IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRST TRANSIT, INC.; and JAY FARRALES.

> Electronically Filed Feb 22 2018 09:35 a.m.

Elizabeth A. Brown

Case No.: 70164 Clerk of Supreme Court

Appellants,

VS.

JACK CHERNIKOFF; and ELAINE CHERNIKOFF,

Appeal from the Eighth Judicial District

Court, the Honorable Stefany Miley

Presiding

Respondent.

MOTION FOR ORDER REQUIRING TRANSMISSION OF PHYSICAL TRIAL EXHIBIT FROM DISTRICT COURT

Richard Harris Law Firm

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Marquis Aurbach Coffing

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Charles Allen Law Firm

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Attorneys for Respondents, Jack Chernikoff and Elaine Chernikoff

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Respondents, Jack Chernikoff and Elaine Chernikoff (the "Chernikoffs"), by and through their attorneys of record, Marquis Aurbach Coffing; Richard Harris Law Firm; and Charles Allen Law Firm, hereby move this Court for an order requiring the transmission of a physical trial exhibit from the District Court.

A video disk containing footage of the incident underlying this case was admitted as Trial Exhibit A2¹ during trial in the District Court on February 19, 2016, and was referenced throughout the trial proceedings by both the Chernikoffs and Appellants, First Transit, Inc. and Jay Farrales ("Defendants"). The Chernikoffs believe that this Court would benefit from a review of Trial Exhibit A2 in deciding the instant appeal and, as such, now ask this Court to issue an order requiring transmission of the original physical exhibit from the District Court according to NRAP 30(d) and NRAP 10(b)(2).

Defendants transmitted a copy of Trial Exhibit A2 with a motion to this Court for inclusion of the disk in their appendix. However, this Court denied the motion in its December 12, 2017 order, indicating that a motion to transmit the original Trial Exhibit A2 would be necessary. Both the Chernikoffs and Defendants have referenced and relied upon the video recording on Trial Exhibit A2 in their respective briefs filed in this Court.

¹ A copy of the District Court Clerk's Exhibit List is attached as **Exhibit 1**.

Therefore, the Chernikoffs now respectfully request that this Court issue an order requiring the transmission of the original disk designated as Trial Exhibit A2 from the District Court pursuant to NRAP 30(d) and NRAP 10(b)(2).

Dated this 21st day of February, 2018.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols

Micah S. Echols, Esq.
Nevada Bar No. 8437
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Respondents,
Jack Chernikoff and Elaine Chernikoff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION FOR ORDER REQUIRING

TRANSMISSION OF PHYSICAL TRIAL EXHIBIT FROM DISTRICT

COURT was filed electronically with the Nevada Supreme Court on the 21st day of February, 2018. Electronic Service of the foregoing document shall be made in

Joel D. Henriod, Esq. Daniel F. Polsenberg, Esq. LeAnn Sanders, Esq. Benjamin P. Cloward, Esq.

accordance with the Master Service List as follows:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

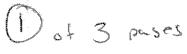
Charles H. Allen, Esq. Charles Allen Law Firm 950 E. Paces Ferry Road NE Suite 1625 Atlanta, Georgia 30326

/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing



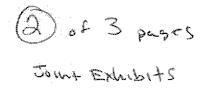
	Date Offered	Objection	Date Admitted
A1- Operator Incident Report	FEB 2 5 2016	NO	FEB 2 5 2016
	FEB 1 3 2016	NO	FEB 1 3 2016
of Harvey Chernikoff	***************************************		
A2-1-Poster Board	FEB 2 5 2016	NO	FEB 2 5 2016
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A2-8-"			MINISTER STATE OF THE STATE OF
A3- Records from C.C. Coroner's Office	FEB 1 9 2016		FEB 1 9 2016
A4- Report of Investigation from C.C.		COCCA A TENENCIA COCCA ACO ACO ACO ACO ACO ACO ACO ACO	
Coroner/medical Examiner	***************************************		
	FEB 2 4 2016	NO	FEB 2 4 2016
	FEB 2 2 2016	NO	FEB 2 2 2016
A	FEB 2 6 2016	NO	FEB 2 6 2016
Training Matric			
	FEB 2 6 2016	NO	FEB 2 6 2016
Training Requirements		1	
A9-" "Collective	FEB 2 6 2016	NO	FEB 2 6 2016
Bargaining Agreement		1	·
AID-Jay Farrales Personnel File	FEB 2 6 2016	NO	FEB 2 6 2016

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	Date Offered	Objection	Date Admitted
All-Jay Farrales Medical Examination	FEB 2 6 2016	NO	FEB 2 6 2016
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A14- Documentation regarding Jay	FEB 2 6 2016	N	FEB 2 6 2016
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A15- Driver Manifest for Bus 1790	FEB 2 5 2016	NÒ	FEB 2 5 2016
on July 29, 2011		X NAME OF THE OWNER OWNE	P ¹ Property Control of the Control
the state of the s	FEB 2 6 2016	NO	FEB 2 6 2016
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Transit Services Inc. dated 3/8/07	The state of the s		
A17- Harvey Chernikoff's Records from			
the RTC of Southern Nevada			
A18- Photograph of Signage on Bus	EB 2 2 2016	NO	FEB 2 2 2016
A19- Thirty Eight (38) Bus Inspection			00000000000000000000000000000000000000
Photographs taken by Expert			***************************************
(00001-00003)			ning-udmur-uquininhu-v-v-+++++++++++++++++++++++++++++++++
A19 - Photo (00004)	FEB 2 5 2016	NO	FEB 2 5 2016
A19 - Photos (00005-00025)		*	a de la constantina della cons
A19 - Photo (00026)	FEB 2 5 2010	No	FEB 2 5 201

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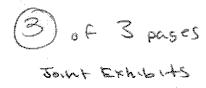
JOINT EXHIBITS

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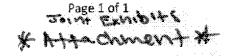
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A 1	Callina de la calerada Maria recora I composida	Operator Incident Report [A1 - 00001]	FEB 2 5 2016	100	FEB 2 5 201
		Disc containing video footage of Harvey Chernikoff on a			
A2 \	. 1	First Transit vehicle on July 29, 2011	12-19-16	100	2-19-16
	Acceptance	Records from the Clark County Coroner's Office [A3			
A3	∖21	00001 - 00021]	13-19-16	$ m0\rangle$	13/14/18
		Report of Investigation from the Clark County			
Α4	9 🔪	Coroner/Medical Examiner [A4 - 00001 - 00009]	:		<u> </u>
ongmater car	Michel (Brank Track)	Records from the Clark County Fire Department [A5	FEB 2 4 2016	אטן	FEB 2 4 2011
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A6	12	RTC Paratransit Guide [A6 - 00001 - 00012]	FEB 2 2 2018	100	FEB 2 2 2016
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A7		-00001-00003]			
		First Transit, Inc.'s Minimum Training Requirements [A8-			
A8	1	00001]	10000		
		First Transit, Inc.'s Collective Bargaining Agreement A9-		DEKNZATE Merketer	enter de la companya
-A9	50	00001 00050]		€linas (g. A.S.)	
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A10	133	Jay Farrales' Personnel File [A10 - 00001 - 00133]			
		Jay Farrales' Medical Examination Reports for Commercial Driver Fitness Determination, dated June 2,	E. S. Isk (MOI) sy tio Affect median		
		2006, May 24, 2008, and May 21, 2010 A11 - 00001			
A11		C0008			
Alk .		Jay Farrales' Application for Employment with Caldlaw			
A12	16	Transit Services [A12 - 00001 - 00016]			
		Supplement to Jay Farrales' Personnel File (A13 > 0000)			Programme representation of the second
A13	34	00034			
		Documentation regarding Jay Farrales' Safety Classes and	X		
A14	110	Tests [A14 - 00001 - 00110]	Andrew .		
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		Contract between Regional Transportation Commission		A CONTRACTOR OF THE PARTY OF TH	
	440	of Southern Nevada and Laidlaw Transit Services, Inc.,	FEB 2 6 2016	W	FEB 2 6 2016
A16	110	dated March 8, 2007 [A16 - 00001 - 00110] Harvey Chernikoff's records from the Regional		177	***************************************
leda (Mara 1974) d Sanatina de la company		Transportation Commission of Southern Nevada [A17 -		N	
30 d 27	/	00001 = 00007]			
A17	- 1		FEB 2 2 2016	NO	FEB 2 2 2011
A18	/ 1	Photograph of signage on Bus 1790 [A18 - 00001]		トリリ	TENT CAN
		A19-0004 + 00026			
/		Thirty Eight (38) Bus Inspection photographs taken by Defendant's expert Matt Daecher [A19 - 00001 - 00038]	FEB 2 5 7016	NO	FEB 2 5-2016
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A20	1	Death Certificate [20 - 00001]			! .



PLAINTIFF'S EXHIBITS

CASE NO. A 682726

Date Offered	Objection	Date Admitted	

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PLAINTIFFS' EXHIBITS

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PLAINTIFFS' EXHIBITS

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Ų	1	Standards [0001 - 00001]	ž	
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		LVMPD Incident Report (0003 - 00001 - 00004) 00004 455	V	
3				Constitution properties — Tracing
4	2	Net Claim Summary Form [0004 - 00001	* I	Hittermann Andre
		00002] The CAD Incident Report 1107290001082		
		and the disc with the 911 calls [0005 -	\mathbb{Z}	
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7	14	[0007-00801-00014]	019-16	n 12 19-1 U
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9	133	Jay Fernales Personnel File	7	
10	1	Formules Employee File (A10-00008)		
11	110 /	Ferrales Safety		
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PLAINTIFFS' EXHIBITS

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Exhibit #	CORAGE	DESCRIPTION.	I KOBJECTION I	ADMITTED (YES/NO)
		First Transit, Inc.'s Minimum Hiring		
25	1	Standards [0001 - 00001]	Def.'s Object	
2	80	2010 First Transit Employee Handbook [0002-00001 - 00080]	Def.'s Object	
Committee of the	1	LVMPD Incident Report [0003 - 00001 -		
3	" 4	00004]	Def.'s Object	
4	2	Net Claim Summary Form [0004 - 00001 - 00002]	Def∕s Object	
5	1	The CAD Incident Report 1107290001082 and the disc with the 911 calls [0005 00001]	Def.'s Object	
6	971	Regional Transportation Commission of Southern Nevada Documents (0006 - 00001 - 00971)	Def.'s Object	
7	14	14 Color Photographs of Harvey's Life [0007 - 00001 - 00014]	Def.'s Object	
8	1	Harvey Chernikoff Eulogy [0008 - 00001]	Def.'s Object	
9	133	Jay Ferrales Personnel File	Def.'s Object	
10	1	Ferrales Employee File 00008 (A10- 00008)	Def.'s Object	
11	/110	Ferrales Safety 00017 (A14-00017-A14- 00018)	Def.'s Object	
		Photograph of signage on Bus 1790 [A18 -	uei. S oujett	
12,	1	00001]	Def.'s Object	
J∕13	24	Photos 0013-00024 -0001-00024	Def.'s Object	

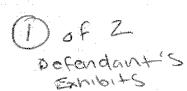
DEFENDANT'S EXHIBITS

CASE NO. A682726

	Date Offered	Objection	Date Admitted
A- Disc Containing Video Footage			
of Harvey Chernikoff 7/27/11	Total Annual Control C	maka kado o amada kelilino mod kelili	100 miles
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C- Harrey Chernikoff's Records	1 1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	·······	
from Transition Services		144	
6- Harvey Chernikoff's Records		······································	
from State of Nevada Desert		·	### A
Regional Center		AAAA AAAAA AAAAA	
E-" Records			
from San Gabriel/Pomona		Sager and Mary Section 1.11111111111111111111111111111111111	
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F- Harvey Chernikoff's Records	· · ·		
from Gautham Reddy M.S.		/////////////////////////////////////	
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- 00011-00014	FEB 2 4 2016		FEB 2 4 2016
- 00015 - 00020	FEB 2 4 2016	ND	FEB 2 4 2016
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- 00025 - 00027	FEB 2 4 2016	NO	FEB 2 4 2016
-00028-00043			
-00044-00045	FEB 2 4 2016	NO	FEB 2 4 2016
-00046-00080			e de la constantion de la cons
- 00081	FEB 2 4 2016		FEB 2 4 2016

* F are admitted as individual pages reflected above.

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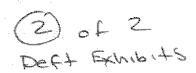


DEFENDANT'S EXHIBITS

CASE NO. A682726

	Date Offered	Objection	Date Admitted
F- Cort. 00082-00177			
G- Title 49 Part 37 of the Code			·
of Federal Regulations	-		
H- Medical Records of Elaine			
Chernikoff from Gautham Reddy	:		
I- Medical Records of Jack	-		
Chernikoff from Gautham Reddy			
J- Jack Chernikoff's Medical			
Records from Ricardo Fontillas			·
K- First Transit Video Recording			ան ներ նավարձ կառուսան ըն նիքարի վի պարգսի ներնայի անձան առուսա
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Attachment

DEFENDANTS' EXHIBITS

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DEFENDANTS' EXHIBITS

ii Exhibit#	of pages	DESCRIPTION	POFFEKED	Cobjected	<u>l</u> Admitted
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		Harvey Chernikoff on a First Transit	All Comments of	o provincia de la companya de la co La companya de la co	
Exhibit "A."	1	vehicle on July 27, 2011		Carlos Albandarios (1984) (1984)	
	~~ ~~	Laidlaw Transit Services' Employee			and the second s
Exhibit "B"	`23	Handbook [B - 00001-00023]			Miles
antestillares deserv		Harvey Chernikoff's Records from			
Exhibit "C"	. 12	Transition Services [C - 00001-00012]:			
	· ''' •	Harvey Chernikoff's records from the	i <u></u>		
		State of Nevada Desert Regional		and the state of t	
Exhibit "D"	66	Center [D - 00001-00066]		And the second second	
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		San Gabriel/Pomona Regional Center			
Exhibit "E"	448	[E - 00001-00448]			
		Harvey Chernikoff's records from			
		Gautham Reddy, M.D. [F - 00001-	FEB 2 4 2016	No	EED 2 / 2010
Exhibit "F"	177	FIS-F20 001771 Only 50067	\	190	FEB 2 4 2016
	$\frac{1}{2} \frac{1}{2} \frac{1}$	Title 49 Part 37 of the Code of Federal			
Exhibit "G"	90	Regulations [6 - 00001-00090]			
comerce of 1500	19	Medical Records of Elaine Chernikoff			
		from Gautham Reddy, M.D. [H -		· · · · · · · · · · · · · · · · · · ·	
Exhibit "H"	226	00001-002261		To Marketon Committee Comm	
No. 2011		Medical Records of Jack Chernikoff	77.54.750		
		from Gautham Reddy, M.D. [1-00001]			170 370 371 372
Exhibit "l"	528	00528]			
		Jack Chernikoff's Medical Records			
A PART OF THE PROPERTY OF THE PART OF THE		from Ricardo Fontilias, M.D. [J -			**
Exhibit "J"	11	00001-00011]			
	4	First Transit Video Recording Records	AND THE PROPERTY		
Exhibit "K"	rene de la companya d La companya de la co	& Retention Policy [K - 00001]	W-007701 2.54		

** Attedoment to Deft Exhibits **

	Date Offered	Objection	Date Admitted
Plaintiff's Power Point presentation	2/19/16		2/19/16
2. Juror note #8 (not asked)	2/19/16		2/19/16
3. Juror note #4 (asked and answered)	2/19/16		2/19/16
4. Juror note #8 (asked and answered)	2/19/16	dannininininininingummidanningke,gg.	2/19/16
5. Juror note #8 (asked and answered)	2/19/16		2/19/16
6. Deft's Power Point presentation	2/19/16	**************************************	2/19/16
7. Juror Question #4 (Not asked)	FEB 2 3 2016	NO	FEB 2 3 2016
8. Juror Question #4 (Not asked)	1		"
9. Juror Question #4 (Not asked)			
10. Juror Guestion #8 (Not asked)			
11. Juror Question #8 (Asked + Answer)	### ##################################	ши <u>нишийн</u> дага мінагізалага	
12. Juror Question * 4 (Asked + Answered)	FEB 2 4 2016	100	FEB 2 4 2016
13 Juror Question #10 (Asked & Answered)	FEB 2 4 2016	NO	FEB 2 4 2016
14. Juror Question #8 (Asked + Answered)	FEB 2 6 2016	NO	FEB 2 6 2016
15. Jurar Question #8 (Asked & Answered)	\\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\		1 11
16. Juror Question #4 (Asked & Answered)			
M. Juror Question #3 (Asked & Answered)			
18. Juror Question #4 (Asked & Answered)			
19. Juror Question #10 (Asked & Answered)			
20. Plff's Proposed Instruction-Not Given			
21. PItt's Closing Argument Power Point 22. Deft's Closing Argument Power Point		70	
22. Deft's Closing Argument Power Point		NO	