110 Fax  16 asmith@glenlerner.com</p> <p>17 For Defendant Jared Awerbach:  18 ROGER W. STRASSBURG, ESQ. (Telephonic)  19 Rosnick &amp; Lewis, P.C.  20 6600 West Charleston Boulevard, Suite 117A  21 Las Vegas, Nevada 89146  22 702.997.3800  23 702.997.3800 Fax  24 rstrassburg@rlattorneys.com</p> <p>25 For Defendant Andrea Awerbach:  26  27 PETER MAZZEO, ESQ.  28 Barron &amp; Pruitt, LLP  29 3890 West Ann Road  30 North Las Vegas, Nevada 89031  31 702.870.3940  32 702.870.3950 Fax  33 pmazzeo@lvnlaw.com</p>	<p style="text-align: right;">Page 4</p> <p>1 DEPOSITION OF OFFICER DAVID FIGUEROA  2 Friday, September 19, 2014, 9:27 a.m.  3 -OOO-  4 (Prior to the commencement of the deposition,  5 all of the parties present agreed to waive statements  6 by the court reporter pursuant to Rule 30(b) (4) of the  7 NRCF.)  8 -OOO-  9 Whereupon,  10 OFFICER DAVID FIGUEROA,  11 having been first duly sworn to testify to the truth,  12 the whole truth, and nothing but the truth, was  13 examined and testified as follows:  14 EXAMINATION  15 BY MR. MAZZEO:  16 Q. Officer Figueroa, would you please state your  17 name for the record, spelling your last name.  18 A. David Figueroa, F-i-g-u-e-r-o-a.  19 Q. Thank you.  20 Have you ever had your deposition taken  21 previously?  22 A. For this case?  23 Q. No, I'm not -- I'm guessing that you weren't  24 deposed in this case yet.  25 A. No.</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX OF EXAMINATION  2 WITNESS: OFFICER DAVID FIGUEROA  3 EXAMINATION  4 By Mr. Mazzeo 4  5 By Mr. Strassburg 57  6 By Mr. Mazzeo 85  7 By Mr. Smith 104  8 By Mr. Mazzeo 133</p> <p>9  10 INDEX TO EXHIBITS  11 EXHIBIT DESCRIPTION PAGE  12 Exhibit A State of Nevada Traffic Accident 22  13 Report  14 Exhibit B Las Vegas Metropolitan Police 27  15 Department Impaired Driving Report  16 Exhibit C Las Vegas Metropolitan Police 63  17 Department Property Report  18 Exhibit D Las Vegas Metropolitan Police 78  19 Department Forensic Laboratory  20 Report of Examination  21 Exhibit E State of Nevada Traffic Accident 115  22 Report  23  24  25</p>	<p style="text-align: right;">Page 5</p> <p>1 Q. But in any case.  2 A. Yes.  3 Q. On how many occasions?  4 A. Once, maybe twice before.  5 Q. And when was the last time you were deposed?  6 A. I was deposed maybe a year ago. Maybe less.  7 Q. And were both of those depositions related to  8 your work as a Las Vegas Metro police officer?  9 A. No.  10 Q. What were those two depositions for?  11 A. For the injuries I sustained reference a  12 personal accident I was involved in; so...  13 Q. Both depositions pertained to the accident  14 you were involved in?  15 A. Correct.  16 Q. So it's fair to say that you were -- you  17 never gave testimony at a deposition with respect to  18 any cases in your line of work?  19 A. Correct.  20 Q. Have you ever testified at trial in your line  21 of work as a Las Vegas Metro officer?  22 A. Yes.  23 Q. On how many occasions?  24 A. Numerous. I can't put a number. Maybe,  25 honest, more than ten, less than twenty.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. And were they mostly in connection with a 2 traffic citation that was issued? 3 A. Mostly? 4 Q. Yes. 5 A. No. 6 Q. Have you testified at trial where the -- in a 7 civil matter where the -- one of the motorists brought 8 a claim against another motorist? 9 A. I don't recall. The majority were criminal 10 cases. 11 Q. Okay, sure. 12 All right. Well, given that you've been 13 deposed only with respect to your own case, I'm going 14 to go over the ground rules with you, so you know what 15 to expect with regard to a deposition. 16 The ground rules, you're probably familiar 17 with some of them from your prior depo, but, in any 18 event, I go over the same ground rules with everyone, 19 so don't take any questions personally. 20 You understand that you are here to give 21 testimony with regard to a motor vehicle accident that 22 you had investigated on January 2nd, 2011? 23 A. Yes. 24 Q. Is there any reason why you're unable to give 25 testimony concerning the subject matter of that</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. The other thing is I'd ask you to wait until 2 I complete my question before you give an answer, all 3 right? 4 A. Yeah. 5 Q. If at any time during the deposition you want 6 me to repeat a question, let's say you forgot the 7 question, didn't hear it, there's noise around or 8 outside, please tell me to repeat the question rather 9 than guess at what it might have been. 10 Fair enough? 11 A. Yes. 12 Q. If you do not understand a question that I 13 asked you -- typically, that's because I didn't ask the 14 question clearly enough -- please just tell me, and 15 I'll rephrase the question for you, all right? 16 A. Yes. 17 Q. I will assume that, if you answer a question, 18 that you understood the question that was asked, all 19 right? 20 A. Yes. 21 Q. I will be asking you some questions with 22 regards to time and distance. As an investigating 23 officer, you're -- I know that when you secure a scene, 24 investigate a scene, you take measurements, and you 25 have conversations with people.</p>
<p style="text-align: right;">Page 7</p> <p>1 investigation? 2 A. No. 3 Q. Are you on any medications that might affect 4 your ability to answer any questions I might ask you 5 concerning the subject matter of your investigation? 6 A. None. 7 Q. As you can see, we have a court reporter in 8 the room taking down everything that's being said, my 9 questions, your answers, any objections by counsel in 10 the room for the plaintiff and counsel on the 11 telephone. With that in mind, I'd ask that all of your 12 answers are verbal. 13 Fair enough? 14 A. I understand. 15 Q. That's because the court reporter is going to 16 make a written transcript of this proceeding, and we 17 want to make sure that -- she can only take down 18 whatever is verbalized, all right? 19 A. Sure. 20 Q. As opposed to nodding your head, shrugging 21 your shoulders, as we do in conversations quite often. 22 You can do that as long as each answer you give is 23 verbal. 24 Fair enough? 25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 Just keep in mind, I'm asking you only for 2 your best estimation and best approximation. Where a 3 range of a number, you know, what was the distance 4 between point A and point B, you can certainly give me 5 a range. That's certainly adequate unless you know the 6 exact measurements because you took a measurement of 7 something. 8 Fair enough? 9 A. Yes. 10 Q. You've taken an oath to tell the truth, as 11 you did in your prior deposition, and you understand 12 that oath? 13 A. Yes. 14 Q. And that subjects you to the same penalties 15 of perjury as if testifying in open court. 16 Do you understand that? 17 A. I understand. 18 Q. So I'm going to go over some general 19 information about you, and then we'll get into your 20 employment. 21 A. Can I just ask a question? 22 Q. Sure. 23 A. At some point I'm going to have to stand and 24 sit because my back is bothering me. Is that all right 25 with you guys?</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. That's fine. I do the same thing. I get up.  2 You don't even have to ask. If you're uncomfortable  3 sitting, feel free to stand. If you want to change  4 your position, walk around, that's fine. We're all in  5 this room. The court reporter typically does look at  6 your lips to help her understand what was said.  7 A. Okay.  8 Q. So --  9 A. That's fine.  10 Q. So, yeah, whenever you want, you can get up  11 and walk around, and I don't anticipate -- typically,  12 these depositions of the investigating officers aren't too  13 long.  14 This is a little unusual of a case because it  15 has another component involved with it. So we'll take  16 a break, you know. After an hour, you know, I'm sure  17 we'll take a break and, you know, however much time you  18 need.  19 A. Okay. I appreciate it.  20 Q. I believe because you were subpoenaed, we had  21 given you or your -- Metro a check.  22 A. Yes. You gave it to me, and I forwarded it  23 to my payroll department.  24 Q. All right. Good.  25 So what is your date of birth?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. And I'm not going to keep saying that name,  2 you know, spell it out. I may say LVMPD.  3 A. That's fine.  4 Q. And what titles have you had with the LVMPD?  5 A. In reference to what? Police officer two.  6 Q. Have you always been a police officer two?  7 A. Yes.  8 Q. What are the scope of your duties that go  9 along with that title?  10 A. Within the traffic bureau?  11 Q. Yes.  12 A. Investigate accidents, do proactive  13 enforcement, calls for service reference motorists, any  14 hazards on the roadway.  15 Q. Aside from the -- strike that.  16 How many years have you worked in the traffic  17 bureau?  18 A. Approximately just over five years.  19 Q. What other departments have you worked for?  20 A. None.  21 Police department?  22 Q. Yes.  23 A. None.  24 Q. Not police departments.  25 What other bureaus have you worked for at</p>
<p style="text-align: right;">Page 11</p> <p>1 A. October 28, 1970.  2 Q. Are you currently employed with the Las Vegas  3 Metro Police Department?  4 A. I am.  5 Q. In what capacity?  6 A. As a police officer assigned to the traffic  7 bureau.  8 Q. And what's your specific title?  9 A. Police officer two.  10 Q. And I'm going to go over the scope of your  11 duties and more about your work in a minute.  12 What is your current residence?  13 A. 5207 Sparkling Vine Avenue here in Las Vegas,  14 Nevada 89131.  15 Q. What is your highest level of education?  16 A. Bachelor's of science degree.  17 Q. From what college?  18 A. Nyack College in New York.  19 Q. Rockland County?  20 A. Correct.  21 Q. And what's your marital status?  22 A. Single.  23 Q. How long have you been employed by the  24 Las Vegas Metro Police Department?  25 A. Approximately eight years.</p>	<p style="text-align: right;">Page 13</p> <p>1 LVMPD?  2 A. I worked for -- would you like the names or  3 how many?  4 Q. The names.  5 A. The names, I worked for South Central Area  6 Command as a patrol officer.  7 Q. Once again, South?  8 A. South Central Area Command.  9 Q. Area Command, okay.  10 A. I was then transferred to Convention Center  11 Area Command and then transferred to traffic bureau, so  12 three.  13 Q. And how long did you work for South Central  14 Area Command?  15 A. Approximately two years.  16 Q. Did you start with the LVMPD at South Central  17 Area Command?  18 A. When I graduated the academy, I was  19 transferred to South Central Area Command, first  20 assignment.  21 Q. What does that assignment encompass?  22 A. Patrol.  23 Q. I'm sorry. What were your duties there?  24 A. Patrol.  25 Q. Is that a squad patrol, motorcycle --</p>

<p style="text-align: right;">Page 30</p> <p>1 it up is it's a big picture in terms of what took place  2 in the accident and exchange of information; so there's  3 a lot of detailed information so both parties can have  4 on our report saying that the police did come out, and  5 this was our findings.  6 Q. Including the date, location, the time of the  7 accident?  8 A. Yes, sir.  9 Q. Including the determination as to whether  10 there were any fatalities, the number of occupants,  11 number of vehicles, and number of individuals injured?  12 A. That is correct.  13 Q. And there were -- the number of individuals  14 involved in this motor vehicle accident would be in  15 that box number of occupants?  16 A. Yes, sir.  17 Q. So there's a total number of two individuals  18 involved in this particular accident, right?  19 A. Yes, sir.  20 Q. And those individuals are named on the  21 Vehicle Information Sheet for the respective vehicles,  22 correct?  23 A. Yes, sir.  24 Q. All right. And in the box near the top of  25 the page entitled -- has a number symbol and then</p>	<p style="text-align: right;">Page 32</p> <p>1 at the scene to get a visual, I guess, picture of what  2 took place.  3 Q. And so is it fair to say that this  4 description of accident narrative contains a  5 restatement of conversations you might have had with  6 the motorists?  7 A. Yes.  8 Q. And as well as a determination that you've  9 made as to maybe a finding of fault or a statement as  10 to your best understanding as to how the accident  11 occurred?  12 A. Yes, sir.  13 Q. Do you have -- strike that.  14 Can you tell me what your observations were  15 when you arrived on the scene at the location of this  16 accident? What were your initial observations?  17 A. I don't recall, but based on the report, two  18 vehicles on the roadway facing different directions.  19 Motorist in Vehicle 1, which is the male, sitting  20 behind the wheel, and the vehicle was on, running. The  21 lights were on. The subject -- the male subject was  22 sitting behind the steering wheel, driver's seat, and  23 keys were in the ignition.  24 Q. And referring to the occupant in Vehicle 1,  25 that was --</p>
<p style="text-align: right;">Page 31</p> <p>1 injured next to it, you have a zero in that.  2 What is that based on?  3 A. Can you give me the heading of the box?  4 Q. Oh, sure. It has a number sign and then  5 injured.  6 A. Oh, zero injured. That means that at the  7 time of the accident, no injuries were visible to me,  8 and no injuries were reported to me, reference the  9 parties involved.  10 Q. Is it correct to say, as an investigating  11 officer, you are required to ask two questions  12 regardless of the answer; more specifically, the  13 question you're required to ask the parties involved in  14 the accident: Are you injured, number one question?  15 A. Yes, sir.  16 Q. And regardless of the answer, are you still  17 required to ask whether or not they might need medical  18 attention?  19 A. Yes, sir.  20 Q. And so -- and then directing your attention  21 down to the bottom of the page under description of  22 accident narrative, what's the -- what's the purpose  23 for this section?  24 A. The purpose of this is to explain to those  25 who are going to read this accident report or weren't</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Awerbach.  2 Q. -- Jared Awerbach?  3 A. Yes, sir.  4 Q. And according to the narrative description,  5 he apparently -- he stated that he thought that Rainbow  6 Boulevard was clear of traffic?  7 A. Yes, sir.  8 Q. And which was the reason why he had entered  9 onto Rainbow at the time that he did?  10 A. Yes.  11 Q. And then does the description of the accident  12 contain any statements that the occupant of Vehicle 2,  13 Emilia Garcia, had provided to you?  14 A. Give me a second.  15 Q. Sure.  16 A. She provided statements because, naturally, I  17 would have to speak with her, but I didn't include them  18 into the narrative because I didn't think that they  19 was pertinent to the cause of the accident.  20 Q. And --  21 A. And --  22 Q. Did you -- let me --  23 A. No, no.  24 Q. Go ahead.  25 A. I just wanted to add the portion that states</p>

<p style="text-align: right;">Page 34</p> <p>1 the direction of travel and the travel lane she was in  2 was the only statements that I included into the  3 narrative portion of hers.  4 Q. And did you assume that Emilia Garcia had the  5 right-of-way simply because she was on a through street  6 and that Jared Awerbach was entering from a side  7 street?  8 A. Can you repeat that, please?  9 Q. Yes.  10 Did you assume, based on the direction of  11 travel of both vehicles prior to the accident, that  12 Emilia Garcia, who was traveling on Rainbow, had the  13 right-of-way to Jared Awerbach, who was entering from a  14 side street?  15 A. Well, I guess part of it you can say is an  16 assumption, but the majority of it was based on the  17 physical evidence on the scene, drivers' statements,  18 and the traffic laws regarding the direction of travel  19 and location of the male half of this accident. So you  20 take that -- those totalities of circumstances, and it  21 paints a vivid picture.  22 Q. So you take the totality of all the evidence  23 that you observe at the scene, the statements of the  24 occupants --  25 A. Correct.</p>	<p style="text-align: right;">Page 36</p> <p>1 the 311, whatever, call was made?  2 A. Correct.  3 Q. Moving on to the second page of this report,  4 there's a -- in the lower bottom corner, we have the  5 letters AIC.  6 What does that stand for?  7 A. That's the impact of the -- the location that  8 the two cars met.  9 Q. That would be the initial contact location?  10 A. Correct.  11 Q. And what are those coordinates that you have?  12 A. I have 100 feet north of south and 27 feet  13 west of east.  14 Q. And what are those numbers based on?  15 A. Those numbers are based on the location of  16 the intersection and the curb lines on the roadway.  17 Q. With respect to the vehicles or with respect  18 to debris from the vehicles or something else?  19 A. Respect to where the vehicles made contact.  20 You use debris and you use -- I don't recall in this  21 case if the vehicles upon impact remained the way they  22 were when I arrived, but it's based off of the impact  23 collision.  24 Q. The impact what?  25 A. Collision.</p>
<p style="text-align: right;">Page 35</p> <p>1 And there's some assumption involved with  2 those circumstances, but the majority of the conclusion  3 that I came to was based on the physical evidence on  4 scene, the statements, and directions of vehicles and  5 traffic laws that apply.  6 Q. Certainly.  7 And is it correct to say that you did not  8 observe this particular accident?  9 A. Yes, that's -- I did not.  10 Q. And how long after the accident did you  11 arrive on the scene?  12 A. I don't know if it's listed here.  13 Q. I'd just direct your attention to the bottom  14 of the first page.  15 A. Oh, okay. Yes, sir. So I arrived  16 approximately 15 minutes post, after.  17 Q. And, just for the record, it states on the  18 bottom of the first page of Exhibit A time notified is  19 1759, which would be 5:59 p.m., correct?  20 A. Yes, sir.  21 Q. And it states the arrival time as 1812, which  22 would be 6:12 p.m.?  23 A. Yes.  24 Q. And so the 1759 time is the time that you  25 were notified as opposed to when the 311 call was -- or</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Collision?  2 A. Of the two vehicles.  3 Q. Do you know if -- at the time you arrived, if  4 the vehicles had been moved from the original resting  5 position following the accident?  6 A. It should say in the report. I believe so.  7 If I can find it for you, I will.  8 The vehicles were moved.  9 Q. They were?  10 A. Vehicle 1 was moved, and Vehicle 2 was moved,  11 as well.  12 Q. And how do you know that? What on your  13 Traffic Accident Report indicates that?  14 A. Yes, sir.  15 Oh, where?  16 Q. Yes.  17 A. Distance traveled after impact, that's  18 page 3, towards the bottom of the page.  19 Q. Yeah.  20 And it states -- it has the number 7 and the  21 word "moved" to the right of it?  22 A. Correct.  23 So what that indicates is that after the two  24 vehicles met and the collision occurred, some point  25 from that time to the time I arrived, when they</p>

<p style="text-align: right;">Page 38</p> <p>1 contacted the dispatcher, they either were instructed 2 to move by dispatch or they just pulled to the side of 3 the road. 4 Q. That's the same case -- the same -- 5 A. Vehicle 2, as well. 6 Q. -- Determination made for Vehicle 2 on page 5 7 of the report? 8 A. Yes. And that reflects upon arrival of 9 myself. 10 Q. So let's talk about the Vehicle Information 11 sheet now for Vehicle 1, which would be Jared 12 Awerbach's vehicle. 13 A. Is that page 3? 14 Q. It is. 15 A. Okay. 16 Q. And I'm going to take you down to -- at the 17 top of the page, you indicate -- there's an X in the 18 box at fault; do you see that? 19 A. Yes, sir. 20 Q. And that's following your investigation, 21 that's the conclusion you reached, that he was at fault 22 for this particular accident? 23 A. Yes, sir, that's correct. 24 Q. Moving down on the left-hand side of the 25 page, there's a section for alcohol/drug involvement,</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Did you indicate that in your report 2 anywhere? 3 A. No. That would be indicated in the arrest 4 packet. 5 Q. Which is Exhibit B? 6 A. I guess, yes. 7 MR. MAZZEO: Off the record for a minute. 8 (Discussion off the record.) 9 MR. MAZZEO: Back on. 10 BY MR. MAZZEO: 11 Q. I think the last question that I asked you is 12 what question did you specifically ask him? 13 A. Reference the marijuana? 14 Q. Yes, when he last consumed it or -- 15 A. What question did I ask him? 16 Q. No. I asked if it was documented on the 17 Traffic Accident Report, and you said on the arrest 18 report? 19 A. Yes, sir. 20 Q. We'll get to that later. 21 All right. Moving to the right side -- let 22 me see something. 23 Moving to the right side of the page for 24 Jared Awerbach, there is a section in the top right 25 portion of the page for -- with respect to injuries,</p>
<p style="text-align: right;">Page 39</p> <p>1 and the box for drugs is marked with an X; do you see 2 that? 3 A. Yes. 4 Q. And then method for determination, there's an 5 X for driver admission; do you see that? 6 A. Yes. 7 Q. Once that -- is it your determination that 8 drugs were involved in this particular accident based 9 on the admission of the driver or based on something 10 else? 11 A. Well, it was a number of things. It was 12 based off the admission of the driver after I smelled a 13 strong odor consistent with marijuana when I arrived, 14 coming from inside the vehicle of the driver. He was 15 then asked have you been smoking marijuana, and he 16 stated yes; so he admitted it at that point. 17 Q. And you had asked him this question? 18 A. I did. 19 Q. When you asked him that question, at any 20 point did you ask him when he had -- when he had smoked 21 the marijuana? 22 A. Yes. 23 Q. And what was the question that you asked him? 24 A. He gave an approximation of one hour prior to 25 the accident.</p>	<p style="text-align: right;">Page 41</p> <p>1 transported, you know, injury severity, you have the 2 letter N. 3 That refers to no injury? 4 A. Yes. 5 Q. And what's that based on? 6 A. Drivers' statements, the parties involved. I 7 asked if there were any injuries, do you guys need 8 medical attention, they stated no, both, and this was 9 reflected of the male half, but the female half said 10 the same thing. 11 Q. Right. We'll get to that page in a second, 12 but did you ask these questions separately or one 13 question to both of them at the same time? 14 A. Separately. 15 Q. And the answer from Jared was no, he wasn't 16 injured? 17 A. Correct. 18 Q. And then you asked him if -- as you stated 19 earlier, you would have asked him if he needed medical 20 attention? 21 A. Yes. 22 Q. And his answer was? 23 A. No. 24 Q. And moving on down to the vehicle factors, 25 you had marked a box with -- I don't have my glasses --</p>



<p style="text-align: right;">Page 46</p> <p>1 A. Visual and from experience of taking 2 accidents, it was more than minor, in my opinion. 3 Q. And I've been told by other officers that you 4 kind of have a figure in your mind as to what might be 5 considered minor, moderate, and major. Minor damage I 6 think I've been told, it's an estimate, only an 7 approximate by the officer, of about \$750 in damage. 8 A. That's approximately correct. I use a 9 thousand dollars to each. 10 Q. Okay. 11 A. And it's -- that's my opinion. 12 Q. Fair enough. 13 And so what does moderate damage reflect? 14 How does that translate in terms of dollars? What 15 figures do you use? Anything over a thousand but less 16 than something else? 17 A. I don't know if I use a figure for the 18 ceiling, so to speak, of the dollar amount, but the 19 next level from moderate would be complete and totaled, 20 pretty much. 21 Q. Do you take into consideration the make, 22 model, and year of the vehicle when you make a 23 determination as to whether the damage is minor, 24 moderate, or major? 25 A. Yes.</p>	<p style="text-align: right;">Page 48</p> <p>1 injured, correct? 2 A. Yes, sir. 3 MR. SMITH: Object to the form. 4 BY MR. MAZZEO: 5 Q. And it's correct that Ms. Garcia had told you 6 that she was not injured? 7 A. Yes. 8 Q. And tell us about your observations that you 9 made of Ms. Garcia at the time. 10 A. In reference to what? 11 She had no physical or visual injuries that I 12 could tell, but they could be internal that I can't 13 see. That's where she would provide that information 14 to me. 15 Q. And that's where you would ask -- that's why 16 you follow up your visual observations with a question 17 asking the person whether they're injured? 18 A. Correct. 19 Q. And how long did your entire investigation 20 take place -- how long did it take to conduct your 21 investigation at the scene? 22 A. Start to finish? 23 Q. Yes. 24 A. Approximately an hour. 25 Q. And were both Jared Awerbach and Emilia</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. All right. So let's move on to Vehicle 2 2 traffic sheet. 3 By the way, officer, do you want to take a 4 five-minute break? 5 A. I'm fine if you guys are. 6 MR. SMITH: I'm fine. 7 BY MR. MAZZEO: 8 Q. All right. Let's keep going. 9 So looking at Vehicle Information Sheet 2, it 10 starts on page 5, that is the vehicle driven by Emilia 11 Garcia, correct? 12 A. Yes. 13 Q. What vehicle was she driving? 14 A. She was driving a 2001 Hyundai Santa Fe SUV. 15 Q. And who is the owner of that vehicle? 16 A. The registered owner is -- my copy has an 17 overprint. The name is not legible. 18 Q. Something -- 19 A. Aurora something. 20 Q. Right, okay. Yes, I have the same. 21 Okay. And -- all right. Directing your 22 attention to the right side of the page, the injury 23 section, injury severity, it also has an N, which 24 that's based on both your observations and your 25 question to Ms. Garcia asking her whether she was</p>	<p style="text-align: right;">Page 49</p> <p>1 Garcia at the scene for that hour of your 2 investigation? 3 A. Yes. 4 But I would like to add that the 5 investigation, if you're speaking of the hooking 6 procedures, it exceeded an hour, but the actual 7 accident investigation, approximately an hour, they 8 both were present. 9 Q. Okay. Thank you. 10 And so during that hour that you were 11 investigating this accident, is it correct to say that 12 you were able to observe both motorists throughout that 13 hour? 14 A. Yes. 15 Q. And at any time during that hour, did you at 16 any time observe Emilia Garcia sitting on the ground or 17 holding her neck or head or... 18 A. I don't recall. 19 Q. And had you made any observations that 20 maybe -- if a motorist needed assistance standing up or 21 exiting a vehicle or if they were using their hands to 22 touch a part of their body which would indicate a 23 symptom or injury of some sort, would you have noted 24 that in the Traffic Accident Report? 25 MR. SMITH: Object to the form.</p>

<p style="text-align: right;">Page 50</p> <p>1 THE WITNESS: I probably would have notated 2 it in the narrative, but if it's -- the only thing that 3 I can provide to request medical or ask if you have any 4 injuries. In the event that it's -- you know, 5 sometimes if they're in shock and there's visual clues, 6 I would automatically request on my own. 7 And so if in the event she was, you know, 8 holding her head or something in that nature, I 9 probably would have asked again, just reassure because 10 sometimes, you know, there's injuries that exist, and 11 it's best to have it confirmed rather than just go home 12 and leave this accident scene -- 13 BY MR. MAZZEO: 14 Q. Fair enough. 15 And do you have any recollection as to 16 whether Ms. Garcia might have been in shock as a result 17 of this accident? 18 A. I don't recall, but based on the accident 19 report that I took at the time, no. 20 Q. And if you had witnessed Emilia Garcia or any 21 motorist in shock as you're investigating an accident, 22 is it fair to say that you would have documented that 23 in your report? 24 A. Absolutely. 25 Q. Thank you.</p>	<p style="text-align: right;">Page 52</p> <p>1 BY MR. MAZZEO: 2 Q. And you had -- you did make a determination 3 that Ms. Garcia had the right-of-way at the time of 4 this accident or with respect to this accident, 5 correct? 6 A. Yes, sir. 7 Q. And because you made a determination that she 8 had the right-of-way, did that make her more credible 9 than Jared when it came to taking statements from both 10 of them? 11 MR. SMITH: Object to the form. 12 THE WITNESS: No. But -- I don't recall who 13 I spoke to first, but one subject is under the 14 influence, or at the time I believe he is, and one 15 appears normal. 16 You kind of put that in the back of your 17 mind, if you will, as you continue in your 18 investigation. So when you ask how the accident 19 happened and their opinions, you kind of take that into 20 consideration. 21 BY MR. MAZZEO: 22 Q. So you take that into consideration along 23 with the fact that -- 24 A. Correct. 25 Q. -- Ms. Garcia is driving on the through</p>
<p style="text-align: right;">Page 51</p> <p>1 Now, under driver factors for Ms. Garcia, you 2 marked a box apparently normal. 3 What is that conclusion or determination 4 based upon? 5 A. Can you give me some guidance on the 6 location? 7 Q. Sure. It's on the right side of the page -- 8 A. Okay. I do see it, yes. 9 Q. -- right underneath the injury section. 10 A. Driver factors, apparently normal. You're 11 excluding any visual clues of drugs being involved, and 12 that wasn't the case with her. Any other things aside 13 of the fact that she just was driving normally, 14 coherent, and things like that, so... 15 Q. And you state apparently normal because you 16 didn't actually observe this accident; so you couldn't 17 make any conclusive determination that -- 18 A. Correct. 19 Q. -- she may not have had the right-of-way to 20 the other vehicle? 21 MR. SMITH: Object to the form. 22 THE WITNESS: This does not reflect if she 23 had the right-of-way or not. This is just a visual 24 appearance of the state that she's in at the time that 25 I made contact.</p>	<p style="text-align: right;">Page 53</p> <p>1 street and that Jared is driving from a side street 2 entering a through street? 3 A. Correct. 4 And now with that said, that does not mean 5 that a person who is under the influence or you believe 6 them to be under the influence could be at fault. They 7 still could not be at fault, but you keep that in the 8 back of your mind, and, yes, the female was on a public 9 roadway, and the male half was not. 10 Q. And do you agree, though, based on that last 11 answer, that some motorists who might be traveling on a 12 through street might actually speed up to cut off 13 another driver who's entering onto a roadway who might 14 have had the ability to enter? 15 A. Sure. 16 MR. SMITH: Object to the form. Foundation. 17 BY MR. MAZZEO: 18 Q. And who might have had initially the 19 right-of-way because of the distance between the two 20 vehicles? 21 A. It's possible. 22 MR. SMITH: Object to the form. Foundation. 23 BY MR. MAZZEO: 24 Q. Because Ms. Garcia was driving on a through 25 street, are you inclined, as an investigating</p>

<p style="text-align: right;">Page 54</p> <p>1 officer -- I'm not saying you personally, but do you  2 think there's an inclination for the investigating  3 officer to discredit the adverse driver who's entering  4 from a side street who claims that the other motorist  5 sped up as he entered the roadway?  6 A. I wouldn't personally or as in a -- looking  7 at it from the view or perspective of an investigating  8 officer, I wouldn't rule that out, the fact that -- the  9 example you gave, that she was speeding or cutting  10 vehicles off.  11 But the majority of accidents, in my  12 experience from investigating that happened as this did  13 where one vehicle is coming out of a private drive, the  14 statistics are highly that -- likely that that vehicle  15 was the cause of the accident.  16 Q. Fair enough.  17 And drawing from my own experience, I come  18 out here -- I've been here for ten years; so I come out  19 from New York, and I was -- I'm amazed at the driving  20 out here, how many people where I'm in a merging lane,  21 and I might be three or four car lengths ahead of  22 somebody who's in the through lane, and they'll race up  23 just to cut me off even though I'm in a legal lane and  24 I'm merging.  25 A. Correct.</p>	<p style="text-align: right;">Page 56</p> <p>1 BY MR. MAZZEO:  2 Q. That's all I'm asking.  3 A. Yes.  4 Q. And then do you also agree that it's possible  5 that Ms. Garcia could have contributed to the accident  6 if Mr. Awerbach had initially -- initially had the  7 right-of-way to enter the roadway when he did given the  8 distance that he perceived between the two vehicles?  9 MR. SMITH: Object to the form. Foundation.  10 THE WITNESS: Can you please repeat?  11 BY MR. MAZZEO:  12 Q. Yes.  13 Do you agree that it's possible that  14 Ms. Garcia could have contributed to the motor vehicle  15 accident if Mr. Awerbach initially had the right-of-way  16 based on the distance between the two vehicles when he  17 entered the roadway?  18 MR. SMITH: Object to the form. Foundation.  19 THE WITNESS: Possibly.  20 BY MR. MAZZEO:  21 Q. Now, with respect to Ms. Garcia, what, if  22 any, conversations did you have with her that you have  23 a recollection of as you sit here today?  24 A. None in terms of the accident.  25 Q. The accident, post-accident statements.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. So you can't discount the possibility that  2 that happens in this town, and I kind of attribute it  3 to California drivers, but maybe it's from somewhere  4 else.  5 A. That is definitely happening on public  6 roadways.  7 MR. SMITH: If that's the question, I object  8 to the form.  9 MR. MAZZEO: Fair enough.  10 MR. SMITH: I took it as a statement, that he  11 made a comment. So if that's the question, I object to  12 the form.  13 MR. MAZZEO: And Mr. Smith is correct. I did  14 make it as a statement, and now I'll follow up with a  15 question.  16 BY MR. MAZZEO:  17 Q. So do you agree that it's possible that  18 you -- not having observed the accident, that  19 Mr. Awerbach could have had the right-of-way if it was  20 clear for him to enter when he did and that the adverse  21 driver, Ms. Garcia, could have sped up to kind of cut  22 him off or get past him just because she wanted to?  23 MR. SMITH: Object to the form.  24 THE WITNESS: I guess it's possible. I don't  25 agree, but I guess it's possible.</p>	<p style="text-align: right;">Page 57</p> <p>1 A. I do not recall any conversations we had.  2 Just what I read on the report.  3 Q. Were there any witnesses to this accident?  4 A. I believe there weren't.  5 MR. MAZZEO: And at this time I'm done with  6 the Traffic Accident Report. I need to take a -- I  7 think it might be a good time to take like a  8 five-minute break. I need to make copies of this and  9 take a quick look at it.  10 MR. STRASSBURG: Pete, can we -- are we off  11 the record?  12 MR. MAZZEO: We're going to go off the  13 record. Do you want to go off or stay on?  14 MR. STRASSBURG: No, let's go off.  15 MR. MAZZEO: We're off.  16 (Recess taken from 10:41 a.m. to 10:49 a.m.)  17 EXAMINATION  18 BY MR. STRASSBURG:  19 Q. Thank you very much for giving me this  20 accommodation to ask my questions out of order.  21 Officer, Roger Strassburg here by cell phone.  22 Can you hear me okay?  23 A. I can.  24 Q. Thank you, sir. I'd like to start by  25 thanking you for your service to the public. I want to</p>

OFFICER DAVID FIGUEROA - 09/19/2014

<p style="text-align: right;">Page 58</p> <p>1 be entirely fair to you in my questions. If at any  2 time I ask something that you don't understand, which  3 is common --  4 A. Restate that.  5 MR. MAZZEO: Roger, sorry. The court  6 reporter -- can you go into the smoking lounge or  7 somewhere where it's quieter? The court reporter is  8 having a little difficult time hearing you.  9 MR. STRASSBURG: Unfortunately, I don't think  10 I can. This is about as quiet as the airport gets. If  11 I go slower, does that help?  12 (Discussion off the record.)  13 BY MR. STRASSBURG:  14 Q. officer, is it your practice to put all  15 relevant information collected in your investigation  16 into your report?  17 A. Yes.  18 Q. Do you keep any personal notes?  19 MR. SMITH: Object to the form and  20 foundation.  21 THE WITNESS: I do. I have a pocket pad  22 where I write down certain pertinent information.  23 BY MR. STRASSBURG:  24 Q. Do you have those notes today?  25 A. I do not.</p>	<p style="text-align: right;">Page 60</p> <p>1 A. I'm sorry, sir. The background noise. Can  2 you please repeat?  3 Q. Certainly.  4 Did you ever come to the conclusion that  5 Jared Awerbach was impaired in his driving due to  6 marijuana?  7 A. Yes.  8 Q. And that conclusion was based upon your  9 observation and your training, true?  10 A. Yes. And the admissions that he gave.  11 Q. Thank you, sir.  12 And your conclusion is based upon your belief  13 and the scientific validity of your training, true?  14 A. Yes.  15 MR. SMITH: Object to the form.  16 THE WITNESS: Yes, sir.  17 BY MR. STRASSBURG:  18 Q. Thank you.  19 Now, have you had training in the  20 administration of standard field sobriety tests?  21 A. Yes.  22 Q. And do you recollect when you got that  23 training with LVMPPD?  24 A. I did.  25 Q. When?</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. You impressed me that you are a careful  2 investigator.  3 A. I would like to believe so.  4 Q. It would be your practice to form your  5 conclusion based on the evidence that you assess in  6 light of your training?  7 A. Yes, sir.  8 Q. And you would make it a practice to go where  9 the evidence leads you? You're not wedded to any  10 particular conclusion?  11 MR. SMITH: Object to form.  12 THE WITNESS: Yes.  13 BY MR. STRASSBURG:  14 Q. You wouldn't be reluctant to change a  15 conclusion if additional evidence came to light that  16 you thought made such a change appropriate, true?  17 A. Are you referring to at the time of the  18 investigation?  19 Q. At any time.  20 A. I just make my conclusion based on the --  21 where the investigation leads me at the time, yes.  22 Q. Now, did you ever come to the conclusion that  23 Jared Awerbach was impaired in his driving due to  24 marijuana to the point that he was not substantially  25 safe to drive?</p>	<p style="text-align: right;">Page 61</p> <p>1 A. When did I receive it?  2 Q. Yes, sir.  3 A. Oh, approximately 2008. The month I cannot  4 tell you.  5 Q. Fair enough.  6 And did you receive standard NISA training  7 using their manual at that time?  8 A. I do not recall.  9 Q. Did you receive training as a drug  10 recognition evaluator, a DRE?  11 A. I did not.  12 Q. At the time you investigated this accident,  13 did you have a current certification for the standard  14 field sobriety tests?  15 A. Yes, Yes, sir.  16 Q. Did your training cover the margins for error  17 of the standard field sobriety tests?  18 A. Can you be more specific?  19 Q. Based on your training, what, in your  20 opinion, is the margin for error of the standard field  21 sobriety tests?  22 MR. SMITH: Object to the form.  23 THE WITNESS: I don't recall margin of error.  24 BY MR. STRASSBURG:  25 Q. Have the standard field sobriety tests ever</p>

<p style="text-align: right;">Page 62</p> <p>1 been validated as a measure of impairment?</p> <p>2 MR. SMITH: Object to the form and</p> <p>3 foundation.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. STRASSBURG:</p> <p>6 Q. And you believe that based upon the training</p> <p>7 you received, true?</p> <p>8 A. Yes.</p> <p>9 Q. Now, did you have any involvement in</p> <p>10 preparing the inventory of property?</p> <p>11 A. Give me a second to reflect the report.</p> <p>12 Q. And I direct you to document GJL1682.</p> <p>13 MR. SMITH: He doesn't have that.</p> <p>14 THE WITNESS: I don't have that in front of</p> <p>15 me.</p> <p>16 MR. SMITH: I'll give it to him. I have a</p> <p>17 copy of it.</p> <p>18 MR. STRASSBURG: Thank you, Adam. Why don't</p> <p>19 you also give him 1683.</p> <p>20 MR. SMITH: Do you have a copy?</p> <p>21 MR. MAZZEO: The Property Report.</p> <p>22 MR. SMITH: You have your -- you only have</p> <p>23 one copy?</p> <p>24 MR. MAZZEO: I have several copies of the</p> <p>25 Property Report.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. If he had a medical marijuana card, would he</p> <p>2 be entitled to be in possession of that amount of</p> <p>3 marijuana?</p> <p>4 MR. SMITH: Object to the foundation.</p> <p>5 THE WITNESS: I'm not sure.</p> <p>6 BY MR. STRASSBURG:</p> <p>7 Q. Thank you, sir.</p> <p>8 Can you turn to the Impaired Driving Report.</p> <p>9 MR. MAZZEO: That's Exhibit B, Roger.</p> <p>10 MR. STRASSBURG: Thank you.</p> <p>11 BY MR. STRASSBURG:</p> <p>12 Q. Officer, did you administer the three tests</p> <p>13 recorded in this report?</p> <p>14 A. Yes.</p> <p>15 Q. And did you administer them in accordance</p> <p>16 with your training?</p> <p>17 A. I did.</p> <p>18 Q. Now, did you find that, in administering the</p> <p>19 HGN test, there was a lack of smooth pursuit?</p> <p>20 A. I did.</p> <p>21 Q. And how did you keep time so that you knew</p> <p>22 only two seconds had elapsed?</p> <p>23 A. I used a mental count in my mind.</p> <p>24 Q. So you didn't use a stopwatch? You just kept</p> <p>25 track mentally?</p>
<p style="text-align: right;">Page 63</p> <p>1 MR. SMITH: Here (handing). Do you want to</p> <p>2 mark those as Exhibit C?</p> <p>3 MR. MAZZEO: Sure.</p> <p>4 (Exhibit C was marked for identification.)</p> <p>5 THE WITNESS: Sir, I have GJL1682 and 1683.</p> <p>6 BY MR. STRASSBURG:</p> <p>7 Q. Did you fill those out, or did someone else?</p> <p>8 A. GJL1683 I did not fill out.</p> <p>9 Q. Did you have anything to do with inventorying</p> <p>10 the personal property in Mr. Awerbach's car?</p> <p>11 A. In the vehicle, I did not, sir.</p> <p>12 Q. Do you have any knowledge as to whether there</p> <p>13 was a scale in the car?</p> <p>14 MR. MAZZEO: A scale?</p> <p>15 THE WITNESS: A scale?</p> <p>16 MR. STRASSBURG: S-c-a-l-e.</p> <p>17 THE WITNESS: I don't recall if there was or</p> <p>18 wasn't, and I don't know if it was listed here.</p> <p>19 BY MR. STRASSBURG:</p> <p>20 Q. The amount of marijuana found on Mr. Awerbach</p> <p>21 was 8.8 grams, including the plastic bag, right?</p> <p>22 A. Yes.</p> <p>23 Q. And that would be regarded as a minor</p> <p>24 possession offense?</p> <p>25 A. A misdemeanor, yes.</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Yes, sir. It was only two seconds. I didn't</p> <p>2 feel the need for a stopwatch.</p> <p>3 Q. And what degree of lack of smooth pursuit did</p> <p>4 Mr. Awerbach's eyes evidence to you?</p> <p>5 MR. SMITH: Object to the form.</p> <p>6 BY MR. STRASSBURG:</p> <p>7 Q. Was it minor, moderate, or severe?</p> <p>8 MR. SMITH: Object to the form.</p> <p>9 THE WITNESS: I don't recall.</p> <p>10 BY MR. STRASSBURG:</p> <p>11 Q. The onset of nystagmus, do you see that?</p> <p>12 A. I do.</p> <p>13 Q. You test time mentally for that, as well?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And you estimated the 45-degree angle</p> <p>16 requirement?</p> <p>17 A. I did.</p> <p>18 Q. There's no way to measure that in the field,</p> <p>19 right?</p> <p>20 MR. SMITH: Object to the form.</p> <p>21 THE WITNESS: For an accurate 45 degrees, I'm</p> <p>22 sure there is, but I use a different method on -- every</p> <p>23 time I do it.</p> <p>24 BY MR. STRASSBURG:</p> <p>25 Q. You eyeball it?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. I eyeball it from the shoulder length of the 2 subject that I'm testing. 3 Q. Thank you, sir. 4 Is I can point you to page -- the first page 5 of the Impaired Driving Report where it says initial 6 field interviews. 7 A. First page, initial field interviews. 8 MR. MAZZEO: That would be the second page of 9 Exhibit B. 10 MR. STRASSBURG: Thank you. 11 THE WITNESS: Yes, sir, I have it. 12 BY MR. STRASSBURG: 13 Q. Do you see the questions in the left-hand 14 column? 15 A. Yes. 16 Q. Did you ask those questions? 17 A. I did not. 18 Q. Why not? 19 A. Because I didn't feel they applied. 20 Q. Why not? 21 A. Well, I -- asking about doctor and dentist, I 22 just didn't feel they applied at the time of the 23 interview. 24 Q. Could you look up that same page, physical 25 observations.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. How would you characterize the degree of 2 wobble? Was it mild, moderate, or severe? 3 A. I do -- 4 MR. SMITH: Object to the form. 5 THE WITNESS: I do not recall. 6 BY MR. STRASSBURG: 7 Q. If it had been severe, would that have been 8 an important factor that you would have included 9 somewhere in your report? 10 A. Yes. 11 Q. Now, you also -- did you check the box for 12 falling? 13 A. Yes. 14 Q. And do you recollect the circumstances that 15 you observed him falling? I mean, did he fall flat on 16 the ground or just bend to one knee or something else? 17 MR. SMITH: Object to form. 18 THE WITNESS: No, sir, I don't recall, but 19 it's usually when they have to support themselves prior 20 to falling, is when I check that box. I don't recall 21 if he actually fell or if he was -- remained standing. 22 BY MR. STRASSBURG: 23 Q. You checked swaying. 24 Are you able to characterize the degree that 25 he was swaying; mild, moderate, or severe?</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Yes. 2 Q. You found his eyes to be bloodshot? 3 A. Yes. 4 Q. Do you recall the degree that they were 5 bloodshot? Was it mild, moderate, or severe? 6 MR. SMITH: Object to the form. 7 THE WITNESS: I don't recall the three levels 8 of -- at the time. 9 BY MR. STRASSBURG: 10 Q. Do you recall that you assessed his pupil 11 size as normal? 12 A. Yes. 13 Q. His speech was normal? 14 A. His speech was normal, yes. 15 Q. He wasn't slurring his words or incoherent, 16 true? 17 A. No. 18 Q. He didn't appear to be confused or have 19 trouble understanding, true? 20 A. That is true. 21 Q. He was cooperative in his attitude with you? 22 A. He was cooperative, yes. 23 Q. Now, in assessing his balance, you noted that 24 he was wobbling; do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 A. I do not recall. 2 MR. SMITH: Object to the form. 3 BY MR. STRASSBURG: 4 Q. The walk-and-turn test, do you see that? 5 I think you have to turn the page. 6 A. Yes, sir. 7 Q. You found that he could -- where it says 8 cannot keep balance while listening, do you see that? 9 A. Yes. 10 Q. And did you require him to listen to all of 11 your instructions -- 12 A. Yes. 13 Q. -- while standing in the starting position 14 shown below? 15 A. Yes. 16 Q. And how long would you estimate it took you 17 to give him the instructions; one, two, three minutes? 18 A. On this particular test, a minute. 19 Q. Now, when you drew the -- you filled out the 20 graphs, I'm just interested -- you see that there's 21 two lines of nine spaces; do you see that? 22 A. Yes. 23 Q. And is the top line the first series of steps 24 he takes before the turn, and is the bottom line the 25 series of steps he takes after the turn, or is it</p>

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1 CERTIFICATE OF REPORTER  
2 STATE OF NEVADA )  
3 ) ss:  
4 COUNTY OF CLARK )  
5 I, Peggy S. Elias, a Certified Court Reporter  
6 licensed by the State of Nevada, do hereby certify:  
7 That I reported the deposition of OFFICER DAVID  
8 FIGUEROA, on Friday, September 19, 2014, at 9:27 a.m.  
9 That prior to being deposed, the witness was  
10 duly sworn by me to testify to the truth. That I  
11 thereafter transcribed my said stenographic notes via  
12 computer-aided transcription into written form, and  
13 that the typewritten transcript is a complete, true and  
14 accurate transcription of my said stenographic notes.  
15 That review of the transcript was not requested.  
16 I further certify that I am not a relative,  
17 employee or independent contractor of counsel or of any  
18 of the parties involved in the proceeding; nor a person  
19 financially interested in the proceeding; nor do I have  
20 any other relationship that may reasonably cause my  
21 impartiality to be questioned.  
22 IN WITNESS WHEREOF, I have set my hand in my  
23 office in the County of Clark, State of Nevada, this  
24 23rd day of September, 2014.  
25 PEGGY S. ELIAS, RPR, CCR NO. 274

**EXHIBIT 1-F**

**EXHIBIT 1-F**

**Recorded Statement of Jared Awerbach**  
**17331078-02**

TM: Okay, this is Teresa Meraz interviewing Jared Awerbach. I'm at telephone number 1-800-577-4299 at Extension 75664. It's currently 3:12 p.m. in Phoenix, Arizona, on January, uh, 6, 2011. And, this concerns an accident that occurred in Las Vegas, Nevada, on January 2, 2011. And, Jared, can you please state and spell your full name?

JA: State my name and, uh, what did you need me to do?

TM: Excuse me?

JA: I can't hear you.

TM: Okay, um.

JA: Yeah, hello?

TM: Can, you...

JA: I'm sorry.

TM: Can you state and spell your full name?

JA: St, state and spell my full name, my full name is Jared Awerbach J-A-R-E-D A-W-E-R-B-A-C-H.

TM: And, what's your current address?

JA: 1827 West Gowan.

TM: And, how do you spell the name of that street?

JA: G-O-W-A-N.

TM: And, is that in Las Vegas?

JA: Yeah, North Las Vegas, Nevada.

TM: Okay, and how long have you lived at this address?

JA: Um, three or four years.

TM: You said three to four years?

JA: Mm hmm.

TM: Okay, and what's a, what's your date of birth?

JA: 2/11/92.

**Recorded Statement of Jared Awerbach**  
**17331078-02**

TM: And, do you know the year, make and model of the vehicle you were driving?

JA: I know it's a Suzuki Forenza, I don't know the year.

TM: Okay, and who is the owner?

JA: *(Transcriber note: all proper names note spelled are typed as they sound)*  
Andrea Awerbach.

TM: And, what is your relationship to her?

JA: That's my mother.

TM: Okay, did you have permission to drive the vehicle?

JA: No, she did not know I had it.

TM: She didn't know?

JA: No.

TM: Okay, was she home at the time?

JA: Uh, yeah, I think so.

TM: And, where were the keys?

JA: They were on the counter.

TM: Do you normally drive the vehicle or have you driven the vehicle in the past?

JA: Yeah, I have in the past.

TM: Okay, and, um, how many times would you say you've driven the vehicle?

JA: I can't tell you that, Ma'am.

TM: Okay, and did she verbally tell you, you were not allowed to use the vehicle or it's just something that you didn't ask at the time?

JA: Uh, I didn't ask at the time, but I wasn't supposed to be driving, 'cause I, uh, there was a problem with my permit. I thought I had a permit, but I didn't, so, um, I was driving around with no, uh, papers or anything like that and I wasn't aware of it.

TM: Let's see, do you have a driver's license?

**Recorded Statement of Jared Awerbach**  
**17331078-02**

JA: No, I don't.

TM: Okay, have you ever had a driver's license?

JA: Uh, no I haven't.

TM: Okay, and when you've driven the vehicle in the past, did your mother know about it then also?

JA: Uh, once or twice she knew about it when I was going to the store, but others times...

TM: Okay.

JA: I just took it without her permission.

TM: Okay, did you have any passenger's with you at the time?

JA: No, I was by myself.

TM: Okay, and do you have your own car or your own auto insurance?

JA: No, I do not.

TM: Okay.

JA: Is there any, is there any way I could tell you about the accident now, 'cause I'm kind of, um, I'm on a time limit?

TM: Oh, yeah, yeah, definitely. Tell me, um, tell me how it occurred.

JA: Okay, so I was coming out of the apartments, they're called, uh, Villa Del Sol. And I was making a left into oncoming traffic and I saw a bus and a bus was ahead of me and a bus was stopped and a bus, or behind the bus it looked clear, so I went to make my left into oncoming traffic, the bus was clear and then I hit the white vehicle or it was the collision. It wasn't, I hit it, you know what I mean. I'm not admitting that I hit her, I'm just saying there was a collision. And, then we spun around for a little bit in and we were in the middle of the street and I, uh, ran over to see if she was okay, she said she was sick and a little scared. And, I said okay, are you sick, are you bleeding, are you hurt, she said no and I ran back to my car and got, uh, all my information, *(several words unintelligible)*.

TM: Was she coming from your left or from your right?

JA: She was coming from my left.

TM: Do you in which lane she was in?

**Recorded Statement of Jared Awerbach**  
**17331078-02**

JA: She was in the second.

TM: Is that

JA: There was a bus in the first lane.

TM: Okay, and did you make your left turn, um, when the bus is still stopped there or after the bus, um, left?

JA: The bus was still on the left. The bus had a passenger.

TM: Okay, so it was still there?

JA: It was like 20 feet, yeah, there was probably 20 feet between me and the bus or maybe 60, I'm not sure (*unintelligible*), but I was, the bus had stopped, the bus was at the bus stop.

TM: And, when did you first see the other vehicle?

JA: Um, after I heard the collision.

TM: Did you have any time to react, like hit your brakes or swerve or anything like that?

JA: Yeah, I did swerve and, uh, I tried to hit the gas so I could move the car and, uh, nothing, it was like, and it was smoking.

TM: And, which way did you try to swerve?

JA: I tried to swerve left, so that I could go back and get out of traffic.

TM: And, were you under the influence of any drugs or alcohol?

JA: No, I was not.

TM: Were the police called?

JA: Yeah, the police were there. I did, um, I received a DUI for the ticket, but I was not under the influence. I had, um, marijuana on me and I received a possession charge for that.

TM: Like you had it with you, but you hadn't, um, taken it?

JA: Yeah.

TM: Okay.

JA: Correct, um, does that matter to you guys?

**Recorded Statement of Jared Awerbach**  
**17331078-02**

TM: Um, yeah, it does.

JA: Okay.

TM: So, you hadn't, uh, smoked that day?

JA: No.

TM: Okay, did the officer issue...

JA: It was just on my *(unintelligible, both parties speaking)*.

TM: Okay, did the officer issue...

JA: Uh, it was just on my *(unintelligible, both parties speaking)*.

TM: Did the officer...

JA: And, issued a DUI.

TM: Okay, any other citations?

JA: They issued, uh, it was on my *(unintelligible)*. Yeah, it was on my *(unintelligible)*, and, uh, I had, uh, lied to him, I was trying to, uh, stay out of jail and not get caught with the, uh, marijuana, but, um, they had found the marijuana when I went to jail.

TM: And, do you know when the last time you had smoked was?

JA: Like weeks ago.

TM: Okay, did the officer issue any citations for the traffic accident?

JA: Yeah, he cited me with, um, it was DUI, no driver's license, no proof, proof of insurance, *(unintelligible)*, and, uh, failure to yield, *(unintelligible)* before driving.

TM: Do you know if there were any witnesses that saw what happened?

JA: Um, no I don't.

TM: Okay, and do you live with your mother?

JA: No, I don't.

TM: You don't, okay.

JA: No.

**Recorded Statement of Jared Awerbach**  
**17331078-02**

TM: So, I'm showing that her address is the same apartment complex, do you have different apartments?

JA: Yeah, we, we did, we did, yeah, we did live together, we live in, uh, different apartments.

TM: Okay.

JA: Well, we still, I would say. Well, I'm in the middle of moving out.

TM: Okay, so you still currently stay with her at times?

JA: Um, yeah, I guess you could say, you could find me there.

TM: Okay.

JA: I'm not really here at her house, but my things are still there, you know.

TM: Okay. Okay, and those are all the questions I have, is there anything else that you want to add that we didn't cover?

JA: Um, I'm trying to think.

TM: And, I did forget to ask one more question. Um, why were you using the vehicle at the time?

JA: Uh, I went to go see, I just had a child, so I was getting something for my son from her godmother.

TM: Okay.

JA: Who lives in another apartment.

TM: So, it was.

JA: Her mother's sister.

TM: Okay.

JA: Um, I honestly think, to me it seemed like the white vehicle had sped up, 'cause it was flying by me, you know, and when I hit her it seemed weird, like her tail hit, like spun around too, you know.

TM: Okay, is there anything else?

JA: Yes, and to protect Andrea Awerbach, that she did not have the car or anything like that.

**Recorded Statement of Jared Awerbach**  
**17331078-02**

TM: Okay, and are the remarks you've made in his recording your true version to the best of your knowledge?

JA: Yes, Ma'am.

TM: And, have you understood all of my question?

JA: Yeah.

TM: And, was this recording been made with your full knowledge and consent?

JA: *(Unintelligible)*, excuse me?

TM: Was this recording made with your full knowledge and consent?

JA: Oh, yeah.

TM: Okay.

JA: Yes, it was.

TM: Thank, thank you and this concludes the recorded interview. And, I'm just going to turn off the recorder and you're going to hear a series of numbers, but stay on the line, okay?

JA: Okay.

**Certificate of Accuracy**

*This is to state that I, Ashley Osborn, transcribed the foregoing recorded statement and completed it on September 25, 2011 and have herein rendered a complete and accurate transcription of the auditory contents of the recorded statement to the best of my ability.*

EXHIBIT 1-G

EXHIBIT 1-G

1 **SUPP**

Alexandra B. McLeod

2 Nevada Bar No. 8185

amcleod@bvrclaw.com

3 BRADY, VORWERCK, RYDER & CASPINO

2795 East Desert Inn Road, Suite 200

4 Las Vegas, Nevada 89121

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5 Facsimile: (702) 697-6505

6 Attorneys for Defendants, JARED AWERBACH  
and ANDREA AWERBACH

7  
8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10  
11 EMILIA GARCIA,

12 Plaintiff,

13 v.

14 JARED AWERBACH, individually,  
15 ANDREA AWERBACH, individually, DOES  
I-X, and ROE CORPORATIONS I-X,  
16 inclusive,

17 Defendants.

Case No.: A-11-637772-C

Dept. No.: XXVII

**DEFENDANTS' SECOND SUPPLEMENT  
TO LIST OF WITNESSES AND  
DOCUMENTS AND TANGIBLE ITEMS  
PRODUCED AT EARLY CASE  
CONFERENCE**

18 COMES NOW Defendants, JARED AND ANDREA AWERBACH, by and through their  
19 counsel of record, ALEXANDRA B. MCLEOD, ESQ., of the law firm of BRADY, VORWERCK,  
20 RYDER & CASPINO, and hereby submits the following List of Witnesses and Documents and  
21 Tangible Items Produced at the Early Case Conference in the above-entitled action, pursuant to NRCP  
22 16.1. Supplemental information is presented in *bold italic type*.

23 **I.**

24 **LIST OF WITNESSES**

- 25 1. EMILIA GARCIA, Plaintiff  
26 c/o ADAM D. SMITH, ESQ.  
27 Glen Lerner & Associates  
28 4795 South Durango Drive  
Las Vegas, Nevada 89147

1 EMILIA GARCIA is a Plaintiff in this matter and is expected to testify to the facts and  
2 circumstances surrounding the subject incident, as well as to her alleged injuries sustained thereby and  
3 medical treatment received therefor, and to all other relevant matters.

4  
5 2. JARED AWERBACH, Defendant  
6 c/o ALEXANDRA B. MCLEOD, ESQ.  
7 Brady, Vorwerck, Ryder & Caspino  
8 2795 East Desert Inn Road, Suite 200  
9 Las Vegas, Nevada 89121

10 JARED AWERBACH is the Defendant in this matter and is expected to testify to the facts and  
11 circumstances surrounding the subject incident and to all other relevant matters.  
12

13 3. ANDREA AWERBACH, Defendant  
14 c/o ALEXANDRA B. MCLEOD, ESQ.  
15 Brady, Vorwerck, Ryder & Caspino  
16 2795 East Desert Inn Road, Suite 200  
17 Las Vegas, Nevada 89121

18 ANDREA AWERBACH is the Defendant in this matter and is expected to testify to the facts  
19 and circumstances surrounding the subject incident and to all other relevant matters.  
20

21 4. OFFICER D. FIGUEROA, ID/Badge #9693  
22 c/o Las Vegas Metropolitan Police Department  
23 400 East Stewart Avenue  
24 Las Vegas, Nevada 89101

25 OFFICER FIGUEROA was the investigating officer on the scene of the accident in question  
26 and is expected to testify as to the facts and circumstances surrounding the subject incident and to all  
27 other relevant matters.  
28

29 5. PERSON MOST KNOWLEDGEABLE  
30 Employer of Plaintiff at the time of the subject incident

31 The PERSON MOST KNOWLEDGEABLE of the Employer of Plaintiff at the time of the  
32 subject incident is expected to testify as to any loss of time and/or wage loss to be potentially claimed  
33 by Plaintiff as a result of the subject incident and to all other relevant matters.  
34

35 6. ANY AND ALL APPROPRIATE MEDICAL CARE  
36 PROVIDERS OF PLAINTIFF  
37  
38

1 ANY AND ALL APPROPRIATE MEDICAL CARE PROVIDERS OF PLAINTIFF are  
2 expected to testify as to the injuries allegedly sustained by Plaintiff and the treatment rendered  
3 therefor, Plaintiff's medical history and records, and to all other relevant matters.

4  
5 7. G. MICHAEL ELKANICH, M.D.  
6 2680 Crimson Canyon Drive  
Las Vegas, Nevada 89128  
(702) 228-7355

7 DR. G. MICHAEL ELKANICH is an orthopedic surgeon who is expected to testify  
8 concerning his Independent Medical Examination of Plaintiff EMILIA GARCIA on December 18,  
9 2012, his review of plaintiff's medical records and films, and concerning such issues as causation,  
10 reasonableness of injury claims, treatment and medical charges, and concerning his present status,  
11 physical condition, ability to work, prognosis, need for future treatment, and all relevant matters.

12  
13 8. ROBERT H. ODELL, JR., M.D., Ph.D.  
14 8084 W. Sahara, Suite E  
Las Vegas, Nevada 89117  
(702) 257-7246

15 DR. ROBERT H. ODELL is an anesthesiologist and pain management expert who is expected  
16 to testify concerning his review of plaintiff's medical records, and concerning such issues as causation,  
17 reasonableness of injury claims, treatment and medical charges, and concerning her present status,  
18 physical condition, ability to work, prognosis, need for future treatment, and all relevant matters.

19 Defendant hereby names, and incorporates by reference herein, any witness listed by any other  
20 party to this litigation. Defendant reserves the right to call as a witness any treating physicians named  
21 by Plaintiff or any other witness arising out of the subject incident. Defendant reserves the right to  
22 supplement this list of witnesses as discovery progresses.

23 *H.*

24 ***DOCUMENTS AND TANGIBLE ITEMS PRODUCED***

- 25 A) Copy of State of Nevada Traffic Accident Report, six (6) pages;  
26 B) Transcript of recorded statement of Plaintiff, Emilia Garcia;  
27 C) Transcript of recorded statement of Defendant, Jared Awerbach;

- 1 E) Settlement statement for salvage title 2001 Hyundai Santa Fe;  
2 F) Property damage estimate from Ultimate Collision Repair Center;  
3 G) Autosource valuation for Plaintiff's 2001 Hyundai Santa Fe;  
4 H) Rental invoice;  
5 I) Authorization for payment by Plaintiff, Emilia Garcia;  
6 J) Liberty Mutual Policy A02-268-633569-400  
7 K) *Adjuster's Claims Notes between January 2-17, 2011 (Bates labels LM001-006;  
8 LM019-027); notes after January 17, 2011 withheld (Bates labels LM007-018).*  
9 L) *Privilege log pertaining to redacted claims notes.*

10 Defendant hereby lists, and incorporates by reference herein, any and all documents set forth  
11 by any other party to this litigation. Defendant reserves the right to supplement this list of documents  
12 and tangible items produced as discovery progresses.  
13

14 DATED: July 22, 2013

BRADY, VORWERCK, RYDER & CASPINO

15  
16  
17 By

  
ALEXANDRA B. MCLEOD

Nevada Bar No. 8185

2795 East Desert Inn Road, Suite 200

Las Vegas, Nevada 89121

Attorneys for Defendants, JARED AND ANDREA  
AWERBACH

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of July, 2013, I forwarded a copy of the above and foregoing **Defendants' Second Supplement to List of Witnesses and Documents and Tangible Items Produced at Early Case Conference** as follows:

- ☒ by depositing in the United States mail, first-class postage prepaid, at Las Vegas, Nevada, enclosed in a sealed envelope, pursuant to NRCP 5(b)(2)(B) and EDCR 7.26(a)(1) [FRCP 5(b)(2)(C)]; and/or
- ☐ by facsimile transmission pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(3) [FRCP 5(b)(2)(E)]; as indicated below; and/or
- ☐ by electronic transmission [via CM/ECF], pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(4) [FRCP 5(b)(2)(E)]; and/or
- ☐ by email as indicated below pursuant to NRCP 5(b)(2)(D) [FRCP 5(b)(2)(E)];

TO:

Adam D. Smith, Esq.  
Glen Lerner & Associates  
4795 South Durango Drive  
Las Vegas, Nevada 89147  
(702) 877-1500  
(702) 877-0110 (Fax)  
*Attorneys for Plaintiff*

Lara Hoover  
Mitchell J. Resnick  
RESNICK & LOUIS, P.C.  
415 S. Sixth Street, Suite 300  
Las Vegas, NV 89101  
(702) 997-3800  
Fax (702) 997-3800  
*Attorney for Defendant,  
Jared Awerbach*

  
Employee of  
BRADY, VORWERCK, RYDER & CASPINO

# EXHIBIT "K"

GARCIA, EMILIA - AWERBACH, ANDRE		1078-0002 DOL: 01/02/2011 Investigation													
File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help															
Total Subrog Assign Close Refresh Next Exit															
Plan	Claimant: Name: GARCIA, EMILIA Role: Owner/Operator Claimant's Car Home: (702)4739451 Bus:		Loss Location: Street/PO: rainbow blvd City: las vegas ST/Prov: NV ZIP/Postal:												
Policyholder	Office: 0647 - PHOENIX, AZ <b>Open</b>		Investigation Strategy: <b>Yellow</b>												
Claimant	Date of Loss: 01/02/2011 Report Date: 01/03/2011		Assignments...												
Occurrence	<table border="1"> <thead> <tr> <th>Coverage Type</th> <th>Coverage</th> <th>Loss Cost Estimate</th> <th>Loss Paid to Date</th> </tr> </thead> <tbody> <tr> <td>Liability</td> <td>LIBI - LIABILITY - BOD</td> <td>\$50000.00</td> <td>\$0.00</td> </tr> <tr> <td>Liability</td> <td>LIPD - LIABILITY - PRI</td> <td>\$6852.00</td> <td>\$6851.53</td> </tr> </tbody> </table>		Coverage Type	Coverage	Loss Cost Estimate	Loss Paid to Date	Liability	LIBI - LIABILITY - BOD	\$50000.00	\$0.00	Liability	LIPD - LIABILITY - PRI	\$6852.00	\$6851.53	First Year: 2009 CAT Code: Expense Cost Estimate: \$0 Expense Paid to Date: \$0
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Medical	MERAZ, TERESA, Liberty Mutual Employee, 01/06/2011 Auto Claims Inception Date: 2009 If new policy cancellation date with prior carrier: N/A Dual Coverage: No Policy in Force for DOL: Yes Vehicle Listed: Yes: 2007 SUZU FORENZA Listed Operator: No: Jared Awerbach If no-permissive use verified: Yes If LIT/NV reason for driving: Personal Coverage Limits: 50/100/50 Applicable Endorsement/exclusions: None Multiple Policies: None If ves- order of coverage: N/A		MERAZ, TERESA, Liberty Mutual Employee, 04/05/2011 Re-ran ISO: No new matches found MICHELLE COUSINS, Liberty Mutual Employee, 01/12/2011 Settlement Macro: Version 1 Appraisal Amt. % to ACV: 5,494.27 93.19% Liability Status: INS'D AF File Disposition: CLOSE ACV: \$5,896.00 Tax Rate: 8.10% \$477.58 VLF: \$- TTF: \$28.25 Gross: \$6,401.83 Deductible: Net Total: \$6,401.83 Lien Payoff: \$4,441.03 11/2/1 Payable to Cmt: \$1,960.80												
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Items															
Estimate/Repair															
Time															
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Ready

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GARCIA, EMILIA - AWERBACH, ANDRE		1078-0002 DOL 01/02/2011 Investigation		<input type="button" value="Print"/> <input type="button" value="Refresh"/> <input type="button" value="Exit"/>																																								
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GARCIA, EMILIA - AWERBACH, ANDRE		1078-0002.DOL: 01/02/2011 Investigation												
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<div style="margin-bottom: 5px;"> <b>AWERBACH, JARED; Policyholder, 01/06/2011</b>  Opac is insd's son. He did not ask insd to use the veh b/c he was not supposed to be driving. There was an issue w/ his permit. He thought he had a permit but didn't. Opac does not have a drivers license or valid permit. Opac has used insd veh in the past with and without permission. Insd has given him permission to use veh in the past to run errands. Opac could not say how many times. Opac states insd was home at the time. Keys were on the counter. Opac took the keys and was going to visit his child. Opac does not have his own veh/insurance. Opac was waiting to turn left out of the driveway of the apartment complex. There was a bus in right lane of 2 coming </div>														
Ready		NUM												

GARCIA, EMILIA - AWERBACH, ANDRE		1078-0002 DOL: 01/02/2011 Investigation													
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Opac RI	1/6/11														
Clmt RI	1/6/11														
P/R	1/31/11														

Ready
NUM

GARCIA, EMILIA - AWERBACH, ANDRE		1078-0002 DOI: 01/02/2011 Investigation		<input type="button" value="Print"/> <input type="button" value="Help"/>													
File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help																	
<input type="button" value="\$"/> <input type="button" value="Print"/> <input type="button" value="New"/> <input type="button" value="Find"/> <input type="button" value="Save"/> <input type="button" value="Print"/> <input type="button" value="Q"/> <input type="button" value="\$"/> <input type="button" value="Total"/> <input type="button" value="Slvg"/> <input type="button" value="Subro"/> <input type="button" value="Assign"/> <input type="button" value="Close"/> <input type="button" value="Refresh"/> <input type="button" value="Next"/> <input type="button" value="Exit"/>																	
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<p><b>Occurrence Descriptions:</b></p> <p>Per Caller clmt E Garcia</p> <p>Broad Narrative clmt driving on rainbow and insd's son coming out of apt complex. clmt in right lane and moving truck moving into apt complex and blocking insd's view and insd attempted to pull into left lane of opposite traffic and as insds tried to merge into traffic he hit clmt and clmt spun and landed in same lane but facing opposite direction.</p> <p>Weather Factors: none</p> <p>Veh Speed Posted Speed 30 /35</p> <p>Traffic Controls ss for insd</p> <p>Driver familiar with area: yes</p> <p>Saw other veh when just upon impact</p> <p>Anything blocking the vision of either veh truck blocking insd and clmt</p> <p>Driver's action to avoid collision swerved away.</p>					<p><b>Injury/Damage Descriptions:</b></p> <p>Detail Date: 1/6/11</p> <p>Opac RI: 1/6/11</p> <p>Clmt RI: 1/6/11</p> <p>P/R: 1/31/11</p> <p><b>FIRST REPORT</b></p> <p>Injury:</p> <p>Back &amp; Neck - Sprain/Strain</p> <p>Back &amp; neck pain</p> <p>No insurance</p> <p><b>Vehicle Damage</b></p> <p>ps rear right tire and ps rear door wont open and smashed in and ps front door wont open - rear axle bent in and rear tire flat - and steering wheel shaking</p> <p>Initial POI: 05-Right Rear Corner</p> <p>Subsequent POI: 15-Total Loss</p>												
<div style="display: flex; justify-content: space-between;"> <span>Ready</span> <span>NUM</span> </div>																	

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Type: Claim      Subject: Claim Status      [Top](#)  
Created By : TERESA MERAZ      Created : 01/17/2011 04:29 PM      Updated: 01/17/2011

---

VM rec'd from Geraldine at atty's office Glen Lerner & Assoc (702) 877-1500. She states they rep clmt but only for BI. We can still deal directly w/ clmt for PD. She is sending LOR. She states clmt tx at ER and is tx w/ chiro for s/t inj.

I returned the call to discuss, I was transferred to Geraldine's vm, left message.

Clmt is now atty rep'd. Per atty's office, clmt tx at ER and w/ chiro for s/t inj. ER bills expected around \$1k-\$2k since no dx testing done. Chiro specials expected around \$4k-\$5500 for about 3-4 mos of tx.  
Opac cited for DUI and drug possession. Opac denies being under the influence.

Waiting for LOR.

---

Type: Claim      Subject: Total Loss      [Top](#)  
Created By : GLORIA HEUSER      Created : 01/17/2011 12:35 PM      Updated: 01/17/2011

---

LIEN HOLDER: Wells Fargo

Contact Name/ Dept:  
Phone #/ Ext: 800-289-8004  
Fax #:  
Payoff Amount/ Date: \$4,441.03, til 2/1/11  
LOG Request Amount:  
Account #: 9380197988  
Gap Insurance:  
Payment address: Remittance Center, MACE2717-024, 15750 Alton Pkwy, Irvine, CA, 92618-3825  
Names on title: rep could not adv

---

Type: Claim      Subject: Total Loss      [Top](#)  
Created By : GLORIA HEUSER      Created : 01/17/2011 12:28 PM      Updated: 01/17/2011

---

ib  
Rcvd c/from copart, veh not released.

ob  
I did xfernce c/with clmt, Emilia and Christy at shop, veh is released.

ob  
I adv copart.

---

Type: Claim      Subject: Rental Management      [Top](#)

---

---

Current Rental Status: M.Cousins;set LD

Rental Start Date: 1/6/11

Last Authorized Date: 1/21/11

Days Authorized to Date: 16 days @ \$24.74 /day.

---

Type: Claim

Subject: Total Loss

[Top](#)

Created By : MICHELLE COUSINS

Created : 01/14/2011 05:22 PM

Updated: 01/14/2011

---

atmptd to get payoff

got message hold times longer then normal

---

Type: Claim

Subject: Total Loss

[Top](#)

Created By : MICHELLE COUSINS

Created : 01/14/2011 05:19 PM

Updated: 01/14/2011

---

Seller: L235 LIBERTY MUTUAL INSURANCE

Adjuster: GLORIA HEUSER

Claim#: 017331078-02

Insured: ANDREA AWERBACH

Owner: EMILIA GARCIA

Lot Number Assigned: 10407161

Description: 01 HYUN SANTA FE WHITE

Yard Assigned: 057 NV - LAS VEGAS

Yard Address: 4810 N. LAMB BLVD

LAS VEGAS, NV 89115

Yard Phone: (702) 638-9300

Yard Fax: (702) 638-9494

Salvage Type: VEHICLES

Assignment Date: 01/14/2011

Seller Reference#: N/A

VIN Number: N/A

Date of Loss: 01/02/2011

Estimated Advance Charge: \$.00

---

Type: Claim

Subject: Rental Management

[Top](#)

Created By : MICHELLE COUSINS

Created : 01/14/2011 05:15 PM

Updated: 01/14/2011

---

LD of rental set 1/21

---

Type: Claim

Subject: Negotiation/Settlement

[Top](#)

Created By : MICHELLE COUSINS

Created : 01/14/2011 05:13 PM

Updated: 01/14/2011

---

Settlement made to whom: Emilia

Agree

Rental last day: 1/21

Date Paperwork sent: 1/14

---

Type: Claim

Subject: ICP/1st Call

[Top](#)

Created By : MICHELLE COUSINS

Created : 01/14/2011 05:08 PM

Updated: 01/14/2011

---

## 1st Call - Total Loss Note

1st i/b call @ 3:05 s/w Emelia  
Location of Vehicle: Ultimate Collision  
Date permission to pick-up obtained:  
Date salvage yard notified of pick-up:  
Lien holder: Wells Fargo  
Phone #/ Account#: 9380197988 / 800-289-8004  
GAP Insurance: Y/N Explained?  
Options reviewed(y/n): yes  
List missed options/Receipts if any:  
Rental explained: yes  
LOSSHIST/ISO/NICB reviewed:  
TL procedures explained: yes  
Name/s on Title: Emilia Garcia  
Paperwork sent (date): 1/14  
Replacement Cost Endorsement (Y/N):

---

Type: Claim	Subject: Total Loss	<a href="#">Top</a>
Created By : GLORIA HEUSER	Created : 01/13/2011 11:41 AM	Updated: 01/13/2011

---

Rcvd vm from clmt.

ob  
No ans. l lvm for clmt.

## T/L TO DO:

-lcp  
-neg/sttle  
-p/u veh

---

Type: Claim	Subject: Salvage	<a href="#">Top</a>
Created By : SANDRA M WILCH	Created : 01/13/2011 10:34 AM	Updated: 01/13/2011

---

Sent NV t/l ppwrk to clmt req: title, notrz poa, keys, auth (lh-unk)

---

Type: Claim	Subject: Total Loss	<a href="#">Top</a>
Created By : GLORIA HEUSER	Created : 01/12/2011 06:19 PM	Updated: 01/12/2011

---

ob  
l lvm for clmt.  
l sent mn to S. Wilch to send NV ppwrk, unk: title/lh.

## T/L TO DO:

-lcp  
-neg/sttle  
-p/u veh

---

Type: Occurrence	Subject: Coverage	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/12/2011 05:44 PM	Updated: 01/12/2011

---

VM rec'd from insd. l returned the call to discuss permissive use. l got vm, left message.

Type: Claim Subject: Total Loss Top  
 Created By : MICHELLE COUSINS Created : 01/12/2011 02:26 PM Updated: 01/12/2011

i/b call from Ms Garcia wanted status of claim and when rental was due back  
 will reviewing claim. Ms Garcia hung up  
 called back was unable to reach clmt

Type: Claim Subject: Claim Status Top  
 Created By : DAVID A COOK Created : 01/12/2011 01:35 PM Updated: 01/12/2011

IB cal from the 3pc and it was confirmed that the clmt. does not have MP. I confirmed that liab. has been  
 accepted. I provided the call w/ the contact info. re the CS assigned to the file.

Type: Claim Subject: Claim Status Top  
 Created By : TERESA MERAZ Created : 01/11/2011 01:00 PM Updated: 01/11/2011

Rec'd call back from clmt. She states she doesn't get good reception w/ her cell phone in her apt. She states  
 she is in a great deal of pain and has anxiety and unable to sleep. She wants to f/u w/ Dr to see if they can  
 prescribe meds. I reminded clmt of claims process and benefits of DD. She states her welfare got cancelled in  
 Dec so she is trying to get it back. She does not have money to pay for tx cop or for meds if they are prescribed.  
 Advised clmt we do not pay for tx as she is receiving it but once she is ready to settle and settlement is reached.  
 She is not ready to settle due to pain worsening and f/u tx planned. In an effort to maintain DD, I offered to  
 advance the cost of prescriptions if needed. I asked her to ctc me about this if needed. Clmt agreed. Advised I  
 will f/u in a couple of weeks but if any quest to call me. RADD.

Type: Claim Subject: Claim Status Top  
 Created By : TERESA MERAZ Created : 01/11/2011 12:45 PM Updated: 01/11/2011

I called clmt to f/u. She states pain has not improved. I asked for tx status but call was disconnected. I tried  
 calling clmt back but went straight to vm, left message requesting tx status and advising veh is t/l and provided  
 t/l rep. etc info.

Type: Occurrence Subject: Rental Management Top  
 Created By : DELENE K MCQUEEN Created : 01/11/2011 12:41 PM Updated: 01/11/2011

i/b call mrs garcia  
 issue; rental ext  
 disc; rev notes , appraisal rec 1/7 for t/l; approved ext on rental for 2 more days, min to t/l contact clmt, adv erac  
 of ext.

Authorization changed by MCQUEEN, DEE at 9:43 AM.  
 S - Rental extended by MCQUEEN, DEE at 9:43 AM for 2 day(s).  
 S - Current authorized date is 1/13/11.  
 S - Extended 2 days at \$24.74/day.

Type: Occurrence Subject: Coverage Top  
 Created By : TERESA MERAZ Created : 01/11/2011 12:12 PM Updated: 01/11/2011

bus# and was told clmt is having breakfast w/ students. I left message requesting a call back.

Appears Insd is a teacher so may be difficult to reach.

Opac stated he has used insd veh in the past, with and without permission. Opac stated keys were on the counter and insd was home at the time.

Type: Claim

Subject: Damages

[Top](#)

Created By : TERESA MERAZ

Created : 01/10/2011 10:13 AM

Updated: 01/10/2011

Estimate/photos rec'd in e-folder of clmt veh. \$5464.27 in damage, veh is a T/L. T/L has been assigned.

Misc note to t/l rep to advise Lx posted at 100%.

Type: CLAIM

Subject: APPRAISER NOTES

[Top](#)

Created By :

Created : 01/07/2011 06:03 PM

Updated:

HIDDEN DAMAGE: POSSIBLE ADDL DAMAGE TO INNER ROCKER AND ADDL TO WHEELHOUSE

Type: CLAIM

Subject: APPRAISER NOTES

[Top](#)

Created By :

Created : 01/07/2011 06:03 PM

Updated:

APPT: NO APPT SET TOW IN CAR NOT DRIVABLE

Type: CLAIM

Subject: VEHICLE DISCREPANCY

[Top](#)

Created By :

Created : 01/07/2011 05:58 PM

Updated:

Vehicle Year = 2001; Vehicle Make = HYUNDAI; Vehicle Model = SANTA FE; Vehicle VIN = KM8SC83D81U053810

Type: Occurrence

Subject: Coverage

[Top](#)

Created By : TERESA MERAZ

Created : 01/07/2011 05:13 PM

Updated: 01/07/2011

Vm-rec'd from Insd. I called insd to discuss permissive use. I got vm, left message.

Type: Occurrence

Subject: Investigation

[Top](#)

Created By : TERESA MERAZ

Created : 01/06/2011 05:47 PM

Updated: 01/06/2011

Statements taken from both drivers. Opac making left turn from private drive. A bus in right lane to clmt's left was stopped and blocking opac's view. Clmt coming from opac's left in left lane of 2. Opac pulled out of driveway causing collision. POI was to opac's front end and clmt's p/s rear door and rear tire. Clmt attempted to swerve left to avoid, and drug possession. Opac elted for DUI.

Lx decision posted.

Type: Claim

Subject: Rental Management

[Top](#)

TT E.Garcia and discussed rental procedures -- she adv that could provide a small deposit to the brnch if need be.

sent db auth thru ARMS and did conference call w/Donovan at brnch 5427  
expln deposit issue and he said would be okay w/\$1.00 deposit -- E.Garcia adv okay with this -during conversation found that another branch would be closer to clmnt's work.

TT Erika at brnch 5404 who adv that will be okay w/\$1 deposit

Current Rental Status: Reservation for 1/6  
Days Authorized to Date: 6 days @ \$24.74 /day  
Authorized Total: \$148.44\*

Type: Occurrence	Subject: Policyholder	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/06/2011 05:28 PM	Updated: 01/06/2011

I called opac (702) 772-6256 and was able to reach him. Obtained RI. Posting version. Opac is mhsd but is in the process of getting his own apt at same apt complex. He did not ask insd to use the veh b/c he was not supposed to be driving. There was an issue w/ his permit. He thought he had a permit but didn't. Opac does not have a drivers license or valid permit. Opac has used insd veh in the past with and without permission. Insd has given him permission to use veh in the past to run errands. Opac could not say how many times. Opac states insd was home at the time. Keys were on the counter. Opac took the keys and was going to visit his child. Opac states he was cited for DUI, drug possession, no drivers license, no insurance in veh, and FTY. Opac states he was not under the influence of drugs at the time. He had marijuana on his person. The last time he smoked was weeks ago. He had not smoked on DOL.

Type: Claim	Subject: Damages	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/06/2011 05:09 PM	Updated: 01/06/2011

I called TLC Ultimate Collision and arranged to have clmt veh picked up from Ewing Bros for inspection. TLC assignment sent.

Type: Claim	Subject: Rental Management	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/06/2011 04:52 PM	Updated: 01/06/2011

OK standard size rental, DB. Clmt veh inspection pending. Will arrange for TLC Ultimate Collision to pick up veh from tow yard for appraisal.

Type: Claim	Subject: Claim Status	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/06/2011 04:51 PM	Updated: 01/06/2011

CONT..Advised I'm sending med auth and I will f/u once estimate is completed. Established DD. Transferred clmt to ERAC.

Clmt has had 1 ER visit for back pain. No dx testing done. No f/u tx planned, only if pain gets worse. Opac was arrested for DUI

Med auth sent.

Type: Claim	Subject: Claim Status	<a href="#">Top</a>
Created By : TERESA MERAZ	Created : 01/06/2011 04:49 PM	Updated: 01/06/2011

I called clmt at 1pm (NV time) and obtained RI. Posting version. Clmt states opac was arrested for DUI. Officer told clmt that opac was high. Clmt has back pain w/ numbness/tingling in both legs. She went to Mountain View Hospital on her own and was checked out. No dx testing done, meds given. Clmt will seek f/u tx if pain gets worse. Her health ins is not active yet so ER bill will be mailed to her. No WL. Attempted to make 1st call settlement but clmt would like to wait to see how she feels. No offer made. Clmt veh is at Ewing Bros. She called 3pc to get it moved but was told she would have to pay her ded so 3pc not handling her PD. Advised Lx pending but appears adverse to opac. Unk if opac still in jail so we do not want to delay PD. Clmt does not think veh is a t/l so advised I will have TLC shop pick-up veh and have it inspected. In an effort to establish DD, I agreed to set up rental on DB for standard size. Clmt was appreciative. CONT...

<b>Type:</b> Claim	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> TERESA MERAZ	<b>Created :</b> 01/06/2011 12:11 PM	<b>Updated:</b> 01/06/2011

Vm rec'd from clmt. I returned her call and requested RI. Clmt was at work and unable to discuss claim at the time. She requested I call back at 1pm (NV time). Advised I will call back then.

<b>Type:</b> Occurrence	<b>Subject:</b> Coverage	<a href="#">Top</a>
<b>Created By :</b> TERESA MERAZ	<b>Created :</b> 01/06/2011 12:10 PM	<b>Updated:</b> 01/06/2011

I called insd to discuss permissive use. I got vm, left message.

Per Collision notes:

Unlisted Operator Questions for Policyholder:

Did the operator have permission to drive your car? NO

Is the operator a member of your household? YES

What is your relationship to the operator? SON

Does the operator have their own set of keys to your car? NO If not where did they obtain the keys to your car?

ACCESS TO KEYS BECAUSE SAME HOUSEHOLD

Has the operator driven your vehicle before? NO

Does the operator have a valid driver's license? NO - HE SD HE HAS A PERMIT

How often does the operator use this vehicle? UNK

Does the operator have a vehicle of their own? NO

If yes, who is their insurance carrier? N/A

If operator was son or daughter, when did they obtain their license? NONE

Still need to verify additional details w/ insd.

<b>Type:</b> Occurrence	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> DELENE K MCQUEEN	<b>Created :</b> 01/06/2011 11:51 AM	<b>Updated:</b> 01/06/2011

/b mrs garcia clmt  
issue; req to speak to rep  
disc, trans call to bi teresa m

<b>Type:</b> Claim	<b>Subject:</b> Claims Strategy	<a href="#">Top</a>
<b>Created By :</b> TERESA MERAZ	<b>Created :</b> 01/06/2011 11:05 AM	<b>Updated:</b> 01/06/2011

\*Rec'd claim. Appears opac pulled out of driveway while clmt headed straight. Per notes, opac was DUI. Need to obtain statements from both drivers. P/R ordered.

\*50/100/50 PL. Opac is insd's son and unlisted operator. Appears opac is mhsd. Per Collision notes, insd states opac did not have permission to drive but had access to keys since he is mhsd, opac does not have his own

\*Climt reported neck/back pain. Unk if seeking tx.  
POI appears to be to climt's p/s rear and lisd's front end.

Also, opac was DUI.

<b>Type:</b> Claim	<b>Subject:</b> Rental Management	<a href="#">Top</a>
<b>Created By :</b> PAMELA GOODNIGHT	<b>Created :</b> 01/05/2011 06:29 PM	<b>Updated:</b> 01/05/2011

recv call from E.Garcia very upset w/clm process and fact that had to speak with so many diff people -- she is a single mother of 3 and needs rental today w/out paying any \$\$

adv that would be speaking with many diff people at LM but they all work as a team effort -- in regards to rental it will not be possible to get one at no expense to her -- LM must protect their customer and a rental cannot be auth w/out LM's consent

adv that clim was just assigned to T.Meraz and she has not seen this clim yet but would transfer her to vmail, she can leave a msg and I would also let T.Meras know

Transferred call to T.Meraz

<b>Type:</b> Claim	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> MARY-LOU HUDSON	<b>Created :</b> 01/05/2011 04:01 PM	<b>Updated:</b> 01/05/2011

Hi Teresa, climt injured, DD, please handle. Thank-you, eh

<b>Type:</b> Claim	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> KRISTEN R LORD	<b>Created :</b> 01/05/2011 01:51 PM	<b>Updated:</b> 01/05/2011

RECEIVED VM FROM CLMT--Emella Garcia at (702)358-8470:

\*Climt woke up w/ back & neck pain

OB call to Climt--Garcia

\*Adv lx is still pending OPAC's statement

\*Climt may seek tx today--updated climt info

\*adv Climt will need to get veh. moved from tow yard ASAP---she s/w her ins. co. & she was told that she needs to have LM get veh moved.

\*explained that LM has not accepted lx & to let 3pc know that--if she has coll covg they should be able to move veh. from tow yard.

\*climt in need of rental--adv we typically use ERAC--hold on to all receipts if necessary, she does not have rental on her own policy.

\*adv I created inj file--will follow up

<b>Type:</b> Claim	<b>Subject:</b> Total Loss	<a href="#">Top</a>
<b>Created By :</b> AMANDA HOHMAN	<b>Created :</b> 01/05/2011 01:22 PM	<b>Updated:</b> 01/05/2011

Revd TL assignment, lx is pending, cv in storage. Sent s/s letter w/ 1/10 cutoff. Note to AshleyF to instruct climt to move veh during 1st call..ah 1121

<b>Type:</b> Occurrence	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> ASHLEY FLANAGAN	<b>Created :</b> 01/03/2011 02:44 PM	<b>Updated:</b> 01/03/2011

Received vm from Ins. Ms. Awerbach. She stated in message son was driving her vehicle w/o permission. Ins. son got a DUI and vehicle is currently in impound. OB left message for Ms. Awerbach to c/h when available

<b>Type:</b> Occurrence	<b>Subject:</b> Claim Status	<a href="#">Top</a>
<b>Created By :</b> ASHLEY FLANAGAN	<b>Created :</b> 01/03/2011 02:38 PM.	<b>Updated:</b> 01/03/2011

Ordered PR.

<b>Type:</b> Occurrence	<b>Subject:</b> 800 Center	<a href="#">Top</a>
<b>Created By :</b> LISSETTE GRAY	<b>Created :</b> 01/03/2011 12:58 AM	<b>Updated:</b> 01/03/2011

Climt needs a rental this is her only veh

<b>Type:</b> Claim	<b>Subject:</b> Total Loss Probability	<a href="#">Top</a>
<b>Created By :</b> SYSTEM	<b>Created :</b> 01/03/2011 12:54 AM	<b>Updated:</b>

Probability Percentage = 0.9739  
Probability of Total Loss = TRUE  
Accident Description Code = 02  
Date of Loss, Month = 1  
Date of Loss, Year = 2011  
Is Vehicle Driveable? = N  
Lag Time = 1  
Vehicle Make\_Model = HYUN\_SANTAFE  
Policy State = NV  
Severity of Damage = 03  
Vehicle Age = 10

# EXHIBIT "L"

1 **PLOG**

2 Alexandra B. McLeod

3 Nevada Bar No. 8185

4 amcleod@bvrclaw.com

5 BRADY, VORWERCK, RYDER & CASPINO

6 2795 East Desert Inn Road, Suite 200

7 Las Vegas, Nevada 89121

8 Telephone: (702) 697-6500

9 Facsimile: (702) 697-6505

10 Attorneys for Defendants, JARED AND ANDREA  
11 AWERBACH

12 **DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 EMILIA GARCIA,

15 Plaintiff,

16 v.

17 JARED AWERBACH, individually,  
18 ANDREA AWERBACH, individually, DOES  
19 I-X, and ROE CORPORATIONS I-X,  
20 inclusive,

21 Defendants.

Case No.: A-11-637772-C

Dept. No.: XXVII.

**PRIVILEGE LOG PERTAINING TO  
PLAINTIFF'S REQUEST FOR  
PRODUCTION NO. 7**

22 COME NOW Defendants, JARED AND ANDREA, by and through their counsel of record,  
23 ALEXANDRA B. MCLEOD, ESQ., of the law firm of BRADY VORWERCK RYDER & CASPINO,  
24 and hereby submits the instant Privilege Log in the above-entitled action, pursuant to the Nevada  
25 Rules of Civil Procedure and the Discovery Commissioner Opinions.

26 Pursuant to *Albourn v. Koe, M.D., et al.*, DISCOVERY COMMISSIONER OPINION #10 (November,  
27 2001), "In order to properly discharge the burden of establishing a privilege in the Eighth Judicial  
District, the first step by the objecting party, in sync with E.D.C.R. 2.34, is to produce an informative  
privilege log. This log should be served along with the privilege claims on the discovering party."  
Furthermore, that opinion lays out a specific procedure for doing so:

1 The requirements of a privilege log in the Eighth Judicial District Court shall be  
2 substantially as follows: For each document the log should provide 1) the author(s) and  
3 their capacities; 2) the recipients (including cc's) and their capacities; 3) other  
4 individuals with access to the document and their capacities; 4) the type of document;  
5 5) the subject matter of the document; 6) the purpose(s) for the production of the  
6 document; 7) the date on the document; and 8) a detailed, specific explanation as to  
7 why the document is privileged or otherwise immune from discovery, including a  
8 presentation of all factual grounds and legal analyses in a non-conclusory fashion.  
9 *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973); *Diamond State Ins. Co. v. Rebel Oil*  
10 *Co., Inc.*, 157 F.R.D. 691 (D.Nev. 1994); *Nevada Power Co. v. Monsanto Co., supra*.  
11 Such explanation may require affidavits or other evidence as a supplement to the log.  
12 *Allendale Mut. Ins. Co. v. Bull Data Systems, Inc.*, 145 F.R.D. 84 (N.D. Ill. 1992).

13 Therefore, following the format outlined above, Defendant ANDREA AWERBACH, provides  
14 the following privilege log for documents withheld from the its production of the insurance  
15 company's adjusting/investigation file:

16 **A. Adjuster's claims notes dated January 18, 2011 et. seq.**

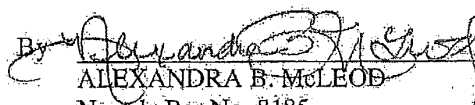
- 17 1. AUTHOR: Claims handler and supervisors from Liberty Mutual
- 18 2. RECIPIENTS: Internal
- 19 3. ACCESSIBLE TO: Liberty Mutual representatives, Defense counsel
- 20 4. TYPE OF DOCUMENT: Print-out of computer claims notes, 15 pages redacted and produced  
21 (Bates labels LM001-006; LM019-027), 12 pages withheld (Bates labels LM007-018).
- 22 5. SUBJECT MATTER: Subject accident, strategy for defending same
- 23 6. PURPOSE: Handling of Plaintiff's claim and subsequent litigation, determining liability and  
24 damages valuation/reserves for same
- 25 7. DATE: January 18, 2011-Sept 26, 2011
- 26 8. OBJECTION: The redacted/withheld documents are privileged as they contain the mental  
27 impressions of the insurance adjuster in anticipation of litigation and after receipt of Plaintiff's  
28 counsel's letter of representation. "There would be no incursion into the mental impressions,  
29 conclusions, opinions or legal theories of an attorney or other representative of a party  
30 concerning the litigation. If such impressions, opinions or conclusions are mixed in with a  
31 statement of facts from a witness, the document can be submitted to the court or Discovery  
32 Commissioner in camera who will make the appropriate deletions of such protected materials  
33 from the statement." *Moyus v. Creviston*, DISCOVERY COMMISSIONER OPINION #1 (June,

1 1988) (citing *Henry Enterprises, Inc. v. Smith*, 592 P.2d 915 (Kan., 1982) and *Anderson v. St.*  
2 *Mary's Hospital*, 428 N.E.2d 528 (Ill.App. 1981)).

3 If the explanations proffered through this privilege log are not satisfying, Defendants will be  
4 agreeable to submitting the computer log documents to the Discovery Commissioner for an *in camera*  
5 review of same.

6 DATED: July 22<sup>nd</sup>, 2013

BRADY, VORWERCK, RYDER & CASPINO

7  
8 By 

ALEXANDRA B. McLEOD

Nevada Bar No. 8185

2795 E. Desert Inn Road, Suite 200

Las Vegas, NV 89121

Attorneys for Defendants, JARED & ANDREA  
AWERBACH

---

**EXHIBIT 1-H**

**EXHIBIT 1-H**

1 RESP  
2 Alexandra B. McLeod  
3 Nevada Bar No. 8185  
4 amcleod@bvrclaw.com  
5 BRADY, VORWERCK, RYDER & CASPINO  
6 2795 East Desert Inn Road, Suite 200  
7 Las Vegas, Nevada 89121  
8 Telephone: (702) 697-6500  
9 Facsimile: (702) 697-6505

10 Attorneys for Defendants, Jared Awerbach and  
11 Andrea Awerbach

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 EMILIA GARCIA,

15 Plaintiff,

16 v.

17 JARED AWERBACH, individually,  
18 ANDREA AWERBACH, individually, DOES  
19 I-X, and ROE CORPORATIONS I-X,  
20 inclusive,

21 Defendants.

Case No.: A-11-637772-C  
Dept. No.: XXVII

**DEFENDANT ANDREA AWERBACH'S  
RESPONSES TO PLAINTIFFS' REQUEST  
FOR PRODUCTION OF DOCUMENTS**

22 COMES NOW, Defendant, ANDREA AWERBACH, by and through her attorney,  
23 ALEXANDRA B. MCLEOD, ESQ., of the law firm of BRADY, VORWERCK, RYDER &  
24 CASPINO, and hereby responds to Plaintiffs' Request for Production of Documents as follows:

**PRELIMINARY STATEMENT**

25 It should be noted that this Responding Party has not fully completed its investigation of the  
26 facts relating to this case, has not fully completed discovery in this action, and has not completed  
27 preparation for trial. All of the responses contained herein are based only upon such information and  
28 documents which are presently available to and specifically known to this Responding Party and  
discloses only those contentions which presently occur to such Responding Party. It is anticipated that

1 further discovery, independent investigation, legal research and analysis will supply additional facts,  
2 add meaning to known facts, as well as establish entirely new factual conclusions and legal  
3 contentions, all of which may lead to substantial additions to, changes in, and variations from the  
4 responses herein set forth. The following responses are without prejudice to Responding Party's right  
5 to produce evidence of any subsequently discovered fact or facts which this Responding Party may  
6 later recall or discover. Responding Party accordingly reserves its right to change any and all  
7 responses herein as investigation is conducted, additional facts are ascertained, analyses are made,  
8 legal research is concluded and contentions are made. The responses contained herein are made in a  
9 good faith effort to supply as much factual information as is presently known but should in no way be  
10 to the prejudice of this Responding Party in relation to further discovery, research or analysis. These  
11 responses are made solely for the purpose of this action.

12 **REQUEST NO. 1:**

13 Produce any and all documents referred to in your answers to Plaintiffs' Interrogatories to  
14 Defendants.

15 **RESPONSE TO REQUEST NO. 1:**

16 **OBJECTION:** This request is vague and ambiguous. Subject to and without waiving said  
17 objection, Defendant responds:

18 All responsive materials to this request have already been produced by way of Defendant's  
19 Early Case Conference Disclosures and any supplement thereto.

20 **REQUEST NO. 2:**

21 Produce all documents relied upon, reviewed or considered by you and all experts who will  
22 testify on behalf of the Defendants, including, but not limited to, scientific studies, journals, reports,  
23 articles, charts audio storage, disc, cassette or tape, video storage disc, cassette or tape, computer  
24 storage disc, cassette or tape and photographs.

25 **RESPONSE TO REQUEST NO. 2:**

26 **OBJECTION:** The request is premature as discovery has just recently opened and Defendant  
27 had not yet formulated its final trial strategy nor yet retained any expert witnesses. Defendant will  
28 provide this information in compliance with Nevada procedures for designating expert witnesses prior

1 to the trial date.

2 **REQUEST NO. 3:**

3 Produce any and all documents relating to insurance, property damage, medical payments and  
4 liability claims made by the Defendants relating to the accident which is the basis for Plaintiff's  
5 Complaint on file herein, including, but not limited to, witness sheets, investigative reports, appraisals  
6 or estimates of damage, medical records, adjustor memoranda and correspondence.

7 **RESPONSE TO REQUEST NO. 3:**

8 **OBJECTION:** This request is vague, ambiguous, and overbroad. Subject to and without  
9 waiving said objection, Defendant responds:

10 None other than those documents already disclosed as **EXHIBITS A-J** in Defendant's Early  
11 Case Conference Disclosures and supplements thereto.

12 **REQUEST NO. 4:**

13 Produce every written and/or recorded statement of any individual having any knowledge or  
14 information regarding the accident at issue in this case in the possession of the Defendants, the  
15 Defendants' insurance company or any person acting on Defendants' behalf.

16 **RESPONSE TO REQUEST NO. 4:**

17 Please see **EXHIBITS B AND C** in Defendants' Early Case Conference Disclosures and  
18 supplements thereto.

19 **REQUEST NO. 5:**

20 Produce every sketch, map, photograph, digital picture, moving pictures, and/or video tape in  
21 possession of the Defendants, Defendants' insurance company or any person or entity acting on the  
22 Defendants' behalf which in any way relates to the accident which is the basis for Plaintiff's Complaint  
23 on file herein.

24 **RESPONSE TO REQUEST NO. 5:**

25 **OBJECTION:** This request is vague, ambiguous, and compound. Subject to and without  
26 waiving said objection, Defendant responds:

27 None.

**REQUEST NO. 6:**

Any surveillance materials of Plaintiff or witnesses, including any unedited sub rosa video and surveillance log.

**RESPONSE TO REQUEST NO. 6:**

None at this time.

**REQUEST NO. 7:**

The entire liability insurance or risk department claims files relating to the accident at issue in Plaintiff's Complaint.

**RESPONSE TO REQUEST NO. 7:**

OBJECTION: : Blanket requests for investigation files, or adjuster's reports and adjuster's files, are not proper Requests for Production under NRC P Rules 34 and 26, respectively, nor under any Nevada case opinions, including *Ballard v. Eighth Judicial District Court et al.*, 106 Nev. 83, 787 P.2d 406 (1990). Furthermore, information sought by this interrogatory is beyond the scope provided by the Nevada Rules of Civil Procedure, and specifically, Rule 26, and is protected as attorney work-product and/or attorney-client privilege. This request would have Defendants disclose recitations of the adjuster's opinions regarding the value of Plaintiff's claim, potential strengths for the defense of Plaintiff's claim, and opinions on credibility of parties and witnesses, etc. Documents of this type are clearly protected under *Moyns v. Creviston*, Discovery Commissioner Opinion #1 (June, 1988) (citing *Henry Enterprises, Inc. v. Smith*, 592 P.2d 915 (Kan. 1982) and *Anderson v. St. Mary's Hospital*, 428 N.E.2d 528 (Ill.App. 1981)) ("There would be no incursion into the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.") and is, therefore, protected by NRS 49.075 and 49.095 and is not discoverable pursuant to NRC P 26(b)(3). Subject to and without waiving said objections, Defendant responds as follows:

All non-privileged materials have been disclosed by way of Defendant's Early Case Conference Disclosures and supplements thereto.

**REQUEST NO. 8:**

Any information obtained from the PIP/Med Pay insurer.

1 **RESPONSE TO REQUEST NO. 8:**

2 None. See also Response No. 7 above.

3 **REQUEST NO. 9:**

4 All documents and things relating to any expert retained to testify, including but not limited to:  
5 the expert's resumes/curriculum vitae; the expert's fee chart; all 1099s from your attorneys' firm with  
6 respect to the expert; all 1099s from your insurance company with respect to the expert; a list of all  
7 cases worked on by the expert on behalf of your attorneys' firm; a list of all cases worked on by the  
8 expert on behalf of your insurance company; a list of all cases in which the expert has rendered  
9 testimony; and the expert's entire working file, including but not limited to, correspondence, notes,  
10 calculations, tests, analysis, scientific studies, journals, reports, articles, charts, and audio, video or  
11 computer storage disks, including all cassettes or tapes.

12 **RESPONSE TO REQUEST NO. 9:**

13 OBJECTION: The request is premature as discovery has just recently opened and Defendant  
14 had not yet formulated its final trial strategy nor yet retained any expert witnesses. Defendant will  
15 provide this information in compliance with Nevada procedures and the Court's discovery schedule  
16 order for designating expert witnesses prior to the trial date.

17 **REQUEST NO. 10:**

18 Copies of the complete policy(ies) of insurance, including all endorsements and declarations  
19 page(s), for each automobile insurance policy in effect at the time of the accident which is the basis  
20 for Plaintiff's Complaint on file herein.

21 **RESPONSE TO REQUEST NO. 10:**

22 Please see EXHIBIT J in Defendant's Early Case Conference Disclosures and supplements  
23 thereto.

24 **REQUEST NO. 11:**

25 Produce all documents you relied upon to verify Jared Awerbach was fit to operate a vehicle in  
26 Nevada in January 2011.

27 **RESPONSE TO REQUEST NO. 11:**

28 I have no documents responsive to this request.

1 **REQUEST NO. 12:**

2 Please produce all property damage reports, estimate reports, invoices, and photographs related  
3 to any vehicle involved in the subject accident.

4 **RESPONSE TO REQUEST NO. 12:**

5 OBJECTION: This request is vague, ambiguous, and overbroad. Subject to and without  
6 waiving said objection, Defendant responds:

7 Please see EXHIBITS D, E, F, G, H, AND I previously produced in Defendant's Early Case  
8 Conference Disclosure and supplements thereto.

9  
10 DATED: June 21, 2012

BRADY, VORWERCK, RYDER & CASPINO  
A Law Corporation

11  
12  
13 By 

ALEXANDRA B. MCLEOD

Nevada Bar No. 8185

2795 East Desert Inn Road, Suite 200

Las Vegas, Nevada 89121

16 Attorneys for Defendants, Jared Awerbach and  
17 Andrea Awerbach  
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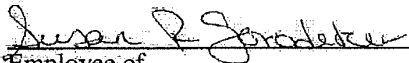
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 21 day of June, 2012, I forwarded a copy of the above and  
3 foregoing **DEFENDANT ANDREA AWERBACH'S RESPONSES TO REQUEST FOR**  
4 **PRODUCTION OF DOCUMENTS** as follows:

- 5 ☒ by depositing in the United States mail, first-class postage prepaid, at Las Vegas,  
6 Nevada, enclosed in a sealed envelope, pursuant to NRCP 5(b)(2)(B) and EDCR  
7 7.26(a)(1); and/or  
8 ☐ by facsimile transmission pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(3); as  
9 indicated below; and/or  
10 ☐ by electronic transmission [via CM/ECF], pursuant to NRCP 5(b)(2)(D) and EDCR  
11 7.26(a)(4); and/or  
12 ☐ by email as indicated below pursuant to NRCP 5(b)(2)(D);

13 TO:

14 Adam D. Smith, Esq.  
15 Glen J. Lerner & Associates  
16 4795 South Durango Drive  
17 Las Vegas, Nevada 89147  
18 (702) 877-1500  
19 (702) 933-7043 - Fax  
20 *Attorneys for Plaintiff*

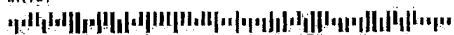
21   
22 \_\_\_\_\_  
23 Employee of  
24 BRADY, VORWERCK, RYDER & CASPINO



FARMERS

May 31, 2012

017731



Law Offices Of Glen J Lerner & Associates

Care of: Porter Allred

4795 S Durango Dr

Las Vegas, NV 89147-8144

Send all correspondence to:

Farmers National Document Center

P.O. Box 268994

Oklahoma City, OK 73126-8994

Fax: (877) 217-1389

Email: [claimsdocuments@farmersinsurance.com](mailto:claimsdocuments@farmersinsurance.com)



01-0107731-FARMNATDOC-000831P2011017731

RE:    Insured:            Christopher Gasca  
      Claim Unit Number: 1018932174-1-3  
      Policy Number:    67-G004088362  
      Loss Date:        06/12/2011  
      Claimant:         Christopher Gasca

Dear Ben Lund:

We have reviewed the medical information you have submitted for your client, and at this time, based on this information, we do not see a UIM exposure to Mr. Gasca's policy. If there is additional information you would like us to review, please provide it and we will do so.

If you have any questions, please do not hesitate to call me at (702) 436-1140.

Sincerely,  
Coast National Insurance Company

Janice M Dineros  
Special Field Claims Representative

R59MVB LD11

1 RESP  
2 Alexandra B. McLeod  
3 Nevada Bar No. 8185  
4 amcleod@bvrclaw.com  
5 BRADY, VORWERCK, RYDER & CASPINO  
6 2795 East Desert Inn Road, Suite 200  
7 Las Vegas, Nevada 89121  
8 Telephone: (702) 697-6500  
9 Facsimile: (702) 697-6505  
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11 Attorneys for Defendants, Jared Awerbach and  
12 Andrea Awerbach  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

EMILIA GARCIA,  
Plaintiff,

v.

JARED AWERBACH, individually,  
ANDREA AWERBACH, individually, DOES  
I-X, and ROE CORPORATIONS I-X,  
inclusive,  
Defendants.

Case No.: A-11-637772-C  
Dept. No.: XXVII

**DEFENDANT JARED AWERBACH'S  
RESPONSES TO PLAINTIFFS' REQUEST  
FOR PRODUCTION OF DOCUMENTS**

COMES NOW, Defendant, JARED AWERBACH, by and through his attorney,  
ALEXANDRA B. MCLEOD, ESQ., of the law firm of BRADY, VORWERCK, RYDER &  
CASPINO, and hereby responds to Plaintiffs' Request for Production of Documents as follows:

**PRELIMINARY STATEMENT**

It should be noted that this Responding Party has not fully completed its investigation of the  
facts relating to this case, has not fully completed discovery in this action, and has not completed  
preparation for trial. All of the responses contained herein are based only upon such information and  
documents which are presently available to and specifically known to this Responding Party and  
discloses only those contentions which presently occur to such Responding Party. It is anticipated that

1 further discovery, independent investigation, legal research and analysis will supply additional facts,  
2 add meaning to known facts, as well as establish entirely new factual conclusions and legal  
3 contentions, all of which may lead to substantial additions to, changes in, and variations from the  
4 responses herein set forth. The following responses are without prejudice to Responding Party's right  
5 to produce evidence of any subsequently discovered fact or facts which this Responding Party may  
6 later recall or discover. Responding Party accordingly reserves its right to change any and all  
7 responses herein as investigation is conducted, additional facts are ascertained, analyses are made,  
8 legal research is concluded and contentions are made. The responses contained herein are made in a  
9 good faith effort to supply as much factual information as is presently known but should in no way be  
10 to the prejudice of this Responding Party in relation to further discovery, research or analysis. These  
11 responses are made solely for the purpose of this action.

12 **REQUEST NO. 1:**

13 All documents or things relating to Plaintiff's claims, to the facts surrounding the allegations in  
14 the Complaint, or any document related to any other facts of this lawsuit.

15 **RESPONSE TO REQUEST NO. 1:**

16 **OBJECTION:** This request is overbroad, vague, and ambiguous. Subject to, and without  
17 waiving said objection, Defendant responds: All responsive materials to this request have already been  
18 produced by way of Defendants' Early Case Conference Disclosures and any supplements thereto.

19 **REQUEST NO. 2:**

20 The applicable insurance policy or policies providing coverage for defendant in this matter,  
21 including any excess coverage:

22 **RESPONSE TO REQUEST NO. 2:**

23 See **EXHIBIT J** in Defendant's Early Case Conference Disclosures.

24 **REQUEST NO. 3:**

25 All witness and party statements related to this matter.

26 **RESPONSE TO REQUEST NO. 3:**

27 **OBJECTION:** This request is vague, ambiguous, and overbroad. Subject to and without  
28 waiving said objection, Defendant responds as follows:

1 See EXHIBITS B AND C in Defendant's Early Case Conference Disclosures.

2 **REQUEST NO. 4:**

3 Any surveillance matters of Plaintiff or witnesses, including any unedited sub rosa video and  
4 surveillance log.

5 **RESPONSE TO REQUEST NO. 4:**

6 None at this time.

7 **REQUEST NO. 5:**

8 The Colossus dissection forms/input data prepared with respect to Plaintiff's claims.

9 **RESPONSE TO REQUEST NO. 5:**

10 OBJECTION: This request is vague and ambiguous. Without waiving said objection,  
11 Defendant answers:

12 None; Defendant's insurer does not use the Colossus system.

13 **REQUEST NO. 6:**

14 The Colossus consultation report prepared with respect to Plaintiff's claims.

15 **RESPONSE TO REQUEST NO. 6:**

16 None; See response No. 5 above.

17 **REQUEST NO. 7:**

18 The entire liability insurance or risk department claims files relating to the accident at issue in  
19 Plaintiff's Complaint.

20 **RESPONSE TO REQUEST NO. 7:**

21 OBJECTION: : Blanket requests for investigation files, or adjuster's reports and adjuster's  
22 files, are not proper Requests for Production under NRCp Rules 34 and 26, respectively, nor under  
23 any Nevada case opinions, including *Ballard v. Eighth Judicial District Court et al.*, 106 Nev. 83, 787  
24 P.2d 406 (1990). Furthermore, information sought by this interrogatory is beyond the scope provided  
25 by the Nevada Rules of Civil Procedure, and specifically, Rule 26, and is protected as attorney work-  
26 product and/or attorney-client privilege. This request would have Defendants disclose recitations of  
27 the adjuster's opinions regarding the value of Plaintiff's claim, potential strengths for the defense of  
28 Plaintiff's claim, and opinions on credibility of parties and witnesses, etc. Documents of this type are

1 clearly protected under *Moyns v. Creviston*, Discovery Commissioner Opinion #1 (June, 1988) (citing  
2 *Henry Enterprises, Inc. v. Smith*, 592 P.2d 915 (Kan. 1982) and *Anderson v. St. Mary's Hospital*, 428  
3 N.E.2d 528 (Ill.App. 1981)) ("There would be no incursion into the mental impressions, conclusions,  
4 opinions or legal theories of an attorney or other representative of a party concerning the litigation.")  
5 and is, therefore, protected by NRS 49.075 and 49.095 and is not discoverable pursuant to NRCP  
6 26(b)(3). Subject to and without waiving said objections, Defendant responds as follows:

7 All non-privileged materials have been disclosed by way of Defendant's Early Case  
8 Conference Disclosures and supplements thereto.

9 **REQUEST NO. 8:**

10 Any information obtained from the PIP/Med Pay insurer.

11 **RESPONSE TO REQUEST NO. 8:**

12 None. Please see Defendant's previous objection in Response No. 7 above; all non-privileged  
13 materials have been disclosed by way of Defendants' Early Case Conference Disclosures and  
14 supplements thereto.

15 **REQUEST NO. 9:**

16 All documents and things relating to any expert retained to testify, including but not limited to:  
17 the expert's resumes/curriculum vitae; the expert's fee chart; all 1099s from your attorneys' firm with  
18 respect to the expert; all 1099s from your insurance company with respect to the expert; a list of all  
19 cases worked on by the expert on behalf of your attorneys' firm; a list of all cases worked on by the  
20 expert on behalf of your insurance company; a list of all cases in which the expert has rendered  
21 testimony; and the expert's entire working file, including but not limited to, correspondence, notes,  
22 calculations, tests, analysis, scientific studies, journals, reports, articles, charts, and audio, video or  
23 computer storage disks, including all cassettes or tapes.

24 **RESPONSE TO REQUEST NO. 9:**

25 **OBJECTION:** The request is premature as discovery has just recently opened and Defendant  
26 had not yet formulated its final trial strategy nor yet retained any expert witnesses. Defendant will  
27 provide this information in compliance with Nevada procedures for designating expert witnesses prior  
28 to the trial date.

1 **REQUEST NO. 10:**

2 Please produce all property damage reports, estimate reports, invoices, and photographs related  
3 to any vehicle involved in the subject accident.

4 **RESPONSE TO REQUEST NO. 10:**

5 **OBJECTION:** This request is vague, ambiguous, and overbroad. Subject to and without  
6 waiving said objection, Defendant responds:

7 See **EXHIBITS D - I** in Defendants' Early Case Conference Disclosures and supplements  
8 thereto.

9 **REQUEST NO. 11:**

10 Please produce all cellular telephone records from Jared Awerbach for January 2011.

11 **RESPONSE TO REQUEST NO. 11:**

12 **OBJECTION:** This request is vague and ambiguous. Furthermore, the request violates  
13 Defendant's privacy rights and is not reasonably calculated to lead to the discovery of admissible  
14 evidence, pursuant to *Frias v. Valle*, 101 Nev.219, 698 P.2d 875, insofar as it requests Defendant's  
15 cellular telephone records, which are immaterial to the issues in this case. Subject to and without  
16 waiving said objection, Defendant responds:

17 Responsive material to this request has been requested and will be supplemented when it is  
18 available.

19 **REQUEST NO. 12:**

20 Produce a copy of Jared Awerbach's driving record from the Nevada Department of Motor  
21 Vehicles.

22 **RESPONSE TO REQUEST NO. 12:**

23 **OBJECTION:** This request violates Defendant's privacy rights and is not reasonably calculated  
24 to lead to the discovery of admissible evidence, pursuant to *Frias v. Valle*, 101 Nev.219, 698 P.2d  
25 875. Subject to and without waiving said objection, Defendant responds:

26 Defendant did not have a driver's license at the time of the subject accident and does not have a  
27 license at this time.

28 ///

1 **REQUEST NO. 13:**

2 Produce all documents relating in any way to any to any investigation of the incident by Jared  
3 Awerbach, his agents, employees, independent contractors, experts, or any other individuals or  
4 entities.

5 **RESPONSE TO REQUEST NO. 13:**

6 OBJECTION: This request is vague and ambiguous. Furthermore, it requests information that  
7 is protected under the attorney-client privilege. Subject to, and without waiving said objection,  
8 Defendant responds:

9 I made no personal investigation, and all non-privileged material responsive to this request has  
10 been produced by way of Defendant's Early Case Conference Disclosures and supplements thereto.

11 **REQUEST NO. 14:**

12 Produce all documents relating in any way to legal citations you received from any law  
13 enforcement agency on the day of the accident or as a result of the accident.

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1 **RESPONSE TO REQUEST NO. 14:**

2       OBJECTION: This request violates Defendant's privacy rights and is not reasonably calculated  
3 to lead to the discovery of admissible evidence, pursuant to *Frias v Valle*, 101 Nev.219, 698 P.2d 875.  
4 Subject to and without waiving said objection, Defendant responds:

5       I received citations for driving without a license, DUI, possession of a controlled substance,  
6 and incorrect turn but do not have any paperwork.

7

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9       DATED: June 21<sup>st</sup>, 2012

BRADY, VORWERCK, RYDER & CASPINO  
A Law Corporation

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By   
ALEXANDRA B. MCLEOD  
Nevada Bar No. 8185  
2795 East Desert Inn Road, Suite 200  
Las Vegas, Nevada 89121

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Attorneys for Defendants, Jared Awerbach and  
Andrea Awerbach

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 21 day of June, 2012, I forwarded a copy of the above and  
3 foregoing **DEFENDANT JARED AWERBACH'S RESPONSES TO PLAINTIFFS' REQUEST**  
4 **FOR PRODUCTION OF DOCUMENTS** as follows:

5 X by depositing in the United States mail, first-class postage prepaid, at Las Vegas,  
6 Nevada, enclosed in a sealed envelope, pursuant to NRCP 5(b)(2)(B) and EDCR  
7 7.26(a)(1); and/or

8 \_\_\_\_\_ by facsimile transmission pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(3); as  
indicated below; and/or

9 \_\_\_\_\_ by electronic transmission [via CM/ECF], pursuant to NRCP 5(b)(2)(D) and EDCR  
10 7.26(a)(4); and/or

11 \_\_\_\_\_ by email as indicated below pursuant to NRCP 5(b)(2)(D);

12 TO:

13 Adam D. Smith, Esq.  
14 Glen J. Lerner & Associates  
15 4795 South Durango Drive  
16 Las Vegas, Nevada 89147  
(702) 877-1500  
(702) 933-7043 - Fax  
*Attorneys for Plaintiff*

17  
18 *Jason P. Gooditzer*  
19 Employee of  
20 BRADY, VORWERCK, RYDER & CASPINO  
21  
22  
23  
24  
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**EXHIBIT 1-I**

**EXHIBIT 1-I**

DISTRICT COURT  
CLARK COUNTY, NEVADA

EMILIA GARCIA,	)	
	)	
Plaintiff,	)	Case No.: A-11-637772-C
	)	Dept. No.: XXVII
vs.	)	
	)	
JARED AWERBACH, individually,	)	
ANDREA AWERBACH, individually,	)	
DOES I-X, and ROE CORPORATIONS	)	
I-X, inclusive,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF ANDREA AWERBACH  
LAS VEGAS, NEVADA  
THURSDAY, SEPTEMBER 12, 2013

REPORTED BY: GINA DILUZIO, RPR, CCR #833  
JOB NO.: 186406

<p style="text-align: right;">Page 2</p> <p>1 DEPOSITION OF ANDREA AWERBACH, taken at Glen Lerner  2 Injury Attorneys, 4795 South Durango Drive, Las Vegas,  3 Nevada, on Thursday, September 12, 2013, at 4:21 p.m.,  4 before Gina DiLuzio, Certified Court Reporter, in and for  5 the State of Nevada.  6  7 APPEARANCES:  8 For the Plaintiff Emilia Garcia:  9 GLEN LERNER INJURY ATTORNEYS  BY: ADAM D. SMITH, ESQ.  10 4795 South Durango Drive  Las Vegas, Nevada 89147  11 (702) 877-1500  12 For the Defendants Jared Awerbach and Andrea Awerbach:  13 BRADY, VORWERCK, RYDER &amp; CASPINO  BY: ALEXANDRA B. McLEOD, ESQ.  14 2795 East Desert Inn Road  Suite 200  15 Las Vegas, Nevada 89121  (702) 697-6500  16 amcleod@bvrclaw.com  17 For the Defendant Jared Awerbach:  18 RESNICK &amp; LOUIS, P.C.  BY: JEFFREY I. PITEGOFF, ESQ.  19 LILY COMPTON, ESQ.  415 South Sixth Street  20 Suite 300  Las Vegas, Nevada 89101  21 (702) 997-3800  jpitegoff@rlattorneys.com  22  23  24  25</p>	<p style="text-align: right;">Page 4</p> <p>1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 12, 2013  2 4:21 P.M.  3 -oOo-  4 Thereupon--  5 ANDREA AWERBACH,  6 was called as a witness, and having been first duly  7 sworn, was examined and testified as follows:  8  9 EXAMINATION  10 BY MR. SMITH:  11 Q. Can you please state and spell your name for  12 the record.  13 A. Andrea, A-n-d-r-e-a, Awerbach, A-w-e-r-b-a-c-h.  14 Q. Ms. Awerbach, have you ever had your deposition  15 taken before?  16 A. Yes.  17 Q. Do you know how many occasions?  18 A. No.  19 Q. When was the last time?  20 A. I don't remember.  21 Q. Was it within the last year?  22 A. No.  23 Q. Well, since it's been a little bit of time  24 since you've had your deposition taken, let me go over some  25 of the ground rules with you.</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX  2 WITNESS: Andrea Awerbach  3 EXAMINATION PAGE  4 By Mr. Smith 4  5  6 EXHIBITS  7 NUMBER MARKED  8 (None marked.)  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 5</p> <p>1 A. Sure.  2 Q. It's generally designed to assist the court  3 reporter in making a good record. But some of them are  4 designed to explain the process to you. Okay?  5 A. Uh-huh.  6 Q. The first is that it's important for us to wait  7 for each other to finish our sentences. So I will do my  8 best to wait for you to finish your answer, if you do your  9 best to wait for me to finish my questions. Okay?  10 A. Sure.  11 Q. The second is that you use words to answer my  12 questions. So, earlier, you said, "Uh-huh." Things like  13 mm-hmm, uh-huh, ya-huh, those all look the same when the  14 court reporter types into the transcript.  15 So if you use words, we won't have any trouble  16 understanding what your answer was. And, if, at some point,  17 I ask you, for example, was that a yes or a no, I'm not  18 trying to be rude or badger you. I just want to make sure  19 we have a clear record. Okay?  20 A. Okay. I understand.  21 Q. This is not an endurance contest. So if you  22 need to take a break, at some point, let me know. We can  23 always take a break.  24 I don't expect this to take a very long time,  25 but there's certainly no trouble if you want to get up and</p>

<p style="text-align: right;">Page 6</p> <p>1 use the restroom, get another glass of water, something like 2 that. 3 A. Okay. 4 Q. I'm not here to trick you into saying 5 anything. So if you don't understand one of my questions, 6 please, let me know. If you do answer my questions, I'm 7 going to assume you did understand them. Okay? 8 A. Okay. 9 Q. At the end of this process, the court 10 reporter's going to take everything that we say and anybody 11 in the room says and place it into booklet form. You're 12 going to have an opportunity to review that booklet and make 13 any changes that you think are necessary. 14 I'll tell you, right now, on the record, if you 15 do make any substantive changes, we can comment upon those 16 at trial and they may affect your credibility. Okay? 17 A. Okay. 18 Q. I'm not asking you to guess at anything. So if 19 you don't know the answer to one of my questions, you can 20 tell me that you don't know. 21 I may -- because this is a car accident case, I 22 may ask you to estimate something. The difference a lot of 23 lawyers give for the difference between an estimate and a 24 guess is you could estimate the size of the table in this 25 room, because you can look at it, but you couldn't estimate</p>	<p style="text-align: right;">Page 8</p> <p>1 to you? 2 A. Yes. 3 Q. Did you review Jared's responses also? 4 A. No. 5 Q. Did you review any documents other than your 6 interrogatory responses? 7 A. No. 8 Q. Did you speak with anyone in order to prepare 9 for your deposition? 10 A. Yes. 11 Q. Who did you speak with? 12 A. My attorney. (Indicated.) 13 Q. And that was yesterday? 14 A. Yes. 15 Q. Anybody else? 16 A. No. 17 Q. Did you review any photographs to prepare for 18 your deposition? 19 A. No. 20 Q. Have you ever seen any photographs of the 21 accident? 22 A. No. 23 Q. I want to talk briefly about the other 24 depositions that you've given. What types of cases were 25 those?</p>
<p style="text-align: right;">Page 7</p> <p>1 the size of the desk in my office, because you've never been 2 in my office. 3 Do you understand that difference between an 4 estimate and a guess? 5 A. Yes. 6 Q. At the beginning of this, the court reporter 7 placed you under oath. That's the same oath that you'd take 8 in a court of law. It carries with it the same penalties 9 for perjury. Do you understand that? 10 A. Yes. 11 Q. Is there any reason you cannot give your best 12 testimony today, such as you're on medication that would 13 affect your memory? 14 A. No. 15 Q. Do you understand all of the ground rules that 16 I told you? 17 A. Yes. 18 Q. And you're ready to proceed? 19 A. Yes. 20 Q. Did you review any documents to prepare for 21 your deposition? 22 A. Yes. 23 Q. What did you review? 24 A. Interrogatories. 25 Q. Your responses to the interrogatories we sent</p>	<p style="text-align: right;">Page 9</p> <p>1 A. I believe -- if I'm -- it was a car accident 2 where someone drove into me. 3 Q. Okay. And you were injured in the accident? 4 A. Yes. 5 Q. And you were suing somebody for damages for 6 your injuries? 7 A. Yes. 8 Q. Is that the only time you've given a 9 deposition? 10 A. I don't remember. 11 Q. When was that case? 12 A. About 15 or 16 years ago. 13 Q. Was it here in Clark County? 14 A. Yes. 15 Q. What was the outcome of that case? 16 A. There was a settlement. 17 Q. Let me get some just general background about 18 you. What's your current address? 19 A. 4006 Dripping Springs Avenue, North Las Vegas, 20 Nevada 89031. 21 Q. Is there an apartment number? 22 A. No. It's a house. 23 Q. How long have you lived at that address? 24 A. I -- approximately, two and a half, three 25 years.</p>

Page 10	Page 12
<p>1 Q. What was your address before that?</p> <p>2 A. It was on Gowan. I don't remember the street.</p> <p>3 I want to say 1827, but I'm not sure that's correct.</p> <p>4 Q. Do you remember your apartment number on Gowan?</p> <p>5 A. No.</p> <p>6 Q. At the time of the accident, you were living at</p> <p>7 the Gowan address?</p> <p>8 A. Yes.</p> <p>9 Q. Is it 1827 West Gowan, North Las Vegas, Nevada</p> <p>10 89032?</p> <p>11 A. Yes.</p> <p>12 Q. How soon after the accident did you move to</p> <p>13 your present address?</p> <p>14 A. I think -- I'm not sure. I think about four</p> <p>15 months.</p> <p>16 Q. What's the highest level of education you've</p> <p>17 achieved?</p> <p>18 A. I have national board certification.</p> <p>19 Q. In what?</p> <p>20 A. Education. I have a master's degree plus 32</p> <p>21 credits and national board certification.</p> <p>22 Q. Where did you receive your college degree from?</p> <p>23 A. Upsala College.</p> <p>24 Q. Where's that?</p> <p>25 A. It was in East Orange, New Jersey. It doesn't</p>	<p>1 Q. How many children do you have?</p> <p>2 A. One.</p> <p>3 Q. What's his name?</p> <p>4 A. Jared Awerbach.</p> <p>5 Q. And Jared Awerbach is the same Jared Awerbach</p> <p>6 that was in the accident we're here to talk about, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have any grandchildren?</p> <p>9 A. Yes.</p> <p>10 Q. How many?</p> <p>11 A. Two.</p> <p>12 Q. I take it those are both Jared's children?</p> <p>13 A. I don't know that for sure.</p> <p>14 Q. Okay. How old are they?</p> <p>15 A. Kahlia (phonetic) is going to be three in</p> <p>16 December. Mecca is about a year and a half. She'll be two</p> <p>17 in February.</p> <p>18 Q. Have you ever been convicted of a crime?</p> <p>19 A. No.</p> <p>20 Q. To your knowledge, has Jared?</p> <p>21 A. I believe so.</p> <p>22 Q. What do you believe he's been convicted of?</p> <p>23 A. I think drug charges.</p> <p>24 Q. When was that?</p> <p>25 A. I have --</p>
Page 11	Page 13
<p>1 exist anymore.</p> <p>2 Q. Where did you receive your master's degree</p> <p>3 from?</p> <p>4 A. UNLV.</p> <p>5 Q. Do you hold any other certifications?</p> <p>6 A. National board certification.</p> <p>7 Q. Besides that?</p> <p>8 A. Teaching license.</p> <p>9 Q. Where do you work presently?</p> <p>10 A. Clark County School District.</p> <p>11 Q. How long have you worked there?</p> <p>12 A. I worked -- I've worked there since 1997 to</p> <p>13 take -- a brief explanation. I took a year-and-a-half leave</p> <p>14 of absence for a charter school, but it was under Clark</p> <p>15 County, so I don't know whether that's -- but I've been</p> <p>16 there since '97.</p> <p>17 Q. What do you do for --</p> <p>18 A. I'm a special education teacher.</p> <p>19 Q. How long have you been a special education</p> <p>20 teacher?</p> <p>21 A. Since 1997.</p> <p>22 Q. Are you married?</p> <p>23 A. No.</p> <p>24 Q. Have you previously been married?</p> <p>25 A. No.</p>	<p>1 MR. PITEGOFF: I just want to lodge an</p> <p>2 objection that anything in regard to juvenile records is</p> <p>3 sealed. And I would object on the grounds that if you ask</p> <p>4 any questions that elicit information for sealed records,</p> <p>5 it's considered privileged.</p> <p>6 I can't instruct this witness not to answer,</p> <p>7 because she's not my client, but I just want that objection</p> <p>8 on the record.</p> <p>9 MR. SMITH: Well, let's let her answer when it</p> <p>10 was and I think I can --</p> <p>11 MR. PITEGOFF: Fine.</p> <p>12 MR. SMITH: -- lead us down the right path.</p> <p>13 THE WITNESS: I don't know Jared's record. I</p> <p>14 don't know when he was arrested and what he went to jail for</p> <p>15 and I don't remember dates.</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Do you know when he was in jail?</p> <p>18 A. I know that September 12 is -- he's been out a</p> <p>19 year. This is his release date anniversary.</p> <p>20 Q. September '12 -- well, strike that. So it's</p> <p>21 your understanding he was released from jail September 12,</p> <p>22 2012?</p> <p>23 A. That's what he told me.</p> <p>24 Q. To your knowledge, does Jared use illegal</p> <p>25 drugs?</p>

<p style="text-align: right;">Page 14</p> <p>1 MS. McLEOD: Objection. Relevance. You can 2 answer. 3 THE WITNESS: Yes. 4 BY MR. SMITH: 5 Q. What's your understanding of what illegal drugs 6 he uses? 7 MS. McLEOD: Same objection. 8 THE WITNESS: Depends. I don't know if he's 9 currently using. In the past, he has used marijuana. He's 10 used meth. I don't know what other substances. 11 BY MR. SMITH: 12 Q. Do you know the date of the accident we're here 13 to talk about? 14 A. I don't recall the date, no. 15 Q. If I told you it was January 2, 2011, does that 16 refresh your recollection? 17 A. It sounds accurate, but I don't remember. 18 Q. Prior to January 2, 2011, were you aware that 19 Jared was using illegal drugs? 20 A. Yes. 21 Q. And prior to January 2, 2011, what illegal 22 drugs were you aware that Jared was using? 23 MR. PITEGOFF: Objection. Foundation. 24 THE WITNESS: Do I answer? 25 MS. McLEOD: Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. When did he first go to treatment? 2 A. I don't recall the dates, but it started when 3 he was a juvenile. 4 Q. Did you and Jared live together on January 2, 5 2011? 6 A. Yes, I think so. 7 Q. And, at that point, being January 2, 2011, how 8 long had he lived with you? 9 A. I don't recall the time, because he's come in 10 and out of the house. 11 Q. Was there a point when he stopped living with 12 you permanently? 13 A. There had been multiple times that he stopped 14 living with me. 15 Q. Does he live with you now? 16 A. Yes. 17 Q. What's your relationship like with Jared? 18 A. Can you explain, you know, what's my 19 relationship like. 20 Q. Do you have a close relationship? 21 MR. PITEGOFF: Objection. Form. 22 THE WITNESS: We have -- we have a relationship 23 that is impeded by his drug addiction. So I have a 24 relationship with my son and I have a relationship with his 25 addiction.</p>
<p style="text-align: right;">Page 15</p> <p>1 THE WITNESS: Meth, weed. I suspected cocaine, 2 but I didn't know for sure. 3 BY MR. SMITH: 4 Q. At the time of January 2, 2011, was it your 5 understanding that he was currently using illegal drugs? 6 MS. McLEOD: Objection. Calls for speculation. 7 MR. PITEGOFF: Same objection. 8 THE WITNESS: I don't -- I -- I don't 9 remember. 10 BY MR. SMITH: 11 Q. Where did your understanding that he had used 12 illegal drugs, prior to January 2, 2011, come from? 13 MR. PITEGOFF: Same objection. 14 THE WITNESS: Living with him, being his 15 mother. 16 BY MR. SMITH: 17 Q. What do you mean by that? 18 A. Watching him, taking him to drug counseling 19 over the years. Police involvement. You know, people in 20 the house that I had to then kick out of the house. 21 Q. By watching him, do you mean you could see his 22 behavior indicated to you that he was on illegal drugs? 23 A. Yes. And if I could add. Jared has been in 24 and out of treatment. So we've gone to therapy together. 25 We've gone to NA meetings together.</p>	<p style="text-align: right;">Page 17</p> <p>1 BY MR. SMITH: 2 Q. Can you describe your relationship with him on 3 January 2, 2011. 4 A. It was strained. It was suspicious. I was 5 always on edge. I -- we had the added pressure of his 6 child, so I was a little trapped in terms of feeling whether 7 I could tell him to move out. It was scary. 8 Q. Why was it scary? 9 A. Because I was living with an active drug dealer 10 and an active drug addict. And, so, I never knew what was 11 going to happen. I don't know what of mine was going to 12 come up missing. 13 I never knew what ridiculous request there was 14 going to be or what argument we were going to have. I was 15 not at peace in my home. I didn't know the condition of the 16 house when I came home. And, now, we had the added -- a 17 baby. 18 Q. Before January 2, 2011, had you ever let Jared 19 drive your car? 20 A. No. 21 Q. Before -- well, as of January 2, 2011, were you 22 aware that he had previously driven your car without your 23 permission? 24 A. Yes. 25 Q. Do you know on how many occasions?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. No.</p> <p>2 Q. Prior to January 2, 2011, had he ever asked for</p> <p>3 permission to use your car?</p> <p>4 A. No, I don't think so.</p> <p>5 Q. Do you know the car that he was driving at the</p> <p>6 time of the accident?</p> <p>7 A. Yes.</p> <p>8 Q. What kind of car was it?</p> <p>9 A. Suzuki Forenza.</p> <p>10 Q. On January 2, 2011, prior to the accident, were</p> <p>11 there any mechanical problems with the car?</p> <p>12 A. I don't remember.</p> <p>13 Q. Had that car ever been in an accident prior to</p> <p>14 January 2, 2011?</p> <p>15 A. I'm not -- I don't -- I think it got hit at</p> <p>16 school. I'm trying to remember. I think someone hit my</p> <p>17 car, like a minor hit at school. I'd have to check</p> <p>18 insurance records.</p> <p>19 Q. Was it repaired after that?</p> <p>20 A. I don't know if that one -- again, I'd have to</p> <p>21 check. It's not something I remember offhand.</p> <p>22 Q. Did you buy that car new?</p> <p>23 A. No.</p> <p>24 Q. Do you know how old it was when you bought it?</p> <p>25 A. I'd have to look. I am not remembering.</p>	<p style="text-align: right;">Page 20</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. SMITH: I appreciate it.</p> <p>3 BY MR. SMITH:</p> <p>4 Q. What did the police tell you?</p> <p>5 A. That Jared had been in an accident. I'm trying</p> <p>6 to remember if they told me he was being arrested. And I</p> <p>7 had a discussion with the officer about whether he was under</p> <p>8 the influence. I asked, "Is he high? Is he drunk?"</p> <p>9 Q. What did the officer tell you?</p> <p>10 A. He did not want to answer me at first. I</p> <p>11 think -- again, I think he thought I was trying to get Jared</p> <p>12 off the hook, quote, unquote.</p> <p>13 And I remember saying to the officer, "He's</p> <p>14 going to lie to me and say that he was clean. Can you tell</p> <p>15 me anything?" And he said, "I'm trying to be cooperative,</p> <p>16 but he's being arrested under DUI."</p> <p>17 Q. Do you remember anything else the officer told</p> <p>18 you?</p> <p>19 A. No.</p> <p>20 Q. Did he tell you at all how the accident</p> <p>21 happened?</p> <p>22 A. No.</p> <p>23 Q. You understand that Jared was driving your car</p> <p>24 in the accident on January 2, 2011, correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Do you know how long you had had it as of</p> <p>2 January 2, 2011?</p> <p>3 A. I'd be guessing. Or estimating, like three</p> <p>4 years. I'd have to look. Again, I'd have to look at</p> <p>5 records.</p> <p>6 Q. Three years is your best estimate?</p> <p>7 A. I don't know if it's my best estimate, so I'm</p> <p>8 guessing.</p> <p>9 Q. As of January 2, 2011, had you had that car, at</p> <p>10 least, a year?</p> <p>11 A. Yes.</p> <p>12 Q. Let's talk about the day of the accident.</p> <p>13 A. (Nodded head.)</p> <p>14 Q. Do you remember that day?</p> <p>15 A. Not much of it.</p> <p>16 Q. What is it that you do remember about that day?</p> <p>17 A. I remember getting the phone call from the</p> <p>18 police.</p> <p>19 Q. Okay. So your first knowledge of the accident</p> <p>20 came from police?</p> <p>21 A. Uh-huh.</p> <p>22 Q. What did they tell you?</p> <p>23 MR. PITEGOFF: Was that a "yes"?</p> <p>24 THE WITNESS: I'm sorry. Yes.</p> <p>25 MR. SMITH: Thank you for clarifying.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. Did he ask for permission to drive your car</p> <p>2 that day?</p> <p>3 A. No.</p> <p>4 Q. How did he get the keys?</p> <p>5 A. I don't know.</p> <p>6 Q. Where were the keys when he took the car?</p> <p>7 A. I don't know, because I don't know when he took</p> <p>8 them.</p> <p>9 Q. Do you know where you were when he took your</p> <p>10 car?</p> <p>11 A. No.</p> <p>12 Q. Would you have been home when he took your car?</p> <p>13 A. Yeah, I'd have to be.</p> <p>14 Q. Is there a regular place that you leave the</p> <p>15 keys in your house?</p> <p>16 A. No.</p> <p>17 Q. And that's poor question. At the time, on</p> <p>18 January 2, 2011, was there a regular place where you kept</p> <p>19 your car keys in your house?</p> <p>20 A. I think I was answering based on January 2.</p> <p>21 No. I constantly hid the keys.</p> <p>22 Q. You didn't hide them that day, did you?</p> <p>23 A. Yes.</p> <p>24 Q. Now, Jared said the keys were left out on the</p> <p>25 counter. Is he not telling the truth?</p>

Page 22	Page 24
<p>1 A. I doubt they were left out on the counter.</p> <p>2 Q. You're not sure, correct?</p> <p>3 A. I'm sure. I never left the keys out on the</p> <p>4 counter.</p> <p>5 Q. Why would he say they were left out on the</p> <p>6 counter?</p> <p>7 MR. PITEGOFF: Objection. Speculation,</p> <p>8 foundation.</p> <p>9 MS. McLEOD: Join.</p> <p>10 THE WITNESS: Why would my son who took a car</p> <p>11 without permission lie? Because he's lying.</p> <p>12 I think -- if I'm speculating, as his mother,</p> <p>13 he's probably scared about taking the car without</p> <p>14 permission. He's probably scared about his relationship</p> <p>15 me. So I'm guessing.</p> <p>16 BY MR. SMITH:</p> <p>17 Q. Do you know where you hid the keys that day?</p> <p>18 A. No.</p> <p>19 Q. Did Jared have a driver's license on January 2,</p> <p>20 2011?</p> <p>21 A. No.</p> <p>22 Q. Has he ever had a driver's license?</p> <p>23 A. Not that I know of.</p> <p>24 Q. Does Jared wear glasses?</p> <p>25 A. Yes.</p>	<p>1 (Pause in the proceedings.)</p> <p>2 BY MR. SMITH:</p> <p>3 Q. Do you have an understanding of how the</p> <p>4 accident happened?</p> <p>5 A. No.</p> <p>6 Q. Have you ever discussed the accident with</p> <p>7 Jared?</p> <p>8 A. No. Excuse me. I've never discussed what</p> <p>9 happened. I discussed he needed to go to the attorney and</p> <p>10 things like that.</p> <p>11 Q. Tell me about those discussions.</p> <p>12 A. "Jared, you need to call your attorney. I'm</p> <p>13 going to drive you."</p> <p>14 Q. In other words, you wanted to make sure he was</p> <p>15 following through with his lawyer?</p> <p>16 A. He -- when he got the last call, he was very</p> <p>17 agitated, he was very upset. I did not feel it was safe for</p> <p>18 him to go by himself.</p> <p>19 Q. What call are you talking about? I'm sorry.</p> <p>20 A. This last week, when he went in.</p> <p>21 Q. Okay. To come to his deposition you mean?</p> <p>22 A. Uh-huh.</p> <p>23 MS. McLEOD: Is that a "yes"?</p> <p>24 THE WITNESS: I'm sorry. Yes. Sorry.</p> <p>25 BY MR. SMITH:</p>
Page 23	Page 25
<p>1 Q. Did he have a prescription for glasses on</p> <p>2 January 2, 2011?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know where Jared was going to on January</p> <p>5 2, 2011?</p> <p>6 A. No.</p> <p>7 Q. Do you know where that accident happened?</p> <p>8 A. No.</p> <p>9 (Pause in the proceedings.)</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Do you know where the intersection of Rainbow</p> <p>12 and Peak Drive is?</p> <p>13 A. No.</p> <p>14 Q. Do you know if Jared knows anybody that lives</p> <p>15 in an apartment near that intersection?</p> <p>16 A. No.</p> <p>17 Q. Do you know if he did as of January 2, 2011?</p> <p>18 A. No. I don't know where Peak is.</p> <p>19 THE WITNESS: Can we stop for just one</p> <p>20 moment --</p> <p>21 MR. SMITH: Absolutely.</p> <p>22 THE WITNESS: -- so I can answer this?</p> <p>23 MR. SMITH: Please. Go ahead.</p> <p>24 THE WITNESS: I don't have it off.</p> <p>25 MR. SMITH: We can go off the record.</p>	<p>1 Q. When you meant -- when you said his lawyer</p> <p>2 earlier, do you mean his lawyer for this case or his lawyer</p> <p>3 for his DUI?</p> <p>4 A. His lawyer for this case.</p> <p>5 Q. Have you ever talked about the DUI aspect of</p> <p>6 the accident with Jared?</p> <p>7 A. I've listened briefly, but we've not talked in</p> <p>8 depth about it.</p> <p>9 Q. What has he told you?</p> <p>10 A. That he wasn't high. That he had marijuana on</p> <p>11 him and that's why he got arrested.</p> <p>12 Q. So you have no understanding at all of how the</p> <p>13 accident happened?</p> <p>14 A. No.</p> <p>15 MS. McLEOD: Clarification. He said, you do</p> <p>16 not have an understanding, and you said, no, which means you</p> <p>17 disagree with him.</p> <p>18 THE WITNESS: Oh. I do not have an</p> <p>19 understanding. I don't know what happened.</p> <p>20 MS. McLEOD: Thank you.</p> <p>21 BY MR. SMITH:</p> <p>22 Q. Have you seen your vehicle since the accident?</p> <p>23 A. Yes.</p> <p>24 Q. Can you describe what the damage looked like</p> <p>25 from the accident.</p>

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<p>1 A. I don't remember. It was quite some time ago.</p> <p>2 Q. It was totaled, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if Jared was talking on the phone</p> <p>5 at the time of the accident?</p> <p>6 A. No.</p> <p>7 Q. Do you know if he got injured in the accident?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know if he got any treatment as a result</p> <p>10 of the accident?</p> <p>11 A. I don't know.</p> <p>12 Q. Have you ever given a statement to your</p> <p>13 insurance company about the accident?</p> <p>14 A. Yes.</p> <p>15 Q. When was that?</p> <p>16 A. I'm sure days following the accident. I don't</p> <p>17 remember the dates.</p> <p>18 Q. Do you know if they recorded that statement?</p> <p>19 A. I don't know.</p> <p>20 Q. You know, sometimes they tell you, at the</p> <p>21 beginning of the call, we're going to be recording this.</p> <p>22 A. Uh-huh.</p> <p>23 Q. Do you recall if that happened?</p> <p>24 A. Assuming that it happened.</p> <p>25 MR. SMITH: Can I have you check into that,</p>	<p>1 A. No, I don't know.</p> <p>2 (Pause in the proceedings.)</p> <p>3 BY MR. SMITH:</p> <p>4 Q. Prior to January 2, 2011, had you ever told</p> <p>5 Jared he wasn't allowed to use your car?</p> <p>6 A. Yeah.</p> <p>7 Q. And after you told him that, you were still</p> <p>8 aware that he used it without your permission, right?</p> <p>9 A. Yes.</p> <p>10 (Pause in the proceedings.)</p> <p>11 BY MR. SMITH:</p> <p>12 Q. Do you know if Jared was wearing his glasses at</p> <p>13 the time of the accident?</p> <p>14 A. No.</p> <p>15 Q. On January 2, 2011, did he need his glasses to</p> <p>16 drive?</p> <p>17 A. He needs glasses for everything.</p> <p>18 MR. PITTEGOFF: Objection. Form, foundation.</p> <p>19 BY MR. SMITH:</p> <p>20 Q. And what I'm getting at, is it your</p> <p>21 understanding that he has a strong enough prescription that</p> <p>22 he should not be driving without glasses?</p> <p>23 MR. PITTEGOFF: Same objection.</p> <p>24 THE WITNESS: I don't know.</p> <p>25 BY MR. SMITH:</p>
Page 27	Page 29
<p>1 because I don't think we received a recorded statement from</p> <p>2 her.</p> <p>3 MS. McLEOD: I'll be happy to recheck. But</p> <p>4 I'll tell you, for purposes of the record, that we've</p> <p>5 produced all recorded statements that were provided in the</p> <p>6 claims file. But I have no problem double-checking for you.</p> <p>7 MR. SMITH: Thank you.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. Did you ever give a statement to the police?</p> <p>10 A. I don't think so.</p> <p>11 Q. Other than your initial conversation with the</p> <p>12 police, have you ever talked to the police about the</p> <p>13 accident or Jared's DUI?</p> <p>14 A. I don't think so, no.</p> <p>15 Q. Other than your attorney, the initial</p> <p>16 conversation with the police, and the conversation you</p> <p>17 related that you had with Jared, have you talked to anyone</p> <p>18 else about the accident or Jared's DUI?</p> <p>19 A. I don't know if this falls in this category. I</p> <p>20 talked to my therapist about the stress of it, but not the</p> <p>21 details of the accident.</p> <p>22 Q. Do you know what the outcome of Jared's DUI</p> <p>23 was?</p> <p>24 A. That he was arrested.</p> <p>25 Q. Do you know if he was convicted?</p>	<p>1 Q. Do you know what his prescription is?</p> <p>2 A. No.</p> <p>3 Q. Does he wear glasses or contacts?</p> <p>4 A. Glasses.</p> <p>5 MR. SMITH: I don't have any other questions.</p> <p>6 MR. PITTEGOFF: You did great. You got us out</p> <p>7 before your 5:30 deadline. I don't have any questions.</p> <p>8 MS. McLEOD: I don't have any questions</p> <p>9 either. We will waive review and signature. I do want a</p> <p>10 copy.</p> <p>11 (Whereupon, the deposition was concluded at</p> <p>12 4:49 p.m.)</p> <p>13 (Signature waived.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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GINA DILUZIO, RPR, CCR #833

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EXHIBIT 1-J

EXHIBIT 1-J

DISTRICT COURT  
CLARK COUNTY, NEVADA

EMILIA GARCIA, individually,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO.: A637772
	)	DEPT. NO.: XXVII
JARED AWERBACH, individually;	)	
ANDREA AWERBACH, individually;	)	
DOES I-X, and ROE CORPORATIONS	)	
I-X, inclusive,	)	
	)	
Defendants.	)	
	)	

VIDEO DEPOSITION OF ANDREA AWERBACH  
LAS VEGAS, NEVADA  
FRIDAY, OCTOBER 24, 2014

REPORTED BY: JACKIE JENNELLE, RPR, CCR #809  
JOB NO.: 224205

<p style="text-align: right;">Page 134</p> <p>1 Q. How do you distinguish his acting out 2 between drugs and potentially having a traumatic 3 brain injury? 4 A. I don't. 5 MS. COMPTON: Foundation. 6 THE WITNESS: I need a doctor to tell me 7 that. 8 BY MR. SMITH: 9 Q. Jared also has migraines? 10 MS. COMPTON: Form. 11 THE WITNESS: I don't know if he currently 12 has them, but yes. 13 BY MR. SMITH: 14 Q. He has had them? 15 A. Yes. 16 Q. When he has a migraine, he can't see? 17 A. Now -- 18 MS. COMPTON: Form. 19 THE WITNESS: When he was younger he just 20 would get migraines. But the ocular comes from, 21 yes, he will lose his vision. 22 BY MR. SMITH: 23 Q. What do you mean when he was younger he 24 would get them? 25 A. In third grade. He outgrew them for a</p>	<p style="text-align: right;">Page 136</p> <p>1 together. 2 Q. Anything else? 3 A. I don't know. 4 Q. How long did he tutor with you? 5 A. Off and on for a few years. 6 Q. What does off and on mean? 7 A. Well, we didn't always tutor. There are 8 different seasons to tutoring. There were 9 different -- you know, there were times that he 10 wasn't in the home. 11 Q. What did -- and what did he do with the 12 tutoring? 13 What was his job? 14 A. He helped me manage groups. He helped 15 tutor math, especially some of the older students. 16 Helped me gather materials. 17 Q. Did he get paid for tutoring? 18 A. From me, not from the company. 19 Q. How much did you pay him? 20 A. Depends how much I was getting paid and how 21 many groups, you know, he was running. 22 Q. How old was Jared when he was tutoring with 23 you? 24 A. The first time he helped me with a student, 25 he was in middle school himself. I used to do</p>
<p style="text-align: right;">Page 135</p> <p>1 time. 2 Q. So before the fight he had migraines? 3 A. Occasionally. 4 Q. After the fight he got migraines that were 5 worse? 6 A. Yes. 7 Q. And the ones after the fight have caused 8 him to lose vision, right? 9 A. The ocular migraines, yes. 10 Q. Anything -- well, strike that. 11 Did he get treatment for anything other 12 than his eyes after the 2005 fight? 13 A. He's had glasses. He's had dentistry. 14 He's had headaches. He's had colds. 15 Q. Well, medical treatment for any conditions 16 related to the 2005 fight? 17 A. Other than, you know, the medication he was 18 put on for PTSD or bipolar, yes. 19 Q. Just counseling and treatment for his eyes; 20 right? 21 A. Counseling and medication and group homes. 22 Q. What jobs has Jared held? 23 A. For a time he worked for something called 24 Bartech (phonetic). And it wasn't an official job, 25 but he helped me with tutoring. We did that</p>	<p style="text-align: right;">Page 137</p> <p>1 respite care for a student and Jared would come with 2 me and play with the boy and take him. The last 3 time he tutored, I think he was 16 or 17. Might 4 have been 18. 5 Q. How long did he work at Bartech for? 6 A. A couple months. I don't know. 7 Q. How old was he when he did that? 8 A. Seventeen or 18. Might have been 18. 9 Q. How he get to and from work at Bartech? 10 A. I drove him. 11 Q. Every day? 12 A. He didn't work every day. 13 Q. How many days a week did he work? 14 A. Sometimes three. Sometimes seven days 15 straight. It was, you know -- and then sometimes he 16 would have a ride from a co-worker. 17 Q. What were his hours? 18 A. They varied. Sometimes he would leave at 19 5:00 in the morning and come back -- you know, I 20 think they were putting something into the Cosmo. 21 Q. Did he have a job at the time of this 22 accident in January 2011? 23 A. I don't think so. 24 Q. Has he ever been able to support himself 25 with a legitimate job?</p>

<p style="text-align: right;">Page 138</p> <p>1 MR. MAZZEO: Objection, form.  2 THE WITNESS: He seemed to be making good  3 money at Bartech. He paid part for he and Tikira to  4 live in the house and then they had money for other  5 things.  6 BY MR. SMITH:  7 Q. When he was working at Bartech, he was  8 living with you?  9 A. For part of the time.  10 Q. And where was he living the other part of  11 the time?  12 A. I think it might have been the whole time.  13 Q. Why hasn't he had any steady job at least  14 since he finished school?  15 MR. MAZZEO: Objection, speculation.  16 THE WITNESS: You're asking my opinion?  17 BY MR. SMITH:  18 Q. Yes.  19 A. Because he suffers from a drug addiction.  20 Because there's a lifestyle that goes with that drug  21 addiction, and I think he thought that would  22 entertain him because he's made himself a little bit  23 helpless.  24 Q. What's he been doing for money since he  25 turned 18?</p>	<p style="text-align: right;">Page 140</p> <p>1 when I'm done, you're free to ask questions when I'm  2 done.  3 MR. MAZZEO: Okay. And I will. I will.  4 MR. SMITH: Stop giving her the answers and  5 also let her answer the questions.  6 MR. MAZZEO: Well, we've already gone over  7 an area where she's already talked about him driving  8 a car prior to the subject accident, so I want  9 clarification.  10 MR. SMITH: Okay. If you have an  11 objection, lodge your objection.  12 MR. MAZZEO: All right. Objection  13 clarification of the question.  14 BY MR. SMITH:  15 Q. Did Jared ever drive your car before the  16 2011 accident?  17 MR. MAZZEO: Asked and answered.  18 THE WITNESS: Yes.  19 BY MR. SMITH:  20 Q. How many occasions?  21 A. I have no idea.  22 Q. How many do you know about?  23 MR. MAZZEO: Objection, speculation.  24 MR. SMITH: It's not speculation if I ask  25 her what she knows, Pete.</p>
<p style="text-align: right;">Page 139</p> <p>1 MR. MAZZEO: Objection, foundation.  2 THE WITNESS: There was a time that he  3 worked. There was a time that he was stealing from  4 me. There was a time that he said he worked in the  5 grow house. I don't know. There's a lot of time  6 since he's been 18 that he's not been home.  7 BY MR. SMITH:  8 Q. Does he pay child support?  9 A. I don't think so.  10 Q. Do you know if he's ever paid child  11 support?  12 MR. MAZZEO: Objection, relevance.  13 THE WITNESS: I don't think so.  14 BY MR. SMITH:  15 Q. Have you paid child support for him?  16 A. No.  17 Q. Did Jared ever drive your car before the  18 2011 accident?  19 A. With permission or without?  20 MR. MAZZEO: Well, other than the 2008  21 accident we talked about?  22 MR. SMITH: Including that. I'm just --  23 let me ask the questions.  24 MR. MAZZEO: Okay.  25 MR. SMITH: If you want to ask questions</p>	<p style="text-align: right;">Page 141</p> <p>1 THE WITNESS: I know that when I thought he  2 had a permit, I took him driving a handful of times.  3 I know that, you know, he told me after the fact  4 that he had taken the car without permission.  5 So if you're counting without permission or  6 times that I thought Tikira, who was a licensed  7 driver and the mother of my grandchildren, had the  8 car and it turned out Jared was driving, maybe ten  9 to 20 times. I'm solely guessing.  10 Q. How many times do you know of he drove your  11 car without permission before January 2nd, 2011?  12 THE WITNESS: I don't know.  13 BY MR. SMITH:  14 Q. Well, how many times do you know about?  15 I know you know about one for sure, right,  16 in 2008?  17 A. Right. And I know about 2011.  18 Q. Besides those two, how many do you know  19 about?  20 A. That he's told me outright? Four, maybe  21 four or five.  22 Q. Four before the January 2011 accident?  23 A. Um-hmm.  24 Q. Yes?  25 A. Yes. I'm sorry. Yes. I'm getting tired.</p>

<p style="text-align: right;">Page 142</p> <p>1 Q. How did he get the keys --</p> <p>2 MS. COMPTON: Do you want to take a break?</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. SMITH:</p> <p>5 Q. How did he get the keys those other four or</p> <p>6 five times?</p> <p>7 A. He found them or he took them. There was a</p> <p>8 time that I believed I had the keys, came out and</p> <p>9 saw my car gone. That's one of the times I knew to</p> <p>10 start hiding the keys.</p> <p>11 He told me he didn't drive, a neighbor had</p> <p>12 driven. And then when I threatened to call the</p> <p>13 police, he confessed he did it. So that was one</p> <p>14 time that I knew about.</p> <p>15 Then there have been times since then that</p> <p>16 he said, you know, I've taken the car more, I took</p> <p>17 the car more times than that.</p> <p>18 Q. Where did he find the keys those times?</p> <p>19 A. I don't know.</p> <p>20 Q. You said he drove with you a handful of</p> <p>21 times.</p> <p>22 How many times was that?</p> <p>23 A. Five, ten.</p> <p>24 Q. How many times did you let him drive when</p> <p>25 Tikira was in the car?</p>	<p style="text-align: right;">Page 144</p> <p>1 A. Okay.</p> <p>2 Q. This is on page 17, line 18 because your</p> <p>3 counsel is looking at the transcript.</p> <p>4 Question: Before January 2nd, 2011, had</p> <p>5 you ever let Jared drive your car?</p> <p>6 Answer: No.</p> <p>7 That's not true; right?</p> <p>8 A. I'm sorry. You're confusing me.</p> <p>9 Q. Well, you remember coming to my office in</p> <p>10 September 2013; right?</p> <p>11 Yes?</p> <p>12 A. Yes, I'm sorry.</p> <p>13 Q. You remember sitting here with the court</p> <p>14 reporter; right?</p> <p>15 A. Yes.</p> <p>16 Q. You remember the court reporter placing you</p> <p>17 under oath; right?</p> <p>18 A. Yes.</p> <p>19 Q. You remember me asking questions and you</p> <p>20 answering those questions; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And you answered my question: Before</p> <p>23 January 2nd, 2011, had you ever let Jared drive your</p> <p>24 car? And you said: No.</p> <p>25 A. That's not the part that's confusing me.</p>
<p style="text-align: right;">Page 143</p> <p>1 A. I don't know. I let Tikira drive about ten</p> <p>2 or 15 times because I took her for her accident -- I</p> <p>3 mean, for her driver's license.</p> <p>4 Q. Did you ever let Jared and Tikira take the</p> <p>5 car where you knew Jared would be driving?</p> <p>6 A. I don't think so. I don't know.</p> <p>7 Q. Did you ever let Jared drive your car with</p> <p>8 any other adult besides you?</p> <p>9 A. Not that I remember. It's possible because</p> <p>10 he had his permit and had to get hours, but I'm not</p> <p>11 remembering any specifics.</p> <p>12 Q. Those few times that Jared told you he took</p> <p>13 the car without permission, besides the 2008 and</p> <p>14 2011 accident, did you ever report the car stolen?</p> <p>15 A. Not after the fact, no.</p> <p>16 I believe I called once and they said, Is</p> <p>17 the car there now? Do you know when?</p> <p>18 They don't take reports so easily.</p> <p>19 Q. Do you remember last time I asked you if</p> <p>20 Jared had ever driven the car with your permission</p> <p>21 and you said no?</p> <p>22 A. If he had ever driven the car with my</p> <p>23 permission? I don't remember.</p> <p>24 Q. I'm going to read you the question and the</p> <p>25 answer.</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. What's confusing you?</p> <p>2 A. I think I was confused by: Did I let him</p> <p>3 drive by himself? Did I let him drive without a</p> <p>4 license? And that answer is no.</p> <p>5 Did I let him go with Tikira? Because</p> <p>6 since that time, Jared has said that he had that and</p> <p>7 he -- and I may be mistaken, but I never handed</p> <p>8 Jared the car and said, Go take the car.</p> <p>9 Q. Why didn't you tell me at that time that</p> <p>10 you had driven with Jared driving?</p> <p>11 MR. MAZZEO: Objection, argumentative.</p> <p>12 THE WITNESS: I don't believe you asked me.</p> <p>13 I don't know how much I remembered or what the time</p> <p>14 frame was.</p> <p>15 Have I ever? He was learning how to drive.</p> <p>16 Have I ever driven with him? Yes. I don't know</p> <p>17 what you asked me.</p> <p>18 Also, I need to clarify that an awful lot</p> <p>19 has happened in a very short period of time. I --</p> <p>20 well, let me not say that part.</p> <p>21 It's exhausting, this whole thing. So are</p> <p>22 there things sometimes that I need prompted to</p> <p>23 remember? Yes.</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Do you know Jared was pulled over in your</p>

<p style="text-align: right;">Page 146</p> <p>1 car in November 2010?</p> <p>2 A. No.</p> <p>3 Q. You're not -- are you aware that he got a</p> <p>4 ticket for a broken headlight in your car at some</p> <p>5 point?</p> <p>6 A. No.</p> <p>7 Q. Did you ever fix the headlight in the car</p> <p>8 that he was in an accident in on January 2nd, 2011?</p> <p>9 A. I don't remember, but I don't think so.</p> <p>10 Q. Do you know about any other traffic tickets</p> <p>11 Jared has gotten?</p> <p>12 A. No.</p> <p>13 Q. Do you know that he's been cited for</p> <p>14 driving without a license in your vehicle?</p> <p>15 A. No.</p> <p>16 Q. Did Jared ever drive you to work?</p> <p>17 A. No.</p> <p>18 Q. Why would he say that?</p> <p>19 A. I can't answer.</p> <p>20 MS. COMPTON: Foundation --</p> <p>21 MR. MAZZEO: Objection, yeah, assumes facts</p> <p>22 not in evidence.</p> <p>23 THE WITNESS: I would assume he's either</p> <p>24 mistaken or is giving a reason why he wasn't driving</p> <p>25 without permission. He's, again, a kid in trouble,</p>	<p style="text-align: right;">Page 148</p> <p>1 BY MR. SMITH:</p> <p>2 Q. But you're saying he wasn't driving?</p> <p>3 A. I'm saying he wasn't driving.</p> <p>4 Q. What did you do to teach Jared how to</p> <p>5 drive?</p> <p>6 A. I drove with him, and then when that didn't</p> <p>7 work as well, friends of mine drove with him.</p> <p>8 Q. What do you mean when that didn't work as</p> <p>9 well?</p> <p>10 A. We're mother and son. We would argue.</p> <p>11 Q. What friends did you have drive with Jared?</p> <p>12 A. I would be guessing, but I think I remember</p> <p>13 my friend Bonnie took him once or twice. And it</p> <p>14 didn't -- we didn't do it very often.</p> <p>15 Q. Was that before or after the January 2011</p> <p>16 accident?</p> <p>17 A. It would have been before.</p> <p>18 Q. Do you know if Jared ever took a driver's</p> <p>19 education class?</p> <p>20 A. I thought that he did in school.</p> <p>21 Q. Why do you think that?</p> <p>22 A. Because I thought -- he told me that and I</p> <p>23 thought it was a part of school.</p> <p>24 Q. Did you ever send Jared to run errands in</p> <p>25 your car?</p>
<p style="text-align: right;">Page 147</p> <p>1 who thinks that I'm going to get him out of trouble.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. Do you think that he would place you in</p> <p>4 trouble in order to get himself out of trouble?</p> <p>5 MR. MAZZEO: Objection, speculation.</p> <p>6 MS. COMPTON: Foundation.</p> <p>7 THE WITNESS: I don't think he would</p> <p>8 realize he's putting me in trouble. I think he</p> <p>9 would think that I can fix that or that I can -- or</p> <p>10 I wouldn't be in trouble if he said that because</p> <p>11 what trouble could I be in.</p> <p>12 Do I think Jared wants to hurt me? No.</p> <p>13 But do I think Jared has hurt me? Sure.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. If he says that he drove you to work, he</p> <p>16 would be lying?</p> <p>17 MR. MAZZEO: Objection,</p> <p>18 mischaracterization.</p> <p>19 THE WITNESS: I think he would be --</p> <p>20 MS. COMPTON: Form.</p> <p>21 THE WITNESS: I'm sorry.</p> <p>22 I think he would be mistaken. I think he</p> <p>23 also might be missing information.</p> <p>24 Did he and Tikira take me to work when</p> <p>25 Tikira -- yes.</p>	<p style="text-align: right;">Page 149</p> <p>1 A. No.</p> <p>2 Q. So if he said that, he's lying?</p> <p>3 MR. MAZZEO: Objection.</p> <p>4 THE WITNESS: Again, I'm --</p> <p>5 MR. MAZZEO: Foundation, form.</p> <p>6 THE WITNESS: I don't know if he's lying or</p> <p>7 if he's mistaken or if he's saying he and Tikira</p> <p>8 went or he went and did errands. I don't know what</p> <p>9 his rationale is.</p> <p>10 BY MR. SMITH:</p> <p>11 Q. If you said -- strike that.</p> <p>12 If he said that you sent him to run errands</p> <p>13 alone in your car, he would be lying?</p> <p>14 MR. MAZZEO: Objection, form.</p> <p>15 THE WITNESS: He would be wrong.</p> <p>16 MR. MAZZEO: Incomplete hypothetical.</p> <p>17 THE WITNESS: He would be wrong.</p> <p>18 BY MR. SMITH:</p> <p>19 Q. You never sent him to get Ho-Hos for you?</p> <p>20 A. Was I in the car and I asked him to go</p> <p>21 inside? Yes. Do I eat Ho-Hos? Yes.</p> <p>22 Again, this is a kid who has distorted</p> <p>23 memories now, but also has an -- is entitled, and so</p> <p>24 this is how that conversation could go: Gee, I wish</p> <p>25 I had some Ho-Hos. We don't have any in the house.</p>

<p style="text-align: right;">Page 150</p> <p>1 Jared's thinking: I'm going to take mom's 2 car. I'll bring her back some Ho-Hos. It'll be 3 fine. 4 Put those two together, Jared gets: She 5 sent me for Ho-Hos. 6 I can't tell you how a 21-year-old -- what 7 rationalizations and distortions he has. But did I 8 say to him: Please, go to the store and get me 9 Ho-Hos? No. 10 Q. Do you like Nesquik? 11 A. No. 12 MS. COMPTON: I'm just wondering where that 13 came from. 14 THE WITNESS: Because Jared probably said 15 he went to go get Nesquik. 16 MS. COMPTON: I don't think he said that. 17 BY MR. SMITH: 18 Q. If Jared said he drove your car once or 19 twice a week before the accident, would he be lying? 20 A. Would he be mistaken? Yes. 21 Q. You never let Jared take your car to pay 22 bills? 23 A. No. 24 Q. You never let Jared take your car to go to 25 the grocery store?</p>	<p style="text-align: right;">Page 152</p> <p>1 the keys. 2 Q. So it was before the 2011 accident? 3 A. Right. 4 If you reference, I said there was a time 5 that I went outside and found my car missing and he 6 said the neighbor was driving. I called him and 7 said bring the car back. 8 Q. What did he do? 9 A. Brought the car back. 10 Q. That's only happened one time? 11 A. I don't remember. I think it was only 12 once. 13 Q. You've only -- in the last 15 years, you've 14 only owned one car at a time; right? 15 A. One car at a time? Yes. 16 Q. Jared has never owned a car? 17 A. I don't know. 18 Q. When he lived with you, he never owned a 19 car? 20 MS. COMPTON: Form. 21 THE WITNESS: He bought a car. I don't 22 know if he did what you need to do to own it, but he 23 bought a car with his Bartech money. 24 BY MR. SMITH: 25 Q. Did he own his own -- well, strike that.</p>
<p style="text-align: right;">Page 151</p> <p>1 A. No. 2 Q. Do you let Jared drive his kids places in 3 your car? 4 MS. COMPTON: Can we take a break? 5 MR. SMITH: Let me finish this part. 6 MS. COMPTON: Can I talk to you? 7 MR. MAZZEO: Yeah. 8 She has a question. 9 What was the question? 10 THE WITNESS: Do I let him drive his kids 11 places. 12 BY MR. SMITH: 13 Q. Yes. 14 A. No. 15 Q. Have you ever asked him to pick things up 16 on his way home when he's out in your car? 17 A. No. 18 Q. Have you ever called him and asked him to 19 bring your car back? 20 A. Yes. 21 Q. When did that happen? 22 A. Years before, like years ago. 23 Q. Years before the 2011 accident? 24 A. No. Years ago. Years before this -- we 25 got to this point. Once -- when I started hiding</p>	<p style="text-align: right;">Page 153</p> <p>1 Did he ever drive the car that he bought 2 with the Bartech money? 3 A. I don't know. I think it was a damaged 4 car. I don't know. 5 Q. You don't know if it worked? 6 A. I don't know if it worked. I don't know if 7 he drove it. I didn't know about the deal. 8 Q. Did you ever see that car? 9 A. Yes. 10 Q. Did you ever see someone driving it? 11 A. No. 12 Q. Did Tikira own a car when she lived with 13 you? 14 A. No. 15 MR. SMITH: All right. Go ahead and take a 16 break. 17 THE VIDEOGRAPHER: The time is 18 approximately 4:26 p.m. We're going off the record. 19 (Thereupon, a break was taken.) 20 THE VIDEOGRAPHER: The time is 21 approximately 4:39 p.m. We're back on the record. 22 BY MR. SMITH: 23 Q. In the last ten years has your mother owned 24 a car? 25 A. Yes.</p>

<p style="text-align: right;">Page 154</p> <p>1 Q. Has Jared ever driven her car?</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know if Jared ever took that car</p> <p>4 when he was living there?</p> <p>5 A. I don't know.</p> <p>6 Q. Besides your car, do you know any other</p> <p>7 vehicles that Jared has driven?</p> <p>8 A. I don't know.</p> <p>9 Q. On the day of the January 2011 accident,</p> <p>10 before the accident, did he ask to use your car?</p> <p>11 A. No.</p> <p>12 Q. If he said he asked to use your car, would</p> <p>13 he be lying?</p> <p>14 A. He'd be mistaken.</p> <p>15 Q. At the Gowan apartment you had a garage;</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 MS. COMPTON: Form.</p> <p>19 MR. SMITH: What's the form problem with</p> <p>20 that question?</p> <p>21 MS. COMPTON: You said you had a garage.</p> <p>22 MR. SMITH: What -- do you want to get a</p> <p>23 dictionary and look up the term "garage?"</p> <p>24 MS. COMPTON: No, no. I was saying you</p> <p>25 were telling her that. You weren't asking a</p>	<p style="text-align: right;">Page 156</p> <p>1 A. I did ask maintenance and it took them</p> <p>2 forever to fix it.</p> <p>3 Q. How did the garage lock?</p> <p>4 A. I believe there was a remote.</p> <p>5 Q. It was an --</p> <p>6 A. Clicker.</p> <p>7 Q. -- electronic clicker?</p> <p>8 A. Yes.</p> <p>9 Q. So you could have put the car in the</p> <p>10 garage, closed it with the electronic clicker, and</p> <p>11 without that clicker, Jared could not have gotten</p> <p>12 into the garage?</p> <p>13 MR. MAZZEO: Objection, incomplete</p> <p>14 hypothetical.</p> <p>15 MS. COMPTON: Form.</p> <p>16 THE WITNESS: No. I believe you can open</p> <p>17 the door without the -- you could just manually open</p> <p>18 the door.</p> <p>19 BY MR. SMITH:</p> <p>20 Q. You could just lift it up?</p> <p>21 A. I believe so. And if I can add, you can do</p> <p>22 that in my house. The house I rent now, you can do</p> <p>23 that.</p> <p>24 Q. Anybody can go open the door and get into</p> <p>25 your garage?</p>
<p style="text-align: right;">Page 155</p> <p>1 question. You were telling her the answer.</p> <p>2 BY MR. SMITH:</p> <p>3 Q. There was a garage at your apartment at the</p> <p>4 Gowan apartment; right?</p> <p>5 A. Yes.</p> <p>6 Q. You could lock the car in the garage;</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. How often did you park in the garage around</p> <p>10 that time period of December 2010 and January 2011?</p> <p>11 A. I don't remember.</p> <p>12 Q. Why would you not park in the garage?</p> <p>13 A. Because I always had school stuff or</p> <p>14 groceries and where we parked was right by the</p> <p>15 apartment.</p> <p>16 Q. The garage was further away than the</p> <p>17 parking spot you normally parked in?</p> <p>18 A. Yes. And I had to deal with the garage</p> <p>19 door. It didn't always work. Maintenance was not</p> <p>20 always great about fixing that door. It became a</p> <p>21 hassle to use it.</p> <p>22 Q. When did that start?</p> <p>23 A. I don't remember.</p> <p>24 Q. You could ask maintenance to fix it if it</p> <p>25 was broken; correct?</p>	<p style="text-align: right;">Page 157</p> <p>1 A. I believe so.</p> <p>2 Q. In the apartment that you described earlier</p> <p>3 the Gowan apartment, did the master bedroom have its</p> <p>4 own bathroom?</p> <p>5 A. Yes.</p> <p>6 Q. Did that bathroom have a lock on it?</p> <p>7 A. I don't remember.</p> <p>8 Q. Where were you when Jared took the keys in</p> <p>9 January 2011?</p> <p>10 MR. MAZZEO: Objection, assumes facts not</p> <p>11 in evidence.</p> <p>12 THE WITNESS: I don't know because I don't</p> <p>13 know when he took the keys.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. Did you have a safe in the Gowan apartment</p> <p>16 in January 2011 at the time of the accident?</p> <p>17 A. I don't know if we had it in 2011. I had</p> <p>18 one at one point.</p> <p>19 Q. What kind of safe was it?</p> <p>20 A. If I recall correctly, and I may be</p> <p>21 mistaken, I've had two different: One with a key</p> <p>22 and one with a combination.</p> <p>23 Q. If you had put the keys to the car in the</p> <p>24 safe, could Jared have gotten them?</p> <p>25 MR. MAZZEO: Objection, foundation,</p>

<p style="text-align: right;">Page 158</p> <p>1 speculation, incomplete hypothetical.</p> <p>2 THE WITNESS: I believe so. They were more</p> <p>3 like lock boxes than safes.</p> <p>4 BY MR. SMITH:</p> <p>5 Q. You believe he could have gotten into it?</p> <p>6 A. I do.</p> <p>7 Q. How?</p> <p>8 A. Again, Jared is very resourceful. So the</p> <p>9 one with the key you can jimmy. Or if he had -- if</p> <p>10 there are two keys, it's possible you take them --</p> <p>11 I'm really, really guessing on that one.</p> <p>12 The combination one, if he had seen me do</p> <p>13 it and I didn't realize. But also most lock boxes,</p> <p>14 if you manipulate them enough, if you bang them, if</p> <p>15 use a tool, you can open them. I would have bought</p> <p>16 them at Walmart.</p> <p>17 Q. Did you have a spare key to the car that he</p> <p>18 was in January 2nd, 2011?</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you ever have a spare key to one of</p> <p>21 your cars in your apartment at the Gowan apartment?</p> <p>22 A. I don't recall.</p> <p>23 Q. What were the hiding places that you used</p> <p>24 for your keys around the time of the January 2011</p> <p>25 accident?</p>	<p style="text-align: right;">Page 160</p> <p>1 you bring the keys in there and lock the door?</p> <p>2 A. Because I may have been in the bedroom only</p> <p>3 for a few minutes because that's where the bathroom</p> <p>4 was. I didn't have a TV in the room.</p> <p>5 If he were home and I were going in the</p> <p>6 room, he'd have to see where I took the keys from if</p> <p>7 I took them out of the living room. I might have</p> <p>8 thought they were safer where I had hidden them</p> <p>9 while I went to the bedroom to go to the bathroom.</p> <p>10 Q. Do you think you could have gotten a safe</p> <p>11 to keep the keys in so he couldn't have taken your</p> <p>12 car?</p> <p>13 MR. MAZZEO: Objection, incomplete</p> <p>14 hypothetical, speculation.</p> <p>15 THE WITNESS: Not to -- not to the -- I</p> <p>16 mean, it would have been a very big safe and super</p> <p>17 expensive to keep and still he would have figured</p> <p>18 out the combination or seen me do the combination.</p> <p>19 BY MR. SMITH:</p> <p>20 Q. You think that he's crafty enough that he</p> <p>21 could have cracked any safe you could have bought?</p> <p>22 MR. MAZZEO: Objection, speculation,</p> <p>23 incomplete hypothetical.</p> <p>24 THE WITNESS: I would not use the word</p> <p>25 "crafty." I think he was relentless. I think he is</p>
<p style="text-align: right;">Page 159</p> <p>1 A. Under the bed. In the -- in his section of</p> <p>2 the bathroom like way behind in the cabinet under</p> <p>3 the sink while I was in the shower. In the closet</p> <p>4 in different purses. In the closet underneath</p> <p>5 things. In a briefcase and then I would hide the</p> <p>6 briefcase under the bed. In dresser drawers.</p> <p>7 Inside things. Inside garbage cans. Inside garbage</p> <p>8 I thought he wouldn't go through. In -- while I was</p> <p>9 cooking, in various drawers in the kitchen.</p> <p>10 Sometimes underneath several cushions on the couch,</p> <p>11 like underneath the couch. Under the recliner,</p> <p>12 under the recliner, so I'd have to get up and he'd</p> <p>13 have to lift the couch to find it. Any place that I</p> <p>14 could think of.</p> <p>15 Q. You hid your car keys in all of those</p> <p>16 places?</p> <p>17 A. Yes.</p> <p>18 Q. Where were they hidden the day that he took</p> <p>19 them on January 2nd, 2011?</p> <p>20 A. I don't recall because, again, I don't know</p> <p>21 when he took them.</p> <p>22 Q. Were they hidden inside or outside your</p> <p>23 bedroom?</p> <p>24 A. I don't recall.</p> <p>25 Q. If you were in the bedroom, why wouldn't</p>	<p style="text-align: right;">Page 161</p> <p>1 clever. I think that I'm not as relentless and</p> <p>2 clever.</p> <p>3 I think that it is to his advantage to be</p> <p>4 able to take what he needs to take, and when you are</p> <p>5 an addict who is craving, whether it's gambling or</p> <p>6 drugs, you do things that people who are not craving</p> <p>7 don't know you're going to do.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. You know Jared says that he took the keys</p> <p>10 off the counter; correct?</p> <p>11 A. I have read that.</p> <p>12 Q. Why would he lie about that?</p> <p>13 MR. MAZZEO: Objection, mischaracterizes --</p> <p>14 (Multiple parties speaking.)</p> <p>15 MR. SMITH: Well, wait a minute. Let me</p> <p>16 ask you the question first.</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Do you think he's lying about that?</p> <p>19 A. I think he's mistaken. I think he may have</p> <p>20 seen them there earlier. I also don't think it</p> <p>21 matters.</p> <p>22 Q. Why don't you think it matters?</p> <p>23 A. Because you -- because I leave keys on the</p> <p>24 counter does not mean you have permission to take</p> <p>25 the car.</p>

<p style="text-align: right;">Page 162</p> <p>1 The ten thousand times that I said, "Don't 2 take the car. It is the only way we get to work. 3 It is the only way I can pay bills," why would that 4 not matter more than them being on the mantel? So I 5 think it's a ridiculous point. 6 But could he have seen them there earlier 7 in the day or a different day or a day when I was 8 standing right by them or when I put down groceries? 9 Sure. 10 Q. Is there a chance that the keys were on the 11 counter when he took them? 12 MR. MAZZEO: Speculation. 13 THE WITNESS: There's a chance. 14 BY MR. SMITH: 15 Q. You said before you told him 10,000 times, 16 and I know you're exaggerating, but -- well, you are 17 exaggerating; right? 18 A. Yes, I am exaggerating. 19 Q. Can you estimate how many times you 20 actually told him not to take the car? 21 A. No. 22 Q. Why would you be telling him not to take 23 the car? 24 A. Because he had taken the car. Because 25 there was an accident in 2008. Because maybe he</p>	<p style="text-align: right;">Page 164</p> <p>1 A. I don't know. 2 Q. Do you know if he had any DVDs in the car? 3 A. I don't know. 4 Q. Do you know if he had a hoodie in the car? 5 A. I don't know. 6 Q. You know what a hoodie is; right? 7 A. Yes. A jacket with a -- a shirt with a 8 hood. 9 Q. Do you know if he had any cell phone 10 chargers in the car? 11 A. I don't know what he had in the car. 12 Q. Well, why would he have things in the car 13 if he wasn't allowed to drive the car? 14 A. Because he went places in the car. He's my 15 son. He got cold, so he had a hoodie, or I played 16 his CDs. He's my son. It's a family car. 17 Q. Well, what of your stuff was in the car at 18 the time of the accident? 19 A. I don't recall. I would be guessing. But 20 I'm assuming that I also had CDs, that I probably 21 had a jacket, that I had some school things. I know 22 when the car got totalled, I had to go and clean it 23 out. 24 I am also -- sorry to sound sexist but -- a 25 woman. My car is like a third -- a second purse. I</p>
<p style="text-align: right;">Page 163</p> <p>1 begged, Hey, mom, can I drive? Or if I -- he was 2 always negotiating: If I get a license, if I do my 3 homework. 4 And the conversation wouldn't always be: 5 Jared, you can't take the car. Sometimes the 6 conversation would be: Jared, that car is our 7 life's blood. I go to work. I work multiple jobs. 8 With the baby -- we need that car. 9 Q. Did you ever tell Jared if he got a license 10 he could drive your car? 11 A. I don't know. 12 Q. You let Tikira drive the car after she got 13 a license; right? 14 A. Yes. 15 Q. And you let Tikira drive the car after she 16 got a license when you were not in the car; right? 17 A. Yes. 18 Q. Do you know whether your insurance company 19 in this case made a determination of whether Jared's 20 use of the car was permissive? 21 MR. MAZZEO: Objection, relevance. 22 THE WITNESS: I do not. 23 BY MR. SMITH: 24 Q. At the time of the accident, Jared's CDs 25 were in the car; right?</p>	<p style="text-align: right;">Page 165</p> <p>1 have stuff in the car. 2 Q. Has Jared ever had a driver's license? 3 A. Not that I know, no. 4 Q. Has it ever been legal for him to drive a 5 car without another adult in the car? 6 MR. MAZZEO: Objection, calls for a legal 7 conclusion. 8 THE WITNESS: Not that I know of. 9 BY MR. SMITH: 10 Q. Has Jared ever had a driving permit? 11 A. I thought he did. 12 Q. Has he ever actually had one? 13 A. I don't know. 14 Q. When did you think he had one? 15 A. Just before his 18th birthday. In fact, I 16 took his 18th birthday off from work to take him to 17 the DMV to go for his driver's license. He turned 18 me down. 19 The times that I paid for it online. The 20 times that his grandmother paid for it. The times 21 that I went online to sign him up. 22 Q. How many times did you actually go to the 23 DMV with him? 24 A. I don't recall. 25 Q. More than once?</p>

<p style="text-align: right;">Page 166</p> <p>1 A. I believe so.</p> <p>2 Q. More than five times?</p> <p>3 A. I don't think so.</p> <p>4 Q. What happened when you went to the DMV?</p> <p>5 A. I don't recall. I thought that he got a</p> <p>6 permit one time. It was to get an ID when -- at</p> <p>7 least twice it was to take Tikira for her test. I</p> <p>8 don't remember each time.</p> <p>9 Q. And what was it that you paid for online?</p> <p>10 A. His permit.</p> <p>11 Q. And how did you pay for it online?</p> <p>12 A. You go online to the DMV. You use your</p> <p>13 credit card or debit card and you pay whatever the</p> <p>14 fee is.</p> <p>15 Q. When did you do that?</p> <p>16 A. I don't recall exact dates, but before his</p> <p>17 18th birthday once he came home from Utah.</p> <p>18 Q. In between the time he came home from</p> <p>19 Odyssey House and the time that he turned 18?</p> <p>20 A. Yes.</p> <p>21 Q. What type of credit card did you use?</p> <p>22 A. My debit card.</p> <p>23 Q. What bank is that from?</p> <p>24 A. I don't know where it was from at the time.</p> <p>25 It would either have been Silver State Schools,</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Well, that's a big distinction on whether</p> <p>2 it's Jared or Tikira.</p> <p>3 So do you remember Jared take a written</p> <p>4 test at the DMV?</p> <p>5 A. I do remember. I'm concerned that I'm</p> <p>6 mis-remembering, but I do remember. I remember</p> <p>7 being there with him.</p> <p>8 Q. And your bank records would show that you</p> <p>9 paid the DMV for him to get a permit?</p> <p>10 A. I believe so.</p> <p>11 Q. Did you ever ask to see his permit?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I didn't feel there was a reason. I was</p> <p>15 with him when he got it. There was no reason to ask</p> <p>16 for it. I was waiting for him to get his -- to</p> <p>17 either get the number of hours you need for the</p> <p>18 permit or to turn 18 so he could take the test.</p> <p>19 Q. You didn't want to see your son's picture</p> <p>20 on the permit?</p> <p>21 A. No, I --</p> <p>22 MR. MAZZEO: Objection, argumentative.</p> <p>23 THE WITNESS: I remember being at the DMV</p> <p>24 and his getting his picture taken and his showing me</p> <p>25 something. So I thought I had seen it.</p>
<p style="text-align: right;">Page 167</p> <p>1 Nevada State Bank, or Chase. I don't remember who I</p> <p>2 had at the time.</p> <p>3 Q. How much did you have to pay for the</p> <p>4 permit?</p> <p>5 A. I believe I paid between 20 and 40.</p> <p>6 Q. Did you ever see Jared take the driving</p> <p>7 test at the DMV?</p> <p>8 A. No.</p> <p>9 Q. Did you ever see Jared take a written test</p> <p>10 at the DMV?</p> <p>11 A. Yes.</p> <p>12 Q. When was that?</p> <p>13 A. I don't remember.</p> <p>14 Q. Was it before or after the 2011 accident?</p> <p>15 A. Before.</p> <p>16 Q. Did he pass?</p> <p>17 A. I thought he had.</p> <p>18 Q. Did you pay for a permit that time?</p> <p>19 A. I remember being at the DMV and paying</p> <p>20 his -- and waiting. And perhaps I have it confused</p> <p>21 with Tikira, but I remember waiting while someone</p> <p>22 went and took a test, and then we went and paid.</p> <p>23 That's when I thought he had a permit.</p> <p>24 I remember one of them taking their</p> <p>25 picture. I thought it was Jared.</p>	<p style="text-align: right;">Page 169</p> <p>1 BY MR. SMITH:</p> <p>2 Q. By that point, Jared had lied to you a</p> <p>3 number of times; correct?</p> <p>4 A. At this point when we went, he might have</p> <p>5 been doing well. I don't remember specific dates.</p> <p>6 Q. But you would agree before his 18th</p> <p>7 birthday he had lied to you many times; correct?</p> <p>8 MR. MAZZEO: Objection. That's misstating</p> <p>9 her testimony.</p> <p>10 THE WITNESS: If I -- I would agree to</p> <p>11 that, but I would also agree that during that time</p> <p>12 before he turned 18 there were times that he was</p> <p>13 dedicated to doing well and telling me the truth and</p> <p>14 that I could believe him.</p> <p>15 BY MR. SMITH:</p> <p>16 Q. He had stolen from you before his 18th</p> <p>17 birthday?</p> <p>18 A. Yes.</p> <p>19 Q. You testified last time that you were</p> <p>20 suspicious of Jared surrounding that January 2011</p> <p>21 accident; right?</p> <p>22 A. Things had changed then.</p> <p>23 Q. When did they change?</p> <p>24 A. I don't recall. Around the time that Kalia</p> <p>25 (phonetic) was born.</p>

<p style="text-align: right;">Page 170</p> <p>1 Q. Things got worse after Kalia was born?</p> <p>2 A. Things got more strained, yes.</p> <p>3 Q. When was Kalia born?</p> <p>4 A. December -- December 6, 2010.</p> <p>5 Q. Why did things get more strained at that</p> <p>6 point?</p> <p>7 A. Again, I would be speculating. One,</p> <p>8 because I felt trapped. They had a baby. Where</p> <p>9 were they going to go? Where was the baby going to</p> <p>10 go? Tikira began to act out as well, very entitled.</p> <p>11 They were very rude and demanding during</p> <p>12 the last days of the pregnancy and when she was in</p> <p>13 the hospital. They were increasing having people</p> <p>14 there. They were increasing in demands. They had</p> <p>15 nothing for the baby.</p> <p>16 I had to watch my boundaries because I'm a</p> <p>17 first-time grandma and I wanted to give that baby</p> <p>18 everything, but I've got two adult children acting</p> <p>19 out. So it was very stressful. Work was very</p> <p>20 stressful. It was just a very stressful time.</p> <p>21 Q. How long before his 18th birthday did you</p> <p>22 think Jared got his permit?</p> <p>23 A. I don't remember.</p> <p>24 Q. Do you remember when it was that you went</p> <p>25 with him to the DMV?</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. 2010?</p> <p>2 A. Um-hmm.</p> <p>3 Q. Yes?</p> <p>4 A. Yes. I'm sorry. Yes.</p> <p>5 Q. Do you have your bank records from the time</p> <p>6 period where you believe you paid for Jared's</p> <p>7 permit?</p> <p>8 A. No.</p> <p>9 Q. What did you do with them?</p> <p>10 A. Most of my records are electronic, so I</p> <p>11 wouldn't have printed them out unless I needed them.</p> <p>12 Too, we've moved. The police were there multiple</p> <p>13 times. There's a lot of records that I don't have</p> <p>14 or didn't keep.</p> <p>15 Q. By electronic, you mean you get them in an</p> <p>16 e-mail?</p> <p>17 A. You get an electronic statement. So I knew</p> <p>18 if I needed them, at that time I could go onto my</p> <p>19 bank's website and pull them up.</p> <p>20 Q. You actually have to go onto the website or</p> <p>21 you get them e-mailed to you?</p> <p>22 A. Onto the website. I get an e-mail that my</p> <p>23 statement is ready. And if they were paper, it's</p> <p>24 now 2014, I'm sure I didn't keep any of that.</p> <p>25 Q. Are you aware that Jared said he paid for</p>
<p style="text-align: right;">Page 171</p> <p>1 A. No. But, again, I know that I took his</p> <p>2 18th birthday off from work to take him to the DMV.</p> <p>3 Q. Is that the day that you think you went and</p> <p>4 got his permit, his 18th birthday?</p> <p>5 A. No. That was for his license. He turned</p> <p>6 me down. He said, I don't need to go. That</p> <p>7 probably increased my suspicion of him.</p> <p>8 Q. Why did he say he didn't -- strike that.</p> <p>9 Why did say that you didn't need to go?</p> <p>10 MR. MAZZEO: Objection, speculation.</p> <p>11 THE WITNESS: I'm hanging with friends.</p> <p>12 It's my birthday. I'm good. I'll get it another</p> <p>13 time.</p> <p>14 BY MR. SMITH:</p> <p>15 Q. And what did that make you suspicious of?</p> <p>16 A. That he either didn't want to get his</p> <p>17 license or that there was something I didn't know.</p> <p>18 Q. What was the date of his 18th birthday?</p> <p>19 A. February 11th.</p> <p>20 Q. 2010?</p> <p>21 A. Yes. Wait. Let me do the math now in my</p> <p>22 head. 1992, yes. Wait. I'm sorry.</p> <p>23 Can I have a piece of paper? I don't know</p> <p>24 if it was 2009 or 2010. Yeah, no, it wasn't. Yes,</p> <p>25 2010.</p>	<p style="text-align: right;">Page 173</p> <p>1 his ID card?</p> <p>2 A. No.</p> <p>3 Q. Would he be lying about that?</p> <p>4 MR. MAZZEO: Objection, speculation, form.</p> <p>5 THE WITNESS: No. He's had -- he's had</p> <p>6 multiple cards. He loses them.</p> <p>7 BY MR. SMITH:</p> <p>8 Q. How many ID cards has he had?</p> <p>9 A. I don't know. But I know he's lost things</p> <p>10 and had to -- or said that he's lost them and had to</p> <p>11 pay for them again.</p> <p>12 Q. If the DMV records show that he never took</p> <p>13 a driving test or a written test until after the</p> <p>14 January 2011 accident, are you going to dispute</p> <p>15 that?</p> <p>16 A. Not if the DMV records say that. I will</p> <p>17 say I was mistaken.</p> <p>18 Q. Do you have any evidence to show that Jared</p> <p>19 took a written test at the DMV prior to January</p> <p>20 2011?</p> <p>21 A. No.</p> <p>22 Q. Do you have any records to show that you</p> <p>23 ever paid for Jared to obtain a permit?</p> <p>24 A. No.</p> <p>25 MR. SMITH: Let's go off the record for a</p>

<p style="text-align: right;">Page 174</p> <p>1 minute.</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 approximately 4:59 p.m. We're going off the record.</p> <p>4 (Thereupon, a break was taken.)</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 approximately 5:28 p.m. We're going back on the</p> <p>7 record.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. Let's talk about -- a little bit about the</p> <p>10 January 2011 accident.</p> <p>11 Has Jared ever told you what happened?</p> <p>12 A. Not start to finish.</p> <p>13 Q. What has he told you?</p> <p>14 A. That he was pulling out, that he swears the</p> <p>15 other lady sped up, that he felt she wasn't hurt,</p> <p>16 and something about a truck or a bus that I'm not</p> <p>17 completely clear on.</p> <p>18 Q. Did he say she sped up or she was speeding?</p> <p>19 A. I think he said she he sped up, but I'm not</p> <p>20 sure.</p> <p>21 Q. Did he say anything about why he believes</p> <p>22 she's not hurt?</p> <p>23 A. Because she got up and walked around and</p> <p>24 there was no ambulance at the scene.</p> <p>25 Q. Anything else you remember him telling you</p>	<p style="text-align: right;">Page 176</p> <p>1 A. He has said to me that he knows he didn't</p> <p>2 have permission to take the car.</p> <p>3 Q. When did he tell you that?</p> <p>4 A. He's told me that numerous times,</p> <p>5 especially since he came home from Rawson and we</p> <p>6 started to do the case more.</p> <p>7 Q. Has he told you where he got the keys from?</p> <p>8 A. No.</p> <p>9 Q. Have you asked him?</p> <p>10 A. I don't recall.</p> <p>11 Q. Other than him telling you he didn't have</p> <p>12 permission to take the car, did you have any other</p> <p>13 conversations with him about permission to take the</p> <p>14 car on that day?</p> <p>15 A. I don't understand what other conversations</p> <p>16 we would have had, what you mean.</p> <p>17 Q. Is there anything you talked about with him</p> <p>18 regarding him having permission to take the car</p> <p>19 other than him just telling you he realizes he</p> <p>20 didn't have permission?</p> <p>21 A. No. Other than that was why I'm being</p> <p>22 sued. I think he asked me -- and, again, I may be</p> <p>23 mis-remembering, but I think he asked me, Why are</p> <p>24 they suing you? And I said, Because they're saying</p> <p>25 I gave you permission to drive the car. And he</p>
<p style="text-align: right;">Page 175</p> <p>1 about the accident?</p> <p>2 A. I just need clarification of a time. From</p> <p>3 when it happened or just --</p> <p>4 Q. At any point in time.</p> <p>5 A. He has said that he was not under the</p> <p>6 influence, that he had marijuana on him and didn't</p> <p>7 want to get arrested for that.</p> <p>8 Q. Did tell you that he told police that he</p> <p>9 had been smoking?</p> <p>10 A. I've heard him say that.</p> <p>11 Q. Did tell you why he told the police he had</p> <p>12 been smoking if he hadn't been?</p> <p>13 A. Because he had marijuana on him and I guess</p> <p>14 it was a certain weight that you're not supposed to</p> <p>15 have or something.</p> <p>16 Q. Did he tell you why he thought telling the</p> <p>17 police that he had been smoking would avoid them</p> <p>18 finding the marijuana that was on him?</p> <p>19 A. No. This would be an example of Jared's</p> <p>20 either drug logic or kid logic or where he thinks</p> <p>21 certain things that -- that's why I say sometimes</p> <p>22 that he wasn't lying, he was mistaken because he</p> <p>23 puts two and two together and gets six.</p> <p>24 Q. Anything else he told you about the</p> <p>25 accident?</p>	<p style="text-align: right;">Page 177</p> <p>1 said, But you didn't.</p> <p>2 Q. Did you ever see your car after the</p> <p>3 accident?</p> <p>4 A. Yes.</p> <p>5 Q. You went to go get things out of it; right?</p> <p>6 A. Right.</p> <p>7 Q. What was it you got out of the car?</p> <p>8 A. I don't recall. I think some things for</p> <p>9 school, maybe a CD, maybe a jacket. I don't recall.</p> <p>10 Q. What did the damage to the car look like?</p> <p>11 A. It was extensive. Had it been a newer car</p> <p>12 worth more money, they would have fixed it. So it</p> <p>13 wasn't totalled, but it was enough damage that it</p> <p>14 was worth more than whatever the formula is for the</p> <p>15 percentage of the car.</p> <p>16 Q. Did anyone -- well, strike that.</p> <p>17 Did anyone tell you what the cost to repair</p> <p>18 the car would be?</p> <p>19 A. I think they told me that it was</p> <p>20 prohibitive. They may have told me an amount, but I</p> <p>21 don't remember. But it was more than whatever their</p> <p>22 formula is.</p> <p>23 Q. How much money did you get for the car?</p> <p>24 A. I still owed on the car, so I didn't get</p> <p>25 anything for the car.</p>

<p style="text-align: right;">Page 178</p> <p>1 Q. How much did you owe?</p> <p>2 A. I mean, whatever they paid towards it, but</p> <p>3 I still owed on the car.</p> <p>4 Q. How much did you owe?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did you owe in addition after they paid?</p> <p>7 A. Yes.</p> <p>8 Q. Did you pay that back?</p> <p>9 A. Drive Time, where I got the car, rolled</p> <p>10 that over. They had their own form of gap insurance</p> <p>11 because I didn't. They said, If you buy your next</p> <p>12 car with us and pay that off, we'll waive this. It</p> <p>13 might have been upwards of three to five thousand</p> <p>14 dollars but, again, I'm not exactly sure. It was a</p> <p>15 lot of money.</p> <p>16 Q. The gap or the amount you owed on the car?</p> <p>17 A. The difference between what the insurance</p> <p>18 paid and what I owed.</p> <p>19 Q. Where was your loan through on the car that</p> <p>20 was in the 2011 accident?</p> <p>21 A. Drive Time.</p> <p>22 Q. They were the actual bank?</p> <p>23 A. I believe so. I don't know how it works.</p> <p>24 I paid them.</p> <p>25 Q. That's where you make your payments was to</p>	<p style="text-align: right;">Page 180</p> <p>1 You remember the police officer -- let</p> <p>2 me --</p> <p>3 A. Yes.</p> <p>4 Q. -- just start over.</p> <p>5 You remember the police officer calling you</p> <p>6 on the day of the accident, right?</p> <p>7 A. Yes.</p> <p>8 Q. What do you remember about that day before</p> <p>9 the police officer called you?</p> <p>10 A. It was winter break from school. The baby</p> <p>11 was home. Was the baby home? Excuse me. I can't</p> <p>12 remember if Kalia was home or not?</p> <p>13 I was -- I remember being agitated with</p> <p>14 both Jared and Tikira. I may have talked to my</p> <p>15 NAR-ANON sponsor. I can't remember. I was watching</p> <p>16 television. I knew I had to go back to school soon.</p> <p>17 It was a tense day at home.</p> <p>18 Q. Do you remember anything you did that day?</p> <p>19 A. I remember working -- and, again, it might</p> <p>20 not have been that day. But I know during vacation</p> <p>21 I worked on schoolwork and watching television.</p> <p>22 Q. Did you leave the house that day?</p> <p>23 A. I don't remember.</p> <p>24 Q. Do you know anything Jared did that day</p> <p>25 before the accident?</p>
<p style="text-align: right;">Page 179</p> <p>1 Drive Time?</p> <p>2 A. Yes.</p> <p>3 Q. And that's who got paid off after the car</p> <p>4 was totalled?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know whether the car had to be towed</p> <p>7 from the accident scene?</p> <p>8 A. I believe it was.</p> <p>9 Q. Do you know if it was drivable after the</p> <p>10 accident?</p> <p>11 A. I don't know.</p> <p>12 Q. What did the damage look like?</p> <p>13 A. I don't remember.</p> <p>14 Q. You don't remember what your car looked</p> <p>15 like when you want to go see it?</p> <p>16 A. No, I don't. It was -- we're going on</p> <p>17 almost four years and an awful lot has happened. I</p> <p>18 just know it was a lot of damage.</p> <p>19 Q. Let's talk about that day before the</p> <p>20 accident.</p> <p>21 I know you remember the police officer</p> <p>22 calling you, right?</p> <p>23 A. The day before or the day --</p> <p>24 Q. No, the day of the accident but before the</p> <p>25 accident happened.</p>	<p style="text-align: right;">Page 181</p> <p>1 A. No. I think that I worked on schoolwork</p> <p>2 because I think I remember his grabbing something</p> <p>3 out of the car for me. But, again, I may have the</p> <p>4 wrong day.</p> <p>5 Q. You think he grabbed something out of the</p> <p>6 car for you that day --</p> <p>7 A. Yeah, my school books.</p> <p>8 Q. -- to help you with schoolwork?</p> <p>9 A. Yeah.</p> <p>10 Q. That's yes?</p> <p>11 A. I'm sorry. Yes. I think so.</p> <p>12 Q. Anything else you remember about that day</p> <p>13 before the officer called you?</p> <p>14 A. No, not offhand. If I looked at a</p> <p>15 calendar, I could be clear. If I knew it was a</p> <p>16 Sunday and I was going back to school, I could kind</p> <p>17 of piece together more, Oh, here's what I was</p> <p>18 probably doing. But I don't remember what day it</p> <p>19 was.</p> <p>20 Q. Let's look. So it was -- if I told you it</p> <p>21 was a Sunday, would that assist you in remembering?</p> <p>22 A. Yeah. I thought I had remembered it was a</p> <p>23 Sunday. I'm pretty sure earlier in the day I worked</p> <p>24 on lesson plans, got together whatever books I</p> <p>25 needed. I may have had an IEP, an Individualized</p>

<p style="text-align: right;">Page 182</p> <p>1 Education Plan, coming up. I'm not sure if I'm 2 remembering correctly. 3 And when I got the call, I was watching 4 television and winding down because I had to go to 5 the work the next day. 6 Q. The new school year started -- or the new 7 school semester started the next day? 8 A. I don't know if it was the semester we were 9 coming back. I'm an elementary -- I was an 10 elementary school teacher, so I was coming back from 11 winter break. 12 Q. Your break ended the next day? 13 A. Yes, if I'm recalling correctly. 14 Q. Now that you know it was a Sunday, can you 15 recall whether you left the house that day? 16 A. I'm not sure if it was Saturday or Sunday. 17 I know that at some point after New Year I went 18 grocery shopping to have food for, you know, to take 19 to school, but I can't remember hard and fast if it 20 was Sunday. I think that I went out. 21 Q. What happened that day after you received 22 the phone call from the officer? 23 A. I spoke to the officer. I had to now call 24 someone to pick me up for work. And I don't 25 remember who it was, but I called someone to take me</p>	<p style="text-align: right;">Page 184</p> <p>1 A. It varies. I have not gone in a few years. 2 Right now, I'm concentrating on my GA program, but 3 there was a time I was going two, three times a 4 week. 5 Q. At the time of the January 2011 accident, 6 were you going to Nar-Anon? 7 A. Yes. 8 Q. How often? 9 A. Probably two or three times a week. 10 Q. What do you mean by GA? 11 A. Gamblers Anonymous. 12 Q. Okay. Why would there be a time when 13 you're going to NAR-ANON more often? 14 A. Depending on how I'm feeling. Whichever 15 program's going to give me the most strength. 16 Whichever one -- GA has many, many more meetings. 17 NAR-ANON at one time had four meetings a week. 18 Gamblers Anonymous has over a hundred so -- 19 And depending on what I'm working on. Am I 20 working on my response to Jared? Am I working on my 21 own boundaries? Depends what I need. Depends which 22 one gives me more strength at the time. 23 Q. Have you ever talked to your mother about 24 the 2011 accident? 25 A. I don't recall.</p>
<p style="text-align: right;">Page 183</p> <p>1 to work and to take me home. And I may have made 2 some other phone calls to people I was involved with 3 in Nar-Anon. 4 Do you need me to explain Nar-Anon? 5 Q. Well, I'm going to ask you that, but you 6 can finish this answer first. 7 A. And I tried to get some rest. And I'm sure 8 Tikira and I argued. And that's all I remember. 9 Q. Was Tikira home when the officer called 10 you? 11 A. I don't remember if she was home when the 12 officer called, but she was home at some point. 13 Q. At some point that night she was home? 14 A. I believe so. Again, I'm trying to 15 remember something that happened many years ago, but 16 I believe she was. 17 Q. Okay. What's NAR-ANON. 18 A. NAR-ANON is a 12-step program that is the 19 companion to Narcotics Anonymous. So it's for 20 family and friends of the addict to help you deal 21 with your own boundaries and issues. 22 Q. How long have you been going to NAR-ANON 23 meetings? 24 A. For years. Since Jared was 15 or 16. 25 Q. How often do you go?</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Have you ever talked to her about the 2008 2 accident? 3 A. I'm sure I did. 4 Q. What do you remember talking to her about 5 the 2008 accident? 6 A. Well, I believe she lent me her car until 7 the insurance company came and -- whether Jared was 8 hurt, whether he was going to be in trouble, how did 9 he get the keys. 10 Q. Has she been a good role model to Jared? 11 A. Difficult question. 12 Is she a good role model in that she lives 13 her life responsibly for her family? Yeah. Has she 14 been a terrible enabler? Yeah. So I don't know how 15 to answer that question. 16 Q. What does she do to enable him? 17 A. She gives him money. She blames me instead 18 of holding him accountable. She invites family 19 members who are dangerous to him because she doesn't 20 know what to do. She will not take my counsel or I 21 believe my brother has also told her, Let him go. 22 She won't follow anything that we do. 23 She has some magical thinking that Dr. Phil 24 is going to fix this. She's told me that. So there 25 are many ways that she enables. She didn't -- when</p>

<p style="text-align: right;">Page 186</p> <p>1 Jared was living with her, she didn't hide her pills 2 or the alcohol.</p> <p>3 Q. What do you mean by let him go?</p> <p>4 A. Let him suffer the consequences of what 5 he -- let him -- if Jared needs to -- whatever his 6 bottom is, he needs get there so that he's ready.</p> <p>7 Q. And you think once he finds his bottom, he 8 can start recovering and actually stay clean?</p> <p>9 A. I think he's already started recovery.</p> <p>10 THE WITNESS: I'm sorry?</p> <p>11 MR. MAZZEO: No, go ahead.</p> <p>12 THE WITNESS: There are multiple levels and 13 there are some people that say relapse is a part of 14 recovery.</p> <p>15 I don't think he gets serious about 16 recovery or maintains any recovery until he hits 17 whatever his bottom is. Everybody's bottom is 18 different.</p> <p>19 Q. Do you think he's hit his yet?</p> <p>20 THE WITNESS: I don't --</p> <p>21 MR. MAZZEO: Speculation, foundation.</p> <p>22 THE WITNESS: I don't know. I also don't 23 know if it's necessary.</p> <p>24 BY MR. SMITH:</p> <p>25 Q. Do you think driving without a driver's</p>	<p style="text-align: right;">Page 188</p> <p>1 BY MR. SMITH:</p> <p>2 Q. You don't know if his drug use creates a 3 safety risk for the community?</p> <p>4 A. I don't know --</p> <p>5 MR. MAZZEO: Objection, asked and answered.</p> <p>6 THE WITNESS: When he was younger and 7 involved in those activities, it was for the 8 community. The last few years, it's mostly been 9 family. That's my opinion. I could be wrong.</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Do you think his drug dealing endangered 12 community safety?</p> <p>13 MR. MAZZEO: Objection, foundation, form.</p> <p>14 MS. COMPTON: Join.</p> <p>15 THE WITNESS: I think drug dealing does, 16 yes.</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Do you believe that the problems Jared 19 suffered from the 2005 fight give him the right to 20 smoke marijuana and drive a car?</p> <p>21 MR. MAZZEO: Objection, foundation, 22 speculation, incomplete hypothetical, form.</p> <p>23 MS. COMPTON: Join.</p> <p>24 THE WITNESS: Nothing gives -- gives him 25 the right? I don't know how to answer that.</p>
<p style="text-align: right;">Page 187</p> <p>1 license can cause safety problems in the community?</p> <p>2 MS. COMPTON: Foundation.</p> <p>3 THE WITNESS: I have -- I never thought 4 about that.</p> <p>5 BY MR. SMITH:</p> <p>6 Q. Do you think Jared driving without a 7 driver's license is a safety problem?</p> <p>8 MR. MAZZEO: Speculation, foundation.</p> <p>9 THE WITNESS: I think Jared driving is 10 showing bad judgement.</p> <p>11 Is it a safety problem? I don't know how 12 to answer that.</p> <p>13 BY MR. SMITH:</p> <p>14 Q. Do you think Jared driving at the time of 15 the 2011 accident endangers people around him?</p> <p>16 MR. MAZZEO: Speculation, foundation, 17 incomplete hypothetical.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 BY MR. SMITH:</p> <p>20 Q. Do you think that Jared's drug use has 21 endangered community safety?</p> <p>22 MR. MAZZEO: Objection, incomplete 23 hypothetical, speculation, foundation, form.</p> <p>24 THE WITNESS: I don't know about community 25 safety.</p>	<p style="text-align: right;">Page 189</p> <p>1 I mean, it's an illegal act. Nothing can 2 give you the right to do that.</p> <p>3 BY MR. SMITH:</p> <p>4 Q. Do you think the problems that Jared has 5 had from the 2005 fight -- well, strike that.</p> <p>6 If you knew Jared was driving your car, do 7 you feel that as a parent you would have 8 responsibility to ensure he's qualified to drive?</p> <p>9 MR. MAZZEO: Objection, speculation, 10 foundation, form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. SMITH:</p> <p>13 Q. If you knew Jared was driving your car, do 14 you feel as a parent it was your responsibility to 15 ensure he was legally allowed to drive?</p> <p>16 MR. MAZZEO: Objection, foundation, form.</p> <p>17 MS. COMPTON: Join, foundation.</p> <p>18 THE WITNESS: Ask me again, please.</p> <p>19 MR. SMITH: Can you read it back?</p> <p>20 (Thereupon, the requested portion was read back.)</p> <p>21 THE WITNESS: If I knew he was driving, 22 yes.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. If you knew Jared was driving, do you feel 25 as a parent it was your responsibility to ensure he</p>

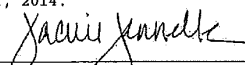
<p style="text-align: right;">Page 190</p> <p>1 was a safe driver?</p> <p>2 MR. MAZZEO: Objection, form, foundation.</p> <p>3 THE WITNESS: If I knew he were driving,</p> <p>4 yes.</p> <p>5 BY MR. SMITH:</p> <p>6 Q. Given your knowledge of the 2008 accident,</p> <p>7 did you feel that it was your responsibility to make</p> <p>8 sure Jared learned driving safety?</p> <p>9 MR. MAZZEO: Objection, speculation,</p> <p>10 foundation, form, incomplete hypothetical.</p> <p>11 THE WITNESS: Yes. And I need to qualify</p> <p>12 that. Based on the 2008 accident, I thought that</p> <p>13 Jared needed more intervention. I sought to get it.</p> <p>14 There was a lot more intervention after that.</p> <p>15 His driving was not as -- getting him a --</p> <p>16 let me re-word that. His driving was his privilege</p> <p>17 that he needed to take of. Not that I wasn't</p> <p>18 teaching him, but it wasn't up the foremost of my --</p> <p>19 I wanted him clean. I wanted him graduating high</p> <p>20 school. I wanted him working. I wanted him clean,</p> <p>21 and to be a good father.</p> <p>22 BY MR. SMITH:</p> <p>23 Q. So based on you knowing that he took your</p> <p>24 car multiple times before the January 2011 accident,</p> <p>25 did you feel that it was your responsibility to</p>	<p style="text-align: right;">Page 192</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Do you believe Jared's vision problems</p> <p>4 create any safety issues when he's driving a</p> <p>5 vehicle?</p> <p>6 MR. MAZZEO: Objection, foundation,</p> <p>7 speculation.</p> <p>8 THE WITNESS: Based on doctors' reports,</p> <p>9 no.</p> <p>10 BY MR. SMITH:</p> <p>11 Q. Do you believe Jared's vision problems</p> <p>12 could endanger the safety of over drivers if Jared's</p> <p>13 driving?</p> <p>14 MR. MAZZEO: Foundation, speculation.</p> <p>15 THE WITNESS: Based on what I knew from</p> <p>16 doctors, no.</p> <p>17 BY MR. SMITH:</p> <p>18 Q. Do you believe Jared's driving without a</p> <p>19 valid permit or license created safety issues in the</p> <p>20 community?</p> <p>21 MR. MAZZEO: Speculation, foundation.</p> <p>22 THE WITNESS: In and of itself, no.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. What are you qualifying that with?</p> <p>25 A. I would be more concerned about his ability</p>
<p style="text-align: right;">Page 191</p> <p>1 teach him how to safely drive a vehicle?</p> <p>2 MR. MAZZEO: Objection, misstates prior</p> <p>3 testimony, speculation, foundation.</p> <p>4 THE WITNESS: No. I felt it was my</p> <p>5 responsibility to keep him out of the car and hide</p> <p>6 the car. I thought teaching him how to drive safely</p> <p>7 was a mixed message.</p> <p>8 BY MR. SMITH:</p> <p>9 Q. Your counsel lodged an objection about</p> <p>10 misstates testimony, so let me make sure that I</p> <p>11 understood your testimony correctly.</p> <p>12 You knew prior to January 2011 that Jared</p> <p>13 had driven your car; correct?</p> <p>14 A. He had been in an accident in 2008 so of</p> <p>15 course I knew.</p> <p>16 Q. And you knew he had taken it other times in</p> <p>17 addition to the 2008 accident; correct?</p> <p>18 MR. MAZZEO: Objection, misstates prior</p> <p>19 testimony.</p> <p>20 MR. SMITH: Well, that's what I'm asking.</p> <p>21 THE WITNESS: After the fact. As it was</p> <p>22 happening, no.</p> <p>23 BY MR. SMITH:</p> <p>24 Q. But prior to January 2011, you knew that it</p> <p>25 had happened more than just the 2008 accident;</p>	<p style="text-align: right;">Page 193</p> <p>1 to drive -- did he know how to drive? Was he</p> <p>2 sober? -- than whether -- whether you have -- I</p> <p>3 don't know how to word this.</p> <p>4 At the time of the accident, it was my</p> <p>5 understanding he had a permit. So the belief that</p> <p>6 he had a permit isn't the same as believing -- I'm</p> <p>7 not wording this well. That is less of a concern to</p> <p>8 me than someone's ability to drive.</p> <p>9 Q. In the times that you had driven with him,</p> <p>10 was he an able driver?</p> <p>11 A. Yes.</p> <p>12 Q. You thought he was a good enough driver</p> <p>13 that he could drive on his own?</p> <p>14 A. I don't know if I would say that.</p> <p>15 Q. What would you say?</p> <p>16 A. I would say that like any young driver he</p> <p>17 needed to be watched. He needed to be counseled. I</p> <p>18 have friends whose kids get their license and they</p> <p>19 still -- their parents still watch them drive</p> <p>20 because when you're young, you think you're</p> <p>21 immortal. You think you know everything. You don't</p> <p>22 know what not to know.</p> <p>23 Q. Do you think Jared has difficulty managing</p> <p>24 his anger?</p> <p>25 A. I think Jared manages a lot of intense</p>

<p style="text-align: right;">Page 194</p> <p>1 emotions. I think when Jared is using, the 2 particular substance that he uses, they make him 3 more agitated. But I think that Jared carries a 4 tremendous burden and tries very hard to deal with 5 them. 6 Q. What's the tremendous burden he carries? 7 A. He's a 21-year-old father of two who 8 doesn't have custody of his children. He has not 9 lived the life that he thought growing up as Jared 10 Awerbach, straight-A student, mom a teacher, close 11 family that he may have thought that he was going to 12 have. 13 He has a father who has let him down. He 14 has a strained relationship with his mother. He has 15 a taste for drugs and will have to fight that for 16 his whole life. He has an eye that he can't see out 17 of. He has a family that in one part is close and 18 in another part has this drug and criminal history. 19 He knows that his grandmother is about to be 93 and 20 could pass while he's not straight. 21 He carries a lot of burden. He's done 22 things that's he's not proud of. 23 Q. Has Jared ever spoken to his father? 24 A. Yes. 25 Q. When was the last time?</p>	<p style="text-align: right;">Page 196</p> <p>1 BY MR. SMITH: 2 Q. How? 3 A. When he takes things into his own hands and 4 doesn't check on his facts. When he uses drugs. 5 When he gets involved with people who use and sell 6 drugs. When he invites these people near or in the 7 house. When he doesn't stand up to his daughter's 8 mother for things that she's doing or not doing. 9 When he does damage to his relationship with me. 10 Q. Do you believe that carrying an 11 unregistered weapon endangers the safety of others? 12 MR. MAZZEO: Objection, incomplete 13 hypothetical, form. 14 THE WITNESS: Yes. 15 MR. SMITH: No. 1. 16 (Exhibit 1 Facebook Printout marked.) 17 BY MR. SMITH: 18 Q. The court reporter has handed you what's 19 been marked as Exhibit 1. 20 I just want you to take a look at it to let 21 me know if that is a true and correct copy of the 22 posts on your Facebook page. 23 A. Yes. 24 Q. I just want to make sure you look through 25 the whole thing.</p>
<p style="text-align: right;">Page 195</p> <p>1 A. I don't know. 2 Q. And when was the last time that you know 3 of? 4 A. When Jared was 18. 5 Q. Was that the first time they'd spoken or 6 they'd spoken before that? 7 A. Not the first time they had spoken. They 8 did not speak on a regular basis. 9 Q. In his youth, how often did they speak 10 until the time he was 18? 11 A. I believe that Jared was in third grade 12 when his father was here and they met for dinner. 13 They may have talked once or twice on the phone. 14 And then his father left without any notice, and 15 they did not have contact again until Jared was 16 about 18. 17 Q. Do you believe that the way Jared deals 18 with the tremendous burden that he carries 19 creates -- well, strike that. 20 Do you believe the way that Jared deals 21 with the tremendous burden that he carries endangers 22 the safety of others? 23 MR. MAZZEO: Speculation, foundation, calls 24 for expert opinion. 25 THE WITNESS: At times.</p>	<p style="text-align: right;">Page 197</p> <p>1 Yes? 2 A. Yes. 3 Q. And these are all public posts; right? 4 I don't need to be your friend on Facebook 5 to get these? 6 A. I don't think that's accurate. I think 7 some of these were you had to be my friend until -- 8 some of the posts I changed because I was selling 9 items online. 10 Q. Well, as of today when these were printed, 11 I wouldn't have to be your friend to get to these 12 posts; correct? 13 A. Again, I don't know that I changed the 14 whole profile, just the things I was selling, but 15 I'm not a Facebook expert. 16 Q. You can see in the middle of the first page 17 where it says Add Friend; right? 18 A. Yes. 19 Q. That, based on your experience with 20 Facebook, would show you that the person who printed 21 this was not your Facebook friend; right? 22 A. I've never printed off of Facebook, so I 23 would guess, but I don't know. 24 MR. SMITH: Let's go off the record for a 25 minute.</p>

<p style="text-align: right;">Page 198</p> <p>1 THE VIDEOGRAPHER: The time is 2 approximately 5:55 p.m. We're going off the record. 3 (Thereupon, a break was taken.) 4 (Exhibit 2 Documents from District Court Case No. 5 A-551677 marked.) 6 THE VIDEOGRAPHER: The time is 7 approximately 5:59 p.m. We're going back on the 8 record. 9 BY MR. SMITH: 10 Q. The court reporter has handed you what's 11 been marked as Exhibit 2. 12 Do you recognize the first document in 13 Exhibit 2? 14 A. Yes. 15 Q. What is it? 16 A. It is the paperwork from the case against 17 the school district for Jared's assault. 18 Q. It's the lawsuit that you filed related to 19 Jared's assault; right? 20 A. Yes. 21 Q. Can I have you turn to page eight of that 22 first document? 23 A. Okay. 24 Q. Is that your signature? 25 A. Yes.</p>	<p style="text-align: right;">Page 200</p> <p>1 a case you'd sign a lot of documents and, if my 2 attorney said, I only changed the line on page two 3 or whatever, it's the same thing. I would have 4 taken him at his word and signed it. But, yes, I 5 would have trusted my attorney with these. 6 Q. Well, yes, you would have reviewed the 7 complaint at some point before it was filed; right? 8 A. Yes, yes. 9 MR. SMITH: Exhibit 3. 10 (Exhibit 3 Document Bates No. GJL 255 marked.) 11 BY MR. SMITH: 12 Q. The court reporter has handed you what's 13 been marked as Exhibit 3. 14 Do you recognize that document? 15 A. No. 16 Q. This is a Las Vegas Metropolitan Police 17 Department Impound Report. 18 Do you see the middle of the page where it 19 says: Inventory of Personal Property? 20 A. Yes. 21 Q. Do you see that it says certain things that 22 were in the vehicle on January 2nd, 2011? 23 A. Yes. 24 Q. Whose phone chargers were in the vehicle? 25 A. I don't know. I don't know if they were</p>
<p style="text-align: right;">Page 199</p> <p>1 Q. And reviewed that complaint before you 2 signed page eight; correct? 3 A. I'm sure I did. I don't remember. 4 Q. You wouldn't have signed it unless you 5 reviewed the document you were verifying; correct? 6 MR. MAZZEO: Objection, speculation. 7 THE WITNESS: There's a possibility I 8 trusted my attorney. 9 BY MR. SMITH: 10 Q. Well, page eight says: Andrea Awerbach, 11 being first duly sworn on oath, according to law, 12 deposes and says: That I am the plaintiff in the 13 above-entitled action; that I have read the 14 foregoing complaint for damages and know the 15 contents thereof; that the same is true of my own 16 knowledge, except for those matters therein 17 contained stated upon information and belief and, as 18 to those matters, I believe them to be true. 19 Did I read that right? 20 A. Yes, you did. 21 Q. Would you have signed this verification 22 that you reviewed -- or that you read the complaint, 23 you know the contents, and that the contents are 24 true unless those statements were accurate? 25 A. The only possibility would be, you know, in</p>	<p style="text-align: right;">Page 201</p> <p>1 mine or Jared's or Tikira's. 2 Q. The car seat was obviously for? 3 A. Kalia. 4 Q. Kalia? Okay. 5 Whose sketch book was in the vehicle? 6 A. I'm guessing it was mine for school, but I 7 don't know. I don't remember. 8 Q. Whose black hoodie was in the vehicle? 9 A. Either Jared or Tikira's. Again, I'm 10 guessing. I don't typically wear hoodies. 11 Q. Whose menorah box was in the vehicle? 12 A. Again, probably mine. But, again, I'm, you 13 know, trying to remember. 14 Q. And whose brown Teddy bear was in the 15 vehicle? 16 A. That could have either been Kalia's or mine 17 for my classroom. 18 Q. Whose gray phone charger was in the 19 vehicle? 20 A. Again, I don't know if it was mine or 21 Tikira or Jared's. 22 Q. Do you see below that it says: Additional 23 Remarks/Vehicle Damage? 24 A. Yes. 25 Q. Can you read what it says in that box?</p>

<p style="text-align: right;">Page 202</p> <p>1 A. Vehicle involved in wreck. Extensive -- I 2 think that's what it says -- damage by front of -- 3 and I'm guessing that last word is vehicle. 4 Q. Do you dispute that there was extensive 5 damage to the front of your vehicle from the 6 January 2nd, 2011, accident? 7 A. No. 8 MR. MAZZEO: Objection, form. 9 THE WITNESS: No. 10 BY MR. SMITH: 11 Q. You would agree with that, right? 12 MR. MAZZEO: Objection, form. 13 MR. SMITH: I don't have any further 14 questions. 15 MR. MAZZEO: Oh, you're not done yet. 16 THE WITNESS: Oh. 17 MR. MAZZEO: I have two questions for you. 18 EXAMINATION 19 BY MR. MAZZEO: 20 Q. On January 2nd, 2011, did you have any 21 reason to believe that Jared would take your car 22 that day? 23 A. No. 24 Q. At any time on January 2nd, 2011, did you 25 have any reason to believe that Jared would take</p>	<p style="text-align: right;">Page 204</p> <p>1 BY MS. COMPTON: 2 Q. Approximately? 3 A. About ten. 4 Q. About ten? 5 A. Eight and ten. 6 Q. Are the programs similar in their 7 methodology with respect to treatment? 8 MR. SMITH: Object to the form, vague. 9 BY MS. COMPTON: 10 Q. Are the -- is Gamblers Anonymous, Al-Anon 11 and -- or what are the names of the -- 12 A. There are multiple 12-step programs. The 13 12-step programs with which I've been involved in 14 are Gamblers Anonymous, Narcotics Anonymous, 15 Al-Anon, which is the sister to Alcoholics 16 Anonymous, and Nar-Anon. 17 What is similar is that all of those 18 programs work on 12 steps. There are various kinds 19 of meetings, open meetings, book studies. Each 20 program has a sponsor -- I mean, offers you -- 21 encourages you to get a sponsor. 22 Q. What's the first step in all those 23 programs? 24 A. To admit that you're helpless over your 25 addiction.</p>
<p style="text-align: right;">Page 203</p> <p>1 your keys to your car that day? 2 A. No. 3 MR. MAZZEO: No further questions. 4 MS. COMPTON: I just have a couple of 5 really quick ones. 6 THE VIDEOGRAPHER: Your mic. 7 MS. COMPTON: Oh. 8 EXAMINATION 9 BY MS. COMPTON: 10 Q. How many years have you been going to 11 Gamblers Anonymous? 12 MR. MAZZEO: Relevancy. 13 THE WITNESS: I believe about seven. 14 BY MS. COMPTON: 15 Q. Seven? 16 And how many years -- 17 A. I'm sorry. Can I qualify? 18 Q. Oh, yeah. 19 A. My last bet was 12 years ago. I spent five 20 years without gambling without Gamblers Anonymous. 21 Have been about seven years I've been attending. 22 Q. And then how many years would you say 23 you've attended some sort of treatment program for 24 addiction related to Jared's addiction issues? 25 MR. SMITH: Object to the form.</p>	<p style="text-align: right;">Page 205</p> <p>1 MS. COMPTON: Okay. That's all. 2 FURTHER EXAMINATION 3 BY MR. SMITH: 4 Q. Why were you going to Al-Anon? 5 A. Because there were between two and four 6 Nar-Anon meetings a week, so you go where the help 7 is. There's not many Nar-Anon. 8 Q. And I guess what I was trying to get at is 9 were you going for something other than Jared's 10 addiction? 11 A. No. 12 Q. So there isn't some other alcoholic that 13 you were going -- that's in your life that made you 14 go to Al-Anon? 15 A. I come from a family of addicts and 16 alcoholics. I started because of Jared. 17 Q. What do you mean you come from a family of 18 addicts and alcoholics? 19 A. I don't know how to explain. My father was 20 a compulsive gambler. We weren't as knowledgeable 21 at the time. I can't tell people that they're 22 addicts, but I believe I have multiple family 23 members who have addictions. 24 And I'm an addict. I'm an addict in 25 recovery, but I'm an addict. It did not start with</p>

ANDREA AWERBACH - 10/24/2014

<p style="text-align: right;">Page 206</p> <p>1 me.</p> <p>2 MR. SMITH: I don't have any further</p> <p>3 questions.</p> <p>4 MR. MAZZEO: We're done.</p> <p>5 THE VIDEOGRAPHER: This concludes the</p> <p>6 videotaped deposition of Andrea Awerbach on Friday,</p> <p>7 October 24, 2014.</p> <p>8 The time is approximately 6:07 p.m. We're</p> <p>9 now off the record.</p> <p>10 - - - - -</p> <p>11</p> <p>12 (Proceedings concluded at 6:07 p.m.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 208</p> <p style="text-align: center;">CERTIFICATE OF REPORTER</p> <p>1 STATE OF NEVADA )</p> <p>2 ) SS:</p> <p>3 COUNTY OF CLARK )</p> <p>4 I, Jackie Jennelle, a duly commissioned</p> <p>5 Notary Public, Clark County, State of Nevada, do</p> <p>6 hereby certify: That I reported the video</p> <p>7 deposition of ANDREA AWERBACH, commencing on FRIDAY,</p> <p>8 OCTOBER 24, 2014, at 1:30 p.m.</p> <p>9 That prior to being deposed, the witness</p> <p>10 was duly sworn by me to testify to the truth. That</p> <p>11 I thereafter transcribed my said shorthand notes</p> <p>12 into typewriting and that the typewritten transcript</p> <p>13 is a complete, true and accurate transcription of my</p> <p>14 said shorthand notes.</p> <p>15 I further certify that I am not a relative</p> <p>16 or employee of counsel, of any of the parties, nor a</p> <p>17 relative or employee of the parties involved in said</p> <p>18 action, nor a person financially interested in the</p> <p>19 action.</p> <p>20 IN WITNESS WHEREOF, I have set my hand in my</p> <p>21 office in the County of Clark, State of Nevada, this</p> <p>22 3rd day of November, 2014.</p> <p>23 </p> <p>24 JACKIE JENNELLE, RPR, CCR #809</p> <p>25</p>																																																												
<p style="text-align: right;">Page 207</p> <p style="text-align: center;">CERTIFICATE OF DEPONENT</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 10%;">PAGE</th> <th style="width: 10%;">LINE</th> <th style="width: 40%;">CHANGE</th> <th style="width: 40%;">REASON</th> </tr> <tr><td>3</td><td></td><td></td><td></td></tr> <tr><td>4</td><td></td><td></td><td></td></tr> <tr><td>5</td><td></td><td></td><td></td></tr> <tr><td>6</td><td></td><td></td><td></td></tr> <tr><td>7</td><td></td><td></td><td></td></tr> <tr><td>8</td><td></td><td></td><td></td></tr> <tr><td>9</td><td></td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td><td></td></tr> <tr><td>11</td><td></td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td><td></td></tr> <tr><td>13</td><td></td><td></td><td></td></tr> <tr><td>14</td><td></td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td><td></td></tr> <tr><td>16</td><td></td><td></td><td></td></tr> </table> <p>17 * * * * *</p> <p>18 I, ANDREA AWERBACH, deponent herein, do</p> <p>19 hereby certify and declare the within and foregoing</p> <p>20 transcription to be my deposition in said action;</p> <p>21 under penalty of perjury; that I have read,</p> <p>22 corrected and do hereby affix my signature to said</p> <p>23 deposition.</p> <p>24</p> <p>25</p> <p style="text-align: center;">_____ ANDREA AWERBACH, Deponent</p>	PAGE	LINE	CHANGE	REASON	3				4				5				6				7				8				9				10				11				12				13				14				15				16				
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**EXHIBIT 1-K**

**EXHIBIT 1-K**

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/17/2011 04:44 PM	TERESA MERAZ	Coverage	none (Claim- level)	Occurrence	<p>Original 01/17/2011 04:44 PM I called insd and was able to reach her. She states opac and his girlfriend were living w/ her. Opac has used her veh in the past when he was practicing to get his permit. Insd was home the day of ax. She had let opac have the keys earlier that day to get something out of her car. She usually keeps the car keys on the mantle. Opac does not have his own set of car keys. She thought opac had returned the keys but he didn't. Opac and his girlfriend were at a friend's home in same apt complex. His girlfriend came home but insd later got the call that opac was in ax and getting arrested. Insd did not know opac was going to drive her veh and did not give him permission. Redacted</p> <p>Redacted</p> <p>Redacted</p>

[illegible]

[illegible]

[illegible]

Create Date	Author	Topic	Related To	Subject	Text (2,500)
Redacted					

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/12/2011 05:44 PM	TERESA MERAZ	Coverage	none (Claim-level)	Occurrence	Original 01/12/2011 05:44 PM VM rec'd from insd. I returned the call to discuss permissive use. I got vm, left message.

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/11/2011 12:12 PM	TERESA MERAZ	Coverage	none (Claim- level)	Occurrence	Original 01/11/2011 12:12 PM VM rec'd from insd. I returned the call to discuss permissive use. I called home#, got vm, left message. I called bus# and was told clmt is having breakfast w/ students. I left message requesting a call back. ??Appears insd is a teacher so may be difficult to



Create Date	Author	Topic	Related To	Subject	Text (2,500)
Redacted			Redacted		



Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/06/2011 05:43 PM	TERESA MERAZ	Unknown	none (Claim-level)	Version Note	Original 01/06/2011 05:43 PM Opac is insd's son. He did not ask insd to use the veh b/c he was not supposed to be driving. There was an issue w/ his permit. He thought he had a permit but didn't. Opac does not have a drivers license or valid permit. Opac has used insd veh in the past with and without permission. Insd has given him permission to use veh in the past to run errands. Opac could not say how many times. Opac states insd was home at the time. Keys were on the counter. Opac took the keys and was going to visit his child. Opac does not have his own veh/insurance. Redacted

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/06/2011 05:28 PM	TERESA MERAZ	Policyholder none (Claim-level)		Occurrence	<p>Original 01/06/2011 05:28 PM I called opac (702) 772-6256 and was able to reach him. Obtained RI. Posting version. Opac is mhsd but is in the process of getting his own apt at same apt complex. He did not ask insd to use the veh b/c he was not supposed to be driving. There was an issue w/ his permit. He thought he had a permit but didn't. Opac does not have a drivers license or valid permit. Opac has used insd veh in the past with and without permission. Insd has given him permission to use veh in the past to run errands. Opac could not say how many times. Opac states insd was home at the time. Keys were on the counter. Opac took the keys and was going to visit his child. Opac states he was cited for DUI, drug possession, no drivers license, no insurance in veh, and FTY. Opac states he was not under the influence of drugs at the time. He had marijuana on his person. The last time he smoked was weeks ago. He had not smoked on DOL.</p>

Redacted

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/06/2011 12:10 PM	TERESA MERAZ	Coverage	none (Claim- level)	Occurrence	Original 01/06/2011 12:10 PM I called insd to discuss permissive use. I got vm, left message. ??Per Collision notes: ?Unlisted Operator Questions for Policyholder?Did the operator have permission to drive your car? NO ?Is the operator a member of your household? YES ?What is your relationship to the operator? SON ?Does the operator have their own set of keys to

Create Date	Author	Topic	Related To	Subject	Text (2,500)
					<p>your car? NO If not where did they obtain the keys to your car? ACCESS TO KEYS BECAUSE SAME HOUSEHOLD ? Has the operator driven your vehicle before? NO ? Does the operator have a valid driver's license? NO ? HE SD HE HAS A PERMIT ? How often does the operator use this vehicle? UNK ? Does the operator have a vehicle of their own? NO ? If yes, who is their insurance carrier? N/A ? If operator was son or daughter, when did they obtain their license? NONE ?? Redacted</p>

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/06/2011 11:05 AM	TERESA MERAZ	Claim Strategy	(2) 3rd Party Bodily Injury - EMILIA GARCIA	Claim	Original 01/06/2011 11:05 AM *Rec'd claim. Appears opac pulled out of driveway while clmt headed straight. Per notes, opac was DUI. Need to obtain statements from both drivers. P/R ordered. ?*50/100/50 PL. Opac is insd's son and unlisted operator. Appears opac is mhsd. Per Collision notes, insd states opac did not have permission to drive but had access to keys since he is mhsd, opac does not have his own veh/ins. Redacted

Create Date	Author	Topic	Related To	Subject	Text (2,500)
01/04/2011 02:23 PM	JOANIE VALDEZ	Claim Status	(1) 1st Party Vehicle -	Claim	Original 01/04/2011 02:23 PM Unlisted Operator Questions for Policyholder? Did the operator have permission to drive your car? NO ?Is the operator a member of your household? YES ?What is your relationship

Create Date	Author	Topic	Related To	Subject	Text (2,500)
			ANDREA AWERBACH		<p>to the operator? SON ?Does the operator have their own set of keys to your car? NO If not where did they obtain the keys to your car? ACCESS TO KEYS BECAUSE SAME HOUSEHOLD ?Has the operator driven your vehicle before? NO ?Does the operator have a valid driver's license? NO ? HE SD HE HAS A PERMIT?How often does the operator use this vehicle? UNK ?Does the operator have a vehicle of their own? NO ?If yes, who is their insurance carrier? N/A ?If operator was son or daughter, when did they obtain their license? NONE ?</p>
01/03/2011 02:44 PM	ASHLEY FLANAGAN	Claim Status	none (Claim-level)	Occurrence	<p>Original 01/03/2011 02:44 PM Received vm from Ins. Ms. Awerbach. She stated in message son was driving her vehicle w/o permission. Ins. son got a DUI and vehicle is currently in impound. OB left message for Ms. Awerbach to c/b when available.</p>
Redacted					

# EXHIBIT D