

CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

EMILIA GARCIA, individually,

Plaintiff,

v.

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

Defendants.

) CASE NO. A637772

) DEPT. NO. XXVII

) **PLAINTIFF'S MOTION TO STRIKE**

) **DEFENDANT ANDREA AWERBACH'S**

) **ANSWER**

) Date of hearing:

) Time of hearing:

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

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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
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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**, 201**5** at **9: 30** a.m./p.m. in this Court, or as soon
15 thereafter as counsel may be heard.
16

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18 GLEN J. LERNER & ASSOCIATES

19
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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
School?

19 A. Yes, sir.

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

21 A. Yes, sir.

22 Q. How did she know that?

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

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

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

26 Following the accident, Andrea's insurer, Liberty Mutual, opened a claim. On January 4,
27 2011, days after the accident, Jared gave a recorded statement to Andrea's insurer, admitting he
28 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 1.¹

¹ 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.² *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 ///

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 ² 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.³ 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 ³ 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.⁴

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 ⁴ 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
24 briefcase under the bed. In dresser drawers. Inside things. Inside garbage cans.
25 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
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:

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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 et 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

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.

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

III. ARGUMENT

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

Under NRCP 37(c)(1):

A party that without substantial justification fails to disclose information required by Rule 16.1, 16.2, or 26(e)(1), or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and 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.

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

(A) An order that the matters regarding which the order was made or any other 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;

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

(C) An order striking out pleadings or parts thereof, or staying further 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.

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

1 “[I]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
13 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.

14 *Young*, 106 Nev. at 90, 787 P.2d at 778. The Nevada Supreme Court affirmed the sanctions. *Id.*
15 Indeed, the Nevada Supreme Court has routinely upheld district court orders striking pleadings and
16 entering terminating sanctions for discovery abuses. *See, e.g., Foster*, 126 Nev. Adv. Op. No. 6,
17 227 P.3d 1042 (Feb. 25, 2010); *Bahena*, 126 Nev. Adv. Op. No. 26, 235 P.3d at 594-96; *Hamlett v.*
18 *Reynolds*, 114 Nev. 863, 865, 963 P.2d 457, 458 (1998); *Temora Trading Co. Ltd. v. Perry*, 98 Nev.
19 229, 645 P.2d 436 (1982); *Kelly Broadcasting Co., Inc. v. Sovereign Broadcast, Inc.*, 96 Nev. 188,
20 606 P.2d 1089 (1980) *Havas v. Bank of Nevada*, 96 Nev. 567, 613 P.2d 706 (1980).

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

24 Boeing charges Berglund altered email messages and lied about doing so while
25 under oath at deposition. During discovery, Berglund produced hundreds of
26 pages of email messages to Boeing she claimed were the same email messages
27 provided to the government during its false claims investigation. Among these
28 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
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]
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
insisted that the stipulation foreclosed the admission of evidence of their bad faith
conduct at trial, obviously aware of its potential prejudicial effect. Obviously, a
more severe sanction than an instruction similar to that already posed by the
Defendants is appropriate.

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

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

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

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

24 the degree of willfulness of the offending party, the extent to which the non-offending
25 party would be prejudiced by a lesser sanction, the severity of the sanction of
26 dismissal relative to the severity of the discovery abuse, whether any evidence has
27 been irreparably lost, the feasibility and fairness of alternative, less severe sanctions,
28 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

By: /s/ Craig A. Henderson
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Adam D. Smith, Esq.
Nevada Bar No. 9690
Craig A. Henderson, Esq.
Nevada Bar No. 10077
4795 South Durango Drive
Las Vegas, NV 89147
(702) 877-1500
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

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

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

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

/s/ Miriam Alvarez
An Employee of Glen Lerner Injury Attorneys

EXHIBIT 1

EXHIBIT 1

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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.

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

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.

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

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.

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.

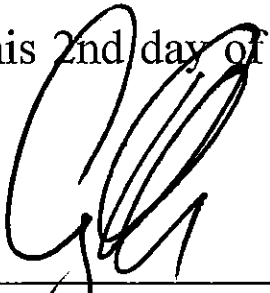
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EXHIBIT 1-A

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.)	
)	

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

Page 2

Page 4

1 Videotaped deposition of JARED EMMANUEL AWERBACH
 2 taken at Glen Lerner Injury Attorneys, 4795 South
 3 Durango Drive, Las Vegas, Nevada, on Thursday,
 4 March 27, 2014, at 10:08 a.m., before Peggy S. Elias,
 5 Certified Court Reporter in and for the State of
 6 Nevada.

APPEARANCES OF COUNSEL

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Also Present:

TERRELL HOLLOWAY, VIDEOGRAPHER

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Exhibit 13	Xerox Copy of Photograph	234

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WITNESS: JARED EMMANUEL AWERBACH

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Exhibit 11 Xerox Copy of Photograph 233

VIDEOTAPED DEPOSITION OF JARED EMMANUEL AWERBACH

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

-oOo-

THE VIDEOGRAPHER: This is the beginning of
 Videotape No. 1 in the deposition of Jared Awerbach in
 the matter of Garcia versus Awerbach held at Glen
 Lerner at 4795 South Durango Drive, Las Vegas, Nevada
 89147, on March 27th, 2014, at 10:08 a.m.

The court reporter is Peggy S. Elias. I am
 Terrell Holloway, the videographer, an employee of
 Litigation Services, located at 3770 Howard Hughes
 Parkway, Suite 300, Las Vegas, Nevada 89169. This
 deposition is being videotaped at all times unless
 specified to go off the video record.

Would all present please identify themselves,
 beginning with the witness.

THE WITNESS: I'm Jared Awerbach.

MR. STRASSBURG: Roger Strassburg. I'll be
 speaking for Mr. Awerbach as his lawyer.

MS. COMPTON: Lilly Compton. I'm
 Mr. Strassburg's paralegal.

MR. MAZZEO: Peter Mazzeo for Andrea
 Awerbach.

MR. ESCHWEILER: Corey Eschweiler on behalf
 of the plaintiff.

Page 6

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:

EXAMINATION

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.

Page 7

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

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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

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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

1 the truth?
 2 A. No, sir.
 3 Q. Any illicit drugs that would impede your
 4 ability to tell the truth?
 5 A. No, sir.
 6 Q. Thank you.
 7 What did you do to prepare for the deposition
 8 today?
 9 A. Reviewed the interrogatories. Reviewed the
 10 paperwork that my attorney sent to me.
 11 Q. Well, besides the interrogatories do you have
 12 a specific recollection of any -- reviewing any other
 13 documents?
 14 A. No, sir.
 15 Q. Did you speak with anybody about the
 16 deposition today?
 17 A. Just my attorneys.
 18 Q. And when did you meet with them?
 19 A. Yesterday.
 20 Q. How long was the meeting?
 21 A. An hour and a half.
 22 Q. Where did you meet at?
 23 A. My house.
 24 Q. They came to your house?
 25 A. Yes, sir.

1 Q. Was anybody else present besides your
 2 attorneys?
 3 A. My mother was.
 4 Q. Your mother was present?
 5 A. She was in the home.
 6 Q. Well, was she participating in the meeting?
 7 A. No, sir.
 8 Q. Well, where was she?
 9 A. In her room.
 10 Q. Was the door closed?
 11 A. No, sir.
 12 Q. Could she hear what you guys were talking
 13 about?
 14 A. No, sir.
 15 Q. How do you know?
 16 A. She was occupied.
 17 MR. MAZZEO: Speculation.
 18 THE WITNESS: Huh?
 19 BY MR. ESCHWEILER:
 20 Q. You can answer.
 21 A. She was occupied.
 22 Q. Well, do you know what she was doing?
 23 A. Playing with her tablet.
 24 Q. Okay. Well, one other thing I didn't
 25 mention, there may be objections interposed by your

1 attorney or your mother's attorney throughout the
 2 process. Unless they instruct you not to answer, you
 3 will be required to answer the question.
 4 A. Understood.
 5 Q. Okay. Thank you.
 6 Did you review any of your mom's responses to
 7 any documents that she's filed in this case?
 8 A. No, sir.
 9 Q. So the interrogatory responses that you
 10 completed and signed were the only thing that you
 11 reviewed in preparation for the deposition?
 12 A. Yes, sir.
 13 MR. STRASSBURG: He reviewed his statement.
 14 MR. ESCHWEILER: His recorded statement?
 15 MR. STRASSBURG: The transcript.
 16 MR. ESCHWEILER: Of the recorded statement?
 17 MR. STRASSBURG: Yes, sir.
 18 THE VIDEOGRAPHER: His mic is...
 19 MR. ESCHWEILER: Can we stop it? We'll go
 20 off for a second.
 21 THE VIDEOGRAPHER: Off the record at 10:15.
 22 (Discussion off the record.)
 23 THE VIDEOGRAPHER: Back on the video record
 24 at 10:18.
 25 ///

1 BY MR. ESCHWEILER:
 2 Q. Prior to the break, you were talking about
 3 documents that you had reviewed in preparation for the
 4 deposition, one of which was your interrogatory
 5 responses, and your attorney indicated that you had
 6 also reviewed the transcript of your recorded
 7 statement.
 8 A. Yes, sir.
 9 Q. Did that refresh your recollection about the
 10 events that transpired on January 2, 2011?
 11 A. Yes, sir.
 12 Q. Any other documents that you recall?
 13 A. Should I tell him about going back to the
 14 scene or...
 15 Q. I'm just asking about documents right now.
 16 A. We -- no. No, sir.
 17 Q. Did you do anything else to prepare for the
 18 deposition?
 19 A. Well, what my attorney did was take me back
 20 to the scene and kind of played out for him step by
 21 step.
 22 Q. How long were you at the scene of the
 23 accident?
 24 A. 30 minutes.
 25 Q. Okay. And what exactly did you do to play it

1 out step by step?
 2 A. We took --
 3 MR. MAZZEO: Objection, attorney/client
 4 privilege.
 5 MR. STRASSBURG: You can answer.
 6 BY MR. ESCHWEILER:
 7 Q. Go ahead.
 8 A. We took pictures of -- reviewing the traffic
 9 in the area and reviewing the -- where the plaintiff
 10 was and where I was, the distance, and the -- pretty
 11 much how the accident happened.
 12 Q. Based upon your review of the recorded
 13 statement or your visit to the site within the last
 14 week, did it change your recollection of the events
 15 that transpired on January 2nd, 2011?
 16 A. No, sir.
 17 Q. Did you talk to your mom about the deposition
 18 today?
 19 A. Just the fact that we had a deposition.
 20 Q. You didn't talk to her about the deposition
 21 that she gave in this matter?
 22 A. No, sir.
 23 Q. Did you review the transcript of the
 24 deposition she gave in this matter?
 25 A. No, sir.

1 Q. You had no discussion with her about the
 2 substance of your testimony today?
 3 A. No, sir.
 4 Q. When was the last time you talked to your
 5 mom?
 6 MR. STRASSBURG: Objection. About the case?
 7 MR. ESCHWEILER: No, at any time.
 8 THE WITNESS: Upon being dropped off at this
 9 location.
 10 BY MR. ESCHWEILER:
 11 Q. She drove you here today?
 12 A. Yes, sir.
 13 Q. Did your mom tell you anything about the
 14 questions that she was asked?
 15 A. No, sir.
 16 Q. I want to talk a little bit about your
 17 background --
 18 A. Yes, sir.
 19 Q. -- before we get into the substance of the
 20 questions.
 21 Did you graduate from high school?
 22 A. Yes, sir.
 23 Q. What school?
 24 A. Desert Rose Adult High School.
 25 Q. Where's that located?

1 A. On Brooks Street.
 2 Q. What's the cross street?
 3 A. Brooks and Revere.
 4 Q. And you said it's an adult high school?
 5 A. Yes, sir.
 6 Q. Well, what's that mean?
 7 A. Adult education, like credit retrieval.
 8 Q. Well, why did you go to that specific high
 9 school?
 10 A. I had had problems at other schools as a
 11 juvenile, and I didn't want to return to a normal
 12 school, in a normal school environment, meaning peer
 13 pressure, being influenced by my peers and negative
 14 behavior. I kind of wanted to be serious about school.
 15 Q. Well, what problems?
 16 A. Just delinquent behavior.
 17 Q. Well, what do you mean by "delinquent
 18 behavior"?
 19 A. Like -- say like running around and smoking
 20 weed, ditching class, not taking school serious.
 21 Q. Was that a problem for you when you were a
 22 juvenile?
 23 A. Yes, sir.
 24 Q. What age did you start smoking weed?
 25 A. Like twelve.

1 Q. Twelve?
 2 A. Yes, sir.
 3 Q. Would you smoke weed at the house where you
 4 lived with your mom?
 5 A. No, sir.
 6 Q. Where would you smoke weed?
 7 A. Outside.
 8 Q. Outside the house where you lived?
 9 A. Outside the house or at -- when I was
 10 supposed to be at school.
 11 Q. Did you do any other drugs besides weed?
 12 A. At that time, no.
 13 Q. And you said you had a problem with missing
 14 school, as well?
 15 A. Yes, sir.
 16 Q. Were you ever suspended or expelled from --
 17 from any school for missing class?
 18 A. Not for missing class, no.
 19 Q. Were you ever suspended or expelled from
 20 school for any reason?
 21 A. Yes, sir.
 22 Q. What school?
 23 A. Green Valley High School.
 24 Q. What was the reason for the expulsion?
 25 A. Possession of marijuana.

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1 Q. What year was that?
 2 A. I don't remember.
 3 Q. Do you know what year of school you were?
 4 A. Ninth grade.
 5 Q. Ninth grade.
 6 When you were expelled for possession of
 7 marijuana, did they hold a hearing or any type of
 8 proceeding before they expelled you?
 9 A. No, sir.
 10 Q. Did they tell your mom?
 11 A. Yes, sir.
 12 Q. So your mom knew that you had possession of
 13 marijuana at Green Valley High School?
 14 A. Yes, sir.
 15 Q. Did your mom know that you were smoking weed
 16 since you were twelve?
 17 A. Yes, sir.
 18 Q. How did she know that?
 19 A. From the multiple times that she caught me.
 20 Q. How would she catch you?
 21 A. She searched my room, drug tests.
 22 Q. Where would you hide your weed?
 23 A. Different places in the house.
 24 Q. And your mom drug tested you or a drug test
 25 at school or what?

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1 A. My mother drug tested me.
 2 Q. How often did your mom drug test you in the
 3 ninth grade?
 4 A. Pretty often.
 5 Q. Well, once a week, once a month?
 6 A. Yeah, it was like a once-a-week thing.
 7 Q. How often did you fail those tests?
 8 A. I don't know. A lot.
 9 Q. A lot?
 10 A. Yes, sir.
 11 Q. More than 50 percent of the time?
 12 MR. MAZZEO: I'm going to object to this
 13 whole line of questioning. It's not -- will not
 14 reasonably lead to the admissibility of evidence.
 15 BY MR. ESCHWEILER:
 16 Q. You can answer.
 17 A. (No audible response.)
 18 MR. STRASSBURG: You can go ahead.
 19 BY MR. ESCHWEILER:
 20 Q. You can answer.
 21 A. Yes, sir.
 22 Q. More than 50 percent of the time you failed?
 23 A. Yes, sir.
 24 Q. More than 75 percent of the time?
 25 A. Yes, sir.

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1 Q. Was it after that expulsion that you ended up
 2 going to Desert Rose Adult High School?
 3 A. No, sir.
 4 Q. Well, where did you go after -- after you
 5 were expelled from Green Valley?
 6 A. I was in the juvenile drug court program, and
 7 I relapsed and I failed, and I was sent to Salt Lake
 8 City, Utah, and to a therapy group home called Odyssey
 9 House, and I was able to get myself together there.
 10 And it was upon return to Las Vegas that I
 11 decided I did not want to go back to the normal school
 12 environment. So I waited until I was seventeen and
 13 enrolled myself in Desert Rose.
 14 Q. Well, let's back up.
 15 When were you placed in the juvenile drug
 16 court system?
 17 A. In January.
 18 Q. Do you know of what year?
 19 A. No, sir, I don't. I don't remember what
 20 year. Maybe it was --
 21 Q. Was it --
 22 A. -- in 2008 or 2009.
 23 Q. I apologize for interrupting you.
 24 A. 2007 maybe. That's all right.
 25 Q. Well, was your placement in the juvenile drug

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1 court system as a result of your expulsion from Green
 2 Valley High School?
 3 A. No, sir.
 4 Q. Okay. What was the reason for the placement
 5 in the juvenile drug court system?
 6 A. Auto theft and possession of marijuana
 7 repeatedly.
 8 Q. What do you mean, "repeatedly"? You were
 9 busted more than once for auto theft?
 10 A. Yes, sir.
 11 Q. How many times?
 12 A. Three or four.
 13 Q. In Las Vegas?
 14 A. Yes, sir.
 15 MR. STRASSBURG: As a juvenile?
 16 THE WITNESS: As a juvenile, yes, sir.
 17 BY MR. ESCHWEILER:
 18 Q. Were you convicted of those offenses?
 19 A. Yes, sir.
 20 Q. No, sir; is that what you said?
 21 A. Yes, sir.
 22 Q. Yes, okay.
 23 Yes, you were convicted?
 24 A. Yes, sir.
 25 And part of the reason they placed me in the

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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.

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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?

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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.

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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

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1 A. Definitely.
2 Q. Okay. Kids' toys?
3 A. Definitely.
4 Q. How -- in any given week, how often were you
5 running errands?
6 A. Once or twice.
7 Q. Once or twice a week?
8 A. Yeah. Not often.
9 Q. Okay. And it -- would it work the same as it
10 would for work; if you were going to run an errand, you
11 know, the keys would be on the counter, and you'd say,
12 hey, Mom, I'm -- I've got to run to pay bills at Nevada
13 Power?
14 A. I'd always ask.
15 Q. Okay. And then she said okay?
16 A. Yeah. Like a teenager would.
17 Q. And if the keys weren't on the counter, your
18 mom would know that you had the car, correct?
19 A. Yeah. I mean, yeah. Sometimes, or sometimes
20 she wouldn't know if she hadn't left her room.
21 Q. You -- if you had to put an estimate on it in
22 percentages, who used the car more, you or your mom?
23 A. My mom.
24 Q. Would it be 60/40?
25 A. It'd be 85/15.

1 Nestle's Quik and --
2 A. No, just things that were needed, yeah.
3 She'd never send me out. It would always be if I was
4 out.
5 Q. Okay. So you would be -- she'd know that you
6 had the car, and she'd call you to say --
7 A. Yeah.
8 Q. -- pick this up for me?
9 A. And hurry up.
10 Q. And hurry?
11 A. Yes, sir.
12 Q. Did you ever call your mom while you were
13 driving to check on your kids or ask your mom if you
14 needed to bring anything home?
15 A. Occasionally.
16 But what I had was a headset. I had ear
17 phones and a mic like this, and the phone would be in
18 the console.
19 Q. Okay. Do you recall were you -- I mean, we
20 talked about the car seat, and there was some kids'
21 toys, I think you said.
22 Did you have any personal belongings in the
23 car?
24 A. No.
25 Q. No clothes or anything?

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1 Q. Okay. Explain why you say that.
2 A. Because we were very cautious about me
3 driving.
4 Q. Did it make a difference if it was a weekday
5 or a weekend, whether she let you drive?
6 A. Yeah.
7 Q. And what -- what was the differential?
8 A. If I didn't have a reason to drive, I
9 couldn't drive.
10 Q. So if you weren't going to work or running an
11 errand for the family, you couldn't drive?
12 A. Yes, sir.
13 Q. Did -- was there any ever instances where you
14 were out running errands and she'd call you and say,
15 hey, can you pick up a gallon of milk from the grocery
16 store?
17 A. Oh, yeah, definitely.
18 Q. How often do you think that happened?
19 A. A lot.
20 Q. Okay.
21 A. Ho-Hos and Nesquik.
22 Q. That was her thing?
23 A. Yes, sir.
24 Q. Anything else you can remember where she'd
25 call you and say, hey, can you grab this, besides

1 A. I might have.
2 Q. CDs?
3 A. Yeah.
4 Q. Okay. So your CDs were in the car?
5 A. Yes, sir.
6 Q. Do you know what CDs you had in the car?
7 A. No, I don't remember.
8 Q. Do you know how many CDs you had?
9 A. A few. DVDs.
10 Q. What do you mean, "DVDs"?
11 A. I think there were two DVDs in the car upon
12 the accident.
13 Q. So a couple DVDs and maybe some CDs?
14 A. Yes.
15 Q. And was there a CD player that you could play
16 music out of?
17 A. Yeah, there was a CD console.
18 Q. And where were the DV -- there was a DVD
19 player, also?
20 A. No, sir.
21 Q. Why would the DVDs be in the car?
22 A. Somebody had lent them to me.
23 Q. Okay. So you had went somewhere and picked
24 them up and then had just left them in the car?
25 A. I think we had went somewhere, my family had

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1 went somewhere, and I took the DVDs.
 2 Q. When you say your family, you, your mom --
 3 A. All of us took it.
 4 MS. COMPTON: Do you want to take a break?
 5 Are you okay?
 6 THE WITNESS: Yeah, I'm fine. Do you guys
 7 think I should take a break?
 8 MS. COMPTON: I don't know. I'm just asking
 9 you.
 10 MR. MAZZEO: I have a question.
 11 MR. ESCHWEILER: Let's go off for a second.
 12 THE VIDEOGRAPHER: Off the video record at
 13 12:15.
 14 (Discussion off the record.)
 15 THE VIDEOGRAPHER: Back on the video record
 16 at 12:16.
 17 BY MR. ESCHWEILER:
 18 Q. When you took the car on January 2nd, 2011, I
 19 believe you said there was nobody else in the car,
 20 correct?
 21 A. No, sir.
 22 Q. Prior to taking the car that day, you had
 23 been making marijuana deliveries throughout the day?
 24 A. No, sir.
 25 Q. No?

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1 A. No.
 2 Q. I thought when we talked about what you had
 3 done that day, you had needed to make up the \$275; so
 4 you made 30 to 40 transactions during the day.
 5 A. Which I sold throughout the community.
 6 Q. Okay. So -- but that happened on the day of
 7 the accident, correct?
 8 A. Yes, sir.
 9 Q. Had you consumed any marijuana on the day of
 10 the accident?
 11 A. No, sir.
 12 Q. None?
 13 A. No, sir.
 14 Q. Had you consumed any other illegal drugs on
 15 the day of the accident?
 16 A. No, sir.
 17 Q. When was the last time you had consumed
 18 marijuana prior to January 2nd, 2011?
 19 A. Weeks.
 20 Q. Weeks?
 21 A. Yes, sir.
 22 Q. How often did you smoke marijuana prior to
 23 January 2nd, 2011?
 24 A. Often.
 25 Q. But not in the two to three weeks before the

1 accident?
 2 A. No, sir.
 3 Q. Well, why not?
 4 A. I was doing different drugs.
 5 Q. What were you doing?
 6 A. Xstasy.
 7 Q. How much xstasy were you doing?
 8 A. One or two pills.
 9 Q. A day?
 10 A. Yeah.
 11 Some days I wouldn't do them.
 12 Q. Did you do any xstasy on January 2nd, 2011?
 13 A. No, sir.
 14 Q. January 1st, 2011?
 15 A. No, sir.
 16 Q. How about New Year's Eve 2010?
 17 A. No, sir.
 18 Q. When was the last time prior to the accident
 19 that you took xstasy?
 20 A. It was like December 28th.
 21 Q. Did you have one or two pills?
 22 A. Two.
 23 Q. Was it at night?
 24 A. During the day, twilight.
 25 Q. Dinnertime?

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1 A. Yes, sir.
 2 Q. Other than weed and xstasy, what other
 3 illegal drugs did you do prior to the accident?
 4 A. Cocaine a couple weeks before.
 5 Q. How much cocaine did you ingest?
 6 A. I don't remember.
 7 Q. How often would you do cocaine?
 8 A. Occasionally.
 9 Q. A couple times a month?
 10 A. Yeah, a couple times a month.
 11 Q. And how often were you doing the xstasy?
 12 A. Often.
 13 Q. Four or five times a week?
 14 A. Say like three or four.
 15 Q. Any other drugs besides --
 16 A. No, sir, not at that time.
 17 Q. No meth at that point?
 18 A. No, sir.
 19 Q. Any prescription drugs?
 20 A. No, sir.
 21 Q. Tell me what happened that -- when you left
 22 the apartment that day to use your mom's car.
 23 A. So I got a call from Sheshe saying she wanted
 24 a substantial amount of marijuana and --
 25 Q. What's a substantial amount?

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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 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

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 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.

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1 Q. Just when you left?
 2 A. In the parking lot, yeah.
 3 Q. Well, when you left the apartment, were you
 4 wearing your glasses?
 5 A. Yes, sir.
 6 Q. So you had your glasses on while you were
 7 driving?
 8 A. Yes, sir.
 9 Q. Had your mom called at any point while you
 10 were at Sheshe's?
 11 A. No, sir.
 12 Q. And I think you said when you were pulling
 13 out of Sheshe's apartment building, which is Villa --
 14 A. Del Sol.
 15 Q. -- Del Sol, you saw a bus or a moving truck?
 16 What was it?
 17 A. A bus.
 18 Q. Like a MET bus?
 19 A. Like a CAT bus.
 20 Q. Okay.
 21 A. The older models.
 22 Q. Was it a one-story or a two-story?
 23 A. One-story.
 24 But it was like an extended cab.
 25 Q. And when -- when you looked to the left, did

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1 you see the white car, or did you just see the bus?
 2 A. I saw -- I saw the white car.
 3 Q. Where was the white car?
 4 A. Maybe like six, seven feet away from the bus
 5 in the second lane. The bus was in the first lane.
 6 Q. And was the white car ahead of the bus or
 7 behind the bus?
 8 A. Behind the bus.
 9 Q. So it was six or seven feet behind the bus?
 10 A. Yes, sir.
 11 Q. And how far away from the bus were you?
 12 A. I was relatively close. The bus had to pass
 13 me.
 14 Q. The bus wasn't stopped?
 15 A. No, sir. Getting ready to make a stop.
 16 Q. Well, was the stop before or after your
 17 driveway?
 18 A. After, like directly after.
 19 Q. So it would have had to cross your path and
 20 then stop?
 21 A. It would have crossed Villa Del Sol, turn
 22 into this lane, and then slow down to make its approach
 23 at the stop.
 24 Q. And when you're stopped waiting for the bus
 25 to clear, that's when you were on the phone?

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1 A. No. I was on the phone before I exited the
 2 apartments.
 3 Q. So you weren't on the phone at any time
 4 before the accident?
 5 A. Before -- right before the accident.
 6 Q. Okay. So like --
 7 A. Before I was getting ready to make a
 8 left-hand turn into oncoming traffic.
 9 Q. So you were -- you were stopped at the stop
 10 sign --
 11 A. Yes, sir.
 12 Q. -- getting ready to pull out until --
 13 A. Well, I was stopped at that -- yeah, the
 14 entrance of the apartments.
 15 Q. Villa Del Sol?
 16 A. Yes. Yes, sir.
 17 Q. Okay. So you were stopped there waiting to
 18 pull -- you're waiting for the bus to clear --
 19 A. Yes, sir.
 20 Q. -- and then you're going to pull out?
 21 A. And I put my nose out to signal to the
 22 traffic that I'm getting ready to make a left-hand
 23 turn. My turn signal was on, and the bus clears. I
 24 go and I clear the first lane. The woman speeds up and
 25 tried to rear [sic] out of it. We collide, and we

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1 both -- we both fishtailed.
 2 I spin out of control and end up in the
 3 middle lane, and she ends up in a different lane. I
 4 run over to her and ask her if she's okay. A patrol
 5 car was already at the scene a couple -- a couple
 6 apartments down.
 7 So the patrol car came and secured the scene
 8 and called the traffic cop to respond, and we had to
 9 wait in the car till the traffic cop came. Traffic cop
 10 said something to the woman and then said something to
 11 me, could smell the marijuana on my person because it
 12 was potent and a substantial amount, and asked me if I
 13 had been smoking.
 14 I said yes because I wanted to keep the weed
 15 and the money that I had, and I did not want him to
 16 find the weed. So I said yes. He pulled me out of the
 17 car to perform a sobriety test. I failed the sobriety
 18 test at the time due to being nervous at the time
 19 because I had marijuana on my person. I didn't want to
 20 get caught with it.
 21 And then they put me in cuffs and sat me down
 22 on the corner. I said do I have to go to jail. He
 23 said, yes, at this time you're being arrested for DUI,
 24 chemical solvent. And the woman driving the white car
 25 was like -- she's like why'd you do that, and I said

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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?

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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?

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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?

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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

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1 spun, correct?
 2 A. Yes, sir.
 3 Q. And you were -- you were in this -- in the
 4 middle lane?
 5 A. I landed in the middle lane, yes.
 6 Q. And she spun, and was she in oncoming
 7 traffic?
 8 A. Yes, sir.
 9 Q. Okay. So you go over to see if she's okay?
 10 A. Immediately.
 11 Q. Okay. And she said, yes, I'm okay; I'm --
 12 A. She said --
 13 Q. -- calling the police?
 14 A. She said I'm okay; I'm fine. Go back to your
 15 car and stay in your car until the police come.
 16 Q. Okay.
 17 A. I said you're calling the police. She said
 18 yes. I said, oh, and then handled my situation that
 19 was happening in the car.
 20 Q. Okay. So you --
 21 A. Marijuana and the scale and the money.
 22 Q. When you got back to the car, did you make
 23 any phone calls?
 24 A. I called the mother of my children to let her
 25 know that I was in an accident, upon which time she --

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1 I don't know what the situation was with my mother, but
 2 upon which time she called Sheshe and had everyone run
 3 out to make sure I was okay.
 4 Q. Okay. So Sheshe and whoever was at the
 5 apartment where you had just sold marijuana came to the
 6 accident scene?
 7 A. Yes, sir. It was right outside.
 8 Q. Did you have a conversation with Sheshe and
 9 the people?
 10 A. Yeah, I had a -- I had a conversation with
 11 the people that were out there.
 12 Sheshe wasn't out there, but the kids that
 13 were out there, because they asked me why I didn't run,
 14 and I had to explain that that was my mom's car, and
 15 I'm in better shape going to jail than going to home
 16 with a broken car.
 17 Q. Other than talking to my client immediately
 18 after the accident and then the people from Sheshe's
 19 apartment, did you talk to anybody else?
 20 A. Just the police officer.
 21 Q. And you said that when you talked to the
 22 police officer, you admitted that you smoked marijuana?
 23 A. He said, oh, God -- he's standing outside the
 24 car, and he said, oh, God, you smell like a Christmas
 25 tree. Have you been smoking? I said, yeah, yeah,

1 because I had the marijuana on my person, and I didn't
 2 want to be caught with that.
 3 Because I was already facing two possession
 4 charges. I already had two possession of marijuana
 5 charges, and in the state of Nevada, if you get caught
 6 with three possession of marijuana charges, you do a
 7 year in county, and that was not an option.
 8 Q. So your testimony today is that you lied to
 9 the cop in order to avoid jail?
 10 A. My testimony has remained the same the whole
 11 time.
 12 Q. Okay. And then the reason that you failed a
 13 sobriety test was not that you were impaired from
 14 marijuana but that you were nervous about taking the
 15 test?
 16 A. I was nervous about being that close to an
 17 officer with that much weed on me. I was nervous about
 18 my current situation.
 19 Q. So it wasn't -- it wasn't any impairment from
 20 any marijuana?
 21 A. No, sir.
 22 Q. Anyone besides what we've talked about, the
 23 police officer, my client with the two -- I think you
 24 had two conversations with my client, correct?
 25 A. Yeah.

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1 Q. Initially and then at some point she -- she
 2 was out of the car, as well?
 3 A. Yes. She was standing on the curb trying to
 4 figure out what was going on with me, looking around,
 5 trying to say things to my friends. My friends just
 6 went I don't know. They didn't -- they didn't speak to
 7 her. They said we're just out here to make sure he's
 8 okay.
 9 Q. Okay.
 10 A. And so she saw that I was placed under arrest
 11 and sitting on the curb, and she said why would you do
 12 that, and I said it's not what you think, and she
 13 said -- she kind of rolled her eyes and waived her hand
 14 at me.
 15 Q. Was she upset?
 16 A. She was crying.
 17 Q. Okay. Why did you --
 18 MR. MAZZEO: I'm sorry. She was what?
 19 THE WITNESS: Crying.
 20 MR. MAZZEO: Crying?
 21 THE WITNESS: Yes, sir.
 22 BY MR. ESCHWEILER:
 23 Q. Why didn't you call the police?
 24 A. Because she had already responded [sic] to
 25 the police, and the police were already at the

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1 location.
 2 Q. Well, what were the sobriety tests that they
 3 gave you or that the officer gave you?
 4 A. Take a few steps, stand on one foot, touch
 5 your nose. Repeat the same process with the opposite
 6 limbs.
 7 Q. That's it --
 8 A. Yes, sir.
 9 Q. -- those three?
 10 A. Yeah. Take a couple paces, stand on one
 11 foot, touch your nose, step down, take a few paces
 12 back, stand on one foot, touch your nose, follow my
 13 eyes -- follow my finger with your eyes.
 14 Q. Did the officer say which of the sobriety
 15 tests that you actually failed?
 16 A. All of them.
 17 Q. Okay.
 18 A. I received -- when we got to the jail --
 19 MR. MAZZEO: There's no question pending,
 20 objection.
 21 BY MR. ESCHWEILER:
 22 Q. Go ahead. What were you going to say?
 23 MR. STRASSBURG: What's the question?
 24 BY MR. ESCHWEILER:
 25 Q. All right. What were you going to say?

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1 MR. STRASSBURG: Go ahead.
 2 THE WITNESS: I received traffic violations
 3 at the scene. They recovered the marijuana on my
 4 person at the scene. The same cops that came to secure
 5 the scene that were already there were the transport
 6 cops.
 7 And when I went to the jail, they searched me
 8 in the jail, and they asked me if I was sure I didn't
 9 have any weed on me before I crossed the red line, and
 10 I said, yeah, man, I've got some weed on me, and they
 11 pulled it out.
 12 And the traffic cop came -- came out of the
 13 back making a statement and said where'd this come
 14 from. I said I had it on me the whole time. He said
 15 so you're not as stupid as your face. I said, no, sir.
 16 He said you know I have to charge you for this; so it
 17 was a traffic violation and then the possession charge.
 18 BY MR. ESCHWEILER:
 19 Q. Did -- when he administered the sobriety
 20 test, did you think that you had passed?
 21 A. I was trying to.
 22 Q. So you were giving it your best effort?
 23 A. At the time, yes, sir.
 24 Q. And, ultimately, so you got arrested for
 25 DUI --

1 A. Chemical solvent.
 2 Q. -- and then possession of weed?
 3 A. I got arrested at the scene for a DUI,
 4 chemical solvent, a bunch of traffic violations, and
 5 the possession charge was added once I was at the jail.
 6 Q. And what were the traffic violations?
 7 A. Failure to yield, driving without a license.
 8 I don't know.
 9 Q. Do you remember anything else?
 10 A. No, sir.
 11 MR. ESCHWEILER: Okay. Why don't we take a
 12 ten-minute break.
 13 THE VIDEOGRAPHER: Off the video record at
 14 12:37.
 15 (Recess taken from 12:37 p.m. to 1:05 p.m.)
 16 THE VIDEOGRAPHER: This is the beginning of
 17 Videotape No. 3 in the continued deposition of Jared
 18 Awerbach. Back on the video record at 1:05.
 19 BY MR. ESCHWEILER:
 20 Q. Mr. Awerbach, you understand you're still
 21 under oath?
 22 A. Yes, sir.
 23 Q. At the end of the last session, before we
 24 took a break, you were -- you were explaining the
 25 accident.

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1 A. Yes, sir.
 2 Q. And you said that when you were stopped at
 3 the driveway, that you saw the bus and you saw my
 4 client six or seven feet or perhaps up to two car
 5 lengths behind the bus; is that correct?
 6 A. Yes, sir.
 7 Q. If you saw her before pulling out, why didn't
 8 you just wait for her to clear the driveway?
 9 A. I wasn't -- I hadn't spoken correctly at the
 10 time. I saw her car lengths distance away. I
 11 thought it was -- we were talking about a different
 12 location.
 13 Q. Okay. So what -- do you want to revise your
 14 testimony?
 15 A. Yes, sir, I would like to do that.
 16 Q. Okay. And so when you saw my client when you
 17 were stopped at the driveway, how far behind the bus
 18 was she?
 19 A. Three or four car lengths away.
 20 Q. Okay. So three or four car lengths?
 21 A. Yes, sir.
 22 Q. And then you -- you edged out into the
 23 intersection.
 24 You waited for the bus to pass, correct?
 25 A. Yes, sir.

1 against you when -- when those issues came up?
 2 A. Quite a lot.
 3 Q. And what would she do?
 4 A. Call my probation officer.
 5 Q. Who was your probation officer?
 6 A. Scott Walton.
 7 Q. How long were you on probation?
 8 A. Two years.
 9 Q. Was your probation ever revoked?
 10 A. No, sir.
 11 Q. Did they drug test you?
 12 A. Yes, sir.
 13 I was in the drug court program as a
 14 juvenile.
 15 Q. Well, were you clean, or were you using
 16 synthetic urine?
 17 A. I was clean.
 18 Q. So you stayed clean for two years?
 19 A. I had quite a few relapses, and I failed out.
 20 I ended up serving time and then returned to the
 21 juvenile drug court program to complete the program, in
 22 which I completed it.
 23 Q. Why did you get transferred to Odyssey, then?
 24 A. Because I relapsed too many times.
 25 Q. So at one -- at some point you were kicked

1 out of the drug program?
 2 A. Yeah. Not kicked out. You go serve time,
 3 and you return back to --
 4 Q. Okay.
 5 A. That's how the juvenile --
 6 Q. So --
 7 A. -- drug court program worked.
 8 Q. And then when you returned back and relapsed
 9 again, that's when they sent you to Odyssey?
 10 A. No. I relapsed, sent me to Odyssey, came
 11 home, graduated the program.
 12 Q. Okay. Subsequent to the accident, we talked
 13 about -- I think it was March 2011 where you were
 14 raided.
 15 Other than that have you been arrested for
 16 felony possession of narcotics subsequent to that?
 17 A. I have a controlled substance charge. I was
 18 arrested and cited for possession of spice, and I have
 19 yet to follow up on that.
 20 Q. I apologize. What's spice?
 21 A. Spice is a product that they sell in smoke
 22 shops. It's an incense, and they have labeled it as a
 23 controlled substance.
 24 Q. Was this a felony?
 25 A. It's a felony conviction, yes. I'm not

1 convicted of it.
 2 Q. Where does it stand right now?
 3 A. Waiting on a court date.
 4 Q. So other than that -- other than that pending
 5 charge, do you have any other arrests subsequent to
 6 this accident?
 7 A. After the accident? Besides the raid in
 8 March, no.
 9 Q. I believe we talked -- we talked about the
 10 raid --
 11 A. Raid.
 12 Q. -- the domestic violence, and now the --
 13 A. No, sir.
 14 Q. That's it?
 15 Are you on -- you're not on parole or
 16 probation right now, correct?
 17 A. No, sir.
 18 Q. Do you have an attorney for the felony count
 19 on the spice?
 20 A. No, sir.
 21 Q. Have they actually filed charges against you?
 22 A. No, sir.
 23 MR. MAZZEO: Corey, can we turn off the AC,
 24 want to turn it down a little bit; do you mind?
 25 MR. ESCHWEILER: Sure.

1 THE VIDEOGRAPHER: Mic.
 2 MR. MAZZEO: Thanks.
 3 BY MR. ESCHWEILER:
 4 Q. Well, we've talked a little bit about your
 5 treatment and counseling before the accident. We've
 6 talked about the drug program, Odyssey.
 7 Was there any other facilities that you
 8 utilized prior to this accident for drug treatment or
 9 rehabilitation?
 10 A. No, sir.
 11 Q. And the drug court program and Odyssey, was
 12 your mom required to be involved in those programs?
 13 A. She was not required to be involved, but she
 14 chose to take an active position.
 15 Q. During any --
 16 MR. ESCHWEILER: Did I not get it?
 17 MR. MAZZEO: I think the fan was on. I think
 18 it's off now. I don't know.
 19 BY MR. ESCHWEILER:
 20 Q. Did she actually go to counseling sessions
 21 with you?
 22 A. Yes, sir.
 23 Q. In any of the times when your mom attended
 24 sessions or therapy with you, did you admit that you
 25 had been dealing drugs?

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1 A. No, sir.
 2 Q. Never admitted that --
 3 A. No, sir.
 4 Q. -- at counseling or therapy?
 5 A. No, sir. Not that I recollect.
 6 Q. And how long were you at Odyssey?
 7 A. Six months.
 8 Q. And you said that's in Salt Lake?
 9 A. Yes, sir.
 10 Q. Do you know what the time frame was when you
 11 were there, what year?
 12 A. I was sixteen. I think 2008.
 13 Q. 2009?
 14 A. 2008.
 15 Q. Okay. What kind of program was Odyssey?
 16 A. A therapeutic group home.
 17 Q. Were you also going to class and school
 18 there?
 19 A. Yeah. It's -- they have school inside the
 20 facility.
 21 Q. Did your mom come visit you there?
 22 A. Yes, sir.
 23 Q. How many times in the six months?
 24 A. Three or four. And I would receive weekend
 25 visits, and we'd go to a hotel in Salt Lake because we

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1 weren't -- we didn't live there. Excuse me.
 2 Q. Subsequent to the accident, have you had any
 3 rehabilitation or drug counseling?
 4 A. I'm unaware of what "subsequent" means in
 5 this sentence.
 6 Q. After the accident.
 7 A. Yes, sir. I just received treatment from
 8 February 10th to March 18th.
 9 Q. And that was related to your use of drugs?
 10 A. Yes, sir.
 11 Q. And that was when you were at Rawson?
 12 A. Yes, sir.
 13 Q. Did you receive any injuries from the
 14 accident?
 15 A. Not that I can remember.
 16 Q. You don't remember any treatment that you
 17 received?
 18 A. No. We saw a chiropractor afterwards.
 19 Q. How many times?
 20 A. Two, three times a week.
 21 Q. For how long?
 22 A. A few months.
 23 But a chiropractor, I have been seeing a
 24 chiropractor since the assault.
 25 Q. The one where you had the eye injury?

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1 A. Yes, sir.
 2 Q. How often were you seeing the chiropractor
 3 after the eye injury?
 4 A. Two, three times week. Sometimes we'd stop,
 5 we'd go to another chiropractor, and we'd pick up
 6 somewhere else.
 7 Q. After the eye injury, why were you seeing the
 8 chiropractor?
 9 A. Due to the damage that might have been
 10 caused, my spine, my equilibrium, from the fall, damage
 11 that was caused at the actual assault.
 12 Q. So you had problems with your equilibrium, as
 13 well, after the assault in November of 2005?
 14 A. Yes, sir, as my body was beginning to
 15 readjust to accommodate the injuries.
 16 Q. Were you -- did this accident aggravate those
 17 injuries?
 18 A. No, sir.
 19 Q. Why were you seeing the chiropractor after
 20 this accident, then?
 21 A. Because the chiropractor was part of our
 22 lifestyle at the time.
 23 Q. So you -- you didn't go to see him because of
 24 anything related to the accident; it was just the
 25 equilibrium problems and the previous spine problems?

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1 A. No, sir.
 2 Q. Tell me. I'm confused, then.
 3 A. No, sir, the chiropractor visits were not
 4 related to the injury.
 5 Q. Okay.
 6 A. Or the chiropractor visits were not related
 7 to the accident. Excuse me.
 8 Q. What's the name of your chiropractor?
 9 A. I was at Active Life.
 10 Q. Who was the chiro?
 11 A. I don't remember his name.
 12 Q. Was there anybody else that you saw over
 13 there, maybe a physician's assistant?
 14 A. No.
 15 Q. What location?
 16 A. Simmons and Craig. Simmons and La Madre, I
 17 think the street is called.
 18 Q. Was your mom treating there, too?
 19 A. Yes, sir.
 20 Q. So you would have been treating there since
 21 2010?
 22 A. Yes, sir.
 23 Q. Are you still treating there?
 24 A. No, sir.
 25 Q. When was the last time you saw anybody at

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1 Active Life Chiro?
 2 A. 2010.
 3 Q. Did you ever get referred to a specialist for
 4 the equilibrium or spine problems?
 5 A. Just the retina specialist.
 6 And I had -- I would wear protective lenses
 7 when I played sports.
 8 Q. And you said that the car at the accident
 9 scene was undriveable, correct?
 10 A. Totaled.
 11 Q. Ultimately, did they total it out?
 12 A. Yes, sir.
 13 Q. Do you know what the amount of damage was?
 14 A. No, sir.
 15 Q. In social media do you go by the name Young
 16 Glasses?
 17 A. Yes, sir.
 18 Q. Well, what's the significance of that?
 19 A. It's my nickname.
 20 Q. Why?
 21 A. That's the name I was given at 1827 West
 22 Gowan.
 23 Q. Why?
 24 A. That's my name.
 25 Q. But why were you given the name?

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1 A. Because I wear glasses.
 2 Q. Who gave it to you?
 3 A. Some of my friends. That's --
 4 Q. That --
 5 A. That's actually my alias.
 6 Q. And I noticed on -- I don't know if it's
 7 Facebook or what, but I noticed that one of your
 8 favorite books is the Bible.
 9 A. Yes, sir.
 10 Q. Do you have any favorite verses or passages?
 11 A. I like Psalms 51. I'm fond of the Song of
 12 Solomon, as well.
 13 Q. Of the what?
 14 A. Song of Solomon. I'm an Old Testament kind
 15 of guy.
 16 Q. Why's that?
 17 A. The Old Testament is intense.
 18 Q. What do you mean, "intense"?
 19 A. The story of the Jews, the prophets,
 20 how it's -- the story of how Jesus came to be.
 21 Q. Why does that interest you?
 22 A. Because I grew up with -- I grew up in the
 23 church with the knowledge of Jesus and Jesus' stories
 24 and the disciples. I grew up with that. I had
 25 never -- I had never read the Old Testament, and our

1 laws are from the Old Testament. Basically, the
 2 knowledge of the origin of the Bible is in the Old
 3 Testament.
 4 Q. And what -- what's -- what makes Song of
 5 Solomon your -- one of your favorite books?
 6 A. It's sweet.
 7 Q. What's that?
 8 A. It's sweet.
 9 Q. Why is that? Why is --
 10 A. It's a poem.
 11 Q. That's it?
 12 A. It's the song of songs.
 13 Q. We're going to go through some documents.
 14 I'll try to make this as quick as possible.
 15 MR. ESCHWEILER: Let's mark this as 1.
 16 (Exhibit No. 1 was marked for
 17 identification.)
 18 BY MR. ESCHWEILER:
 19 Q. Mr. Awerbach, I'm showing you what's been
 20 marked as Exhibit 1 to your deposition.
 21 If you could, turn to the page labeled
 22 GJL249. It's four pages in.
 23 A. (Witness complied.)
 24 Q. The number's on the bottom right corner.
 25 A. Got it.

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1 Q. This is a State of Nevada Traffic Accident
 2 Report related to this accident.
 3 A. Yes, sir.
 4 Q. Have you seen this before?
 5 A. No, sir.
 6 Q. I'd like you to take a look at the
 7 description of the accident. It says Vehicle 2 was
 8 traveling southbound Rainbow Boulevard in the left of
 9 two travel lanes approaching Peak Drive. Vehicle 1 was
 10 traveling eastbound in a private drive north of Peak
 11 Drive approaching Rainbow Boulevard.
 12 Vehicle 1 stated that he thought that Rainbow
 13 Boulevard was clear of traffic. Vehicle 1 then
 14 traveled onto Rainbow Boulevard into the path of
 15 Vehicle 2 causing Vehicle 1 front to hit Vehicle 2
 16 right.
 17 Did I read that accurately?
 18 A. Yes, sir.
 19 Q. Do you -- do you disagree with that rendition
 20 of -- from the police officer on how this accident
 21 happened?
 22 MR. MAZZEO: Objection, the document speaks
 23 for itself.
 24 THE WITNESS: She was already on Rainbow.
 25 ///

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1 BY MR. ESCHWEILER:
 2 Q. So you disagree with this?
 3 MR. MAZZEO: I have one other objection. Can
 4 we establish what V1 and V2 is?
 5 MR. ESCHWEILER: Sure.
 6 BY MR. ESCHWEILER:
 7 Q. Do you understand who Vehicle 1 and Vehicle 2
 8 is?
 9 A. Yes, sir.
 10 Q. Pardon?
 11 A. Yes, sir.
 12 Q. Okay.
 13 A. I believe Vehicle 2 was already on Rainbow.
 14 Q. Okay. And doesn't it say Vehicle 2 was
 15 traveling southbound on Rainbow in the left of two
 16 travel lanes?
 17 A. Oh, yes, sir. I confused Vehicle 1 with
 18 Vehicle 2.
 19 Q. So --
 20 A. I apologize.
 21 Q. -- do you have any disagreement with this
 22 Traffic Accident Report?
 23 MR. STRASSBURG: Object to the form,
 24 foundation.
 25 THE WITNESS: No, sir.

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1 BY MR. ESCHWEILER:
 2 Q. And in the -- in the lower right, there's a
 3 box that says failed to yield right-of-way; do you see
 4 that?
 5 A. Yes, sir.
 6 Q. Would you -- do you agree that it was your
 7 obligation to yield the right-of-way to my client?
 8 A. Yes, sir. I felt that I yielded to the bus
 9 at the time.
 10 Q. Okay. If we move over to GJL250, I'm looking
 11 at the box down -- it's the bottom right, where he has
 12 drugs marked. There's an X, and then method of
 13 determination, it says driver admission; do you see
 14 that?
 15 A. Yes, sir.
 16 Q. And then this is consistent with -- with your
 17 testimony today that you admitted that you smoked
 18 marijuana at the scene of the accident, correct?
 19 A. Yes, sir. That is what I had said to the
 20 police officer.
 21 MR. MAZZEO: Well, actually, he admitted at
 22 the scene of the accident that he had smoked marijuana,
 23 not that he had smoked it at the scene of the accident.
 24 THE WITNESS: Yes, sir.
 25 ///

1 BY MR. ESCHWEILER:
 2 Q. If you go to the last page of this exhibit,
 3 GJL255, I'm looking at the inventory of personal
 4 property. We -- over to the right, it says there was
 5 four tapes or CDs, and we had already discussed that
 6 you had a couple CDs and maybe a couple DVDs,
 7 correct --
 8 A. Yes, sir.
 9 Q. -- in the car; so those were yours?
 10 Were the two black phone chargers yours, as
 11 well?
 12 A. Yes, sir.
 13 Q. What about the gray phone charger?
 14 A. Yes, sir.
 15 Q. The black hoodie?
 16 A. Yes, sir.
 17 Q. I assume the car seat was for Khaliyah?
 18 A. Yes, sir.
 19 Q. Sketch book for Khaliyah?
 20 A. Yes, sir.
 21 Q. The menorah box, who was that for?
 22 A. My family is Jewish.
 23 Q. Okay. So was that yours? Was that -- whose
 24 was that?
 25 A. Our family's.

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1 Q. Okay. Brown teddy bear, Khaliyah?
 2 A. Yes, sir.
 3 Q. And miscellaneous clothing items, were those
 4 yours?
 5 A. They probably belonged to all of us.
 6 Q. Okay. And then underneath it says additional
 7 remarks, vehicle damage. Vehicle involved in wreck,
 8 extensive damage to front of vehicle.
 9 Did I read that correct?
 10 A. Yes, sir.
 11 Q. Was that your -- what you witnessed, as well,
 12 at the scene of the accident?
 13 A. Yes, sir.
 14 MR. ESCHWEILER: We'll mark this as 2.
 15 (Exhibit No. 2 was marked for
 16 identification.)
 17 BY MR. ESCHWEILER:
 18 Q. Mr. Awerbach, I'm showing you what's been
 19 marked as Exhibit 2 to your deposition. This is a
 20 printout from the State of Nevada Department of Motor
 21 Vehicle Central Services, Records Division. I want you
 22 to look at the Roman Numeral I where it says license
 23 information.
 24 A. Yes, sir.
 25 Q. Do you -- do you see that -- where it says

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

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

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

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

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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 & 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

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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

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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.

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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.)

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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

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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

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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

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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.

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1 have the right-of-way --

2 Q. Okay.

3 A. -- because their traffic is flowing.

4 Q. And you -- going back to my original
5 question, from the point where you're standing a
6 hundred feet from where Mr. Strassburg took the
7 picture, what's your estimate of -- your best estimate
8 of how long it would take for a car traveling 35 miles
9 an hour to clear Mr. Strassburg?

10 MR. MAZZEO: Objection, foundation, calls for
11 expert opinion.

12 BY MR. ESCHWEILER:

13 Q. Go ahead.

14 MR. STRASSBURG: Objection, contrary to fact.

15 Go ahead.

16 THE WITNESS: I couldn't give you an estimate
17 of that nature.

18 BY MR. ESCHWEILER:

19 Q. Do you think it's more than five seconds?

20 MR. STRASSBURG: Object to the form. He
21 already answered that.

22 THE WITNESS: I can't give you an estimate of
23 that question.

24 Like I said previously, I was expecting her
25 to slow down and let me have the turn and -- opposed to

1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

18 DECLARATION OF DEPONENT

19 I, JARED EMMANUEL AWERBACH, deponent herein,
20 do hereby certify and declare under penalty of perjury
21 the within and foregoing transcription to be my
22 deposition in said action; that I have read, corrected
23 and do hereby affix my signature to said deposition.
24

SIGNATURE _____ DATE: _____

25 JARED EMMANUEL AWERBACH

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1 her acceleration, but, realistically, I can't give
2 you an estimate. I can't --

3 Q. Okay.

4 A. -- give you an answer for that question.

5 MR. ESCHWEILER: I don't have anything
6 further.

7 MR. MAZZEO: Nothing further.

8 MR. STRASSBURG: Read and sign. And you're
9 done.

10 THE VIDEOGRAPHER: Off the video record at
11 3:38.

12 (Whereupon, the deposition was concluded at
13 3:38 p.m. this date.)

14 * * * * *

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

) ss:

3 COUNTY OF CLARK)

4 I, Peggy S. Elias, a Certified Court Reporter
5 licensed by the State of Nevada, do hereby certify:
6 That I reported the deposition of JARED EMMANUEL
7 AWERBACH, on Thursday, March 27, 2014, at 10:08 a.m.

8 That prior to being deposed, the witness was
9 duly sworn by me to testify to the truth. That I
10 thereafter transcribed my said stenographic notes via
11 computer-aided transcription into written form, and
12 that the typewritten transcript is a complete, true and
13 accurate transcription of my said stenographic notes.
14 That review of the transcript was requested.

15 I further certify that I am not a relative,
16 employee or independent contractor of counsel or of any
17 of the parties involved in the proceeding; nor a person
18 financially interested in the proceeding; nor do I have
19 any other relationship that may reasonably cause my
20 impartiality to be questioned.

21 IN WITNESS WHEREOF, I have set my hand in my
22 office in the County of Clark, State of Nevada, this
23 6th day of April, 2014.
24

25 PEGGY S. ELIAS, RPR, CCR NO. 274

EXHIBIT 1-B

EXHIBIT 1-B

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5 Nevada Bar No. 9690
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15 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
16 CORPORATIONS I - X, inclusive,
17 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,

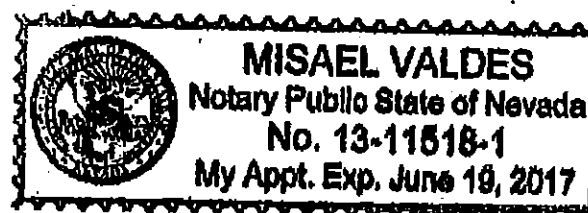


EXHIBIT 1-C

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

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

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1 So you answer me if I say how can I not
2 fall back into my depression? How can I stay
3 fucking sane when my mood swings change from one
4 pill to the next and, yes, I stopped taking that
5 shit because I'm tired of drowning my sorrows in
6 medication, that's only making me numb for the
7 moment.

8 And every morning I wake up and it's
9 still the same shit, the same pain, the same
10 problems and the same -- the same guilt that I
11 feel because I'm not the same person to my girls.

12 I don't think I can say anymore.

13 Q. I'm certainly sorry to hear all that
14 and all the ways it affected you. It's important
15 for us to know but it doesn't make it any easier
16 to have to ask those kind of hard questions.

17 I'd ask you if you need to take a break
18 but I actually don't have any further questions
19 for you.

20 I have kept you long enough today that
21 counsel hasn't had a chance to ask you anything
22 so I think we'll see each other again in the
23 future but I don't have any further questions for
24 you today.

25 As I mentioned at the beginning of our

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1 deposition, there will be a booklet that is typed
2 up and you'll have the opportunity to review that
3 and ensure that all the answers you gave were
4 accurate and were transcribed accurately unless
5 you waive the review of your transcript.

6 Do you know whether you would like to
7 review your testimony?

8 MR. ESCHWEILER: We'll review.

9 MS. McLEOD: We are off the record.

10 MR. PITEGOFF: Before we go off the
11 record we are just going to try to reset the
12 deposition to take place as soon as I get my
13 calendar and I'll give you guys a call.

14 MR. ESCHWEILER: Sure.

15 MR. PITEGOFF: All right.

16 MR. ESCHWEILER: Thank you.

17 THE COURT REPORTER: Who would like a
18 copy?

19 MR. ESCHWEILER: I would.

20 (Thereupon the deposition was
21 recessed at 5:10 p.m.)
22 * * * *
23
24
25

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1 CERTIFICATE OF DEPONENT
2 PAGE LINE CHANGE REASON
3
4
5
6
7
8
9
10
11

12 I, Emilia Garcia, deponent herein,
13 under penalty of perjury do hereby certify and
14 declare the within and foregoing transcription to
15 be my deposition in said action; that I have
16 read, corrected and do hereby affix my signature
17 to said deposition.

18 _____
19 Emilia Garcia, Deponent
20
21
22
23
24
25

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1 CERTIFICATE OF REPORTER
2 STATE OF NEVADA)
3 SS:
4 COUNTY OF CLARK)
5 I, Katherine M. Silva, a certified court
6 reporter, Clark County, State of Nevada, do
7 hereby certify: That I reported the taking of the
8 deposition of the witness, Emilia Garcia,
9 commencing on Wednesday, July 10, 2013, at 2:09
10 o'clock p.m.

11 That prior to being examined the witness was
12 by me duly sworn to testify to the truth. That I
13 thereafter transcribed my said shorthand notes into
14 typewriting and that the typewritten transcript
15 of said deposition is a complete, true and
16 accurate transcription of said shorthand notes.

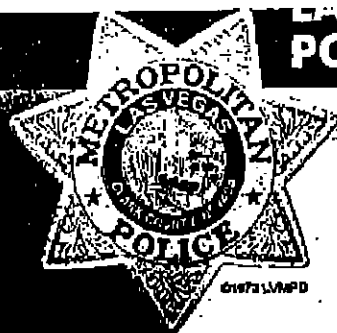
17 I further certify that I am not a relative
18 or employee of an attorney or counsel of any of
19 the parties, nor a relative or employee of an
20 attorney or counsel involved in said action, nor
21 a person financially interested in the action.

22 IN WITNESS WHEREOF, I have hereunto set my
23 hand in my office in the County of Clark, State of
24 Nevada, this 17th day of July, 2013.
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.

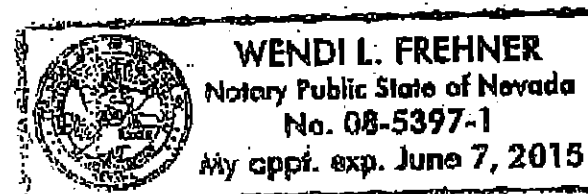
That the Las Vegas Metropolitan Police Department has redacted privileged private personal information in which a reasonable person would have a legitimate expectation of privacy. Therefore, the Las Vegas Metropolitan Police Department objects to the subpoena on the foregoing grounds pursuant to NRCP 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 22nd day of May, 2012, in the
County of Clark, State of Nevada by Susana S. McCurdy

Wendi L. Frehner
NOTARY PUBLIC



RECEIVED

MAY 10 2012

LVMPD RECORDS

RECEIVED
LVMPD
PROPERTY SECTION
2012 MAY 10 P 1:36

1 **SUBP**

2 Corey M. Eschweiler, Esq.
3 Nevada Bar No. 6635
4 Adam D. Smith, Esq.
5 Nevada Bar No. 9690
6 GLEN J. LERNER & ASSOCIATES
7 4795 South Durango Drive
8 Las Vegas, Nevada 89147
9 Telephone: (702) 877-1500
10 Facsimile: (702) 933-7043
11 E-mail: ceschweiler@glenlerner.com
12 asmith@glenlerner.com
13 Attorneys for Plaintiff

8 DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 EMILIA GARCIA, individually,

11 Plaintiff,

12 v.

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

) SUBPOENA DUCES TECUM
(RECORDS ONLY)

17
18 **THE STATE OF NEVADA SENDS GREETINGS TO:**

19 Custodian of Records
20 Las Vegas Metropolitan Police Department – Records Bureau
21 400 S. Martin Luther King Blvd., Building C
Las Vegas, NV 89106

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

26
27 **I. ITEMS TO BE PRODUCED**
28

1. A copy of any and all records regarding DUI investigation, DUI chemical testing and 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.

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

Please see Exhibit "A" attached hereto for information.

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

GLEN J. LERNER & ASSOCIATES

Corey M. Eschweiler, Esq.
Nevada Bar No. 6635
Adam D. Smith, Esq.
Nevada Bar No. 9690
4795 South Durango Drive
Las Vegas, Nevada 89147
(702) 877-1500
Attorneys for Plaintiffs

Event Number: 110102-3282		STATE OF NEVADA				Ident Number: LVMPD-110102-3282	
Code Revision:		1. TRAFFIC ACCIDENT REPORT				<input checked="" type="checkbox"/> Property <input type="checkbox"/> Injury <input type="checkbox"/> Fatal	
		SCENE INFORMATION SHEET Revised: 5/21/2003					
<input type="checkbox"/> Preliminary Report <input type="checkbox"/> Resubmission <input type="checkbox"/> Emergency <input type="checkbox"/> Office Report <input checked="" type="checkbox"/> Initial Report <input type="checkbox"/> Supplement Report		<input type="checkbox"/> Hit and Run <input type="checkbox"/> Private Property		Agency Name: S VEGAS METROPOLITAN PD			
Collision Date:	Time:	Day:	Beat/Sector	County	City	Surface	Intersection
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
Mile Marker	# Vehicles	# Non Motorists	# Occupants	# Fatalities	# Injured	# Restrained	Paddle Markers
	2	1	2	0	0	0	<input checked="" type="checkbox"/> None <input type="checkbox"/> Left Side <input type="checkbox"/> Right Side <input type="checkbox"/> Both Sides <input type="checkbox"/> Unknown
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	
<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 checked="" type="checkbox"/> Dry <input type="checkbox"/> Slush <input type="checkbox"/> Icy <input type="checkbox"/> Standing Water <input type="checkbox"/> Wet <input type="checkbox"/> Moving Water <input type="checkbox"/> Snow <input type="checkbox"/> Other <input type="checkbox"/> Sand/Mud/Oil/Dirt/Gravel		Main Road Cross Road <input type="checkbox"/> One <input type="checkbox"/> One <input type="checkbox"/> Two <input type="checkbox"/> Two <input type="checkbox"/> Three <input type="checkbox"/> Three <input checked="" type="checkbox"/> Four <input type="checkbox"/> Four <input type="checkbox"/> Five <input type="checkbox"/> Five <input type="checkbox"/> > 5 <input type="checkbox"/> > 5		Travel Lane: 12 Ft. Storage/Turn Lane: 0 Ft. Median: 0 Ft. Paved Shoulder: 0 Ft. Inside, 0 Ft. Outside	
Roadway Grade		Relative To:		Weather Conditions <input type="checkbox"/> Unknown			
<input type="checkbox"/> Not Determined <input checked="" type="checkbox"/> Relatively Level Roadway <input type="checkbox"/> (+) Up Slope <input type="checkbox"/> (-) Down Slope		Grade: %		<input checked="" type="checkbox"/> Clear <input type="checkbox"/> Fog, Smog, Smoke, Ash <input type="checkbox"/> Cloudy <input type="checkbox"/> Severe Crosswinds <input type="checkbox"/> Snow <input type="checkbox"/> Sleet/Hail <input type="checkbox"/> Rain <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Off Road <input type="checkbox"/> Blowing Sand, Dirt, Soil, Snow			
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			
Light Conditions <input type="checkbox"/> Unknown		Vehicle Collision Type <input type="checkbox"/> Unknown		Location of First Event			
<input type="checkbox"/> Dusk <input type="checkbox"/> Dark-No Roadway Lighting <input type="checkbox"/> Dawn <input type="checkbox"/> Dark-Spot Roadway Lighting <input type="checkbox"/> Daylight <input checked="" type="checkbox"/> Dark-Continuous Roadway Lighting <input type="checkbox"/> Other <input type="checkbox"/> Dark-Unknown Roadway Lighting		<input type="checkbox"/> Head On <input type="checkbox"/> Rear to Rear <input type="checkbox"/> Rear End <input type="checkbox"/> Sideswipe, Meeting <input type="checkbox"/> Backing <input type="checkbox"/> Sideswipe, Overtaking <input checked="" type="checkbox"/> Angle <input type="checkbox"/> Non-Collision		<input checked="" type="checkbox"/> Travel Lane 1 <input type="checkbox"/> Turn Lane <input type="checkbox"/> Gore <input type="checkbox"/> Median <input type="checkbox"/> Inside Shoulder <input type="checkbox"/> Outside Shoulder <input type="checkbox"/> Ramp// <input type="checkbox"/> 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		First Harmful Event			
<input checked="" type="checkbox"/> None <input type="checkbox"/> Road Obstruction <input type="checkbox"/> Inactive Work Zone <input type="checkbox"/> Weather <input type="checkbox"/> Worn Traffic Surface <input type="checkbox"/> Animal in Roadway <input type="checkbox"/> Debris <input type="checkbox"/> Wet, Icy, Snow, Slush <input type="checkbox"/> Unknown <input type="checkbox"/> Glare <input type="checkbox"/> Ruts, Holes, Bumps <input type="checkbox"/> Other Environmental <input type="checkbox"/> Shoulders <input type="checkbox"/> Active Work Zone <input type="checkbox"/> Other Highway		Describe:		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.			
Code # 214		Description: 214 MOTOR VEHICLE IN TRANSPORT		Describe Other Entries			
Collision With: 0				Director, Police Records Bureau Records Custodian			
Description of Accident/Narrative							
V2 WAS TRAVELING S/B RAINBOW BLVD IN THE LEFT OF TWO TRAVEL LANES APPROACHING PEAK DR. V1 WAS TRAVELING E/B IN A PRIVATE DRIVE NORTH OF PEAK DR APPROACHING RAINBOW BLVD. V1 STATED THAT HE THOUGHT THAT RAINBOW BLVD WAS CLEAR OF TRAFFIC. V1 THEN TRAVELED ONTO RAINBOW BLVD INTO THE PATH OF V2 CAUSING V1 FRONT TO HIT V2 RIGHT. 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: U8801F Date: 5/22/12 Las Vegas Metro Police Dept.							
Investigation Complete		Photos Taken		Scene Diagram		Statements	
<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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Investigator		ID Number		Date		Reviewed By	
D. FIGUEROA		9693		1/2/2011		6796 ROBERT GIBBS	
Date Notified		Time Notified		Arrival Time		Elapsed Time	
1/2/2011		1759		1812		0013	
Date Reviewed		Page					
1/9/2011		1 of 3					
Event Number: 110102-3282		STATE OF NEVADA				Accident Number: LVMPD-110102-3282	
At Fault <input type="checkbox"/> Vehicle # 1		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		(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 NF O F NF O	

Event Number: 110102-3282		STATE OF NEVADA TRAFFIC ACCIDENT REPORT VEHICLE INFORMATION SHEET Revised 5/21/2003		Accident Number: LVMPD-110102-3282	
At Fault <input type="checkbox"/>	# Occupants 1			Agency Name: S VEGAS METROPOLITAN PD	
Vehicle # 2					
Vehicle Factors: <input type="checkbox"/> Unknown		Driver Factors: Unknown <input type="checkbox"/>		Traffic Control <input type="checkbox"/> Unknown (F=Functioning NF=Not Functioning O=Obstructed)	
<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	F N F O

<input type="checkbox"/> Disregard Control Device		<input type="checkbox"/> Hit and Run		<input type="checkbox"/> Had Been Drinking		<input checked="" type="checkbox"/> Speed 7		<input type="checkbox"/> Stop Sign	
<input type="checkbox"/> Too Fast for Conditions		<input type="checkbox"/> Road Defect		<input 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. Gates	
<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:				Highway/Street Name:				Travel Lane# 1	
<input type="checkbox"/> North <input checked="" type="checkbox"/> South <input type="checkbox"/> East <input type="checkbox"/> West				RAINBOW BLVD					
<input type="checkbox"/> CDL <input type="checkbox"/> License Valid		Compliance <input type="checkbox"/> Restrict <input type="checkbox"/> Endorse		OLN:2600352872		State: <input checked="" type="checkbox"/> NV		License Status: 0	
Endorsements		Restrictions		Speed Estimate:		From:		To:	
A								Limit:35	
<input checked="" type="checkbox"/> Driver		Last Name: GARCIA		First Name: EMILIA		Middle: AURORA		Suffix:	
DOB: 1/14/1979		<input type="checkbox"/> M <input checked="" type="checkbox"/> F <input type="checkbox"/> Unk:							
Street Address: 3189 N MICHAEL WAY APT D				Transported To:		1		Person Type	
						7		Occupant Restraints	
City: LAS VEGAS				State: <input checked="" type="checkbox"/> NV		Zip: 89108		Injury Severity	
				By: <input type="checkbox"/> EMS <input checked="" type="checkbox"/> Not Trans.		N		Airbags	
				<input type="checkbox"/> Unknown <input type="checkbox"/> Police		2		4	
				<input type="checkbox"/> Other		0		0	
Last Name:				First Name:		Middle:		Suffix:	
Street Address:				Transported To:				DOB:	
								<input type="checkbox"/> M <input checked="" type="checkbox"/> F <input type="checkbox"/> Unk:	
City:				State: <input type="checkbox"/> NV		Zip:		Person Type	
				By: <input type="checkbox"/> EMS <input type="checkbox"/> Police <input type="checkbox"/> Other				Occupant Restraints	
				<input type="checkbox"/> Unknown <input type="checkbox"/> Not Trans.				Seating Position	
								Injury Severity	
								Injury Location	
								Airbags	
								Airbag Switch	
								Ejected	
								Trapped	
Veh. Yr.: 2001		Make: HYUN		Model: SANTA FE GLS		Type: LL - SUV		Plate/Permit Number: 684VFS	
State: NV		Exp.: 04/11/2011		Color: WHITE		VIN: KM8SC83D81U053810			
Registered Owner Name: (Same as)				Insured/Company: FARMERS				Policy Number: 185582528	
LAS VEGAS NV 89108-4115 EMILIA AURORA				Effective: 8/31/2010					
R.O. Address: 3189 N MICHAEL WAY APT D LAS VEGAS NV 89108				Company Address: 249-3305				To: 2/28/2011	
<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	
				<input type="checkbox"/> None <input type="checkbox"/> Unk.				Description	
				<input type="checkbox"/> Minor <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Major <input type="checkbox"/> Total				Collision with	
								Fixed Object	
								Most Harmful Event	
		<input type="checkbox"/> Front		<input type="checkbox"/> Right Front		1st 214		MOTOR VEHICLE IN TRANSPORT	
		<input checked="" type="checkbox"/> Right Side		<input type="checkbox"/> Right Rear		2nd 214		MOTOR VEHICLE IN TRANSPORT	
		<input type="checkbox"/> Left Side		<input type="checkbox"/> Left Rear		3rd			
		<input type="checkbox"/> Rear		<input type="checkbox"/> Top		4th			
		<input type="checkbox"/> Under Carriage		<input type="checkbox"/> Other		5th			
		<input type="checkbox"/> Unknown		<input type="checkbox"/> Unknown					
<input type="checkbox"/> Override		Vehicle Towed: <input checked="" type="checkbox"/>		By: EWING BROTHERS TOWING					
<input type="checkbox"/> Under Ride		Removed To: TOW YARD							
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"/> Bus, 9-15 Occupants				<input type="checkbox"/> Tractor Only	
<input type="checkbox"/> Backing				<input type="checkbox"/> Bus, >15 Occupants				<input type="checkbox"/> Tractor/Trailer	
<input type="checkbox"/> Left Turn				<input type="checkbox"/> Single 2 Axle & 6 Tire				<input type="checkbox"/> Tractor/Doubles	
<input type="checkbox"/> Right Turn				<input type="checkbox"/> Single >- 3 Axle				<input type="checkbox"/> Tractor/Triples	
<input type="checkbox"/> Wrong Way				<input type="checkbox"/> Any 4 Tire Vehicle				<input type="checkbox"/> Tractor/Semi-Trailer	
<input type="checkbox"/> Other								<input type="checkbox"/> Pass. Veh. (Haz-Mat)	
<input type="checkbox"/> Leaving Parked								<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"/> Haz-Mat	
				<input type="checkbox"/> <= 10,000 Lbs. <input type="checkbox"/> 10,001-26,000 Lbs. <input type="checkbox"/> >26,000 Lbs.				<input type="checkbox"/> Released	
Carrier Street Address:				City:				State:	
								Zip:	
Cargo Body Type <input type="checkbox"/> Unknown				Placard #:				NAS Safety Report #	
<input type="checkbox"/> Pole				<input type="checkbox"/> ICC MC					
<input type="checkbox"/> Van/Box				<input type="checkbox"/> Single State					
<input type="checkbox"/> Grain, Gravel Chips				<input type="checkbox"/> USDOT					
<input type="checkbox"/> Tank				<input type="checkbox"/> None					
<input type="checkbox"/> Concrete Mixer				<input type="checkbox"/> Canada					
<input type="checkbox"/> Bus, 9-15 Occupants				<input type="checkbox"/> Mexico					
<input type="checkbox"/> Flatbed									
<input type="checkbox"/> Auto Carrier									
<input type="checkbox"/> Bus, >15 Occupants									
<input type="checkbox"/> Dump									
<input type="checkbox"/> Garbage/Refuse									
<input type="checkbox"/> Other									
<input type="checkbox"/> Not Applicable									
<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"/> Pending		NRS SUSPENDED LICENSE		0104		E10020798		<input type="checkbox"/> Alcohol	
1)		PLATES/REGISTRATION						<input type="checkbox"/> Unknown	
								<input type="checkbox"/> Drugs	
<input type="checkbox"/> NRS <input type="checkbox"/> CFR <input type="checkbox"/> CC/MC		Violation		NOC		Citation Number		Method of Determination <input type="checkbox"/> Driver Admission	
<input type="checkbox"/> Pending								<input type="checkbox"/> Field Sobriety Test	
2)								<input type="checkbox"/> Evidentiary Breath	
								<input type="checkbox"/> Urine Test	
								Test Results:	
Investigator:		ID Number:		Date:		Reviewed By:		Date Reviewed:	
D. FIGUEROA		9693		1/2/2011		6796 ROBERT GIBBS		1/9/2011	

MAY 22 2012

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

Las Vegas Metropolitan Police Department Forensic Laboratory Report of Examination Toxicology Unit		Distribution Date: MAR 31 2011	
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;


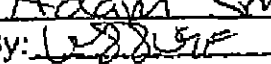
That I completed an analysis on the sample and identified:


Δ^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.

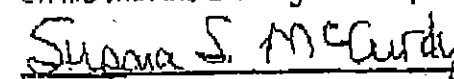
 3/29/11
 Stacy Sweeney, P# 14210 Report Date
 The Forensic Scientist's Report of this
 Record is Regulated by Law. Secondary
 Dissemination of any kind is Prohibited
 and could subject the offender to Criminal
 and Civil Liability.
 This Information Released To:
 Adam Smith
 By:  Date: 5/22/12
 Las Vegas 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# 10102-3282

STATE OF NEVADA)

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

COUNTY OF CLARK)

GEORGE YBINA
(PRINT NAME OF DECLARANT DRAWING BLOOD)

being first duly sworn, deposes

and says THAT I AM A :

☒ Registered Nurse
☐ Licensed Practical Nurse
☐ Laboratory Technician/ Assistant
☐ Emergency Medical Technician
☐ Physician Assistant

☐ Nurse Practitioner
☐ Medical Doctor
☐ Other

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

12/11
(Date Drawn)

at

1936
(Time Drawn)

AM/PM, I withdrew a sample of blood in a medically

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 9693of 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: U. 8824 Date: 5/22/12
 Las Vegas Metro Police Dept.

Declarant Signature

Declarant Title

Witness Signature

Date

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.

Suzanne S. McCurdy
 Director, Police Records Bureau Records Custodian

PROPERTY REPORT

LYMPD 67A (REV. 6-69)

AA 000459

AA 000460

EXHIBIT 1-E

EXHIBIT 1-E

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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

<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 LVMPD, 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>

Page 18

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.

Page 19

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

Page 20

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?

Page 21

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 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>

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1 get the officer --
 2 MR. STRASSBURG: And, Adam, you've got a copy
 3 of my subpoena return that I E-mailed to you?
 4 MR. SMITH: I did receive your E-mail
 5 yesterday, yes.
 6 MR. MAZZEO: Thank you.
 7 MR. STRASSBURG: Okay.
 8 MR. SMITH: And, for the record, I just
 9 handed Mr. Mazzeo two sets of documents that are Bates
 10 stamp number GJL246 through GJL255 and GJL1674 through
 11 GJL1693.
 12 MR. MAZZEO: Okay.
 13 MR. SMITH: But I'm not necessarily saying
 14 that's what he's referencing, but it may be.
 15 MR. MAZZEO: Well, yeah, I'm going to have
 16 him look at it. Is this a copy for me?
 17 MR. SMITH: It is.
 18 MR. MAZZEO: Because what I want to do is
 19 break it apart.
 20 BY MR. MAZZEO:
 21 Q. Officer, I'm going to ask you to take a look
 22 at this document which is entitled Impaired Driving
 23 Report. It consists of seven pages and then attached
 24 to the back is a Temporary Custody Record, a chain of
 25 custody document consisting of two pages (handing).

Page 27

1 And take a look at that, and tell me if you
 2 recognize that as being related to this case in any
 3 manner.
 4 A. Yes, sir, these are related.
 5 MR. MAZZEO: Then we're going to have that
 6 marked as Exhibit B, the pages that I just described
 7 and which you've just reviewed, and we'll make a copy
 8 of it; so... When we take a break, I'll make copies of
 9 this, and then we'll have it marked by the court
 10 reporter.
 11 MR. SMITH: I have other copies.
 12 MR. MAZZEO: You have others, right?
 13 MR. SMITH: Do you just want another copy
 14 right now?
 15 MR. MAZZEO: Yeah, we can do that. I'm going
 16 to go over the Traffic Accident Report right now, and
 17 then I'll...
 18 MR. SMITH: For the record, what are the
 19 Bates stamp numbers that you were marking as Exhibit B?
 20 MR. MAZZEO: Sure. So Exhibit B consists of
 21 GJL1684, 1685, 1686, 1687, 1688, 1689, 1690, 1691, and
 22 1692 and 1693.
 23 (Exhibit B was marked for identification.)
 24 BY MR. MAZZEO:
 25 Q. In reviewing the Traffic Accident Report,

Page 28

1 Officer, you did testify it did, in fact, refresh your
 2 recollection with regard to this accident?
 3 A. Yes.
 4 But certain things of the accident were
 5 recalled reference the arrest report, which made me
 6 kind of get a general idea of the accident, when it
 7 took place and things, certain things about the
 8 accident report which recalled my memory.
 9 Q. Fair enough.
 10 And can you tell me -- before we get into the
 11 details of these reports, can you tell me what
 12 independent recollection you have concerning your
 13 investigation of this accident which -- concerning
 14 details which may not be reflected in either the
 15 Traffic Accident Report or the arrest report?
 16 A. The independent recollection I have is based
 17 off the arrest report. This particular subject who I
 18 arrested in reference to this accident had an issue
 19 where he was placed into custody after tests were done,
 20 and he was transported to jail, city jail.
 21 And a pat-down was conducted prior to the
 22 fact of any weapons before I entered the booking
 23 facility, and the correction officer -- as we entered
 24 the booking facility, the correction officer does what
 25 they're required to do to prepare him for accepting him

Page 29

1 into booking.
 2 And he had a pair of gym shorts underneath a
 3 pair of long pants, and in those gym shorts, in his
 4 right front pocket, he had a clear plastic bag with
 5 green leafy substance, which later tested positive for
 6 marijuana, and the correction officer who was doing his
 7 business in front of me pulled out that clear plastic
 8 baggy and gave it to me.
 9 And then me and the subject had a
 10 conversation in reference to that, and that happened to
 11 me maybe twice.
 12 Q. Twice with --
 13 A. That -- where I'm preparing a subject for
 14 entering a facility and conducting pat-downs and so
 15 forth for any contraband or weapons, and I missed,
 16 because he had a pair of gym shorts underneath his
 17 pants, a small baggy of a green leafy substance. So
 18 that was what made me recall this incident.
 19 Q. Thank you.
 20 And what is the purpose for the Scene
 21 Information Sheet on this Traffic Accident Report?
 22 A. Which one are you referring to? The first
 23 page?
 24 Q. Yes.
 25 A. It's just -- I guess the best way I can sum

OFFICER DAVID FIGUEROA - 09/19/2014

Page 2

1 Deposition of OFFICER DAVID FIGUEROA taken at
2 Barron & 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.

6
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8

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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 NRC.P.)
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.

Page 5

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.

Page 6

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

Page 7

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.

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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.

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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?

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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?

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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.

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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

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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 --

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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

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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

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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 --

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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

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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.

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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 911 call was -- or

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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.

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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

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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,

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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.

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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,

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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 --

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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.

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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

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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

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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 booking
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.

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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.

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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.

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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

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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

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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.

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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.

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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.

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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

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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.

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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?

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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 LVMPD?
 24 A. I did.
 25 Q. When?

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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

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1 been validated as a measure of impairment?
 2 MR. SMITH: Object to the form and
 3 foundation.
 4 THE WITNESS: Yes.
 5 BY MR. STRASSBURG:
 6 Q. And you believe that based upon the training
 7 you received, true?
 8 A. Yes.
 9 Q. Now, did you have any involvement in
 10 preparing the inventory of property?
 11 A. Give me a second to reflect the report.
 12 Q. And I direct you to document GJL1682.
 13 MR. SMITH: He doesn't have that.
 14 THE WITNESS: I don't have that in front of
 15 me.
 16 MR. SMITH: I'll give it to him. I have a
 17 copy of it.
 18 MR. STRASSBURG: Thank you, Adam. Why don't
 19 you also give him 1683.
 20 MR. SMITH: Do you have a copy?
 21 MR. MAZZEO: The Property Report.
 22 MR. SMITH: You have your -- you only have
 23 one copy?
 24 MR. MAZZEO: I have several copies of the
 25 Property Report.

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1 MR. SMITH: Here (handing). Do you want to
 2 mark those as Exhibit C?
 3 MR. MAZZEO: Sure.
 4 (Exhibit C was marked for identification.)
 5 THE WITNESS: Sir, I have GJL1682 and 1683.
 6 BY MR. STRASSBURG:
 7 Q. Did you fill those out, or did someone else?
 8 A. GJL1683 I did not fill out.
 9 Q. Did you have anything to do with inventorying
 10 the personal property in Mr. Awerbach's car?
 11 A. In the vehicle, I did not, sir.
 12 Q. Do you have any knowledge as to whether there
 13 was a scale in the car?
 14 MR. MAZZEO: A scale?
 15 THE WITNESS: A scale?
 16 MR. STRASSBURG: S-c-a-l-e.
 17 THE WITNESS: I don't recall if there was or
 18 wasn't, and I don't know if it was listed here.
 19 BY MR. STRASSBURG:
 20 Q. The amount of marijuana found on Mr. Awerbach
 21 was 8.8 grams, including the plastic bag, right?
 22 A. Yes.
 23 Q. And that would be regarded as a minor
 24 possession offense?
 25 A. A misdemeanor, yes.

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1 Q. If he had a medical marijuana card, would he
 2 be entitled to be in possession of that amount of
 3 marijuana?
 4 MR. SMITH: Object to the foundation.
 5 THE WITNESS: I'm not sure.
 6 BY MR. STRASSBURG:
 7 Q. Thank you, sir.
 8 Can you turn to the Impaired Driving Report.
 9 MR. MAZZEO: That's Exhibit B, Roger.
 10 MR. STRASSBURG: Thank you.
 11 BY MR. STRASSBURG:
 12 Q. Officer, did you administer the three tests
 13 recorded in this report?
 14 A. Yes.
 15 Q. And did you administer them in accordance
 16 with your training?
 17 A. I did.
 18 Q. Now, did you find that, in administering the
 19 HGN test, there was a lack of smooth pursuit?
 20 A. I did.
 21 Q. And how did you keep time so that you knew
 22 only two seconds had elapsed?
 23 A. I used a mental count in my mind.
 24 Q. So you didn't use a stopwatch? You just kept
 25 track mentally?

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1 A. Yes, sir. It was only two seconds. I didn't
 2 feel the need for a stopwatch.
 3 Q. And what degree of lack of smooth pursuit did
 4 Mr. Awerbach's eyes evidence to you?
 5 MR. SMITH: Object to the form.
 6 BY MR. STRASSBURG:
 7 Q. Was it minor, moderate, or severe?
 8 MR. SMITH: Object to the form.
 9 THE WITNESS: I don't recall.
 10 BY MR. STRASSBURG:
 11 Q. The onset of nystagmus, do you see that?
 12 A. I do.
 13 Q. You test time mentally for that, as well?
 14 A. Yes, sir.
 15 Q. And you estimated the 45-degree angle
 16 requirement?
 17 A. I did.
 18 Q. There's no way to measure that in the field,
 19 right?
 20 MR. SMITH: Object to the form.
 21 THE WITNESS: For an accurate 45 degrees, I'm
 22 sure there is, but I use a different method on -- every
 23 time I do it.
 24 BY MR. STRASSBURG:
 25 Q. You eyeball it?

<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 If 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 graphic, 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>


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 not 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**
2 Alexandra B. McLeod
3 Nevada Bar No. 8185
4 amcleod@bvrclaw.com
5 BRADY, VORWERCK, RYDER & CASPINO
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8 Telephone: (702) 697-6500
9 Facsimile: (702) 697-6505

10 Attorneys for Defendants, JARED AWERBACH
11 and 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

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

22 COMES NOW Defendants, JARED AND ANDREA AWERBACH, by and through their
23 counsel of record, ALEXANDRA B. MCLEOD, ESQ., of the law firm of BRADY, VORWERCK,
24 RYDER & CASPINO, and hereby submits the following List of Witnesses and Documents and
25 Tangible Items Produced at the Early Case Conference in the above-entitled action, pursuant to NRCP
26 16.1. Supplemental information is presented in *bold italic type*.

27 **I.**

28 **LIST OF WITNESSES**

1. EMILIA GARCIA, Plaintiff
c/o ADAM D. SMITH, ESQ.
Glen Lerner & Associates
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 3. ANDREA AWERBACH, Defendant
13 c/o ALEXANDRA B. McLEOD, ESQ.
14 Brady, Voerwerck, Ryder & Caspino
15 2795 East Desert Inn Road, Suite 200
16 Las Vegas, Nevada 89121

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

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

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

26 5. PERSON MOST KNOWLEDGEABLE
27 Employer of Plaintiff at the time of the subject incident

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

31 6. ANY AND ALL APPROPRIATE MEDICAL CARE
32 PROVIDERS OF PLAINTIFF

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
7 Las Vegas, Nevada 89128
8 (702) 228-7355

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

14
15 8. ROBERT H. ODELL, JR., M.D., Ph.D.
16 8084 W. Sahara, Suite E
17 Las Vegas, Nevada 89117
18 (702) 257-7246

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

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

27 II.

28 DOCUMENTS AND TANGIBLE ITEMS PRODUCED

- 29 A) Copy of State of Nevada Traffic Accident Report, six (6) pages;
30 B) Transcript of recorded statement of Plaintiff, Emilia Garcia;
31 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

16 By 
17

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 22nd 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"

File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help

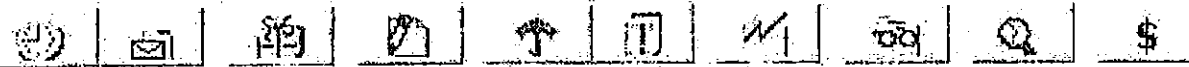
 Total Slvg Subro Assign Close Refresh Next Exit

Plan	Claimant Name: GARCIA, EMILIA	Loss Location Street/PO: rainbow blvd												
Policyholder	Role: Owner/Operator Claimant's Car Home: (702)4739451 Bus:	City: las vegas												
Claimant	Office: 0647 - PHOENIX, AZ Open	ST/Prov: NV ZIP/Postal:												
Occurrence	Date of Loss: 01/02/2011 Report Date: 01/03/2011	Investigation Strategy: Yellow												
ICP/First Call	<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 - PR</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 - PR	\$6852.00	\$6851.53	Assignments...
Coverage Type	Coverage	Loss Cost Estimate	Loss Paid to Date											
Liability	LIBI - LIABILITY - BOD	\$50000.00	\$0.00											
Liability	LIPD - LIABILITY - PR	\$6852.00	\$6851.53											
Medical		First Year: 2009 CAT Code: Expense Cost Estimate: \$0 Expense Paid to Date: \$0												
Vehicle	Occurrence Descriptions: MERAZ, TERESA, Liberty Mutual Employee, 01/06/2011	Injury/Damage Descriptions: MERAZ, TERESA, Liberty Mutual Employee, 04/05/2011												
Structure	Auto Claims Inception Date: 2009	Re-ran ISO: No new matches found												
Items	**If new policy-cancellation date with prior carrier: N/A	MICHELLE COUSINS, Liberty Mutual Employee, 01/12/2011												
Estimate/Repair	Dual Coverage: No Policy in Force for DOL: Yes	Settlement Macro: Version 1												
Time	Vehicle Listed: Yes: 2007 SUZU FORENZA	Appraisal Amt / % to ACV 5,494.27 93.19%												
Third Party	Listed Operator: No- Jared Awerbach	Liability Status INS'D AF												
Legal	**If no-permissive use verified: Yes	File Disposition CLOSE												
Financial	**If UT/NV-reason for driving: Personal	ACV \$5,896.00												
	Coverage Limits: 50/100/50	Tax Rate 8.10% \$477.58												
	Applicable Endorsement/exclusions: None	VLF \$-												
	Multiple Policies: None	TTF \$28.25												
	**If yes- order of coverage: N/A	Gross \$6,401.83												
	Number of potential claimants: 0	Deductible												
	Number of pending BI claims: 1	Net Total \$6,401.83												
		Lien Payoff \$4,441.03 (11/2/11)												
		Payable to Clmt \$1,960.80												

Ready

NUM

File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help


 Total Blvg Subro Assign Close Refresh Next Exit

Plan
Policyholder
Claimant
Occurrence
ICP/First Call
Medical
Vehicle
Structure
Items
Estimate/Repair
Time
Third Party
Legal
Financial

Claimant

Name: GARCIA, EMILIA

Role: Owner/Operator Claimant's Car

Home: (702)4739451 Bus:

Office: 0647 - PHOENIX, AZ

Open

Date of Loss: 01/02/2011 Report Date: 01/03/2011

Loss Location:

Street/PO: rainbow blvd

City: las vegas

ST/Prov: NV

ZIP/Postal:

Investigation Strategy: Yellow

Assignments...

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

Occurrence Descriptions:

Number of potential claimants: 0
 Number of pending BI claims: 1
 Other Coverage Issues/Comments: None

MERAZ, TERESA, Liberty Mutual Employee, 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.

LVMP, Police/Fire/Other, 01/31/2011

Injury/Damage Descriptions:

MERAZ, TERESA, Liberty Mutual Employee, 01/06/2011
 ISO: No other matches found

MERAZ, TERESA, Liberty Mutual Employee, 01/06/2011

VT
 1/6/11 ISO 1/6/11
 LCE 1/6/11
 Medicare 1/6/11
 Detail Data 1/6/11
 Opac RI 1/6/11
 Clmt RI 1/6/11
 P/R 1/31/11

FIRST REPORT

Injury
 Back & Neck - Sprain/Strain
 Back & neck pain

Ready

NUM


File	Edit	Claim	Investigation	Total Loss	Subrogation	No Fault/Med-Pay	Tools	Reports	Financial	Help			
		Total		Slvg		Subro		Assign		Close	Refresh	Next	Exit

<div>Plan</div> <div>Policyholder</div> <div>Claimant</div> <div>Occurrence</div> <div>ICP/First Call</div> <div>Medical</div> <div>Vehicle</div> <div>Structure</div> <div>Items</div> <div>Estimate/Repair</div> <div>Time</div> <div>Third Party</div> <div>Legal</div> <div>Financial</div>	Claimant	Name: GARCIA, EMILIA		Loss Location:		
	Role: Owner/Operator Claimant's Car			Street/PO: rainbow blvd		
	Home: (702)4739451 Bus:			City: las vegas		
	Office: 0647 - PHOENIX, AZ	Open			ST/Prov: NV	ZIP/Postal:
	Date of Loss: 01/02/2011	Report Date: 01/03/2011			Investigation Strategy: Yellow	
			Assignments...			
	Coverage Type	Coverage	Loss Cost Estimate	Loss Paid to Date	First Year:	2009
	Liability	LIBI - LIABILITY - BOD	\$50000.00	\$0.00	CAT Code:	
	Liability	LIPD - LIABILITY - PR	\$6852.00	\$6851.53	Expense Cost Estimate:	\$0
					Expense Paid to Date:	\$0
Occurrence Descriptions:		Injury/Damage Descriptions:				
approaching Peak Dr. V1 was traveling EB in a private drive N of Peak Dr approaching Rainbow Blvd. V1 stated that he thought that rainbow Blvd was clear of traffic. V1 then traveled onto Rainbow Blvd into the path of V2 causing V1 front to hit V2 right. D1 admitted to drug involvement. No citations listed. TM		Detail Data 1/6/11 Opac RI 1/6/11 Clmt RI 1/6/11 P/R 1/31/11				
AWERBACH, JARED, Policyholder, 01/06/2011 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		FIRST REPORT Injury: Back & Neck - Sprain/Strain Back & neck pain No insurance. Vehicle Damage: 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 Initial POI: 05-Right Rear Corner Subsequent POI: 15-Total Loss				

Ready

NUM

File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help

 Total Slwg Subro Assign Close Refresh Next Exit

Plan

Claimant

Name: GARCIA, EMILIA

Loss Location

Street/PO: rainbow blvd

Policyholder

Role: Owner/Operator Claimant's Car

City: las vegas

Home: (702)4739451 Bus:

ST/Prov: NV

ZIP/Postal:

Claimant

Office: 0647 - PHOENIX, AZ

Open

Investigation Strategy: Yellow

Occurrence

Date of Loss: 01/02/2011 Report Date: 01/03/2011

Assignments...

ICP/First Call

Coverage Type	Coverage	Loss Cost Estimate	Loss Paid to Date
Liability	LIBI - LIABILITY - BOD	\$50000.00	\$0.00
Liability	LIPD - LIABILITY - PRO	\$6852.00	\$6851.53

First Year: 2009

CAT Code:

Expense Cost Estimate: \$0

Expense Paid to Date: \$0

Medical

Vehicle

Structure

Items

Estimate/Repair

Time

Third Party

Legal

Financial

Occurrence Descriptions:

apartment complex. There was a bus in right lane of 2 coming from his left. The bus stopped at the bus stop before the driveway. Opac thought it was clear. He proceeded to make his left turn and then collided w/ clmt. Clmt was coming from his left in left lane of 2. Opac did not see clmt until after the impact. Opac states he tried to swerve left and hit his brakes to avoid. CONT...

GARCIA, EMILIA, Claimant, 01/06/2011

Acc happened around 5:56pm. Clear weather. Moderate traffic. Headlights on. Clmt EB Rainbow Blvd in left lane of 2. PSL 35mph. Clmt going 30mph. Clmt saw a semi truck in right lane next to her making a right turn into the driveway of an apartment complex. She then saw insd veh coming straight at her from the driveway of the apartment complex. Clmt tried to swerve left to avoid the impact. Clmt was hit on p/s rear by the rear door and tire. Clmt spun and came to rest in her lane but facing the opposite way, against traffic. Impact was to insd's front end.

Injury/Damage Descriptions:

Detail Date 1/6/11
Opac RI 1/6/11
Clmt RI 1/6/11
P/R 1/31/11

FIRST REPORT

Injury

Back & Neck - Sprain/Strain

Back & neck pain

No insurance

Vehicle Damage

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

Initial POI: 05-Right Rear Corner

Subsequent POI: 15-Total Loss

Ready

NUM

File Edit Claim Investigation Total Loss Subrogation No Fault/Med-Pay Tools Reports Financial Help

Total Slvg Subro Assign Close Refresh Next Exit

Plan

Claimant

Name: GARCIA, EMILIA

Loss Location

Street/PO: rainbow blvd

Policyholder

Role: Owner/Operator Claimant's Car

City: las vegas

Claimant

Home: (702)4739451 Bus:

ST/Prov: NV

ZIP/Postal:

Occurrence

Office: 0647 - PHOENIX, AZ

Open

F

Investigation Strategy: Yellow

Date of Loss: 01/02/2011

Report Date: 01/03/2011

Assignments...

ICP/First Call

Coverage Type	Coverage	Loss Cost Estimate	Loss Paid to Date
Liability	LIBI - LIABILITY - BOD	\$50000.00	\$0.00
Liability	LIPD - LIABILITY - PRO	\$6852.00	\$6851.53

First Year: 2009

CAT Code:

Expense Cost Estimate: \$0

Expense Paid to Date: \$0

Medical

Vehicle

Structure

Items

Estimate/Repair

Time

Third Party

Legal

Financial

Occurrence Descriptions:

engine steaming and fluids leaking. Police were called. Officer gave opac a sobriety test and arrested him for DUI. Officer told clmt that opac was high. No witnesses. Both vehicles towed. TM

AWERBACH, JARED, Policyholder, 01/06/2011

CONT....Clmt veh spun. Police came to the scene. 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. TM.

FIRST REPORT

Per Caller clmt E Garcia

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

Injury/Damage Descriptions:

Detail Date 1/6/11
Opac RI 1/6/11
Clmt RI 1/6/11
P/R 1/31/11

FIRST REPORT

Injury

Back & Neck - Sprain/Strain

Back & neck pain

No insurance

Vehicle Damage

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

Initial PDI: 05-Right Rear Corner

Subsequent PDI: 15-Total Loss

Ready

INUM

No. 71348

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Oct 15 2018 01:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

EMILIA GARCIA,
Appellant,

v.

ANDREA AWERBACH,
Respondent.

**APPELLANT'S APPENDIX
VOLUME II, BATES NUMBERS 0251 TO 0500**

D. Lee Roberts, Jr., Esq.
Nevada Bar No. 8877
Jeremy R. Alberts, Esq.
Nevada Bar No. 10497
Marisa Rodriguez, Esq.
Nevada Bar No. 13234
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V, VI	1304 – 1486	Appendix of Exhibits to Plaintiff's Renewed Motion for Judgment as a Matter of Law	05/26/2016
I	1 – 6	Complaint	03/25/2011
III	642 – 646	Decision and Order Denying Defendant Andrea Awerbach's Motion for Relief from Final Court Order	04/27/2015
III	623 – 629	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	02/25/2015
I	164 – 165	Defendant Andrea Awerbach's Correction to Her Responses to Plaintiff's First Set of Requests for Admission	10/20/2014
III	630 – 641	Defendant Andrea Awerbach's Motion for Relief from Final Court Order	03/13/2015
I	96 – 163	Defendant Andrea Awerbach's Motion for Summary Judgment	11/08/2013
I	13 – 21	Defendant Andrea Awerbach's Responses to Request for Admissions	06/05/2012
I	29 – 35	Defendants' Answer to Amended Complaint	02/07/2013
I	7 – 12	Defendants' Answer to Complaint	01/23/2012
I	36 – 60	Defendants' Second Supplement to List of Witnesses and Documents and Tangible Items Produced at Early Case Conference	07/22/2013
I	61 – 95	Deposition of Andrea Awerbach [Vol. 1]	09/12/2013
I, II	166 – 391	Deposition of Andrea Awerbach [Vol. 2]	10/24/2014

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IV	998 – 1000	Jury Verdict	03/10/2016
VI, VII	1499 – 1502	Minute Order	08/22/2016
VII	1513 – 1554	Notice of Appeal	09/19/2017
III	647 – 649	Notice of Department Reassignment	08/27/2015
VII	1508 – 1512	Notice of Entry of Judgment Upon the Verdict	08/21/2017
III	617 – 622	Order Granting, in Part, and Denying, In Part, Plaintiff's Motion for Partial Summary Judgment that Defendant Jared Awerbach was Per Se Impaired Pursuant to NRS 484C.110(3); and Denying Defendant Jared Awerbach's Motion for Partial Summary Judgment on Punitive Damage Claims	01/28/2015
IV	946-947	Order Modifying Prior Order of Judge Allf	02/12/2016
VI	1487 – 1498	Order Re: Post –Trial Motions	08/12/2016
VII	1503 - 1507	Order Vacating Judgment as to Jared Awerbach only	08/21/2017
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X, XI	2464 – 2698	Trial Transcript – 02/12/2016	11/10/2017
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1 BY MR. SMITH:

2 Q. You felt that let Jared think he could get
3 away with it?

4 MR. MAZZEO: Objection.

5 MS. COMPTON: Form.

6 MR. MAZZEO: Speculation.

7 THE WITNESS: I think based on the
8 questions you asked me earlier about the detective
9 using him as an informant, it served their purposes.
10 It kept him active.

11 BY MR. SMITH:

12 Q. What treatment has Jared received for his
13 drug use?

14 A. In his whole life?

15 Q. Yes. Starting with the first time you can
16 remember.

17 A. He went to counseling. He had probation.
18 He had a specialized program at the school where he
19 had to sign in and sign out. He had -- he was in a
20 few residential facilities. He was in, you know,
21 group homes. He was in Utah in a rehab. He had
22 juvenile court involvement. He had Narcotics
23 Anonymous. He came to Gamblers Anonymous meetings
24 with me. He had medications. He had a
25 psychiatrist. He's had rehab.

1 Q. Do you presently go to Gamblers Anonymous?

2 A. Yes, I do.

3 Q. That's important to continue in your
4 recovery; correct?

5 A. Yes.

6 Q. When was the first time Jared went to
7 counseling?

8 A. I believe he started right after the 2005
9 accident.

10 Q. What was the purpose of that counseling?

11 A. Because he had had a traumatic event, so I
12 was concerned about post-traumatic stress disorder,
13 acting out. Maybe he couldn't tell me things.

14 Q. Did you ever go to his counseling sessions
15 that he went to right after the 2005 fight?

16 A. Primarily, it was Jared. I don't think I
17 sat with the counselor at all, that counselor.

18 Q. How long did he go to counseling for after
19 the 2005 fight?

20 A. I would be estimating. He was with one
21 counselor, and then we switched to one that had been
22 recommended by my therapist and I think it was a
23 couple of months before Jared went into a
24 residential facility. Excuse me.

25 Q. When did he go into a residential facility?

1 A. I think it was freshman year of high
2 school.

3 **Q. Why did he do that?**

4 A. Because he was acting out at home. Because
5 he was getting in continual trouble and the facility
6 offered for him to go in. It was a contact through
7 my therapist and they offered to let him.

8 **Q. What was he doing to act out at home?**

9 A. He was cutting classes. He was not home
10 when he was supposed to be. There was marijuana in
11 the house. I could smell it. He would be out -- he
12 would go out through his bedroom window and he was
13 fighting.

14 **Q. What do you mean he was fighting?**

15 A. Physically fighting. I never caught him
16 fighting, but he told me about it after.

17 And he had much older friends.

18 **Q. By fighting, you mean like fist-fights?**

19 A. Yes.

20 **Q. So he went to counseling from the time of**
21 **the 2005 accident through his freshman year of high**
22 **school when he went to the residential facility?**

23 A. Yes.

24 **Q. Did you take him to the counseling**
25 **sessions? In other words -- so, let me ask you a**

1 better question.

2 Did you drive him back and forth?

3 A. Not to all of them, not when he was in the
4 residential facility, but yes.

5 Q. How many counseling sessions did you go to
6 with him before he went to the residential facility?

7 A. To -- where I drove or where I sat in?

8 Q. Where you were actually in the counseling
9 session with him and listened to what was being
10 talked about.

11 A. I don't know. I would say maybe between
12 five and ten, but that's -- I could be way off
13 because, again, different styles. Sometimes she
14 would talk to me for a few minutes and then talk to
15 him, sometimes we would have together. But it was
16 primarily him. She was not my therapist.

17 Q. How much did he go to counseling before he
18 started at the residential facility?

19 A. Sometimes twice a week. Sometimes once a
20 week. He was involved in a group there, so that
21 would be individual and group twice a week.

22 Q. Did you believe at the time that the
23 counseling was helpful?

24 A. For a season, for a time I thought it was.

25 Q. But he continued acting out; right?

1 A. Yes.

2 Q. I mean, he continued acting out so bad that
3 you had to send him to a residential facility;
4 right?

5 A. I don't know that his acting out increased
6 or that that opportunity presented itself and I felt
7 that he would do better.

8 Q. His acting out didn't decrease; right?

9 A. There were times it decreased, but not at
10 that time.

11 Q. What's the name of the residential facility
12 that he went to his freshman year?

13 A. Eagle Quest.

14 Q. Where is that at?

15 A. I don't know were. They have homes in the
16 neighborhood. I don't even know if they're still
17 here.

18 Q. Is it in Las Vegas?

19 A. I don't know where the corporate is, but
20 the homes were here in Vegas, yes.

21 Q. The one he was in, was it in Las Vegas?

22 A. Yes.

23 Q. How long was he there for?

24 A. I believe about six months. It might have
25 been three months.

1 **Q. Did you visit him there?**

2 A. Yes. I didn't visit him in the home. I
3 would pick him up.

4 **Q. You'd pick him up and take him somewhere?**

5 A. Take him for the day and then he got like a
6 night pass.

7 **Q. How often did you do that?**

8 A. I don't know the number. You know, it
9 builds up to when you're allowed to do that. So in
10 a three-month time, maybe ten times. Again, I'm
11 guessing.

12 **Q. Did the treatment at Eagle Quest help him?**

13 A. For a time I thought so.

14 **Q. How did it help him?**

15 A. He was more structured. He was happy to be
16 home, so he was more willing to listen. He had
17 worked out some of his goals and some of
18 his priorities. He had been attending school again.

19 **Q. And how long did that structured
20 improvement last for?**

21 A. We went from his being released from Eagle
22 Quest on a cross-country trip for about six weeks,
23 and then he went home and went to school, I would
24 say probably about two, three months.

25 **Q. Was he in counseling during those two or**

1 **three months?**

2 A. Part of that time.

3 **Q. What do you mean by part of that time?**

4 A. Well, part of that time we were on a
5 six-week cross-country trip.

6 **Q. Oh. So the two or three months, you're**
7 **including the six-week cross-country trip?**

8 A. Yes.

9 **Q. Okay. And then what happened that he was**
10 **no longer in the improved state?**

11 A. He was using again. He was involved with
12 older people, people I thought were dangerous.

13 **Q. That's when he was in eighth grade then?**

14 A. No. That was after freshman year.

15 **Q. Oh. I mixed that up. I apologize.**
16 **That was his sophomore year?**

17 A. Freshman and sophomore year.

18 **Q. What other counseling has Jared gone to?**

19 A. Other than outpatient and inpatient, group
20 home.

21 **Q. Well, we talked about prior to his freshman**
22 **year, and then I would assume he was in counseling**
23 **at the residential facility; right?**

24 A. Yes.

25 **Q. Since that time, what other counseling has**

1 he had?

2 A. Same: Inpatient, rehab, outpatient, NA
3 meetings.

4 Q. How -- what are the other places that you
5 can think of that he's been to for counseling?

6 A. Odyssey House in Utah, Bridge Counseling.
7 This is not in the order that he attended, but he
8 had unofficial services from Mojave Mental Health,
9 Choices, juvenile drug court. He had a probation
10 officer through them. Let me see. And NA.

11 Q. And the counselor that he went to before he
12 was in the residential facility, you said there were
13 two; right?

14 A. Um-hmm.

15 Q. What were their names?

16 A. I don't recall.

17 Q. Did any of those places help?

18 A. For a time.

19 Q. They would all help for a little bit and
20 then he'd relapse?

21 MS. COMPTON: Form.

22 THE WITNESS: Well, they -- relapse
23 isn't -- some of them helped to teach me what I
24 needed to know to make things clear -- clearer.
25 Some things helped him to deal with -- and may be

1 he relapsed, but he dealt with some of his anger.

2 So, again, they all helped.

3 BY MR. SMITH:

4 **Q. What are the things that you were taught to**
5 **do?**

6 A. Counseling helped lower my anxiety,
7 clarified that there was in fact a problem because I
8 had been getting mixed messages from authorities.
9 You know, I heard "boys will be boys" and I knew he
10 was in more trouble than that. So clarified that
11 there was a problem, taught me how to set even
12 clearer limits, talk less, handle being manipulated
13 by not talking as much, not to hold investigations
14 as parents will, take care of myself physically.

15 **Q. What place taught you those things?**

16 A. Somewhat Choices. Somewhat the second
17 counseling that he went to, and I'm blanking on her
18 name. I thought that she did a slightly better job
19 with me than with Jared. And then my own therapist.

20 **Q. When was Jared at Choices?**

21 A. When he was in juvenile court, which I
22 think was his sophomore and junior year of high
23 school.

24 **Q. What was he in juvenile court for?**

25 A. Drugs.

1 Q. Did he ever go to juvenile detention?

2 A. Yes.

3 Q. When was that?

4 A. Multiple times.

5 Q. How many?

6 A. I don't know. I would be guessing.

7 Q. More than three?

8 A. Yes.

9 Q. More than five?

10 A. Well, again --

11 MR. MAZZEO: I'm sorry. Objection,
12 relevance.

13 Go ahead.

14 THE WITNESS: There's juvenile detention
15 where you're not actually staying where you're in
16 the back room and they call you to pick him up, and
17 that's double digit times.

18 And then there's where he was actually
19 housed in juvenile detention for a number of weeks,
20 and then some times that he had to go back for the
21 weekend.

22 BY MR. SMITH:

23 Q. So more than ten times he was arrested for
24 drugs as a juvenile?

25 A. I can't say that because once you're in

1 juvenile drug court, they can pull you back in
2 without arresting you.

3 Q. Okay. So he was brought to juvenile
4 court --

5 A. At least ten.

6 Q. -- drug court more than ten times?

7 A. Yes.

8 Q. You said also he could have been housed
9 there for weeks at a time.

10 How many times did that happen?

11 A. I believe twice, but, again I'm not
12 remembering accurately. And, again, you go to
13 juvenile detention sometimes just to meet with your
14 probation officer, not necessarily because you were
15 arrested.

16 Q. How long was he on probation?

17 A. I'm guessing nine months --

18 MR. MAZZEO: Objection, speculation.

19 BY MR. SMITH:

20 Q. Was it -- how many times was he on
21 probation?

22 A. I believe once. It was -- you know, you're
23 not off and on. It's a progression. You start out
24 informal supervision and then move up.

25 Q. Move up to what?

1 A. Different levels of -- you know, he went
2 from just having to report some documents that he
3 took some classes to having an ankle bracelet.

4 **Q. Because he violated his probation?**

5 A. Because -- I don't -- sometimes violations.
6 Sometimes because he had gotten in trouble again and
7 they kind of keep a cumulative record like
8 progressive discipline.

9 **Q. Every time he went to juvenile court, did**
10 **you have to go with him?**

11 MR. MAZZEO: Objection to the whole line of
12 questioning regarding Jared Awerbach's -- regarding
13 Andrea Awerbach's knowledge about Jared Awerbach's
14 juvenile history, juvenile court probation.

15 MR. SMITH: Your objection is noted.

16 MR. MAZZEO: Okay.

17 THE WITNESS: There were when he was in
18 juvenile court -- when he was in drug court, when he
19 was in Judge Voy's drug court, there were one or two
20 Thursdays that I was able to miss because I was
21 tutoring and I would send a letter. But, yes, when
22 there were charges.

23 BY MR. SMITH:

24 **Q. Every time he was charged and he had to go**
25 **to drug court, you went with; correct?**

1 A. There were one or two times that I refused
2 to go.

3 **Q. Why did you refuse to go?**

4 A. Because I felt that my presence kept him
5 from getting the services that he needed because
6 they saw an active parent, and so I took the risk of
7 their arresting me and didn't show because I wanted
8 them to detain him.

9 **Q. You thought if you didn't go, they would**
10 **be -- well, strike that.**

11 **What did you think would happen if you**
12 **didn't go?**

13 A. That they would detain him. Because I
14 would go with him to juvenile court. He would get
15 arrested. They would take us in the back room to
16 talk to an in-service worker, who would ask me, Is
17 he in counseling? Are you putting him on
18 restriction? Does he have electronic toys?

19 When I would answer that, the worker would
20 say, Well, it looks like you're doing everything you
21 need to do, so we're sending him home. So my
22 strategy then became let me not do everything I need
23 to so you do your job because he needs more
24 leverage.

25 **Q. You felt if they -- strike that.**

1 You felt if you didn't show up, they would
2 be harder on him?

3 A. Yes.

4 Q. And you needed them to be harder on him
5 because the things that you were doing at home
6 weren't working?

7 A. Yes.

8 As a parent -- if I can add this: As a
9 parent, there's only so much leverage you have.

10 Q. Did you ever ask Jared to move out before
11 he turned 18?

12 A. Yes.

13 Q. How many times?

14 A. At least once.

15 Q. When was that?

16 A. When he relapsed after his stay in Utah at
17 Odyssey House.

18 Q. How old was he when that happened?

19 A. I believe 17.

20 Q. Seventeen when he went to Odyssey House or
21 when he relapsed or both?

22 A. When he relapsed.

23 Q. When did he go to Odyssey House?

24 A. I think he was 16. He turned 17 just when
25 he came home.

1 Q. What happened when he relapsed when he was
2 17?

3 A. I don't understand the question.

4 Q. How did you know he relapsed?

5 A. I saw it on his phone.

6 Q. I didn't hear you.

7 A. I checked his phone.

8 Q. And what did you find on his phone?

9 A. Conversations about getting high.

10 Q. Have there been other times that you've
11 checked his phone and found conversations about
12 drugs?

13 A. Yes.

14 Q. How many times has that happened?

15 A. I have no idea.

16 Q. More than ten?

17 A. I don't know.

18 Q. When he lived with you prior to the
19 January 2011 accident, how often did you check his
20 phone?

21 A. When he was working a program, when he was
22 meeting with his sponsor and going to meetings,
23 maybe every two weeks. When he was active, as often
24 as I could get his phone.

25 Q. How often was that?

1 A. If I'm averaging, three or four times a
2 week. He was careful to keep his phone with him.

3 Q. After he turned 18, did you still check his
4 phone?

5 A. Periodically. He didn't always live with
6 me after he turned 18.

7 Q. During the times that he lived with you,
8 did you ever check his phone after he turned 18?

9 A. Yes.

10 Q. How often when he was living with you?

11 A. Again, not as often because he lived with
12 me until -- while he was clean, and then once I knew
13 he wasn't clean, I was better able at getting him
14 out of the house. So maybe once every two weeks.

15 Q. You said that you asked him to move out
16 when he was 17?

17 A. Yes.

18 Q. Did he?

19 A. Yes.

20 Q. Where did he go?

21 A. As far as I know, to my sister's.

22 Q. That was the time we talked about earlier
23 where he went to live at your sister's for a few
24 months?

25 A. Yes.

1 **Q. Why did you let him back in?**

2 A. Because my hope in having him move out was
3 that he would say, Okay, I'm ready to go back into
4 treatment, I'll go to meetings, I want to come home.

5 And, instead, he went to my sister's, where
6 I felt it to be a very active criminal place, and I
7 took him home to get him back into treatment.

8 **Q. Did you get him back into treatment when he**
9 **came back?**

10 A. I got him back into NA meetings.

11 **Q. How often did he go to NA meetings when he**
12 **came back from your sister's?**

13 A. I don't remember.

14 **Q. Did you go with him?**

15 A. Not always. Sometimes he had a sponsor who
16 would pick him up and he would go. And then other
17 times I would --

18 **Q. How many times have you been to NA meetings**
19 **with him?**

20 A. With him?

21 **Q. With Jared.**

22 A. Maybe five because I typically wait in the
23 parking lot so he can go into the meeting himself.

24 **Q. You've been in there approximately five**
25 **times to listen to what's being said?**

1 A. With him. I've gone to many more on my
2 own.

3 **Q. And why have you gone on your own?**

4 A. To learn, to be supportive, to stand
5 strong.

6 **Q. When did you start going on your own?**

7 A. To NA meetings?

8 **Q. Yes.**

9 A. Jared's freshman year of high school.

10 **Q. How often have you gone to NA meetings on**
11 **your own since Jared's freshman year of high school?**

12 A. Probably about 15 times.

13 **Q. On the times that you've gone with Jared,**
14 **what has he talked about in terms of his drug use?**

15 A. I don't know that I can answer that. It's
16 an anonymous program. It's --

17 MR. MAZZEO: Objection, privacy.

18 MR. SMITH: Well, I'm not asking what
19 anybody else talked about. I'm asking what Jared
20 has said.

21 MS. COMPTON: I object to that question.
22 If you want to call the discovery commissioner and
23 see what she says, you can.

24 MR. MAZZEO: Confidentiality.

25 THE WITNESS: I don't know that I can

1 answer that.

2 BY MR. SMITH:

3 Q. Is there more that you think you could have
4 done before the accident to help Jared get off of
5 drugs?

6 MR. MAZZEO: Objection, speculation,
7 foundation.

8 THE WITNESS: I'm sorry. I'm going to
9 get --

10 MR. MAZZEO: Assumes facts not in evidence.

11 THE WITNESS: I'm going to get emotional.

12 I'm his mother. That's a question I ask
13 myself 900 times a day every day. I did everything
14 I knew to do at the time. There are things I know
15 now that I didn't know before. Hopefully, there
16 will be even more things that I learn. I did
17 everything I knew to do.

18 BY MR. SMITH:

19 Q. Did you go to counseling sessions with him
20 at Odyssey House?

21 A. Odyssey House is in Utah. He lived there.
22 So when I was there, sometimes we went to family
23 sessions, but not on a regular basis.

24 Q. How often did you visit him at Odyssey
25 House?

1 A. I think he was there six months. Between
2 eight to 12 times I think. It might have been. It
3 might have been less.

4 **Q. During any of the counseling sessions that**
5 **you've been to with him, has he blamed you for any**
6 **of his problems?**

7 A. Sure.

8 **Q. What has he said?**

9 A. He has accused -- when he was much
10 younger -- he doesn't any more -- he accused me of
11 knowing. He accused me of gambling when I wasn't.
12 That's a recent distortion. He has talked about in
13 sessions the impact of the gambling.

14 He's talked about being angry about not
15 having contact with his father, how I could help
16 him, how I could set up boundaries for him, what he
17 needed.

18 For instance, when he was in Utah and he
19 needed money for a haircut and he had asked for \$25,
20 he said to me, Give me 25, not 50. Give me exactly
21 what I ask for.

22 We talked about ways for him to stay clean.
23 We talked about house rules. He apologized for
24 things he had done.

25 **Q. What other ways did he say that you could**

1 **have helped him?**

2 A. Not could have. Help him once he comes
3 home, how could I help. We discussed how I could
4 help him once he's clean.

5 **Q. Okay. And what are the other ways that he**
6 **told you about?**

7 A. Being consistent. He asked to have some
8 similar structure to Odyssey House where we did
9 things in the house together. Having family meals.
10 If I could, to work less or to be involved. Working
11 more to be really strict with him.

12 **Q. At that time period did you work a lot?**

13 A. I was a school teacher.

14 **Q. Well, what kind of hours were you working?**

15 A. I worked 8:00 to sometimes 4:00 or 5:00.
16 Sometimes I tutored. So, you know, defining "a
17 lot," I would bring home work. I wasn't gone, you
18 know, 12 to 16 hours a day. Jared was often with me
19 at school.

20 **Q. You said he accused you of knowing.**

21 **What did you mean by that?**

22 A. Oh, you knew I was using or you knew I was
23 taking money. Addicts say that.

24 **Q. Why was that important to him?**

25 MR. MAZZEO: Objection, speculation.

1 THE WITNESS: It made it okay. Made it
2 okay to use. Made it okay to take money.

3 BY MR. SMITH:

4 Q. He told you he felt it was okay if he used
5 drugs if you knew he was doing it?

6 A. No. It minimized the pain that he caused
7 me. It minimized lying to me. Oh, I didn't lie;
8 you knew.

9 Q. Do you think Jared has PTSD?

10 MS. COMPTON: Foundation.

11 THE WITNESS: I don't know whether the
12 medical definition. I think that he has, if not
13 PTSD, then anxiety.

14 BY MR. SMITH:

15 Q. And what does he do that leads you to
16 believe that he has PTSD or anxiety?

17 A. He is hypervigilant.

18 Q. What does that mean?

19 A. When you overreact to stimuli. When
20 something falls on the ground and you shake. You
21 have a very anxious reaction. He is constantly
22 checking a room. He is very suspicious of people.
23 He does not sleep even when he's not using.

24 He will put himself in positions where he
25 will be hyperanxious, you know, whether it's a love

1 of scary movies -- and I don't know that he loves
2 them. But just things that, you know, take things
3 to the edge because he's most comfortable when he's
4 anxious.

5 **Q. Any other ways that he demonstrates PTSD or**
6 **anxiety?**

7 A. He replays events.

8 MR. MAZZEO: Objection, foundation.

9 THE WITNESS: He replays events. He tells
10 the same stories over and over and over again.

11 BY MR. SMITH:

12 **Q. Has he been on medication at any point for**
13 **PTSD, anxiety, or any other psychiatric issues?**

14 A. Yes, he's been on medication.

15 **Q. And when did he first start?**

16 A. When he was -- before Utah he was on
17 medication. I think about 15.

18 **Q. Has he been on medication for psychiatric**
19 **issues since?**

20 A. He's been on medication. I don't know if
21 you would define them as psychiatric or emotional,
22 but he's been on medication, yes.

23 **Q. Does he take it regularly as prescribed?**

24 A. When he is doing well, when he's working
25 his program.

1 MR. MAZZEO: Speculation.

2 Sorry. Go ahead.

3 THE WITNESS: When he is clean and working
4 a program, yes.

5 BY MR. SMITH:

6 Q. Can you tell if Jared is taking his
7 medication?

8 MR. MAZZEO: Objection, foundation,
9 speculation.

10 THE WITNESS: Not always.

11 BY MR. SMITH:

12 Q. Does the medication calm him down?

13 MR. MAZZEO: Objection, speculation,
14 foundation.

15 THE WITNESS: Certain medications I can
16 tell. I thought I could tell when he was not taking
17 trazodone because he wasn't sleeping, but he may in
18 fact have been taking trazodone and getting high. I
19 don't know.

20 BY MR. SMITH:

21 Q. Getting high on something that would stop
22 him from sleeping?

23 A. Yes.

24 Q. What are the medications that he's
25 taking -- or that he has taken for psychiatric

1 **issues?**

2 A. Again, I don't know if they're psychiatric,
3 how you would define them. But the medication he's
4 taking is Seroquel, Abilify, trazodone, Zoloft. And
5 those are the ones I know of. There may be others.

6 **Q. He's currently taking all of those, or he**
7 **has been prescribed those over time?**

8 A. He has been prescribed those over time. I
9 don't know what he's taking now.

10 **Q. Earlier this year, he was at Southern**
11 **Nevada Adult Mental Health Services; right?**

12 A. Is that Rawson? Then yes.

13 **Q. Rawson Neal is what you're saying?**

14 A. Yes.

15 **Q. Do you know if Jared was prescribed**
16 **medication after he left there?**

17 A. Yes.

18 **Q. Did he take it?**

19 A. For a time.

20 **Q. And then he stopped?**

21 A. I don't know if he stopped completely or
22 what.

23 **Q. Why do you think he stopped?**

24 A. Because of the number of the pills that
25 were left when he left the house. And also because

1 the control of the pills moved from me to him.

2 Q. What do you mean by that?

3 A. When he first came home, he asked me to
4 give him the medication.

5 Q. And then he said he could handle it?

6 A. Yes.

7 Q. And you think when he said he could handle
8 it, he stopped taking it?

9 MR. MAZZEO: Objection, speculation.

10 BY MR. SMITH:

11 Q. Or didn't taking it regularly?

12 MR. MAZZEO: Speculation.

13 THE WITNESS: Not initially, no.

14 BY MR. SMITH:

15 Q. What do you mean not initially?

16 A. Initially, he was taking it. When I
17 thought he wasn't using it, I took them back into my
18 room, but then he was going into my room and taking
19 them. I let it be.

20 Q. When Jared was abusing drugs when he was
21 under 18, was he staying out all night?

22 A. There were times. Not always.

23 Q. There were times where he didn't come home?

24 A. Yes.

25 Q. There were times when he came home very

1 late?

2 MS. COMPTON: Foundation -- form.

3 THE WITNESS: Yes.

4 BY MR. SMITH:

5 Q. And what do you mean by very late?

6 A. 2:00, 3:00, 4:00, 5:00 in the morning.

7 Q. Has Jared ever been hospitalized for drug
8 problems?

9 A. Yes. I don't know what diagnosis they gave
10 him, but he's been hospitalized.

11 Q. Where at?

12 A. Summerlin. I think Summerlin twice.

13 Q. When were those?

14 A. Most recently in September. I believe back
15 in January, whatever led to his being in Rawson.

16 Q. Earlier this year?

17 A. Yes. He was placed on a hold at -- I think
18 it was Spring Valley, but wasn't admitted.
19 Insurance wouldn't admit him.

20 Q. Was there a place he was hospitalized at
21 called Montevista Psychiatric Hospital?

22 A. Yes. As a juvenile. I forgot about that.

23 Q. When was that?

24 A. When he was in drug court.

25 Q. Why was he hospitalized at Montevista

1 **Psychiatric Hospital?**

2 MR. MAZZEO: Foundation.

3 THE WITNESS: There's a question of dual
4 diagnosis, whether he was -- it was drug addiction
5 and bipolar, drug addiction and PTSD, and so Judge
6 Voy ordered him into treatment.

7 BY MR. SMITH:

8 Q. **What did he do that led to that?**

9 I mean, did he get arrested for something
10 that led to him getting put into Montevista
11 **Psychiatric Hospital?**

12 A. No. He was already in drug court. I guess
13 he had come up dirty or he wasn't doing as well, and
14 there was this question about the assault and its
15 impact, and so Judge Voy made a decision.

16 Q. **Did Jared have anger management problems**
17 **before the November 2005 fight?**

18 A. No, not that I know of.

19 Q. **If he said that, would you disagree with**
20 **him?**

21 A. No. He knows what he had and didn't have.
22 I didn't see signs of it.

23 Q. **When you smelled marijuana in the house,**
24 **what did you do to discipline him?**

25 A. Well, I would search his room. It was very

1 limited what I could take away because mostly
2 everything was gone. I would turn off his phone. I
3 would make him come with me wherever I was going.

4 **Q. What other types of discipline did you**
5 **impose when you thought he was using drugs?**

6 A. Other than withdrawal of any kind of
7 privileges or access to money and kind of putting
8 him on house arrest and keeping him with me and,
9 like I said, taking away things, I don't know what
10 else there was.

11 **Q. Did you provide incentives when he was off**
12 **drugs?**

13 A. Yes. And I also --

14 **Q. Like what?**

15 A. I provided incentives for him to get off
16 drugs. Even when he was dirty, I would say, Listen,
17 if you can get the next drug test clean, we will go
18 here, I will buy these sneakers, I will let this
19 friend come over.

20 **Q. You said before that he was in fights as a**
21 **juvenile.**

22 **Was he in fights before that November 2005**
23 **fight?**

24 A. Not that I knew of.

25 **Q. Did he ever come home with any bruises or a**

1 black eye before that fight?

2 A. Not that I know of.

3 Q. What happened the second time the police
4 came to your apartment?

5 A. I don't understand the question.

6 Q. You said there were two times, and the
7 second time you said was March or April of 2011.

8 A. I thought I had already answered that, but
9 I'll answer again. They called me. I was with a
10 friend for dinner.

11 Q. Oh, you did answer this. I apologize.

12 A. That's all right.

13 Q. And he was arrested as a result of that;
14 right?

15 A. I'm not remembering, but I believe so.

16 Q. If Jared says he told you after the first
17 time the police came to your house that he was
18 selling marijuana, would you dispute that?

19 A. After when?

20 Q. You said that there were two times the
21 police came to your house for his drug problems;
22 right?

23 A. But I mean, are you saying that he said it
24 as he was being arrested, or he said it since, like
25 he said it last week?

1 Q. No. He said it as he was being arrested or
2 in the aftermath -- well, he wasn't arrested.

3 But he said it as they were at your
4 apartment or in the aftermath of the police leaving
5 that day?

6 MR. MAZZEO: Can I have a time frame for
7 when we were talking about?

8 Is this after the subject accident or
9 before?

10 BY MR. SMITH:

11 Q. The first time the police came to your
12 house for his drug problems.

13 MR. MAZZEO: Well, objection to the extent
14 that it was -- objection, whether it's before or
15 after the accident.

16 Go ahead.

17 THE WITNESS: If he said that as the police
18 were dealing with him then that he said something to
19 me, then he's mistaken.

20 BY MR. SMITH:

21 Q. If he said it to you within the days
22 following that event -- well, strike that.

23 If he said that he told you within the days
24 following the police having come to your house that
25 first time for drugs, that he told you he was

1 **selling marijuana, would he be mistaken about that?**

2 MR. MAZZEO: Objection, relevance.

3 THE WITNESS: Then, yes, he would have been
4 mistaken.

5 BY MR. SMITH:

6 **Q. He didn't tell you after that first --**

7 A. Not that I recall.

8 **Q. -- time that he was on marijuana?**

9 MR. MAZZEO: Asked and answered.

10 THE WITNESS: Jared and Tikira moved out
11 right after that. We had limited contact.

12 BY MR. SMITH:

13 **Q. They moved out right after the first time**
14 **the police came and Jared wasn't arrested?**

15 A. Within that time frame. And it's possible
16 I'm misremembering, but they moved out.

17 **Q. Did they ever move back in?**

18 A. Yes.

19 **Q. How long after that did they move back in?**

20 A. I don't remember.

21 **Q. You don't remember how long they were gone**
22 **for?**

23 A. No. Because they had moved to someone
24 else's apartment in the complex, so it was kind of
25 fluid.

1 Q. Can you estimate how many times Jared's
2 been arrested?

3 A. No.

4 Q. Besides drugs, what has he been arrested
5 for?

6 A. I don't know.

7 Q. How many times have you called the police
8 to come to your house for Jared?

9 A. I don't know. Numerous times.

10 Q. More than five?

11 A. Yes.

12 Q. More than ten?

13 A. Yes.

14 Q. More than 15?

15 A. Perhaps. It's possible.

16 Q. What are the reasons that you've called the
17 police to come to your house for Jared?

18 MR. MAZZEO: Objection, relevance.

19 THE WITNESS: Because he was agitated.
20 Because I was sure that he was high or -- and a few
21 times I wasn't sure if he was having a psychotic
22 break or he was high. Because I needed medical
23 attention for him and the police come with the
24 medical attention. Because he had violated
25 restraining orders.

1 BY MR. SMITH:

2 Q. What's the time period where you called the
3 police to come to your house for Jared?

4 In other words, what ages was he?

5 A. From his teenage years until he left in
6 September.

7 Q. What do you mean by teenage years?

8 A. Thirteen, 14. He would run away or he
9 would -- you know, I called the police for numerous
10 things.

11 Q. Do you know if Jared has ever had a gun?

12 A. I believe there were weapons charges. I've
13 never seen him with a gun.

14 Q. Other than the police bringing charges, did
15 you ever have knowledge that he had a gun in your
16 house?

17 A. After.

18 Q. Only after he was charged?

19 A. Yes.

20 Q. Has Jared ever hit you?

21 A. No. He lifted me once. I just want to
22 clarify because I don't know the -- he put his hands
23 on to lift me once to get keys, but he has never
24 struck me.

25 Q. He wasn't violently trying to attack you;

1 he was trying to move you to get to something?

2 A. He was agitated and I was saying no to
3 keys. He wanted me to drive him, and he lifted me
4 up to see if they were underneath me.

5 Q. Have you ever feared for your safety from
6 Jared?

7 A. Yes.

8 Q. How many times?

9 A. I have no idea how many times. Maybe eight
10 to ten.

11 Q. Have you ever done anything that provoked
12 his anger?

13 A. From whose point of view, his or mine?

14 MR. MAZZEO: Objection, foundation,
15 speculation, relevance --

16 BY MR. SMITH:

17 Q. Start with yours.

18 MR. MAZZEO: Objection, foundation,
19 relevance --

20 THE WITNESS: From my --

21 MR. MAZZEO: -- speculation.

22 THE WITNESS: I'm sorry.

23 MR. MAZZEO: Sorry.

24 THE WITNESS: From my point of view, I have
25 never deliberately agitated him.

1 BY MR. SMITH:

2 Q. What about not deliberately?

3 MR. MAZZEO: Objection, form.

4 THE WITNESS: There have been times that he
5 has become agitated and I have no idea what I did.
6 So provoking, to me, means deliberate.

7 BY MR. SMITH:

8 Q. Do you think that you can be an intense
9 person to deal with?

10 MR. MAZZEO: Objection, foundation,
11 speculation, incomplete hypothetical.

12 THE WITNESS: I think I can be intense. I
13 think I can also be very understanding and flexible.

14 BY MR. SMITH:

15 Q. From Jared's point of view, have you ever
16 provoked him?

17 A. Yes.

18 Q. Do you think Jared loves you?

19 A. Yes.

20 Q. Do you think Jared would subject you to
21 financial risk if he could avoid it?

22 A. If he could avoid it? No.

23 Q. Has Jared ever been shot that you know of?

24 MR. MAZZEO: Shot or shocked?

25 MR. SMITH: Shot.

1 MR. MAZZEO: Shot?

2 MR. SMITH: With a gun.

3 THE WITNESS: Has Jared ever been what?

4 BY MR. SMITH:

5 Q. Shot.

6 A. I don't know.

7 Q. Other than the 2011 accident, what motor
8 vehicle accidents are you aware of that Jared has
9 been in?

10 A. 2008.

11 Q. Okay. What happened in 2008?

12 A. We were at my school. He went out to -- he
13 had my school and car keys to go get something out
14 of the car or throw some garbage out. And then I
15 got a call from police that he had been in an
16 accident at Fuselier near my school.

17 Q. He was driving your car; right?

18 A. Yes.

19 Q. You went out to that accident scene; right?

20 A. Yes.

21 Q. Was anyone injured?

22 A. I don't know.

23 Q. Was Jared?

24 A. I believe so.

25 Q. And what was Jared -- what of Jared was

1 **injured?**

2 A. His back --

3 MR. MAZZEO: And before you answer, just a
4 standing objection to this line of questioning
5 regarding the 2008 accident.

6 THE WITNESS: His back and neck I think. I
7 don't know if I'm remembering.

8 BY MR. SMITH:

9 **Q. Was it a big accident?**

10 MR. MAZZEO: Objection, form.

11 THE WITNESS: In terms of damage, yes.

12 BY MR. SMITH:

13 **Q. And your car was totalled; right?**

14 A. Yes.

15 **Q. The other car was totalled?**

16 A. I don't know.

17 **Q. It looked like a lot of damage to both**
18 **vehicles; right?**

19 A. Yes.

20 **Q. And how did Jared get your keys?**

21 A. We were at school and Jared's always helped
22 me at school. I've always given him the keys to go
23 take things out or go get things from the car. I
24 gave him the keys for that purpose or to dump some
25 garbage. I'm remembering garbage, but I'm not sure.

1 But to move things back and forth from my classroom
2 and --

3 **Q. What kind of discipline did you impose**
4 **after that?**

5 A. I, again, set some limits. But Jared was
6 involved with juvenile court at the time, so they
7 extended his -- whatever he was on restriction from,
8 and then I did the same thing that I was doing.
9 That's when I also was much more deliberate in
10 hiding the keys and hiding my wallet. That's when I
11 realized he's going to just take whatever he wants.

12 **Q. Was he charged with stealing your car at**
13 **that time?**

14 A. I don't know what he was charged with.

15 **Q. Did you tell the police that he stole it?**

16 A. Yes. That he was driving without
17 permission.

18 If I can backtrack for a moment, you didn't
19 ask me, but I also told them that in 2011 and they
20 wouldn't arrest him for it.

21 **Q. In 2011 you told the officer that Jared**
22 **stole a car?**

23 A. Yes. That Jared had the car without
24 owner's permission.

25 **Q. When did you tell them that?**

1 A. When the officer called me from the scene.

2 Q. What did the officer say when you told him
3 that?

4 A. He said that he couldn't arrest him for it
5 because there was no report.

6 Q. You -- it's your testimony that you told
7 the officer Jared took your car without permission
8 and he said he would not arrest him for it?

9 A. Um-hmm, yes.

10 Q. Yes?

11 A. I'm sorry. Yes.

12 Q. If the officer said that you never told him
13 that, are you saying he's lying?

14 MR. MAZZEO: Objection, argumentative.

15 THE WITNESS: No. I'm saying it was 2011
16 and he may not remember. I remember the
17 conversation with the officer because it's one
18 conversation I've had.

19 How many conversations did the officer have
20 that day or in his whole career?

21 BY MR. SMITH:

22 Q. What else did you talk -- well, how many
23 conversations have you had with police about Jared?

24 MR. MAZZEO: Objection, form.

25 THE WITNESS: I've had quite a few, but I'm

1 still always Jared's mother.

2 BY MR. SMITH:

3 Q. What else did you and the officer talk
4 about when he called you from the scene of the
5 accident?

6 A. He told me he was arresting Jared for DUI.
7 I asked him, Is Jared high or drunk? The officer
8 got a little agitated with me and thought -- he was,
9 Look, lady, I don't need to do this. I said, Wait,
10 let's hold up. I didn't mean for you to take -- I'm
11 not trying to cover for Jared. I'm trying to
12 understand where we are because Jared is going to
13 tell me that wasn't. So can you help me here? Can
14 you tell me?

15 Q. Were you trying to get the officer to
16 arrest Jared for stealing your car?

17 A. I don't know if I was trying. I think I
18 asked him.

19 Q. You asked him to arrest Jared for stealing
20 your car?

21 A. I don't think I said, Will you arrest
22 Jared? I said, He does not have permission to have
23 that car. Can we not do something about that?

24 Q. And what did he say?

25 A. He said, I'm doing this. I have to arrest

1 him for DUI. I have to arrest him for this.

2 Q. Besides the 2008 accident, has Jared been
3 in any other accidents?

4 A. Not that I recall.

5 Q. Who was your automobile insurer at the time
6 of the 2008 accident?

7 A. I don't remember. It was either Liberty
8 Mutual or California Casualty.

9 Q. Did you make a claim?

10 A. Yes.

11 Q. And what -- it was a claim for the property
12 damage or something else?

13 A. I don't recall, but they paid for the car
14 so --

15 Q. Your insurance company paid for the car?

16 A. I believe it was my insurance company.

17 Q. Did anyone else make a claim as a result of
18 that accident?

19 A. I believe the other party.

20 Q. And what was their claim for?

21 A. I don't know. I'm assuming their damage.

22 Q. Was there a lawsuit as a result of that
23 accident?

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

25 Q. Did you tell your insurance company that

1 Jared used the car without your permission in the
2 2008 accident?

3 A. Yes.

4 Q. Do you know if your insurance company made
5 a decision of whether Jared's use of your car in the
6 2008 accident was permissive?

7 A. No.

8 Q. Let's talk about the 2005 fight a little
9 bit and specifically Jared's injuries.

10 What did he hurt in that fight? What
11 was -- oh, strike that. Let me ask you a better
12 question.

13 What was injured in that fight?

14 A. Both eyes. He had some other lacerations,
15 but we mostly concentrated on the eyes.

16 Q. Any injuries besides his eyes?

17 MR. MAZZEO: I'd just object to the extent
18 it calls for medical expert opinion.

19 THE WITNESS: I believe some soft tissue.

20 BY MR. SMITH:

21 Q. What do you mean by that?

22 A. Neck, back.

23 Q. Anything else?

24 A. Not that I recall, but, again, my focus has
25 always been on his eyes.

1 **Q. And what were the injuries to his eyes?**

2 MR. MAZZEO: The same foundation,
3 question -- objection.

4 THE WITNESS: He had a traumatic macular
5 hole in one eye, a scratch on the other that was
6 repaired by laser.

7 BY MR. SMITH:

8 **Q. Which eye is the traumatic macular hole?**

9 A. I believe the left.

10 **Q. What is his vision like now in the left**
11 **eye?**

12 A. I don't know.

13 MR. MAZZEO: Objection, foundation.

14 BY MR. SMITH:

15 **Q. Do you know what it's been like at any**
16 **point since the November 2005 fight?**

17 MR. MAZZEO: Objection, speculation.

18 THE WITNESS: That he doesn't have vision
19 in that eye. He sees what he describes it as as a
20 black box.

21 BY MR. SMITH:

22 **Q. What's his vision been like in his right**
23 **eye since the accident -- or strike that, since the**
24 **2005 fight?**

25 A. I believe it's been strong, but there are

1 times that it's strained.

2 Q. Does he have depth perception in one of his
3 eyes?

4 MR. MAZZEO: Objection.

5 BY MR. SMITH:

6 Q. Depth perception problems in one of his
7 eyes?

8 MR. MAZZEO: Foundation.

9 THE WITNESS: I don't know. I believe so.

10 BY MR. SMITH:

11 Q. You went to his doctor's appointment with
12 him for his eyes; right?

13 A. Yes.

14 Q. Many of them; right?

15 A. All of them.

16 Q. Was Jared limited in any activities because
17 of his eyes after the fight?

18 MR. MAZZEO: Speculation.

19 THE WITNESS: Yes. He cannot play sports
20 because he cannot damage that other eye. He was at
21 that time looking to play basketball. Can't play
22 basketball.

23 There are certain jobs I guess that require
24 close-up work or any kind of welding or anything
25 like that where he has to -- he has to protect the

1 other eye.

2 In addition, he gets -- there were times he
3 would get what's called an ocular migraine where he
4 would lose vision in both eyes for upwards of
5 20 minutes.

6 BY MR. SMITH:

7 Q. Do you think that Jared can see well enough
8 to drive?

9 MR. MAZZEO: Objection, calls for medical
10 expert opinion, speculation, foundation.

11 MS. COMPTON: Join the foundation.

12 THE WITNESS: Yeah. I don't think he's
13 been declared blind in both eyes.

14 BY MR. SMITH:

15 Q. Has he been declared blind in one eye?

16 A. It has changed. There have been times that
17 he was considered blind and we had to have like
18 the -- and his vision varies, but it never gets to
19 full function. There's a line between blind and
20 nearly blind.

21 Q. Do you think it would be safe for Jared to
22 drive with his eye conditions?

23 MR. MAZZEO: Foundation.

24 MS. COMPTON: Join.

25 THE WITNESS: I think he has to go to the

1 doctor and get checked, but as far as I know, yes.

2 BY MR. SMITH:

3 Q. Are there any other issues that Jared has
4 that you think would make it unsafe for him to
5 drive?

6 A. Other than drug use?

7 Q. Well, you think the drug use would make it
8 unsafe for him to drive; right?

9 MS. COMPTON: Form, foundation.

10 THE WITNESS: Yes. If he's an addict in
11 recovery and he has clean time, he can certainly
12 drive. If he's an addict who's using, no, he
13 shouldn't drive.

14 BY MR. SMITH:

15 Q. Any other issues that you think would make
16 it unsafe for Jared to drive a vehicle?

17 A. Not based on the information that I have
18 now.

19 Q. Do you think Jared had any brain damage
20 from the 2005 fight?

21 MR. MAZZEO: Foundation.

22 THE WITNESS: I have always --

23 MS. COMPTON: Join.

24 THE WITNESS: -- suspected traumatic brain
25 injury.

1 BY MR. SMITH:

2 Q. Have any doctors told you that he had a
3 traumatic brain injury?

4 A. Doctors told me there's a possibility. My
5 insurance did not cover his --

6 Q. And what doctor told you there was a
7 possibility?

8 A. I don't remember --

9 Q. When was that?

10 A. -- the name?

11 From -- the first time I heard it clearly
12 was when he was at Cheyenne High School. The school
13 counselor brought it up. A family physician whose
14 name I don't remember said it's a possibility, but
15 we couldn't get testing for him.

16 Q. And what leads he you to think he has a
17 traumatic brain injury?

18 A. His acting out and the nature of the
19 injury. It was a traumatic hit. Some of his
20 speech. Some of the acting out. What I know from
21 being a special ed teacher working with students
22 with TBI and from colleagues who brought it up.
23 One -- again, when I was teaching and one of the
24 speech therapists said to me, I want you to consider
25 TBI.

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

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

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

1 respice 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?**

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?

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

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.

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.

1 **Q. How did he get the keys --**

2 MS. COMPTON: Do you want to take a break?

3 THE WITNESS: No.

4 BY MR. SMITH:

5 **Q. How did he get the keys those other four or**
6 **five times?**

7 A. He found them or he took them. There was a
8 time that I believed I had the keys, came out and
9 saw my car gone. That's one of the times I knew to
10 start hiding the keys.

11 He told me he didn't drive, a neighbor had
12 driven. And then when I threatened to call the
13 police, he confessed he did it. So that was one
14 time that I knew about.

15 Then there have been times since then that
16 he said, you know, I've taken the car more, I took
17 the car more times than that.

18 **Q. Where did he find the keys those times?**

19 A. I don't know.

20 **Q. You said he drove with you a handful of**
21 **times.**

22 How many times was that?

23 A. Five, ten.

24 **Q. How many times did you let him drive when**
25 **Tikira was in the car?**

1 A. I don't know. I let Tikira drive about ten
2 or 15 times because I took her for her accident -- I
3 mean, for her driver's license.

4 Q. Did you ever let Jared and Tikira take the
5 car where you knew Jared would be driving?

6 A. I don't think so. I don't know.

7 Q. Did you ever let Jared drive your car with
8 any other adult besides you?

9 A. Not that I remember. It's possible because
10 he had his permit and had to get hours, but I'm not
11 remembering any specifics.

12 Q. Those few times that Jared told you he took
13 the car without permission, besides the 2008 and
14 2011 accident, did you ever report the car stolen?

15 A. Not after the fact, no.

16 I believe I called once and they said, Is
17 the car there now? Do you know when?

18 They don't take reports so easily.

19 Q. Do you remember last time I asked you if
20 Jared had ever driven the car with your permission
21 and you said no?

22 A. If he had ever driven the car with my
23 permission? I don't remember.

24 Q. I'm going to read you the question and the
25 answer.

1 A. Okay.

2 Q. This is on page 17, line 18 because your
3 counsel is looking at the transcript.

4 Question: Before January 2nd, 2011, had
5 you ever let Jared drive your car?

6 Answer: No.

7 That's not true; right?

8 A. I'm sorry. You're confusing me.

9 Q. Well, you remember coming to my office in
10 September 2013; right?

11 Yes?

12 A. Yes, I'm sorry.

13 Q. You remember sitting here with the court
14 reporter; right?

15 A. Yes.

16 Q. You remember the court reporter placing you
17 under oath; right?

18 A. Yes.

19 Q. You remember me asking questions and you
20 answering those questions; correct?

21 A. Yes.

22 Q. And you answered my question: Before
23 January 2nd, 2011, had you ever let Jared drive your
24 car? And you said: No.

25 A. That's not the part that's confusing me.

1 **Q. What's confusing you?**

2 A. I think I was confused by: Did I let him
3 drive by himself? Did I let him drive without a
4 license? And that answer is no.

5 Did I let him go with Tikira? Because
6 since that time, Jared has said that he had that and
7 he -- and I may be mistaken, but I never handed
8 Jared the car and said, Go take the car.

9 **Q. Why didn't you tell me at that time that**
10 **you had driven with Jared driving?**

11 MR. MAZZEO: Objection, argumentative.

12 THE WITNESS: I don't believe you asked me.
13 I don't know how much I remembered or what the time
14 frame was.

15 Have I ever? He was learning how to drive.
16 Have I ever driven with him? Yes. I don't know
17 what you asked me.

18 Also, I need to clarify that an awful lot
19 has happened in a very short period of time. I --
20 well, let me not say that part.

21 It's exhausting, this whole thing. So are
22 there things sometimes that I need prompted to
23 remember? Yes.

24 BY MR. SMITH:

25 **Q. Do you know Jared was pulled over in your**

1 car in November 2010?

2 A. No.

3 Q. You're not -- are you aware that he got a
4 ticket for a broken headlight in your car at some
5 point?

6 A. No.

7 Q. Did you ever fix the headlight in the car
8 that he was in an accident in on January 2nd, 2011?

9 A. I don't remember, but I don't think so.

10 Q. Do you know about any other traffic tickets
11 Jared has gotten?

12 A. No.

13 Q. Do you know that he's been cited for
14 driving without a license in your vehicle?

15 A. No.

16 Q. Did Jared ever drive you to work?

17 A. No.

18 Q. Why would he say that?

19 A. I can't answer.

20 MS. COMPTON: Foundation --

21 MR. MAZZEO: Objection, yeah, assumes facts
22 not in evidence.

23 THE WITNESS: I would assume he's either
24 mistaken or is giving a reason why he wasn't driving
25 without permission. He's, again, a kid in trouble,

1 who thinks that I'm going to get him out of trouble.

2 BY MR. SMITH:

3 Q. Do you think that he would place you in
4 trouble in order to get himself out of trouble?

5 MR. MAZZEO: Objection, speculation.

6 MS. COMPTON: Foundation.

7 THE WITNESS: I don't think he would
8 realize he's putting me in trouble. I think he
9 would think that I can fix that or that I can -- or
10 I wouldn't be in trouble if he said that because
11 what trouble could I be in.

12 Do I think Jared wants to hurt me? No.

13 But do I think Jared has hurt me? Sure.

14 BY MR. SMITH:

15 Q. If he says that he drove you to work, he
16 would be lying?

17 MR. MAZZEO: Objection,
18 mischaracterization.

19 THE WITNESS: I think he would be --

20 MS. COMPTON: Form.

21 THE WITNESS: I'm sorry.

22 I think he would be mistaken. I think he
23 also might be missing information.

24 Did he and Tikira take me to work when
25 Tikira -- yes.

1 BY MR. SMITH:

2 Q. But you're saying he wasn't driving?

3 A. I'm saying he wasn't driving.

4 Q. What did you do to teach Jared how to
5 drive?

6 A. I drove with him, and then when that didn't
7 work as well, friends of mine drove with him.

8 Q. What do you mean when that didn't work as
9 well?

10 A. We're mother and son. We would argue.

11 Q. What friends did you have drive with Jared?

12 A. I would be guessing, but I think I remember
13 my friend Bonnie took him once or twice. And it
14 didn't -- we didn't do it very often.

15 Q. Was that before or after the January 2011
16 accident?

17 A. It would have been before.

18 Q. Do you know if Jared ever took a driver's
19 education class?

20 A. I thought that he did in school.

21 Q. Why do you think that?

22 A. Because I thought -- he told me that and I
23 thought it was a part of school.

24 Q. Did you ever send Jared to run errands in
25 your car?

1 A. No.

2 Q. So if he said that, he's lying?

3 MR. MAZZEO: Objection.

4 THE WITNESS: Again, I'm --

5 MR. MAZZEO: Foundation, form.

6 THE WITNESS: I don't know if he's lying or
7 if he's mistaken or if he's saying he and Tikira
8 went or he went and did errands. I don't know what
9 his rationale is.

10 BY MR. SMITH:

11 Q. If you said -- strike that.

12 If he said that you sent him to run errands
13 alone in your car, he would be lying?

14 MR. MAZZEO: Objection, form.

15 THE WITNESS: He would be wrong.

16 MR. MAZZEO: Incomplete hypothetical.

17 THE WITNESS: He would be wrong.

18 BY MR. SMITH:

19 Q. You never sent him to get Ho-Hos for you?

20 A. Was I in the car and I asked him to go
21 inside? Yes. Do I eat Ho-Hos? Yes.

22 Again, this is a kid who has distorted
23 memories now, but also has an -- is entitled, and so
24 this is how that conversation could go: Gee, I wish
25 I had some Ho-Hos. We don't have any in the house.

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?**

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

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.

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.

1 Q. Has Jared ever driven her car?

2 A. I don't know.

3 Q. Do you know if Jared ever took that car
4 when he was living there?

5 A. I don't know.

6 Q. Besides your car, do you know any other
7 vehicles that Jared has driven?

8 A. I don't know.

9 Q. On the day of the January 2011 accident,
10 before the accident, did he ask to use your car?

11 A. No.

12 Q. If he said he asked to use your car, would
13 he be lying?

14 A. He'd be mistaken.

15 Q. At the Gowan apartment you had a garage;
16 right?

17 A. Yes.

18 MS. COMPTON: Form.

19 MR. SMITH: What's the form problem with
20 that question?

21 MS. COMPTON: You said you had a garage.

22 MR. SMITH: What -- do you want to get a
23 dictionary and look up the term "garage?"

24 MS. COMPTON: No, no. I was saying you
25 were telling her that. You weren't asking a

1 question. You were telling her the answer.

2 BY MR. SMITH:

3 Q. There was a garage at your apartment at the
4 Gowan apartment; right?

5 A. Yes.

6 Q. You could lock the car in the garage;
7 correct?

8 A. Yes.

9 Q. How often did you park in the garage around
10 that time period of December 2010 and January 2011?

11 A. I don't remember.

12 Q. Why would you not park in the garage?

13 A. Because I always had school stuff or
14 groceries and where we parked was right by the
15 apartment.

16 Q. The garage was further away than the
17 parking spot you normally parked in?

18 A. Yes. And I had to deal with the garage
19 door. It didn't always work. Maintenance was not
20 always great about fixing that door. It became a
21 hassle to use it.

22 Q. When did that start?

23 A. I don't remember.

24 Q. You could ask maintenance to fix it if it
25 was broken; correct?

1 A. I did ask maintenance and it took them
2 forever to fix it.

3 **Q. How did the garage lock?**

4 A. I believe there was a remote.

5 **Q. It was an --**

6 A. Clicker.

7 **Q. -- electronic clicker?**

8 A. Yes.

9 **Q. So you could have put the car in the**
10 **garage, closed it with the electronic clicker, and**
11 **without that clicker, Jared could not have gotten**
12 **into the garage?**

13 MR. MAZZEO: Objection, incomplete
14 hypothetical.

15 MS. COMPTON: Form.

16 THE WITNESS: No. I believe you can open
17 the door without the -- you could just manually open
18 the door.

19 BY MR. SMITH:

20 **Q. You could just lift it up?**

21 A. I believe so. And if I can add, you can do
22 that in my house. The house I rent now, you can do
23 that.

24 **Q. Anybody can go open the door and get into**
25 **your garage?**

1 A. I believe so.

2 Q. In the apartment that you described earlier
3 the Gowan apartment, did the master bedroom have its
4 own bathroom?

5 A. Yes.

6 Q. Did that bathroom have a lock on it?

7 A. I don't remember.

8 Q. Where were you when Jared took the keys in
9 January 2011?

10 MR. MAZZEO: Objection, assumes facts not
11 in evidence.

12 THE WITNESS: I don't know because I don't
13 know when he took the keys.

14 BY MR. SMITH:

15 Q. Did you have a safe in the Gowan apartment
16 in January 2011 at the time of the accident?

17 A. I don't know if we had it in 2011. I had
18 one at one point.

19 Q. What kind of safe was it?

20 A. If I recall correctly, and I may be
21 mistaken, I've had two different: One with a key
22 and one with a combination.

23 Q. If you had put the keys to the car in the
24 safe, could Jared have gotten them?

25 MR. MAZZEO: Objection, foundation,

1 speculation, incomplete hypothetical.

2 THE WITNESS: I believe so. They were more
3 like lock boxes than safes.

4 BY MR. SMITH:

5 Q. You believe he could have gotten into it?

6 A. I do.

7 Q. How?

8 A. Again, Jared is very resourceful. So the
9 one with the key you can jimmy. Or if he had -- if
10 there are two keys, it's possible you take them --
11 I'm really, really guessing on that one.

12 The combination one, if he had seen me do
13 it and I didn't realize. But also most lock boxes,
14 if you manipulate them enough, if you bang them, if
15 use a tool, you can open them. I would have bought
16 them at Walmart.

17 Q. Did you have a spare key to the car that he
18 was in January 2nd, 2011?

19 A. I don't recall.

20 Q. Did you ever have a spare key to one of
21 your cars in your apartment at the Gowan apartment?

22 A. I don't recall.

23 Q. What were the hiding places that you used
24 for your keys around the time of the January 2011
25 accident?

1 A. Under the bed. In the -- in his section of
2 the bathroom like way behind in the cabinet under
3 the sink while I was in the shower. In the closet
4 in different purses. In the closet underneath
5 things. In a briefcase and then I would hide the
6 briefcase under the bed. In dresser drawers.
7 Inside things. Inside garbage cans. Inside garbage
8 I thought he wouldn't go through. In -- while I was
9 cooking, in various drawers in the kitchen.
10 Sometimes underneath several cushions on the couch,
11 like underneath the couch. Under the recliner,
12 under the recliner, so I'd have to get up and he'd
13 have to lift the couch to find it. Any place that I
14 could think of.

15 **Q. You hid your car keys in all of those**
16 **places?**

17 A. Yes.

18 **Q. Where were they hidden the day that he took**
19 **them on January 2nd, 2011?**

20 A. I don't recall because, again, I don't know
21 when he took them.

22 **Q. Were they hidden inside or outside your**
23 **bedroom?**

24 A. I don't recall.

25 **Q. If you were in the bedroom, why wouldn't**

1 **you bring the keys in there and lock the door?**

2 A. Because I may have been in the bedroom only
3 for a few minutes because that's where the bathroom
4 was. I didn't have a TV in the room.

5 If he were home and I were going in the
6 room, he'd have to see where I took the keys from if
7 I took them out of the living room. I might have
8 thought they were safer where I had hidden them
9 while I went to the bedroom to go to the bathroom.

10 **Q. Do you think you could have gotten a safe**
11 **to keep the keys in so he couldn't have taken your**
12 **car?**

13 MR. MAZZEO: Objection, incomplete
14 hypothetical, speculation.

15 THE WITNESS: Not to -- not to the -- I
16 mean, it would have been a very big safe and super
17 expensive to keep and still he would have figured
18 out the combination or seen me do the combination.
19 BY MR. SMITH:

20 **Q. You think that he's crafty enough that he**
21 **could have cracked any safe you could have bought?**

22 MR. MAZZEO: Objection, speculation,
23 incomplete hypothetical.

24 THE WITNESS: I would not use the word
25 "crafty." I think he was relentless. I think he is

1 clever. I think that I'm not as relentless and
2 clever.

3 I think that it is to his advantage to be
4 able to take what he needs to take, and when you are
5 an addict who is craving, whether it's gambling or
6 drugs, you do things that people who are not craving
7 don't know you're going to do.

8 BY MR. SMITH:

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

11 A. I have read that.

12 **Q. Why would he lie about that?**

13 MR. MAZZEO: Objection, mischaracterizes --
14 (Multiple parties speaking.)

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

17 BY MR. SMITH:

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

19 A. I think he's mistaken. I think he may have
20 seen them there earlier. I also don't think it
21 matters.

22 **Q. Why don't you think it matters?**

23 A. Because you -- because I leave keys on the
24 counter does not mean you have permission to take
25 the car.

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

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?

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

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?

1 A. I believe so.

2 Q. More than five times?

3 A. I don't think so.

4 Q. What happened when you went to the DMV?

5 A. I don't recall. I thought that he got a
6 permit one time. It was to get an ID when -- at
7 least twice it was to take Tikira for her test. I
8 don't remember each time.

9 Q. And what was it that you paid for online?

10 A. His permit.

11 Q. And how did you pay for it online?

12 A. You go online to the DMV. You use your
13 credit card or debit card and you pay whatever the
14 fee is.

15 Q. When did you do that?

16 A. I don't recall exact dates, but before his
17 18th birthday once he came home from Utah.

18 Q. In between the time he came home from
19 Odyssey House and the time that he turned 18?

20 A. Yes.

21 Q. What type of credit card did you use?

22 A. My debit card.

23 Q. What bank is that from?

24 A. I don't know where it was from at the time.
25 It would either have been Silver State Schools,

1 Nevada State Bank, or Chase. I don't remember who I
2 had at the time.

3 Q. How much did you have to pay for the
4 permit?

5 A. I believe I paid between 20 and 40.

6 Q. Did you ever see Jared take the driving
7 test at the DMV?

8 A. No.

9 Q. Did you ever see Jared take a written test
10 at the DMV?

11 A. Yes.

12 Q. When was that?

13 A. I don't remember.

14 Q. Was it before or after the 2011 accident?

15 A. Before.

16 Q. Did he pass?

17 A. I thought he had.

18 Q. Did you pay for a permit that time?

19 A. I remember being at the DMV and paying
20 his -- and waiting. And perhaps I have it confused
21 with Tikira, but I remember waiting while someone
22 went and took a test, and then we went and paid.
23 That's when I thought he had a permit.

24 I remember one of them taking their
25 picture. I thought it was Jared.

1 Q. Well, that's a big distinction on whether
2 it's Jared or Tikira.

3 So do you remember Jared take a written
4 test at the DMV?

5 A. I do remember. I'm concerned that I'm
6 mis-remembering, but I do remember. I remember
7 being there with him.

8 Q. And your bank records would show that you
9 paid the DMV for him to get a permit?

10 A. I believe so.

11 Q. Did you ever ask to see his permit?

12 A. No.

13 Q. Why not?

14 A. I didn't feel there was a reason. I was
15 with him when he got it. There was no reason to ask
16 for it. I was waiting for him to get his -- to
17 either get the number of hours you need for the
18 permit or to turn 18 so he could take the test.

19 Q. You didn't want to see your son's picture
20 on the permit?

21 A. No. I --

22 MR. MAZZEO: Objection, argumentative.

23 THE WITNESS: I remember being at the DMV
24 and his getting his picture taken and his showing me
25 something. So I thought I had seen it.

1 BY MR. SMITH:

2 Q. By that point, Jared had lied to you a
3 number of times; correct?

4 A. At this point when we went, he might have
5 been doing well. I don't remember specific dates.

6 Q. But you would agree before his 18th
7 birthday he had lied to you many times; correct?

8 MR. MAZZEO: Objection. That's misstating
9 her testimony.

10 THE WITNESS: If I -- I would agree to
11 that, but I would also agree that during that time
12 before he turned 18 there were times that he was
13 dedicated to doing well and telling me the truth and
14 that I could believe him.

15 BY MR. SMITH:

16 Q. He had stolen from you before his 18th
17 birthday?

18 A. Yes.

19 Q. You testified last time that you were
20 suspicious of Jared surrounding that January 2011
21 accident; right?

22 A. Things had changed then.

23 Q. When did they change?

24 A. I don't recall. Around the time that Kalia
25 (phonetic) was born.

1 **Q. Things got worse after Kalia was born?**

2 A. Things got more strained, yes.

3 **Q. When was Kalia born?**

4 A. December -- December 6, 2010.

5 **Q. Why did things get more strained at that**
6 **point?**

7 A. Again, I would be speculating. One,
8 because I felt trapped. They had a baby. Where
9 were they going to go? Where was the baby going to
10 go? Tikira began to act out as well, very entitled.

11 They were very rude and demanding during
12 the last days of the pregnancy and when she was in
13 the hospital. They were increasing having people
14 there. They were increasing in demands. They had
15 nothing for the baby.

16 I had to watch my boundaries because I'm a
17 first-time grandma and I wanted to give that baby
18 everything, but I've got two adult children acting
19 out. So it was very stressful. Work was very
20 stressful. It was just a very stressful time.

21 **Q. How long before his 18th birthday did you**
22 **think Jared got his permit?**

23 A. I don't remember.

24 **Q. Do you remember when it was that you went**
25 **with him to the DMV?**

1 A. No. But, again, I know that I took his
2 18th birthday off from work to take him to the DMV.

3 **Q. Is that the day that you think you went and**
4 **got his permit, his 18th birthday?**

5 A. No. That was for his license. He turned
6 me down. He said, I don't need to go. That
7 probably increased my suspicion of him.

8 **Q. Why did he say he didn't -- strike that.**
9 **Why did say that you didn't need to go?**

10 MR. MAZZEO: Objection, speculation.

11 THE WITNESS: I'm hanging with friends.
12 It's my birthday. I'm good. I'll get it another
13 time.

14 BY MR. SMITH:

15 **Q. And what did that make you suspicious of?**

16 A. That he either didn't want to get his
17 license or that there was something I didn't know.

18 **Q. What was the date of his 18th birthday?**

19 A. February 11th.

20 **Q. 2010?**

21 A. Yes. Wait. Let me do the math now in my
22 head. 1992, yes. Wait. I'm sorry.

23 Can I have a piece of paper? I don't know
24 if it was 2009 or 2010. Yeah, no, it wasn't. Yes,
25 2010.

1 Q. 2010?

2 A. Um-hmm.

3 Q. Yes?

4 A. Yes. I'm sorry. Yes.

5 Q. Do you have your bank records from the time
6 period where you believe you paid for Jared's
7 permit?

8 A. No.

9 Q. What did you do with them?

10 A. Most of my records are electronic, so I
11 wouldn't have printed them out unless I needed them.
12 Too, we've moved. The police were there multiple
13 times. There's a lot of records that I don't have
14 or didn't keep.

15 Q. By electronic, you mean you get them in an
16 e-mail?

17 A. You get an electronic statement. So I knew
18 if I needed them, at that time I could go onto my
19 bank's website and pull them up.

20 Q. You actually have to go onto the website or
21 you get them e-mailed to you?

22 A. Onto the website. I get an e-mail that my
23 statement is ready. And if they were paper, it's
24 now 2014, I'm sure I didn't keep any of that.

25 Q. Are you aware that Jared said he paid for

1 his ID card?

2 A. No.

3 Q. Would he be lying about that?

4 MR. MAZZEO: Objection, speculation, form.

5 THE WITNESS: No. He's had -- he's had
6 multiple cards. He loses them.

7 BY MR. SMITH:

8 Q. How many ID cards has he had?

9 A. I don't know. But I know he's lost things
10 and had to -- or said that he's lost them and had to
11 pay for them again.

12 Q. If the DMV records show that he never took
13 a driving test or a written test until after the
14 January 2011 accident, are you going to dispute
15 that?

16 A. Not if the DMV records say that. I will
17 say I was mistaken.

18 Q. Do you have any evidence to show that Jared
19 took a written test at the DMV prior to January
20 2011?

21 A. No.

22 Q. Do you have any records to show that you
23 ever paid for Jared to obtain a permit?

24 A. No.

25 MR. SMITH: Let's go off the record for a

1 minute.

2 THE VIDEOGRAPHER: The time is
3 approximately 4:59 p.m. We're going off the record.

4 (Thereupon, a break was taken.)

5 THE VIDEOGRAPHER: The time is
6 approximately 5:28 p.m. We're going back on the
7 record.

8 BY MR. SMITH:

9 Q. Let's talk about -- a little bit about the
10 January 2011 accident.

11 Has Jared ever told you what happened?

12 A. Not start to finish.

13 Q. What has he told you?

14 A. That he was pulling out, that he swears the
15 other lady sped up, that he felt she wasn't hurt,
16 and something about a truck or a bus that I'm not
17 completely clear on.

18 Q. Did he say she sped up or she was speeding?

19 A. I think he said she he sped up, but I'm not
20 sure.

21 Q. Did he say anything about why he believes
22 she's not hurt?

23 A. Because she got up and walked around and
24 there was no ambulance at the scene.

25 Q. Anything else you remember him telling you

1 **about the accident?**

2 A. I just need clarification of a time. From
3 when it happened or just --

4 **Q. At any point in time.**

5 A. He has said that he was not under the
6 influence, that he had marijuana on him and didn't
7 want to get arrested for that.

8 **Q. Did tell you that he told police that he**
9 **had been smoking?**

10 A. I've heard him say that.

11 **Q. Did tell you why he told the police he had**
12 **been smoking if he hadn't been?**

13 A. Because he had marijuana on him and I guess
14 it was a certain weight that you're not supposed to
15 have or something.

16 **Q. Did he tell you why he thought telling the**
17 **police that he had been smoking would avoid them**
18 **finding the marijuana that was on him?**

19 A. No. This would be an example of Jared's
20 either drug logic or kid logic or where he thinks
21 certain things that -- that's why I say sometimes
22 that he wasn't lying, he was mistaken because he
23 puts two and two together and gets six.

24 **Q. Anything else he told you about the**
25 **accident?**

1 A. He has said to me that he knows he didn't
2 have permission to take the car.

3 **Q. When did he tell you that?**

4 A. He's told me that numerous times,
5 especially since he came home from Rawson and we
6 started to do the case more.

7 **Q. Has he told you where he got the keys from?**

8 A. No.

9 **Q. Have you asked him?**

10 A. I don't recall.

11 **Q. Other than him telling you he didn't have**
12 **permission to take the car, did you have any other**
13 **conversations with him about permission to take the**
14 **car on that day?**

15 A. I don't understand what other conversations
16 we would have had, what you mean.

17 **Q. Is there anything you talked about with him**
18 **regarding him having permission to take the car**
19 **other than him just telling you he realizes he**
20 **didn't have permission?**

21 A. No. Other than that was why I'm being
22 sued. I think he asked me -- and, again, I may be
23 mis-remembering, but I think he asked me, Why are
24 they suing you? And I said, Because they're saying
25 I gave you permission to drive the car. And he

1 said, But you didn't.

2 Q. Did you ever see your car after the
3 accident?

4 A. Yes.

5 Q. You went to go get things out of it; right?

6 A. Right.

7 Q. What was it you got out of the car?

8 A. I don't recall. I think some things for
9 school, maybe a CD, maybe a jacket. I don't recall.

10 Q. What did the damage to the car look like?

11 A. It was extensive. Had it been a newer car
12 worth more money, they would have fixed it. So it
13 wasn't totalled, but it was enough damage that it
14 was worth more than whatever the formula is for the
15 percentage of the car.

16 Q. Did anyone -- well, strike that.

17 Did anyone tell you what the cost to repair
18 the car would be?

19 A. I think they told me that it was
20 prohibitive. They may have told me an amount, but I
21 don't remember. But it was more than whatever their
22 formula is.

23 Q. How much money did you get for the car?

24 A. I still owed on the car, so I didn't get
25 anything for the car.

1 **Q. How much did you owe?**

2 A. I mean, whatever they paid towards it, but
3 I still owed on the car.

4 **Q. How much did you owe?**

5 A. I don't recall.

6 **Q. Did you owe in addition after they paid?**

7 A. Yes.

8 **Q. Did you pay that back?**

9 A. Drive Time, where I got the car, rolled
10 that over. They had their own form of gap insurance
11 because I didn't. They said, If you buy your next
12 car with us and pay that off, we'll waive this. It
13 might have been upwards of three to five thousand
14 dollars but, again, I'm not exactly sure. It was a
15 lot of money.

16 **Q. The gap or the amount you owed on the car?**

17 A. The difference between what the insurance
18 paid and what I owed.

19 **Q. Where was your loan through on the car that
20 was in the 2011 accident?**

21 A. Drive Time.

22 **Q. They were the actual bank?**

23 A. I believe so. I don't know how it works.
24 I paid them.

25 **Q. That's where your make your payments was to**

1 Drive Time?

2 A. Yes.

3 Q. And that's who got paid off after the car
4 was totalled?

5 A. Yes.

6 Q. Do you know whether the car had to be towed
7 from the accident scene?

8 A. I believe it was.

9 Q. Do you know if it was drivable after the
10 accident?

11 A. I don't know.

12 Q. What did the damage look like?

13 A. I don't remember.

14 Q. You don't remember what your car looked
15 like when you went to go see it?

16 A. No, I don't. It was -- we're going on
17 almost four years and an awful lot has happened. I
18 just know it was a lot of damage.

19 Q. Let's talk about that day before the
20 accident.

21 I know you remember the police officer
22 calling you; right?

23 A. The day before or the day --

24 Q. No, the day of the accident but before the
25 accident happened.

1 You remember the police officer -- let
2 me --

3 A. Yes.

4 Q. -- just start over.

5 You remember the police officer calling you
6 on the day of the accident; right?

7 A. Yes.

8 Q. What do you remember about that day before
9 the police officer called you?

10 A. It was winter break from school. The baby
11 was home. Was the baby home? Excuse me. I can't
12 remember if Kalia was home or not?

13 I was -- I remember being agitated with
14 both Jared and Tikira. I may have talked to my
15 NAR-ANON sponsor. I can't remember. I was watching
16 television. I knew I had to go back to school soon.
17 It was a tense day at home.

18 Q. Do you remember anything you did that day?

19 A. I remember working -- and, again, it might
20 not have been that day. But I know during vacation
21 I worked on schoolwork and watching television.

22 Q. Did you leave the house that day?

23 A. I don't remember.

24 Q. Do you know anything Jared did that day
25 before the accident?

1 A. No. I think that I worked on schoolwork
2 because I think I remember his grabbing something
3 out of the car for me. But, again, I may have the
4 wrong day.

5 Q. You think he grabbed something out of the
6 car for you that day --

7 A. Yeah, my school books.

8 Q. -- to help you with schoolwork?

9 A. Yeah.

10 Q. That's yes?

11 A. I'm sorry. Yes. I think so.

12 Q. Anything else you remember about that day
13 before the officer called you?

14 A. No, not offhand. If I looked at a
15 calendar, I could be clear. If I knew it was a
16 Sunday and I was going back to school, I could kind
17 of piece together more, Oh, here's what I was
18 probably doing. But I don't remember what day it
19 was.

20 Q. Let's look. So it was -- if I told you it
21 was a Sunday, would that assist you in remembering?

22 A. Yeah. I thought I had remembered it was a
23 Sunday. I'm pretty sure earlier in the day I worked
24 on lesson plans, got together whatever books I
25 needed. I may have had an IEP, an Individualized

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

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?**

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.

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

1 Jared was living with her, she didn't hide her pills
2 or the alcohol.

3 Q. What do you mean by let him go?

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.

7 Q. And you think once he finds his bottom, he
8 can start recovering and actually stay clean?

9 A. I think he's already started recovery.

10 THE WITNESS: I'm sorry?

11 MR. MAZZEO: No, go ahead.

12 THE WITNESS: There are multiple levels and
13 there are some people that say relapse is a part of
14 recovery.

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.

19 Q. Do you think he's hit his yet?

20 THE WITNESS: I don't --

21 MR. MAZZEO: Speculation, foundation.

22 THE WITNESS: I don't know. I also don't
23 know if it's necessary.

24 BY MR. SMITH:

25 Q. Do you think driving without a driver's

1 **license can cause safety problems in the community?**

2 MS. COMPTON: Foundation.

3 THE WITNESS: I have -- I never thought
4 about that.

5 BY MR. SMITH:

6 **Q. Do you think Jared driving without a**
7 **driver's license is a safety problem?**

8 MR. MAZZEO: Speculation, foundation.

9 THE WITNESS: I think Jared driving is
10 showing bad judgement.

11 Is it a safety problem? I don't know how
12 to answer that.

13 BY MR. SMITH:

14 **Q. Do you think Jared driving at the time of**
15 **the 2011 accident endangers people around him?**

16 MR. MAZZEO: Speculation, foundation,
17 incomplete hypothetical.

18 THE WITNESS: I don't know.

19 BY MR. SMITH:

20 **Q. Do you think that Jared's drug use has**
21 **endangered community safety?**

22 MR. MAZZEO: Objection, incomplete
23 hypothetical, speculation, foundation, form.

24 THE WITNESS: I don't know about community
25 safety.

1 BY MR. SMITH:

2 Q. You don't know if his drug use creates a
3 safety risk for the community?

4 A. I don't know --

5 MR. MAZZEO: Objection, asked and answered.

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.

10 BY MR. SMITH:

11 Q. Do you think his drug dealing endangered
12 community safety?

13 MR. MAZZEO: Objection, foundation, form.

14 MS. COMPTON: Join.

15 THE WITNESS: I think drug dealing does,
16 yes.

17 BY MR. SMITH:

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?

21 MR. MAZZEO: Objection, foundation,
22 speculation, incomplete hypothetical, form.

23 MS. COMPTON: Join.

24 THE WITNESS: Nothing gives -- gives him
25 the right? I don't know how to answer that.

1 I mean, it's an illegal act. Nothing can
2 give you the right to do that.

3 BY MR. SMITH:

4 Q. Do you think the problems that Jared has
5 had from the 2005 fight -- well, strike that.

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?

9 MR. MAZZEO: Objection, speculation,
10 foundation, form.

11 THE WITNESS: Yes.

12 BY MR. SMITH:

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?

16 MR. MAZZEO: Objection, foundation, form.

17 MS. COMPTON: Join, foundation.

18 THE WITNESS: Ask me again, please.

19 MR. SMITH: Can you read it back?

20 (Thereupon, the requested portion was read back.)

21 THE WITNESS: If I knew he was driving,
22 yes.

23 BY MR. SMITH:

24 Q. If you knew Jared was driving, do you feel
25 as a parent it was your responsibility to ensure he

1 was a safe driver?

2 MR. MAZZEO: Objection, form, foundation.

3 THE WITNESS: If I knew he were driving,
4 yes.

5 BY MR. SMITH:

6 Q. Given your knowledge of the 2008 accident,
7 did you feel that it was your responsibility to make
8 sure Jared learned driving safety?

9 MR. MAZZEO: Objection, speculation,
10 foundation, form, incomplete hypothetical.

11 THE WITNESS: Yes. And I need to qualify
12 that. Based on the 2008 accident, I thought that
13 Jared needed more intervention. I sought to get it.
14 There was a lot more intervention after that.

15 His driving was not as -- getting him a --
16 let me re-word that. His driving was his privilege
17 that he needed to take of. Not that I wasn't
18 teaching him, but it wasn't up the foremost of my --
19 I wanted him clean. I wanted him graduating high
20 school. I wanted him working. I wanted him clean,
21 and to be a good father.

22 BY MR. SMITH:

23 Q. So based on you knowing that he took your
24 car multiple times before the January 2011 accident,
25 did you feel that it was your responsibility to

1 **teach him how to safely drive a vehicle?**

2 MR. MAZZEO: Objection, misstates prior
3 testimony, speculation, foundation.

4 THE WITNESS: No. I felt it was my
5 responsibility to keep him out of the car and hide
6 the car. I thought teaching him how to drive safely
7 was a mixed message.

8 BY MR. SMITH:

9 **Q. Your counsel lodged an objection about**
10 **misstates testimony, so let me make sure that I**
11 **understood your testimony correctly.**

12 **You knew prior to January 2011 that Jared**
13 **had driven your car; correct?**

14 A. He had been in an accident in 2008 so of
15 course I knew.

16 **Q. And you knew he had taken it other times in**
17 **addition to the 2008 accident; correct?**

18 MR. MAZZEO: Objection, misstates prior
19 testimony.

20 MR. SMITH: Well, that's what I'm asking.

21 THE WITNESS: After the fact. As it was
22 happening, no.

23 BY MR. SMITH:

24 **Q. But prior to January 2011, you knew that it**
25 **had happened more than just the 2008 accident;**

1 correct?

2 A. Yes.

3 Q. Do you believe Jared's vision problems
4 create any safety issues when he's driving a
5 vehicle?

6 MR. MAZZEO: Objection, foundation,
7 speculation.

8 THE WITNESS: Based on doctors' reports,
9 no.

10 BY MR. SMITH:

11 Q. Do you believe Jared's vision problems
12 could endanger the safety of over drivers if Jared's
13 driving?

14 MR. MAZZEO: Foundation, speculation.

15 THE WITNESS: Based on what I knew from
16 doctors, no.

17 BY MR. SMITH:

18 Q. Do you believe Jared's driving without a
19 valid permit or license created safety issues in the
20 community?

21 MR. MAZZEO: Speculation, foundation.

22 THE WITNESS: In and of itself, no.

23 BY MR. SMITH:

24 Q. What are you qualifying that with?

25 A. I would be more concerned about his ability

1 to drive -- did he know how to drive? Was he
2 sober? -- than whether -- whether you have -- I
3 don't know how to word this.

4 At the time of the accident, it was my
5 understanding he had a permit. So the belief that
6 he had a permit isn't the same as believing -- I'm
7 not wording this well. That is less of a concern to
8 me than someone's ability to drive.

9 Q. In the times that you had driven with him,
10 was he an able driver?

11 A. Yes.

12 Q. You thought he was a good enough driver
13 that he could drive on his own?

14 A. I don't know if I would say that.

15 Q. What would you say?

16 A. I would say that like any young driver he
17 needed to be watched. He needed to be counseled. I
18 have friends whose kids get their license and they
19 still -- their parents still watch them drive
20 because when you're young, you think you're
21 immortal. You think you know everything. You don't
22 know what not to know.

23 Q. Do you think Jared has difficulty managing
24 his anger?

25 A. I think Jared manages a lot of intense

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?**

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.

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.

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.

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.

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

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

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?

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**

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.

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.

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

1 me.

2 MR. SMITH: I don't have any further
3 questions.

4 MR. MAZZEO: We're done.

5 THE VIDEOGRAPHER: This concludes the
6 videotaped deposition of Andrea Awerbach on Friday,
7 October 24, 2014.

8 The time is approximately 6:07 p.m. We're
9 now off the record.

10 - - - - -

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12 (Proceedings concluded at 6:07 p.m.)

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I, ANDREA AWERBACH, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; under penalty of perjury; that I have read, corrected and do hereby affix my signature to said deposition.

ANDREA AWERBACH, Deponent

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
3) SS:
4 COUNTY OF CLARK)

5 I, Jackie Jennelle, a duly commissioned
6 Notary Public, Clark County, State of Nevada, do
7 hereby certify: That I reported the video
8 deposition of ANDREA AWERBACH, commencing on FRIDAY,
9 OCTOBER 24, 2014, at 1:30 p.m.

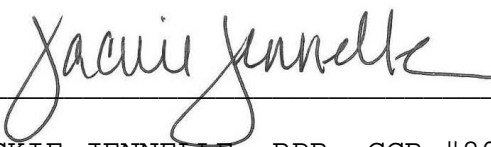
10 That prior to being deposed, the witness
11 was duly sworn by me to testify to the truth. That
12 I thereafter transcribed my said shorthand notes
13 into typewriting and that the typewritten transcript
14 is a complete, true and accurate transcription of my
15 said shorthand notes.

16 I further certify that I am not a relative
17 or employee of counsel, of any of the parties, nor a
18 relative or employee of the parties involved in said
19 action, nor a person financially interested in the
20 action.

21 IN WITNESS WHEREOF, I have set my hand in my
22 office in the County of Clark, State of Nevada, this
23 3rd day of November, 2014.

24

25


JACKIE JENNELLE, RPR, CCR #809

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