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40:20,22	45:1 80:3	23 63:3,
41:4,9	124:7	12,22,25
47:8,9	yelled	64:2,11,
50:8	58:3 96:4	21 73:16
71:17,19		76:23
95:3	yelling	77:2,7,
97:8,25	57:24	16,20,23
98:3,11,	95:21	78:7
24 99:25	younger	80:5,7
102:12,18	80:3	84:5,9,18
103:21		91:13,15,
108:11	Yup	18 92:5,
109:1	86:10	10
115:6	132:14,21	
117:4		zone
118:2		121:14,15
138:3	Z	
140:15		
X'zavion's	Zachariah	
97:14	59:3	
98:19	61:22	
101:20,	Zacharias	
22,25	44:13,14	
102:10	46:4,7,15	
	59:3	
Xbox	61:22	
79:9,15,	63:11	
18,19	86:21	
	Zachary	
Y	43:20,21,	
	22 44:12,	
ya'll	14,16	
81:24	59:22	
year	Zak	
22:6 29:7	44:14,25	
137:20	45:5	
	46:10,24	
yearbook	47:25	
128:11,12	56:5,7	
years	57:21	
22:9,21	58:16	
25:21	59:2,3,21	
26:12,23	61:8,14,	
27:11	22 62:4,	
28:20	5,11,16,	
39:14	19,20,22,	

EXHIBIT C

4845-3057-6394.1

Jolene Manke

From: Jolene Manke
Sent: Friday, February 12, 2016 3:12 PM
To: 'Charlene Renwick'; David Churchill; Aicklen, Josh Cole (Josh.Aicklen@lewisbrisbois.com); Avakian, David (David.Avakian@lewisbrisbois.com); Rosenthal, Harold
Cc: David Churchill; Lili Salonga
Subject: Hawkins v. Meadows/Valor/Warner - Documents

Dear Counsel:

Pursuant to my conversation with Ms. Renwick this afternoon, I am putting you all on notice of my formal request that you produce the documents Mr. Aicklen was referencing during Mr. Hawkins' deposition this morning. As you all know you must produce all evidence, impeachment or otherwise, pursuant to NRCP 16.1, and you must seasonably supplement your responses to our requests for production.

It is insufficient for you to say that Det. Majors is going to bring these documents to his deposition when these documents are already in your possession. It is not our practice to litigate by ambush, and we hope it is not your practice either.

As I indicated to Ms. Renwick, I will consider my telephone conference with her my good faith attempt to resolve this discovery dispute pursuant to EDCR 2.34.

Please supplement these materials to me by 5 p.m. on Wednesday, February 17th, or I will have no choice but to bring this up with the Discovery Commissioner.

Sincerely,

Jolene J. Manke
Of Counsel
INJURY LAWYERS OF NEVADA
P: (702) 868-8888
F: (702) 868-8889
E: jolene@injurylawyersnv.com

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IRS CIRCULAR 230 DISCLOSURE: As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.

EXHIBIT D

4845-3057-6394.1

**LEWIS
BRISBOIS
BISGAARD
& SMITH LLP**

ATTORNEYS AT LAW

6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Fax: 702.893.3789
www.lewisbrisbois.com

JOSH COLE AICKLEN
DIRECT DIAL: 702.693.4373
JOSH.AICKLEN@LEWISBRISBOIS.COM

February 17, 2016

File No.
33219.205

DAVID B. AVAKIAN
DIRECT DIAL: 702.693.1720
DAVID.AVAKIAN@LEWISBRISBOIS.COM

HAROLD J. ROSENTHAL
DIRECT DIAL: 702.693.4397
HAROLD.ROSENTHAL@LEWISBRISBOIS.COM

VIA ELECTRONIC SERVICE

Jolene Manke, Esq.
David Churchill, Esq.
Law Office of David Churchill
6900 Westcliff Drive, Suite 707
Las Vegas, NV 89145

Re: *Hawkins, X'Zavion v. Mydatt Services, Inc., et al.*
District Court Clark County, Nevada Case No. A717577
Our Client: Mydatt Services, Inc. d/b/a Valor Security Services
Your Client: X'Zavion Hawkins
Claim No.: CVEL-5859A1
Date of Loss: 08/17/2013
Subject: NRCP 16.1 Disclosures

Dear Ms. Manke:

Following Plaintiff's deposition on February 12, 2016, you called and emailed defense counsel demanding production of documentation provided by Detective Majors of the Las Vegas Metropolitan Police Department. We met with Det. Majors regarding the subpoena for deposition that was served on him which included a request for production of documents in his possession relevant to his investigation of Plaintiff's shooting. Det. Majors provided some documents during that meeting that he will also bring to his deposition, pursuant to the referenced subpoena. Det. Majors also stated that these materials were previously provided to Plaintiff's prior counsel, Jason Burrus, and we

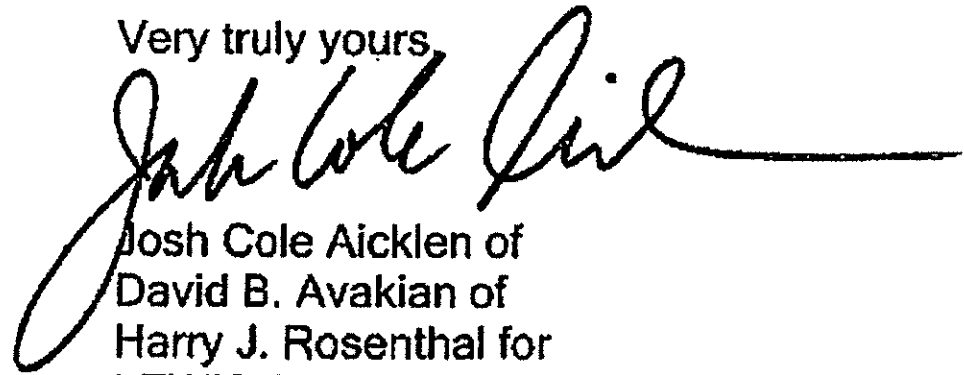
Jolene Manke, Esq.
RE: Hawkins, X'Zavion v. Mydatt Services, Inc., et al.
February 17, 2016
Page 2

reasonably assume those documents would have been turned over to your office when you assumed Plaintiff's case.

With respect to your accusation that the defense is litigating this matter by "ambush," we strongly disagree. Please be reminded that NRCP 16.1 requires the parties to seasonally update their discovery disclosures. We are in the process of gathering these materials for an updated NRCP 16.1 disclosure and we will attach them, but these materials are also located in the file from Mr. Burrus' office.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Josh Cole Aicklen", with a long horizontal flourish extending to the right.

Josh Cole Aicklen of
David B. Avakian of
Harry J. Rosenthal for
LEWIS BRISBOIS BISGAARD & SMITH LLP

JCA/DBA/HJR/an

EXHIBIT E

4845-3057-6394.1

DEPOSITION ERRATA SHEET

File No. J0263337

Case Caption: Hawkins vs. GGP Meadows Mall, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed this 31 day of March, 2016.

X'ZAVION J HAWKINS

X'ZAVION HAWKINS

3/31/2016

DEPOSITION ERRATA SHEET

Page No. 16 Line No. 19 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 24 Line No. 10 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 24 Line No. 24 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 25 Line No. 24 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 26 Line No. 13 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 26 Line No. 15-16 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED

Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 28 Line No. 7-8 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED THAT

Reason for change: SOMEONE HAD SAID SOMETHING SIMILAR TO, "ZAK, GET HIM."
RECOLLECTION REFRESHED

Page No. 29 Line No. 12-13 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED

Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS.
RECOLLECTION REFRESHED

Page No. 31 Line No. 10 Change to: I PRESENTLY DON'T RECALL, HOWEVER, I DON'T DISPUTE THAT I THREW A SNAPPLE BOTTLE TO DEFEND MYSELF

Reason for change:

RECOLLECTION REFRESHED

Page No. 31 Line No. 24 Change to: I PRESENTLY DON'T RECALL

Reason for change: RECOLLECTION REFRESHED

SIGNATURE:

X'ZAVION HAWKINS

DATE:

2/31/2016

DEPOSITION ERRATA SHEET

Page No. 32 Line No. 1 Change to: I PRESENTLY DON'T RECALL,
HOWEVER, I DON'T DISPUTE THAT I THREW A SNAPPLE BOTTLE TO DEFEND MYSELF
Reason for change: RECOLLECTION REFRESHED

Page No. 35 Line No. 23 Change to: I PRESENTLY DON'T RECALL
HOW I LEARNED POOH-MAN'S REAL NAME.
Reason for change: RECOLLECTION REFRESHED

Page No. 35-36 Line No. 25 & 1 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 37 Line No. 2-3 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 37 Line No. 7-8 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 38 Line No. 11 Change to: I DON'T PRESENTLY RECALL,
Reason for change: RECOLLECTION REFRESHED

Page No. 38 Line No. 21-22 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 39 Line No. 21-23 Change to: I PRESENTLY DON'T RECALL,
HOWEVER, I DON'T DISPUTE THAT I THREW A SNAPPLE BOTTLE TO DEFEND MYSELF
Reason for change: RECOLLECTION REFRESHED

Page No. 40-41 Line No. 24-25 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE
Reason for change: I AT ONE TIME I BELIEVED SOMEONE SAID "ZAK BETHAM"
RECOLLECTION REFRESHED

Page No. 42 Line No. 18 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

SIGNATURE:

X'Zavion S Hawkins
X'ZAVION HAWKINS

DATE:

2/31/2016

February 12, 2016

62

63

DEPOSITION ERRATA SHEET

Page No. 42 Line No. 20-21 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 42 Line No. 24 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS.
RECOLLECTION REFRESHED

Page No. 44 Line No. 7-8 Change to: I PRESENTLY DON'T RECALL
WHAT I TOLD THE POLICE, HOWEVER I AM WILLING TO TESTIFY AGAINST HIM.
Reason for change: RECOLLECTION REFRESHED

Page No. 55 Line No. 5 Change to: I PRESENTLY DON'T RECALL.
Reason for change: RECOLLECTION REFRESHED

Page No. 56 Line No. 22 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: SOMEONE SAID, "ZAK, GET HIM."
RECOLLECTION REFRESHED.

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

SIGNATURE:

X'ZAVION HAWKINS

DATE:

X'Zavion J Hawkins 3/31/2016

EXHIBIT F

4845-3057-6394.1



02-25-2016

Attn: DAVID J. CHURCHILL, ESQ.
Re: **X'ZAVION HAWKINS vs. GGP MEADOWS MALL LLC**
Deposition of X'Zavion Hawkins, taken on 02/12/2016
Your Case Number A-15-717577-C
Our Reference Number 263337

Dear Sir or Madam:

Please be advised that the transcript in the above-referenced matter is available for reading and signature. Enclosed you will find a condensed copy of the transcript, a Declaration under Penalty of Perjury Certificate and Errata pages to note any necessary changes or corrections to the transcript.

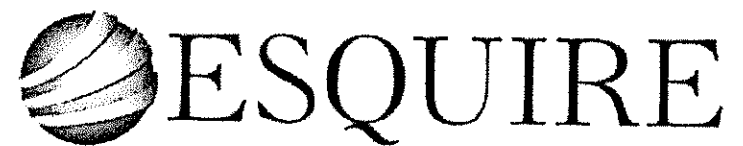
The witness should complete the following steps within 30 days of the date of this memorandum:

- Read the enclosed copy of the transcript of your deposition
- Make any corrections necessary on the Errata page only. If you do not wish to make changes, write "No Changes" on the top of the Errata page.
- If you require additional space to list changes, you may use your own paper. Remember to include witness name, deposition date, our reference number, and the page/line location of each change.
- If there are multiple transcript volumes, complete Errata pages separately for each volume.
- Obtain notarization if instructed by counsel.
- Sign the bottom of the Errata page(s)
- Sign and date the Declaration under Penalty of Perjury.
- Return only the Declaration under Penalty of Perjury and signed Errata pages. The condensed transcript is yours to keep.
- Return completed forms to:

Errata Processing Division
Esquire Corporate Production Department
Suite 2700, 101 Marietta Street
Atlanta, GA 30303

If electronic documents are permissible in the applicable jurisdiction for this matter, you may instead submit a scanned copy of the Declaration under Penalty of Perjury and signed Errata pages via E-mail to errata@esquiresolutions.com.

The Original transcript and any original exhibits will remain in our custody until the specified holding period has elapsed, or we receive the completed Errata pages. Upon our receipt of the



completed Errata pages, we will make the changes available in electronic form to all counsel. The original Errata pages will be reunited with the Original Transcript. We will forward the completed, certified Original Transcript on to the custodial party.

If the signed Errata pages are not returned to our offices within the specified time frame, the Original transcript will be forwarded to the deposing attorney with no changes attached.

In the event any of the above instructions differ from a stipulation or contradict a previous agreement between counsel regarding witness signature, please disregard this letter's details and follow the protocol as agreed upon by and between counsel.

If the Original Transcript is required for court purposes before the holding period has elapsed, or if you have any other questions regarding this process, please contact Esquire Client Support at 800.211.DEPO (800.211.3376), or ClientCare@esquiresolutions.com.

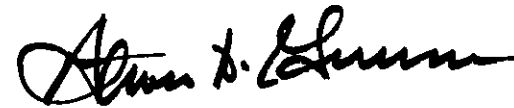
Thank you,

Corporate Production Department
Esquire Deposition Solutions

Enclosures

CC: All Counsel present

EXHIBIT “16”



CLERK OF THE COURT

MDQA
DAVID J. CHURCHILL (SBN: 7308)
JOLENE J. MANKE (SBN: 7436)
INJURY LAWYERS OF NEVADA
6900 Westcliff Drive, Suite 707
Las Vegas, Nevada 89145
T: 702-868-8888
F: 702-868-8889
david@injurylawyersnv.com
jolene@injurylawyersnv.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

X'ZAVION HAWKINS,
Plaintiff,

vs.

GGP MEADOWS MALL LLC, a Delaware
Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR SECURITY
SERVICES, an Ohio Corporation; MARK
WARNER, individually; DOES 1 through 10;
DOE SECURITY GUARDS 11 through 20; and
ROE ENTITIES 21 through 30, inclusive,
Defendants.

CASE NO.: A-15-717577-C
DEPT. NO.: XXXI

**PLAINTIFF'S MOTION TO
DISQUALIFY LEWIS BRISBOIS
BISGAARD & SMITH AND FOR
SANCTIONS ON ORDER
SHORTENING TIME**

Date of Hearing:
Time of Hearing:

DEPARTMENT XXXI
NOTICE OF HEARING
DATE 5/24/16 TIME 1 pm
APPROVED BY [Signature]

Plaintiff X'ZAVION HAWKINS (hereinafter "Plaintiff" or "X'Zavion"), by and through his attorneys, David J. Churchill, Esq. and Jolene J. Manke, Esq. of INJURY LAWYERS OF NEVADA, hereby moves this Honorable Court for an Order disqualifying the law firm of Lewis Brisbois Bisgaard & Smith from representing Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES and MARK WARNER in the current litigation pursuant to Nevada Rules of Professional 1.7, 1.9 and 1.10. This motion is based upon the attached memorandum of points and authorities and affidavits of Plaintiff X'ZAVION HAWKINS and Jason W. Barrus, Esq. as well as pleadings and papers on file herein and any other evidence or oral argument this Honorable Court may entertain at the hearing of this motion.

///

///

///

1 Plaintiff seeks to have this motion heard on order shortening time because has only recently
2 become aware that Paul A. Shpirt, Esq., who worked on Plaintiff's matter when he was employed with
3 Eglet Law Firm, is now an associate attorney with the law firm of Lewis Brisbois Bisgaard & Smith.
4 Based upon questionable discovery practices employed by Lewis Brisbois Bisgaard & Smith, Plaintiff
5 believes the law firm is benefitting from Mr. Shpirt's knowledge gained through privileged
6 conversations with Plaintiff, participation in privileged strategy conferences with Plaintiff's former
7 counsel and analysis of Plaintiff's former counsels' work product. Accordingly, Plaintiff respectfully
8 requests that the time for hearing this matter be shortened to avoid further prejudice, including
9 allowing Lewis Brisbois Bisgaard & Smith to participate in the upcoming evidentiary hearing on May
10 26, 2016. If this matter were heard in the ordinary course, it would be after the evidentiary hearing
11 currently set for May 26, 2016.

12 DATED this 9TH day of May, 2016.

13 INJURY LAWYERS OF NEVADA

14 
15 DAVID J. CHURCHILL (SBN: 7308)

16 JOLENE J. MANKE (SBN: 7436)

17 6900 Westcliff Drive, Suite 707

18 Las Vegas, Nevada 89145

19 Attorneys for Plaintiff

20 **ORDER SHORTENING TIME**

21 It appearing to the satisfaction of the Court, and good cause appearing therefore,

22 IT IS HEREBY ORDERED that the time for the hearing on PLAINTIFF'S MOTION TO

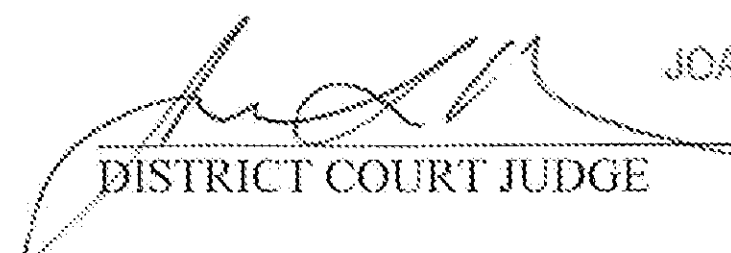
23 **DISQUALIFY LEWIS BRISBOIS BISGAARD & SMITH AND FOR SANCTIONS ON ORDER**

24 **SHORTENING TIME** be, and it hereby is, shortened to the 26th day of May, 2016, at the
hour of 1:00 p.m., or as soon thereafter as counsel may be heard.

25 DATED this 11 day of May, 2016.

Motion must be filed/heard
by: 5-11-16 @ 5:00 p.m.
Opposition due: 5-18-16 @ Noon
Reply due: 5-20-16 @ 5:00 p.m.

26 JOANNA S. KISHNER

27 
28 DISTRICT COURT JUDGE

HTP

James G. Smith

AFFIDAVIT OF JOLENE J. MANKE, ESQ.
IN SUPPORT OF ORDER SHORTENING TIME PURSUANT TO EDCR 2.26

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

JOLENE J. MANKE, ESQ., being first duly sworn, deposes and says as follows:

1. I am an attorney licensed to practice law in the State of Nevada, and am of counsel to the law firm of Injury Lawyers of Nevada, counsel for Plaintiff X'ZAVION HAWKINS (hereinafter "X'Zavion") in the above-captioned matter, and I have personal knowledge and am competent to testify to the matters set forth herein.

2. I was recently advised by X'Zavion's former counsel, Jason W. Barrus, Esq. that Paul A. Shpirt, Esq. is an attorney employed with the law firm of Lewis Brisbois Bisgaard and Smith, one of the law firms currently representing Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICE and MARK WARNER. (A true and correct copy of the Find A Lawyer printout for Mr. Shpirt from the State Bar of Nevada is attached hereto as Ex. "1.")

3. Mr. Barrus also advised me that on December 18, 2014, Mr. Shpirt worked at Eglet Law Group where he personally met with X'Zavion and Mr. Barrus and discussed X'Zavion's case.

4. On behalf of Eglet Law Group, Mr. Shpirt signed the fee division agreement pursuant to Nevada Rule of Professional Conduct 1.5(e) between Eglet Law Group, Baker Law Firm and X'Zavion. (Please see the affidavit of Jason W. Barrus, Esq. attached hereto as Ex. "2" at 1:11-13.)(A true and correct copy of the Fee Division Agreement redacted for confidential percentages is attached hereto as Ex. "3.")

5. Mr. Shpirt received a zip drive from X'Zavion's prior counsel, Jason W. Barrus, Esq., and he worked on X'Zavion's matter approximately three and a half months. (Ex. "2" at 1:19.)

6. On March 16, 2015, Mr. Shpirt spoke with Mr. Barrus on the telephone regarding "some of the problems we see with liability in this case" and sent an e-mail to Mr. Barrus and Lloyd Baker indicating Eglet Law Group would not be able to continue representing X'Zavion because "the police report creates a lot of issues for us." (*Id.* at 1:25-28.)(Please also see a true and correct copy of Mr. Shpirt's e-mail of March 16, 2015 is attached hereto as Ex. "4.")

1 7. On April 3, 2015, Mr. Barrus e-mailed Mr. Shpirt to request that the zip drive he had
2 provided with the "Hawkins file on it" be returned to him. (Ex. "2" at 2:1-2)(Ex. "4.")

3 8. That same day Mr. Shpirt said he would "find out" about the zip drive. (Ex. "2" at 2:1-
4 2.)(Ex. "4.")

5 9. I believe Lewis Brisbois Bisgaard and Smith has used X'Zavion's privileged
6 communications with Mr. Shpirt and Mr. Shpirt's access to attorney work product against X'Zavion to
7 cause great prejudice, including a motion to dismiss his case, based on defense counsel Josh Aicklen,
8 Esq. and Charlene Renwick, Esq.'s meeting with Det. William Majors wherein they both received and
9 reviewed documents from Det. Majors that were not available through Metro's designated custodian of
10 records in violation of Metro's dissemination policy.

11 10. Lewis Brisbois Bisgaard & Smith benefitted from Mr. Shpirt personally meeting with
12 X'Zavion and evaluating the nature and extent of X'Zavion's injuries, including his memory problems.

13 11. Because Mr. Shpirt told X'Zavion that Eglet Law Group was concerned about the police
14 report and liability relating to his matter, I do not believe it was a coincidence that Defendants initially
15 noticed the deposition of Det. William Major to occur before X'Zavion's deposition, and then after
16 defense counsel met with Det. Majors they unilaterally renoticed Det. Majors' deposition so it would be
17 after X'Zavion's deposition.

18 12. On February 12, 2016, when Defendants deposed X'Zavion Mr. Aicklen asked questions
19 of X'Zavion while reading from the documents obtained from Det. Majors in violation of Metro's
20 dissemination policy. These materials were unfamiliar to X'Zavion and his counsel, David J. Churchill,
21 Esq. Mr. Aicklen did not provide a Bates range or otherwise identify the documents, and he did not
22 allow X'Zavion or Mr. Churchill to see the documents.

23 13. Shortly after the deposition concluded, I tried to call Mr. Aicklen, but was advised that he
24 was unavailable.

25 14. I then called Mr. Aicklen's co-counsel, Ms. Renwick, and asked for the Bates range of
26 the documents Mr. Aicklen was referencing during X'Zavion's deposition. Ms. Renwick told me there
27 was no Bates range for the documents, but Det. Majors would bring a copy of the documents to his
28 deposition on Thursday, February 25, 2016. I told Ms. Renwick that was unacceptable, and I would

1 consider our telephone conversation my good faith attempt to receive a copy of the documents before
2 Det. Majors' deposition and before X'Zavion's continuing deposition. I sent an e-mail to all defense
3 counsel memorializing my conversation with Ms. Renwick, and requesting production of the documents
4 before 5 p.m. on Wednesday, February 17, 2016. I was not in the office on Monday, February 15, 2016,
5 for President's Day, but on Tuesday, February 16, 2016, I spoke with Mr. Aicklen who told me he could
6 not produce the documents to me until he spoke with Ms. Renwick. I told him that pursuant to my e-
7 mail of February 12, 2016, I would wait until 5 p.m. that day before seeking court intervention to obtain
8 the documents. Mr. Aicklen implied the documents he had in his possession were somehow similar to
9 *sub rosa* that would not have to be timely produced. I told him there could be no work product privilege
10 between him and Det. Majors and the documents should have been timely produced pursuant to both
11 NRCP 16.1 and 34.

12 15. On February 17, 2016, Mr. Aicklen wrote me a letter explaining he met with Det. Majors
13 and obtained "some documents" directly from him. However, at the end of the letter Mr. Aicklen said he
14 was "in the process of gathering these materials." (A true and correct copy of Mr. Aicklen's letter of
15 February 17, 2016, is attached hereto as Ex. "5.")

16 16. I then wrote an e-mail to defense counsel explaining that their continuing refusal to
17 produce the documents obtained from Det. Majors that were not *sub rosa* was simply wrongful. (A true
18 and correct copy of my e-mail of February 17, 2016, is attached hereto as Ex. "6.")

19 17. During the telephone conversation and in his letter, Mr. Aicklen said Det. Majors had
20 given these same documents to X'Zavion's prior counsel, Jason W. Barrus, Esq. However, while Mr.
21 Barrus spoke with Det. Majors at least 18 months ago before this matter went into litigation, he never
22 met with Det. Majors and he never obtained any documents from him. (A true and correct copy of Mr.
23 Barrus' affidavit is attached hereto as Ex. "7.")

24 18. Based upon Lewis Brisbois Bisgaard & Smith having the benefit of Mr. Shpirt's
25 privileged information, Mr. Aicklen and Ms. Renwick met with Det. Majors, obtained documents in
26 violation of Metro's dissemination policy, unilaterally moved Det. Majors' deposition to be after
27 X'Zavion's deposition, wrongfully waited to produce the documents pursuant to NRCP 16.1 and 34, and
28 are now accusing X'Zavion of having "unclean hands."

1 19. Before bringing this motion to disqualify Lewis Brisbois Bisgaard & Smith, I called bar
2 counsel, Phil Pattee, Esq., and discussed the nature of Mr. Shpirt's work on X'Zavion's matter while
3 employed with Eglet Law Group and his current employment with Lewis Brisbois Bisgaard & Smith in
4 relation to Nevada Rules of Professional Conduct 1.9 and 1.10, and for this reason X'Zavion is
5 proceeding with this motion to disqualify and for sanctions.

6 20. If this matter is heard in the ordinary course, it will be after the evidentiary hearing on
7 Defendants' motion to dismiss X'Zavion's complaint based on "unclean hands" currently set for May
8 26, 2016.

9 21. The longer Lewis Brisbois Bisgaard & Smith continues to work on this matter on behalf
10 of the defense, the greater the prejudice to X'Zavion.

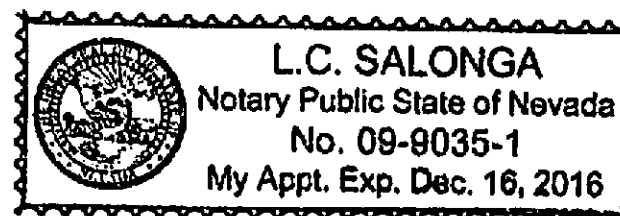
11 22. Accordingly, to avoid further prejudice to X'Zavion, he respectfully requests that his
12 motion to disqualify Lewis Brisbois Bisgaard and Smith be heard on order shortening time to prevent
13 Defendants from further wrongfully benefitting from Mr. Shpirt's access to privileged information.

14 FURTHER YOUR AFFIANT SAYETH NAUGHT.

15
16 
17 JOLENE J. MANKE, ESQ.

18 Subscribed and Sworn to before me
19 this 9th day of May, 2016.

20 
21 NOTARY PUBLIC in and for said
22 County and State



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1 **POINTS AND AUTHORITIES**

2 **I. CASE OVERVIEW**

3 On or about August 17, 2013, the Air Jordan 4 "Green Glow" shoe launch took place at
4 Meadows Mall. Patrons participating in the shoe launch had to arrive at Meadows Mall very early
5 before the entrance doors opened to increase their chance of obtaining a pair of the limited quantity of
6 shoes. X'Zavion accompanied his minor female cousin to Meadows Mall to participate in the shoe
7 launch. They arrived at Meadows Mall during the early morning hours to wait with other patrons
8 participating in the shoe launch. After they arrived, they found a place near the south entrance where all
9 the other patrons had gathered to wait for the doors to open. While they were waiting, they stood in the
10 area of the entrance or sat on a bench near the entrance.
11

12 At no time did X'Zavion observe any individuals who appeared to be associated with security for
13 Meadows Mall. At no time did X'Zavion observe any police cars or individuals who appeared to be
14 associated with law enforcement assisting with crowd control or keeping the peace.
15

16 While it was still dark outside and several hours remained before the entrance doors would open,
17 a group of young men present for the shoe launch approached X'Zavion and his minor female cousin.
18 One of the young men in the group stared at X'Zavion and rushed toward him in a threatening manner.
19 X'Zavion was first physically assaulted by one of the young men in the group and knocked to the
20 ground. X'Zavion then heard the young man yell to one of the other young men in the group something
21 that sounded like, "Get him Zach!"
22

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1 X'Zavion then recalls hearing a number of gun shots ring out and X'Zavion suffered multiple
2 gun shot wounds. X'Zavion recalls being assisted by another patron who had been waiting in line for
3 the shoe launch. X'Zavion then recalls that police officers arrived at the scene and emergency personnel
4 transported him from the scene. The gun shot wounds caused X'Zavion to suffer very serious injuries,
5 including permanent paralysis from the waist down. He will likely require some sort of assistance with
6 his daily needs for the remainder of his life.
7

8 **II. PROCEDURAL POSTURE**

9 An evidentiary hearing on Defendants' motion to dismiss Plaintiff's complaint based upon
10 unclean hands is set for May 26, 2016. This matter is set for jury trial on a five-week trial stack
11 beginning November 14, 2016.
12

13 **III. RELEVANT FACTS**

14 1. On December 18, 2015, Jason W. Barrus, Esq. and X'Zavion met with Tracy A. Eglet,
15 Esq. and Paul A. Shpirt, Esq. of Eglet Law Group. (Please see the affidavit of Jason W. Barrus, Esq.
16 attached hereto as Ex. "3" at 1:12-13.)

17 2. Eglet Law Group accepted the referral of X'Zavion's matter and a retainer agreement and
18 fee division agreement were signed. (*Id.* at 1:14-16.)(See also a true and correct copy of the Fee
19 Division Agreement redacted for confidential percentages is attached hereto as Ex. "2.")

20 3. During this meeting Mr. Shpirt had the opportunity to speak with X'Zavion about the
21 incident and the nature and extent of X'Zavion's injuries. (Ex. "3" at 1:17-18.)

22 4. Mr. Barrus provided Mr. Shpirt a zip drive containing privileged work product materials.
23 (*Id.* at 1:19.)

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1 5. Mr. Shpirt must have engaged in privileged communication with Ms. Eglet and others at
2 Eglet Law Group to develop strategy and analyze strengths and weaknesses relating to X'Zavion's
3 matter because on March 2015, after working on X'Zavion's matter for approximately three and a half
4 months, Mr. Shpirt telephoned Mr. Barrus to advise him that Eglet Law Group would not be able to
5 continue representing X'Zavion. (*Id.* at 1:20-24.)(See also a true and correct copy of Mr. Shpirt's e-
6 mail of March 16, 2015, attached hereto as Ex. "4.")

7 6. That same day, March 16, 2015, Mr. Shpirt sent an e-mail memorializing his
8 conversation with Mr. Barrus that Eglet Law Group would not be able to continue representing
9 X'Zavion because of "some of the problems we see with liability in this case" and because "the police
10 report creates a lot of issues for us." (Ex. "3" at 1:25-27.)(Ex. "4.")

11 7. Mr. Barrus requested that Mr. Shpirt return the zip drive, and Mr. Shpirt said he would
12 look into returning the zip drive to Mr. Barrus. (Ex. "3" at 2:1-2.)(Ex. "4.")

13 8. Mr. Shpirt left Eglet Law Group sometime thereafter and went to work at Lewis Brisbois
14 Bisgaard & Smith, where he is currently employed. (Ex. "1.")

15 9. After Mr. Shpirt went to work at Lewis Brisbois Bisgaard & Smith, Mr. Aicklen and Ms.
16 Renwick made the tactical decision to meet with Det. Majors to question him regarding his investigation
17 of the shooting. During this meeting they obtained documents that were unavailable through Metro's
18 designated custodian of records. Mr. Aicklen and Ms. Renwick also developed the defense strategy of
19 withholding these documents, which they knew would not be in X'Zavion's possession and with the
20 benefit of Mr. Shpirt knowing X'Zavion has memory problems.

21 10. Mr. Aicklen and Ms. Renwick only produced the documents they obtained in violation of
22 Metro's dissemination policies after X'Zavion was deposed and Plaintiff counsel realized they had
23 wrongfully waited to disclose the documents pursuant to NRCP 16.1 and 34.

24 11. Now, with the benefit of Mr. Shpirt's knowledge, defense counsel is moving to dismiss
25 X'Zavion's complaint based on the claim of "unclean hands."

26 12. If Mr. Aicklen and Ms. Renwick think X'Zavion ever waived any attorney-client
27 privilege with Mr. Shpirt, they should immediately produce some sort of waiver to establish that their
28 hands are clean.

1 13. X'Zavion has been severely prejudiced since Mr. Shpirt has been employed by Lewis
2 Brisbois Bisgaard & Smith.

3 14. The harm to X'Zavion is so extensive that Lewis Brisbois Bisgaard & Smith should not
4 only be disqualified from defending MYDATT SERVICES, INC. d/b/a VALOR SECURITY
5 SERVICES and MARK WARNER in this matter, but the sanction of striking the respective Defendants'
6 answers should be imposed to preclude defense counsel from tactically deciding that information
7 obtained by violating X'Zavion's attorney-client privilege justifies their actions. Alternatively,
8 X'Zavion requests that the first volume of his deposition be stricken and that fees and costs for the time
9 that Lewis Brisbois Bisgaard & Smith was involved in this matter be awarded as a deterrent against such
10 behavior in the future.

11 IV. LEGAL ARGUMENT

12 A. Violation of X'Zavion's Attorney-Client Privilege.

13 The attorney-client privilege is one of the oldest and most respected privileges. Its intent rests on
14 the theory that encouraging clients to make full disclosure to their attorneys enables the latter to act
15 more effectively, justly and expeditiously, a benefit outweighing the risks opposed to truth finding.
16 *Haynes v. State*, 103 Nev. 309, 739 P.2d 497 (1987); *McKay v. Board of Comm. of Douglas Cty.*, 103
17 Nev. 490, 746 P.2d 124 (1987). It allows a client to refuse to disclose and prevents others from
18 disclosing confidential communications between the client and his attorney made for the purpose of
19 rendering legal services to the client. NRS 49.095.

21 In Nevada, District courts are responsible for controlling the conduct of attorneys practicing
22 before them, and they have "broad discretion in determining whether disqualification is required in a
23 particular case." *Brown v. District Ct.*, 116 Nev. 1200, 1205, 14 P.3d 1266, 1269 (2000). "[T]hat
24 determination will not be disturbed by [the Nevada Supreme Court] absent a showing of abuse of that
25 discretion." *Cromin v. Eighth Jud. Dist. Ct.*, 105 Nev. 635, 640, 781 P.2d 1150, 1153 (1989); see also
26 *Robbins v. Gillock*, 109 Nev. 1015, 862 P.2d 1195 (1993).

1 The relevant provisions relating to the attorney-client privilege are set forth at NRS 49.035 to
2 49.115, and the relevant provisions relating to the instant matter are as follows:

3 **49.045 “Client” defined.** “Client” means a person . . . who is rendered
4 professional legal services by a lawyer. . . .

5 **49.055 “Confidential” defined.** A communication is “confidential” if it is not
6 intended to be disclosed to third persons other than those to whom disclosure is in
7 furtherance of the rendition of professional legal services to the client or those reasonably
8 necessary for the transmission of the communication.

9 **49.065 “Lawyer” defined.** “Lawyer” means a person authorized, or reasonably
10 believed by the client to be authorized, to practice law in any state or nation.

11 **49.095 General rule of privilege.** A client has a privilege to refuse to disclose,
12 and to prevent any other person from disclosing, confidential communications:

13 1. Between himself or his representative and his lawyer or his lawyer’s
14 representative.

15 . . .

16 3. Made for the purpose of facilitating the rendition of legal services to the
17 client, by him or his lawyer to a lawyer representing another in a matter of common
18 interest.

19 X’Zavion understands that for an attorney-client privilege to be raised, a lawyer-client
20 relationship must be established. NRS 49.045. Mr. Shpirt personally met with X’Zavion, obtained
21 work-product privileged materials from Mr. Barrus, and communicated with others at Eglet Law Group
22 regarding the strengths and weaknesses associated with X’Zavion’s matter. All of Mr. Shpirt’s actions
23 satisfy the requirements of NRS 49.045. There can be no doubt that Mr. Shpirt now works at Lewis
24 Brisbois Bisgaard & Smith, defense counsel against X’Zavion in the instant action. If defense counsel
25 thinks X’Zavion ever waived any attorney-client privilege with Mr. Shpirt, they should immediately
26 produce an executed conflict waiver.

27 The Nevada Supreme Court has stated that in situations involving disqualification “any doubt is
28 resolved in favor of disqualification.” *Cronin*, at 635 n.1, 781 P.2d 1150, 1155 n.1, *disapproved on*
other grounds by Nevada Yellow Cab Corp. v. District Ct., 123 Nev. 44, 54 n.26, 152 P.3d 737, 7434 n.
26 (2007). To be sure, the court may disqualify an attorney from representing a particular client in order

1 to preserve the integrity of its judgment, [and] maintain public confidence in the integrity of the bar. . . .”

2 *Coles v. Arizona Charlie’s*, 973 F.Supp. 971, 973 (D. Nev. 1997).

3 Rule 1.9 of the Nevada Rules of Professional Conduct governs an attorney’s duties to former
4 clients and provides in pertinent part as follows:

5 (a) A lawyer who has formerly represented a client in a matter shall not thereafter
6 represent another person in the same or a substantially related matter in which that
7 person’s interests are materially adverse to the interests of the former client unless the
8 former client gives informed consent, confirmed in writing.

8 . . .

9 (c) A lawyers who has formerly represented a client in a matter or whose present
10 or former firm has formerly represented a client in a matter shall not thereafter:

11 (1) Use information relating to the representation to the disadvantage of
12 the former client except as these Rules would permit or require with respect to a client, or
13 when the information has become generally known; or

14 (2) Reveal information relating to the representation except as these Rules
15 would permit or require with respect to a client.

16 The three-part test established by the Nevada Supreme Court relating to disqualification pursuant
17 to NRPC 1.9 is as follows: 1) there is an attorney client relationship with the lawyer; 2) the former
18 matter and the current matter are substantially related; and 3) the current representation is adverse to the
19 party seeking disqualification. *Nevada Yellow Cab v. Eighth Jud. Dist. Ct.*, 123 Nev. 44, 50, 152 P.3d
20 737, 741 (2007); *Hackett v. Feeney*, 2010 WL 4102911 *4 (D. Nev. 2010).

21 1. Mr. Shpirt Had An Attorney-Client Relationship With X’Zavion

22 Mr. Shpirt personally met with X’Zavion and signed the fee division agreement relating to
23 X’Zavion’s matter. He reviewed materials protected by the attorney-work product privilege and
24 communicated with others at Eglet Law Group in assessing X’Zavion’s matter. There can be no doubt
25 that there was an attorney-client relationship between Mr. Shpirt and X’Zavion.

26 2. Mr. Shpirt Represented X’Zavion Relating To The Exact Same Matter

27 Mr. Shpirt represented X’Zavion relating to the August 17, 2013, shooting at Meadows Mall.
28 Mr. Shpirt now works at Lewis Brisbois Bisgaard & Smith, defense counsel against X’Zavion relating to
the shooting at Meadows Mall on August 17, 2013. In *Waid v. Eighth Jud. Dist. Ct.*, 121 Nev. 605, 610,
199 P.2d 1219, 1223 (2005), the Nevada Supreme Court adopted the Seventh Circuit’s test for

1 determining whether there is a substantial relationship between the present and former matters.
2 However, analysis under the *Waid* test should not be necessary in the instant action unless defense
3 counsel believes there was more than one occasion where X'Zavion was shot at Meadows Mall. There
4 can be no doubt that the scope of Mr. Shpirt's former representation of X'Zavion at his former law firm
5 arose out of the same August 17, 2013, shooting incident at Meadows Mall in which his current law firm
6 now represents the Defendants.

7 The Court must also determine whether the confidential information given is relevant to the
8 issues raised in the present litigation. Again, when X'Zavion's matter was referred to Mr. Shpirt's
9 former firm he was privy to privileged communications and had access to attorney work-product relating
10 to the exact same matter that is currently being litigated by Mr. Shpirt's current firm against X'Zavion.
11 It is evident that any confidential information known to Mr. Shpirt is relevant to Lewis Brisbois
12 Bisgaard & Smith's current defense in the exact same matter. Based on the foregoing, X'Zavion
13 requests this Honorable Court disqualify Lewis Brisbois Bisgaard & Smith to protect him from further
14 prejudice.

15 3. Mr. Shpirt's Current Law Firm's Representation Of The Defendants Is Directly
16 Adverse To X'Zavion's Interests

17 At one time Mr. Shpirt worked at a firm directly representing X'Zavion. Now, Mr. Shpirt works
18 at a firm directly adverse to X'Zavion relating to the exact same matter. In addition to not taking any
19 safeguard to protect against potential conflicts, Lewis Brisbois Bisgaard & Smith has directly benefitted
20 from Mr. Shpirt's confidential knowledge of this matter. Mr. Shpirt said that X'Zavion's former counsel
21 was concerned about liability and the police report in this matter. Then, conveniently, Mr. Aicklen and
22 Ms. Renwick met with Det. Majors, obtained documents from him in violation of Metro's dissemination
23 policies, purposefully withheld the documents in violation of NRCP 16.1 and 34 and unilaterally moved
24 Det. Majors' deposition until after X'Zavion's deposition. With Mr. Shpirt now employed at Lewis
25 Brisbois Bisgaard & Smith and in possession of clearly privileged information, defense counsel's
26 argument that X'Zavion has unclean hands is tenuous at best.

27 ///

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1 The disqualification of an attorney practicing at a firm is generally imputed to the other lawyers
2 at the firm. *Nevada Yellow Cab*, 152 P.3d at 741. The only screening process allowed under the
3 Nevada Rules of Professional Responsibility is set out in Rule 1.10(e), which is not applicable to the
4 facts of this case. That rule states in pertinent part as follows:

5 When a lawyer **becomes associated with a firm, no lawyer associated in the firm shall**
6 **knowingly represent a person in a matter in which that lawyer is disqualified** under
Rule 1.9 unless:

7 **(1) The personally disqualified lawyer did not have a substantial role in or primary**
8 **responsibility for the matter** that causes the disqualification under Rule 1.9;

9 (2) The personally disqualified lawyer is **timely screened** from any participation in the
matter and is apportioned no part of the fee therefrom; and

10 (3) **Written notice is promptly given to any affected former client** to enable it to
11 ascertain compliance with the provisions of this Rule. [Emphasis added.]

12 Lewis Brisbois Bisgaard & Smith could only continue to act as defense counsel in this matter if
13 all three of the facts set forth in NRCP 1.10(e) were satisfied. First, Mr. Shpirt did have a substantial
14 role in X'Zavion's matter when he was at Eglet Law Group. Second, Lewis Brisbois Bisgaard & Smith
15 has never provided any written notice to X'Zavion regarding any attempt to screen Mr. Shpirt. Thrid,
16 Lewis Brisbois Bisgaard & Smith has never given any sort of notice to X'Zavion. Even though
17 screening may be an appropriate remedy in some circumstances, it is not applicable in this instance and
18 there is nothing under the Nevada Rules of Professional Conduct that allows for screening to cure such
an obvious disregard of the rules of professional conduct.

19 **B. Sanctions For Violating X'Zavion's Attorney-Client Privilege.**

20 Nevada District courts have broad discretion for controlling the conduct of attorneys practicing
21 before them in addition to determining whether disqualification is required in a particular case. *Brown*
22 *v. District Ct.*, 116 Nev. 1200, 1205, 14 P.3d 1266, 1269 (2000). In addressing discovery abuses, the
23 Nevada Supreme Court has held that sanctions are "necessary to demonstrate to future litigants that they
24 are not free to act with wayward disregard of a court's orders." *Young v. Johnny Ribereiro Bldg., Inc.*,
25 106 Nev. 88, 787 P.2d 777 (1990). While Mr. Shpirt is employed by Lewis Brisbois Bisgaard & Smith,
26 the law firm of Lee Hernandez Landrum & Garofalo has also benefitted from Mr. Shpirt's violation of
27 X'Zavion's attorney-client privilege. Both firms represent Defendants MYDATT SERVICES, INC.
28

1 d/b/a VALOR SECURITY SERVICES and MARK WARNER. Mr. Aicklen of Lewis Brisbois
2 Bisgaard & Smith and Ms. Renwick of Lee Hernandez Landrum & Garofalo both met with Det. Majors
3 and obtained documents in violation of Metro's dissemination policies. After the meeting with Det.
4 Majors, Ms. Renwick unilaterally re-noticed Det. Majors' deposition for a date after X'Zavion's
5 deposition. Both law firms withheld the documents in violation of NRC 16.1 and 34 until after
6 X'Zavion's deposition. Lewis Brisbois Bisgaard & Smith filed the motion to dismiss X'Zavion's
7 complaint based upon unclean hands. Lee Hernandez Landrum & Garofalo joined the motion. Both law
8 firms are seeking to benefit from Mr. Shpirt's violation of X'Zavion's attorney-client privilege.

9 Because all Defendants have substantially benefitted from the prejudice to X'Zavion, an
10 appropriate remedy would be to strike Defendants' respective answers. In *Young*, as in the case at hand,
11 "the conduct of the appellants evidenced their willful and recalcitrant disregard of the judicial process."
12 *Id.* The *Young* court affirmed the trial court's decision to dismiss the Plaintiff's complaint and affirmed
13 that the standard of review is for abuse of discretion. *Id.*

14 Alternatively, besides disqualifying Lewis Brisbois Bisgaard & Smith, X'Zavion respectfully
15 requests this Honorable Court impose the sanction of striking the first volume of his deposition and
16 providing fees and costs for the work performed during the time Lewis Brisbois Bisgaard & Smith was
17 involved in this action.

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1 **V. CONCLUSION**

2 For the reasons set forth above Plaintiff X'ZAVION HAWKINS respectfully requests that Lewis
3 Brisbois Bisgaard & Smith be disqualified as defense counsel. Given the egregious nature of the
4 violation of Plaintiff X'ZAVION HAWKINS' attorney-client privilege, he also respectfully requests
5 that this Honorable Court strike the respective Defendants' answers. Alternatively, Plaintiff X'ZAVION
6 HAWKINS respectfully requests that the first volume of his deposition be stricken and that attorneys'
7 fees and costs be issued from the time that Lewis Brisbois Bisgaard & Smith became defense counsel
8 for Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICE and MARK
9 WARNER.
10

11 DATED this 9TH day of May, 2016

12 INJURY LAWYERS OF NEVADA

13
14
15 
16 DAVID J. CHURNCHILL (SBN: 7308)
17 JOLENE J. MANKE (SBN: 7436)
18 6900 Westcliff Drive, Suite 707
19 Las Vegas, Nevada 89145
20 *Attorneys for Plaintiff*
21
22
23
24
25
26
27
28

7-20-60

RECEIVED

TO THE DIRECTOR, FBI

FROM THE SAC, NEW YORK

SUBJECT: [illegible]

RE: [illegible]

DATE: [illegible]

BY: [illegible]

HP

John J. [illegible]

Exhibit “1”

FIND A LAWYER

Find a Lawyer

Search Attorneys... (eg. last name, bar #, company or city)



**Shpirt,
Paul A.**

Bar # : 10441

Member since: 18-Apr-07

Status: Attorney Active

Company: Lewis Brisbois Bisgaard &
Smith

(<http://www.Lewisbrisbois.com>)

6385 S. Rainbow Blvd., Suite 600, Las
Vegas, MN 89118

Phone : (702) 693-4351

Email : paul.shpirt@Lewisbrisbois.com

(<mailto:paul.shpirt@Lewisbrisbois.com>)

Law school : Golden Gate University

Disciplinary Actions:


None.

Exhibit “2”

Baker Law Firm

Bulger Law Firm

Approved by:


Jason Barrus, Esq. Baker Law Firm Date 12/18/14

X'Zavion Hawkins 12/18/2014

Exhibit “3”

AFFIDAVIT OF JASON W. BARRUS, ESQ. RE: PAUL A. SHPIRT, ESQ.

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, JASON W. BARRUS, ESQ., hereby certify, affirm and state:

1. I am an attorney duly licensed to practice law in the state of Nevada and am the principal of the Law Office of Jason W. Barrus. I was primary counsel for Plaintiff X'ZAVION HAWKINS (hereinafter "X'Zavion") before commencement of litigation. The facts set forth in this affidavit are known to me personally, and I am competent to testify under oath regarding the same.

2. I began representing X'Zavion while I worked at the law firm of Lloyd Baker Injury Attorneys.

3. On December 18, 2014, X'Zavion and I met with Tracy A. Eglet, Esq. and Paul A. Shpirt, Esq. of Eglet Law Group regarding referring X'Zavion's matter to Eglet Law Group.

4. Eglet Law Group accepted the referral of X'Zavion's matter and a retainer agreement and fee division agreement were signed. (A true and correct copy of the Fee Division Agreement redacted for confidential percentages is attached hereto as Ex. "2.")

5. During this meeting Mr. Shpirt had the opportunity to speak with X'zavion about the incident and the nature and extent of X'zavion's injuries.

6. I provided Mr. Shpirt a zip drive containing privileged work product materials.

7. I believe Mr. Shpirt engaged in privileged communication with Ms. Eglet and others at Eglet Law Group to develop strategy and analyze strengths and weaknesses relating to X'Zavion's matter because on March 2015, after working on X'Zavion's matter for approximately three and a half months, Mr. Shpirt called me to say that Eglet Law Group would not be able to continue representing X'Zavion.

8. That same day, March 16, 2015, Mr. Shpirt sent an e-mail memorializing our conversation that Eglet Law Group would not be able to continue representing X'Zavion because of "some of the problems we see with liability in this case" and because "the police report creates a lot of issues for us." (A true and correct copy of Mr. Shpirt's e-mail is attached hereto as Ex. "3.")

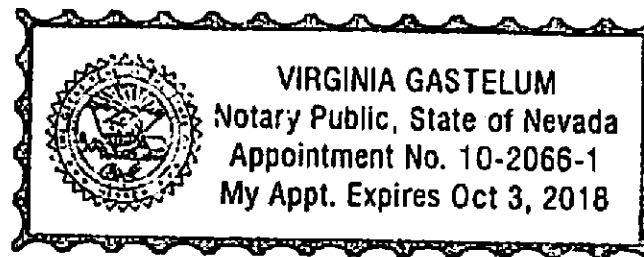
9. I then requested that Mr. Shpirt return the zip drive, and he said he would look into returning it to me. (*Id.*)

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Ann C. Barr

JASON W. BARRUS, ESQ.

Subscribed and Sworn to before me
this 9th day of May, 2016.



NOTARY PUBLIC in and for said
County and State

Exhibit “4”

Jolene Manke

From: Jason Barrus [jason@jasonbarruslaw.com]
Sent: Wednesday, May 04, 2016 11:52 AM
To: Jolene Manke
Subject: FW: X'zavion Hawkins

See below for email from Paul Shpirt dropping case.

Thanks,

Jason W. Barrus, Esq.

1601 E. Charleston Blvd | Las Vegas, NV 89104 Tel (702) 550-6500 | Fax (702) 550-6501
website | map

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-----Original Message-----

From: Paul Shpirt [mailto:PSHpirt@egletlaw.com]
Sent: Friday, April 03, 2015 1:42 PM
To: Jason Barrus <jason@jasonbarruslaw.com>
Cc: Amanda Gante <AGante@egletlaw.com>
Subject: Re: X'zavion Hawkins

I will find out for you.

Paul A. Shpirt, Esq.
EGLET LAW GROUP

> On Apr 3, 2015, at 12:02 PM, Jason Barrus <jason@jasonbarruslaw.com> wrote:

>

> Hi Paul,

>

> Does your office still have the zip drive with the Hawkins file on it? If yes, I'd like to pick it up. Please let me know.

>

> Thanks,

>

> Jason W. Barrus, Esq.

>

>

> 1601 E. Charleston Blvd | Las Vegas, NV 89104 Tel (702) 550-6500 | Fax

> (702) 550-6501 website | map

>

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>

>

> -----Original Message-----

> From: Paul Shpirt [<mailto:PShpirt@egletlaw.com>]

> Sent: Monday, March 16, 2015 5:13 PM

> To: Jason Barrus; lloyd@bakerattorneys.net

> Cc: Tracy Eglet

> Subject: X'zavion Hawkins

>

> Dear Lloyd and Jason:

>

> I spoke to Jason this afternoon and discussed some of the problems we see with liability in this case. Although the client is a very nice young man, unfortunately the police report creates a lot of issues for us. As a result, we are unable to represent X'zavion in this case.

>

> We will send him a letter and let him know that as well.

>

> Thank you for thinking of us in this case and we hope to be able to help with other cases in the future! Please call me or Tracy if you have any questions.

>

>

> Paul A.Shpirt, Esq.

> EGLET LAW GROUP

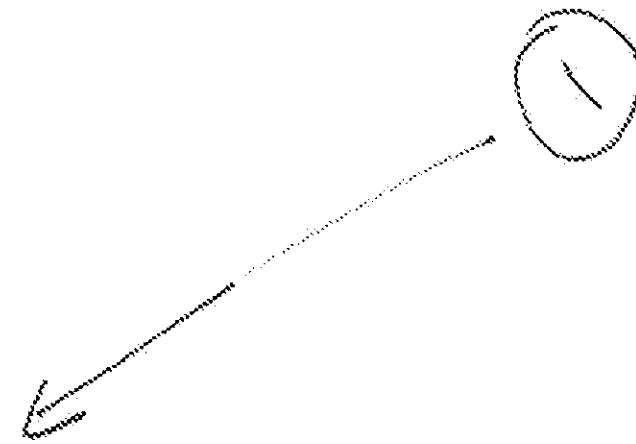


Exhibit “5”

**LEWIS
BRISBOIS
BISGAARD
& SMITH LLP**
ATTORNEYS AT LAW
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
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JOSH.AICKLEN@LEWISBRISBOIS.COM

February 17, 2016

File No.
33219.205

DAVID B. AVAKIAN
DIRECT DIAL: 702.693.1720
DAVID.AVAKIAN@LEWISBRISBOIS.COM

HAROLD J. ROSENTHAL
DIRECT DIAL: 702.693.4397
HAROLD.ROSENTHAL@LEWISBRISBOIS.COM

VIA ELECTRONIC SERVICE

Jolene Manke, Esq.
David Churchill, Esq.
Law Office of David Churchill
6900 Westcliff Drive, Suite 707
Las Vegas, NV 89145

Re: *Hawkins, X'Zavion v. Mydatt Services, Inc., et al.*
District Court Clark County, Nevada Case No. A717577
Our Client: Mydatt Services, Inc. d/b/a Valor Security Services
Your Client: X'Zavion Hawkins
Claim No.: CVEL-5859A1
Date of Loss: 08/17/2013
Subject: NRCP 16.1 Disclosures

Dear Ms. Manke:

Following Plaintiff's deposition on February 12, 2016, you called and emailed defense counsel demanding production of documentation provided by Detective Majors of the Las Vegas Metropolitan Police Department. We met with Det. Majors regarding the subpoena for deposition that was served on him which included a request for production of documents in his possession relevant to his investigation of Plaintiff's shooting. Det. Majors provided some documents during that meeting that he will also bring to his deposition, pursuant to the referenced subpoena. Det. Majors also stated that these materials were previously provided to Plaintiff's prior counsel, Jason Burrus, and we

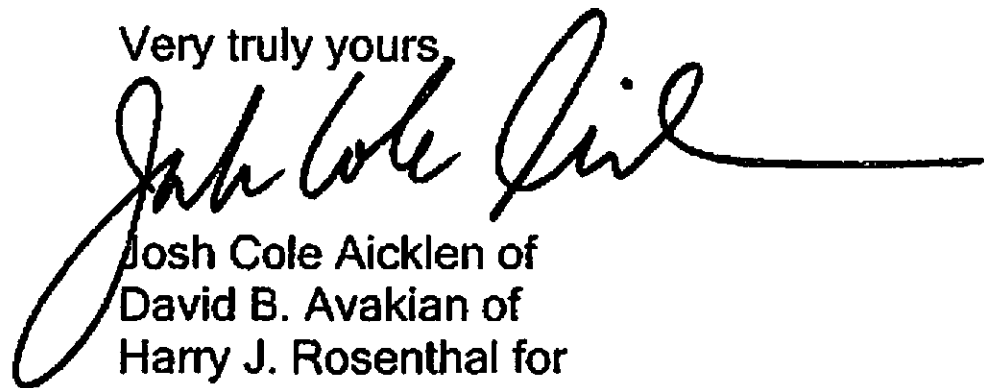
Jolene Manke, Esq.
RE: Hawkins, X'Zavion v. Mydatt Services, Inc., et al.
February 17, 2016
Page 2

reasonably assume those documents would have been turned over to your office when you assumed Plaintiff's case.

With respect to your accusation that the defense is litigating this matter by "ambush," we strongly disagree. Please be reminded that NRCP 16.1 requires the parties to seasonally update their discovery disclosures. We are in the process of gathering these materials for an updated NRCP 16.1 disclosure and we will attach them, but these materials are also located in the file from Mr. Burrus' office.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Josh Cole Aicklen", with a long horizontal flourish extending to the right.

Josh Cole Aicklen of
David B. Avakian of
Harry J. Rosenthal for
LEWIS BRISBOIS BISGAARD & SMITH LLP

JCA/DBA/HJR/an

Exhibit “6”

Jolene Manke

From: Jolene Manke
Sent: Wednesday, February 17, 2016 12:09 PM
To: Aicklen, Josh Cole (Josh.Aicklen@lewisbrisbois.com); 'Charlene Renwick'; David Lee; Rosenthal, Harold; Avakian, David (David.Avakian@lewisbrisbois.com)
Cc: David Churchill; Lili Salonga
Subject: Hawkins v. Meadows/Valor/Warner - Documents

Dear Counsel:

Pursuant to our respective telephone conversations and your correspondence of today's date, I am finishing Plaintiff's motion to compel documents and motion for protective order regarding his continuing deposition. I have spoken with Jason Barrus. He did not have any meetings with Det. Majors, nor did he obtain any documents similar to what I believe you currently possess. I subpoenaed documents from Metro relating to the investigation and I did not receive anything similar to what I believe you currently possess. As Mr. Aicklen and I discussed, these documents are not *sub rosa* and there is no work product privilege. Your refusal to timely produce these documents is simply wrongful.

Sincerely,

Jolene J. Manke
Of Counsel
INJURY LAWYERS OF NEVADA
P: (702) 868-8888
F: (702) 868-8889
E: jolene@injurylawyersnv.com

INJURY LAWYERS OF NEVADA CONFIDENTIALITY NOTICE

Information contained in this electronic transmission (e-mail) is private and confidential and is the property of INJURY LAWYERS OF NEVADA. The information contained herein is privileged and is intended only for the use of the individual(s) and/or entity(ies) named above. If you are not the intended recipient, be advised that any unauthorized disclosure, copying, distribution, or the taking of any action in reliance on the contents of this (e-mail) electronically transmitted information is strictly prohibited. If you have received this (e-mail) electronic transmission in error, please immediately notify INJURY LAWYERS OF NEVADA by telephone and immediately delete the e-mail and/or electronic transmission from your computer. You may contact the law offices of INJURY LAWYERS OF NEVADA at (702) 868-8888 (Las Vegas, Nevada).

IRS CIRCULAR 230 DISCLOSURE: As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.

Exhibit “7”

AFFIDAVIT OF JASON W. BARRUS, ESQ.

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, JASON W. BARRUS, ESQ., hereby certify, affirm and state:

1. I am an attorney duly licensed to practice law in the state of Nevada and am the principal of the Law Office of Jason W. Barrus. I was primary counsel for Plaintiff X'ZAVION HAWKINS (hereinafter "X'Zavion") before commencement of litigation. The facts set forth in this affidavit are known to me personally, and I am competent to testify under oath regarding the same.

2. I began representing X'Zavion while I worked at the law firm of Lloyd Baker Injury Attorneys. In September of 2014 I stopped working at Lloyd Baker Injury Attorneys and opened my own law firm.

3. After opening my own law firm I communicated with Det. Majors of Las Vegas Metropolitan Police Department on two or three occasions via e-mail in September of 2014 regarding the criminal investigation of X'Zavion being shot at Meadows Mall.

4. After initially agreeing to release the investigative file to my office, Det. Majors changed his mind and said I would have to subpoena the materials because releasing the documents would be a "huge dissemination violation." (A true and correct copy of Det. Majors' e-mail of October 2, 2014, is attached hereto as Ex. "8.")

5. Because X'Zavion's matter was not in litigation, I could not have a subpoena issued.

6. I never met with Det. Majors.

///

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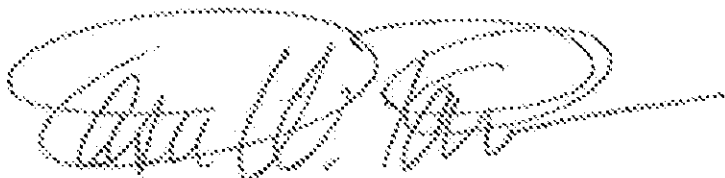
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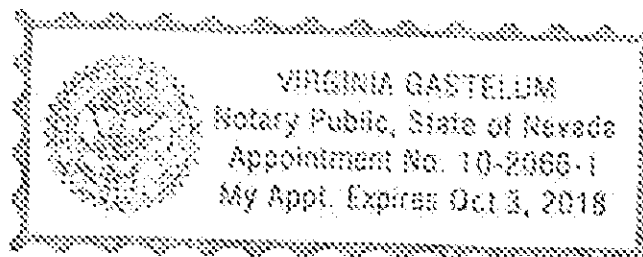
1 7. I never received any documents from Det. Majors.

2 FURTHER YOUR AFFIANT SAYETH NAUGHT.

3
4 

5 JASON W. BARRUS, ESQ.

6 Subscribed and Sworn to before me
7 this 18 day of February, 2016.




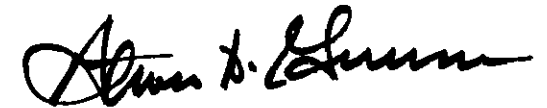
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9 
10 NOTARY PUBLIC in and for said
11 County and State

EXHIBIT 17



CLERK OF THE COURT

ORIGINAL COPY

1 ORDR
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
5 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
6 702.893.3383
FAX: 702.893.3789
7 Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
8 SECURITY SERVICES and MARK
WARNER

DISTRICT COURT

CLARK COUNTY, NEVADA

11 X'ZAVION HAWKINS,
12 Plaintiff,

13 vs.

14 GGP MEADOW MALL LLC, a Delaware
15 Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR
16 SECURITY SERVICES, an Ohio
Corporation; MARK WARNER,
17 individually; DOES 1 through 10; DOE
18 SECURITY GUARDS 11 through 20; and
ROE ENTITIES 21 through 30,
19 INCLUSIVE,

20 Defendants.

Case No. A-15-717577-C
Dept. No. XXXI

PROPOSED ORDER ON DEFENDANTS'
MOTION TO DISMISS PLAINTIFF'S
COMPLAINT AND PLAINTIFF'S
COUNTER-MOTION FOR SANCTIONS;
DEFENDANTS' MOTION FOR LEAVE TO
FILE THIRD-PARTY COMPLAINT; AND
PLAINTIFF'S COUNTER-MOTION TO
BIFURCATE TRIAL

21 On May 3, 2016, the following Motions and Counter-Motions came on for hearing
22 in Department 31 of the above-entitled Court, the Honorable Joanna S. Kishner presiding:

- 23 1. DEFENDANTS MYDATT SERVICES, INC. d/b/a VALOR SECURITY
24 SERVICES AND MARK WARNER'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT;
- 25 2. DEFENDANT GGP MEADOWS MALL, LLC'S JOINDER TO DEFENDANTS
26 MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT;
- 27 3. PLAINTIFF'S COUNTER-MOTION FOR SANCTIONS;

1 4. DEFENDANTS GGP MEADOWS MALL, LLC; MYDATT SERVICES, INC. d/b/a
2 VALOR SECURITY SERVICES; AND MARK WARNER'S MOTION FOR
LEAVE TO FILE THIRD-PARTY COMPLAINT; and

3 5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL.
4

5 Josh Cole Aicklen and David B. Avakian of LEWIS BRISBOIS BISGAARD &
6 SMITH, LLP appeared on behalf of Defendants MYDATT SERVICES, INC. d/b/a VALOR
7 SECURITY SERVICES, INC. and MARK WARNER. Charlene N. Renwick of LEE,
8 HERNANDEZ, LANDRUM & GAROFALO appeared on behalf of Defendants GGP
9 MEADOWS MALL, LLC, MYDATT SERVICES, INC. d/b/a VALOR SECURITY
10 SERVICES, INC. and MARK WARNER. David J. Churchill of INJURY LAWYERS OF
11 NEVADA appeared on behalf of Plaintiff X'ZAVION HAWKINS.

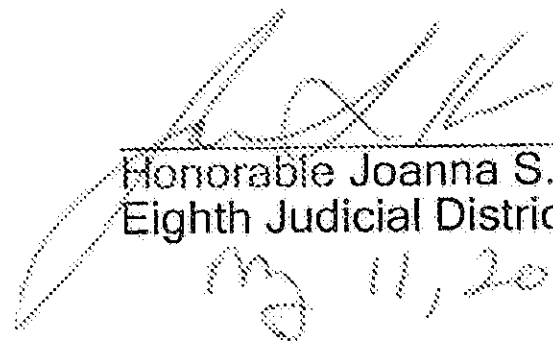
12 After due consideration of all Motions, all Oppositions, both Counter-Motions, and
13 all Reply briefs, and following oral argument, the Court ruled as follows:

- 14 1. The Court orders an Evidentiary Hearing on DEFENDANTS MYDATT
15 SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
16 WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT and
17 DEFENDANT GGP MEADOWS MALL, LLC'S JOINDER TO DEFENDANTS
MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT;
- 18 2. The Evidentiary Hearing is calendared for May 26, 2016 at 1:00 p.m. in
19 Department 31;
- 20 3. PLAINTIFF'S COUNTER-MOTION FOR SANCTIONS against Defendants'
Counsel is DENIED;
- 21 4. DEFENDANTS GGP MEADOWS MALL, LLC; MYDATT SERVICES, INC. d/b/a
22 VALOR SECURITY SERVICES; AND MARK WARNER'S MOTION FOR
LEAVE TO FILE THIRD-PARTY COMPLAINT is GRANTED; and
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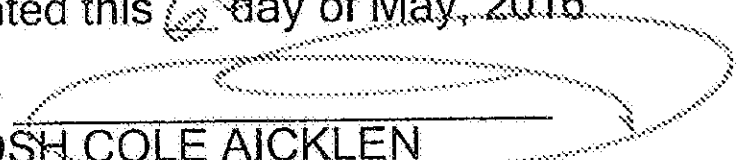
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5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL is DENIED without prejudice.

IT IS SO ORDERED.


JOANNA S. KISHNER
Honorable Joanna S. Kishner
Eighth Judicial District Court, Dept. 31
May 11, 2016

Respectfully submitted,
Dated this 6th day of May, 2016

By 
JOSH COLE AICKLEN
Nevada Bar No. 007254
DAVID B. AVAKIAN
Nevada Bar No. 009502
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a
VALOR SECURITY SERVICES and
MARK WARNER

David S. Lee
Nevada Bar No. 6033
Charlene N. Renwick
Nevada Bar No. 10165
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
Attorneys for Defendants GGP MEADOW
MALL, LLC; MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES; and
MARK WARNER

Approved as to form and content:
Dated this 5th day of May, 2016

By 
David J. Churchill
Nevada Bar No. 6033
Jolene J. Manke
Nevada Bar No. 7436
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
Attorneys for Plaintiff
X'ZAVION HAWKINS


1 5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL is DENIED without
2 prejudice.


3 IT IS SO ORDERED.
4

Honorable Joanna S. Kishner
Eighth Judicial District Court, Dept. 31

7 Respectfully submitted,
8 Dated this ___ day of May, 2016

Approved as to form and content:
Dated this ___ day of May, 2016

9 By  _____
10 JOSH COLE AICKLEN
11 Nevada Bar No. 007254
12 DAVID B. AVAKIAN
13 Nevada Bar No. 009502
14 6385 S. Rainbow Boulevard, Suite 600
15 Las Vegas, Nevada 89118
16 Attorneys for Defendants
17 MYDATT SERVICES, INC. d/b/a
18 VALOR SECURITY SERVICES and
19 MARK WARNER

By  _____
David J. Churchill
Nevada Bar No. 6033
Jolene J. Manke
Nevada Bar No. 7436
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
Attorneys for Plaintiff
X'ZAVION HAWKINS


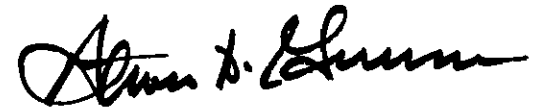
15 David S. Lee 
16 Nevada Bar No. 6033
17 Charlene N. Renwick
18 Nevada Bar No. 10165
19 LEE, HERNANDEZ, LANDRUM &
20 GAROFOLO
21 7575 Vegas Dr., Ste. 150
22 Las Vegas, NV 89128
23 Attorneys for Defendants GGP MEADOW
24 MALL, LLC; MYDATT SERVICES, INC.
25 d/b/a VALOR SECURITY SERVICES; and
26 MARK WARNER
27
28

EXHIBIT 18



CLERK OF THE COURT

1 NEO
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
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6 702.893.3383
FAX: 702.893.3789
7 Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
8 SECURITY SERVICES and MARK
WARNER

DISTRICT COURT

CLARK COUNTY, NEVADA

11 X'ZAVION HAWKINS,
12
13 Plaintiff,

14 vs.

15 GGP MEADOW MALL LLC, a Delaware
Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR
16 SECURITY SERVICES, an Ohio
Corporation; MARK WARNER,
17 individually; DOES 1 through 10; DOE
SECURITY GUARDS 11 through 20; and
18 ROE ENTITIES 21 through 30,
INCLUSIVE,

19 Defendants.
20

Case No. A717577
Dept. No. XXXI

23 NOTICE OF ENTRY

24 TO: ALL INTERESTED PARTIES:

25 PLEASE TAKE NOTICE that the Order on Defendants' Motion to Dismiss
26 Plaintiff's Complaint and Plaintiff's Counter-Motion for Sanctions; Defendants' Motion for
27 Leave to file Third-Party Complaint; and Plaintiff's Counter-Motion to Bifurcate Trial was
28 entered by the above-entitled Court on the 16th day of May, 2016, a copy of which is

1 attached hereto and made a part hereof.

2 DATED this 17th day of May, 2016.

3 Respectfully Submitted,

4 LEWIS BRISBOIS BISGAARD & SMITH LLP

5

6

7

By /s/ David B. Avakian

8

JOSH COLE AICKLEN

Nevada Bar No. 007254

9

DAVID B. AVAKIAN

Nevada Bar No. 009502

10

HAROLD J. ROSENTHAL

Nevada Bar No. 010208

11

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

12

Tel. 702.893.3383

13

Attorneys for Defendants MYDATT

SERVICES, INC. d/b/a VALOR SECURITY

14

SERVICES and MARK WARNER

15

16

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18

19

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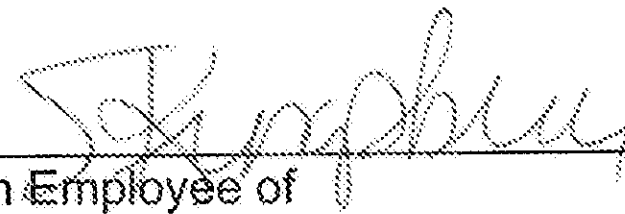
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this 17th day of May, 2016, I did cause a true copy of NOTICE OF ENTRY be served via the Court's electronic filing system ("Wiznet") to all parties on the current service list as follows:

David J. Churchill
Jolene J. Manke
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
P: 702-868-8888
F: 702-868-8889
david@injurylawyersnv.com
jolene@injurylawyersnv.com
Attorneys for Plaintiff
X'ZAVION HAWKINS

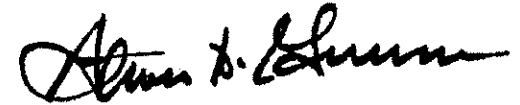
David S. Lee
Charlene N. Renwick
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
dlee@leelawfirm.com
crenwick@lee-lawfirm.com
Attorneys for Defendants MYDATT
SERVICES, INC. d/b/a VALOR SECURITY
SERVICES and MARK WARNER

By



An Employee of

LEWIS BRISBOIS BISGAARD & SMITH LLP



CLERK OF THE COURT

ORIGINAL COPY

1 ORDR
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2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH LLP
5 6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
6 702.893.3383
FAX: 702.893.3789
7 Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
8 SECURITY SERVICES and MARK
WARNER

DISTRICT COURT

CLARK COUNTY, NEVADA

11 X'ZAVION HAWKINS,
12 Plaintiff,

13 vs.

14 GGP MEADOW MALL LLC, a Delaware
15 Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR
16 SECURITY SERVICES, an Ohio
Corporation; MARK WARNER,
17 individually; DOES 1 through 10; DOE
18 SECURITY GUARDS 11 through 20; and
ROE ENTITITES 21 through 30,
19 INCLUSIVE,

20 Defendants.

Case No. A-15-717577-C
Dept. No. XXXI

PROPOSED ORDER ON DEFENDANTS'
MOTION TO DISMISS PLAINTIFF'S
COMPLAINT AND PLAINTIFF'S
COUNTER-MOTION FOR SANCTIONS;
DEFENDANTS' MOTION FOR LEAVE TO
FILE THIRD-PARTY COMPLAINT; AND
PLAINTIFF'S COUNTER-MOTION TO
BIFURCATE TRIAL

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24 SERVICES AND MARK WARNER'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT;
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26 MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT;
27 3. PLAINTIFF'S COUNTER-MOTION FOR SANCTIONS;
28

LEWIS
BRISBOIS
BISGAARD
& SMITH LLP
ATTORNEYS AT LAW

4811-9129-4513.1

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1 4. DEFENDANTS GGP MEADOWS MALL, LLC; MYDATT SERVICES, INC. d/b/a
2 VALOR SECURITY SERVICES; AND MARK WARNER'S MOTION FOR
LEAVE TO FILE THIRD-PARTY COMPLAINT; and

3 5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL.
4

5 Josh Cole Aicklen and David B. Avakian of LEWIS BRISBOIS BISGAARD &
6 SMITH, LLP appeared on behalf of Defendants MYDATT SERVICES, INC. d/b/a VALOR
7 SECURITY SERVICES, INC. and MARK WARNER. Charlene N. Renwick of LEE,
8 HERNANDEZ, LANDRUM & GAROFALO appeared on behalf of Defendants GGP
9 MEADOWS MALL, LLC, MYDATT SERVICES, INC. d/b/a VALOR SECURITY
10 SERVICES, INC. and MARK WARNER. David J. Churchill of INJURY LAWYERS OF
11 NEVADA appeared on behalf of Plaintiff X'ZAVION HAWKINS.

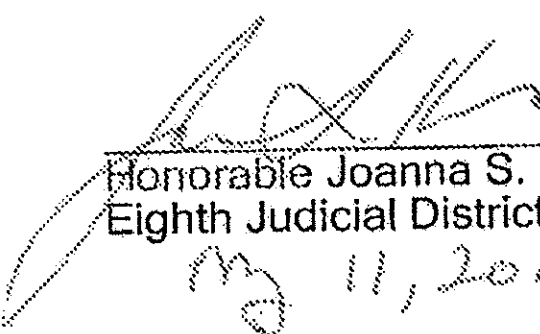
12 After due consideration of all Motions, all Oppositions, both Counter-Motions, and
13 all Reply briefs, and following oral argument, the Court ruled as follows:

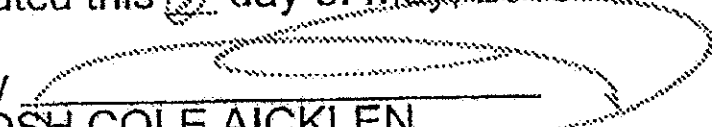
- 14 1. The Court orders an Evidentiary Hearing on DEFENDANTS MYDATT
15 SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
16 WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT and
17 DEFENDANT GGP MEADOWS MALL, LLC'S JOINDER TO DEFENDANTS
MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES AND MARK
WARNER'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT;
18 2. The Evidentiary Hearing is calendared for May 26, 2016 at 1:00 p.m. in
Department 31;
19 3. PLAINTIFF'S COUNTER-MOTION FOR SANCTIONS against Defendants'
20 Counsel is DENIED;
21 4. DEFENDANTS GGP MEADOWS MALL, LLC; MYDATT SERVICES, INC. d/b/a
22 VALOR SECURITY SERVICES; AND MARK WARNER'S MOTION FOR
LEAVE TO FILE THIRD-PARTY COMPLAINT is GRANTED; and
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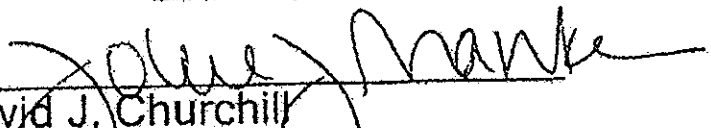
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5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL is DENIED without prejudice.

IT IS SO ORDERED.


JOANNA S. KISHNER
Honorable Joanna S. Kishner
Eighth Judicial District Court, Dept. 31
May 11, 2016

Respectfully submitted,
Dated this 6th day of May, 2016
By 
JOSH COLE AICKLEN
Nevada Bar No. 007254
DAVID B. AVAKIAN
Nevada Bar No. 009502
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a
VALOR SECURITY SERVICES and
MARK WARNER

Approved as to form and content:
Dated this 5th day of May, 2016
By 
David J. Churchill
Nevada Bar No. 6033
Jolene J. Manke
Nevada Bar No. 7436
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
Attorneys for Plaintiff
X'ZAVION HAWKINS

David S. Lee
Nevada Bar No. 6033
Charlene N. Renwick
Nevada Bar No. 10165
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
Attorneys for Defendants GGP MEADOW
MALL, LLC; MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES; and
MARK WARNER


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5. PLAINTIFF'S COUNTER-MOTION TO BIFURCATE TRIAL is DENIED without prejudice.

IT IS SO ORDERED.


Honorable Joanna S. Kishner
Eighth Judicial District Court, Dept. 31

Respectfully submitted,
Dated this ____ day of May, 2016

By 
JOSH COLE AICKLEN
Nevada Bar No. 007254
DAVID B. AVAKIAN
Nevada Bar No. 009502
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a
VALOR SECURITY SERVICES and
MARK WARNER

David S. Lee 
Nevada Bar No. 6035
Charlene N. Renwick
Nevada Bar No. 10165
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
Attorneys for Defendants GGP MEADOW
MALL, LLC; MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES; and
MARK WARNER

Approved as to form and content:
Dated this ____ day of May, 2016

By 
David J. Churchill
Nevada Bar No. 6033
Jolene J. Manke
Nevada Bar No. 7436
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
Attorneys for Plaintiff
X'ZAVION HAWKINS

- 1 sanction;
- 2 3. The severity of the sanction of dismissal relative to the severity of the
- 3 discovery abuse;
- 4 4. Whether any evidence has been irreparably lost;
- 5 5. The feasibility and fairness of alternative, less severe sanctions, such as an
- 6 order deeming facts relating to improperly withheld or destroyed evidence to
- 7 be admitted by the offending party;
- 8 6. The policy favoring adjudication on the merits;
- 9 7. Whether sanctions unfairly operate to penalize a party for the misconduct of
- 10 his or her attorney; and
- 11 8. The need to deter both the parties and future litigants from similar abuses.

12 Young, 106 Nev. at 93.

13 Plaintiff suggests dismissal of his Complaint is only appropriate when his conduct

14 violated a specific statute or court order. Plaintiff is mistaken. The Young court held that

15 the above eight (8) factors should be evaluated when analyzing a motion to dismiss a

16 complaint as a discovery sanction. Plaintiff's argument that Defendants' Motion should

17 be converted into a motion for summary judgment mischaracterizes the nature of

18 Defendants' Motion. The Motion to Dismiss is proper pursuant to NRCP 37, this Court's

19 inherent authority, the Young factors and binding Nevada case law. Defendants'

20 underlying Motion argues that Plaintiff's discovery abuses are so egregious that this Court

21 should dismiss Plaintiff's Complaint without evaluating the merits of Plaintiff's case, just

22 as in Young. Plaintiff failed to oppose Defendants' arguments and failed to address any

23 of the Young factors.⁶ Consequently, this Court should disregard Plaintiff's argument that

24 Defendants' Motion should be converted into a motion for summary judgment, and grant

25 Defendants' underlying motion in its entirety.

26

27 ⁶ Plaintiff's claim that his pain medication caused him to lie dozens of times under oath

28 only implicates the first Young factor, assuming *arguendo*, Plaintiff's Opposition is responsive to Defendants' Motion, which it clearly is not.

1 B. The Court Should Disregard Plaintiff's "Opposition" Under EDCR 2.20 Because
2 It Does Not Oppose Defendants' Motion

3 EDCR 2.20 governs the time and content of motions, oppositions and replies.
4 See, EDCR 2.20. EDCR 2.20(c) requires all motions to cite supporting facts and
5 authority for each position being asserted. Id. EDCR 2.20(e) requires the non-moving
6 party opposing a motion to:

7 file written notice of nonopposition or opposition thereto,
8 together with a memorandum of points and authorities and
9 supporting affidavits, if any, stating facts showing why the
10 motion and/or joinder should be denied. Failure of the
 opposing party to serve and file written opposition may be
 construed as an admission that the motion and/or joinder is
 meritorious and a consent to granting the same.

11 See, EDCR 2.20(e).

12 Rather than addressing the merits of Defendants' motion, Plaintiff's "Opposition"
13 contends that (1) Plaintiff's "forgetfulness" is a credibility issue to be decided by a jury and
14 (2) Plaintiff's perjury should be excused because Defendants obtained Plaintiff's
15 statement to the police and questioned Plaintiff about it at his deposition. Plaintiff's
16 contentions are meritless and contradict Nevada law.⁷ Defendants filed a motion for
17 sanctions pursuant to NRCP 37 and this Court's inherent authority. As discussed above
18 and in Defendants' Motion, the Nevada Supreme Court identified eight (8) factors to
19 analyze when determining whether to dismiss a cause of action/complaint. See
20 generally, Young, 106 Nev. 88. Plaintiff's "Opposition" fails to address any of the Young
21 factors. Plaintiff's failure to address the Young factors renders his Opposition non-
22 responsive to Defendants' Motion.

23 Given Plaintiff's egregious and well-documented discovery abuses, as well as his
24

25 ⁷ Plaintiff's repeated mention of Defendants' supposed "purposeful[] withh[olding]" of
26 Plaintiff's police statement is entirely irrelevant to Defendants' Motion and is yet another
27 attempt to distract from the actual issues. Further, as discussed in Defendants'
28 Opposition to Plaintiff's Countermotion for Sanctions, Section III, *infra*, Defendants acted
 at all times in accordance with their discovery obligations.

1 complete failure to dispute Defendants' arguments for dismissal, this Court should grant
2 Defendants' Motion and dismiss Plaintiff's Complaint for his perjurious and bad faith
3 discovery abuses.

4 III. OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR SANCTIONS

5 In addition to granting Defendants' Motion to Dismiss, the Court should deny
6 Plaintiff's Countermotion for Sanctions. In stark contrast to Plaintiff, Defendants have
7 consistently respected the discovery process. Plaintiff's Countermotion—asking the Court
8 to strike Plaintiff's own testimony, plainly recognizing that it is false—is meritless on its
9 face. Moreover, granting Plaintiff's red herring Countermotion would reward Plaintiff's
10 rampant and thoroughly-documented discovery misconduct.

11 Plaintiff contends that Defendants should be sanctioned for violating NRCP 16.1
12 and NRCP 34. Plaintiff essentially claims that striking Plaintiff's (perjury-filled) deposition
13 testimony is appropriate because Defendants knowingly and improperly obtained
14 evidence from Detective Majors, failed to promptly produce evidence and filed a Motion to
15 Dismiss Plaintiff's Complaint based on Plaintiff's own perjury. See, Plaintiff's Opposition
16 to Defendants' MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES and
17 MARK WARNER's Motion to Dismiss Plaintiff's Complaint and Countermotion for
18 Sanctions, at 10.⁸ Plaintiff's Countermotion fails to cite any case law supporting this
19 position and essentially recycles the patently irrelevant arguments Plaintiff makes in his
20 Opposition to Defendants' underlying Motion. Plaintiff's Countermotion for sanctions is
21 unsupported and should be disregarded.

22
23
24 ⁸ Plaintiff's repeated contention that Defendants somehow "improperly" obtained
25 evidence of Plaintiff's statements to police is, like the majority of Plaintiff's arguments,
26 baseless and hollow. Discovery in any action is governed by the Code of Civil
27 Procedure—not by the internal procedures of third party subpoena recipients.
28 Accordingly, Defendants are not bound by internal police department policies, and it is
simply irrelevant to this case whether and to what extent Detective Majors followed
department protocol in producing documents to Defendants.

1 **A. Defendants Seasonably Supplemented Their Discovery**

2 Plaintiff's allegation that Defendants abused the discovery process fails at the
3 outset.⁹ Plaintiff extensively cites Defendants' written discovery responses¹⁰ and accuses
4 Defendants of playing "discovery games" and violating NRCP 26(e). But Plaintiff's motion
5 crumbles along with his mistaken assumption that the Nevada Code of Civil Procedure
6 obligates Defendants to immediately amend their discovery responses after obtaining
7 additional material or evidence. To the contrary, Defendants committed no discovery
8 abuse by waiting a mere 21 days before providing Plaintiff's counsel with evidence of
9 Plaintiff's perjury, particularly in light of the fact that Defendants reasonably believed
10 Detective Majors already provided Plaintiff's counsel with those documents. Plaintiff's
11 meritless accusations are an attempt to divert the Court's attention from his own perjury.

12 NRCP 26(e) states in relevant part:

13 **(e) Supplementation of Disclosures and Responses.** A party
14 who has made a disclosure under Rule 16.1 or 16.2 or
15 responded to a request for discovery with a disclosure or
16 response is under a duty to supplement or correct the
disclosure or response to include information thereafter
acquired, if ordered by the court or in the following
circumstances:

17 (1) A party is under a duty to supplement at appropriate
18 intervals its disclosures under Rule 16.1(a) or 16.2(a) if the
19 party learns that in some material respect the information
disclosed is incomplete or incorrect and if the additional or
corrective information has not otherwise been made known to
the other parties during the discovery process or in writing....

20 (2) A party is under a duty seasonably to amend a prior
21 response to an interrogatory, request for production or request
22 for admission, if the party learns that the response is in some
material respect incomplete or incorrect and if the additional or

23 _____
24 ⁹ The determination of a Rule 26(e) violation and the imposition of sanctions is left to the
25 sound discretion of the trial judge. See, Phil Crowley Steel Corp. v. Macomber, Inc., 601
26 F.2d 342, 344 (8th Cir. 1979). The ruling of the district court on this issue will only be
reversed when there has been a gross abuse of discretion. See, Scott & Fetzer Co. v.
Dile, 643 F.2d 670, 674-75 (9th Cir. 1981), see also; Bunch v. United States, 680 F.2d
1271, 1280 (9th Cir. 1982).

27 ¹⁰ Defendants note that Plaintiff himself has not supplemented his own discovery
28 responses regarding the matters that Plaintiff now "remembers."

1 corrective information has not otherwise been made known to
2 the other parties during the discovery process or in writing.

3 NRCP 26(e) (emphasis added).

4 NRCP 26(e) does not impose an absolute duty to supplement discovery. Id.
5 NRCP 26(e) does not even impose a duty to “promptly” supplement discovery. Id.
6 NRCP 26 imposes the duty upon a party to “seasonably disclose” material information
7 when: (1) the party learns their response is incomplete or incorrect; and (2) additional
8 information has not been made known to the other party during the “discovery process” or
9 in writing. See, NRCP 26(e)(2) (emphasis added). NRCP 26(e) exists to avoid “trial by
10 ambush” and a major objective of pre-trial procedure is to “eliminate secrets and
11 surprises at trial.” See A. P. Ross Enters. v. Hynds Plumbing & Heating Co., 98 Nev. 7, 8
12 (1982) (emphasis added).

13 Courts have recognized that FRCP 26(e)¹¹ was designed to prevent a party from
14 surprising his adversary by setting forth new facts at trial not disclosed during the
15 discovery process. See, Havenfield Corp. v. H & R Block, Inc., 509 F.2d 1263 (8th Cir.)
16 (emphasis added), cert. denied, 421 U.S. 999, 95 S. Ct. 2395, 44 L. Ed. 2d 665 (1975);
17 P.A.B. Prodiuts Et Appareils de Beaute v. Satinine Societa in Nome Collettivo di S. A. e.
18 M. Usellini, 570 F.2d 328 (C.C.P.A.1978). It must be shown that the failure to disclose
19 the new facts would amount to a knowing concealment before any duty to supplement
20 one's responses arises. See, Havenfield Corp., 509 F.2d at 1272. “It is the new facts
21 that the rule seeks to bring out in the open, not new contentions which may be based
22
23

24 ¹¹ FRCP 26(e) is the federal counterpart to Nevada’s NRCP 26(e). FRCP 26(e) was
25 amended in 2007. “Former Rule 26(e) used different phrases to describe the time to
26 supplement or correct a disclosure or discovery response. Disclosures were to be
27 supplemented ‘at appropriate intervals.’ A prior discovery response must be ‘seasonably
28 * * * amend[ed].’ The fine distinction between these phrases has not been observed in
practice. Amended Rule 26(e)(1)(A) uses the same phrase for disclosures and discovery
responses. The party must supplement or correct ‘in a timely manner.’” Committee
Notes on Rules on FRCP 26(e)’s 2007 Amendment.

1 upon allegedly new facts." Id. See also, PIC Inc. v. Prescon Corp., 485 F. Supp. 1299,
2 1301 (D. Del. 1980).

3 Courts have interpreted FRCP 26 to mean the duty to supplement does not apply if
4 the additional or corrective information has otherwise "been made known to the other
5 parties during the discovery process or in writing." FRCP 26(e)(1)(A); see also; Nuance
6 Commc'ns, Inc. v. Abby Software House, et al., 2012 U.S. Dist. LEXIS 95331, 2012 WL
7 2838431, *1 (N.D. Cal. July 10, 2012) (stating that "[s]upplementation, however, is not
8 mandatory "if the additional or corrective information has been made known to the other
9 parties during the discovery process or in writing") (citing Vieste, LLC v. Hill Redwood
10 Dev., 2011 U.S. Dist. LEXIS 59831, 2011 WL 2181200, at *3 (N.D. Cal. June 6, 2011)
11 ("The information regarding [the witnesses] thus 'was made known to [Plaintiffs] during
12 the discovery process,' per Rule 26(e) (1), which discharged Defendants' duty to
13 supplement their disclosures with respect to these two individuals.") and Coleman v.
14 Keebler Co., 997 F.Supp. 1102, 1107 (N.D. Ind. 1998) and Adv. Comm. Notes on 1993
15 Amendments to FRCP 26(e) (stating that "[t]he obligation to supplement disclosures and
16 discovery responses applies whenever a party learns that its prior disclosures or
17 responses are in some material respect incomplete or incorrect. There is, however, no
18 obligation to provide supplemental or corrective information that has been otherwise
19 made known to the parties in writing or during the discovery process, as when a witness
20 not previously disclosed is identified during the taking of a deposition")). See also, All Star
21 Seed v. Nationwide Agribusiness Ins. Co., No. 12CV146-L (BLM), 2013 U.S. Dist. LEXIS
22 64587, at *31-33 (S.D. Cal. May 3, 2013).

23 Like its federal counterpart, NRCP 26(e) obligates Defendants to "seasonably
24 supplement" their discovery responses with newly discovered information that "has not
25 been made known to the other party during the discovery process." See, NRCP 26(e).
26 As Defendants set forth in detail above, and as corroborated by the deposition testimony
27 of Detective Majors himself, Defendants believed Plaintiff's counsel already obtained the
28 evidence Detective Majors provided to Defendants because Detective Majors told

1 Defendants he had provided Plaintiff's prior counsel, Jason Barrus, with a copy.
2 Defendants relied on Detective Majors' representations and prepared for Plaintiff's
3 deposition using evidence Defendants' believed both parties possessed. Plaintiff lied
4 under oath dozens of times. Plaintiff's counsel demanded Defendants provide Plaintiff
5 with a copy of the evidence Detective Majors produced on January 28, 2016. Defendants
6 provided Plaintiff with a copy of the evidence (as a show of good faith) on February 18,
7 2016, a mere 21 days after Detective Majors provided the evidence to Defendants.
8 Defendants did not "knowingly conceal" evidence, because Defendants reasonably
9 believed Plaintiff's counsel already had the evidence and Defendants shared the
10 evidence with Plaintiff in a reasonable and timely manner. Consequently, Plaintiff's claim
11 that Defendants violated NRCP 26(e) is baseless.

12 Indeed, Defendants seasonably supplemented their discovery responses and
13 produced evidence. The Havenfiled court held that waiting to disclose evidence 17
14 weeks (5 of which occurred after discovery closed) was unseasonable. The court in 3M
15 Innovative Props., Co. v. Barton Nelson, Inc., No. 02-3591(PAM/RLE), 2004 U.S. Dist.
16 LEXIS 15435, at *8 (D. Minn. Aug. 8, 2004), noted that disclosing evidence after 12
17 weeks was "arguably not seasonable." Defendants disclosed evidence in this matter after
18 only 3 weeks. Defendants' disclosure, unlike in 3M, was made within weeks rather than
19 months. Defendants' disclosure, unlike in Havenfiled, was made during "the discovery
20 process." NRCP 26(e)'s "seasonable supplement" requirement is designed to avoid trial
21 by ambush. Defendants produced the evidence to Plaintiff nine months prior to trial.
22 Plaintiff's claim that Defendants failed to seasonably supplement their discovery
23 responses or to produce the newly discovered evidence is without merit in fact and
24 unsupported by law. Consequently, this Court should disregard Plaintiff's claim that
25 Defendants failed to seasonably supplement their written discovery responses (and
26 produce material evidence) as required by NRCP 26(e) and deny Plaintiff's
27 Countermotion.

28

1 B. Granting Plaintiff's Motion Would Reward His Flagrant Discovery Abuse

2 Defendants did not violate NRCP 16.1 or NRCP 34. Defendants justifiably relied
3 on Detective Majors' representations that he provided both parties with the evidence.
4 Defendants seasonably produced the evidence, while still believing Plaintiff's counsel
5 already had it, as a show of good faith. Plaintiff's accusations that Defendants violated
6 NRCP 16.1 or NRCP 34 is a poorly disguised attempt to "take a mulligan" regarding
7 Plaintiff's perjury-filled deposition testimony. The record reveals that Plaintiff lied about
8 every material fact every chance he got to explain the facts and circumstances
9 surrounding the subject shooting. Plaintiff should not be allowed to benefit from getting
10 caught in his lies, using his own deceit as grounds to deny Defendants their right to seek
11 sanctions or to use Plaintiff's own lies against him. To strike Plaintiff's perjury-filled
12 deposition would be a slap in the face of justice—allowing a perjurer to retract his lies
13 when he is caught. Rather than strike his deposition, this Court should refer Plaintiff to
14 the District Attorney for a felony perjury prosecution. At very least, the Court should
15 disregard Plaintiff's red herring Countermotion for sanctions in its entirety.

16 IV. CONCLUSION

17 Plaintiff's Complaint should be dismissed under NRCP 37, the Court's inherent
18 authority and the doctrine of unclean hands given the pervasiveness of Plaintiff's lies and
19 Plaintiff's failure to oppose the merits of Defendants' Motion. The Young Court clearly
20 articulated the eight factors to consider when evaluating a motion to dismiss a complaint
21 as a sanction for a party's discovery abuses. Plaintiff's Opposition fails to address any of
22 them. Consequently, this Court should grant Defendant's underlying motion in its entirety
23 and disregard Plaintiff's bad-faith "Countermotion."

24
25 ///

26 ///

27 ///

28 ///

1 This Court should disregard Plaintiff's claim that Defendants violated any of the
2 Nevada Rules of Civil Procedure and Plaintiff's Countermotion for sanctions. Defendants
3 relied on the representation of Detective Majors and complied with NRCP 26(e) by
4 seasonably disclosing the evidence Defendants reasonably believed Detective Majors
5 provided to both parties. Plaintiff's arguments otherwise should not be used as grounds
6 to strike his own perjury-filled deposition. Defendants do not believe an evidentiary
7 hearing is necessary given the pervasiveness of Plaintiff's perjury and the failings of
8 Plaintiff's Opposition and Countermotion. However, Defendants remain ready to present
9 irrefutable evidence proving HAWKINS felony perjury and discovery abuses if this Court
10 is inclined to hold an evidentiary hearing.

11 DATED this 21st day of April, 2016

12 Respectfully submitted,

13 LEWIS BRISBOIS BISGAARD & SMITH LLP

14
15 By 

16 JOSH COLE AICKLEN

17 Nevada Bar No. 007254

18 DAVID B. AVAKIAN

19 Nevada Bar No. 009502

20 6385 S. Rainbow Boulevard, Suite 600

21 Las Vegas, Nevada 89118

22 Attorneys for Defendants MYDATT

23 SERVICES, INC. d/b/a VALOR SECURITY

24 SERVICES and MARK WARNER

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard
3 & Smith LLP and that on this 26th day of April, 2016, I did cause a true copy of
4 DEFENDANTS MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES and
5 MARK WARNER'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION
6 TO DISMISS PLAINTIFF'S COMPLAINT AND OPPOSITION TO PLAINTIFF'S
7 COUNTERMOTION FOR SANCTIONS to be served via the Court's electronic filing
8 system ("Wiznet") to all parties on the current service list as follows:

9 David J. Churchill
10 Jolene J. Manke
11 INJURY LAWYERS OF NEVADA
12 6900 Westcliff Dr., Ste. 707
13 Las Vegas, NV 89145
14 P: 702-868-8888
15 F: 702-868-8889
16 david@injurylawyersnv.com
17 Jolene@injurylawyersnv.com
18 Attorneys for Plaintiff
19 X'ZAVION HAWKINS

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Attorneys for Defendants MYDATT
SERVICES, INC. d/b/a VALOR SECUIRTY
SERVICES and MARK WARNER

15
16
17
18 By Susan Kingberry
19 An Employee of
20 LEWIS BRISBOIS BISGAARD & SMITH LLP
21
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28

EXHIBIT A

4845-3057-6394.1

1 SUBP
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8 FAX: 702.893.3789
Attorneys for Defendants
9 MYDATT SERVICES, INC. d/b/a MYDATT
SERVICES, INC. and MARK WARNER

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

14 X'ZAVION HAWKINS,
15 Plaintiff,
16 vs.

Case No. A717577
Dept. No. XXXI

17 GGP MEADOW MALL LLC, a Delaware
Limited Liability Company; MYDATT
18 SERVICES, INC. d/b/a VALOR
SECURITY SERVICES, an Ohio
19 Corporation; MARK WARNER,
individually; DOES 1 through 10; DOE
20 SECURITY GUARDS 11 through 20; and
21 ROE ENTITIES 21 through 30,
INCLUSIVE,
22 Defendants.

SUBPOENA DUCES TECUM

Date: April 11, 2016
Time: 11:00 a.m.

(records only - no appearance required)

24 THE STATE OF NEVADA SENDS GREETINGS TO:

25 CUSTODIAN OF RECORDS
Las Vegas Metropolitan Police Department - Criminal Division
26 400 South Martin Luther King Boulevard, Building C
Las Vegas, Nevada 89106
27
28

1 **YOU ARE HEREBY COMMANDED**, that all and singular, business and excuses
2 set aside, you appear and attend a deposition on April 11, 2016 at 11:00 a.m., at the law
3 office of LEWIS BRISBOIS, BISGAARD & SMITH LLP, located at 6385 S. Rainbow Blvd.,
4 Suite 600, Las Vegas, Nevada 89118.

5 Your attendance is required to give testimony and to produce and permit
6 inspection and copying of designated books, documents or tangible things in your
7 possession, custody or control, or to permit inspection of premises. You are required to
8 bring with you at the time of your appearance any items set forth below. If you fail to
9 attend, you will be deemed guilty of contempt of Court and liable to pay all losses and
10 damages caused by your failure to appear.

11 Deponent is to bring the following items:

12 An itemization of calls for service to the Meadows Mall located at 4300 Meadows
13 Lane, Las Vegas, Nevada 89107 for the time period of 08/17/2008 through
08/17/2013, involving the following incident/disposition function codes:

14	403	Prowler
15	406	Burglary
16	406A	Burglary Alarm
17	407	Robbery
18	407A	Robbery Alarm
19	407B	Robbery Involving A B-Pack
20	413	Person With a Gun
21	413A	Person With a Knife
22	413B	Person With Other Deadly Weapon
23	415	Assault/Battery
24	415A	Assault Battery With a Gun
25	415B	Assault/Battery With Other Deadly Weapon
26	415C	Assault/Battery Negative Injury Drive By Shooting
27	416	Fight
28	416A	Juvenile Disturbance

- 1 419 Dead Body
- 2 420 Homicide
- 3 426 Sexual Assault
- 4 427 Kidnap
- 5 428 Child Molest
- 6 434 Illegal Shooting
- 7 437 Keep The Peace
- 8 441 Malicious Destruction of Property
- 9 445 Explosive Device

10

11 IN LIEU OF APPEARANCE, you are permitted to provide a copy of all the items

12 requested above, together with a signed and notarized Certificate of Custodian of

13 Records, on or before April 8, 2016, to LEWIS BRISBOIS BISGAARD & SMITH LLP, at

14 6385 S. Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118; (702) 893-3383.

15 Please see EXHIBIT A attached hereto for information regarding the rights of the

16 person subject to this Subpoena.

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Please execute the Custodian of Records affidavit, attached as EXHIBIT B.
DATED this 7 day of March, 2016.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By 
JOSH COLE AICKLEN
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DAVID B. AVAKIAN
Nevada Bar No. 009502
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SERVICES, INC. d/b/a MYDATT SERVICES,
INC. and MARK WARNER

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this 8 day of March, 2016, I did cause a true copy of SUBPOENA DUCES TECUM be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

David J. Churchill
Jolene J. Manke
INJURY LAWYERS OF NEVADA
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Las Vegas, NV 89145
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Attorneys for Defendants MYDATT
SERVICES, INC. d/b/a VALOR SECUIRTY
SERVICES and MARK WARNER

By *Vicki Pyre*
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT A

NEVADA RULES OF CIVIL PROCEDURE
Rule 45

(c) Protection of Persons Subject to Subpoena.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(v) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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EXHIBIT B

CUSTODIAN OF RECORDS AFFIDAVIT

STATE OF _____)
COUNTY OF _____) ss.

Affiant being first duly sworn deposes and says:

1. That the Affiant is the Custodian of Records LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

2. That on the ____ day of _____, 2016, the Affiant was served with a Subpoena Duces Tecum in connection with Hawkins v. GGP Meadows Mall LLC, et al., Eighth Judicial District Court, District of Nevada, Case Number A717577, calling for the production of all calls for service between 08/17/2008 and 08/17/2013 contained in LAS VEGAS METROPOLITAN POLICE DEPARTMENT's file for the Meadows Mall located at 4300 Meadows Lane, Las Vegas, Nevada 89107 involving incident/disposition function codes: 403; 406; 406A; 407; 407A; 407B; 413; 413A; 413B; 415, 415A; 415B; 415C; 416; 416A; 419; 420; 426; 427; 428; 434; 437; 441; and 445.

☐ That the Affiant has examined the original of the above-referenced documents and has made a true and exact copy of them except that all privileged, protected, and irrelevant materials have been withheld or redacted and that the reproduction of them attached hereto is true and complete.

OR

///
///
///

1 □ That the Affiant has performed a thorough search of LAS VEGAS
2 METROPOLITAN POLICE DEPARTMENT's files and produced no records or documents
3 responsive to this request. It is to be understood that this does not mean that records do not exist
4 under another spelling, name or classification.

5 COMMENTS:

6 FURTHER AFFIANT SAYETH NAUGHT.

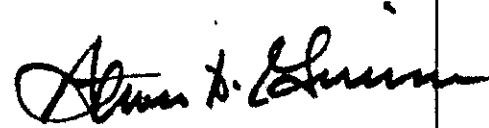
7 Dated this _____ day of _____, 2016.

8 SWORN and SUBSCRIBED to before me
9 this _____ day of _____, 2016.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT

10 _____
11 NOTARY PUBLIC
12 In and for said County and State

By: _____
Custodian of Records

Attorney or Party without Attorney: HAROLD ROSENTHAL, ESQ. (NBN 010208) LEWIS, BRISBOIS, BISGAARD & SMITH 6385 S. RAINBOW BLVD. SUITE 600 LAS VEGAS, NV 89118 Telephone No: 702-893-3383 FAX No: 702-893-3789				For Court Use Only Electronically Filed 04/12/2016 02:42:45 PM  CLERK OF THE COURT	
Attorney for: Defendant				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA					
Plaintiff: X'ZAVION HAWKINS Defendant: GGP MEADOWS MALL LLC					
AFFIDAVIT OF SERVICE SUBPOENA		Hearing Date:	Time:	Dept/Div:	Case Number: A717577

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUBPOENA DUCES TECUM.
3. a. Party served: CUSTODIAN OF RECORDS, LAS VEGAS METROPOLITAN POLICE DEPARTMENT
 b. Person served: NORMA CEPEDA, #8647
4. Address where the party was served: CRIMINAL DIVISION
 400 S. MARTIN LUTHER KING BOULEVARD
 BUILDING C
 LAS VEGAS, NV 89106
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Mon., Mar. 14, 2016 (2) at: 1:44PM
 - b. I received this subpoena for service on: Friday, March 11, 2016
6. Witness fees were not demanded or paid.
7. Person Who Served Papers:
 - a. LEIDY P. SERNA (R-029907)

Fee for Service:

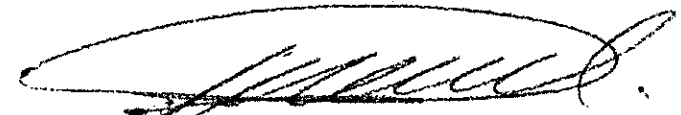
I Declare under penalty of perjury under the laws of the State of NEVADA that the foregoing is true and correct.

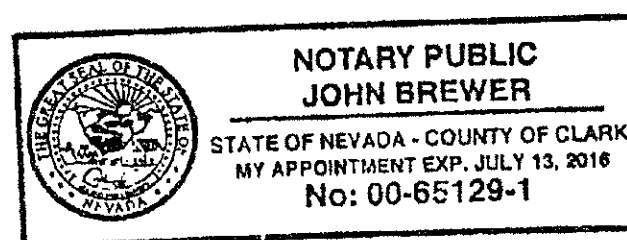


First Legal Investigations*
 704 S. Sixth Street
 Las Vegas, NV 89101
 Telephone (702) 671-4002
 Fax (702) 974-2223

*Attorney Support & Investigations provided by First Legal Investigations NV PI-PS: 1452

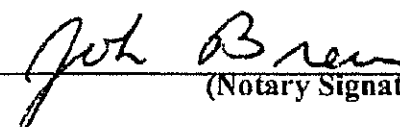
4-8-16
 (Date)


 (Signature)



8. STATE OF NEVADA, COUNTY OF Clark
 Subscribed and sworn to (or affirmed) before me on this 08 day of April 2016 by LEIDY P. SERNA (R-029907)
 proved to me on the basis of satisfactory evidence to be the person who appeared before me.

AFFIDAVIT OF SERVICE
SUBPOENA


 (Notary Signature)

8795373 .lewish.791566

0369

EXHIBIT B

4845-3057-6394.1

CONDENSED

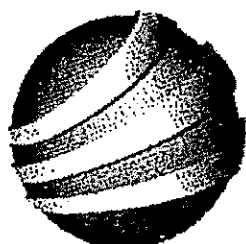
In the Matter Of:

HAWKINS vs. GGP MEADOWS MALL

A-15-717577-C

WILLIAM LEE MAJORS

February 25, 2016



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WILLIAM LEE MAJORS
HAWKINS vs. GGP MEADOWS MALL

February 25, 2016

1-4

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1	DISTRICT COURT	1	INDEX OF EXAMINATION
2	CLARK COUNTY, NEVADA	2	
3		3	WITNESS: William Lee Majors
4	X'ZAVION HAWKINS,	4	
5	Plaintiff,	5	
6	vs.	6	
7	CASE NO. A-15-717577-C	7	
8	GGP MEADOWS MALL LLC, a	8	
9	Delaware Limited	9	EXAMINATION
10	Liability Company; MYDATT	10	PAGE
11	SERVICES, INC., dba VALOR	11	By Mr. Aicklen
12	SECURITY SERVICES, an	12	By Ms. Renwick
13	Ohio Corporation; MARK	13	By Mr. Churchill
14	WARNER, individually;	14	
15	DOBS 1 through 10; DOE	15	
16	SECURITY GUARDS 11	16	
17	through 20; and ROE	17	
18	ENTITIES 21 through 30,	18	INDEX TO EXHIBITS
19	inclusive,	19	
20	Defendants.	20	EXHIBITS
21		21	MARKED
22		22	
23	DEPOSITION OF	23	
24	WILLIAM LEE MAJORS	24	
25	Thursday, February 25, 2016	25	
	9:00 a.m.		
	2300 W. Sahara Avenue		
	Las Vegas, Nevada		
	Carol O'Malley, CCR 178, RMR		

Page 2		Page 4	
1	APPEARANCES OF COUNSEL	1	Deposition of William Lee Majors
2		2	February 25, 2016
3	For Plaintiff:	3	(Prior to the commencement of the deposition,
4	INJURY LAWYERS OF NEVADA	4	all of the parties present agreed to waive
5	DAVID J. CHURCHILL, ESQ.	5	statements by the court reporter, pursuant to
6	JOLENE J. MANKE, ESQ.	6	Rule 30(b)(4) of NRCP.)
7	Suite 707	7	
8	6900 W. Westcliff Drive	8	WILLIAM LEE MAJORS,
9	Las Vegas, Nevada 89145	9	having been first duly sworn, testified as follows:
10	702.868.8888	10	
11	702.868.8889 Fax	11	EXAMINATION
12	david@injurylawyersnv.com	12	BY MR. AICKLEN:
13		13	Q. Good morning, sir. Would you state your
14	For Defendant GGP Meadows Mall LLC:	14	name for the record, please?
15	LEE, HERNANDEZ, LANDRUM & GAROFALO	15	A. Sure. My name is Detective William Majors.
16	CHARLENE N. RENWICK, ESQ.	16	Q. Detective, have you ever had your
17	Suite 150	17	deposition taken before?
18	7575 Vegas Drive	18	A. No, I have not.
19	Las Vegas, Nevada 89128	19	Q. I'm going to go through some of the ground
20	702.880.9750	20	rules so that you understand the process today.
21	702.314.1210 Fax	21	You and I have met. My name is
22	crenwick@lee-lawfirm.com	22	Josh Aicklen. I represent a man named Mark Warner,
23		23	and Mydatt Services, d/b/a Valor Security, in a
24	For Defendants Mydatt Services, Inc., dba Valor	24	lawsuit that has been filed by the plaintiff,
25	Security Services, and Mark Warner:	25	X'Zavion Hawkins. Do you understand that?
	LEWIS BRISBOIS BISGAARD & SMITH LLP		
	JOSH COLE AICKLEN, ESQ.		
	HAROLD J. ROSENTHAL, ESQ.		
	Suite 600		
	6385 S. Rainbow Boulevard		
	Las Vegas, Nevada 89118		
	702.893.3383		
	702.893.3789 Fax		
	josh.aicklen@lewisbrisbois.com		



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0373

<p style="text-align: right;">Page 5</p> <p>1 A. I do.</p> <p>2 Q. Very good. The conversation that we're</p> <p>3 having here today is different than the normal</p> <p>4 conversation, because everything that we are saying</p> <p>5 is being taken down and becomes evidence in this</p> <p>6 case.</p> <p>7 You understand that the oath that</p> <p>8 you just took is the same oath that you would take in</p> <p>9 court and carries the same penalty of perjury?</p> <p>10 A. I do.</p> <p>11 Q. Have you had any alcohol or drugs in the</p> <p>12 last 12 hours which might affect your ability to give</p> <p>13 your best testimony today?</p> <p>14 A. No, sir.</p> <p>15 Q. I'm going to ask you some standard</p> <p>16 questions, so don't be offended by anything that I</p> <p>17 ask you.</p> <p>18 Are you ill, or is there any other</p> <p>19 reason that your deposition cannot go forward?</p> <p>20 A. No.</p> <p>21 Q. It's important that only one person speaks</p> <p>22 at a time, because as I said, the lady is taking it</p> <p>23 down. So what I would ask you to do is allow me, or</p> <p>24 whomever else asks a question, to complete their</p> <p>25 question before you begin your response. We'll show</p>	<p style="text-align: right;">Page 7</p> <p>1 However, I do want to caution you,</p> <p>2 if you make a substantive change -- for example, if</p> <p>3 today were about a car accident and I asked you,</p> <p>4 "What color was the light when you entered the</p> <p>5 intersection," and you said "green," and then when</p> <p>6 you went through and made changes to your transcript</p> <p>7 you changed that "green" to "red," then I or any</p> <p>8 other attorney could argue the reason that you made</p> <p>9 that substantive change is because you were not being</p> <p>10 truthful today.</p> <p>11 Do you understand?</p> <p>12 A. I do.</p> <p>13 Q. So it's important that you give your best</p> <p>14 testimony today, so you don't have to make changes</p> <p>15 later on. Will you try to give your best testimony</p> <p>16 today?</p> <p>17 A. Yes, sir.</p> <p>18 Q. You need to answer audibly. You're doing a</p> <p>19 good job of it, but I want you to say, "yes," "no,"</p> <p>20 or a description, if the question calls for it.</p> <p>21 Things that we do in normal</p> <p>22 conversation like "uh-huh," "un-uhn," pointing,</p> <p>23 nodding -- they don't come out clearly on a written</p> <p>24 transcript.</p> <p>25 Periodically I may say to you, "Is</p>
<p style="text-align: right;">Page 6</p> <p>1 you the same courtesy and allow to you finish your</p> <p>2 response before we ask you another question.</p> <p>3 Do you understand?</p> <p>4 A. Yes, I do.</p> <p>5 Q. That way we get a question/answer format.</p> <p>6 Understood?</p> <p>7 A. I do.</p> <p>8 Q. Make sure you understand the question</p> <p>9 before you answer it. If you do not understand the</p> <p>10 question, or if it's not clear to you, just say, "I</p> <p>11 don't understand," or ask me to rephrase it. I'll be</p> <p>12 glad to do so.</p> <p>13 However, if I ask you a question</p> <p>14 and you give me an answer, I'm going to assume that</p> <p>15 you understood my question and then you answered it</p> <p>16 appropriately.</p> <p>17 Do you understand?</p> <p>18 A. Yes.</p> <p>19 Q. In approximately two weeks you'll have the</p> <p>20 opportunity to review your deposition transcript. It</p> <p>21 comes typed in a booklet form.</p> <p>22 You will also have the chance to</p> <p>23 make any changes that you believe are necessary or</p> <p>24 appropriate, and then sign it under penalty of</p> <p>25 perjury.</p>	<p style="text-align: right;">Page 8</p> <p>1 that a yes or is that a no?" I'm actually trying to</p> <p>2 do two things. I'm not trying to be rude. I'm</p> <p>3 trying to (a), get a clear transcript; and then (b),</p> <p>4 remind you to answer audibly. Do you understand?</p> <p>5 A. Yes.</p> <p>6 Q. Do you have any questions about the ground</p> <p>7 rules before we begin?</p> <p>8 A. No, I do not.</p> <p>9 Q. Now, you were served with a Subpoena Duces</p> <p>10 Tecum, is that correct?</p> <p>11 A. That is true.</p> <p>12 Q. And you have brought documents responsive</p> <p>13 to that Subpoena Duces Tecum?</p> <p>14 A. I have.</p> <p>15 Q. Very good. So would you tell me the</p> <p>16 documents that you have brought today?</p> <p>17 A. Okay. I have interviews from X'Zavion</p> <p>18 Hawkins, Keisha Love, Darrellonda Peterson, which are</p> <p>19 transcribed. I also have the audio files for those</p> <p>20 interviews.</p> <p>21 I also brought the 911 tapes, the</p> <p>22 incident crime report, the voluntary statements made</p> <p>23 by Keisha Love, DeAndre Thompson, Mario Pena,</p> <p>24 Darrellonda Peterson.</p> <p>25 Preservation requests for Facebook</p>

<p>Page 9</p> <p>1 and Instagram. For Facebook of CM pmg, preservation 2 requests for Facebook of Little pmg, media release 3 reference this incident. 4 Attempt Homicide Followup 5 reference an RN that retrieved a bullet out of the 6 victim. A property report reference the security 7 footage. Crime Scene Investigation Report for the 8 incident. Additional crime scene evidence impound 9 reports reference the crime scene -- and I mean two 10 different crime scenes; one being at the hospital, 11 and the other being at Meadows Mall. 12 Criminalistics report reference a 13 bullet which was retrieved from Mike Darling, RN, at 14 UMC Trauma; and a forensics multimedia report 15 reference the CD that was impounded reference this 16 incident. 17 Q. So that would be the video of the incident 18 from Mydatt Security? 19 A. That is correct. 20 Q. Okay. 21 A. And I also brought my case notes reference 22 this. Let me make sure I have everything here. And 23 also the request from Attorney Lloyd Baker. Yeah, 24 that's what I have. 25 Q. Okay. After we go through these documents,</p>	<p>Page 11</p> <p>1 MR. CHURCHILL: Okay. 2 BY MR. AICKLEN: 3 Q. Now, as far as these documents go, you 4 received a Subpoena Duces Tecum, correct? 5 A. That's correct. 6 Q. And in response to that, did you go into 7 the computer and print these documents out? 8 A. I did. 9 Q. And these documents were produced in the 10 normal and ordinary course of business of the 11 Metropolitan Police Department, is that correct? 12 A. That is correct, with the exception of the 13 case notes, which usually you have to have a court 14 order before you can get, but the subpoena is the 15 same thing. 16 If somebody were to come and ask 17 for records, they get everything that I've described 18 to you that have actually been turned over for 19 processing. 20 The case notes are to remind us 21 when we're doing the case, especially if we have to 22 go back to court, so we can look back, "Okay, I did 23 this, I did this, I did this." 24 Q. Okay. Let's go back though to these 25 documents that you have produced today, because I</p>
<p>Page 10</p> <p>1 what I would like to do is then ask you -- you 2 brought these for us to keep, correct? 3 A. That is correct. 4 Q. Okay. And then what I would ask to do is 5 we're going to attach them as Defendants' Exhibit A 6 en masse, all of them together, to your deposition 7 transcript, and they will be attached to the original 8 of the transcript. 9 MR. CHURCHILL: Josh, sorry to 10 interrupt. 11 What I need to know -- and we may 12 have to call the Discovery Commissioner -- is I need 13 to know of all these documents, which ones have 14 already been provided to you. Because he listed 15 several documents there that were not in your 16 disclosure to me. 17 MR. AICKLEN: Right. So I'm going to 18 ask him about every document that he -- I'm not 19 giving my deposition, but I will tell you on the 20 record, every document that he gave to Ms. Renwick 21 and I in our prior meeting, which I'm going to go 22 into about with him, was turned over to you in that 23 supplemental 16.1. So I have also noted some 24 documents that he's listed that I do not have copies 25 of. Okay?</p>	<p>Page 12</p> <p>1 want to complete laying the foundation for them. 2 So in response to the subpoena you 3 went through the Metro Police Department computer and 4 found every document and/or recording or disk that 5 was responsive, correct? 6 A. That is correct. 7 Q. And that is what you have produced today? 8 A. Yes, sir. 9 Q. And those documents were prepared in the 10 normal and ordinary course of your duties as a police 11 officer for the Metropolitan Police Department? 12 A. Yes. 13 Q. And these are true and correct copies of 14 those documents? 15 A. Yes. 16 Q. Very good. Now, I am also going to ask you 17 about what other persons have you spoken to about 18 this case, and on the record I will state that 19 Ms. Renwick and I met with you, correct? 20 A. That is correct. 21 Q. And we met with you in your office in 22 response to the subpoena, once it was served? 23 A. That is correct. 24 Q. And when you and I met, and Ms. Renwick, 25 what documents did you turn over to us then?</p>

Page 13

1 A. I turned over what I had, and I hadn't
2 researched everything. But what I had I believe was
3 the voluntary statements, and the audio of those
4 voluntary statements. Incident crime report, and
5 actually written voluntary statements from the
6 witnesses.
7 Q. Okay. And then you also turned over the
8 transcription of the statements, correct?
9 A. That is correct.
10 Q. So now there are a number of other
11 documents that you have brought today?
12 A. Yes.
13 Q. And those are documents that you found
14 after our meeting?
15 A. That is correct.
16 Q. Can you list out the documents that you
17 have brought today that you found after the meeting?
18 A. Preservation request for Facebook in the
19 account of CM pmg. Preservation request for Facebook
20 for name of Lit pmg.
21 Q. Lit pmg?
22 A. Yes. It stands for "Little" and "Pooh Man
23 G," one of the suspects we were looking at.
24 Media release. It's asking for
25 help from witnesses that may have been at the scene.

Page 14

1 Officer's report reference Mike
2 Darling, RN, at UMC that retrieved a bullet from the
3 victim.
4 Property report reference this
5 incident, for the security footage. Crime Scene
6 Investigation Report reference the victim at the
7 hospital. Crime Scene Investigation Report reference
8 the scene at the Meadows Mall. Crime Scene
9 Investigation Report, again reference Mike Darling,
10 RN, who recovered a bullet from the victim.
11 Crime scene report reference Ralph
12 Lauren Polo brand boxer shorts recovered from the
13 victim from RN Guedry, UMC Trauma.
14 Criminalistics Bureau Evidence
15 Impound Report reference the scene. And I believe
16 this is a copy. It's a Criminalistics Evidence
17 Impound Report reference the bullet retrieved from
18 Mark Darling. And a Forensics Media Report reference
19 the two copies of surveillance video.
20 Q. Very good. Thank you.
21 Now, at the meeting that
22 Ms. Renwick and I had with you, we discussed the
23 facts of your investigation, correct?
24 A. That is true.
25 Q. And you turned over those documents that

Page 15

1 you had previously listed as the documents turned
2 over?
3 A. Yes.
4 Q. And you also told us that you had spoken to
5 Attorney Jason Barrus, correct?
6 A. That is correct.
7 Q. And what did Mr. Barrus ask you, and what
8 did you tell him?
9 A. I believe I have his email, if I can pull
10 it up.
11 Q. Yes, certainly. Any time you need to refer
12 to your notes. This isn't a memory test.
13 A. Okay. Here's his email.
14 "Detective Majors: Thank you for
15 taking my phone call earlier today. As we discussed,
16 I am trying to obtain a complete copy of the
17 investigation file relating to the Meadows Mall
18 shooting involving my client, X'Zavion Hawkins. It
19 is my understanding that there are voluntary
20 statements and photographs related to the
21 investigation, but I have not been provided those by
22 the records department. I was told if the detective
23 will grant a release of that information the records
24 department will release those items to me without the
25 need of a subpoena. You stated your investigation is

Page 16

1 closed and that you have no problem releasing the
2 photographs and voluntary statements to my office at
3 this time. Please confirm by responding to this
4 email and by sending an email to the records
5 department and photo lab of your agreement to release
6 those items at this time. I appreciate your
7 cooperation. Thanks, Jason," from Jason W. Barrus
8 Law Office.
9 Q. And what was your response to Attorney
10 Barrus?
11 A. I had to talk to counsel, and I sent one
12 back saying, "The case is closed and I give
13 permission to release this case file to Jason W.
14 Barrus."
15 Q. So Mr. Barrus then could have subpoenaed
16 those materials from the Metropolitan Police
17 Department?
18 A. That's true.
19 Q. Okay. When you and I met, did you tell me
20 that you had turned these materials over to Mr.
21 Barrus?
22 A. Yes.
23 Q. Okay.
24 A. I gave him authorization to get it on his
25 own. I didn't pick it up and make copies and give it

Page 17

1 to him.
2 Q. I see. So in fact you gave him
3 authorization, but he did not obtain the materials?
4 A. I don't know if he obtained them.
5 Q. Okay. Very good.
6 Now, just the last thing about our
7 meeting. At our meeting did I ask you to say
8 anything other than the truth about your
9 investigation?
10 A. You told me just to say the truth.
11 Q. And if I had said to you to say anything
12 but the truth, what would you have told me?
13 A. "No, thank you." I could be held liable
14 criminally.
15 Q. Okay. Very good.
16 Now, other than Ms. Renwick, me,
17 and Mr. Barrus, have you spoken with anyone else
18 about your investigation, other than those related to
19 the investigation? So any third-party?
20 A. I did notify my chain of command.
21 Q. That you would be appearing for a
22 deposition?
23 A. That is correct.
24 Q. Okay. Anyone else?
25 A. Through my case notes I notified -- well,

Page 18

1 this was during the investigation. Are we talking
2 about during or after?
3 Q. Any third-party.
4 A. There is one third-party, Alex Ochoa, North
5 Las Vegas Police Department Gang Task Force. He was
6 providing me information on the possible identities,
7 because he had similar investigations that was
8 leading to the same people. I contacted LVMPD PIO
9 for a media release.
10 Q. That's the Public Information Office?
11 A. That is correct.
12 During the investigation I talked
13 to a girl for another victim who refused to identify
14 herself, who was asking for copies of records, and I
15 told her she would have to go through an attorney. I
16 could not give that to her.
17 And this case file was handed over
18 to Robbery Task Force, Edward Leneve, P# 5612. He
19 was part of the Robbery Task Force with the FBI.
20 They have a lot more means than we
21 do, money for confidential informants, in order to
22 get better results of this investigation. And he was
23 unsuccessful.
24 Q. How do you spell Edward Leneve's name? I
25 know it's in the records.

Page 19

1 A. It's okay. First name Edward, E-d-w-a-r-d;
2 last name Leneve, L-e-n-e-v-e.
3 Q. Thank you.
4 A. And he has the complete case file. And
5 normally when we get cases like this we wait until
6 the very end before we copy everything and put it
7 into the record.
8 The reason being, we've had
9 problems where people knew each other, or knew other
10 investigators, and they would look at our case file
11 and it would cause problems in the future.
12 So stuff like this we keep and
13 wait until the last minute, and then put everything
14 in our OnBase system.
15 The only stuff that I was able to
16 put in before I gave it to Leneve is the stuff you
17 see here today. The rest of that stuff Leneve has,
18 and I don't know where it's at.
19 Q. And when you say "stuff," what would that
20 be?
21 A. I have a folder of just different
22 interviews from citizen sources. And these weren't
23 taped interviews. These were people calling me,
24 "Hey, I know who the shooter is," "I know this, I
25 know that." And I was having to follow up on it. I

Page 20

1 don't have a list, because again, I don't have the
2 file.
3 But as far as the meat and
4 potatoes, the substance of this investigation is what
5 I have or what I've already given to you.
6 Q. So citizen tips may be located within the
7 file that Edward Leneve maintains?
8 A. Yes.
9 MR. AICKLEN: Let's go off the record
10 for a second.
11 (Discussion off the record.)
12 MR. AICKLEN: We'll go back on the
13 record.
14 BY MR. AICKLEN:
15 Q. The materials that you just handed me,
16 other than these two disks, which we'll attach to the
17 original -- these are all of the materials that you
18 have produced today in response to the Subpoena Duces
19 Tecum, correct?
20 A. That is correct.
21 Q. Very good.
22 (Recess.)
23 MR. AICKLEN: Back on the record.
24 BY MR. AICKLEN:
25 Q. So we're going to mark the entirety of that

<p style="text-align: right;">Page 21</p> <p>1 file Defendants' Exhibit A. The file that you have 2 in front of you is the original of the file, correct? 3 A. That is correct. 4 Q. And it's complete? 5 A. Yes, sir. 6 Q. Okay. Very good. And we'll have you keep 7 it with you to reference, and then at the end of the 8 deposition we will give it to the court reporter and 9 she'll attach it. Okay? 10 A. Okay. 11 Q. Very good. I'm going to ask you a couple 12 background questions, and then some questions about 13 your investigation, if I could. 14 A. Absolutely. 15 Q. Have you ever been known by any other 16 names? 17 A. My name is William Lee Majors. My friends 18 call me Lee, but my first name is William. 19 Q. And what is your work address? 20 A. 400 South Martin Luther King Boulevard, Las 21 Vegas, Nevada, 89106. 22 Q. And your date of birth? 23 A. 9/2 of '73. 24 Q. Place of birth? 25 A. Las Vegas, Nevada.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Which police academy did you attend? 2 A. Las Vegas Metropolitan Police Department in 3 2001. 4 Q. How long was that academy? 5 A. Six months. 6 Q. When did you graduate? 7 A. I want to say it's May or June. I don't 8 remember. 9 Q. June of '01? 10 A. Yes. 11 Q. Is that your best estimate? 12 A. Yes. 13 Q. A couple other ground rules I didn't 14 mention, that I should. 15 If you cannot recall an answer you 16 can say, "I cannot recall." If you don't know an 17 answer just say, "I don't know." Just because I ask 18 you a question doesn't mean you know the answer. 19 And I may ask you some questions 20 about timeframes or distances. If you can give me a 21 reasonable estimate, then I'm entitled to it; but I 22 don't want you to guess. Do you understand the 23 difference? 24 A. I understand. 25 Q. Very good. When were you first POST</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. And beginning with high school, tell me 2 your education history, please. 3 A. I completed high school. 4 Q. Where did you graduate? 5 A. Bonanza High School. 6 Q. The year? 7 A. 1992. 8 Q. And any college? 9 A. Two years of college. 10 Q. Where? 11 A. Community College. 12 Q. Of Southern Nevada? 13 A. Yes. 14 Q. What did you study? 15 A. Criminal justice. 16 Q. Did you receive a degree? 17 A. No, I did not. 18 Q. Any vocational or technical school? 19 A. I worked for AMR. I don't know if you'd 20 call that a vocational school, but I was an EMT Basic 21 for AMR, two years. 22 Q. So you were certified? 23 A. I was. 24 Q. Do you maintain that certification? 25 A. No, I do not.</p>	<p style="text-align: right;">Page 24</p> <p>1 certified? 2 A. I don't remember. 3 Q. What's your best estimate? 4 A. June of 2001. 5 Q. Have you always maintained your POST 6 certification? 7 A. I have to. It's mandatory. 8 Q. As we sit here today, do you have any 9 intention to leave Las Vegas Metro? 10 A. No. 11 Q. The only reason I ask you that is in the 12 event that if and when this case goes to trial I 13 would need to locate you. 14 So I would like to ask for an 15 anchor person -- someone who would always know where 16 you were and could contact you. 17 Who is your anchor person? A 18 parent? Spouse? 19 A. No offense, I don't feel comfortable giving 20 that. I'm not leaving town anywhere, but I am not 21 getting my parents involved in a civil deposition. 22 Q. Understanding we would never -- 23 A. Period. 24 Q. I'll withdraw it. 25 A. No offense.</p>

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1 Q. Understood. We would never contact them
2 unless we could not locate you.
3 A. I just bought a house here. I can give you
4 my address, you can call me any time, show up; but I
5 will not give you my parents' information.
6 Q. No, I don't want to get your residence
7 address. So we'll contact you through Metro.
8 A. Sounds good.
9 Q. So you graduated and were POST certified in
10 June of '01. What was your first assignment?
11 A. Patrol.
12 Q. Motor or a car?
13 A. Patrol. Bolden Area Command in a car.
14 Q. Bolden Area Command?
15 A. That is correct.
16 Q. How long did you have that assignment?
17 A. And if we go before that -- I forgot.
18 During training I was in Northeast
19 Area Command for three months, and then I went to
20 Bolden Area Command for three months, and then I was
21 at Bolden -- I want to say four or five years, before
22 I went into PSU, which is the Problem Solving Unit.
23 Q. You were straight out of the academy and
24 you went to Northeast Area Command?
25 A. Yes, for training. For field training.

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1 Q. Three months?
2 A. Three months.
3 Q. So you rode with a training officer?
4 A. That's correct.
5 Q. And that was in a car?
6 A. That is correct.
7 Q. And that was on patrol?
8 A. Yes.
9 Q. And then your first assignment after field
10 training was patrol car in Bolden Area Command?
11 A. Yes, sir.
12 Q. And you had four to five years there?
13 A. Yes.
14 Q. What was your next assignment?
15 A. Problem Solving Unit, Bolden Area Command.
16 It was a plainclothes assignment. We did everything
17 from robbery decoy operations, controlled buy busts,
18 narcotics, property crimes. Pretty much everything.
19 Q. Was that a uniform or --
20 A. Plainclothes.
21 Q. Plainclothes. How long did you do that?
22 A. I don't recall. I believe it was two
23 years.
24 Q. And that was also Bolden Area?
25 A. That was Bolden Area.

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1 Q. And what was your next assignment?
2 A. I was a field training officer for about
3 two months before I got accepted into gang detail.
4 Q. Where were you a field training officer?
5 A. Bolden Area Command.
6 Q. What did you train?
7 A. New recruits fresh out of the academy.
8 Q. Was that in a patrol car?
9 A. That was in a patrol car.
10 Q. When did you join the gang unit?
11 A. I don't remember exact years.
12 Q. Your best estimate.
13 A. I want to say 2008.
14 Q. Where were you headquartered?
15 A. We were at an undisclosed location off of
16 Bermuda and Sunset.
17 Q. What were your duties in the gang unit?
18 A. Gang enforcement. Also gang
19 investigations. Enforcement, we basically went out
20 in a uniformed position, stopping gang members that
21 were committing crimes in the Las Vegas Valley.
22 And when I went to gang
23 investigations we were basically responding to all
24 shootings, stabbings, violent crimes involving gang
25 members.

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1 Q. Gang enforcement was in an unmarked felony
2 car?
3 A. It was unmarked, but we were in uniform.
4 We were wearing our greens.
5 Q. Do they call those "felony cars?"
6 A. I've never heard it called that.
7 Q. Well, the only reason I say that is because
8 LAPD calls it -- like it's a Crown Vic, but it's not
9 black and white. It's like black or blue.
10 A. Yeah, it's just a plain car.
11 Q. A plain car.
12 A. Yeah, but it has lights and sirens. It's
13 just there's no decals. There's nothing that says,
14 "Call 911," or any identifiable features that says
15 you're a police officer. But yes, everybody on the
16 west side knows who you are. They've seen your car
17 before.
18 Q. How long were you in gang enforcement?
19 A. I was in gangs for approximately three and
20 a half years. So during that time -- the majority of
21 the time I spent in enforcement, and I spent six
22 months in investigations prior to testing for Violent
23 Crimes.
24 Q. And so that would be your fifth assignment
25 then?

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1 A. That would be my fifth assignment.
2 Q. When did you go to your fifth assignment in
3 Violent Crimes?
4 A. 2010. I don't have the exact date.
5 Q. That's your best estimate?
6 A. Yes. And I was in Violent Crimes up until
7 July of last year.
8 Q. So 7 of '15?
9 A. Yes.
10 Q. What were your duties in Violent Crimes?
11 A. Basically following up, conducting
12 investigations on battery substantial, attempt
13 murder; we assisted robbery, we assisted homicide.
14 We conducted death investigations that were
15 suspicious in nature; responded to shootings that
16 weren't gang-related or bias-related. The same with
17 stabbings.
18 Q. Any other duties?
19 A. That about sums it up.
20 Q. What was your next assignment?
21 A. After decentralization we were sent to
22 different area commands. I put in for Convention
23 Center Area Command, and our responsibilities were
24 for everything.
25 Q. So any felony crime?

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1 A. Any. And misdemeanors.
2 Q. Any crime?
3 A. Any crime. Basically the patrol officers
4 that take the reports -- all those reports come
5 directly to us, and then we follow up, if there's
6 anything to follow up.
7 Q. Are there no longer specialized areas?
8 A. There is, but they're limited in resources.
9 We still have a gang intelligence unit, which doesn't
10 have many people in it. Not like how we used to be.
11 So we'll still follow up on gang-related incidences.
12 Q. And you still have a homicide division?
13 A. We still have homicide.
14 Q. But is everything else now split into
15 the -- what did you call it?
16 A. Decentralization.
17 Q. Decentralization.
18 A. It's been in the news. The Sheriff decided
19 to break everybody up and put them in area commands
20 to get more hands-on with the community.
21 Basically we respond to pretty
22 much everything. I can be working property crime one
23 day, and the next day I could be pulling a gun off
24 the street from a juvie from Clark High School last
25 week. You know, it just depends what they need us

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1 for.
2 Q. How long have you been in that sixth
3 assignment at Convention Center?
4 A. Convention Center? Just recently, about
5 two weeks ago I transferred back over to Bolden.
6 Q. So from July of '15 until February of
7 '16 --
8 A. That's correct.
9 Q. -- you were at the Convention Center?
10 A. The Convention Center, and then I just put
11 back in for Bolden.
12 Q. And now you have moved back to -- that
13 would be your seventh assignment?
14 A. Yes.
15 Q. And you have moved back to Bolden?
16 A. Yes.
17 Q. And what do you do now currently at Bolden?
18 A. The same thing I was doing at Convention
19 Center, but just in a different area.
20 Q. So you are in a decentralized --
21 A. A patrol detective.
22 Q. Now, you are familiar with an attempted
23 murder that occurred on August 17th of 2013, is that
24 correct?
25 A. I am.

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1 Q. And that is for the plaintiff here,
2 X'Zavion Hawkins?
3 A. Yes, sir.
4 Q. What was your involvement in that?
5 A. I was case agent, and we were split up. I
6 think we had three of us that were working that
7 night. Two of us went to the hospital; one person
8 went to the scene.
9 Q. Where did you go?
10 A. I went to the hospital to interview the
11 victim.
12 Q. You have case notes, correct?
13 A. I do.
14 Q. Would those case notes assist you in
15 recalling the events of your investigation?
16 A. Yes.
17 Q. So feel free to look at those case notes.
18 And we have copies of those, correct?
19 A. That is correct.
20 Q. All right. So tell me what your first
21 activities were in investigating the attempted murder
22 of X'Zavion Hawkins.
23 A. One detective went to the scene, two
24 detectives went to the hospital. On my case note I
25 put on 8/18/2013 Detectives responded to the scene

<p style="text-align: right;">Page 33</p> <p>1 and UMC Hospital. Victim refused to cooperate with 2 patrol officers upon first contact. 3 I made contact with the victim's 4 mother, Wanda Perkins, at UMC, who told her family 5 members not to talk to the police, that they would 6 take care of this on their own. Victim could not 7 give a taped statement due to his condition worsening 8 due to the 8 gunshot wounds to his stomach, legs and 9 ankle, and he was currently intubated. 10 I spoke with Wanda Perkins again 11 later, who promised me that she would assist officers 12 by talking to people that may know additional 13 witnesses and get them to come forward. 14 I conducted a taped interview with 15 victim's cousin, Keisha Love, date of birth 11/13/95, 16 in her mother's presence, Joyce Gills, date of birth 17 8/14/63, who was with the victim at the time of the 18 shooting. Gills stated that she did not see the 19 shooting, but heard it, because she was in the 20 parking lot sitting in her car at the time of the 21 shooting. 22 Love stated that she did not see 23 who shot the victim, but saw that the victim was 24 arguing with three black males prior to the shooting. 25 Love heard a bottle break and 8 shots. Love was told</p>	<p style="text-align: right;">Page 35</p> <p>1 was going to take care of it on his own. 2 Q. Okay. Did she tell you what she meant by, 3 "We will take care of it on our own?" 4 A. No, no. We didn't get into details really. 5 Basically when they say they're 6 going to take care of it on their own -- through my 7 training and experience in dealing with these type of 8 shootings, meaning that they're going to take care of 9 business. They're going to get even with the person, 10 basically. 11 Q. And this was the victim's mother telling 12 the witnesses not to cooperate with your 13 investigation? 14 A. That is correct. 15 Q. Did you hear Wanda Perkins say to the 16 family members, "Do not cooperate in the 17 investigation?" 18 A. Yes. She said it out loud. 19 Q. Do you remember her exact words, or the 20 gist of it, or -- 21 A. No, I don't remember the exact words. 22 Q. But then did anyone speak with you? 23 A. Yes. 24 Q. Who spoke with you? 25 A. Keisha Love.</p>
<p style="text-align: right;">Page 34</p> <p>1 by a mutual friend that a criminal gang member 2 "Gerson Park Kingsman" named "Pooh Man" was the 3 shooter, and that the victim knows him because they 4 went to Cheyenne High School together. 5 Q. Okay. Let's stop there, if we could. I'd 6 like to ask you a couple questions throughout this. 7 Let's go back to your contact with 8 Mr. Hawkins' mother, Wanda Perkins. 9 Explain to me when you say, "She 10 told her family members to not talk to the police, 11 that they would take care of this on their own." 12 What did she say to you? 13 A. When I went into UMC Trauma and I attempted 14 to talk to the victim, the victim was currently being 15 worked on by trauma doctors, and as I was walking to 16 get to the victim I identified a lady who said she 17 was supposed to be the victim's mother. She 18 identified herself as Wanda Perkins. 19 And as I was trying to talk to 20 people -- because there was a lot of people there, it 21 was very chaotic, very dynamic -- she told people as 22 I was trying to talk to them, not to cooperate with 23 us. 24 Also officers at the scene said 25 the victim was telling them the same thing, that he</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. And had Keisha Love heard the victim's 2 mother say, "Don't talk to the police?" 3 A. I don't know. You have to talk to Keisha 4 Love about that. 5 Q. Absolutely. Understood. 6 Now, you took a recorded statement 7 from Keisha Love? 8 A. That is correct. 9 Q. Was that the first day of the 10 investigation, that you took that recorded statement? 11 A. Yes. 12 Q. So you took it at UMC Hospital? 13 A. Yes. 14 Q. And that recorded statement is contained 15 within the materials that you have provided to us, is 16 that correct? 17 A. That is correct. 18 Q. Okay. Now, we also have a voluntary 19 written statement from Keisha Love? 20 A. That is correct. 21 Q. Now, there is also a transcription of these 22 recorded statements. Is that true? 23 A. That is correct. 24 Q. Who prepares the transcriptions? 25 A. I don't know. I don't remember.</p>

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1 Q. Is it like a steno pool, employees of LVMPD
2 that listen to --
3 A. Yes, it is. But I'm looking for the actual
4 person that transcribed it, and I don't see it. So I
5 can't answer that.
6 Q. All right.
7 A. But it's somebody that does work for the
8 department, whether they work in the office or it's
9 sent out to a third party.
10 Q. Okay. And now these transcriptions, these
11 are supposed to be verbatim transcriptions of the
12 recording?
13 A. Yes, sir.
14 Q. Unless it's unintelligible or something,
15 and then they're supposed to note that it's
16 unintelligible?
17 A. Yes, sir.
18 Q. Did you review these transcriptions with
19 the tapes, for their accuracy? Do you do that?
20 A. I do when I can. I don't always get to all
21 of them. I do to the best of my ability.
22 Q. If you see an error in a transcription,
23 what do you do?
24 A. I notate it and I give it back. If it's
25 something minor, I don't touch it.

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1 Q. But if it's a substantive issue, you'll
2 send it then back to the transcriber and say, "Listen
3 to this again?"
4 A. Yes.
5 Q. Did you have to do that with these
6 transcripts?
7 A. I don't remember, sir.
8 Q. Okay. But the transcripts that are
9 contained within the case file would be the last
10 version of the transcript, if there were edits made?
11 A. Yes.
12 Q. So these are the best transcriptions that
13 Metro produced?
14 A. Yes. And the reason being is after they're
15 done, I reviewed it and I put them into OnBase, and
16 these are where I pulled these up, is out of OnBase.
17 OnBase is a system that instead of
18 doing the hard copies, they put it into computer
19 copies.
20 Q. And you only put it into OnBase when it is
21 complete and accurate?
22 A. Yes.
23 Q. Okay. So tell us about what Keisha Love
24 told you.
25 A. Okay. So I put in my case notes, "I

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1 conducted an interview with victim's cousin, Keisha
2 Love, in her mother's presence, Joyce Gills, who was
3 with the victim at the time of the shooting."
4 Q. Let's stop right there. Why did you have
5 her mother present with her?
6 A. Because she wouldn't talk to me if she
7 didn't have her mother present.
8 Q. I see. She does not appear to have been a
9 minor at the time, correct?
10 A. Correct.
11 Q. Wait a minute. She may have been.
12 A. Born in '95, and this was 2013.
13 Q. But this was August. She was just four
14 months shy of being 18 years old.
15 A. But I mean she's a witness. We generally
16 try to make witnesses feel as comfortable as
17 possible.
18 Q. Understood. But for a minor, would you
19 commonly have their parent present during an
20 interview?
21 A. We ask them, and it's up to them. They
22 can, or sometimes they don't.
23 Q. So Keisha Love agreed to speak with you?
24 A. Yes.
25 Q. All right. So what did Keisha Love tell

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1 you?
2 A. Do you want me to read the voluntary
3 statement?
4 Q. No, just your recollection of it. We have
5 the recordings, right?
6 A. Okay.
7 Q. And we also have the transcriptions. And
8 you certainly can refer to them when I say, "What did
9 she say to you?" But I'm trying to get your best
10 recollection, because sometimes you'll remember
11 things that maybe are not written down.
12 A. I don't remember exactly what she said, so
13 I'm going to look at the voluntary statement.
14 Q. Absolutely. Like I said, refer to any note
15 that you need to. It's not a memory test.
16 (Recess.)
17 THE WITNESS: Okay. So going over
18 Keisha Love's statement, she was at Meadows Mall on
19 the date of the incident, approximately 4:00 o'clock
20 in the morning, with her cousin, X'Zavion.
21 They were walking over for the
22 shoe release, and she heard X'Zavion fighting with
23 somebody. Hold on, I'm sorry.
24 BY MR. AICKLEN:
25 Q. Take your time.

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1 A. She heard a bottle drop, and then heard
2 gunfire. And that's when she said that everybody was
3 running away.
4 I asked if X'Zavion was fighting
5 with anybody or had any arguments with anybody, and
6 she said they may have been arguing over a girl. I'm
7 sorry, I said that. I apologize.
8 And I confirmed with her her
9 cousin's name, X'Zavion Hawkins. I asked if she knew
10 who Pooh Man was.
11 Q. What did she say to you about who Pooh Man
12 was?
13 A. "I don't even know his name, but when my
14 cousin got here" -- all she kept is saying is, "Pooh
15 Man, Pooh Man. I know I went to school with him, but
16 I know him by that name." That's what she said.
17 Q. Did she give the identity of Pooh Man, his
18 real name, or just a moniker?
19 A. She gave me a moniker, and I believe she
20 told me he went to school.
21 Q. Cheyenne High School?
22 A. I got like three different people that gave
23 me three different schools, so I just want to make
24 sure. Let me look at this. Hold on.
25 Q. I'm just looking at your folder notes.

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1 That might refresh your recollection.
2 A. Yeah, it probably would.
3 Okay. "Love stated that she
4 didn't see who shot the victim but saw that the
5 victim was arguing with three black males prior to
6 the shooting. Love heard a bottle break and 8 shots.
7 Love was told by mutual friend that a criminal gang
8 member 'Gerson Park Kingsman' named 'Pooh Man' was
9 the shooter, and that the victim knows him because
10 they went to Cheyenne High School together."
11 Q. Okay. Let's stop right there. I want to
12 ask you some questions about Pooh Man.
13 Did you ultimately identify the
14 person whom you believed to be Pooh Man?
15 A. At the very end, yes. But we went through
16 different people to get to that point.
17 Q. All right. So tell me who you ultimately
18 identified as Pooh Man.
19 A. Pooh Man was identified as Ashley
20 Christmas. Ashley Bernard Christmas.
21 Q. Who is Ashley Bernard Christmas?
22 A. He is a Gerson Park Kingsmen gang member,
23 and he was actually -- let's see. Records check in
24 Family Track returned a second subject with the name
25 of Pooh Man with the same date of birth.

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1 Q. Okay.
2 A. Ultimately Ashley Bernard Christmas was the
3 person the victim also identified as well, as the
4 person he was arguing with prior to.
5 Q. Right. And that's within the victim's
6 recorded statement?
7 A. That's correct.
8 Q. That you took?
9 A. Yes.
10 Q. So I'm going to refer to people as "the
11 shooter" and "the second man." Do you understand
12 what I mean?
13 A. I do.
14 Q. The shooter was not Ashley Bernard
15 Christmas, according to the information that you were
16 given, correct?
17 A. He was not.
18 Q. Okay. Who did you ultimately identify as
19 the shooter?
20 A. Zachary Berry.
21 Q. Who is Zachary Berry?
22 A. Zachary Berry is a 15-year-old, also a
23 Gerson Park Kingsman, who is known as Little Cool
24 Man. That's his nickname.
25 Q. Do you know -- and by the way, if I ask you

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1 a question and ask you to tell me how you found out,
2 I am not trying to invade anything that may be
3 subject to secrecy requirements.
4 For example, if you found out from
5 a confidential informant or something like that, I
6 don't want that information. Do you understand that?
7 A. I understand.
8 Q. So I want you to be able to tell me clearly
9 under oath, but within the confines of what you need
10 to keep people safe. Do you understand what I mean?
11 A. Yes.
12 Q. Okay. Very good. So was it Zachary or
13 Zacharias?
14 A. He goes by Zak, Zacharias, Zachary, last
15 name Berry, B-e-r-r-y.
16 Q. Did you identify Zachary Berry and his date
17 of birth, and so forth?
18 A. I did. I'm looking through my case notes.
19 Excuse me. Understand this. The information I was
20 given -- I'm going off my case notes here.
21 Q. Right.
22 A. Received information from a citizen source
23 that a black male juvenile named Ashby Bernard
24 Christmas who was 19-years-old, goes by "Pooh Man,"
25 and the actual shooter, black male juvenile named Zak

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1 Berry, 15 years of age, also known as "Little Cool
2 Man" at the time of the shooting -- both subjects
3 start arguing with the victim and threw a Brisk Ice
4 Tea bottle at the victim.
5 Zak shot the victim. Both
6 subjects continued to stand in line and bought shoes
7 after the shooting.
8 Now, this was information given by
9 a citizen source. A citizen source is not somebody
10 that's a confidential informant. They do not have to
11 give information if they don't want to, and they also
12 do not have to give their identity if they don't want
13 to.
14 Q. Did that person -- and don't say it on the
15 record, if they did -- but did that person identify
16 themselves, or were they anonymous?
17 A. They identified themselves.
18 Q. Is that contained within your report?
19 A. No.
20 Q. So that is confidential information?
21 A. It is.
22 Q. And that's to protect the source?
23 A. Yes.
24 Q. So as I said, if I ask a question that
25 seeks -- I want the underlying facts, but if there is

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1 something that because of somebody's safety you do
2 not want to put onto a written record, then I don't
3 want that information. Do you understand?
4 A. I understand. Zacharias Berry, date of
5 birth, 11/2 of '96.
6 Q. Did you do any follow-up investigation on
7 Ashley Bernard Christmas and Zacharias Berry?
8 A. Yes, I did.
9 Q. Did anyone else, other than that citizen
10 informant, identify Zak and Lil Pooh Man as the
11 shooter and the second man?
12 A. Yes. I conducted a taped statement with
13 witness Darrellonda Peterson, where I conducted a
14 photo lineup with Peterson, with the lineup
15 containing Zacharias Berry.
16 She stated that she was 100
17 percent sure Berry was there at the time of the
18 shooting, but she was not sure if he was the shooter.
19 She could place him there, but she wasn't sure he was
20 the actual shooter.
21 Q. So he was either man 1, man 2, but she
22 couldn't say if he pulled the trigger?
23 A. Correct.
24 Q. Did anybody tell you that Zak and Ashley
25 Bernard Christmas were the second man and the

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1 shooter? Did Mr. Hawkins tell you that?
2 A. You're jumping around. Yeah.
3 Q. You're right, I am jumping around. I'm
4 trying to create a narrative.
5 A. Yeah, but I'm going from here to there.
6 Q. No, I understand. That's why I say, take
7 your time and look at your notes.
8 A. Okay. Yes, X'Zavlon Hawkins.
9 Q. What did X'Zavlon Hawkins tell you about
10 the second man and the shooter? Who was the second
11 man?
12 A. The second man is -- he called him "Pooh
13 Man."
14 Q. What is his real man?
15 A. Ashley Christmas.
16 Q. How did he know Ashley Christmas?
17 A. He said Ashley Christmas actually robbed
18 him three months prior. The victim said he was a
19 victim of a robbery by Ashley Christmas.
20 Q. Did he tell you what type of robbery it
21 was? Was it a strong-arm?
22 A. Yes.
23 Q. Was it with a firearm?
24 A. I believe it was a strong-arm.
25 Q. Was Zak with Ashley Christmas when he

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1 robbed Hawkins?
2 A. We're jumping around again. Hold on.
3 Q. Okay.
4 A. He said it at the very end, so I've got to
5 look it up.
6 MS. MANKE: I just want to know what
7 you're referring to.
8 THE WITNESS: We're confirming.
9 When I said it was a strong-arm, I
10 was going by memory. My memory could be wrong, so
11 let me double-check.
12 BY MR. AICKLEN:
13 Q. Okay.
14 A. I'm sorry, some of these statements are
15 like reading from a cartoon.
16 Okay. So Hawkins stated that he
17 knows Pooh Man from school. They went to school
18 together. He said that he robbed --
19 Q. Just for the sake of clarity, Pooh Man is
20 Ashley Bernard Christmas?
21 A. That is correct.
22 Q. Okay.
23 A. He said he robbed him. He did not say if
24 there was a gun or not. He just said he robbed him.
25 So it could have been just been a strong-arm. He

<p style="text-align: right;">Page 49</p> <p>1 could have just hit him and took his stuff. We did 2 not go into great detail with that. He just said 3 that Pooh Man robbed him. 4 Q. What did he rob him of? 5 A. Again, he did not go into detail. 6 Q. I thought that within there he had said he 7 robbed him of money that his father gave him. Does 8 that ring a bell? 9 A. I'm looking at page 6 of 9. I don't see 10 that. 11 Q. Okay. Let's step back for one second, 12 okay? 13 A. Yes. 14 Q. All right. Let's talk about your interview 15 with the victim, Mr. Hawkins, who is the plaintiff in 16 this case. 17 A. Okay. 18 Q. So let's look at his voluntary statement, 19 okay? 20 A. Okay. 21 Q. When did you take Mr. Hawkins' voluntary 22 statement? 23 A. I interviewed him on 8/22 of 2013 at 0958 24 hours. 25 Q. So about five days after the shooting,</p>	<p style="text-align: right;">Page 51</p> <p>1 there, is that correct? 2 A. That is correct. 3 Q. Who is Detective Menzie? 4 A. He was my partner that day, and we 5 interviewed the victim together. 6 Q. So Detective Menzie could also testify that 7 this statement was taken from Mr. Hawkins in person 8 at the hospital? 9 A. That's correct. 10 Q. Where is Detective Menzie now? 11 A. Currently he is assigned to Enterprise Area 12 Command, patrol detective. 13 Q. And his badge number is 6830? 14 A. That is correct. 15 Q. Okay. So you identified yourself and 16 spelled your name for the record, is that right? 17 A. Yes. 18 Q. And then Detective Menzie identified his 19 badge number? 20 A. Yes. 21 Q. And then you did a lead-in to your 22 investigation. Why do you do a lead-in to your 23 investigation? 24 A. So the person who is transcribing knows 25 where we're at, what we're doing, date and time, and</p>
<p style="text-align: right;">Page 50</p> <p>1 about 10:00 o'clock in the morning? 2 A. Yes, sir. 3 Q. He was still in the hospital, is that 4 correct? 5 A. Yes, and they just took him off intubation, 6 so he was able to talk. 7 Q. This transcription that says, "Voluntary 8 Statement, Name of Person Giving, X'Zavion Hawkins," 9 the one that you and I are looking at -- 10 A. Yes, sir. 11 Q. -- this is a transcription of an audio 12 recording that you made of the interview, is that 13 correct? 14 A. Yes. 15 Q. So assuming that we listen to the 16 audiotape, this would be a transcription of the 17 questions and answers? 18 A. Yes, sir. 19 Q. Other than those that were 20 unintelligible -- the answers? 21 A. Yes, sir. 22 Q. Very good. So you took this in person from 23 Mr. Hawkins? 24 A. Yes. 25 Q. And there was also a Detective Menzie</p>	<p style="text-align: right;">Page 52</p> <p>1 what this is with regard to. 2 Q. And is it also a way to explain to the 3 person giving the statement that you are taking his 4 statement for the investigation? 5 A. Yes. 6 Q. All right. It looks as though after your 7 lead-in you asked Mr. Hawkins if he understood that 8 the interview was being recorded. Is that correct? 9 A. Yes. 10 Q. And he told you that he did? 11 A. His exact words was, "Yes, I do." 12 Q. When you interview a witness, do you ever 13 tell them -- whether it's on the record or not -- 14 that it is a crime to lie to the police? 15 A. Do I tell them? 16 Q. Yes. 17 A. Depending on who I'm interviewing. 18 Suspects, I do tell them that. Victims, witnesses, 19 no, I don't. 20 Q. Do you recall if you ever told Mr. Hawkins 21 that it would be a crime to lie to the police? 22 A. No, I did not. 23 Q. But he understood that you were recording 24 the questions and answers, and that you wanted 25 truthful answers, correct?</p>

<p style="text-align: right;">Page 53</p> <p>1 A. That is correct. He's our victim. He's in 2 the hospital and he's bedridden. 3 I try to make it as comfortable as 4 possible. I don't want him to think that I'm 5 argumentative. So that's why I don't tell them, 6 "Hey, if you're lying to me you could be held 7 liable." I don't do that. I want him to be as 8 relaxed as possible. 9 Q. So that he can recall and tell you the 10 truth? 11 A. Exactly. 12 Q. And clearly Mr. Hawkins was the victim in 13 this, correct? 14 A. Yes, he was. 15 Q. So you asked him a series of questions. 16 Did you ask him why he was now 17 cooperating, when his mother told him not to? 18 A. We're jumping around. 19 MS. MANKE: I'll just object. That 20 calls for speculation. 21 BY MR. AICKLEN: 22 Q. All right. I'll ask it this way. 23 Did Mr. Hawkins say anything to 24 you as to why he had changed his mind and would now 25 cooperate?</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. And then we're going to pick back up with 2 Mr. Hawkins. 3 A. Okay. 4 (Recess.) 5 MR. AICKLEN: Let's go back on the 6 record. 7 BY MR. AICKLEN: 8 Q. So let's talk about the statement that you 9 took from Mr. Hawkins, that was both recorded and 10 then transcribed. 11 A. Okay. 12 Q. You said that you wanted to take him back 13 to the events, and he understood, correct? 14 A. That is correct. 15 Q. And you asked him if it occurred at the 16 Meadows Mall, and he said that it did, correct? 17 A. Yes. 18 Q. So from both your statement or your 19 independent recollection, what did Mr. Hawkins then 20 tell you about how the event had started? 21 A. He said he was standing in line when a guy 22 that he knows by Ashley Christmas, also known as Pooh 23 Man, approached him. 24 He said he was very sneaky. He 25 approached like he was going to shake his hand, and</p>
<p style="text-align: right;">Page 54</p> <p>1 A. He said he wants to get these guys off the 2 street. 3 Q. And he told you that was his motive for 4 cooperating with you? 5 A. Yes, but he didn't exactly cooperate. 6 Q. All right. Well, I think we'll learn that 7 as we go through the statement, right? 8 A. Yes. 9 Q. But he clearly was voluntarily giving you 10 information? 11 A. Yes. 12 Q. And you would ask him for truthful 13 information to help with the investigation? 14 A. Yes. 15 Q. And the information that he gave you, you 16 followed up on? 17 A. Yes. 18 Q. Based upon your investigation, did his 19 information appear to be accurate? 20 A. Yes, it appeared to be accurate. 21 Q. Okay. Very good. 22 Actually, I think we've been going 23 about an hour, even with the break. Let's take five 24 minutes. Is that okay? 25 A. Yeah.</p>	<p style="text-align: right;">Page 56</p> <p>1 then he tried to hit him. 2 They started swinging back and 3 forth. A Brisk Ice Tea bottle fell to the ground, 4 and then he heard Ashley Christmas say, "Get him, 5 Zak." And then that's when he was being shot at. 6 Q. Did he also tell you that he had "squared 7 up" with Zak? 8 A. Yes, as if they were getting ready to 9 fight, and then they started to fight. 10 Q. Did he tell you what the fight involved? 11 A. He later said the fight was over the fact 12 that one of them robbed him earlier, like three 13 months prior. And he was the victim of that robbery. 14 Q. So Hawkins told you that the incident that 15 occurred at Meadows Mall was related to an earlier 16 robbery? 17 A. Yes, where Hawkins was the victim of that 18 robbery. 19 Q. Now, what does it mean to "square up?" 20 A. "Square up" is get in somebody's path, like 21 you're getting ready to fight with them. It's an 22 aggressive manner. 23 Q. In reviewing this statement, and in all 24 your interactions with Mr. Hawkins, did Mr. Hawkins 25 ever tell you that anybody had knocked him to the</p>

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1 ground and kicked him?

2 A. I do remember him saying that he did go to

3 the ground. I don't remember the kicking, unless

4 it's in my statement here.

5 Q. In either the recorded statement or in all

6 of your interviews and conversations with

7 Mr. Hawkins, did Mr. Hawkins ever tell you that he

8 had screamed out for security?

9 A. No.

10 Q. Did Mr. Hawkins ever tell you that he had

11 screamed out for security for five minutes?

12 A. Not in my statement.

13 Q. At any other time?

14 A. I don't remember, sir.

15 Q. So you don't remember him ever saying to

16 you, "I screamed out for security?"

17 A. No.

18 MS. MANKE: Asked and answered.

19 BY MR. AICKLEN:

20 Q. Did Mr. Hawkins ever tell you that this

21 entire incident between he and Zak and Ashley Bernard

22 Christmas had taken five minutes?

23 A. I don't remember that. He said he kept

24 yelling for help, and he said that they kept shooting

25 him.

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1 Q. This is when he was being shot, correct?

2 A. Yes.

3 Q. Did he ever say, "I yelled for help from

4 security?"

5 A. No, he didn't say that.

6 Q. Did you review the videotape of this

7 incident that was produced by the mall, or mall

8 security?

9 A. I did.

10 Q. When you looked at it, did you come to any

11 conclusions about how long this incident took?

12 A. I don't remember the exact length of how

13 long it took. I know the shooting itself was maybe

14 about five seconds.

15 Q. How about the interactions between

16 Christmas and Zak and the plaintiff before?

17 A. It's very grainy, and the video camera was

18 from a distance.

19 Q. Is it your recollection that those

20 interactions were five minutes?

21 A. No, I don't remember that.

22 Q. It was quicker than that?

23 A. Yeah.

24 Q. Is that yes?

25 A. Yes.

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1 Q. Okay. Very good. So when he says, "Get

2 him Zak," and Zak squared up to him, and so forth --

3 Zak you later determined to be Zachariah or Zacharias

4 Berry?

5 A. That's correct.

6 Q. Now, you also produced some Facebook

7 requests, correct?

8 A. Yes.

9 Q. And one of them was for Christmas, is that

10 right?

11 A. Well, let me stop you.

12 Q. Or his moniker?

13 A. Yeah, the moniker. One was for CM pmg.

14 Q. "CM" would be "Cool Man, Pooh Man

15 Gangster?"

16 A. Yes.

17 Q. Whose moniker was that?

18 A. That was supposed to be Ashley Christmas.

19 Q. And then there was another one --

20 A. And that was for "Lit pmg," and that was

21 supposed to be for Zak Berry, "Little Pooh Man G."

22 Q. So both Bernard Christmas and Zachary Berry

23 appear to have used "Pooh Man" one way or the other,

24 as a moniker?

25 A. Yes.

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1 Q. Was there any confusion, based upon that?

2 A. Yes, because other people have used the

3 same moniker.

4 Q. What is -- if you know, you know, and if

5 you don't, you don't. What is "Pooh Man?" What does

6 that mean? Do you know?

7 A. It doesn't mean anything. It's just a name

8 they use.

9 Q. Just a moniker?

10 A. Yeah.

11 Q. Have you ever seen other gangsters use the

12 name "Pooh Man?"

13 A. Yeah, other gangsters have used "Pooh Man."

14 Q. Interesting. But you don't know what it

15 means?

16 A. Let me look at my notes. I believe I

17 identified somebody with the same moniker.

18 I had a Ronald Kincaid, Jr., date

19 of birth 12/8 of '92, who attended Cheyenne High

20 School, who had a tattoo of "Pooh Pooh," and he was

21 also a Gerson Park Kingman. So we were looking at

22 him for awhile.

23 Q. So that appears to be a moniker that many

24 of the Gerson Park Kingsmen use?

25 A. Yes.

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1 Q. Did you ever see any of the internet social
2 media sites or Facebook sites for these two
3 individuals, Christmas and Berry?
4 A. In 2013 I did.
5 Q. Did one of them depict somebody holding a
6 Glock 9 to their head?
7 A. I don't remember, sir.
8 Q. Have you ever seen photographs of Zak
9 Berry?
10 A. I have.
11 Q. And you actually showed a photographic
12 lineup?
13 A. I did.
14 Q. Does Zak Berry have a tattoo of a revolver
15 on his right hand, if you recall?
16 A. I don't remember, in 2013.
17 Q. I see. Like I said, just because I ask it
18 doesn't mean you remember or you know.
19 All right. Let's go back to your
20 interview with Mr. Hawkins, if we could.
21 So now we've identified the
22 shooter as Zak, or Zachariah Berry, or Zacharias
23 Berry, and the second man as Ashley Bernard
24 Christmas, correct?
25 A. Yes.

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1 Q. So Hawkins tells you that he's squaring up,
2 getting ready to fight. What does he tell you
3 happens next?
4 A. Ashley Christmas says, "Get him Zak," and
5 Zak opens fire on him with a handgun.
6 Q. And that was the .45 caliber semi-automatic
7 handgun?
8 A. Yes. Shell casings were recovered at the
9 scene that would confirm that.
10 Q. Now, it was Mr. Hawkins in his statement
11 who told you that Zak calls himself "Little Pooh Man
12 G," correct?
13 A. Yes.
14 Q. And that that was his nickname?
15 A. Yes. Actually, let me -- no, no. He says
16 all he knows is his name is Zak, in my statement.
17 Q. I think actually at page 2, about halfway
18 down, if you take a look at where you say, "Okay."
19 A. "Pooh Man" -- okay, yeah. He said, "Zak."
20 But I don't believe he ever identified him as "Zak
21 Berry" during this interview.
22 Q. Right. He didn't say "Zak Berry," but the
23 person you later identified as Zak Berry --
24 A. Yes.
25 Q. -- Mr. Hawkins identified him by his

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1 moniker as "Little Pooh Man G?"
2 A. Yes. Yes, he identified him by his
3 moniker, and he knew him as "Zak."
4 Q. So these names that Mr. Hawkins was giving
5 to you, these were names that you had first heard
6 from him. These were clues that he was giving to
7 you, correct?
8 A. Yes, and also confirmed by another
9 statement. Ms. Peterson, too, confirmed this.
10 Q. So even though he didn't know his real name
11 is Zacharias Berry, he knew the shooter's name to be
12 "Zak," and he knew his moniker to be "Little Pooh Man
13 G?"
14 A. Yes.
15 Q. But he did know the second man's Christian
16 name, which is Ashley Bernard Christmas?
17 A. Yes.
18 Q. So he also told you that he was with his
19 cousin Keisha?
20 A. Yes.
21 Q. And he also told you that Ashley Bernard
22 Christmas hangs out with Zak?
23 A. Yes.
24 Q. And who is Dewayne Cornwell?
25 A. Dewayne Cornwell was someone that Zak hangs

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1 out with.
2 Q. So that would be the shooter, Zak Berry?
3 A. Just somebody that he hangs out with. And
4 Dewayne Cornwell goes to -- he first said Centennial,
5 and I believe it was confirmed later that he goes to
6 Cheyenne High School.
7 Q. So it was Mr. Hawkins that gave you the
8 name of Dewayne Cornwell, is that correct?
9 A. Yes.
10 Q. And identified him as a known associate of
11 Zak, who later was found out to be Zak Berry?
12 A. Yes.
13 Q. The shooter?
14 A. Yes.
15 Q. Before he told you Dewayne Cornwell, did
16 you know that name, in the terms of this
17 investigation?
18 A. I remember hearing it after. I don't
19 remember hearing it before.
20 Q. So he's the one who told you about Dewayne
21 Cornwell hangs out with Zak?
22 A. Yes.
23 Q. Was there an incident in which the Cornwell
24 family went to UMC Hospital?
25 A. Yes, there was.

<p style="text-align: right;">Page 65</p> <p>1 Q. Can you tell us about that?</p> <p>2 A. The exact date and time I don't have, but</p> <p>3 during -- I believe it was in my notes. Please stand</p> <p>4 by.</p> <p>5 MS. RENWICK: Take your time.</p> <p>6 BY MR. AICKLEN:</p> <p>7 Q. Absolutely.</p> <p>8 A. I remember this taking place, but I'm</p> <p>9 trying to remember the date and time.</p> <p>10 Okay. Here we go. "Received a</p> <p>11 call from the victim's mother who stated on 8/18/13</p> <p>12 family members from Christmas and Dewayne Cornwell</p> <p>13 went to UMC to intimidate the victim's family. I</p> <p>14 then notified UMC's Security Officer Jerry Saribay</p> <p>15 and advised him of the possible ongoing problems, and</p> <p>16 the victim was placed on NSP status where a code word</p> <p>17 has to be used to find the victim's location."</p> <p>18 We do that on a lot of gang</p> <p>19 members that are victims of violence.</p> <p>20 Q. During the course of your investigation did</p> <p>21 you find any evidence that Mr. Hawkins was a gang</p> <p>22 member?</p> <p>23 A. I did, but I don't remember which set he</p> <p>24 was with.</p> <p>25 Q. So you determined that he was a gang</p>	<p style="text-align: right;">Page 67</p> <p>1 The whole time, the families being</p> <p>2 very -- they were limited on the information they</p> <p>3 would tell me. They weren't completely open. You</p> <p>4 know, when I tried to get details on certain things</p> <p>5 that they would say, they would hold back.</p> <p>6 For instance, this incident --</p> <p>7 "What was said? What was done? How did you feel</p> <p>8 intimidated?" They couldn't tell me. They just said</p> <p>9 they were trying to intimidate them.</p> <p>10 Q. So they would not give you details?</p> <p>11 A. Exactly.</p> <p>12 Q. And this is from Mr. Hawkins' mom?</p> <p>13 A. Yes.</p> <p>14 Q. The one who had told you she would not</p> <p>15 cooperate in the investigation?</p> <p>16 A. Yes.</p> <p>17 Q. And then told the other family members not</p> <p>18 to cooperate?</p> <p>19 A. That is correct.</p> <p>20 Q. That they would take care of this</p> <p>21 themselves?</p> <p>22 A. And the reason -- when that happened and</p> <p>23 she was telling me about that, it started to make me</p> <p>24 think that this was a family issue -- that the</p> <p>25 families knew each other, that they were possibly</p>
<p style="text-align: right;">Page 66</p> <p>1 member, but you did not know which group?</p> <p>2 A. I didn't put it in my notes, but I did</p> <p>3 determine that he was a gang member. I'm not sure</p> <p>4 which set.</p> <p>5 MS. MANKE: Can I just ask if that's in</p> <p>6 any of the documents you've produced?</p> <p>7 THE WITNESS: No. It was in an</p> <p>8 interview, talking to him over a period of time.</p> <p>9 Just talking to him on the phone,</p> <p>10 "Hey, can I come by for another interview? Can I</p> <p>11 come by for a photo lineup?" And he told me, but I</p> <p>12 didn't put it in this documentation here.</p> <p>13 BY MR. AICKLEN:</p> <p>14 Q. Because you perceived him to be the victim?</p> <p>15 A. He's the victim, yeah.</p> <p>16 Q. So whether he was a gang member or not, did</p> <p>17 not affect your investigation?</p> <p>18 A. No.</p> <p>19 Q. You wanted to find out who shot him?</p> <p>20 A. Yes.</p> <p>21 Q. So what happened with the Cornwell and</p> <p>22 Christmas families coming to UMC? What did they tell</p> <p>23 you?</p> <p>24 A. Just what I put there. That they came</p> <p>25 there to intimidate them.</p>	<p style="text-align: right;">Page 68</p> <p>1 related.</p> <p>2 I never confirmed it, but I</p> <p>3 believed by what she was telling me, "We'll take care</p> <p>4 of this on the side," is because they knew each other</p> <p>5 quite well, and they were possibly related.</p> <p>6 Q. Meaning the Christmas families and</p> <p>7 Mr. Hawkins?</p> <p>8 A. Yes.</p> <p>9 Q. Did anyone ever tell you that Christmas was</p> <p>10 a cousin of Hawkins?</p> <p>11 A. I believe somebody did, but I don't have</p> <p>12 that documented.</p> <p>13 Q. Okay. Was there any other confidential</p> <p>14 informants or citizen informants that gave you</p> <p>15 information about this shooting?</p> <p>16 A. There was.</p> <p>17 Q. Was that person ultimately killed?</p> <p>18 A. I don't have that information. I believe</p> <p>19 that he is possibly deceased. I have not confirmed</p> <p>20 that since then, because he is not the subject of my</p> <p>21 investigation.</p> <p>22 Q. Was he identified by name in the</p> <p>23 investigation -- that informant?</p> <p>24 A. Yes, he was.</p> <p>25 Q. What was that informant's name?</p>

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1 A. Let me look it up.
2 Q. This is a paper test.
3 A. It really is. If you could just ask your
4 questions according to the way I have my papers, that
5 would be good.
6 Q. I know. Wouldn't that be good?
7 A. All right. His name is Patrick Fleming,
8 date of birth 11/7 of '71.
9 And the information he would give
10 me was all hearsay. It was all third-party. It was
11 nothing that he actually witnessed.
12 Q. What information did Mr. Fleming give you?
13 A. He said that after the shooting the
14 subjects got back in line, which was never confirmed.
15 The video showed that everybody ran, and the subjects
16 were seen running getting into a gray Charger.
17 Q. In the course of your investigation did you
18 ever learn that anyone in the Cornwell family owned a
19 gray Charger? A lady named Patricia Cornwell?
20 A. I can double-check. Yes. A citizen source
21 said Mary Cornwell's gray Charger was used during the
22 shooting.
23 Records checked on Cornwell showed
24 that she has a 2010 Dodge Charger registered with a
25 Nevada plate of 487YSS to the address of 9140 Patrick

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1 Henry Avenue, Las Vegas, Nevada, 89149.
2 Q. I said "Patricia." I could have been
3 wrong. You said it was Mary Cornwell?
4 A. Yes.
5 Q. Do you know who Mary Cornwell is, in
6 relationship to Mr. Hawkins?
7 A. Mary Cornwell is Dewayne Cornwell's mother.
8 Q. And you said you never determined if the
9 Cornwells and the Christmases or Cornwells and the
10 Hawkins were related?
11 A. No.
12 Q. Did you ever determined if Dewayne Cornwell
13 was at the scene?
14 A. I did not.
15 Q. When you reviewed the video, were you able
16 to identify the getaway car? Do you understand what
17 I'm saying?
18 A. Yes.
19 Q. Was the getaway car the car owned by Mary
20 Cornwell, or were you unable to determine?
21 A. I was unable to determine. Due to the
22 distance of the camera the plate was unidentifiable,
23 and also in my personal opinion the vehicle did not
24 look like a Charger. To me it looked like a Caliber.
25 Q. Which looks similar to a Charger?

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1 A. Which looks similar.
2 Q. But you were never able to say one way or
3 the other definitively?
4 A. No.
5 Q. Is that correct?
6 A. That's correct.
7 Q. All right. Tell me about Patrick Fleming.
8 What else did he tell you?
9 A. Patrick Fleming would contact me from time
10 to time and give me updated information that he
11 heard. And a lot of the times it was wrong, or I
12 couldn't confirm it. It was all third-party.
13 If there's some specific -- I mean
14 I have it throughout all my case notes here.
15 Q. What was Patrick Fleming's relationship to
16 Mr. Hawkins?
17 A. He was the cousin of X'Zavion Hawkins.
18 Excuse me, uncle. Uncle.
19 Q. Right. The uncle of X'Zavion Hawkins.
20 Did he tell you where he was
21 getting his information?
22 A. No. He was telling me that's what he
23 heard.
24 Q. So he didn't say if he heard it from the
25 family, or if he heard it on the street?

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1 A. Right.
2 Q. Was Patrick Fleming a gang member, do you
3 know?
4 A. Yes, he was.
5 Q. Do you know what group he was with?
6 A. He used to deal with the Flemings on the
7 west side all the time. He is a Blood gang member,
8 either Piru or Berkley Square.
9 Q. Was Mr. Fleming feeding you information so
10 you could try and identify and arrest the shooters?
11 A. Yes.
12 Q. And Christmas?
13 A. Yes.
14 Q. He wanted justice for his nephew?
15 A. Yes. I received a phone call from Sergeant
16 Ryan of North Las Vegas homicide, and provided him
17 with the information that Patrick Fleming knew of a
18 homicide in his jurisdiction.
19 He gave me a ton of information,
20 and it was about sorting it out and getting it to the
21 right place. He gave me information about a possible
22 homicide. I gave it to Sergeant Ryan. I don't know
23 whatever came of that.
24 But the information that was given
25 to me -- I mean I couldn't confirm where he got it

<p style="text-align: right;">Page 73</p> <p>1 from, and a lot of it was wrong. He said that the 2 two guys responsible got back in line and stood 3 there. The video shows them leaving. 4 Q. But he would basically pass on to you 5 whatever he heard that he thought would be helpful? 6 A. Yes. And sometimes I had to take it at 7 face value, because I've had cases in the past where 8 they feed us bad information to put us in a different 9 direction. 10 Q. Did it appear to you as though Mr. Fleming 11 was try to assist though? 12 A. He was. He was, especially since the name 13 he gave us was consistent with the names that we 14 already had. 15 Q. What name did he give you? 16 A. Ashley Bernard Christmas and Zak Berry. 17 Q. As the shooter and the second man? 18 A. Yes. 19 Q. And you said that you're not certain if 20 Mr. Fleming is now deceased? 21 A. I have not checked, no. 22 Q. But you had heard that he had been killed? 23 A. Yes. 24 Q. Did you hear anything about Mr. Berry 25 having maybe been involved in another homicide? Not</p>	<p style="text-align: right;">Page 75</p> <p>1 A. Okay. Mr. Hawkins said he threw it. 2 Q. Right. 3 A. He said that he came up trying to shake his 4 hand, it got heated "about my \$150 to my name that my 5 dad just sent me. I had \$60 in my pocket when he 6 robbed me." 7 Q. So does that refresh your recollection 8 about that Christmas had robbed him of the money that 9 his father had given him? 10 A. Yes, but it didn't say if it was strong-arm 11 or a handgun. 12 Q. Right. But this was a robbery that 13 occurred before the event at Meadows Mall? 14 A. That's correct, and where the victim was 15 the victim of that robbery. 16 Q. And that was the bad blood between 17 Christmas -- according to Hawkins, that was the bad 18 blood between Christmas and Hawkins? 19 A. Yes. 20 Q. Did you ever look on Facebook to see if 21 Christmas had called Hawkins a "bitch" on Facebook? 22 A. I went on Facebook and I sent out 23 preservation letters to Facebook for both suspects, 24 and I never got a return back for either one of them. 25 Q. I was going to ask you, do you have any of</p>
<p style="text-align: right;">Page 74</p> <p>1 an attempt, but a homicide? 2 A. That information was given to me by 3 Mr. Fleming. That's what I gave to Sergeant Ryan in 4 North Las Vegas. 5 Q. Did Fleming know who Berry was supposed to 6 have killed, before he shot Mr. Hawkins? 7 A. No. 8 Q. Mr. Berry is a bad guy though, correct? 9 A. Yes. He was our target. We were looking 10 for him. 11 Q. Let's go back to Mr. Hawkins' statement. 12 He clearly knew details about 13 Ashley Bernard Christmas, and he's the one that gave 14 you the name, correct? 15 A. Yes. 16 Q. Did he also tell you -- if you look at page 17 4 of that -- that Christmas had threatened to kill 18 him in the past? 19 A. Yes. 20 Q. And that was over a robbery? 21 A. Yes. 22 Q. And if you look down there, this is where I 23 asked you about that. Look at the middle where 24 Mr. Hawkins answers the question, "Who threw the 25 glass bottle?"</p>	<p style="text-align: right;">Page 76</p> <p>1 the Facebook materials? 2 A. No. They never provided it. 3 Q. Is that a common occurrence? 4 A. It's hit or miss, dealing with Facebook. 5 Sometimes they'll preserve the data, and then 6 sometimes they won't. 7 You've got to send out 8 preservation letters first, requesting it. And then 9 they'll tell you, "Okay, we have it preserved." Then 10 you submit your search warrant for the info. 11 They never got back to me as far 12 as preservation went. 13 Q. Did you ever issue a search warrant to 14 Facebook and get anything in response? 15 A. No, because it would be a waste of time, 16 unless you did your preservation letters. 17 Q. And since they had not responded, you just 18 figured they had not preserved it? 19 A. Yeah. You've got to preserve it. If you 20 don't preserve it, they can take it down within 24 21 hours. 22 Q. All right. So then in his statement 23 Mr. Hawkins told you that Zak was the shooter, 24 correct? 25 A. Yes.</p>

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1 Q. And then that was information that was also
2 confirmed by Patrick Fleming later, that Zak Berry
3 had been the one that pulled the trigger on
4 Mr. Hawkins?
5 A. Yes.
6 Q. Did Mr. Hawkins give you a description of
7 Zak?
8 A. He did.
9 Q. Did you look at the video to see if that
10 matched?
11 A. If you reviewed the video, the video is
12 from a distance. It's very grainy.
13 Q. You could not tell?
14 A. I could not.
15 Q. Okay. But it was Mr. Hawkins who had first
16 mentioned the same "Zak" to you as the shooter,
17 correct?
18 A. Yes.
19 Q. And then later you got corroborating
20 information from other sources that "Zak" was "Zak
21 Berry?"
22 A. Yes.
23 Q. And Zak Berry was the shooter?
24 A. Yes. But not one witness at the scene
25 could come forward and say, "Those two were the ones

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1 that did this to me," except the victim.
2 Q. So clearly the victim knew Ashley Bernard
3 Christmas?
4 A. Yes. He called him even by his moniker.
5 Q. Which was "Pooh Man?"
6 A. Yes.
7 Q. And then he identified the shooter as Zak,
8 who was "Little Pooh Man G?"
9 A. Yes. But of all the people there, not one
10 person came forward and said, "That guy was the
11 shooter, that guy was the one that assisted," except
12 the victim.
13 Q. Did you ever interview any of these people
14 that gave voluntary statements, that you believed
15 knew this information, but just did not put it
16 forward?
17 A. Yeah. I interviewed the victim's cousin.
18 I interviewed the victim's friend, Darrellonda
19 Peterson.
20 Q. Did they know who the shooter and the other
21 man were?
22 A. No. No, they didn't come forward.
23 Q. Did you ever find out if they had known who
24 they were, and they just refused to cooperate, as the
25 mother said?

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1 A. No.
2 Q. You didn't find out?
3 A. No.
4 Q. All right. Like I said, just because I ask
5 it doesn't mean that there's an answer to the
6 question.
7 Did Mr. Hawkins ever say that this
8 bad blood between them was related to the sale of an
9 Xbox 360?
10 A. I don't remember that, sir.
11 Q. So that's "no?"
12 A. That is "no."
13 Q. Hawkins never told you that there was bad
14 blood between he and Christmas due to the sale of an
15 Xbox 360?
16 A. No. That's, "No, I don't remember."
17 Q. I see. Okay. So as we sit here today, do
18 you remember anything about an Xbox 360?
19 A. I don't remember an Xbox 360.
20 Q. Okay. Now, Mr. Hawkins also told you that
21 Ashley Christmas and he went to school together,
22 correct?
23 A. Yes.
24 Q. And that that was Cheyenne High School?
25 A. Yes.

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1 Q. And that Mr. Hawkins was older than he?
2 A. Mr. Hawkins, yeah, was older. The two that
3 were involved were supposed to be two years younger
4 than him.
5 Q. Okay. Did Hawkins ever tell you that Zak
6 also went to Cheyenne High School, or did you not
7 find out where Zak went to school?
8 A. Let me double-check and look at my
9 paperwork.
10 I'm looking at the statement. I'm
11 not quite sure.
12 Q. Okay. Now, it was Mr. Hawkins that gave
13 you the name of Ashley Christmas as the real name of
14 Pooh Man, correct?
15 A. Yes.
16 Q. And then in his statement at page 7, in the
17 middle you asked him, "They ever call him other
18 things besides Pooh Man?" Menzie says, "Yeah, leave
19 that on." Hawkins answers, "PMG." Is that correct?
20 A. Yes.
21 Q. So that is a second moniker for Christmas?
22 A. Yes.
23 Q. Or is that for Berry?
24 A. No. "PMG," "Pooh Man Gangster." And then
25 Berry was "Little Pooh Man Gangster." They were

<p style="text-align: right;">Page 81</p> <p>1 close friends. They hung out with each other. 2 Q. Okay. Now, listening to both the 3 statement, and then the transcription of it -- and 4 you were there, so I want to ask you your 5 recollection. 6 At the bottom of page 7 and on to 7 page 8, Mr. Hawkins was saying that God was on his 8 side when it happened. 9 And then on page 8 he says, "I was 10 put on this earth for a reason, that's why I didn't 11 die. For a person to survive (inaudible) gun wounds, 12 you feel me?" 13 Do you recall what he told you? 14 Was he saying a number? Or ".45 gun wounds," or 15 what? 16 A. Either that, or he cursed. One or the 17 other. I don't remember. 18 Q. All right. And he says, "That's how the 19 little mother fucker probably got the gun 20 (inaudible.)" 21 Do you remember what he told you 22 about how he got the gun? 23 A. No. I don't remember. 24 Q. "But ya'll got my voice on, ah, this little 25 tape recorder, phone, whatever that shit is,"</p>	<p style="text-align: right;">Page 83</p> <p>1 not -- or he gave the impression that he was afraid 2 to go to court because he didn't want to leave his 3 family, in case these guys were going to come after 4 him again for retribution of testifying. 5 That's the impression I got, that 6 he was afraid. 7 Q. Okay. After he gave you this statement, 8 did he ever cooperate with you again in the 9 investigation? 10 A. No. 11 Q. Did you show him a lineup? 12 A. I did. 13 Q. And did he ask you to keep the photographs? 14 A. He tried, yes. I told him, "No." 15 Q. Who was in that lineup? Did you do one or 16 two lineups? 17 A. I believe I did two. One on Kincaid and 18 one for Ashley -- 19 Q. -- Bernard Christmas? 20 A. Yes. 21 Q. Did he identify Kincaid? 22 A. No. 23 Q. How about Ashley Bernard Christmas? Did he 24 identify him? 25 A. Let me look at my case notes once more.</p>
<p style="text-align: right;">Page 82</p> <p>1 correct? 2 A. Yes. 3 Q. So that reaffirms the fact that he knew he 4 was being recorded when he gave you this statement? 5 A. Absolutely. 6 Q. Okay. 7 A. And he also said he wasn't willing to 8 testify. 9 Q. I want to ask you that. 10 You asked him if he would be 11 willing to go to court to prosecute, correct? 12 A. That is correct. 13 Q. What did he say? 14 A. He goes, "I don't want to go to no courts. 15 No court dates." 16 Q. And you told him it was the only way you 17 could prosecute. 18 There's an answer in there that 19 says "inaudible." Do you remember what he said to 20 you? 21 A. I don't remember what he said. 22 I told him, "Just so you know, you 23 may be required to go to court and testify." He 24 explained to me he has to live in Vegas, his family 25 is here, he lives here, and he said that's just</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Sure. Yes. 2 A. So I did a photo lineup of Ashley Bernard 3 Christmas, where he positively identified Christmas 4 as the subject that started the argument with him and 5 said, "Get him, Zak." 6 Q. So this is the so-called second man? 7 A. Yes. And on a scale of 1 to 10, he said he 8 was positive out of 10 that Ashley Bernard Christmas 9 was there, and he said, "Get him Zak," and he started 10 to fight. 11 And then I did a photo lineup of 12 Dewayne Cornwell, and he couldn't identify him as 13 being there. 14 Q. Did he say whether he knew Dewayne 15 Cornwell? 16 A. I believe in a statement. 17 Q. He said that he was a known associate of 18 Zak? 19 A. Yeah, but he couldn't identify him as 20 actually being there during the shooting. 21 Q. So that's yes? 22 A. Yes. 23 Q. After he identified Ashley Bernard 24 Christmas, that's essentially when the interview 25 ended, correct?</p>

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1 A. Yes.

2 Q. All right. Did you ever speak with

3 Mr. Hawkins again during the course of your

4 investigation?

5 A. Let's look. I believe I attempted to. Let

6 me double-check here.

7 I believe the victim did call and

8 ask for copies of his records. I told him he'd have

9 to go through "Records" for that. I don't believe

10 there is any other additional contact. No, not that

11 I see.

12 Q. You also received a call from the mother of

13 Keisha Love, who told you that her daughter would no

14 longer cooperate. Is that correct?

15 A. That is correct.

16 Q. In your notes you discuss Officer Ochoa of

17 North Las Vegas Police Department, that they were

18 going to do a search warrant on Ashley Christmas'

19 residence.

20 Do you know what that search

21 warrant was for?

22 A. You're going to have to talk to him. I

23 don't remember. He was a suspect in a robbery, per

24 my case notes.

25 Q. Did you ever meet with Christmas to "

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1 question him about the shooting?

2 A. No. I was not able to locate him. Even if

3 they did, I didn't have any witnesses, including the

4 victim wasn't willing to prosecute.

5 So my biggest thing was I needed

6 more witnesses. We had supposedly over 15 to 20

7 people that were there when it took place, and not

8 one of them came forward, even when I went back and

9 checked the CAD through 911 dispatch. Not one person

10 can say, "Yup, I saw him. He's the one that did it,"

11 out of all the people there.

12 And in order to put a case

13 together, you kind of need the victim's cooperation.

14 Otherwise you're looking at state charges, and state

15 charges are very limited. You still need witnesses

16 for that, too, unless the suspects were going to tell

17 me, "Yeah, I did it. I did it."

18 Q. Which is doubtful.

19 A. It's limited.

20 Q. Was it your intent to follow up to show a

21 photographic lineup to Mr. Hawkins of Zacharias

22 Berry?

23 A. Yes, it was, but he wasn't cooperative.

24 And the fact that he was telling

25 me he wasn't willing to go to court, and he never

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1 called me back saying, "Hey, I want to cooperate

2 now," my biggest asset was going toward all the

3 witnesses. If I can get other witnesses, then I can

4 put a case together. But if the victim is not

5 cooperating, then no.

6 Q. So it appears as though through your

7 investigation you were able to identify Christmas as

8 the second man, Berry as the shooter, the car may

9 have belonged to Cornwell; but then everybody who was

10 a witness -- both the victim and the percipient

11 witnesses -- refused to further cooperate?

12 A. Yes.

13 Q. Have you worked cases like this before?

14 A. Yes. In gangs, all the time.

15 Q. And then you would also learn that the

16 Christmas and Cornwell families had gone to UMC to

17 intimidate the Hawkins family?

18 A. Yes.

19 Q. That they would not cooperate in the

20 investigation?

21 A. They were trying to intimidate them, yes.

22 Q. Is that when the cooperation ceased?

23 A. No. I think the cooperation was starting

24 to not happen as soon as officers showed up on the

25 scene.

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1 Even in the incident crime report,

2 the officer that wrote the report was saying that the

3 people were saying, "Don't talk to the police. Don't

4 talk to the police."

5 Q. But Hawkins did in his statement give you

6 the clues that ultimately made you able to identify

7 Christmas as the second man, and Berry as the

8 shooter?

9 A. Absolutely. He did. But if I'm going to

10 show you a photo lineup, you've still got to be able

11 to identify and you've still got to be able to go to

12 court. He wasn't willing to do that.

13 Q. So you had the shooter and the second man

14 identified. He identified the second man, and then

15 you would have wanted to show him a lineup of Berry,

16 the shooter, and that's when Mr. Hawkins would not

17 cooperate?

18 A. Yes. And furthermore, when I turned off

19 the tape Mr. Hawkins said, "I'm not going to help you

20 do your job."

21 Q. Did you ask him what he meant by that?

22 A. I told him, "You're the victim. You're the

23 victim. I'm here to help you." He goes, "I'm not

24 going to help you do your job. You should know

25 this."

<p style="text-align: right;">Page 89</p> <p>1 Q. Should know what?</p> <p>2 A. I should already know this. I should</p> <p>3 already have the suspect in custody. I should be</p> <p>4 doing this. And that was after the tape was turned</p> <p>5 off.</p> <p>6 Q. Detective Menzie heard that?</p> <p>7 A. He was with me. I don't know if he heard</p> <p>8 it. Hopefully he heard it, but yes, he was right</p> <p>9 there. In fact, Menzie and I talked about it</p> <p>10 afterwards.</p> <p>11 Q. What did you discuss?</p> <p>12 A. We were a little disgusted with the fact</p> <p>13 that the victim of a serious shooting, where he may</p> <p>14 die, was not willing to help us out in his own case.</p> <p>15 Q. Did you ask him -- whether on the record or</p> <p>16 off -- did he not want to cooperate because he didn't</p> <p>17 want to be a rat, or he was afraid of retaliation, or</p> <p>18 a combination of both?</p> <p>19 A. You're going to have to ask him that. I</p> <p>20 don't know. I didn't ask him that.</p> <p>21 The impression I got was that he</p> <p>22 was afraid, because he said he didn't want to leave</p> <p>23 town. He didn't want to leave Vegas.</p> <p>24 So if he had to go to court and</p> <p>25 testify against these people, he would probably have</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. So she didn't know who was holding the gun?</p> <p>2 A. Correct. She said he was there.</p> <p>3 Q. So number 4 was Ashley Bernard Christmas?</p> <p>4 A. Yes.</p> <p>5 Q. Based on the interview with Hawkins and the</p> <p>6 interview with Peterson, if you could have located</p> <p>7 Christmas, did you have enough probable cause for an</p> <p>8 arrest warrant?</p> <p>9 A. For Christmas?</p> <p>10 Q. Yes.</p> <p>11 A. All I got was Christmas being there. I</p> <p>12 couldn't put him with the gun in his hand.</p> <p>13 Q. What about the, "Get him, Zak?"</p> <p>14 A. My personal feeling about that? How many</p> <p>15 people are also named "Zak" -- "Zak Berry." You</p> <p>16 would want the right person arrested.</p> <p>17 Q. Oh, absolutely.</p> <p>18 A. If there's more than one Zak Berry, I'd</p> <p>19 like to be 100 percent sure, "Is this the person that</p> <p>20 did this?" Because I'm taking his rights away and</p> <p>21 I'm putting him in jail.</p> <p>22 Q. Absolutely.</p> <p>23 A. So did I have probable cause at that point?</p> <p>24 No. I wanted to be 100 percent sure.</p> <p>25 Q. So you did get subsequent information from</p>
<p style="text-align: right;">Page 90</p> <p>1 to leave town, because there would be retribution.</p> <p>2 That's the impression I got. Did</p> <p>3 he verbally tell me that? No. That's the impression</p> <p>4 I got.</p> <p>5 Q. And that was during the course of the</p> <p>6 statement when you asked him if he was willing to go</p> <p>7 to court and testify?</p> <p>8 A. Yes.</p> <p>9 Q. You also took a voluntary statement from</p> <p>10 Keisha Love, correct?</p> <p>11 A. She wrote one out, and then she also did an</p> <p>12 audio statement.</p> <p>13 Q. And again, these are the transcriptions of</p> <p>14 those recorded statements that you took, correct?</p> <p>15 A. That's correct.</p> <p>16 Q. And the witness Darrellonda Peterson told</p> <p>17 you that she could not identify the shooter, correct?</p> <p>18 You showed her a photographic lineup?</p> <p>19 A. Let's look. What page are you looking at?</p> <p>20 Q. I was looking at page 4, I believe. No,</p> <p>21 I'm sorry, 5. She couldn't ID the shooter, but she</p> <p>22 did ID somebody.</p> <p>23 A. She goes, "I didn't see his face." She</p> <p>24 said Christmas was there, but she wasn't sure if he</p> <p>25 was the shooter or not.</p>	<p style="text-align: right;">Page 92</p> <p>1 Patrick Fleming, but this is third-hand?</p> <p>2 A. Third-hand.</p> <p>3 Q. So you had enough information to clearly</p> <p>4 identify Ashley Bernard Christmas as the second man,</p> <p>5 but nobody would absolutely identify Zak Berry as the</p> <p>6 shooter?</p> <p>7 A. Such as eyewitnesses, and victim</p> <p>8 cooperation.</p> <p>9 Q. But you did have circumstantial evidence</p> <p>10 that Zak Berry was the shooter?</p> <p>11 A. I did, but it was through a third-party.</p> <p>12 Q. Not enough to prosecute?</p> <p>13 A. No.</p> <p>14 Q. Is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. And you gained that information from the</p> <p>17 clues that were given to you by Hawkins during the</p> <p>18 course of his statement?</p> <p>19 A. Yes.</p> <p>20 Q. And then they were corroborated by his</p> <p>21 uncle, and other parties?</p> <p>22 A. Yes.</p> <p>23 Q. Before the investigation ended due to</p> <p>24 noncooperation, had you, based upon your past</p> <p>25 experiences, gathered enough information that you</p>

<p style="text-align: right;">Page 93</p> <p>1 felt as though you were going to be able to get the 2 shooter and the second man, if it progressed the way 3 it was progressing? 4 A. If the victim was willing to cooperate, and 5 if we were able to get witnesses that wanted to come 6 forward and give their testimony and statement, 7 absolutely. We had what we needed. But we didn't 8 get that. 9 And I ultimately gave it to the 10 FBI Gang Task Force, where they tried to follow up 11 using resources they had. 12 Q. Did you ever speak to any of the FBI Gang 13 Task Force investigators about this case? 14 A. Since when? Since when I first gave them 15 the case file? 16 Q. When you shut down yours and you turned it 17 over to them. 18 A. They took my case file, and I have not seen 19 or talked to them since. 20 Q. So you don't know what follow-up, if any, 21 was done by them? 22 A. They did not put any case notes in. 23 Q. Did you check to see? 24 A. Recently? 25 Q. No, I mean after you turned it over.</p>	<p style="text-align: right;">Page 95</p> <p>1 brought today, do you have any other information, no 2 matter how you learned it, about the investigation 3 into the shooting of X'Zavion Hawkins, that we have 4 not discussed? 5 A. Not that I can think of. 6 Q. I may have some follow-ups later, but as it 7 stands, my direct questioning is over. I thank you 8 very much. 9 (Recess.) 10 11 EXAMINATION 12 BY MS. RENWICK: 13 Q. I just have a couple of follow-ups. 14 Detective Majors, you'll recall my 15 name is Charlene Renwick, and I represent GGP Meadows 16 Mall in this matter, in addition to Mydatt Security 17 Services and Mark Warner, who have been named as 18 defendants. 19 I believe you testified earlier 20 that you have no recollection of Mr. Hawkins telling 21 you that he had been shouting or yelling for 22 security, prior to him being shot? 23 A. That's correct. 24 Q. Do you recall him ever telling you that 25 prior to being shot he was looking around the area</p>
<p style="text-align: right;">Page 94</p> <p>1 A. The case notes that I gave you, that I 2 printed out, is the only case notes. The last one 3 was me saying that I handed this case over to FBI 4 Task Force, Detective Leneve. That was the last case 5 note. 6 Q. So as far as you could tell from the 7 documentation, did Leneve ever do any follow-up? 8 A. Not in case notes. I don't know. 9 Q. Is it the procedure that if you do 10 follow-up, you put them into the case notes? 11 A. For situations like this? 12 Q. An attempted murder, a very serious crime. 13 A. Yes, absolutely. But if he did anything, 14 he didn't put it in here. 15 Q. Did you ever speak to Leneve to see what 16 efforts he had made? 17 A. I did not. 18 Q. Is he still with the gang task force? 19 A. I don't know. 20 Q. We would have to go through the personnel 21 department to get him subpoenaed? 22 A. That is correct. I don't know where he's 23 at. 24 Q. All right. Other than the information 25 that's contained in these records that you have</p>	<p style="text-align: right;">Page 96</p> <p>1 for security? 2 A. I don't remember that. 3 Q. Do you recall whether he told you that he 4 had yelled out for someone around him to call for 5 security, before being shot? 6 A. I don't remember that. 7 Q. In any of your discussions with Mr. Hawkins 8 did he ever tell you that Pooh Man was somebody that 9 he traded video games with in school? 10 A. I don't remember that. 11 Q. Do you recall him telling you that Ashley 12 Christmas was somebody that he traded video games 13 with? 14 A. I don't remember that either. 15 Q. Do you remember any discussion about video 16 games whatsoever with Mr. Hawkins? 17 A. No. 18 Q. Do you ever recall Mr. Hawkins telling you 19 that either Pooh Man or Ashley Christmas owed him 20 \$150? 21 A. No. I remember him saying that he was 22 robbed for some money. I don't remember anything 23 about him owing, or them owing him, no. 24 MS. RENWICK: That's all I have right 25 now, but I reserve my right to follow up.</p>

<p style="text-align: right;">Page 97</p> <p>1 EXAMINATION</p> <p>2 BY MR. CHURCHILL:</p> <p>3 Q. Good morning, Officer Majors.</p> <p>4 To begin with, I've got some</p> <p>5 follow-ups, and then I've got a whole other line of</p> <p>6 questioning.</p> <p>7 But to begin with, referring to</p> <p>8 page 8 of 9 of X'Zavion Hawkins' Voluntary</p> <p>9 Statement -- do you have that in front of you?</p> <p>10 A. Okay.</p> <p>11 Q. Now, the question is, I believe you asked a</p> <p>12 question that says, "With that being said, you do</p> <p>13 want to prosecute, correct?" And it appears</p> <p>14 X'Zavion's response is, "I do." Right? Do you see</p> <p>15 that?</p> <p>16 A. But read the rest of the statement.</p> <p>17 Q. I understand. But his first response is,</p> <p>18 "I do." He wants to prosecute?</p> <p>19 A. Correct.</p> <p>20 Q. And then he goes on to say, "But I don't</p> <p>21 want no court dates," and then (inaudible.) And then</p> <p>22 there is a discussion, "That's the only way we can</p> <p>23 prosecute."</p> <p>24 And then there's the discussion of</p> <p>25 X'Zavion saying, "I can't leave Las Vegas. Vegas is</p>	<p style="text-align: right;">Page 99</p> <p>1 A. That "I don't want to prosecute?"</p> <p>2 Q. Yeah.</p> <p>3 A. No. It says, "I do, but I don't want no</p> <p>4 court dates." And I told him, "If you want to</p> <p>5 prosecute, you're going to have to go to court."</p> <p>6 Q. "You may have to go to court."</p> <p>7 A. Yes. But since that conversation, he</p> <p>8 didn't call me. You know, he wasn't willing to</p> <p>9 prosecute.</p> <p>10 When we turned the recorder off,</p> <p>11 that's when he said, "I'm not going to help you do</p> <p>12 your job." And he said it in a brash way. Like he</p> <p>13 was kind of cocky, in a manner.</p> <p>14 And yeah, he just got shot; yes,</p> <p>15 he's in intensive care. But enough to tell me that</p> <p>16 he doesn't want to go forward on charges. And that</p> <p>17 was off the recorder, okay?</p> <p>18 I don't know what to tell you.</p> <p>19 That's what he said. And it says it right there. I</p> <p>20 mean he knows the guys who did this, but he has yet</p> <p>21 to ever reach out to me saying, "Hey, what's going on</p> <p>22 with my case?" The only time he's ever called me</p> <p>23 since then is, "Can you give me a copy of my report?"</p> <p>24 Q. So there's nothing on the record with</p> <p>25 X'Zavion Hawkins saying, "I don't want to prosecute?"</p>
<p style="text-align: right;">Page 98</p> <p>1 my home." Detective Menzie says, "Okay. You're</p> <p>2 scared."</p> <p>3 And X'Zavion goes on to explain,</p> <p>4 "See, that's what you don't get. With a person, you</p> <p>5 come to a person, and knowing people and all that</p> <p>6 extra stuff, that's what you don't get, like" -- and</p> <p>7 then there's the discussion again, "You're scared of</p> <p>8 this guy or somebody he knows."</p> <p>9 What I want to direct your</p> <p>10 attention to is the next statement -- or the</p> <p>11 statement by X'Zavion Hawkins where he says, "Yeah,</p> <p>12 we is, we is -- I'm not getting mad, I'm not getting</p> <p>13 upset, but you know, my blood pressure, all that</p> <p>14 stuff is messed up. My body is fucked up, and all I</p> <p>15 want is him off the street."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. So after all this discussion about him</p> <p>19 being scared, it appears that X'Zavion's last comment</p> <p>20 on the issue is, "All I want is him off the street."</p> <p>21 Is that correct?</p> <p>22 A. That's what he said, yeah.</p> <p>23 Q. Okay. And then I don't see anything after</p> <p>24 that where X'Zavion specifically states, "I don't</p> <p>25 want to prosecute this." Is that in here?</p>	<p style="text-align: right;">Page 100</p> <p>1 A. Right. But if you look at the stuff he</p> <p>2 does say, he's hinting to the fact that he does not</p> <p>3 want to go to court. And if you want to go to court,</p> <p>4 that's one of the ways we need you. We need you to</p> <p>5 cooperate.</p> <p>6 Q. Okay. And I'm not going off of what is</p> <p>7 actually said.</p> <p>8 The question is, "You do want to</p> <p>9 prosecute?" His response is, "I do, but I don't want</p> <p>10 to go to court."</p> <p>11 I'm sure that's a probably fairly</p> <p>12 common response from victims. They don't want to go</p> <p>13 to court. That doesn't necessarily mean they're</p> <p>14 going to have to go to court in every case, but it's</p> <p>15 probably a common response, that people don't want to</p> <p>16 go to court.</p> <p>17 A. Okay.</p> <p>18 Q. Do you agree with that?</p> <p>19 A. So how do we go to court without the</p> <p>20 victim's cooperation?</p> <p>21 Q. Well, he says, "I don't want to go to</p> <p>22 court." But I don't see him anywhere in here saying,</p> <p>23 "I'll never go to court," or, "I don't want to</p> <p>24 prosecute this matter."</p> <p>25 A. "I do, but I don't want no court dates."</p>

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1 How else would we take this case to court?
2 Q. At the very end he also comes up and says,
3 "All I want is him off the street."
4 A. In order to get him off the street, I need
5 the victim's cooperation.
6 Q. But what I'm just trying to figure out
7 right now, is there anywhere on the record where he
8 says, "I don't want to prosecute?" Because here he
9 says, "I do."
10 A. From what it states right there, no. But I
11 mean you could look at this and you could read it and
12 make your own interpretation.
13 But when you ask the victim, "Who
14 is the person that did this to you," and you're
15 willing to show him photo lineups, and they don't
16 want to cooperate and they don't call you back, and
17 the only time they do call is if they want a copy of
18 their reports -- how else would you take this to
19 court, without the victim's cooperation?
20 Q. Has X'Zavion's father been in contact with
21 you?
22 A. What is X'Zavion's father's name?
23 Q. To be honest, I don't even know.
24 A. You and me both.
25 Q. Has anybody from X'Zavion's family been in

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1 contact with you regarding following up on this case?
2 A. I put in my case notes that his mother
3 called, and then his girlfriend called. But they
4 didn't ask for follow-up.
5 Well, they did ask for follow-up,
6 and I told him because he's an adult I can't give out
7 that information. And then they wanted a copy of the
8 report.
9 And his girlfriend refused to
10 identify herself. She just said, "I'm X'Zavion's
11 girlfriend."
12 Q. When you're meeting with X'Zavion, this is
13 in the ICU unit, correct?
14 A. Yes.
15 Q. And this recorded statement and photo
16 lineup -- this is all in the ICU?
17 A. It is, sir.
18 Q. And how many times was X'Zavion shot?
19 A. It's 2013. That shooting? I don't
20 remember.
21 Q. Multiple times?
22 A. Multiple times, it's fair to say. I
23 believe one in the ankle, leg, and stomach.
24 Q. It left him paralyzed as a result of the
25 shooting?

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1 A. I heard that later, yes.
2 Q. Are you aware of what medications
3 Mr. Hawkins was on at this time?
4 A. I'm not a doctor, sir.
5 Q. It's fair, you would assume with him being
6 in ICU with multiple gunshot wounds, paralyzed as a
7 result of the accident, that he's probably on some
8 pretty substantial meds?
9 MR. AICKLEN: Objection to
10 characterizing it as an "accident."
11 THE WITNESS: Yeah. You're going to
12 have to talk to him. I don't know. I'm not a
13 doctor. I can't comment on that.
14 MS. RENWICK: I'd like to insert a
15 belated objection that it calls for speculation.
16 BY MR. CHURCHILL:
17 Q. That would be a reasonable assumption on
18 your part though?
19 A. I don't know, sir.
20 Q. After you take the recorded statement, when
21 is the next time you attempted to contact X'Zavion
22 Hawkins?
23 A. The exact date and time I don't remember.
24 Q. That's not in your notes?
25 A. No. The fact when he said, "I'm not going

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1 to help you do your job," and the only time he called
2 since then was to get a copy of the report -- I don't
3 remember. I do remember contacting him. I don't
4 have the exact date and time.
5 Q. And just to be clear, when you attempted to
6 contact him again, that is not in your case notes?
7 A. That is not in my case notes.
8 Q. Going back to the meeting that you had with
9 Mr. Aicklen and Ms. Renwick, what date did that
10 occur?
11 A. I don't remember, sir.
12 Q. Was it within the last month?
13 A. Yeah, it was last month. I believe so.
14 Q. Was it in February or January?
15 A. I don't remember, sir.
16 MS. RENWICK: Would you like the date?
17 MR. CHURCHILL: Yes.
18 MS. RENWICK: January 20th.
19 BY MR. CHURCHILL:
20 Q. Sir, I believe you previously had your
21 deposition scheduled for February 8th, is that
22 correct?
23 A. I believe so, yeah.
24 Q. Why was your deposition --
25 MR. AICKLEN: That's wrong. I'm sorry,

<p style="text-align: right;">Page 105</p> <p>1 it was February 18th.</p> <p>2 BY MR. CHURCHILL:</p> <p>3 Q. February 18th at 9:00 a.m.</p> <p>4 Why was your deposition unable to</p> <p>5 go forward on February 18th?</p> <p>6 A. I was taking a counter-terrorism class that</p> <p>7 I put in for three months in advance, and I finally</p> <p>8 got into the class and I really wanted to take it. I</p> <p>9 double-booked.</p> <p>10 Q. January 28th you had indicated certain</p> <p>11 documents that you gave the defense counsel in this</p> <p>12 case, and there are additional documents that are</p> <p>13 here today that were not given to them. Is that</p> <p>14 correct?</p> <p>15 A. I believe so, yeah.</p> <p>16 Q. Did they have the chance to review those</p> <p>17 documents at that time?</p> <p>18 A. Which documents? The ones here today?</p> <p>19 Q. The ones that are here today. Obviously</p> <p>20 the ones that you gave them, they had a chance to</p> <p>21 review.</p> <p>22 A. Did they review the ones from today?</p> <p>23 Q. Yes.</p> <p>24 A. I just handed it to them. You can ask them</p> <p>25 if they reviewed it. I don't know if they reviewed</p>	<p style="text-align: right;">Page 107</p> <p>1 documents. Can you be specific? What are we talking</p> <p>2 about here?</p> <p>3 Q. Well, like for example, there was a</p> <p>4 deposition last week where Mr. Aicklen knew the</p> <p>5 identity of the owner of the Dodge Charger, for</p> <p>6 example. Obviously that had to come up in your</p> <p>7 meeting, but that's not in any of the documents that</p> <p>8 you gave them at that time.</p> <p>9 MR. AICKLEN: Incorrect. Look at the</p> <p>10 documents.</p> <p>11 THE WITNESS: It's from my case notes.</p> <p>12 And I can tell you which page of my case notes, if</p> <p>13 you'd like.</p> <p>14 BY MR. CHURCHILL:</p> <p>15 Q. Yes.</p> <p>16 A. So page 1 of 1 of creation date 9/6/2013,</p> <p>17 the time is 3:28 p.m.</p> <p>18 "Received information from a</p> <p>19 citizen source that Mary Cromwell's gray Charger was</p> <p>20 used during the shooting. Records check on Cromwell</p> <p>21 showed that she has a 2010 Dodge Charger registered</p> <p>22 to her with a Nevada plate of 487YSS to the address</p> <p>23 of 9140 Patrick Henry Avenue, Las Vegas, Nevada,</p> <p>24 89149. Last address was 441 Kings Avenue, North Las</p> <p>25 Vegas, 89030. I am unable to confirm that this</p>
<p style="text-align: right;">Page 106</p> <p>1 it.</p> <p>2 Q. But you did hand it to them?</p> <p>3 A. You were here. Yes.</p> <p>4 Q. I'm talking about on January 28th.</p> <p>5 A. Oh, on January 28th? Yes, we all went over</p> <p>6 it. We sat down and we talked about it.</p> <p>7 Q. Okay.</p> <p>8 MR. AICKLEN: Just to clarify, you</p> <p>9 identified the documents we talked about?</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. AICKLEN: And then there were</p> <p>12 additional documents that we did not see, correct?</p> <p>13 THE WITNESS: That is correct.</p> <p>14 MR. AICKLEN: And you listed those out?</p> <p>15 THE WITNESS: Yes. We talked about</p> <p>16 them at the very beginning of this.</p> <p>17 MR. AICKLEN: Thank you.</p> <p>18 BY MR. CHURCHILL:</p> <p>19 Q. Here's the question that I have for you.</p> <p>20 The documents that are new to us</p> <p>21 today -- you had those with you at the meeting,</p> <p>22 didn't you?</p> <p>23 A. No.</p> <p>24 Q. Did you discuss those things?</p> <p>25 A. You know, we're talking about a lot of</p>	<p style="text-align: right;">Page 108</p> <p>1 vehicle was used, due to only witness, Keisha Love,</p> <p>2 that saw the vehicle, is no longer cooperating."</p> <p>3 Q. And here's my question. That particular</p> <p>4 case note -- did you provide that to Mr. Aicklen at</p> <p>5 that time?</p> <p>6 A. Yeah, I believe I did.</p> <p>7 Q. According to Mr. Aicklen's production of</p> <p>8 documents, he's identified six documents that he</p> <p>9 received from you at that time, and I'll go through</p> <p>10 those with you. The first one is the transcript of</p> <p>11 "Recorded Voluntary Statement of X'Zavion Hawkins."</p> <p>12 I think you acknowledged you did</p> <p>13 provide that at that meeting, correct?</p> <p>14 A. I did.</p> <p>15 Q. The second one is the transcript of</p> <p>16 "Recorded Voluntary Statement of Darrellonda</p> <p>17 Peterson." I think you acknowledged earlier today</p> <p>18 you did provide him that?</p> <p>19 A. I did.</p> <p>20 Q. He provided the transcript of "Recorded</p> <p>21 Voluntary Statement of Keisha Love." I believe</p> <p>22 that's one of the documents that you have identified</p> <p>23 previously?</p> <p>24 A. Yes.</p> <p>25 Q. The next is the compact disk containing</p>

<p style="text-align: right;">Page 109</p> <p>1 audio recorded statement of X'Zavion Hawkins, 2 correct? 3 A. Yes. 4 Q. The compact disk containing audio recorded 5 statement of Darrellonda Peterson? 6 A. Okay. 7 Q. Is that a yes? 8 A. Yes. 9 Q. Okay. That was provided. 10 And then the compact disk 11 containing audio recorded statement of Keisha Love, 12 correct? 13 A. Yes. 14 Q. Okay. Mr. Aicklen has not provided any of 15 your detective notes. But to be clear, those 16 detective notes were given to Mr. Aicklen at that 17 meeting? 18 A. Yes. 19 Q. Were all your detective notes provided to 20 Mr. Aicklen at the meeting? 21 A. All the ones that I had, yes. 22 Q. All right. I'd like to switch gears for a 23 second. 24 Regarding your investigation in 25 this case, what was the scope of your investigation?</p>	<p style="text-align: right;">Page 111</p> <p>1 together is we have detectives that go to the scene, 2 process the scene, while we have detectives at the 3 same time process the victim and the victim's 4 injuries. 5 So I went to the hospital. I did 6 not go to the scene. We already had detectives there 7 that worked the scene. 8 Q. How many times did you go to the hospital 9 total, to meet with Mr. Hawkins? 10 A. At least three times. It may have been 11 more. It was in 2013. I don't have an exact number. 12 Q. Is that consistent with what your case 13 notes indicate? 14 A. Well, no. There's a case note -- I did put 15 in there that I tried to make contact with him, and 16 he wasn't cooperative, as we already discussed. But 17 for the most part my case notes are accurate. 18 MR. AICKLEN: Mr. Churchill, may I ask 19 a favor? I have to leave, and my associate is going 20 to take over from here. 21 May I ask one question, just to 22 clear something up? 23 MR. CHURCHILL: Sure. 24 MR. AICKLEN: Thank you. 25</p>
<p style="text-align: right;">Page 110</p> <p>1 A. The scope, as far as what? The victim, 2 the -- 3 Q. All of it. 4 A. We had a victim that was shot numerous 5 times at a sneaker release at a major mall at 4:00 6 o'clock in the morning, and the victim was listed in 7 critical condition. 8 I went to the hospital with 9 Detective Menzie, and officers went to the scene. 10 They started working the scene. Crime scene analysts 11 showed up and documented the scene, as you'll note in 12 the reports. 13 I went to the hospital. We had 14 crime scene go to the hospital to document his wounds 15 and stuff. Pictures were taken. 16 I believe they couldn't take 17 pictures at the very beginning, because he was being 18 worked on. I couldn't get a statement from him, but 19 there were people at the scene that were willing to 20 talk to me. 21 Q. Did you ever go to the scene of the 22 accident? 23 A. As I said before, we work in a team. We 24 talked about this off the record. 25 The way to put these cases</p>	<p style="text-align: right;">Page 112</p> <p>1 FURTHER EXAMINATION 2 BY MR. AICKLEN: 3 Q. Detective, Mr. Churchill asked you about 4 the materials that you turned over to me, and you 5 turned over to me the transcription and the audio 6 recording of Mr. Hawkins? 7 A. Yes. 8 Q. And the transcription and the audio 9 recording of Darrellonda Peterson? 10 A. Yes. 11 Q. And the transcription and the audio 12 recording of Keisha Love? 13 A. Yes. 14 Q. You had your notes with you at our meeting, 15 correct? 16 A. We went over my case notes together. 17 Q. And you had them with you, correct? 18 A. Yes. 19 Q. Okay. This is my question. 20 Did you provide me a copy of 21 those, or did you tell me that you could not let them 22 go, that you would bring them to a deposition? 23 A. I do remember having that conversation. I 24 do remember you saying that. 25 Q. I asked for a copy, and you said you would</p>

<p style="text-align: right;">Page 113</p> <p>1 produce them at the deposition?</p> <p>2 A. Okay. Yes, you did say that. That's true.</p> <p>3 Q. I just want to make that clear, because I</p> <p>4 want on the record that everything that was produced</p> <p>5 to me and Ms. Renwick at our meeting, was produced to</p> <p>6 Jolene and Mr. Churchill.</p> <p>7 You're telling this under oath,</p> <p>8 sir, correct?</p> <p>9 A. Yes, sir. I do remember you and I having</p> <p>10 that conversation.</p> <p>11 Q. I asked you for the notes. I said, "Can I</p> <p>12 get a copy of the notes?" And you said --</p> <p>13 A. "Yes."</p> <p>14 Q. When did you say you would produce them?</p> <p>15 A. When I got here, because some of the stuff</p> <p>16 I wasn't able to pull up.</p> <p>17 MR. AICKLEN: Thank you very much.</p> <p>18 MR. CHURCHILL: Let me go back then.</p> <p>19 MR. AICKLEN: I needed to clear that</p> <p>20 up.</p> <p>21 THE WITNESS: You know, there's a lot</p> <p>22 of stuff here. I wish I could remember everything.</p> <p>23 MR. AICKLEN: Understood. But</p> <p>24 clearly -- and I want to put this on the record as</p> <p>25 well -- these plaintiff's counsels are going to say</p>	<p style="text-align: right;">Page 115</p> <p>1 it's clear that you guys in this meeting did go</p> <p>2 through your case notes?</p> <p>3 A. Yes, we did.</p> <p>4 Q. How long did the meeting last,</p> <p>5 approximately?</p> <p>6 A. With X'Zavion Hawkins?</p> <p>7 Q. No, with defense counsel in this case.</p> <p>8 A. I don't remember. I didn't have a watch</p> <p>9 on.</p> <p>10 Q. Was it more than an hour?</p> <p>11 A. I don't remember.</p> <p>12 Q. More than half an hour?</p> <p>13 A. Asked and answered. I don't remember.</p> <p>14 Q. I understand that you may not have an exact</p> <p>15 recollection.</p> <p>16 A. Well, that's what we're dealing with is</p> <p>17 exact stuff, it seems. Because instead of focusing</p> <p>18 on the victim and his injuries, we're focusing on</p> <p>19 petty stuff.</p> <p>20 To me it is. Because I represent</p> <p>21 trying to get the truth, and trying to get the bad</p> <p>22 guys in jail, not who did what with what evidence at</p> <p>23 what time.</p> <p>24 I mean it's a little frustrating</p> <p>25 on this end, sir.</p>
<p style="text-align: right;">Page 114</p> <p>1 that I lied and hid evidence.</p> <p>2 THE WITNESS: No, no.</p> <p>3 MR. AICKLEN: And I want it clear on</p> <p>4 the record that I did not do such a thing.</p> <p>5 THE WITNESS: I understand.</p> <p>6 MR. AICKLEN: Okay. Thank you.</p> <p>7</p> <p>8 FURTHER EXAMINATION</p> <p>9 BY MR. CHURCHILL:</p> <p>10 Q. So going back then to my line of</p> <p>11 questioning, what I said was, it was obvious to me</p> <p>12 that Mr. Aicklen had additional information that was</p> <p>13 not in what was given to him at that time, that were</p> <p>14 reflected in your case notes.</p> <p>15 So at the meeting with Mr. Aicklen</p> <p>16 you went through your case notes?</p> <p>17 A. Yes. I went through my case notes, and</p> <p>18 probably the proper answer to that question should</p> <p>19 have been, "I don't remember."</p> <p>20 There's a lot of stuff in cases I</p> <p>21 have in my queue at any one given time, and it is</p> <p>22 possible that I forgot that I kept some of the stuff</p> <p>23 with me. That is feasible. That is reasonable to</p> <p>24 say.</p> <p>25 Q. Okay. It's also reasonable to say that</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. I understand. On our end, it's important</p> <p>2 stuff. For you, I understand that it's not what --</p> <p>3 A. I don't remember.</p> <p>4 Q. And I think maybe I should just say that we</p> <p>5 are entitled to your best estimate.</p> <p>6 A. Yeah. And my best estimate is, I don't</p> <p>7 remember.</p> <p>8 Q. Okay. Did you review any of the accident</p> <p>9 photos?</p> <p>10 A. In 2013, I sure did.</p> <p>11 Q. Okay. I just want to show you a couple of</p> <p>12 the photos and see if you have an explanation for</p> <p>13 them.</p> <p>14 The first photo that I want to</p> <p>15 show you is Bates stamped PL 05042, and I think</p> <p>16 what's being depicted in the photograph, or what's of</p> <p>17 interest in that particular photograph is the Snapple</p> <p>18 wrapper. Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. And then you see that there's a bench near</p> <p>21 the Snapple wrapper?</p> <p>22 A. Okay.</p> <p>23 Q. You can see that there's glass shards</p> <p>24 around the Snapple wrapper. Do you see that?</p> <p>25 A. I do.</p>

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1 Q. And then there's desert landscaping behind
2 the bench. And if you go all the way to the end of
3 the other side of the desert landscaping, you can see
4 X'Zavion Hawkins' clothes and the blood.
5 Do you see that?
6 A. I do, sir.
7 Q. Do you have an explanation as to how the
8 Snapple bottle arrived south of where Mr. Hawkins'
9 body is ultimately found?
10 A. Well, due to the fact that I wasn't there
11 at the scene, it could be a number of reasons.
12 For one, when the bottle was
13 thrown, there was a lot of people. It could be
14 kicked around. I don't know.
15 After the victim got into a fight,
16 he could have ran over to this location after he was
17 already shot. I don't know. I don't have an answer
18 for that. I wasn't there at the scene.
19 And the video shows from a
20 distance, everybody leaving once the gun fire
21 started, and everybody dispersed in different
22 directions.
23 So it could have been kicked
24 around. I don't know. That's something the victim
25 would probably have to tell you.

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1 Q. Based on your understanding of the
2 incident, it does appear that if X'Zavion Hawkins
3 threw that bottle, he needed to throw it in a
4 southerly direction?
5 MR. ROSENTHAL: Calls for speculation.
6 THE WITNESS: Yeah. I don't know, sir.
7 You should ask him. I wasn't there.
8 BY MR. CHURCHILL:
9 Q. And then I want to show you a photograph
10 that has been Bates stamped PL 5000.
11 Have you seen this photograph
12 before, sir?
13 A. I believe in 2013 I did.
14 Q. One appears to represent where the first
15 bullet casing was found. Is that your understanding
16 as well?
17 A. Okay.
18 Q. In this particular photograph you can see
19 that there appears to be a bullet found, represented
20 by the number 1. There appears to be some blood
21 spatter, and then ultimately Mr. Hawkins --
22 A. That would be a blood trail.
23 Q. And that's what I wanted to ask you about
24 -- the blood trail.
25 A. That's not spatter. That's a trail.

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1 That's drops going vertically completely down, and
2 making a circle.
3 Q. Okay. And that's exactly what I wanted to
4 ask you. How do you interpret that blood trail?
5 A. Well, you're talking about expert testimony
6 that I don't have. I'm not a blood spatter
7 technician/expert.
8 From being on scenes like this, it
9 look like a trail. It looks like somebody trying to
10 get away, and ultimately falling down right here
11 where you see a pool of blood.
12 That's my opinion. I'm not an
13 expert.
14 Q. I understand. Would it appear that Mr.
15 Hawkins was ambulatory after the first shot that's
16 creating the blood trail? Can you tell?
17 A. Possibly.
18 Q. You don't know?
19 MS. RENWICK: Objection. Calls for
20 speculation.
21 THE WITNESS: Yeah, I'm not an expert.
22 BY MR. CHURCHILL:
23 Q. Understood. Was any consideration ever
24 given to charging Mr. Hawkins with a crime?
25 A. Charging Mr. Hawkins?

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1 Q. Yeah.
2 A. Based on what?
3 Q. I'm just asking.
4 A. No. Based on what?
5 Q. So the answer is "no?"
6 A. "No." Based on what?
7 Q. If Mr. Hawkins is the gentleman that threw
8 the Snapple bottle, did you consider that to be an
9 act of self-defense?
10 A. Possibly. He's the victim.
11 Q. Do you have an understanding as to what
12 triggered the throwing of the bottle?
13 MR. ROSENTHAL: Objection. Calls for
14 speculation.
15 THE WITNESS: He told me in an
16 interview he was arguing, and the argument turned
17 into a fist-fight, and the bottle was thrown.
18 BY MR. CHURCHILL:
19 Q. I understand that you have quite a bit of
20 experience with the gang unit, and I understand that
21 that has changed, but you're still involved -- maybe
22 not as much as before, but you're still involved in
23 investigating gang crimes, and things of that nature?
24 A. We investigate everything. We don't
25 specialize anymore. We used to specialize. We're no

<p>Page 121</p> <p>1 longer specialists. We do everything.</p> <p>2 Q. Based on your history as a detective, and</p> <p>3 throughout your career as a police officer, how</p> <p>4 familiar are you with the Meadows Mall?</p> <p>5 A. I was born and raised here. I know the</p> <p>6 Meadows Mall.</p> <p>7 Q. How about investigating crimes at the</p> <p>8 Meadows Mall?</p> <p>9 A. I don't know quite what -- have I</p> <p>10 investigated crimes before?</p> <p>11 Q. At the Meadows Mall.</p> <p>12 A. Yes.</p> <p>13 Q. Do you consider the Meadows Mall to be in a</p> <p>14 high crime zone or area?</p> <p>15 A. The area isn't a high crime zone. It's the</p> <p>16 people who go there. I think -- I mean you're asking</p> <p>17 my personal opinion, is that correct?</p> <p>18 Q. Yeah.</p> <p>19 A. My personal opinion is the Nike shoe</p> <p>20 release is kind of a high crime -- it brings these</p> <p>21 elements together. You have people who don't get</p> <p>22 along with each other waiting in the same line,</p> <p>23 trying to get the same item, and it brings up</p> <p>24 old-fueled conflicts. That's my opinion.</p> <p>25 Q. How familiar are you with these Nike shoe</p>	<p>Page 122</p> <p>1 releases bringing conflict?</p> <p>2 A. I don't keep up with that.</p> <p>3 Q. It's something that you're obviously aware</p> <p>4 of.</p> <p>5 A. (No response.)</p> <p>6 Q. I mean you brought it up.</p> <p>7 A. The players in this incident were people</p> <p>8 from North Las Vegas, the west side.</p> <p>9 And a lot of people in that area</p> <p>10 when they get together, whether it be house parties,</p> <p>11 homecomings, school --</p> <p>12 Q. Canyon Springs, Cimarron, Centennial?</p> <p>13 A. -- a lot of them don't get along with each</p> <p>14 other. So when you put any of these elements</p> <p>15 together in a place where everybody wants</p> <p>16 something -- everybody want to go to a certain</p> <p>17 concert, everybody want to -- you're going to have</p> <p>18 conflict. I mean you can have the same type of</p> <p>19 conflict at a Snoop Dogg concert.</p> <p>20 Q. Sure.</p> <p>21 A. It's just you bring the elements together,</p> <p>22 they don't get along, and something is going to</p> <p>23 happen.</p> <p>24 Q. You're the one that specifically brought up</p> <p>25 the Nike shoe releases as being an area of conflict.</p>	<p>Page 123</p> <p>1 A. Right.</p> <p>2 Q. Is that something that is well-known?</p> <p>3 A. I don't think it's well-known. I'm just</p> <p>4 saying, the people who attend those tend to not get</p> <p>5 along with each other.</p> <p>6 Q. Let me ask it this way.</p> <p>7 In your field of work, and just</p> <p>8 as, for example, the management of the mall, that's</p> <p>9 something that is known, that at these shoe releases</p> <p>10 you're bringing elements of people together that</p> <p>11 quite often have conflict?</p> <p>12 MS. RENWICK: Objection. Calls for</p> <p>13 speculation.</p> <p>14 MR. ROSENTHAL: Join.</p> <p>15 THE WITNESS: My opinion is you can</p> <p>16 have a "My Little Pony" release, and people that</p> <p>17 attend those aren't going to get into fist-fights.</p> <p>18 But you take maybe a Snoop Dogg</p> <p>19 concert, and you've got people who listen to that</p> <p>20 music, that like that type of music, and often don't</p> <p>21 get along with other people.</p> <p>22 That's where I think the key is.</p> <p>23 It's not the location. It's the people who attend</p> <p>24 those functions.</p> <p>25</p>	<p>Page 124</p> <p>1 BY MR. CHURCHILL:</p> <p>2 Q. And I guess what I'm just trying to figure</p> <p>3 out is, is it well-known that the people that attend</p> <p>4 these --</p> <p>5 A. I don't know. I just know because I've</p> <p>6 investigated this case. This was my case.</p> <p>7 Q. Are you aware that over the past five years</p> <p>8 there have been literally hundreds of violent crimes</p> <p>9 that have occurred at the mall, and the surrounding</p> <p>10 area?</p> <p>11 MR. ROSENTHAL: Objection. Vague.</p> <p>12 THE WITNESS: Possibly.</p> <p>13 BY MR. CHURCHILL:</p> <p>14 Q. I mean is that something that you're aware</p> <p>15 of?</p> <p>16 A. When we get our cases, we don't get our</p> <p>17 cases to areas. Now we do, but before it was random.</p> <p>18 It's like whoever is next on the list.</p> <p>19 So I don't know of the other</p> <p>20 violent crimes. I'm sure there was. You've got</p> <p>21 Western right across the way, and some of the biggest</p> <p>22 gang-bangers go to Western. They're in the same</p> <p>23 area. And you're got the mall where kids like to</p> <p>24 hang out. They go to the mall. It's right across</p> <p>25 the way from the freeway.</p>
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1 Q. Do you have an understanding or an idea as
2 to why the Meadows Mall area seems to be kind of a
3 magnet for these violent crimes?
4 A. I think just from what I just told.
5 Q. The proximity to Western?
6 A. The proximity to Western High School. A
7 lot of kids go to high school. They're getting off.
8 They're going home. They've got the mall right
9 there. Why not stop by, get something to drink, hang
10 out at the food court? Yeah.
11 Q. Based on your investigation, were you able
12 to determine on the early morning night that this
13 incident took place, how many security guards the
14 mall had on duty?
15 A. I do not know that.
16 Q. Do you know how long it took the mall
17 security to respond to the event?
18 A. I don't know that. I believe mall security
19 is unarmed.
20 Q. Do you have an understanding as to why the
21 mall did not have any security guard actively
22 monitoring the crowd?
23 MR. ROSENTHAL: Objection. Calls for
24 speculation.
25 MS. RENWICK: Join.

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1 THE WITNESS: I don't know.
2 BY MR. CHURCHILL:
3 Q. Were you aware that in this particular case
4 at least four witnesses who were present that night,
5 have testified that there were always fights at these
6 Nike shoe releases?
7 MR. ROSENTHAL: Objection. Calls for
8 speculation.
9 THE WITNESS: Did I know they testified
10 to you? I don't know that.
11 BY MR. CHURCHILL:
12 Q. In your investigation, did you do any
13 research as to --
14 A. No. I mean the witnesses that talked to
15 me, and the people that I called reference CAD, who
16 actually reported it -- they did not say that. When
17 I say "CAD," I mean 911.
18 Q. Were you aware throughout the country how
19 many violent instances there have been at these Air
20 Jordan shoe releases? Have you heard of prior
21 shootings and stabbings?
22 MR. ROSENTHAL: Objection.
23 Speculation.
24 MS. RENWICK: Join.
25 THE WITNESS: I'm focused on this. I

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1 don't know.
2 BY MR. CHURCHILL:
3 Q. I'm just simply asking, is that something
4 that you are aware of generally?
5 A. No.
6 Q. Do you have an understanding as to whether
7 or not the mall had a sufficient security presence at
8 the mall, at the particular shoe release, to prevent
9 acts of violence?
10 MS. RENWICK: Objection. Calls for
11 expert testimony.
12 MR. ROSENTHAL: Join.
13 THE WITNESS: You need to talk to mall
14 security about that. My focus was the victim and the
15 witnesses, and identifying the suspects.
16 BY MR. CHURCHILL:
17 Q. Now, you did obtain -- or somebody obtained
18 written statements from DeAndre Thompson and Mario
19 Pena, correct?
20 A. Written statements.
21 Q. Did you ever follow up with either of those
22 two gentleman?
23 A. Yes, I did.
24 Q. Did you ever obtain a recorded statement
25 from either of them?

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1 A. No.
2 Q. How did you follow up with them?
3 A. I called them on the phone.
4 Q. And what happened as a result of your phone
5 calls?
6 A. Well, one of them -- I think it was Pena, I
7 believe he said he had seen two of the guys before
8 that were responsible; that they went to his high
9 school.
10 I asked him, "Do you have a
11 yearbook?" He said, "Yes." I said, "Can you look in
12 your yearbook and please provide me with the names?"
13 And he could not.
14 Q. He was still in high school at the time,
15 correct?
16 A. Ask him. I don't know.
17 Q. Were you aware that both Mr. Pena and
18 Mr. Thompson testified in this case that there was
19 sufficient time to break up the altercation before it
20 turned violent?
21 MR. ROSENTHAL: Objection. Misstates
22 testimony.
23 THE WITNESS: How would I know this?
24 They didn't testify that to me.
25

<p>Page 129</p> <p>1 BY MR. CHURCHILL:</p> <p>2 Q. They did not tell you that?</p> <p>3 A. No.</p> <p>4 Q. Did you ask them?</p> <p>5 A. They wrote voluntary statements. I called</p> <p>6 them up on the phone. They did not relay that</p> <p>7 information to me.</p> <p>8 Q. Now, you obviously witnessed the</p> <p>9 surveillance video, correct?</p> <p>10 A. That is correct.</p> <p>11 Q. Did you find issues with the surveillance</p> <p>12 video?</p> <p>13 MR. ROSENTHAL: Objection. Vague.</p> <p>14 THE WITNESS: What kind of issues?</p> <p>15 BY MR. CHURCHILL:</p> <p>16 Q. For example, does the video hiccup or jump?</p> <p>17 Are there periods of time that are completely</p> <p>18 unaccounted for?</p> <p>19 A. The video is very grainy, and I'm unable to</p> <p>20 make out detail from greater distances from where the</p> <p>21 camera sits.</p> <p>22 I wasn't able to make out the</p> <p>23 plate. I wasn't able to make out facial features.</p> <p>24 It's just very grainy.</p> <p>25 Q. Do you recall that the video did have</p>	<p>Page 131</p> <p>1 believe -- I'm just going to say I don't remember.</p> <p>2 That's the safe way.</p> <p>3 Q. Did you have any criticisms of the video</p> <p>4 surveillance that you did see?</p> <p>5 A. Do I have any criticisms?</p> <p>6 Q. Yeah.</p> <p>7 A. Didn't we already cover this? Such as?</p> <p>8 Q. Well, you indicated that it was very</p> <p>9 grainy.</p> <p>10 A. It was grainy, and the video was from a</p> <p>11 distance and I couldn't make out details of faces or</p> <p>12 plates of vehicles leaving.</p> <p>13 Q. What actions could the mall or mall</p> <p>14 security have taken that would have assisted in the</p> <p>15 investigation?</p> <p>16 MS. RENWICK: Objection. Calls for</p> <p>17 expert testimony. Calls for speculation.</p> <p>18 MR. ROSENTHAL: Join.</p> <p>19 THE WITNESS: I agree. I don't know.</p> <p>20 Ask the mall. I don't know.</p> <p>21 BY MR. CHURCHILL:</p> <p>22 Q. Well, I'm asking you. You're the one that</p> <p>23 did the investigation, so I'm asking you.</p> <p>24 A. My investigation was for the victim. My</p> <p>25 investigation was because he was a victim of a</p>
<p>Page 130</p> <p>1 jumps?</p> <p>2 A. From 2013 I don't remember, sir.</p> <p>3 Q. And then it also appears that the video</p> <p>4 appears to focus more on the palm trees and the</p> <p>5 parking lot, than the actual crowd.</p> <p>6 A. You've got a lot of cameras. Which camera</p> <p>7 are you talking about?</p> <p>8 Q. Well, the ones that have been provided by</p> <p>9 the mall.</p> <p>10 A. As I recall, it covers the entrance where</p> <p>11 the people were standing. But there's multiple</p> <p>12 cameras.</p> <p>13 Q. How many different video camera angles were</p> <p>14 you able to see -- well, let me ask it this way.</p> <p>15 Did the mall provide multiple</p> <p>16 videos?</p> <p>17 A. In 2013, yeah, I mean, they provided</p> <p>18 multiple videos. I don't remember how long. I don't</p> <p>19 know where they were located at. Yeah, I believe so,</p> <p>20 yes.</p> <p>21 Q. Do you have an independent recollection of</p> <p>22 a surveillance video that actually was pointed at the</p> <p>23 crowd, as opposed to the palm trees and parking lot?</p> <p>24 A. I don't remember, sir. I remember there</p> <p>25 was definitely the one facing toward the crowd. I</p>	<p>Page 132</p> <p>1 shooting who was shot multiple times, and he almost</p> <p>2 died and he's a quadriplegic.</p> <p>3 That was my investigation. It</p> <p>4 wasn't for the mall, and it wasn't security. My sole</p> <p>5 concern was for the victim and identifying the people</p> <p>6 who did this.</p> <p>7 Q. And what I'm asking is, is there anything</p> <p>8 that the mall could have done that would have</p> <p>9 assisted in that process?</p> <p>10 A. I think more not so much what the mall</p> <p>11 could have done, is what the victim could have done.</p> <p>12 I think the witnesses could have done something.</p> <p>13 We had over 20 witnesses. 20.</p> <p>14 Not one of those people came forward and said, "Yup,</p> <p>15 I can identify exactly who did it," even though</p> <p>16 everybody over there knows who did it.</p> <p>17 They would hint around saying,</p> <p>18 "Yeah, there were people there, I know that guy was</p> <p>19 there, I don't think he was the shooter."</p> <p>20 Over 20 people were there, and not</p> <p>21 one person came forward and said, "Yup, I can do it.</p> <p>22 Let's do it right now. Show me the photo lineup."</p> <p>23 Including the victim.</p> <p>24 Q. You had mentioned that you had received a</p> <p>25 phone call from the victim's mother indicating</p>

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1 that -- I believe it was the Christmas family, and
2 perhaps the Cornwell family, had gone to the
3 hospital. Can you tell me more about that?
4 A. I received that phone call from the mom of
5 the victim, saying that they came to the hospital to
6 intimidate them. She did not go into great detail of
7 what was said, what was done, why it was an
8 intimidation.
9 "What did you feel you were being
10 intimidated about?" She did not go into great
11 detail. She was not very cooperative throughout this
12 whole investigation. The only times it seems she
13 called me is when she needed something or wanted
14 something. Then she was being cooperative.
15 But since the officers showed up
16 at the scene, the victim wasn't cooperative. Since I
17 showed up at the hospital, mom immediately right off
18 the bat said, "Don't tell the officers anything."
19 That kind of kills my
20 investigation in the very beginning, when she's
21 telling people. And everybody knows that's mom.
22 That's the mom of the victim.
23 Q. Notwithstanding her making that comment,
24 the victim and the victim's cousin did cooperate to
25 some extent?

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1 A. They gave me one interview, and that was
2 it.
3 Q. Did you interview the mall security guards
4 related to this incident?
5 A. No, because they didn't see it. They did
6 not witness what happened.
7 Q. Do you have an understanding as to why they
8 did not witness what happened?
9 A. No.
10 Q. Was it because they were not there when it
11 happened?
12 MS. RENWICK: Objection. Calls for
13 speculation.
14 THE WITNESS: I don't know. I'm going
15 after witnesses, not the people who didn't see it.
16 BY MR. CHURCHILL:
17 Q. Do you have an understanding that at other
18 malls in Las Vegas, that the malls actually have
19 security guards present to monitor the crowd at these
20 Nike shoe releases?
21 MS. RENWICK: Objection. Calls for
22 speculation.
23 MR. ROSENTHAL: Join.
24 THE WITNESS: I don't know.
25

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1 BY MR. CHURCHILL:
2 Q. We talked about your phone conversation
3 with Mario Pena. Were you able to also speak with
4 DeAndre Thompson?
5 A. DeAndre Thompson? I believe we did. I
6 believe he wrote a voluntary statement.
7 Q. He did.
8 A. On his voluntary statement he left a phone
9 number, and basically I called to confirm the
10 information that he already wrote in the voluntary
11 statement.
12 Q. Okay. You had indicated that Mario Pena
13 indicated that he would try to identify the people.
14 What follow-up after that did you
15 have with Mr. Pena?
16 A. He never called me back.
17 Q. Did you ever call him back?
18 A. No, because the information that I was
19 getting is we were already identifying the players,
20 including the victim.
21 He wrote this on 8/17, and by that
22 time I had already talked to the victim, and the
23 victim gave me the follow-up I needed, and it was
24 confirming other independent third-party testimony.
25 Q. Based on your experience, what are some of

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1 the limitations of interviewing people who are
2 prescribed high dosages of narcotic pain medications?
3 A. So you're asking what's my experience with
4 interviewing people who are prescribed with high
5 dosages of narcotic medication?
6 Q. Yeah.
7 A. It's not like we go through a set class on
8 how to interview people who are on high narcotic
9 medications.
10 But if I have a victim that at the
11 time has substantial bodily harm, and they weren't
12 sure if he was going to make it through surgery, and
13 then he makes it through surgery, I want to get that
14 statement as soon as possible. It may be a dying
15 declaration, if it suits.
16 Have I ever taken a class on that?
17 No. Have I interviewed people who were high on
18 medication in the past? Absolutely.
19 Q. What I'm trying to figure out is, what are
20 some of the limitations?
21 A. Limitations as far as what? I'm trying to
22 find out who shot him.
23 Q. Well, for example, if people are loopy from
24 being on medications, their memory may not be as
25 reliable -- their judgment may not be as good as when

<p style="text-align: right;">Page 137</p> <p>1 they are off the medication.</p> <p>2 Would you agree with that?</p> <p>3 A. I can understand what you're saying, and</p> <p>4 people who would be loopy and high on medication</p> <p>5 would probably have slurred speech. Their answers</p> <p>6 would probably be limited.</p> <p>7 But his answers were very current,</p> <p>8 alert and aware times 4, so to speak. He didn't seem</p> <p>9 loopy at all.</p> <p>10 If you listen to the audio, he at</p> <p>11 some times was talking very fast, and I didn't feel</p> <p>12 he was loopy or under the influence at all. He told</p> <p>13 me what we had already discussed.</p> <p>14 Q. When you say that he's alert and oriented</p> <p>15 times 4, that means he knows his name, date,</p> <p>16 location?</p> <p>17 A. Yes.</p> <p>18 Q. What is the fourth one? Name, date,</p> <p>19 location --</p> <p>20 A. What year it is, I think.</p> <p>21 Q. Have you ever attended any classes on</p> <p>22 special event security, things of that nature, crowd</p> <p>23 control? Is that part of your training?</p> <p>24 A. No. I'm a detective with Metro. I do</p> <p>25 investigations involving various types of crimes, not</p>	<p style="text-align: right;">Page 139</p> <p>1 Q. And you were informed that it would be a</p> <p>2 huge dissemination violation to give him those</p> <p>3 documents?</p> <p>4 A. As long as the case not active. As long as</p> <p>5 the case was closed, I could release it, which I</p> <p>6 authorized in the email that it could be released.</p> <p>7 Q. But even then you said that he needed to</p> <p>8 follow up with a subpoena or a court order.</p> <p>9 A. Sure. "Whoever you had make a call from</p> <p>10 the lab sounded like they already released these</p> <p>11 photos to you, which was not true, and a huge</p> <p>12 dissemination violation. Please produce subpoena</p> <p>13 court order."</p> <p>14 Now, that's when I had to talk to</p> <p>15 legal. Are you talking before this? Or I guess I'm</p> <p>16 not understanding your question.</p> <p>17 Q. Well, here's my question.</p> <p>18 It appears that you had told Mr.</p> <p>19 Barrus that you couldn't give him these particular</p> <p>20 documents that he was seeking because it would be a</p> <p>21 huge dissemination violation, that he needed to have</p> <p>22 a subpoena or a court order.</p> <p>23 A. Right. And then I talked to legal, and</p> <p>24 legal said it was okay as long as the case was</p> <p>25 closed.</p>
<p style="text-align: right;">Page 138</p> <p>1 crowd control.</p> <p>2 Q. After you received the phone call that</p> <p>3 X'Zavion had been threatened at the hospital, was</p> <p>4 there ever any follow up with the Cornwell family or</p> <p>5 the Christmas family regarding witness intimidation,</p> <p>6 or anything of that nature?</p> <p>7 A. No. No, because mom gave us limited</p> <p>8 information. It's kind of hard to follow up on those</p> <p>9 type of things when she can't tell me exactly who was</p> <p>10 threatening, what was said, what was done.</p> <p>11 Q. I have an email chain between you and Mr.</p> <p>12 Barrus. Can you review that, please? I just want to</p> <p>13 confirm that is indeed you who is emailing Mr.</p> <p>14 Barrus.</p> <p>15 A. Yes.</p> <p>16 MS. RENWICK: Can I look at it?</p> <p>17 MR. CHURCHILL: Sure.</p> <p>18 BY MR. CHURCHILL:</p> <p>19 Q. It appears that you had emailed to Mr.</p> <p>20 Barrus that you could not provide him certain</p> <p>21 documents, because it would be a huge dissemination</p> <p>22 violation.</p> <p>23 A. Not without okaying it through legal.</p> <p>24 Q. And you attempted to okay it through legal?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. Was the case closed at that particular</p> <p>2 point?</p> <p>3 A. Yes.</p> <p>4 MS. RENWICK: Detective Majors, can you</p> <p>5 read in the date of that email, please?</p> <p>6 THE WITNESS: September 24th is when I</p> <p>7 authorized it, of 2014.</p> <p>8 MR. CHURCHILL: Okay. That's all the</p> <p>9 questions I have at this time.</p> <p>10</p> <p>11 FURTHER EXAMINATION</p> <p>12 BY MS. RENWICK:</p> <p>13 Q. I just have a couple of follow-ups.</p> <p>14 I'm looking at the Voluntary</p> <p>15 Statement of X'Zavion Hawkins, specifically page 4 of</p> <p>16 9, 4 lines down from the top.</p> <p>17 Based on your discussion with</p> <p>18 Mr. Hawkins, is it your understanding that Ashley</p> <p>19 Christmas had threatened to kill him prior to the</p> <p>20 shooting?</p> <p>21 A. It says, "Yeah. You know, he said threats</p> <p>22 once before, saying how he was going to kill me and</p> <p>23 stuff." And I asked, "Why does he want to kill you?"</p> <p>24 Q. And what was his response?</p> <p>25 A. His statement was, "Why does he want to</p>

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1 kill me is because, ah, a while back, man, he robbed
2 me. He robbed me, and I, ah, I just told him I
3 want" -- (inaudible.)

4 Q. So based on your discussion, would it be
5 fair to say that Mr. Hawkins knew that Mr. Christmas
6 had violent intentions towards him?

7 A. He was afraid of him. That's my impression
8 of the whole interview. He was afraid of him, and he
9 didn't want to leave his family. And that's why he
10 didn't want to cooperate.

11 MS. RENWICK: I think that's all I
12 have. Thank you for your time.

13 (Defendants' Exhibit A marked.)

14

15 (The deposition concluded at 12:22 p.m.)

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)

) ss.

3 COUNTY OF CLARK)

4 I, Carol O'Malley, Nevada Certified Court
5 Reporter 178, do hereby certify:

6 That I reported the taking of the deposition
7 of WILLIAM LEE MAJORS on February 25, 2016 commencing
8 at the hour of 9:00 a.m.;

9 That prior to being examined, the witness was by
10 me duly sworn to testify to the truth, the whole
11 truth, and nothing but the truth;

12 That I thereafter transcribed my said
13 shorthand notes into typewriting and that the
14 typewritten transcription of said deposition is a
15 complete, true, and accurate transcription of my said
16 shorthand notes taken down at said time. Review of
17 the transcript was not requested.

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

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 in my office in the County of Clark, State of Nevada,
23 this 1st day of March, 2016.

24 *Carol O'Malley*
25 Carol O'Malley, CCR No. 678

WILLIAM LEE MAJORS
HAWKINS vs. GGP MEADOWS MALL

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1 to him.
2 Q. I see. So in fact you gave him
3 authorization, but he did not obtain the materials?
4 A. I don't know if he obtained them.
5 Q. Okay. Very good.
6 Now, just the last thing about our
7 meeting. At our meeting did I ask you to say
8 anything other than the truth about your
9 investigation?
10 A. You told me just to say the truth.
11 Q. And if I had said to you to say anything
12 but the truth, what would you have told me?
13 A. "No, thank you." I could be held liable
14 criminally.
15 Q. Okay. Very good.
16 Now, other than Ms. Renwick, me,
17 and Mr. Barrus, have you spoken with anyone else
18 about your investigation, other than those related to
19 the investigation? So any third-party?
20 A. I did notify my chain of command.
21 Q. That you would be appearing for a
22 deposition?
23 A. That is correct.
24 Q. Okay. Anyone else?
25 A. Through my case notes I notified -- well,

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1 this was during the investigation. Are we talking
2 about during or after?
3 Q. Any third-party.
4 A. There is one third-party, Alex Ochoa, North
5 Las Vegas Police Department Gang Task Force. He was
6 providing me information on the possible identities,
7 because he had similar investigations that was
8 leading to the same people. I contacted LVMPD PIO
9 for a media release.
10 Q. That's the Public Information Office?
11 A. That is correct.
12 During the investigation I talked
13 to a girl for another victim who refused to identify
14 herself, who was asking for copies of records, and I
15 told her she would have to go through an attorney. I
16 could not give that to her.
17 And this case file was handed over
18 to Robbery Task Force, Edward Leneve, P# 5612. He
19 was part of the Robbery Task Force with the FBI.
20 They have a lot more means than we
21 do, money for confidential informants, in order to
22 get better results of this investigation. And he was
23 unsuccessful.
24 Q. How do you spell Edward Leneve's name? I
25 know it's in the records.

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1 A. It's okay. First name Edward, E-d-w-a-r-d;
2 last name Leneve, L-e-n-e-v-e.
3 Q. Thank you.
4 A. And he has the complete case file. And
5 normally when we get cases like this we wait until
6 the very end before we copy everything and put it
7 into the record.
8 The reason being, we've had
9 problems where people knew each other, or knew other
10 investigators, and they would look at our case file
11 and it would cause problems in the future.
12 So stuff like this we keep and
13 wait until the last minute, and then put everything
14 in our OnBase system.
15 The only stuff that I was able to
16 put in before I gave it to Leneve is the stuff you
17 see here today. The rest of that stuff Leneve has,
18 and I don't know where it's at.
19 Q. And when you say "stuff," what would that
20 be?
21 A. I have a folder of just different
22 interviews from citizen sources. And these weren't
23 taped interviews. These were people calling me,
24 "Hey, I know who the shooter is," "I know this, I
25 know that." And I was having to follow up on it. I

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1 don't have a list, because again, I don't have the
2 file.
3 But as far as the meat and
4 potatoes, the substance of this investigation is what
5 I have or what I've already given to you.
6 Q. So citizen tips may be located within the
7 file that Edward Leneve maintains?
8 A. Yes.
9 MR. AICKLEN: Let's go off the record
10 for a second.
11 (Discussion off the record.)
12 MR. AICKLEN: We'll go back on the
13 record.
14 BY MR. AICKLEN:
15 Q. The materials that you just handed me,
16 other than these two disks, which we'll attach to the
17 original -- these are all of the materials that you
18 have produced today in response to the Subpoena Duces
19 Tecum, correct?
20 A. That is correct.
21 Q. Very good.
22 (Recess.)
23 MR. AICKLEN: Back on the record.
24 BY MR. AICKLEN:
25 Q. So we're going to mark the entirety of that

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1 file Defendants' Exhibit A. The file that you have
2 in front of you is the original of the file, correct?
3 A. That is correct.
4 Q. And it's complete?
5 A. Yes, sir.
6 Q. Okay. Very good. And we'll have you keep
7 it with you to reference, and then at the end of the
8 deposition we will give it to the court reporter and
9 she'll attach it. Okay?
10 A. Okay.
11 Q. Very good. I'm going to ask you a couple
12 background questions, and then some questions about
13 your investigation, if I could.
14 A. Absolutely.
15 Q. Have you ever been known by any other
16 names?
17 A. My name is William Lee Majors. My friends
18 call me Lee, but my first name is William.
19 Q. And what is your work address?
20 A. 400 South Martin Luther King Boulevard, Las
21 Vegas, Nevada, 89106.
22 Q. And your date of birth?
23 A. 9/2 of '73.
24 Q. Place of birth?
25 A. Las Vegas, Nevada.

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1 Q. And beginning with high school, tell me
2 your education history, please.
3 A. I completed high school.
4 Q. Where did you graduate?
5 A. Bonanza High School.
6 Q. The year?
7 A. 1992.
8 Q. And any college?
9 A. Two years of college.
10 Q. Where?
11 A. Community College.
12 Q. Of Southern Nevada?
13 A. Yes.
14 Q. What did you study?
15 A. Criminal justice.
16 Q. Did you receive a degree?
17 A. No, I did not.
18 Q. Any vocational or technical school?
19 A. I worked for AMR. I don't know if you'd
20 call that a vocational school, but I was an EMT Basic
21 for AMR, two years.
22 Q. So you were certified?
23 A. I was.
24 Q. Do you maintain that certification?
25 A. No, I do not.

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1 Q. Which police academy did you attend?
2 A. Las Vegas Metropolitan Police Department in
3 2001.
4 Q. How long was that academy?
5 A. Six months.
6 Q. When did you graduate?
7 A. I want to say it's May or June. I don't
8 remember.
9 Q. June of '01?
10 A. Yes.
11 Q. Is that your best estimate?
12 A. Yes.
13 Q. A couple other ground rules I didn't
14 mention, that I should.
15 If you cannot recall an answer you
16 can say, "I cannot recall." If you don't know an
17 answer just say, "I don't know." Just because I ask
18 you a question doesn't mean you know the answer.
19 And I may ask you some questions
20 about timeframes or distances. If you can give me a
21 reasonable estimate, then I'm entitled to it; but I
22 don't want you to guess. Do you understand the
23 difference?
24 A. I understand.
25 Q. Very good. When were you first POST

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1 certified?
2 A. I don't remember.
3 Q. What's your best estimate?
4 A. June of 2001.
5 Q. Have you always maintained your POST
6 certification?
7 A. I have to. It's mandatory.
8 Q. As we sit here today, do you have any
9 intention to leave Las Vegas Metro?
10 A. No.
11 Q. The only reason I ask you that is in the
12 event that if and when this case goes to trial I
13 would need to locate you.
14 So I would like to ask for an
15 anchor person -- someone who would always know where
16 you were and could contact you.
17 Who is your anchor person? A
18 parent? Spouse?
19 A. No offense, I don't feel comfortable giving
20 that. I'm not leaving town anywhere, but I am not
21 getting my parents involved in a civil deposition.
22 Q. Understanding we would never --
23 A. Period.
24 Q. I'll withdraw it.
25 A. No offense.

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1 Q. Understood. We would never contact them
2 unless we could not locate you.
3 A. I just bought a house here. I can give you
4 my address, you can call me any time, show up; but I
5 will not give you my parents' information.
6 Q. No, I don't want to get your residence
7 address. So we'll contact you through Metro.
8 A. Sounds good.
9 Q. So you graduated and were POST certified in
10 June of '01. What was your first assignment?
11 A. Patrol.
12 Q. Motor or a car?
13 A. Patrol. Bolden Area Command in a car.
14 Q. Bolden Area Command?
15 A. That is correct.
16 Q. How long did you have that assignment?
17 A. And if we go before that -- I forgot.
18 During training I was in Northeast
19 Area Command for three months, and then I went to
20 Bolden Area Command for three months, and then I was
21 at Bolden -- I want to say four or five years, before
22 I went into PSU, which is the Problem Solving Unit.
23 Q. You were straight out of the academy and
24 you went to Northeast Area Command?
25 A. Yes, for training. For field training.

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1 Q. Three months?
2 A. Three months.
3 Q. So you rode with a training officer?
4 A. That's correct.
5 Q. And that was in a car?
6 A. That is correct.
7 Q. And that was on patrol?
8 A. Yes.
9 Q. And then your first assignment after field
10 training was patrol car in Bolden Area Command?
11 A. Yes, sir.
12 Q. And you had four to five years there?
13 A. Yes.
14 Q. What was your next assignment?
15 A. Problem Solving Unit, Bolden Area Command.
16 It was a plainclothes assignment. We did everything
17 from robbery decoy operations, controlled buy busts,
18 narcotics, property crimes. Pretty much everything.
19 Q. Was that a uniform or --
20 A. Plainclothes.
21 Q. Plainclothes. How long did you do that?
22 A. I don't recall. I believe it was two
23 years.
24 Q. And that was also Bolden Area?
25 A. That was Bolden Area.

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1 Q. And what was your next assignment?
2 A. I was a field training officer for about
3 two months before I got accepted into gang detail.
4 Q. Where were you a field training officer?
5 A. Bolden Area Command.
6 Q. What did you train?
7 A. New recruits fresh out of the academy.
8 Q. Was that in a patrol car?
9 A. That was in a patrol car.
10 Q. When did you join the gang unit?
11 A. I don't remember exact years.
12 Q. Your best estimate.
13 A. I want to say 2008.
14 Q. Where were you headquartered?
15 A. We were at an undisclosed location off of
16 Bermuda and Sunset.
17 Q. What were your duties in the gang unit?
18 A. Gang enforcement. Also gang
19 investigations. Enforcement, we basically went out
20 in a uniformed position, stopping gang members that
21 were committing crimes in the Las Vegas Valley..
22 And when I went to gang
23 investigations we were basically responding to all
24 shootings, stabbings, violent crimes involving gang
25 members.

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1 Q. Gang enforcement was in an unmarked felony
2 car?
3 A. It was unmarked, but we were in uniform.
4 We were wearing our greens.
5 Q. Do they call those "felony cars?"
6 A. I've never heard it called that.
7 Q. Well, the only reason I say that is because
8 LAPD calls it -- like it's a Crown Vic, but it's not
9 black and white. It's like black or blue.
10 A. Yeah, it's just a plain car.
11 Q. A plain car.
12 A. Yeah, but it has lights and sirens. It's
13 just there's no decals. There's nothing that says,
14 "Call 911," or any identifiable features that says
15 you're a police officer. But yes, everybody on the
16 west side knows who you are. They've seen your car
17 before.
18 Q. How long were you in gang enforcement?
19 A. I was in gangs for approximately three and
20 a half years. So during that time -- the majority of
21 the time I spent in enforcement, and I spent six
22 months in investigations prior to testing for Violent
23 Crimes.
24 Q. And so that would be your fifth assignment
25 then?

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1 A. That would be my fifth assignment.
2 Q. When did you go to your fifth assignment in
3 Violent Crimes?
4 A. 2010. I don't have the exact date.
5 Q. That's your best estimate?
6 A. Yes. And I was in Violent Crimes up until
7 July of last year.
8 Q. So 7 of '15?
9 A. Yes.
10 Q. What were your duties in Violent Crimes?
11 A. Basically following up, conducting
12 investigations on battery substantial, attempt
13 murder; we assisted robbery, we assisted homicide.
14 We conducted death investigations that were
15 suspicious in nature; responded to shootings that
16 weren't gang-related or bias-related. The same with
17 stabbings.
18 Q. Any other duties?
19 A. That about sums it up.
20 Q. What was your next assignment?
21 A. After decentralization we were sent to
22 different area commands. I put in for Convention
23 Center Area Command, and our responsibilities were
24 for everything.
25 Q. So any felony crime?

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1 A. Any. And misdemeanors.
2 Q. Any crime?
3 A. Any crime. Basically the patrol officers
4 that take the reports -- all those reports come
5 directly to us, and then we follow up, if there's
6 anything to follow up.
7 Q. Are there no longer specialized areas?
8 A. There is, but they're limited in resources.
9 We still have a gang intelligence unit, which doesn't
10 have many people in it. Not like how we used to be.
11 So we'll still follow up on gang-related incidences.
12 Q. And you still have a homicide division?
13 A. We still have homicide.
14 Q. But is everything else now split into
15 the -- what did you call it?
16 A. Decentralization.
17 Q. Decentralization.
18 A. It's been in the news. The Sheriff decided
19 to break everybody up and put them in area commands
20 to get more hands-on with the community.
21 Basically we respond to pretty
22 much everything. I can be working property crime one
23 day, and the next day I could be pulling a gun off
24 the street from a juvie from Clark High School last
25 week. You know, it just depends what they need us

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1 for.
2 Q. How long have you been in that sixth
3 assignment at Convention Center?
4 A. Convention Center? Just recently, about
5 two weeks ago I transferred back over to Bolden.
6 Q. So from July of '15 until February of
7 '16 --
8 A. That's correct.
9 Q. -- you were at the Convention Center?
10 A. The Convention Center, and then I just put
11 back in for Bolden.
12 Q. And now you have moved back to -- that
13 would be your seventh assignment?
14 A. Yes.
15 Q. And you have moved back to Bolden?
16 A. Yes.
17 Q. And what do you do now currently at Bolden?
18 A. The same thing I was doing at Convention
19 Center, but just in a different area.
20 Q. So you are in a decentralized --
21 A. A patrol detective.
22 Q. Now, you are familiar with an attempted
23 murder that occurred on August 17th of 2013, is that
24 correct?
25 A. I am.

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1 Q. And that is for the plaintiff here,
2 X'Zavion Hawkins?
3 A. Yes, sir.
4 Q. What was your involvement in that?
5 A. I was case agent, and we were split up. I
6 think we had three of us that were working that
7 night. Two of us went to the hospital; one person
8 went to the scene.
9 Q. Where did you go?
10 A. I went to the hospital to interview the
11 victim.
12 Q. You have case notes, correct?
13 A. I do.
14 Q. Would those case notes assist you in
15 recalling the events of your investigation?
16 A. Yes.
17 Q. So feel free to look at those case notes.
18 And we have copies of those, correct?
19 A. That is correct.
20 Q. All right. So tell me what your first
21 activities were in investigating the attempted murder
22 of X'Zavion Hawkins.
23 A. One detective went to the scene, two
24 detectives went to the hospital. On my case note I
25 put on 8/18/2013 Detectives responded to the scene

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1 and UMC Hospital. Victim refused to cooperate with
2 patrol officers upon first contact.
3 I made contact with the victim's
4 mother, Wanda Perkins, at UMC, who told her family
5 members not to talk to the police, that they would
6 take care of this on their own. Victim could not
7 give a taped statement due to his condition worsening
8 due to the 8 gunshot wounds to his stomach, legs and
9 ankle, and he was currently intubated.
10 I spoke with Wanda Perkins again
11 later, who promised me that she would assist officers
12 by talking to people that may know additional
13 witnesses and get them to come forward.
14 I conducted a taped interview with
15 victim's cousin, Keisha Love, date of birth 11/13/95,
16 in her mother's presence, Joyce Gills, date of birth
17 8/14/63, who was with the victim at the time of the
18 shooting. Gills stated that she did not see the
19 shooting, but heard it, because she was in the
20 parking lot sitting in her car at the time of the
21 shooting.
22 Love stated that she did not see
23 who shot the victim, but saw that the victim was
24 arguing with three black males prior to the shooting.
25 Love heard a bottle break and 8 shots. Love was told

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1 by a mutual friend that a criminal gang member
2 "Gerson Park Kingsman" named "Pooh Man" was the
3 shooter, and that the victim knows him because they
4 went to Cheyenne High School together.
5 Q. Okay. Let's stop there, if we could. I'd
6 like to ask you a couple questions throughout this.
7 Let's go back to your contact with
8 Mr. Hawkins' mother, Wanda Perkins.
9 Explain to me when you say, "She
10 told her family members to not talk to the police,
11 that they would take care of this on their own."
12 What did she say to you?
13 A. When I went into UMC Trauma and I attempted
14 to talk to the victim, the victim was currently being
15 worked on by trauma doctors, and as I was walking to
16 get to the victim I identified a lady who said she
17 was supposed to be the victim's mother. She
18 identified herself as Wanda Perkins.
19 And as I was trying to talk to
20 people -- because there was a lot of people there, it
21 was very chaotic, very dynamic -- she told people as
22 I was trying to talk to them, not to cooperate with
23 us.
24 Also officers at the scene said
25 the victim was telling them the same thing, that he

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1 was going to take care of it on his own.
2 Q. Okay. Did she tell you what she meant by,
3 "We will take care of it on our own?"
4 A. No, no. We didn't get into details really.
5 Basically when they say they're
6 going to take care of it on their own -- through my
7 training and experience in dealing with these type of
8 shootings, meaning that they're going to take care of
9 business. They're going to get even with the person,
10 basically.
11 Q. And this was the victim's mother telling
12 the witnesses not to cooperate with your
13 investigation?
14 A. That is correct.
15 Q. Did you hear Wanda Perkins say to the
16 family members, "Do not cooperate in the
17 investigation?"
18 A. Yes. She said it out loud.
19 Q. Do you remember her exact words, or the
20 gist of it, or --
21 A. No, I don't remember the exact words.
22 Q. But then did anyone speak with you?
23 A. Yes.
24 Q. Who spoke with you?
25 A. Keisha Love.

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1 Q. And had Keisha Love heard the victim's
2 mother say, "Don't talk to the police?"
3 A. I don't know. You have to talk to Keisha
4 Love about that.
5 Q. Absolutely. Understood.
6 Now, you took a recorded statement
7 from Keisha Love?
8 A. That is correct.
9 Q. Was that the first day of the
10 investigation, that you took that recorded statement?
11 A. Yes.
12 Q. So you took it at UMC Hospital?
13 A. Yes.
14 Q. And that recorded statement is contained
15 within the materials that you have provided to us, is
16 that correct?
17 A. That is correct.
18 Q. Okay. Now, we also have a voluntary
19 written statement from Keisha Love?
20 A. That is correct.
21 Q. Now, there is also a transcription of these
22 recorded statements. Is that true?
23 A. That is correct.
24 Q. Who prepares the transcriptions?
25 A. I don't know. I don't remember.

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1 Q. Is it like a steno pool, employees of LVMPD
2 that listen to --
3 A. Yes, it is. But I'm looking for the actual
4 person that transcribed it, and I don't see it. So I
5 can't answer that.
6 Q. All right.
7 A. But it's somebody that does work for the
8 department, whether they work in the office or it's
9 sent out to a third party.
10 Q. Okay. And now these transcriptions, these
11 are supposed to be verbatim transcriptions of the
12 recording?
13 A. Yes, sir.
14 Q. Unless it's unintelligible or something,
15 and then they're supposed to note that it's
16 unintelligible?
17 A. Yes, sir.
18 Q. Did you review these transcriptions with
19 the tapes, for their accuracy? Do you do that?
20 A. I do when I can. I don't always get to all
21 of them. I do to the best of my ability.
22 Q. If you see an error in a transcription,
23 what do you do?
24 A. I notate it and I give it back. If it's
25 something minor, I don't touch it.

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1 Q. But if it's a substantive issue, you'll
2 send it then back to the transcriber and say, "Listen
3 to this again?"
4 A. Yes.
5 Q. Did you have to do that with these
6 transcripts?
7 A. I don't remember, sir.
8 Q. Okay. But the transcripts that are
9 contained within the case file would be the last
10 version of the transcript, if there were edits made?
11 A. Yes.
12 Q. So these are the best transcriptions that
13 Metro produced?
14 A. Yes. And the reason being is after they're
15 done, I reviewed it and I put them into OnBase, and
16 these are where I pulled these up, is out of OnBase.
17 OnBase is a system that instead of
18 doing the hard copies, they put it into computer
19 copies.
20 Q. And you only put it into OnBase when it is
21 complete and accurate?
22 A. Yes.
23 Q. Okay. So tell us about what Keisha Love
24 told you.
25 A. Okay. So I put in my case notes, "I

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1 conducted an interview with victim's cousin, Keisha
2 Love, in her mother's presence, Joyce Gills, who was
3 with the victim at the time of the shooting."
4 Q. Let's stop right there. Why did you have
5 her mother present with her?
6 A. Because she wouldn't talk to me if she
7 didn't have her mother present.
8 Q. I see. She does not appear to have been a
9 minor at the time, correct?
10 A. Correct.
11 Q. Wait a minute. She may have been.
12 A. Born in '95, and this was 2013.
13 Q. But this was August. She was just four
14 months shy of being 18 years old.
15 A. But I mean she's a witness. We generally
16 try to make witnesses feel as comfortable as
17 possible.
18 Q. Understood. But for a minor, would you
19 commonly have their parent present during an
20 interview?
21 A. We ask them, and it's up to them. They
22 can, or sometimes they don't.
23 Q. So Keisha Love agreed to speak with you?
24 A. Yes.
25 Q. All right. So what did Keisha Love tell

Page 40

1 you?
2 A. Do you want me to read the voluntary
3 statement?
4 Q. No, just your recollection of it. We have
5 the recordings, right?
6 A. Okay.
7 Q. And we also have the transcriptions. And
8 you certainly can refer to them when I say, "What did
9 she say to you?" But I'm trying to get your best
10 recollection, because sometimes you'll remember
11 things that maybe are not written down.
12 A. I don't remember exactly what she said, so
13 I'm going to look at the voluntary statement.
14 Q. Absolutely. Like I said, refer to any note
15 that you need to. It's not a memory test.
16 (Recess.)
17 THE WITNESS: Okay. So going over
18 Keisha Love's statement, she was at Meadows Mall on
19 the date of the incident, approximately 4:00 o'clock
20 in the morning, with her cousin, X'Zavion.
21 They were walking over for the
22 shoe release, and she heard X'Zavion fighting with
23 somebody. Hold on, I'm sorry.
24 BY MR. AICKLEN:
25 Q. Take your time.

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1 A. She heard a bottle drop, and then heard
2 gunfire. And that's when she said that everybody was
3 running away.
4 I asked if X'Zavion was fighting
5 with anybody or had any arguments with anybody, and
6 she said they may have been arguing over a girl. I'm
7 sorry, I said that. I apologize.
8 And I confirmed with her her
9 cousin's name, X'Zavion Hawkins. I asked if she knew
10 who Pooh Man was.
11 Q. What did she say to you about who Pooh Man
12 was?
13 A. "I don't even know his name, but when my
14 cousin got here" -- all she kept is saying is, "Pooh
15 Man, Pooh Man. I know I went to school with him, but
16 I know him by that name." That's what she said.
17 Q. Did she give the identity of Pooh Man, his
18 real name, or just a moniker?
19 A. She gave me a moniker, and I believe she
20 told me he went to school.
21 Q. Cheyenne High School?
22 A. I got like three different people that gave
23 me three different schools, so I just want to make
24 sure. Let me look at this. Hold on.
25 Q. I'm just looking at your folder notes.

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1 That might refresh your recollection.
2 A. Yeah, it probably would.
3 Okay. "Love stated that she
4 didn't see who shot the victim but saw that the
5 victim was arguing with three black males prior to
6 the shooting. Love heard a bottle break and 8 shots.
7 Love was told by mutual friend that a criminal gang
8 member 'Gerson Park Kingsman' named 'Pooh Man' was
9 the shooter, and that the victim knows him because
10 they went to Cheyenne High School together."
11 Q. Okay. Let's stop right there. I want to
12 ask you some questions about Pooh Man.
13 Did you ultimately identify the
14 person whom you believed to be Pooh Man?
15 A. At the very end, yes. But we went through
16 different people to get to that point.
17 Q. All right. So tell me who you ultimately
18 identified as Pooh Man.
19 A. Pooh Man was identified as Ashley
20 Christmas. Ashley Bernard Christmas.
21 Q. Who is Ashley Bernard Christmas?
22 A. He is a Gerson Park Kingsmen gang member,
23 and he was actually -- let's see. Records check in
24 Family Track returned a second subject with the name
25 of Pooh Man with the same date of birth.

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1 Q. Okay.
2 A. Ultimately Ashley Bernard Christmas was the
3 person the victim also identified as well, as the
4 person he was arguing with prior to.
5 Q. Right. And that's within the victim's
6 recorded statement?
7 A. That's correct.
8 Q. That you took?
9 A. Yes.
10 Q. So I'm going to refer to people as "the
11 shooter" and "the second man." Do you understand
12 what I mean?
13 A. I do.
14 Q. The shooter was not Ashley Bernard
15 Christmas, according to the information that you were
16 given, correct?
17 A. He was not.
18 Q. Okay. Who did you ultimately identify as
19 the shooter?
20 A. Zachary Berry.
21 Q. Who is Zachary Berry?
22 A. Zachary Berry is a 15-year-old, also a
23 Gerson Park Kingsman, who is known as Little Cool
24 Man. That's his nickname.
25 Q. Do you know -- and by the way, if I ask you

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1 a question and ask you to tell me how you found out,
2 I am not trying to invade anything that may be
3 subject to secrecy requirements.
4 For example, if you found out from
5 a confidential informant or something like that, I
6 don't want that information. Do you understand that?
7 A. I understand.
8 Q. So I want you to be able to tell me clearly
9 under oath, but within the confines of what you need
10 to keep people safe. Do you understand what I mean?
11 A. Yes.
12 Q. Okay. Very good. So was it Zachary or
13 Zacharias?
14 A. He goes by Zak, Zacharias, Zachary, last
15 name Berry, B-e-r-r-y.
16 Q. Did you identify Zachary Berry and his date
17 of birth, and so forth?
18 A. I did. I'm looking through my case notes.
19 Excuse me. Understand this. The information I was
20 given -- I'm going off my case notes here.
21 Q. Right.
22 A. Received information from a citizen source
23 that a black male juvenile named Ashby Bernard
24 Christmas who was 19-years-old, goes by "Pooh Man,"
25 and the actual shooter, black male juvenile named Zak

Page 45

1 Berry, 15 years of age, also known as "Little Cool
2 Man" at the time of the shooting -- both subjects
3 start arguing with the victim and threw a Brisk Ice
4 Tea bottle at the victim.
5 Zak shot the victim. Both
6 subjects continued to stand in line and bought shoes
7 after the shooting.
8 Now, this was information given by
9 a citizen source. A citizen source is not somebody
10 that's a confidential informant. They do not have to
11 give information if they don't want to, and they also
12 do not have to give their identity if they don't want
13 to.
14 Q. Did that person -- and don't say it on the
15 record, if they did -- but did that person identify
16 themselves, or were they anonymous?
17 A. They identified themselves.
18 Q. Is that contained within your report?
19 A. No.
20 Q. So that is confidential information?
21 A. It is.
22 Q. And that's to protect the source?
23 A. Yes.
24 Q. So as I said, if I ask a question that
25 seeks -- I want the underlying facts, but if there is

Page 46

1 something that because of somebody's safety you do
2 not want to put onto a written record, then I don't
3 want that information. Do you understand?
4 A. I understand. Zacharias Berry, date of
5 birth, 11/2 of '96.
6 Q. Did you do any follow-up investigation on
7 Ashley Bernard Christmas and Zacharias Berry?
8 A. Yes, I did.
9 Q. Did anyone else, other than that citizen
10 informant, identify Zak and Lil Pooh Man as the
11 shooter and the second man?
12 A. Yes. I conducted a taped statement with
13 witness Darrellonda Peterson, where I conducted a
14 photo lineup with Peterson, with the lineup
15 containing Zacharias Berry.
16 She stated that she was 100
17 percent sure Berry was there at the time of the
18 shooting, but she was not sure if he was the shooter.
19 She could place him there, but she wasn't sure he was
20 the actual shooter.
21 Q. So he was either man 1, man 2, but she
22 couldn't say if he pulled the trigger?
23 A. Correct.
24 Q. Did anybody tell you that Zak and Ashley
25 Bernard Christmas were the second man and the

Page 47

1 shooter? Did Mr. Hawkins tell you that?
2 A. You're jumping around. Yeah.
3 Q. You're right, I am jumping around. I'm
4 trying to create a narrative.
5 A. Yeah, but I'm going from here to there.
6 Q. No, I understand. That's why I say, take
7 your time and look at your notes.
8 A. Okay. Yes, X'Zavlon Hawkins.
9 Q. What did X'Zavlon Hawkins tell you about
10 the second man and the shooter? Who was the second
11 man?
12 A. The second man is -- he called him "Pooh
13 Man."
14 Q. What is his real man?
15 A. Ashley Christmas.
16 Q. How did he know Ashley Christmas?
17 A. He said Ashley Christmas actually robbed
18 him three months prior. The victim said he was a
19 victim of a robbery by Ashley Christmas.
20 Q. Did he tell you what type of robbery it
21 was? Was it a strong-arm?
22 A. Yes.
23 Q. Was it with a firearm?
24 A. I believe it was a strong-arm.
25 Q. Was Zak with Ashley Christmas when he

Page 48

1 robbed Hawkins?
2 A. We're jumping around again. Hold on.
3 Q. Okay.
4 A. He said it at the very end, so I've got to
5 look it up.
6 MS. MANKE: I just want to know what
7 you're referring to.
8 THE WITNESS: We're confirming.
9 When I said it was a strong-arm, I
10 was going by memory. My memory could be wrong, so
11 let me double-check.
12 BY MR. AICKLEN:
13 Q. Okay.
14 A. I'm sorry, some of these statements are
15 like reading from a cartoon.
16 Okay. So Hawkins stated that he
17 knows Pooh Man from school. They went to school
18 together. He said that he robbed --
19 Q. Just for the sake of clarity, Pooh Man is
20 Ashley Bernard Christmas?
21 A. That is correct.
22 Q. Okay.
23 A. He said he robbed him. He did not say if
24 there was a gun or not. He just said he robbed him.
25 So it could have been just been a strong-arm. He

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1 could have just hit him and took his stuff. We did
2 not go into great detail with that. He just said
3 that Pooh Man robbed him.
4 Q. What did he rob him of?
5 A. Again, he did not go into detail.
6 Q. I thought that within there he had said he
7 robbed him of money that his father gave him. Does
8 that ring a bell?
9 A. I'm looking at page 6 of 9. I don't see
10 that.
11 Q. Okay. Let's step back for one second,
12 okay?
13 A. Yes.
14 Q. All right. Let's talk about your interview
15 with the victim, Mr. Hawkins, who is the plaintiff in
16 this case.
17 A. Okay.
18 Q. So let's look at his voluntary statement,
19 okay?
20 A. Okay.
21 Q. When did you take Mr. Hawkins' voluntary
22 statement?
23 A. I interviewed him on 8/22 of 2013 at 0958
24 hours.
25 Q. So about five days after the shooting,

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1 about 10:00 o'clock in the morning?
2 A. Yes, sir.
3 Q. He was still in the hospital, is that
4 correct?
5 A. Yes, and they just took him off intubation,
6 so he was able to talk.
7 Q. This transcription that says, "Voluntary
8 Statement, Name of Person Giving, X'Zavion Hawkins,"
9 the one that you and I are looking at --
10 A. Yes, sir.
11 Q. -- this is a transcription of an audio
12 recording that you made of the interview, is that
13 correct?
14 A. Yes.
15 Q. So assuming that we listen to the
16 audiotape, this would be a transcription of the
17 questions and answers?
18 A. Yes, sir.
19 Q. Other than those that were
20 unintelligible -- the answers?
21 A. Yes, sir.
22 Q. Very good. So you took this in person from
23 Mr. Hawkins?
24 A. Yes.
25 Q. And there was also a Detective Menzie

Page 51

1 there, is that correct?
2 A. That is correct.
3 Q. Who is Detective Menzie?
4 A. He was my partner that day, and we
5 interviewed the victim together.
6 Q. So Detective Menzie could also testify that
7 this statement was taken from Mr. Hawkins in person
8 at the hospital?
9 A. That's correct.
10 Q. Where is Detective Menzie now?
11 A. Currently he is assigned to Enterprise Area
12 Command, patrol detective.
13 Q. And his badge number is 6830?
14 A. That is correct.
15 Q. Okay. So you identified yourself and
16 spelled your name for the record, is that right?
17 A. Yes.
18 Q. And then Detective Menzie identified his
19 badge number?
20 A. Yes.
21 Q. And then you did a lead-in to your
22 investigation. Why do you do a lead-in to your
23 investigation?
24 A. So the person who is transcribing knows
25 where we're at, what we're doing, date and time, and

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1 what this is with regard to.
2 Q. And is it also a way to explain to the
3 person giving the statement that you are taking his
4 statement for the investigation?
5 A. Yes.
6 Q. All right. It looks as though after your
7 lead-in you asked Mr. Hawkins if he understood that
8 the interview was being recorded. Is that correct?
9 A. Yes.
10 Q. And he told you that he did?
11 A. His exact words was, "Yes, I do."
12 Q. When you interview a witness, do you ever
13 tell them -- whether it's on the record or not --
14 that it is a crime to lie to the police?
15 A. Do I tell them?
16 Q. Yes.
17 A. Depending on who I'm interviewing.
18 Suspects, I do tell them that. Victims, witnesses,
19 no, I don't.
20 Q. Do you recall if you ever told Mr. Hawkins
21 that it would be a crime to lie to the police?
22 A. No, I did not.
23 Q. But he understood that you were recording
24 the questions and answers, and that you wanted
25 truthful answers, correct?

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1 A. That is correct. He's our victim. He's in
2 the hospital and he's bedridden.
3 I try to make it as comfortable as
4 possible. I don't want him to think that I'm
5 argumentative. So that's why I don't tell them,
6 "Hey, if you're lying to me you could be held
7 liable." I don't do that. I want him to be as
8 relaxed as possible.
9 Q. So that he can recall and tell you the
10 truth?
11 A. Exactly.
12 Q. And clearly Mr. Hawkins was the victim in
13 this, correct?
14 A. Yes, he was.
15 Q. So you asked him a series of questions.
16 Did you ask him why he was now
17 cooperating, when his mother told him not to?
18 A. We're jumping around.
19 MS. MANKE: I'll just object. That
20 calls for speculation.
21 BY MR. AICKLEN:
22 Q. All right. I'll ask it this way.
23 Did Mr. Hawkins say anything to
24 you as to why he had changed his mind and would now
25 cooperate?

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1 A. He said he wants to get these guys off the
2 street.
3 Q. And he told you that was his motive for
4 cooperating with you?
5 A. Yes, but he didn't exactly cooperate.
6 Q. All right. Well, I think we'll learn that
7 as we go through the statement, right?
8 A. Yes.
9 Q. But he clearly was voluntarily giving you
10 information?
11 A. Yes.
12 Q. And you would ask him for truthful
13 information to help with the investigation?
14 A. Yes.
15 Q. And the information that he gave you, you
16 followed up on?
17 A. Yes.
18 Q. Based upon your investigation, did his
19 information appear to be accurate?
20 A. Yes, it appeared to be accurate.
21 Q. Okay. Very good.
22 Actually, I think we've been going
23 about an hour, even with the break. Let's take five
24 minutes. Is that okay?
25 A. Yeah.

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1 Q. And then we're going to pick back up with
2 Mr. Hawkins.
3 A. Okay.
4 (Recess.)
5 MR. AICKLEN: Let's go back on the
6 record.
7 BY MR. AICKLEN:
8 Q. So let's talk about the statement that you
9 took from Mr. Hawkins, that was both recorded and
10 then transcribed.
11 A. Okay.
12 Q. You said that you wanted to take him back
13 to the events, and he understood, correct?
14 A. That is correct.
15 Q. And you asked him if it occurred at the
16 Meadows Mall, and he said that it did, correct?
17 A. Yes.
18 Q. So from both your statement or your
19 independent recollection, what did Mr. Hawkins then
20 tell you about how the event had started?
21 A. He said he was standing in line when a guy
22 that he knows by Ashley Christmas, also known as Pooh
23 Man, approached him.
24 He said he was very sneaky. He
25 approached like he was going to shake his hand, and

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1 then he tried to hit him.
2 They started swinging back and
3 forth. A Brisk Ice Tea bottle fell to the ground,
4 and then he heard Ashley Christmas say, "Get him,
5 Zak." And then that's when he was being shot at.
6 Q. Did he also tell you that he had "squared
7 up" with Zak?
8 A. Yes, as if they were getting ready to
9 fight, and then they started to fight.
10 Q. Did he tell you what the fight involved?
11 A. He later said the fight was over the fact
12 that one of them robbed him earlier, like three
13 months prior. And he was the victim of that robbery.
14 Q. So Hawkins told you that the incident that
15 occurred at Meadows Mall was related to an earlier
16 robbery?
17 A. Yes, where Hawkins was the victim of that
18 robbery.
19 Q. Now, what does it mean to "square up"?
20 A. "Square up" is get in somebody's path, like
21 you're getting ready to fight with them. It's an
22 aggressive manner.
23 Q. In reviewing this statement, and in all
24 your interactions with Mr. Hawkins, did Mr. Hawkins
25 ever tell you that anybody had knocked him to the

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1 ground and kicked him?

2 A. I do remember him saying that he did go to

3 the ground. I don't remember the kicking, unless

4 it's in my statement here.

5 Q. In either the recorded statement or in all

6 of your interviews and conversations with

7 Mr. Hawkins, did Mr. Hawkins ever tell you that he

8 had screamed out for security?

9 A. No.

10 Q. Did Mr. Hawkins ever tell you that he had

11 screamed out for security for five minutes?

12 A. Not in my statement.

13 Q. At any other time?

14 A. I don't remember, sir.

15 Q. So you don't remember him ever saying to

16 you, "I screamed out for security?"

17 A. No.

18 MS. MANKE: Asked and answered.

19 BY MR. AICKLEN:

20 Q. Did Mr. Hawkins ever tell you that this

21 entire incident between he and Zak and Ashley Bernard

22 Christmas had taken five minutes?

23 A. I don't remember that. He said he kept

24 yelling for help, and he said that they kept shooting

25 him.

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1 Q. This is when he was being shot, correct?

2 A. Yes.

3 Q. Did he ever say, "I yelled for help from

4 security?"

5 A. No, he didn't say that.

6 Q. Did you review the videotape of this

7 incident that was produced by the mall, or mall

8 security?

9 A. I did.

10 Q. When you looked at it, did you come to any

11 conclusions about how long this incident took?

12 A. I don't remember the exact length of how

13 long it took. I know the shooting itself was maybe

14 about five seconds.

15 Q. How about the interactions between

16 Christmas and Zak and the plaintiff before?

17 A. It's very grainy, and the video camera was

18 from a distance.

19 Q. Is it your recollection that those

20 interactions were five minutes?

21 A. No, I don't remember that.

22 Q. It was quicker than that?

23 A. Yeah.

24 Q. Is that yes?

25 A. Yes.

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1 Q. Okay. Very good. So when he says, "Get

2 him Zak," and Zak squared up to him, and so forth --

3 Zak you later determined to be Zachariah or Zacharias

4 Berry?

5 A. That's correct.

6 Q. Now, you also produced some Facebook

7 requests, correct?

8 A. Yes.

9 Q. And one of them was for Christmas, is that

10 right?

11 A. Well, let me stop you.

12 Q. Or his moniker?

13 A. Yeah, the moniker. One was for CM pmg.

14 Q. "CM" would be "Cool Man, Pooh Man

15 Gangster?"

16 A. Yes.

17 Q. Whose moniker was that?

18 A. That was supposed to be Ashley Christmas.

19 Q. And then there was another one --

20 A. And that was for "Lit pmg," and that was

21 supposed to be for Zak Berry, "Little Pooh Man G."

22 Q. So both Bernard Christmas and Zachary Berry

23 appear to have used "Pooh Man" one way or the other,

24 as a moniker?

25 A. Yes.

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1 Q. Was there any confusion, based upon that?

2 A. Yes, because other people have used the

3 same moniker.

4 Q. What is -- if you know, you know, and if

5 you don't, you don't. What is "Pooh Man?" What does

6 that mean? Do you know?

7 A. It doesn't mean anything. It's just a name

8 they use.

9 Q. Just a moniker?

10 A. Yeah.

11 Q. Have you ever seen other gangsters use the

12 name "Pooh Man?"

13 A. Yeah, other gangsters have used "Pooh Man."

14 Q. Interesting. But you don't know what it

15 means?

16 A. Let me look at my notes. I believe I

17 identified somebody with the same moniker.

18 I had a Ronald Kincaid, Jr., date

19 of birth 12/8 of '92, who attended Cheyenne High

20 School, who had a tattoo of "Pooh Pooh," and he was

21 also a Gerson Park Kingman. So we were looking at

22 him for awhile.

23 Q. So that appears to be a moniker that many

24 of the Gerson Park Kingsmen use?

25 A. Yes.

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1 Q. Did you ever see any of the internet social
2 media sites or Facebook sites for these two
3 individuals, Christmas and Berry?
4 A. In 2013 I did.
5 Q. Did one of them depict somebody holding a
6 Glock 9 to their head?
7 A. I don't remember, sir.
8 Q. Have you ever seen photographs of Zak
9 Berry?
10 A. I have.
11 Q. And you actually showed a photographic
12 lineup?
13 A. I did.
14 Q. Does Zak Berry have a tattoo of a revolver
15 on his right hand, if you recall?
16 A. I don't remember, in 2013.
17 Q. I see. Like I said, just because I ask it
18 doesn't mean you remember or you know.
19 All right. Let's go back to your
20 interview with Mr. Hawkins, if we could.
21 So now we've identified the
22 shooter as Zak, or Zachariah Berry, or Zacharias
23 Berry, and the second man as Ashley Bernard
24 Christmas, correct?
25 A. Yes.

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1 Q. So Hawkins tells you that he's squaring up,
2 getting ready to fight. What does he tell you
3 happens next?
4 A. Ashley Christmas says, "Get him Zak," and
5 Zak opens fire on him with a handgun.
6 Q. And that was the .45 caliber semi-automatic
7 handgun?
8 A. Yes. Shell casings were recovered at the
9 scene that would confirm that.
10 Q. Now, it was Mr. Hawkins in his statement
11 who told you that Zak calls himself "Little Pooh Man
12 G," correct?
13 A. Yes.
14 Q. And that that was his nickname?
15 A. Yes. Actually, let me -- no, no. He says
16 all he knows is his name is Zak, in my statement.
17 Q. I think actually at page 2, about halfway
18 down, if you take a look at where you say, "Okay."
19 A. "Pooh Man" -- okay, yeah. He said, "Zak."
20 But I don't believe he ever identified him as "Zak
21 Berry" during this interview.
22 Q. Right. He didn't say "Zak Berry," but the
23 person you later identified as Zak Berry --
24 A. Yes.
25 Q. -- Mr. Hawkins identified him by his

Page 63

1 moniker as "Little Pooh Man G?"
2 A. Yes. Yes, he identified him by his
3 moniker, and he knew him as "Zak."
4 Q. So these names that Mr. Hawkins was giving
5 to you, these were names that you had first heard
6 from him. These were clues that he was giving to
7 you, correct?
8 A. Yes, and also confirmed by another
9 statement. Ms. Peterson, too, confirmed this.
10 Q. So even though he didn't know his real name
11 is Zacharias Berry, he knew the shooter's name to be
12 "Zak," and he knew his moniker to be "Little Pooh Man
13 G?"
14 A. Yes.
15 Q. But he did know the second man's Christian
16 name, which is Ashley Bernard Christmas?
17 A. Yes.
18 Q. So he also told you that he was with his
19 cousin Keisha?
20 A. Yes.
21 Q. And he also told you that Ashley Bernard
22 Christmas hangs out with Zak?
23 A. Yes.
24 Q. And who is Dewayne Cornwell?
25 A. Dewayne Cornwell was someone that Zak hangs

Page 64

1 out with.
2 Q. So that would be the shooter, Zak Berry?
3 A. Just somebody that he hangs out with. And
4 Dewayne Cornwell goes to -- he first said Centennial,
5 and I believe it was confirmed later that he goes to
6 Cheyenne High School.
7 Q. So it was Mr. Hawkins that gave you the
8 name of Dewayne Cornwell, is that correct?
9 A. Yes.
10 Q. And identified him as a known associate of
11 Zak, who later was found out to be Zak Berry?
12 A. Yes.
13 Q. The shooter?
14 A. Yes.
15 Q. Before he told you Dewayne Cornwell, did
16 you know that name, in the terms of this
17 investigation?
18 A. I remember hearing it after. I don't
19 remember hearing it before.
20 Q. So he's the one who told you about Dewayne
21 Cornwell hangs out with Zak?
22 A. Yes.
23 Q. Was there an incident in which the Cornwell
24 family went to UMC Hospital?
25 A. Yes, there was.

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1 Q. Can you tell us about that?

2 A. The exact date and time I don't have, but

3 during -- I believe it was in my notes. Please stand

4 by.

5 MS. RENWICK: Take your time.

6 BY MR. AICKLEN:

7 Q. Absolutely.

8 A. I remember this taking place, but I'm

9 trying to remember the date and time.

10 Okay. Here we go. "Received a

11 call from the victim's mother who stated on 8/18/13

12 family members from Christmas and Dewayne Cornwell

13 went to UMC to intimidate the victim's family. I

14 then notified UMC's Security Officer Jerry Saribay

15 and advised him of the possible ongoing problems, and

16 the victim was placed on NSP status where a code word

17 has to be used to find the victim's location."

18 We do that on a lot of gang

19 members that are victims of violence.

20 Q. During the course of your investigation did

21 you find any evidence that Mr. Hawkins was a gang

22 member?

23 A. I did, but I don't remember which set he

24 was with.

25 Q. So you determined that he was a gang

Page 66

1 member, but you did not know which group?

2 A. I didn't put it in my notes, but I did

3 determine that he was a gang member. I'm not sure

4 which set.

5 MS. MANKE: Can I just ask if that's in

6 any of the documents you've produced?

7 THE WITNESS: No. It was in an

8 interview, talking to him over a period of time.

9 Just talking to him on the phone,

10 "Hey, can I come by for another interview? Can I

11 come by for a photo lineup?" And he told me, but I

12 didn't put it in this documentation here.

13 BY MR. AICKLEN:

14 Q. Because you perceived him to be the victim?

15 A. He's the victim, yeah.

16 Q. So whether he was a gang member or not, did

17 not affect your investigation?

18 A. No.

19 Q. You wanted to find out who shot him?

20 A. Yes.

21 Q. So what happened with the Cornwell and

22 Christmas families coming to UMC? What did they tell

23 you?

24 A. Just what I put there. That they came

25 there to intimidate them.

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1 The whole time, the families being

2 very -- they were limited on the information they

3 would tell me. They weren't completely open. You

4 know, when I tried to get details on certain things

5 that they would say, they would hold back.

6 For instance, this incident --

7 "What was said? What was done? How did you feel

8 intimidated?" They couldn't tell me. They just said

9 they were trying to intimidate them.

10 Q. So they would not give you details?

11 A. Exactly.

12 Q. And this is from Mr. Hawkins' mom?

13 A. Yes.

14 Q. The one who had told you she would not

15 cooperate in the investigation?

16 A. Yes.

17 Q. And then told the other family members not

18 to cooperate?

19 A. That is correct.

20 Q. That they would take care of this

21 themselves?

22 A. And the reason -- when that happened and

23 she was telling me about that, it started to make me

24 think that this was a family issue -- that the

25 families knew each other, that they were possibly

Page 68

1 related.

2 I never confirmed it, but I

3 believed by what she was telling me, "We'll take care

4 of this on the side," is because they knew each other

5 quite well, and they were possibly related.

6 Q. Meaning the Christmas families and

7 Mr. Hawkins?

8 A. Yes.

9 Q. Did anyone ever tell you that Christmas was

10 a cousin of Hawkins?

11 A. I believe somebody did, but I don't have

12 that documented.

13 Q. Okay. Was there any other confidential

14 informants or citizen informants that gave you

15 information about this shooting?

16 A. There was.

17 Q. Was that person ultimately killed?

18 A. I don't have that information. I believe

19 that he is possibly deceased. I have not confirmed

20 that since then, because he is not the subject of my

21 investigation.

22 Q. Was he identified by name in the

23 investigation -- that informant?

24 A. Yes, he was.

25 Q. What was that informant's name?

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1 A. Let me look it up.
2 Q. This is a paper test.
3 A. It really is. If you could just ask your
4 questions according to the way I have my papers, that
5 would be good.
6 Q. I know. Wouldn't that be good?
7 A. All right. His name is Patrick Fleming,
8 date of birth 11/7 of '71.
9 And the information he would give
10 me was all hearsay. It was all third-party. It was
11 nothing that he actually witnessed.
12 Q. What information did Mr. Fleming give you?
13 A. He said that after the shooting the
14 subjects got back in line, which was never confirmed.
15 The video showed that everybody ran, and the subjects
16 were seen running getting into a gray Charger.
17 Q. In the course of your investigation did you
18 ever learn that anyone in the Cornwell family owned a
19 gray Charger? A lady named Patricia Cornwell?
20 A. I can double-check. Yes. A citizen source
21 said Mary Cornwell's gray Charger was used during the
22 shooting.
23 Records checked on Cornwell showed
24 that she has a 2010 Dodge Charger registered with a
25 Nevada plate of 487YSS to the address of 9140 Patrick

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1 Henry Avenue, Las Vegas, Nevada, 89149.
2 Q. I said "Patricia." I could have been
3 wrong. You said it was Mary Cornwell?
4 A. Yes.
5 Q. Do you know who Mary Cornwell is, in
6 relationship to Mr. Hawkins?
7 A. Mary Cornwell is Dewayne Cornwell's mother.
8 Q. And you said you never determined if the
9 Cornwells and the Christmases or Cornwells and the
10 Hawkins were related?
11 A. No.
12 Q. Did you ever determined if Dewayne Cornwell
13 was at the scene?
14 A. I did not.
15 Q. When you reviewed the video, were you able
16 to identify the getaway car? Do you understand what
17 I'm saying?
18 A. Yes.
19 Q. Was the getaway car the car owned by Mary
20 Cornwell, or were you unable to determine?
21 A. I was unable to determine. Due to the
22 distance of the camera the plate was unidentifiable,
23 and also in my personal opinion the vehicle did not
24 look like a Charger. To me it looked like a Caliber.
25 Q. Which looks similar to a Charger?

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1 A. Which looks similar.
2 Q. But you were never able to say one way or
3 the other definitively?
4 A. No.
5 Q. Is that correct?
6 A. That's correct.
7 Q. All right. Tell me about Patrick Fleming.
8 What else did he tell you?
9 A. Patrick Fleming would contact me from time
10 to time and give me updated information that he
11 heard. And a lot of the times it was wrong, or I
12 couldn't confirm it. It was all third-party.
13 If there's some specific -- I mean
14 I have it throughout all my case notes here.
15 Q. What was Patrick Fleming's relationship to
16 Mr. Hawkins?
17 A. He was the cousin of X'Zavion Hawkins.
18 Excuse me, uncle. Uncle.
19 Q. Right. The uncle of X'Zavion Hawkins.
20 Did he tell you where he was
21 getting his information?
22 A. No. He was telling me that's what he
23 heard.
24 Q. So he didn't say if he heard it from the
25 family, or if he heard it on the street?

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1 A. Right.
2 Q. Was Patrick Fleming a gang member, do you
3 know?
4 A. Yes, he was.
5 Q. Do you know what group he was with?
6 A. He used to deal with the Flemings on the
7 west side all the time. He is a Blood gang member,
8 either Piru or Berkley Square.
9 Q. Was Mr. Fleming feeding you information so
10 you could try and identify and arrest the shooters?
11 A. Yes.
12 Q. And Christmas?
13 A. Yes.
14 Q. He wanted justice for his nephew?
15 A. Yes. I received a phone call from Sergeant
16 Ryan of North Las Vegas homicide, and provided him
17 with the information that Patrick Fleming knew of a
18 homicide in his jurisdiction.
19 He gave me a ton of information,
20 and it was about sorting it out and getting it to the
21 right place. He gave me information about a possible
22 homicide. I gave it to Sergeant Ryan. I don't know
23 whatever came of that.
24 But the information that was given
25 to me -- I mean I couldn't confirm where he got it

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1 from, and a lot of it was wrong. He said that the
2 two guys responsible got back in line and stood
3 there. The video shows them leaving.
4 Q. But he would basically pass on to you
5 whatever he heard that he thought would be helpful?
6 A. Yes. And sometimes I had to take it at
7 face value, because I've had cases in the past where
8 they feed us bad information to put us in a different
9 direction.
10 Q. Did it appear to you as though Mr. Fleming
11 was try to assist though?
12 A. He was. He was, especially since the name
13 he gave us was consistent with the names that we
14 already had.
15 Q. What name did he give you?
16 A. Ashley Bernard Christmas and Zak Berry.
17 Q. As the shooter and the second man?
18 A. Yes.
19 Q. And you said that you're not certain if
20 Mr. Fleming is now deceased?
21 A. I have not checked, no.
22 Q. But you had heard that he had been killed?
23 A. Yes.
24 Q. Did you hear anything about Mr. Berry
25 having maybe been involved in another homicide? Not

Page 74

1 an attempt, but a homicide?
2 A. That information was given to me by
3 Mr. Fleming. That's what I gave to Sergeant Ryan in
4 North Las Vegas.
5 Q. Did Fleming know who Berry was supposed to
6 have killed, before he shot Mr. Hawkins?
7 A. No.
8 Q. Mr. Berry is a bad guy though, correct?
9 A. Yes. He was our target. We were looking
10 for him.
11 Q. Let's go back to Mr. Hawkins' statement.
12 He clearly knew details about
13 Ashley Bernard Christmas, and he's the one that gave
14 you the name, correct?
15 A. Yes.
16 Q. Did he also tell you -- if you look at page
17 4 of that -- that Christmas had threatened to kill
18 him in the past?
19 A. Yes.
20 Q. And that was over a robbery?
21 A. Yes.
22 Q. And if you look down there, this is where I
23 asked you about that. Look at the middle where
24 Mr. Hawkins answers the question, "Who threw the
25 glass bottle?"

Page 75

1 A. Okay. Mr. Hawkins said he threw it.
2 Q. Right.
3 A. He said that he came up trying to shake his
4 hand, it got heated "about my \$150 to my name that my
5 dad just sent me. I had \$60 in my pocket when he
6 robbed me."
7 Q. So does that refresh your recollection
8 about that Christmas had robbed him of the money that
9 his father had given him?
10 A. Yes, but it didn't say if it was strong-arm
11 or a handgun.
12 Q. Right. But this was a robbery that
13 occurred before the event at Meadows Mall?
14 A. That's correct, and where the victim was
15 the victim of that robbery.
16 Q. And that was the bad blood between
17 Christmas -- according to Hawkins, that was the bad
18 blood between Christmas and Hawkins?
19 A. Yes.
20 Q. Did you ever look on Facebook to see if
21 Christmas had called Hawkins a "bitch" on Facebook?
22 A. I went on Facebook and I sent out
23 preservation letters to Facebook for both suspects,
24 and I never got a return back for either one of them.
25 Q. I was going to ask you, do you have any of

Page 76

1 the Facebook materials?
2 A. No. They never provided it.
3 Q. Is that a common occurrence?
4 A. It's hit or miss, dealing with Facebook.
5 Sometimes they'll preserve the data, and then
6 sometimes they won't.
7 You've got to send out
8 preservation letters first, requesting it. And then
9 they'll tell you, "Okay, we have it preserved." Then
10 you submit your search warrant for the info.
11 They never got back to me as far
12 as preservation went.
13 Q. Did you ever issue a search warrant to
14 Facebook and get anything in response?
15 A. No, because it would be a waste of time,
16 unless you did your preservation letters.
17 Q. And since they had not responded, you just
18 figured they had not preserved it?
19 A. Yeah. You've got to preserve it. If you
20 don't preserve it, they can take it down within 24
21 hours.
22 Q. All right. So then in his statement
23 Mr. Hawkins told you that Zak was the shooter,
24 correct?
25 A. Yes.

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1 Q. And then that was information that was also
2 confirmed by Patrick Fleming later, that Zak Berry
3 had been the one that pulled the trigger on
4 Mr. Hawkins?
5 A. Yes.
6 Q. Did Mr. Hawkins give you a description of
7 Zak?
8 A. He did.
9 Q. Did you look at the video to see if that
10 matched?
11 A. If you reviewed the video, the video is
12 from a distance. It's very grainy.
13 Q. You could not tell?
14 A. I could not.
15 Q. Okay. But it was Mr. Hawkins who had first
16 mentioned the same "Zak" to you as the shooter,
17 correct?
18 A. Yes.
19 Q. And then later you got corroborating
20 information from other sources that "Zak" was "Zak
21 Berry?"
22 A. Yes.
23 Q. And Zak Berry was the shooter?
24 A. Yes. But not one witness at the scene
25 could come forward and say, "Those two were the ones

Page 78

1 that did this to me," except the victim.
2 Q. So clearly the victim knew Ashley Bernard
3 Christmas?
4 A. Yes. He called him even by his moniker.
5 Q. Which was "Pooh Man?"
6 A. Yes.
7 Q. And then he identified the shooter as Zak,
8 who was "Little Pooh Man G?"
9 A. Yes. But of all the people there, not one
10 person came forward and said, "That guy was the
11 shooter, that guy was the one that assisted," except
12 the victim.
13 Q. Did you ever interview any of these people
14 that gave voluntary statements, that you believed
15 knew this information, but just did not put it
16 forward?
17 A. Yeah. I interviewed the victim's cousin.
18 I interviewed the victim's friend, Darrellonda
19 Peterson.
20 Q. Did they know who the shooter and the other
21 man were?
22 A. No. No, they didn't come forward.
23 Q. Did you ever find out if they had known who
24 they were, and they just refused to cooperate, as the
25 mother said?

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1 A. No.
2 Q. You didn't find out?
3 A. No.
4 Q. All right. Like I said, just because I ask
5 it doesn't mean that there's an answer to the
6 question.
7 Did Mr. Hawkins ever say that this
8 bad blood between them was related to the sale of an
9 Xbox 360?
10 A. I don't remember that, sir.
11 Q. So that's "no?"
12 A. That is "no."
13 Q. Hawkins never told you that there was bad
14 blood between he and Christmas due to the sale of an
15 Xbox 360?
16 A. No. That's, "No, I don't remember."
17 Q. I see. Okay. So as we sit here today, do
18 you remember anything about an Xbox 360?
19 A. I don't remember an Xbox 360.
20 Q. Okay. Now, Mr. Hawkins also told you that
21 Ashley Christmas and he went to school together,
22 correct?
23 A. Yes.
24 Q. And that that was Cheyenne High School?
25 A. Yes.

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1 Q. And that Mr. Hawkins was older than he?
2 A. Mr. Hawkins, yeah, was older. The two that
3 were involved were supposed to be two years younger
4 than him.
5 Q. Okay. Did Hawkins ever tell you that Zak
6 also went to Cheyenne High School, or did you not
7 find out where Zak went to school?
8 A. Let me double-check and look at my
9 paperwork.
10 I'm looking at the statement. I'm
11 not quite sure.
12 Q. Okay. Now, it was Mr. Hawkins that gave
13 you the name of Ashley Christmas as the real name of
14 Pooh Man, correct?
15 A. Yes.
16 Q. And then in his statement at page 7, in the
17 middle you asked him, "They ever call him other
18 things besides Pooh Man?" Menzie says, "Yeah, leave
19 that on." Hawkins answers, "PMG." Is that correct?
20 A. Yes.
21 Q. So that is a second moniker for Christmas?
22 A. Yes.
23 Q. Or is that for Berry?
24 A. No. "PMG," "Pooh Man Gangster." And then
25 Berry was "Little Pooh Man Gangster." They were

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1 close friends. They hung out with each other.
2 Q. Okay. Now, listening to both the
3 statement, and then the transcription of it -- and
4 you were there, so I want to ask you your
5 recollection.
6 At the bottom of page 7 and on to
7 page 8, Mr. Hawkins was saying that God was on his
8 side when it happened.
9 And then on page 8 he says, "I was
10 put on this earth for a reason, that's why I didn't
11 die. For a person to survive (inaudible) gun wounds,
12 you feel me?"
13 Do you recall what he told you?
14 Was he saying a number? Or ".45 gun wounds," or
15 what?
16 A. Either that, or he cursed. One or the
17 other. I don't remember.
18 Q. All right. And he says, "That's how the
19 little mother fucker probably got the gun
20 (inaudible.)"
21 Do you remember what he told you
22 about how he got the gun?
23 A. No. I don't remember.
24 Q. "But ya'll got my voice on, ah, this little
25 tape recorder, phone, whatever that shit is,"

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1 correct?
2 A. Yes.
3 Q. So that reaffirms the fact that he knew he
4 was being recorded when he gave you this statement?
5 A. Absolutely.
6 Q. Okay.
7 A. And he also said he wasn't willing to
8 testify.
9 Q. I want to ask you that.
10 You asked him if he would be
11 willing to go to court to prosecute, correct?
12 A. That is correct.
13 Q. What did he say?
14 A. He goes, "I don't want to go to no courts.
15 No court dates."
16 Q. And you told him it was the only way you
17 could prosecute.
18 There's an answer in there that
19 says "inaudible." Do you remember what he said to
20 you?
21 A. I don't remember what he said.
22 I told him, "Just so you know, you
23 may be required to go to court and testify." He
24 explained to me he has to live in Vegas, his family
25 is here, he lives here, and he said that's just

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1 not -- or he gave the impression that he was afraid
2 to go to court because he didn't want to leave his
3 family, in case these guys were going to come after
4 him again for retribution of testifying.
5 That's the impression I got, that
6 he was afraid.
7 Q. Okay. After he gave you this statement,
8 did he ever cooperate with you again in the
9 investigation?
10 A. No.
11 Q. Did you show him a lineup?
12 A. I did.
13 Q. And did he ask you to keep the photographs?
14 A. He tried, yes. I told him, "No."
15 Q. Who was in that lineup? Did you do one or
16 two lineups?
17 A. I believe I did two. One on Kincaid and
18 one for Ashley --
19 Q. -- Bernard Christmas?
20 A. Yes.
21 Q. Did he identify Kincaid?
22 A. No.
23 Q. How about Ashley Bernard Christmas? Did he
24 identify him?
25 A. Let me look at my case notes once more.

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1 Q. Sure. Yes.
2 A. So I did a photo lineup of Ashley Bernard
3 Christmas, where he positively identified Christmas
4 as the subject that started the argument with him and
5 said, "Get him, Zak."
6 Q. So this is the so-called second man?
7 A. Yes. And on a scale of 1 to 10, he said he
8 was positive out of 10 that Ashley Bernard Christmas
9 was there, and he said, "Get him Zak," and he started
10 to fight.
11 And then I did a photo lineup of
12 Dewayne Cornwell, and he couldn't identify him as
13 being there.
14 Q. Did he say whether he knew Dewayne
15 Cornwell?
16 A. I believe in a statement.
17 Q. He said that he was a known associate of
18 Zak?
19 A. Yeah, but he couldn't identify him as
20 actually being there during the shooting.
21 Q. So that's yes?
22 A. Yes.
23 Q. After he identified Ashley Bernard
24 Christmas, that's essentially when the interview
25 ended, correct?

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1 A. Yes.
2 Q. All right. Did you ever speak with
3 Mr. Hawkins again during the course of your
4 investigation?
5 A. Let's look. I believe I attempted to. Let
6 me double-check here.
7 I believe the victim did call and
8 ask for copies of his records. I told him he'd have
9 to go through "Records" for that. I don't believe
10 there is any other additional contact. No, not that
11 I see.
12 Q. You also received a call from the mother of
13 Keisha Love, who told you that her daughter would no
14 longer cooperate. Is that correct?
15 A. That is correct.
16 Q. In your notes you discuss Officer Ochoa of
17 North Las Vegas Police Department, that they were
18 going to do a search warrant on Ashley Christmas'
19 residence.
20 Do you know what that search
21 warrant was for?
22 A. You're going to have to talk to him. I
23 don't remember. He was a suspect in a robbery, per
24 my case notes.
25 Q. Did you ever meet with Christmas to

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1 question him about the shooting?
2 A. No. I was not able to locate him. Even if
3 they did, I didn't have any witnesses, including the
4 victim wasn't willing to prosecute.
5 So my biggest thing was I needed
6 more witnesses. We had supposedly over 15 to 20
7 people that were there when it took place, and not
8 one of them came forward, even when I went back and
9 checked the CAD through 911 dispatch. Not one person
10 can say, "Yup, I saw him. He's the one that did it,"
11 out of all the people there.
12 And in order to put a case
13 together, you kind of need the victim's cooperation.
14 Otherwise you're looking at state charges, and state
15 charges are very limited. You still need witnesses
16 for that, too, unless the suspects were going to tell
17 me, "Yeah, I did it. I did it."
18 Q. Which is doubtful.
19 A. It's limited.
20 Q. Was it your intent to follow up to show a
21 photographic lineup to Mr. Hawkins of Zacharias
22 Berry?
23 A. Yes, it was, but he wasn't cooperative.
24 And the fact that he was telling
25 me he wasn't willing to go to court, and he never

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1 called me back saying, "Hey, I want to cooperate
2 now," my biggest asset was going toward all the
3 witnesses. If I can get other witnesses, then I can
4 put a case together. But if the victim is not
5 cooperating, then no.
6 Q. So it appears as though through your
7 investigation you were able to identify Christmas as
8 the second man, Berry as the shooter, the car may
9 have belonged to Cornwell; but then everybody who was
10 a witness -- both the victim and the percipient
11 witnesses -- refused to further cooperate?
12 A. Yes.
13 Q. Have you worked cases like this before?
14 A. Yes. In gangs, all the time.
15 Q. And then you would also learn that the
16 Christmas and Cornwell families had gone to UMC to
17 intimidate the Hawkins family?
18 A. Yes.
19 Q. That they would not cooperate in the
20 investigation?
21 A. They were trying to intimidate them, yes.
22 Q. Is that when the cooperation ceased?
23 A. No. I think the cooperation was starting
24 to not happen as soon as officers showed up on the
25 scene.

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1 Even in the incident crime report,
2 the officer that wrote the report was saying that the
3 people were saying, "Don't talk to the police. Don't
4 talk to the police."
5 Q. But Hawkins did in his statement give you
6 the clues that ultimately made you able to identify
7 Christmas as the second man, and Berry as the
8 shooter?
9 A. Absolutely. He did. But if I'm going to
10 show you a photo lineup, you've still got to be able
11 to identify and you've still got to be able to go to
12 court. He wasn't willing to do that.
13 Q. So you had the shooter and the second man
14 identified. He identified the second man, and then
15 you would have wanted to show him a lineup of Berry,
16 the shooter, and that's when Mr. Hawkins would not
17 cooperate?
18 A. Yes. And furthermore, when I turned off
19 the tape Mr. Hawkins said, "I'm not going to help you
20 do your job."
21 Q. Did you ask him what he meant by that?
22 A. I told him, "You're the victim. You're the
23 victim. I'm here to help you." He goes, "I'm not
24 going to help you do your job. You should know
25 this."

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1 Q. Should know what?

2 A. I should already know this. I should

3 already have the suspect in custody. I should be

4 doing this. And that was after the tape was turned

5 off.

6 Q. Detective Menzie heard that?

7 A. He was with me. I don't know if he heard

8 it. Hopefully he heard it, but yes, he was right

9 there. In fact, Menzie and I talked about it

10 afterwards.

11 Q. What did you discuss?

12 A. We were a little disgusted with the fact

13 that the victim of a serious shooting, where he may

14 die, was not willing to help us out in his own case.

15 Q. Did you ask him -- whether on the record or

16 off -- did he not want to cooperate because he didn't

17 want to be a rat, or he was afraid of retaliation, or

18 a combination of both?

19 A. You're going to have to ask him that. I

20 don't know. I didn't ask him that.

21 The impression I got was that he

22 was afraid, because he said he didn't want to leave

23 town. He didn't want to leave Vegas.

24 So if he had to go to court and

25 testify against these people, he would probably have

Page 90

1 to leave town, because there would be retribution.

2 That's the impression I got. Did

3 he verbally tell me that? No. That's the impression

4 I got.

5 Q. And that was during the course of the

6 statement when you asked him if he was willing to go

7 to court and testify?

8 A. Yes.

9 Q. You also took a voluntary statement from

10 Keisha Love, correct?

11 A. She wrote one out, and then she also did an

12 audio statement.

13 Q. And again, these are the transcriptions of

14 those recorded statements that you took, correct?

15 A. That's correct.

16 Q. And the witness Darrellonda Peterson told

17 you that she could not identify the shooter, correct?

18 You showed her a photographic lineup?

19 A. Let's look. What page are you looking at?

20 Q. I was looking at page 4, I believe. No,

21 I'm sorry, 5. She couldn't ID the shooter, but she

22 did ID somebody.

23 A. She goes, "I didn't see his face." She

24 said Christmas was there, but she wasn't sure if he

25 was the shooter or not.

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1 Q. So she didn't know who was holding the gun?

2 A. Correct. She said he was there.

3 Q. So number 4 was Ashley Bernard Christmas?

4 A. Yes.

5 Q. Based on the interview with Hawkins and the

6 interview with Peterson, if you could have located

7 Christmas, did you have enough probable cause for an

8 arrest warrant?

9 A. For Christmas?

10 Q. Yes.

11 A. All I got was Christmas being there. I

12 couldn't put him with the gun in his hand.

13 Q. What about the, "Get him, Zak?"

14 A. My personal feeling about that? How many

15 people are also named "Zak" -- "Zak Berry." You

16 would want the right person arrested.

17 Q. Oh, absolutely.

18 A. If there's more than one Zak Berry, I'd

19 like to be 100 percent sure, "Is this the person that

20 did this?" Because I'm taking his rights away and

21 I'm putting him in jail.

22 Q. Absolutely.

23 A. So did I have probable cause at that point?

24 No. I wanted to be 100 percent sure.

25 Q. So you did get subsequent information from

Page 92

1 Patrick Fleming, but this is third-hand?

2 A. Third-hand.

3 Q. So you had enough information to clearly

4 identify Ashley Bernard Christmas as the second man,

5 but nobody would absolutely identify Zak Berry as the

6 shooter?

7 A. Such as eyewitnesses, and victim

8 cooperation.

9 Q. But you did have circumstantial evidence

10 that Zak Berry was the shooter?

11 A. I did, but it was through a third-party.

12 Q. Not enough to prosecute?

13 A. No.

14 Q. Is that correct?

15 A. That's correct.

16 Q. And you gained that information from the

17 clues that were given to you by Hawkins during the

18 course of his statement?

19 A. Yes.

20 Q. And then they were corroborated by his

21 uncle, and other parties?

22 A. Yes.

23 Q. Before the investigation ended due to

24 noncooperation, had you, based upon your past

25 experiences, gathered enough information that you

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1 felt as though you were going to be able to get the
2 shooter and the second man, if it progressed the way
3 it was progressing?
4 A. If the victim was willing to cooperate, and
5 if we were able to get witnesses that wanted to come
6 forward and give their testimony and statement,
7 absolutely. We had what we needed. But we didn't
8 get that.
9 And I ultimately gave it to the
10 FBI Gang Task Force, where they tried to follow up
11 using resources they had.
12 Q. Did you ever speak to any of the FBI Gang
13 Task Force investigators about this case?
14 A. Since when? Since when I first gave them
15 the case file?
16 Q. When you shut down yours and you turned it
17 over to them.
18 A. They took my case file, and I have not seen
19 or talked to them since.
20 Q. So you don't know what follow-up, if any,
21 was done by them?
22 A. They did not put any case notes in.
23 Q. Did you check to see?
24 A. Recently?
25 Q. No, I mean after you turned it over.

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1 A. The case notes that I gave you, that I
2 printed out, is the only case notes. The last one
3 was me saying that I handed this case over to FBI
4 Task Force, Detective Leneve. That was the last case
5 note.
6 Q. So as far as you could tell from the
7 documentation, did Leneve ever do any follow-up?
8 A. Not in case notes. I don't know.
9 Q. Is it the procedure that if you do
10 follow-up, you put them into the case notes?
11 A. For situations like this?
12 Q. An attempted murder, a very serious crime.
13 A. Yes, absolutely. But if he did anything,
14 he didn't put it in here.
15 Q. Did you ever speak to Leneve to see what
16 efforts he had made?
17 A. I did not.
18 Q. Is he still with the gang task force?
19 A. I don't know.
20 Q. We would have to go through the personnel
21 department to get him subpoenaed?
22 A. That is correct. I don't know where he's
23 at.
24 Q. All right. Other than the information
25 that's contained in these records that you have

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1 brought today, do you have any other information, no
2 matter how you learned it, about the investigation
3 into the shooting of X'Zavion Hawkins, that we have
4 not discussed?
5 A. Not that I can think of.
6 Q. I may have some follow-ups later, but as it
7 stands, my direct questioning is over. I thank you
8 very much.
9 (Recess.)
10
11 EXAMINATION
12 BY MS. RENWICK:
13 Q. I just have a couple of follow-ups.
14 Detective Majors, you'll recall my
15 name is Charlene Renwick, and I represent GGP Meadows
16 Mall in this matter, in addition to Mydatt Security
17 Services and Mark Warner, who have been named as
18 defendants.
19 I believe you testified earlier
20 that you have no recollection of Mr. Hawkins telling
21 you that he had been shouting or yelling for
22 security, prior to him being shot?
23 A. That's correct.
24 Q. Do you recall him ever telling you that
25 prior to being shot he was looking around the area

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1 for security?
2 A. I don't remember that.
3 Q. Do you recall whether he told you that he
4 had yelled out for someone around him to call for
5 security, before being shot?
6 A. I don't remember that.
7 Q. In any of your discussions with Mr. Hawkins
8 did he ever tell you that Pooh Man was somebody that
9 he traded video games with in school?
10 A. I don't remember that.
11 Q. Do you recall him telling you that Ashley
12 Christmas was somebody that he traded video games
13 with?
14 A. I don't remember that either.
15 Q. Do you remember any discussion about video
16 games whatsoever with Mr. Hawkins?
17 A. No.
18 Q. Do you ever recall Mr. Hawkins telling you
19 that either Pooh Man or Ashley Christmas owed him
20 \$150?
21 A. No. I remember him saying that he was
22 robbed for some money. I don't remember anything
23 about him owing, or them owing him, no.
24 MS. RENWICK: That's all I have right
25 now, but I reserve my right to follow up.

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1 EXAMINATION
2 BY MR. CHURCHILL:
3 Q. Good morning, Officer Majors.
4 To begin with, I've got some
5 follow-ups, and then I've got a whole other line of
6 questioning.
7 But to begin with, referring to
8 page 8 of 9 of X'Zavion Hawkins' Voluntary
9 Statement -- do you have that in front of you?
10 A. Okay.
11 Q. Now, the question is, I believe you asked a
12 question that says, "With that being said, you do
13 want to prosecute, correct?" And it appears
14 X'Zavion's response is, "I do." Right? Do you see
15 that?
16 A. But read the rest of the statement.
17 Q. I understand. But his first response is,
18 "I do." He wants to prosecute?
19 A. Correct.
20 Q. And then he goes on to say, "But I don't
21 want no court dates," and then (inaudible.) And then
22 there is a discussion, "That's the only way we can
23 prosecute."
24 And then there's the discussion of
25 X'Zavion saying, "I can't leave Las Vegas. Vegas is

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1 my home." Detective Menzie says, "Okay. You're
2 scared."
3 And X'Zavion goes on to explain,
4 "See, that's what you don't get. With a person, you
5 come to a person, and knowing people and all that
6 extra stuff, that's what you don't get, like" -- and
7 then there's the discussion again, "You're scared of
8 this guy or somebody he knows."
9 What I want to direct your
10 attention to is the next statement -- or the
11 statement by X'Zavion Hawkins where he says, "Yeah,
12 we is, we is -- I'm not getting mad, I'm not getting
13 upset, but you know, my blood pressure, all that
14 stuff is messed up. My body is fucked up, and all I
15 want is him off the street."
16 Do you see that?
17 A. I do.
18 Q. So after all this discussion about him
19 being scared, it appears that X'Zavion's last comment
20 on the issue is, "All I want is him off the street."
21 Is that correct?
22 A. That's what he said, yeah.
23 Q. Okay. And then I don't see anything after
24 that where X'Zavion specifically states, "I don't
25 want to prosecute this." Is that in here?

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1 A. That "I don't want to prosecute?"
2 Q. Yeah.
3 A. No. It says, "I do, but I don't want no
4 court dates." And I told him, "If you want to
5 prosecute, you're going to have to go to court."
6 Q. "You may have to go to court."
7 A. Yes. But since that conversation, he
8 didn't call me. You know, he wasn't willing to
9 prosecute.
10 When we turned the recorder off,
11 that's when he said, "I'm not going to help you do
12 your job." And he said it in a brash way. Like he
13 was kind of cocky, in a manner.
14 And yeah, he just got shot; yes,
15 he's in intensive care. But enough to tell me that
16 he doesn't want to go forward on charges. And that
17 was off the recorder, okay?
18 I don't know what to tell you.
19 That's what he said. And it says it right there. I
20 mean he knows the guys who did this, but he has yet
21 to ever reach out to me saying, "Hey, what's going on
22 with my case?" The only time he's ever called me
23 since then is, "Can you give me a copy of my report?"
24 Q. So there's nothing on the record with
25 X'Zavion Hawkins saying, "I don't want to prosecute?"

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1 A. Right. But if you look at the stuff he
2 does say, he's hinting to the fact that he does not
3 want to go to court. And if you want to go to court,
4 that's one of the ways we need you. We need you to
5 cooperate.
6 Q. Okay. And I'm not going off of what is
7 actually said.
8 The question is, "You do want to
9 prosecute?" His response is, "I do, but I don't want
10 to go to court."
11 I'm sure that's a probably fairly
12 common response from victims. They don't want to go
13 to court. That doesn't necessarily mean they're
14 going to have to go to court in every case, but it's
15 probably a common response, that people don't want to
16 go to court.
17 A. Okay.
18 Q. Do you agree with that?
19 A. So how do we go to court without the
20 victim's cooperation?
21 Q. Well, he says, "I don't want to go to
22 court." But I don't see him anywhere in here saying,
23 "I'll never go to court," or, "I don't want to
24 prosecute this matter."
25 A. "I do, but I don't want no court dates."

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1 How else would we take this case to court?
2 Q. At the very end he also comes up and says,
3 "All I want is him off the street."
4 A. In order to get him off the street, I need
5 the victim's cooperation.
6 Q. But what I'm just trying to figure out
7 right now, is there anywhere on the record where he
8 says, "I don't want to prosecute?" Because here he
9 says, "I do."
10 A. From what it states right there, no. But I
11 mean you could look at this and you could read it and
12 make your own interpretation.
13 But when you ask the victim, "Who
14 is the person that did this to you," and you're
15 willing to show him photo lineups, and they don't
16 want to cooperate and they don't call you back, and
17 the only time they do call is if they want a copy of
18 their reports -- how else would you take this to
19 court, without the victim's cooperation?
20 Q. Has X'Zavion's father been in contact with
21 you?
22 A. What is X'Zavion's father's name?
23 Q. To be honest, I don't even know.
24 A. You and me both.
25 Q. Has anybody from X'Zavion's family been in

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1 contact with you regarding following up on this case?
2 A. I put in my case notes that his mother
3 called, and then his girlfriend called. But they
4 didn't ask for follow-up.
5 Well, they did ask for follow-up,
6 and I told him because he's an adult I can't give out
7 that information. And then they wanted a copy of the
8 report.
9 And his girlfriend refused to
10 identify herself. She just said, "I'm X'Zavion's
11 girlfriend."
12 Q. When you're meeting with X'Zavion, this is
13 in the ICU unit, correct?
14 A. Yes.
15 Q. And this recorded statement and photo
16 lineup -- this is all in the ICU?
17 A. It is, sir.
18 Q. And how many times was X'Zavion shot?
19 A. It's 2013. That shooting? I don't
20 remember.
21 Q. Multiple times?
22 A. Multiple times, it's fair to say. I
23 believe one in the ankle, leg, and stomach.
24 Q. It left him paralyzed as a result of the
25 shooting?

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1 A. I heard that later, yes.
2 Q. Are you aware of what medications
3 Mr. Hawkins was on at this time?
4 A. I'm not a doctor, sir.
5 Q. It's fair, you would assume with him being
6 in ICU with multiple gunshot wounds, paralyzed as a
7 result of the accident, that he's probably on some
8 pretty substantial meds?
9 MR. AICKLEN: Objection to
10 characterizing it as an "accident."
11 THE WITNESS: Yeah. You're going to
12 have to talk to him. I don't know. I'm not a
13 doctor. I can't comment on that.
14 MS. RENWICK: I'd like to insert a
15 belated objection that it calls for speculation.
16 BY MR. CHURCHILL:
17 Q. That would be a reasonable assumption on
18 your part though?
19 A. I don't know, sir.
20 Q. After you take the recorded statement, when
21 is the next time you attempted to contact X'Zavion
22 Hawkins?
23 A. The exact date and time I don't remember.
24 Q. That's not in your notes?
25 A. No. The fact when he said, "I'm not going

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1 to help you do your job," and the only time he called
2 since then was to get a copy of the report -- I don't
3 remember. I do remember contacting him. I don't
4 have the exact date and time.
5 Q. And just to be clear, when you attempted to
6 contact him again, that is not in your case notes?
7 A. That is not in my case notes.
8 Q. Going back to the meeting that you had with
9 Mr. Aicklen and Ms. Renwick, what date did that
10 occur?
11 A. I don't remember, sir.
12 Q. Was it within the last month?
13 A. Yeah, it was last month. I believe so.
14 Q. Was it in February or January?
15 A. I don't remember, sir.
16 MS. RENWICK: Would you like the date?
17 MR. CHURCHILL: Yes.
18 MS. RENWICK: January 20th.
19 BY MR. CHURCHILL:
20 Q. Sir, I believe you previously had your
21 deposition scheduled for February 8th, is that
22 correct?
23 A. I believe so, yeah.
24 Q. Why was your deposition --
25 MR. AICKLEN: That's wrong. I'm sorry,

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1 it was February 18th.
2 BY MR. CHURCHILL:
3 Q. February 18th at 9:00 a.m.
4 Why was your deposition unable to
5 go forward on February 18th?
6 A. I was taking a counter-terrorism class that
7 I put in for three months in advance, and I finally
8 got into the class and I really wanted to take it. I
9 double-booked.
10 Q. January 28th you had indicated certain
11 documents that you gave the defense counsel in this
12 case, and there are additional documents that are
13 here today that were not given to them. Is that
14 correct?
15 A. I believe so, yeah.
16 Q. Did they have the chance to review those
17 documents at that time?
18 A. Which documents? The ones here today?
19 Q. The ones that are here today. Obviously
20 the ones that you gave them, they had a chance to
21 review.
22 A. Did they review the ones from today?
23 Q. Yes.
24 A. I just handed it to them. You can ask them
25 if they reviewed it. I don't know if they reviewed

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1 it.
2 Q. But you did hand it to them?
3 A. You were here. Yes.
4 Q. I'm talking about on January 28th.
5 A. Oh, on January 28th? Yes, we all went over
6 it. We sat down and we talked about it.
7 Q. Okay.
8 MR. AICKLEN: Just to clarify, you
9 identified the documents we talked about?
10 THE WITNESS: Yes.
11 MR. AICKLEN: And then there were
12 additional documents that we did not see, correct?
13 THE WITNESS: That is correct.
14 MR. AICKLEN: And you listed those out?
15 THE WITNESS: Yes. We talked about
16 them at the very beginning of this.
17 MR. AICKLEN: Thank you.
18 BY MR. CHURCHILL:
19 Q. Here's the question that I have for you.
20 The documents that are new to us
21 today -- you had those with you at the meeting,
22 didn't you?
23 A. No.
24 Q. Did you discuss those things?
25 A. You know, we're talking about a lot of

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1 documents. Can you be specific? What are we talking
2 about here?
3 Q. Well, like for example, there was a
4 deposition last week where Mr. Aicklen knew the
5 identity of the owner of the Dodge Charger, for
6 example. Obviously that had to come up in your
7 meeting, but that's not in any of the documents that
8 you gave them at that time.
9 MR. AICKLEN: Incorrect. Look at the
10 documents.
11 THE WITNESS: It's from my case notes.
12 And I can tell you which page of my case notes, if
13 you'd like.
14 BY MR. CHURCHILL:
15 Q. Yes.
16 A. So page 1 of 1 of creation date 9/6/2013,
17 the time is 3:28 p.m.
18 "Received information from a
19 citizen source that Mary Cromwell's gray Charger was
20 used during the shooting. Records check on Cromwell
21 showed that she has a 2010 Dodge Charger registered
22 to her with a Nevada plate of 487YSS to the address
23 of 9140 Patrick Henry Avenue, Las Vegas, Nevada,
24 89149. Last address was 441 Kings Avenue, North Las
25 Vegas, 89030. I am unable to confirm that this

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1 vehicle was used, due to only witness, Keisha Love,
2 that saw the vehicle, is no longer cooperating."
3 Q. And here's my question. That particular
4 case note -- did you provide that to Mr. Aicklen at
5 that time?
6 A. Yeah, I believe I did.
7 Q. According to Mr. Aicklen's production of
8 documents, he's identified six documents that he
9 received from you at that time, and I'll go through
10 those with you. The first one is the transcript of
11 "Recorded Voluntary Statement of X'Zavion Hawkins."
12 I think you acknowledged you did
13 provide that at that meeting, correct?
14 A. I did.
15 Q. The second one is the transcript of
16 "Recorded Voluntary Statement of Darrellonda
17 Peterson." I think you acknowledged earlier today
18 you did provide him that?
19 A. I did.
20 Q. He provided the transcript of "Recorded
21 Voluntary Statement of Keisha Love." I believe
22 that's one of the documents that you have identified
23 previously?
24 A. Yes.
25 Q. The next is the compact disk containing

<p style="text-align: right;">Page 109</p> <p>1 audio recorded statement of X'Zavlon Hawkins, 2 correct? 3 A. Yes. 4 Q. The compact disk containing audio recorded 5 statement of Darrellonda Peterson? 6 A. Okay. 7 Q. Is that a yes? 8 A. Yes. 9 Q. Okay. That was provided. 10 And then the compact disk 11 containing audio recorded statement of Keisha Love, 12 correct? 13 A. Yes. 14 Q. Okay. Mr. Aicklen has not provided any of 15 your detective notes. But to be clear, those 16 detective notes were given to Mr. Aicklen at that 17 meeting? 18 A. Yes. 19 Q. Were all your detective notes provided to 20 Mr. Aicklen at the meeting? 21 A. All the ones that I had, yes. 22 Q. All right. I'd like to switch gears for a 23 second. 24 Regarding your investigation in 25 this case, what was the scope of your investigation?</p>	<p style="text-align: right;">Page 111</p> <p>1 together is we have detectives that go to the scene, 2 process the scene, while we have detectives at the 3 same time process the victim and the victim's 4 injuries. 5 So I went to the hospital. I did 6 not go to the scene. We already had detectives there 7 that worked the scene. 8 Q. How many times did you go to the hospital 9 total, to meet with Mr. Hawkins? 10 A. At least three times. It may have been 11 more. It was in 2013. I don't have an exact number. 12 Q. Is that consistent with what your case 13 notes indicate? 14 A. Well, no. There's a case note -- I did put 15 in there that I tried to make contact with him, and 16 he wasn't cooperative, as we already discussed. But 17 for the most part my case notes are accurate. 18 MR. AICKLEN: Mr. Churchill, may I ask 19 a favor? I have to leave, and my associate is going 20 to take over from here. 21 May I ask one question, just to 22 clear something up? 23 MR. CHURCHILL: Sure. 24 MR. AICKLEN: Thank you. 25</p>
<p style="text-align: right;">Page 110</p> <p>1 A. The scope, as far as what? The victim, 2 the -- 3 Q. All of it. 4 A. We had a victim that was shot numerous 5 times at a sneaker release at a major mall at 4:00 6 o'clock in the morning, and the victim was listed in 7 critical condition. 8 I went to the hospital with 9 Detective Menzie, and officers went to the scene. 10 They started working the scene. Crime scene analysts 11 showed up and documented the scene, as you'll note in 12 the reports. 13 I went to the hospital. We had 14 crime scene go to the hospital to document his wounds 15 and stuff. Pictures were taken. 16 I believe they couldn't take 17 pictures at the very beginning, because he was being 18 worked on. I couldn't get a statement from him, but 19 there were people at the scene that were willing to 20 talk to me. 21 Q. Did you ever go to the scene of the 22 accident? 23 A. As I said before, we work in a team. We 24 talked about this off the record. 25 The way to put these cases</p>	<p style="text-align: right;">Page 112</p> <p>1 FURTHER EXAMINATION 2 BY MR. AICKLEN: 3 Q. Detective, Mr. Churchill asked you about 4 the materials that you turned over to me, and you 5 turned over to me the transcription and the audio 6 recording of Mr. Hawkins? 7 A. Yes. 8 Q. And the transcription and the audio 9 recording of Darrellonda Peterson? 10 A. Yes. 11 Q. And the transcription and the audio 12 recording of Keisha Love? 13 A. Yes. 14 Q. You had your notes with you at our meeting, 15 correct? 16 A. We went over my case notes together. 17 Q. And you had them with you, correct? 18 A. Yes. 19 Q. Okay. This is my question. 20 Did you provide me a copy of 21 those, or did you tell me that you could not let them 22 go, that you would bring them to a deposition? 23 A. I do remember having that conversation. I 24 do remember you saying that. 25 Q. I asked for a copy, and you said you would</p>

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1 produce them at the deposition?

2 A. Okay. Yes, you did say that. That's true.

3 Q. I just want to make that clear, because I

4 want on the record that everything that was produced

5 to me and Ms. Renwick at our meeting, was produced to

6 Jolene and Mr. Churchill.

7 You're telling this under oath,

8 sir, correct?

9 A. Yes, sir. I do remember you and I having

10 that conversation.

11 Q. I asked you for the notes. I said, "Can I

12 get a copy of the notes?" And you said --

13 A. "Yes."

14 Q. When did you say you would produce them?

15 A. When I got here, because some of the stuff

16 I wasn't able to pull up.

17 MR. AICKLEN: Thank you very much.

18 MR. CHURCHILL: Let me go back then.

19 MR. AICKLEN: I needed to clear that

20 up.

21 THE WITNESS: You know, there's a lot

22 of stuff here. I wish I could remember everything.

23 MR. AICKLEN: Understood. But

24 clearly -- and I want to put this on the record as

25 well -- these plaintiff's counsels are going to say

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1 that I lied and hid evidence.

2 THE WITNESS: No, no.

3 MR. AICKLEN: And I want it clear on

4 the record that I did not do such a thing.

5 THE WITNESS: I understand.

6 MR. AICKLEN: Okay. Thank you.

7

8 FURTHER EXAMINATION

9 BY MR. CHURCHILL:

10 Q. So going back then to my line of

11 questioning, what I said was, it was obvious to me

12 that Mr. Aicklen had additional information that was

13 not in what was given to him at that time, that were

14 reflected in your case notes.

15 So at the meeting with Mr. Aicklen

16 you went through your case notes?

17 A. Yes. I went through my case notes, and

18 probably the proper answer to that question should

19 have been, "I don't remember."

20 There's a lot of stuff in cases I

21 have in my queue at any one given time, and it is

22 possible that I forgot that I kept some of the stuff

23 with me. That is feasible. That is reasonable to

24 say.

25 Q. Okay. It's also reasonable to say that

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1 it's clear that you guys in this meeting did go

2 through your case notes?

3 A. Yes, we did.

4 Q. How long did the meeting last,

5 approximately?

6 A. With X'Zavion Hawkins?

7 Q. No, with defense counsel in this case.

8 A. I don't remember. I didn't have a watch

9 on.

10 Q. Was it more than an hour?

11 A. I don't remember.

12 Q. More than half an hour?

13 A. Asked and answered. I don't remember.

14 Q. I understand that you may not have an exact

15 recollection.

16 A. Well, that's what we're dealing with is

17 exact stuff, it seems. Because instead of focusing

18 on the victim and his injuries, we're focusing on

19 petty stuff.

20 To me it is. Because I represent

21 trying to get the truth, and trying to get the bad

22 guys in jail, not who did what with what evidence at

23 what time.

24 I mean it's a little frustrating

25 on this end, sir.

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1 Q. I understand. On our end, it's important

2 stuff. For you, I understand that it's not what --

3 A. I don't remember.

4 Q. And I think maybe I should just say that we

5 are entitled to your best estimate.

6 A. Yeah. And my best estimate is, I don't

7 remember.

8 Q. Okay. Did you review any of the accident

9 photos?

10 A. In 2013, I sure did.

11 Q. Okay. I just want to show you a couple of

12 the photos and see if you have an explanation for

13 them.

14 The first photo that I want to

15 show you is Bates stamped PL 05042, and I think

16 what's being depicted in the photograph, or what's of

17 interest in that particular photograph is the Snapple

18 wrapper. Do you see that?

19 A. I do.

20 Q. And then you see that there's a bench near

21 the Snapple wrapper?

22 A. Okay.

23 Q. You can see that there's glass shards

24 around the Snapple wrapper. Do you see that?

25 A. I do.

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1 Q. And then there's desert landscaping behind
2 the bench. And if you go all the way to the end of
3 the other side of the desert landscaping, you can see
4 X'Zavion Hawkins' clothes and the blood.
5 Do you see that?
6 A. I do, sir.
7 Q. Do you have an explanation as to how the
8 Snapple bottle arrived south of where Mr. Hawkins'
9 body is ultimately found?
10 A. Well, due to the fact that I wasn't there
11 at the scene, it could be a number of reasons.
12 For one, when the bottle was
13 thrown, there was a lot of people. It could be
14 kicked around. I don't know.
15 After the victim got into a fight,
16 he could have ran over to this location after he was
17 already shot. I don't know. I don't have an answer
18 for that. I wasn't there at the scene.
19 And the video shows from a
20 distance, everybody leaving once the gun fire
21 started, and everybody dispersed in different
22 directions.
23 So it could have been kicked
24 around. I don't know. That's something the victim
25 would probably have to tell you.

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1 Q. Based on your understanding of the
2 incident, it does appear that if X'Zavion Hawkins
3 threw that bottle, he needed to throw it in a
4 southerly direction?
5 MR. ROSENTHAL: Calls for speculation.
6 THE WITNESS: Yeah. I don't know, sir.
7 You should ask him. I wasn't there.
8 BY MR. CHURCHILL:
9 Q. And then I want to show you a photograph
10 that has been Bates stamped PL 5000.
11 Have you seen this photograph
12 before, sir?
13 A. I believe in 2013 I did.
14 Q. One appears to represent where the first
15 bullet casing was found. Is that your understanding
16 as well?
17 A. Okay.
18 Q. In this particular photograph you can see
19 that there appears to be a bullet found, represented
20 by the number 1. There appears to be some blood
21 spatter, and then ultimately Mr. Hawkins --
22 A. That would be a blood trail.
23 Q. And that's what I wanted to ask you about
24 -- the blood trail.
25 A. That's not spatter. That's a trail.

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1 That's drops going vertically completely down, and
2 making a circle.
3 Q. Okay. And that's exactly what I wanted to
4 ask you. How do you interpret that blood trail?
5 A. Well, you're talking about expert testimony
6 that I don't have. I'm not a blood spatter
7 technician/expert.
8 From being on scenes like this, it
9 look like a trail. It looks like somebody trying to
10 get away, and ultimately falling down right here
11 where you see a pool of blood.
12 That's my opinion. I'm not an
13 expert.
14 Q. I understand. Would it appear that Mr.
15 Hawkins was ambulatory after the first shot that's
16 creating the blood trail? Can you tell?
17 A. Possibly.
18 Q. You don't know?
19 MS. RENWICK: Objection. Calls for
20 speculation.
21 THE WITNESS: Yeah, I'm not an expert.
22 BY MR. CHURCHILL:
23 Q. Understood. Was any consideration ever
24 given to charging Mr. Hawkins with a crime?
25 A. Charging Mr. Hawkins?

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1 Q. Yeah.
2 A. Based on what?
3 Q. I'm just asking.
4 A. No. Based on what?
5 Q. So the answer is "no?"
6 A. "No." Based on what?
7 Q. If Mr. Hawkins is the gentleman that threw
8 the Snapple bottle, did you consider that to be an
9 act of self-defense?
10 A. Possibly. He's the victim.
11 Q. Do you have an understanding as to what
12 triggered the throwing of the bottle?
13 MR. ROSENTHAL: Objection. Calls for
14 speculation.
15 THE WITNESS: He told me in an
16 interview he was arguing, and the argument turned
17 into a fist-fight, and the bottle was thrown.
18 BY MR. CHURCHILL:
19 Q. I understand that you have quite a bit of
20 experience with the gang unit, and I understand that
21 that has changed, but you're still involved -- maybe
22 not as much as before, but you're still involved in
23 investigating gang crimes, and things of that nature?
24 A. We investigate everything. We don't
25 specialize anymore. We used to specialize. We're no

Page 121

1 longer specialists. We do everything.
2 Q. Based on your history as a detective, and
3 throughout your career as a police officer, how
4 familiar are you with the Meadows Mall?
5 A. I was born and raised here. I know the
6 Meadows Mall.
7 Q. How about investigating crimes at the
8 Meadows Mall?
9 A. I don't know quite what -- have I
10 investigated crimes before?
11 Q. At the Meadows Mall.
12 A. Yes.
13 Q. Do you consider the Meadows Mall to be in a
14 high crime zone or area?
15 A. The area isn't a high crime zone. It's the
16 people who go there. I think -- I mean you're asking
17 my personal opinion, is that correct?
18 Q. Yeah.
19 A. My personal opinion is the Nike shoe
20 release is kind of a high crime -- it brings these
21 elements together. You have people who don't get
22 along with each other waiting in the same line,
23 trying to get the same item, and it brings up
24 old-fueled conflicts. That's my opinion.
25 Q. How familiar are you with these Nike shoe

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1 releases bringing conflict?
2 A. I don't keep up with that.
3 Q. It's something that you're obviously aware
4 of.
5 A. (No response.)
6 Q. I mean you brought it up.
7 A. The players in this incident were people
8 from North Las Vegas, the west side.
9 And a lot of people in that area
10 when they get together, whether it be house parties,
11 homecomings, school --
12 Q. Canyon Springs, Cimarron, Centennial?
13 A. -- a lot of them don't get along with each
14 other. So when you put any of these elements
15 together in a place where everybody wants
16 something -- everybody want to go to a certain
17 concert, everybody want to -- you're going to have
18 conflict. I mean you can have the same type of
19 conflict at a Snoop Dogg concert.
20 Q. Sure.
21 A. It's just you bring the elements together,
22 they don't get along, and something is going to
23 happen.
24 Q. You're the one that specifically brought up
25 the Nike shoe releases as being an area of conflict.

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1 A. Right.
2 Q. Is that something that is well-known?
3 A. I don't think it's well-known. I'm just
4 saying, the people who attend those tend to not get
5 along with each other.
6 Q. Let me ask it this way.
7 In your field of work, and just
8 as, for example, the management of the mall, that's
9 something that is known, that at these shoe releases
10 you're bringing elements of people together that
11 quite often have conflict?
12 MS. RENWICK: Objection. Calls for
13 speculation.
14 MR. ROSENTHAL: Join.
15 THE WITNESS: My opinion is you can
16 have a "My Little Pony" release, and people that
17 attend those aren't going to get into fist-fights.
18 But you take maybe a Snoop Dogg
19 concert, and you've got people who listen to that
20 music, that like that type of music, and often don't
21 get along with other people.
22 That's where I think the key is.
23 It's not the location. It's the people who attend
24 those functions.
25

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1 BY MR. CHURCHILL:
2 Q. And I guess what I'm just trying to figure
3 out is, is it well-known that the people that attend
4 these --
5 A. I don't know. I just know because I've
6 investigated this case. This was my case.
7 Q. Are you aware that over the past five years
8 there have been literally hundreds of violent crimes
9 that have occurred at the mall, and the surrounding
10 area?
11 MR. ROSENTHAL: Objection. Vague.
12 THE WITNESS: Possibly.
13 BY MR. CHURCHILL:
14 Q. I mean is that something that you're aware
15 of?
16 A. When we get our cases, we don't get our
17 cases to areas. Now we do, but before it was random.
18 It's like whoever is next on the list.
19 So I don't know of the other
20 violent crimes. I'm sure there was. You've got
21 Western right across the way, and some of the biggest
22 gang-bangers go to Western. They're in the same
23 area. And you're got the mall where kids like to
24 hang out. They go to the mall. It's right across
25 the way from the freeway.

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1 Q. Do you have an understanding or an idea as
2 to why the Meadows Mall area seems to be kind of a
3 magnet for these violent crimes?
4 A. I think just from what I just told.
5 Q. The proximity to Western?
6 A. The proximity to Western High School. A
7 lot of kids go to high school. They're getting off.
8 They're going home. They've got the mall right
9 there. Why not stop by, get something to drink, hang
10 out at the food court? Yeah.
11 Q. Based on your investigation, were you able
12 to determine on the early morning night that this
13 incident took place, how many security guards the
14 mall had on duty?
15 A. I do not know that.
16 Q. Do you know how long it took the mall
17 security to respond to the event?
18 A. I don't know that. I believe mall security
19 is unarmed.
20 Q. Do you have an understanding as to why the
21 mall did not have any security guard actively
22 monitoring the crowd?
23 MR. ROSENTHAL: Objection. Calls for
24 speculation.
25 MS. RENWICK: Join.

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1 THE WITNESS: I don't know.
2 BY MR. CHURCHILL:
3 Q. Were you aware that in this particular case
4 at least four witnesses who were present that night,
5 have testified that there were always fights at these
6 Nike shoe releases?
7 MR. ROSENTHAL: Objection. Calls for
8 speculation.
9 THE WITNESS: Did I know they testified
10 to you? I don't know that.
11 BY MR. CHURCHILL:
12 Q. In your investigation, did you do any
13 research as to --
14 A. No. I mean the witnesses that talked to
15 me, and the people that I called reference CAD, who
16 actually reported it -- they did not say that. When
17 I say "CAD," I mean 911.
18 Q. Were you aware throughout the country how
19 many violent instances there have been at these Air
20 Jordan shoe releases? Have you heard of prior
21 shootings and stabbings?
22 MR. ROSENTHAL: Objection.
23 Speculation.
24 MS. RENWICK: Join.
25 THE WITNESS: I'm focused on this. I

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1 don't know.
2 BY MR. CHURCHILL:
3 Q. I'm just simply asking, is that something
4 that you are aware of generally?
5 A. No.
6 Q. Do you have an understanding as to whether
7 or not the mall had a sufficient security presence at
8 the mall, at the particular shoe release, to prevent
9 acts of violence?
10 MS. RENWICK: Objection. Calls for
11 expert testimony.
12 MR. ROSENTHAL: Join.
13 THE WITNESS: You need to talk to mall
14 security about that. My focus was the victim and the
15 witnesses, and identifying the suspects.
16 BY MR. CHURCHILL:
17 Q. Now, you did obtain -- or somebody obtained
18 written statements from DeAndre Thompson and Mario
19 Pena, correct?
20 A. Written statements.
21 Q. Did you ever follow up with either of those
22 two gentleman?
23 A. Yes, I did.
24 Q. Did you ever obtain a recorded statement
25 from either of them?

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1 A. No.
2 Q. How did you follow up with them?
3 A. I called them on the phone.
4 Q. And what happened as a result of your phone
5 calls?
6 A. Well, one of them -- I think it was Pena, I
7 believe he said he had seen two of the guys before
8 that were responsible; that they went to his high
9 school.
10 I asked him, "Do you have a
11 yearbook?" He said, "Yes." I said, "Can you look in
12 your yearbook and please provide me with the names?"
13 And he could not.
14 Q. He was still in high school at the time,
15 correct?
16 A. Ask him. I don't know.
17 Q. Were you aware that both Mr. Pena and
18 Mr. Thompson testified in this case that there was
19 sufficient time to break up the altercation before it
20 turned violent?
21 MR. ROSENTHAL: Objection. Misstates
22 testimony.
23 THE WITNESS: How would I know this?
24 They didn't testify that to me.
25

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1 BY MR. CHURCHILL:
2 Q. They did not tell you that?
3 A. No.
4 Q. Did you ask them?
5 A. They wrote voluntary statements. I called
6 them up on the phone. They did not relay that
7 information to me.
8 Q. Now, you obviously witnessed the
9 surveillance video, correct?
10 A. That is correct.
11 Q. Did you find issues with the surveillance
12 video?
13 MR. ROSENTHAL: Objection. Vague.
14 THE WITNESS: What kind of issues?
15 BY MR. CHURCHILL:
16 Q. For example, does the video hiccup or jump?
17 Are there periods of time that are completely
18 unaccounted for?
19 A. The video is very grainy, and I'm unable to
20 make out detail from greater distances from where the
21 camera sits.
22 I wasn't able to make out the
23 plate. I wasn't able to make out facial features.
24 It's just very grainy.
25 Q. Do you recall that the video did have

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1 jumps?
2 A. From 2013 I don't remember, sir.
3 Q. And then it also appears that the video
4 appears to focus more on the palm trees and the
5 parking lot, than the actual crowd.
6 A. You've got a lot of cameras. Which camera
7 are you talking about?
8 Q. Well, the ones that have been provided by
9 the mall.
10 A. As I recall, it covers the entrance where
11 the people were standing. But there's multiple
12 cameras.
13 Q. How many different video camera angles were
14 you able to see -- well, let me ask it this way.
15 Did the mall provide multiple
16 videos?
17 A. In 2013, yeah, I mean, they provided
18 multiple videos. I don't remember how long. I don't
19 know where they were located at. Yeah, I believe so,
20 yes.
21 Q. Do you have an independent recollection of
22 a surveillance video that actually was pointed at the
23 crowd, as opposed to the palm trees and parking lot?
24 A. I don't remember, sir. I remember there
25 was definitely the one facing toward the crowd. I

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1 believe -- I'm just going to say I don't remember.
2 That's the safe way.
3 Q. Did you have any criticisms of the video
4 surveillance that you did see?
5 A. Do I have any criticisms?
6 Q. Yeah.
7 A. Didn't we already cover this? Such as?
8 Q. Well, you indicated that it was very
9 grainy.
10 A. It was grainy, and the video was from a
11 distance and I couldn't make out details of faces or
12 plates of vehicles leaving.
13 Q. What actions could the mall or mall
14 security have taken that would have assisted in the
15 investigation?
16 MS. RENWICK: Objection. Calls for
17 expert testimony. Calls for speculation.
18 MR. ROSENTHAL: Join.
19 THE WITNESS: I agree. I don't know.
20 Ask the mall. I don't know.
21 BY MR. CHURCHILL:
22 Q. Well, I'm asking you. You're the one that
23 did the investigation, so I'm asking you.
24 A. My investigation was for the victim. My
25 investigation was because he was a victim of a

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1 shooting who was shot multiple times, and he almost
2 died and he's a quadriplegic.
3 That was my investigation. It
4 wasn't for the mall, and it wasn't security. My sole
5 concern was for the victim and identifying the people
6 who did this.
7 Q. And what I'm asking is, is there anything
8 that the mall could have done that would have
9 assisted in that process?
10 A. I think more not so much what the mall
11 could have done, is what the victim could have done.
12 I think the witnesses could have done something.
13 We had over 20 witnesses. 20.
14 Not one of those people came forward and said, "Yup,
15 I can identify exactly who did it," even though
16 everybody over there knows who did it.
17 They would hint around saying,
18 "Yeah, there were people there, I know that guy was
19 there, I don't think he was the shooter."
20 Over 20 people were there, and not
21 one person came forward and said, "Yup, I can do it.
22 Let's do it right now. Show me the photo lineup."
23 Including the victim.
24 Q. You had mentioned that you had received a
25 phone call from the victim's mother indicating

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1 that -- I believe it was the Christmas family, and
2 perhaps the Cornwell family, had gone to the
3 hospital. Can you tell me more about that?
4 A. I received that phone call from the mom of
5 the victim, saying that they came to the hospital to
6 intimidate them. She did not go into great detail of
7 what was said, what was done, why it was an
8 intimidation.
9 "What did you feel you were being
10 intimidated about?" She did not go into great
11 detail. She was not very cooperative throughout this
12 whole investigation. The only times it seems she
13 called me is when she needed something or wanted
14 something. Then she was being cooperative.
15 But since the officers showed up
16 at the scene, the victim wasn't cooperative. Since I
17 showed up at the hospital, mom immediately right off
18 the bat said, "Don't tell the officers anything."
19 That kind of kills my
20 investigation in the very beginning, when she's
21 telling people. And everybody knows that's mom.
22 That's the mom of the victim.
23 Q. Notwithstanding her making that comment,
24 the victim and the victim's cousin did cooperate to
25 some extent?

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1 A. They gave me one interview, and that was
2 it.
3 Q. Did you interview the mall security guards
4 related to this incident?
5 A. No, because they didn't see it. They did
6 not witness what happened.
7 Q. Do you have an understanding as to why they
8 did not witness what happened?
9 A. No.
10 Q. Was it because they were not there when it
11 happened?
12 MS. RENWICK: Objection. Calls for
13 speculation.
14 THE WITNESS: I don't know. I'm going
15 after witnesses, not the people who didn't see it.
16 BY MR. CHURCHILL:
17 Q. Do you have an understanding that at other
18 malls in Las Vegas, that the malls actually have
19 security guards present to monitor the crowd at these
20 Nike shoe releases?
21 MS. RENWICK: Objection. Calls for
22 speculation.
23 MR. ROSENTHAL: Join.
24 THE WITNESS: I don't know.
25

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1 BY MR. CHURCHILL:
2 Q. We talked about your phone conversation
3 with Mario Pena. Were you able to also speak with
4 DeAndre Thompson?
5 A. DeAndre Thompson? I believe we did. I
6 believe he wrote a voluntary statement.
7 Q. He did.
8 A. On his voluntary statement he left a phone
9 number, and basically I called to confirm the
10 information that he already wrote in the voluntary
11 statement.
12 Q. Okay. You had indicated that Mario Pena
13 indicated that he would try to identify the people.
14 What follow-up after that did you
15 have with Mr. Pena?
16 A. He never called me back.
17 Q. Did you ever call him back?
18 A. No, because the information that I was
19 getting is we were already identifying the players,
20 including the victim.
21 He wrote this on 8/17, and by that
22 time I had already talked to the victim, and the
23 victim gave me the follow-up I needed, and it was
24 confirming other independent third-party testimony.
25 Q. Based on your experience, what are some of

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1 the limitations of interviewing people who are
2 prescribed high dosages of narcotic pain medications?
3 A. So you're asking what's my experience with
4 interviewing people who are prescribed with high
5 dosages of narcotic medication?
6 Q. Yeah.
7 A. It's not like we go through a set class on
8 how to interview people who are on high narcotic
9 medications.
10 But if I have a victim that at the
11 time has substantial bodily harm, and they weren't
12 sure if he was going to make it through surgery, and
13 then he makes it through surgery, I want to get that
14 statement as soon as possible. It may be a dying
15 declaration, if it suits.
16 Have I ever taken a class on that?
17 No. Have I interviewed people who were high on
18 medication in the past? Absolutely.
19 Q. What I'm trying to figure out is, what are
20 some of the limitations?
21 A. Limitations as far as what? I'm trying to
22 find out who shot him.
23 Q. Well, for example, if people are loopy from
24 being on medications, their memory may not be as
25 reliable -- their judgment may not be as good as when

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1 they are off the medication.
2 Would you agree with that?
3 A. I can understand what you're saying, and
4 people who would be loopy and high on medication
5 would probably have slurred speech. Their answers
6 would probably be limited.
7 But his answers were very current,
8 alert and aware times 4, so to speak. He didn't seem
9 loopy at all.
10 If you listen to the audio, he at
11 some times was talking very fast, and I didn't feel
12 he was loopy or under the influence at all. He told
13 me what we had already discussed.
14 Q. When you say that he's alert and oriented
15 times 4, that means he knows his name, date,
16 location?
17 A. Yes.
18 Q. What is the fourth one? Name, date,
19 location --
20 A. What year it is, I think.
21 Q. Have you ever attended any classes on
22 special event security, things of that nature, crowd
23 control? Is that part of your training?
24 A. No. I'm a detective with Metro. I do
25 investigations involving various types of crimes, not

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1 crowd control.
2 Q. After you received the phone call that
3 X'Zavion had been threatened at the hospital, was
4 there ever any follow up with the Cornwell family or
5 the Christmas family regarding witness intimidation,
6 or anything of that nature?
7 A. No. No, because mom gave us limited
8 information. It's kind of hard to follow up on those
9 type of things when she can't tell me exactly who was
10 threatening, what was said, what was done.
11 Q. I have an email chain between you and Mr.
12 Barrus. Can you review that, please? I just want to
13 confirm that is indeed you who is emailing Mr.
14 Barrus.
15 A. Yes.
16 MS. RENWICK: Can I look at it?
17 MR. CHURCHILL: Sure.
18 BY MR. CHURCHILL:
19 Q. It appears that you had emailed to Mr.
20 Barrus that you could not provide him certain
21 documents, because it would be a huge dissemination
22 violation.
23 A. Not without okaying it through legal.
24 Q. And you attempted to okay it through legal?
25 A. Yes.

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1 Q. And you were informed that it would be a
2 huge dissemination violation to give him those
3 documents?
4 A. As long as the case not active. As long as
5 the case was closed, I could release it, which I
6 authorized in the email that it could be released.
7 Q. But even then you said that he needed to
8 follow up with a subpoena or a court order.
9 A. Sure. "Whoever you had make a call from
10 the lab sounded like they already released these
11 photos to you, which was not true, and a huge
12 dissemination violation. Please produce subpoena
13 court order."
14 Now, that's when I had to talk to
15 legal. Are you talking before this? Or I guess I'm
16 not understanding your question.
17 Q. Well, here's my question.
18 It appears that you had told Mr.
19 Barrus that you couldn't give him these particular
20 documents that he was seeking because it would be a
21 huge dissemination violation, that he needed to have
22 a subpoena or a court order.
23 A. Right. And then I talked to legal, and
24 legal said it was okay as long as the case was
25 closed.

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1 Q. Was the case closed at that particular
2 point?
3 A. Yes.
4 MS. RENWICK: Detective Majors, can you
5 read in the date of that email, please?
6 THE WITNESS: September 24th is when I
7 authorized it, of 2014.
8 MR. CHURCHILL: Okay. That's all the
9 questions I have at this time.
10
11 FURTHER EXAMINATION
12 BY MS. RENWICK:
13 Q. I just have a couple of follow-ups.
14 I'm looking at the Voluntary
15 Statement of X'Zavion Hawkins, specifically page 4 of
16 9, 4 lines down from the top.
17 Based on your discussion with
18 Mr. Hawkins, is it your understanding that Ashley
19 Christmas had threatened to kill him prior to the
20 shooting?
21 A. It says, "Yeah. You know, he said threats
22 once before, saying how he was going to kill me and
23 stuff." And I asked, "Why does he want to kill you?"
24 Q. And what was his response?
25 A. His statement was, "Why does he want to

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1 kill me is because, ah, a while back, man, he robbed
2 me. He robbed me, and I, ah, I just told him I
3 want" -- (Inaudible.)

4 Q. So based on your discussion, would it be
5 fair to say that Mr. Hawkins knew that Mr. Christmas
6 had violent intentions towards him?

7 A. He was afraid of him. That's my impression
8 of the whole interview. He was afraid of him, and he
9 didn't want to leave his family. And that's why he
10 didn't want to cooperate.

11 MS. RENWICK: I think that's all I
12 have. Thank you for your time.

13 (Defendants' Exhibit A marked.)

14

15 (The deposition concluded at 12:22 p.m.)

16

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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA }

} ss.

3 COUNTY OF CLARK }

4 I, Carol O'Malley, Nevada Certified Court
5 Reporter 178, do hereby certify:

6 That I reported the taking of the deposition
7 of WILLIAM LEE MAJORS on February 25, 2016 commencing
8 at the hour of 9:00 a.m.;

9 That prior to being examined, the witness was by
10 me duly sworn to testify to the truth, the whole
11 truth, and nothing but the truth;

12 That I thereafter transcribed my said
13 shorthand notes into typewriting and that the
14 typewritten transcription of said deposition is a
15 complete, true, and accurate transcription of my said
16 shorthand notes taken down at said time. Review of
17 the transcript was not requested.

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

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 in my office in the County of Clark, State of Nevada,
23 this 1st day of March, 2016.

24 *Carol O'Malley*
25 Carol O'Malley, CCR No. 678

Exhibit “11”

1 SUPP
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
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6 LEWIS BRISBOIS BISGAARD & SMITH LLP
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7 Las Vegas, Nevada 89118
702.893.3383
8 FAX: 702.893.3789

9 DAVID S. LEE, ESQ.
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10 dlee@lee-lawfirm.com
CHARLENE N. RENWICK, ESQ.
11 Nevada Bar No. 010165
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12 LEE, HERNANDEZ, LANDRUM &
GAROFALO
13 7575 Vegas Drive, Suite 150
Las Vegas, Nevada 89128
14 702.880.9750
FAX: 702.314.1210
15 Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR SECURITY
16 SERVICES and MARK WARNER

17
18 DISTRICT COURT
19 CLARK COUNTY, NEVADA

20 X'ZAVION HAWKINS,
21 Plaintiff,

22 vs.

23 GGP MEADOW MALL LLC, a Delaware
Limited Liability Company; MYDATT
24 SERVICES, INC. d/b/a VALOR
SECURITY SERVICES, an Ohio
25 Corporation; MARK WARNER,
individually; DOES 1 through 10; DOE
26 SECURITY GUARDS 11 through 20; and
ROE ENTITIES 21 through 30,
27 INCLUSIVE,

28 Defendants.

Case No. A717577
Dept. No. XXXI

DEFENDANTS MYDATT SERVICES,
INC.'S dba VALOR SECURITY
SERVICES AND MARK WARNER'S
NRCP 16.1(A) THIRD SUPPLEMENT TO
EARLY CASE CONFERENCE LIST OF
WITNESSES AND PRODUCTION OF
DOCUMENTS

1 DEFENDANTS MYDATT SERVICES, INC.'S dba VALOR SECURITY SERVICES AND
2 MARK WARNER'S NRCP 16.1(A) THIRD SUPPLEMENT TO EARLY CASE
CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS

3 COME NOW Defendants, MYDATT SERVICES, INC. dba VALOR SECURITY
4 SERVICES and MARK WARNER, by and through their counsel of record, the law firm of
5 LEWIS BRISBOIS BISGAARD & SMITH, LLP and LEE, HERNANDEZ, LANDRUM &
6 GAROFALO, and hereby supplement their Early Case Conference List of Witnesses and
7 Production of Documents as follows. For ease of reference, new information appears in
8 bold-faced print, excluding section and title headings.

9 I.

10 WITNESSES

- 11 1. VALOR SECURITY SERVICES, Defendant
12 c/o LEE, HERNANDEZ, LANDRUM & GAROFALO
13 7575 Vegas Drive, Suite 150
Las Vegas, Nevada 89128

14 Defendant is expected to testify regarding the facts and circumstances personally
15 known to him/her regarding the subject matter to this litigation.

- 16 2. X'ZAVION HAWKINS
17 c/o INJURY LAWYERS OF NEVADA
6900 Westcliff Drive, Suite 707
18 Las Vegas, Nevada 89145

19 Plaintiff is expected to testify regarding the facts and circumstances personally
20 known to him regarding the subject matter to this litigation.

- 21 3. WANDA PERKINS
22 4356 Vorsand Drive, Apartment 3
Las Vegas, Nevada 89115

23 This witness is expected to testify regarding the facts and circumstances
24 personally known to him regarding the subject matter to this litigation.

- 25 4. Person(s) Most Knowledgeable for
GGP MEADOWS MALL, LLC
26 c/o THORNDAL, ARMSTRONG, DELK, BALKENBUSH & EISINGER
1100 East Bridger Avenue
27 Las Vegas, Nevada 89101

28 ///

1 The Person Most Knowledgeable for Defendant GGP MEADOWS MALL, LLC is
2 expected to testify regarding the facts and circumstances personally known to him/her
3 regarding the subject matter to this litigation, as well as the policies and procedures of
4 Meadows Mall, including, but not limited to, hiring, firing, training, and overall security
5 operations.

6 5. Officer Renfer, Badge No. 13122
7 c/o Las Vegas Metropolitan Police Department
8 400 South Martin Luther King Boulevard
9 Las Vegas, Nevada 89106

9 Officer Renfer is anticipated to testify as to his/her education, professional training,
10 experience, the facts and circumstances regarding the investigation of the subject
11 incident, his/her conversations with the person(s) involved, witnesses, his/her
12 observations of the parties, the securing or taking of evidence, and the contemporaneous
13 creation of notes, memoranda, photographs, diagrams, measurements, and the
14 investigative reports or other investigative materials, declaration of arrest, or affidavits, in
15 the ordinary course of the business of his/her department.

16 6. Detective W. Majors, P No. 7089
17 c/o Las Vegas Metropolitan Police Department
18 400 South Martin Luther King Boulevard
19 Las Vegas, Nevada 89106

19 Detective Majors is anticipated to testify as to his education, professional training,
20 experience, the facts and circumstances regarding the investigation of the subject
21 incident, his/her conversations with the person(s) involved, witnesses, his/her
22 observations of the parties, the securing or taking of evidence, and the contemporaneous
23 creation of notes, memoranda, photographs, diagrams, recorded and transcribed
24 statements, measurements, and the investigative reports or other investigative materials,
25 declaration of arrest, or affidavits, in the ordinary course of the business of his/her
26 department.

27 7. KEISHA LOVE
28 4142 Walnut Road
 Las Vegas, Nevada 89115

1 This witness is Plaintiff X'ZAVION HAWKINS' cousin and is expected to testify
2 regarding the facts and circumstances personally known to her regarding the subject
3 matter to this litigation.

4 8. MARIO PENA
5 2150 North Tenaya Way
6 Las Vegas, Nevada 89128

7 This witness was present at the time of the subject incident and is expected to
8 testify regarding the facts and circumstances personally known to him regarding the
9 subject matter to this litigation.

10 9. DEANDRE MICHAEL THOMPSON
11 9039 Sheep Ranch Court
12 Las Vegas, Nevada 89143

13 This witness was present at the time of the subject incident and is expected to
14 testify regarding the facts and circumstances personally known to him/her regarding the
15 subject matter to this litigation.

16 10. DARRELLONDA ALDENA PETERSON
17 4578 Sky Bolt Street
18 Las Vegas, Nevada

19 This witness was present at the time of the subject incident and is expected to
20 testify regarding the facts and circumstances personally known to her regarding the
21 subject matter to this litigation.

22 11. The Person(s) Most Knowledgeable and/or Custodian of Records for
23 Las Vegas Fire and Rescue
24 500 North Casino Center Boulevard
25 Las Vegas, Nevada 89101

26 12. The Person(s) Most Knowledgeable and/or Custodian of Records for
27 University Medical Center
28 1800 West Charleston Boulevard
Las Vegas, Nevada 89102

13. The Person(s) Most Knowledgeable and/or Custodian of Records for
Desert Radiologists
2020 Palomino Lane
Las Vegas, Nevada 89106

///

///

1 14. The Person(s) Most Knowledgeable and/or Custodian of Records for
2 Steve Evans, M.D.
3 Atlantic Anesthesia Consultants
4 1815 Village Center Circle
5 Las Vegas, Nevada 89144

6 15. The Person(s) Most Knowledgeable and/or Custodian of Records for
7 Sahara Surgery Center
8 2401 Paseo Del Prado
9 Las Vegas, Nevada 89102

10 16. The Person(s) Most Knowledgeable and/or Custodian of Records for
11 Western Regional Center for Brain and Spine Surgery
12 3061 Maryland Parkway
13 Las Vegas, Nevada

14 17. The Person(s) Most Knowledgeable and/or Custodian of Records for
15 Laboratory Medicine Consultants
16 3059 South Maryland Parkway, Suite 100
17 Las Vegas, Nevada 89109

18 18. The Person(s) Most Knowledgeable and/or Custodian of Records for
19 Michael T. Monroe, M.D.
20 3233 West Charleston Boulevard, Suite 101
21 Las Vegas, Nevada 89102

22 19. The Person(s) Most Knowledgeable and/or Custodian of Records for
23 Soheil Goravanchi, D.O.
24 7326 West Cheyenne Avenue
25 Las Vegas, Nevada 89129

26 It is anticipated that the Person Most Knowledgeable and/or Custodian of Records
27 will testify to the creation and maintenance of medical and billing records in the ordinary
28 course of the company's business. The medical providers, persons most knowledgeable,
and/or custodian of records participated in the provision of medical care to the Plaintiffs
and it is anticipated that they will testify to their own observations, examination, treatment,
diagnosis, and prognosis regarding the Plaintiffs, their own medical records relating
directly thereto, and to the creation and maintenance of medical and billing records in the
ordinary course of the company's business.

20. Any and all witnesses named by any other party in this action.

21. Any individual or corporation which is identified through discovery as possessing

1 information or documents which may reasonably lead to the discovery of relevant
2 information pertaining to Plaintiff's claims, or Defendants' defenses.

3 22. Any experts identified by Plaintiff or any other party in this action.

4 23. Rebuttal witnesses, if necessary.

5 Defendants hereby reserve the right to supplement the above list of witnesses as
6 discovery continues in this litigation and specifically incorporate herein any individuals
7 later identified in any documents produced.

8 II.

9 DOCUMENTS

Exhibit	Description of Documents	Bates Range
1.	Complaint	VSS000001-VSS000010
2.	Answer	VSS000011-VSS000023
3.	Police Report and Witness Statements	VSS000024-VSS000040
4.	Surveillance videos from the Meadows Mall (4 DVD'S)	VSS000041 - VSS000044
5.	Incident Report	VSS000045 - VSS000050
6.	LVMPD Case Report	VSS000051
7.	LVMPD voluntary witness statements	VSS000052 - VSS000056
8.	Hawkins Digg-It Report	VSS000057 - VSS000077
9.	LVMPD Affidavit of Custodian of Records and records received in response to Subpoena Duces Tecum	VSS000078 - VSS000095
10.	Security Deployment Summary	VSS000096 - VSS000097
11.	Voluntary Statements	VSS000098 - VSS000099
12.	VSS Employee hour summary 08/11/13-08/13/13	VSS000100
13.	VSS Special Event Jordon Release Statement 01/21/12	VSS000101

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Exhibit	Description of Documents	Bates Range
14.	Security Agreement	VSS000102 - VSS000129
15.	Arrest Reference Manual	VSS000130 - VSS000149
16.	Bicycle Patrol Training Manual	VSS000150 - VSS000166
17.	Bloodborne Pathogen Training Reference Manual	VSS000167 - VSS000188
18.	CCTV Operation and Video Patrolling Reference Manual	VSS000189 - VSS000347
19.	Communication Skills Training Module	VSS000348 - VSS000359
20.	Criminal Law Reference Manual	VSS000360 - VSS000377
21.	Crowd Management FTB	VSS000378 - VSS000387
22.	Cultural Competence FTB	VSS000388 - VSS000400
23.	Dispatch Procedures Training Module	VSS000401 - VSS000412
24.	Ejection and Banning FTB	VSS000413 - VSS000423
25.	Emergency Response to Terrorism Training Module Updated 01/26/10	VSS000424 - VSS000468
26.	Emergency Response Training Module	VSS000469 - VSS000493
27.	Enforcing The Code of Conduct Training Module	VSS000494 - VSS000503
28.	Exterior Patrol Training Module	VSS000504 - VSS000513
29.	Field Trainer's Guild-Complete Manual	VSS000514 - VSS000887
30.	Gang Recognition and Interaction Reference Manual	VSS000888 - VSS000919
31.	Hazard Management Reference Manual	VSS000920 - VSS000935
32.	Hazardous Materials Awareness Training Module	VSS000936 - VSS000961
33.	Incident Response Reference Manual	VSS000962 - VSS000997
34.	Initial Training Exams - All Materials	VSS000998 - VSS001274

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Exhibit	Description of Documents	Bates Range
35.	Interior Patrol Training Module	VSS001275 - VSS001293
36.	May 2012 Patrol Training Module	VSS001294 - VSS001299
37.	MDTS Basic Course Handbook for Students and Instructors	VSS001300 - VSS001358
38.	OC Defense Tactics Training Reference Manual	VSS001359 - VSS001389
39.	Officer Safety FTB	VSS001390 - VSS001400
40.	Preliminary Investigation FTB	VSS001401 - VSS001410
41.	Preventing Violence in the Workplace Training Module	VSS001411 - VSS001419
42.	Professionalism and Ethics Training Module	VSS001420 - VSS001428
43.	Radio Communications Reference Manual	VSS001429 - VSS001448
44.	Report Writing Training Module	VSS001449 - VSS001468
45.	Responding to People Carrying Guns in the Mall -Training Bulletin	VSS001469 - VSS001473
46.	Retail Theft Response Training Module	VSS001474 - VSS001481
47.	Security Patrol Reference Manual	VSS001482 - VSS001510
48.	Sexual Harassment -Field Training Preparation	VSS001511 - VSS001517
49.	Shoplifting Response Training Module	VSS001518 - VSS001530
50.	Tactical Interaction Reference Manual	VSS001531 - VSS001608
51.	Tenant Relations- Field Training Preparation	VSS001609 - VSS001622
52.	Traffic Control Reference Manual	VSS001623 - VSS001648
53.	Use of Force Training Reference Manual	VSS001649 - VSS001676
54.	Valor Office Guide	VSS001677 - VSS001753

Exhibit	Description of Documents	Bates Range
55.	VSS BBP Refresher Training	VSS001754 - VSS001766
56.	VSS Comprehensive Patrolling - Interior-Division 1 and 3	VSS001767 - VSS001783
57.	VSS Comprehensive Patrolling Interior GGP	VSS001784 - VSS001800
58.	VSS Customer Relations Training Reference Manual	VSS001801 - VSS001851
59.	VSS DLR Training Bulletin	VSS001852 - VSS001859
60.	VSS FTO Guide- All Sections	VSS001860 - VSS002103
61.	VSS HazComm Refresher Training Bulletin	VSS002104 - VSS002120
62.	VSS Pursuit Policy Review Training Bulletin	VSS002121 - VSS002122
63.	Awareness Reference Manual	VSS002123 - VSS002154
64.	Tactical Driving Manual-Student Reference Manual	VSS002155 - VSS002199
65.	Web Inc. Reference Manual	VSS002200 - VSS002267
66.	VSS Customer Relations Training Resource Manual	VSS002268 - VSS002318
67.	VSS Customer Relations Training Resource Manual	VSS002319 - VSS0023269
68.	Customer Relations FTB	VSS002370 - VSS002387
69.	Tactical Driving Hazard Guide-Student Reference Manual	VSS002388 - VSS002406
70.	Web Inc FTB	VSS002407 - VSS002413
71.	Awareness FTB	VSS002414 - VSS002418
72.	Tactical Driving Star Initiative-Student Reference Manual	VSS002419 - VSS002445

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Exhibit	Description of Documents	Bates Range
73.	Comprehensive Patrolling Interior Training Bulletin D1 and D3	VSS002446 - VSS002462
74.	Comprehensive Patrolling Training Review Bulleting 1 v. 06/02/10	VSS002463 - VSS002469
75.	VSS 911 Anniversary Preparedness Training Bulletin	VSS002470 - VSS002475
76.	Tactical Driving Review Bulletin	VSS002476 - VSS002487
77.	VSS Code of Conduct Violations Sexually Related Activates-VSS Training Bulletin	VSS002488 - VSS002494
78.	VSS Conflict Interaction Guidance Training Bulletin	VSS002495 - VSS002519
79.	VSS Customer Relations FTB	VSS002520 - VSS002537
80.	VSS Emergency Preparedness Refresher Training	VSS002538 - VSS002546
81.	VSS Emergency Response to Terrorism Training Module	VSS002547 - VSS002591
82.	VSS Empathy and Professionalism- Training Bulletin	VSS002592 - VSS002600
83.	VSS Escalator Safety Security Training Bulletin	VSS002601 - VSS002606
84.	VSS FTB Customer Relations	VSS002607 - VSS002624
85.	VSS Hazard management Reference Manual	VSS002625 - VSS002640
86.	VSS IED Awareness and Response Training Bulletin	VSS002641 - VSS002646
87.	VSS Introduction Review AED Training Bulletin	VSS002647 - VSS002652
88.	VSS Officer Safety Refresher Training Bulletin V. 10/07/11	VSS002653 - VSS002662
89.	VSS Officer Safety Review Bulletin	VSS002663 - VSS002672

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Exhibit	Description of Documents	Bates Range
90.	VSS Preliminary Investigation FTB	VSS002673 - VSS002682
91.	VSS Tactical Driving Review Bulletin	VSS002683 - VSS002695
92.	VSS Tenant Relations FTB	VSS002696 - VSS002709
93.	14 Day Exam Site Specific Proficiency Exam	VSS002710 - VSS002717
94.	Arrest Trainer's Outline	VSS002718 - VSS002736
95.	Bicycle Patrol Trainer's Outline	VSS002737 - VSS002745
96.	Bloodborne Pathogens Trainer's Outline	VSS002746 - VSS002763
97.	Communication Skills Trainer's Outline	VSS002764 - VSS002768
98.	Criminal Law Trainer's Outline	VSS002769 - VSS002782
99.	Dispatch Trainer's Outline	VSS002783 - VSS002786
100.	Emergency Response to Terrorism Trainer's Outline	VSS002787 - VSS002820
101.	Enforcing the Code of Conduct Trainer's Outline	VSS002821 - VSS002824
102.	Exterior Patrol Trainer's Outline	VSS002825 - VSS002830
103.	Gang Recognition and Interaction Trainer's Outline	VSS002831 - VSS002849
104.	Hazard Management Trainer's Outline	VSS002850 - VSS002859
105.	Professionalism and Ethics Trainer's Outline	VSS002860 - VSS002864
106.	Shoplifting Response Trainer's Outline	VSS002865 - VSS002874
107.	VSS CCTV Operation and Video Patrolling Trainer's Outline	VSS002875 - VSS002953
108.	VSS Comprehensive Patrol Performance Sheet-Division 1 and 3	VSS002954 - VSS002955
109.	VSS Comprehensive Patrolling Interior Performance test GGP	VSS002956 - VSS002957

Exhibit	Description of Documents	Bates Range
110.	MDTS Trainer's Outline	VSS002958 - VSS003016
111.	OC Defense Tactics Trainer's Outline	VSS003017 - VSS003088
112.	Basic Course Outline and Quick Reference	VSS003089 - VSS003093
113.	MDTS Basic Course Outline Trainer's Quick Reference Sheets	VSS003094 - VSS003097
114.	Arrest Examination	VSS003098 - VSS003100
115.	Awareness Examination	VSS003101 - VSS003103
116.	Bloodborne Pathogens Examination	VSS003104 - VSS003106
117.	Communication Skills Examination	VSS003107 - VSS003109
118.	Criminal Law Examination	VSS003110 - VSS003112
119.	Crowd Management Examination	VSS003113 - VSS003115
120.	Cultural Competence Examination	VSS003116 - VSS003118
121.	Customer Relations Examination	VSS003119 - VSS003121
122.	Dispatch Procedures Examination	VSS003122 - VSS003124
123.	Division 1 Initial Training 90 Day Examination	VSS003125 - VSS003140
124.	Ejection and Banning Guidelines Examination	VSS003141 - VSS003143
125.	Enforcing the Code of Conduct Examination- Update 04/15/09	VSS003144 - VSS003146
126.	Exterior Patrol Examination	VSS003147 - VSS003149
127.	Gang Recognition and Interaction Examination	VSS003150 - VSS003152
128.	Professionalism and Ethics Examination	VSS003153 - VSS003155
129.	Shoplifting Response Examination	VSS003156 - VSS003158
130.	Tenant Relations Examination	VSS003159 - VSS003161

Exhibit	Description of Documents	Bates Range
131.	VSS Comprehensive Patrolling-Carry Cards	VSS003162
132.	VSS Comprehensive Patrolling Interior-Commitment Challenge Sheet	VSS003163
133.	VSS Emergency Response Emergency Response to Terrorism Examination - updated 01/27/10	VSS003164 - VSS003166
134.	VSS Hazard Management Hazard Management Examination Version 08/01/10	VSS003167 - VSS003169
135.	WebInc. Examination	VSS003170 - VSS003172
136.	Bicycle Patrol Written Examination	VSS003173 - VSS003175
137.	CCTV Operation and Patrolling Examination	VSS003176 - VSS003183
138.	MDTS Examination	VSS003184 - VSS003191
139.	OC Defensive Tactics Examination	VSS003192 - VSS003196
140.	MDTS Performance Checklist	VSS003197
141.	OC Defense Tactics Performance Test	VSS003198
142.	Video Patrol Performance Sheet	VSS003199 - VSS003201
143.	VSS Bicycle Patrol Performance Exercises	VSS003202
144.	Division 1 - Initial Training Examination Answer Sheet Key	VSS003203 - VSS003205
145.	VSS Comprehensive patrolling-Field Verification Sheet	VSS003206
146.	VSS Emergency Response To Terrorism Examination Answer Key-Update 01/26/10	VSS003207
147.	VSS Exterior Patrol Examination Answer Key-Updated 04/15/09	VSS003208

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Exhibit	Description of Documents	Bates Range
148.	VSS Hazard Management Examination Answer Key-Version 08/01/10	VSS003209
149.	CCTV Operations and Video Patrolling Examination Answer Key	VSS003210 - VSS003211
150.	VSS Arrest Examination Answer Key	VSS003212
151.	VSS Awareness Examination Answer Key	VSS003213
152.	VSS Bicycle Patrol Examination Answer Key	VSS003214
153.	VSS Bloodborne Pathogens Examination Answer Key	VSS003215
154.	VSS Communication Skills Examination Answer Key	VSS003216
155.	VSS Criminal Law Examination Answer Key	VSS003217
156.	VSS Crowd management Examination Answer Key	VSS003218
157.	VSS Cultural Competence Examination Answer Key	VSS003219
158.	VSS Customer Relations Examination Answer Key	VSS003220
159.	VSS Dispatch Procedures Examination Answer Key	VSS003221
160.	VSS Ejection and Banning Examination Answer Key	VSS003222
161.	VSS Enforcing the Code of Conduct Examination Answer Key	VSS003223
162.	VSS Gang Recognition and Interaction Examination Answer Key	VSS003224 - VSS003225
163.	VSS MDTs Examination Answer Key	VSS003226
164.	VSS OC Examination Answer key	VSS003227

Exhibit	Description of Documents	Bates Range
165.	VSS Professionalism and Ethics Examination Answer Key-updated 04/15/09	VSS003228
166.	VSS Shoplifting Response Examination Answer Key	VSS003229
167.	VSS Tenant Relations Examination Answer Key	VSS003230
168.	VSS WebInc. Examination Answer key	VSS003231
169.	VSS Blank Answer Sheet	VSS003232
170.	Division 2-Initial Training 90 day Examination	VSS003233 - VSS003248
171.	VSS Comprehensive Patrolling-Carry Cards	VSS003249
172.	Zones of Awareness Chart	VSS003250
173.	Bicycle Patrol Hand Signals	VSS003251
174.	MDTS Weaponless Striking Chart B	VSS003252
175.	OC Spray Me Target-Reference Sheet	VSS003253
176.	Personal Gang Identifiers-Reference Sheet	VSS003254 - VSS003255
177.	VSS Video Patrol Officer's Fieldbook	VSS003256 - VSS003282
178.	Gang Profile Recognition Chart Reference Sheet	VSS003283
179.	Performance Drill Reference Sheet	VSS003284 - VSS003285
180.	Relative Positioning Graphic-Reference Sheet	VSS003286
181.	Sabre Red H2O MSDS-Reference Sheet	VSS003287 - VSS003288
182.	8 point Cover and Contact Chart Graphic-Reference Sheet	VSS003289

Exhibit	Description of Documents	Bates Range
183.	Role of Police Regarding Gangs-Reference Sheet	VSS003290
184.	OJJ Exercise Reference Sheet	VSS003291 - VSS003293
185.	Sabre Red H2O MSDS (MI) - Reference Sheet	VSS003294 - VSS003295
186.	Gang Interaction Principles - Reference Sheet	VSS003296 - VSS003299
187.	OCDT Students Training Notes-Reference Sheet	VSS003300 - VSS003307
188.	Patrol Functions related to gang Profile Subjects-Reference Sheet	VSS003308 - VSS003309
189.	Gang Activity Level-Reference Sheet	VSS003310
190.	Division 2-Initial Training Examination Answer Sheet Key	VSS003311 - VSS003313
191.	MDTS Course Attendance and Sign In-Form	VSS003314
192.	Division 3-Initial Training 90 Day Examination	VSS003315 - VSS003330
193.	Division 3-Initial Training Examination Answer Sheet Key	VSS003331 - VSS003333
194.	Initial Training 90 Day Examination-Test Answer Sheet	VSS003334 - VSS003336
195.	Initial Training Written Test-Percentage Key	VSS003337
196.	Holiday Refresher Training-Security Director Read-G	VSS003338 - VSS003344
197.	FTG-Mobile Patrolling Bicycle Patrol-How to Wear a Helmet-Updated 04/15/09	VSS003345
198.	Job Description	VSS003346
199.	Section 01-FTO Get it Started and Keep it Going Guide	VSS003347 - VSS003351

Exhibit	Description of Documents	Bates Range
200.	Section 1.01-Course Administration Initial Training Practices	VSS003352 - VSS003353
201.	Section 1.02-Course Administration-Course Expectations and Guidelines	VSS003354
202.	Section 1.03-Course Administration-Course Safety Rules	VSS003355 - VSS003356
203.	Section 1.04-Course Administration-FTO Get it Started and Keep it Going Guide	VSS003357 - VSS003361
204.	Section 1.05-Course Administration-Site Operation Goals	VSS003362
205.	Section 1.06-Course Administration-Site Operation Mission	VSS003363
206.	Section 1.07-Course Administration-Training General Orders	VSS003364
207.	Section 1.08-Course Administration-Pace of 90 Day Delivery	VSS003365 - VSS003367
208.	Section 1.09-Course Administration-Curriculum Chart (Non-Simon)	VSS003368 - VSS003375
209.	Section 1.10-Course Administration-Curriculum Chart (Simon)	VSS003376 - VSS003383
210.	Section 1.11-Course Administration-FTG Information on how to use the guide	VSS003384 - VSS003391
211.	Section 1.12-Course Administration-Reference Sheets Accompanying Modules-Updated 04/15/09	VSS003391 - VSS003399
212.	Section 2.01-Course Administration-Site Operation Goals	VSS003400
213.	Section 2.01- Preventing Sexual Harassment	VSS003401 - VSS003405
214.	Section 2.02-Security Orientation-Preventing Violence in the Workplace	VSS003406 - VSS003410
215.	Section 2.02-Site Operation Mission	VSS003411

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Exhibit	Description of Documents	Bates Range
216.	Section 2.03-Training General Orders	VSS003412
217.	Section 03-Pace of 90 Day Delivery	VSS003413 - VSS003415
218.	Section 3.01A-Security Patrolling-Awareness	VSS003416 - VSS003419
219.	Section 3.01B-Security Patrolling-Awareness-Zones of Awareness Chart	VSS003420
220.	Section 3.02A-Security Patrolling-Officer Safety	VSS003421 - VSS003429
221.	Section 3.02B-Security Patrolling-Officer Safety-Dynamics of Fear Diagram	VSS003430
222.	Section 3.02 C-Security Patrolling-Officer Safety-Survival Attitude	VSS003431 - VSS003432
223.	Section 3.03-Security Patrolling-Radio Communications	VSS003433 - VSS003440
224.	Section 3.04A-Security Patrolling-Security Patrol	VSS003441 - VSS003451
225.	Section 3.04B-Security Patrolling-Security Related Situations	VSS003452 - VSS003453
226.	Section 3.04C-Security Patrolling-Security Patrol-6 Zone and Post Integrity	VSS003454
227.	Section 3.04D-Security Patrolling-Security Patrol-Patrol Related Rules	VSS003455
228.	Section 3.04E-Security Patrolling-Security Patrol-Patrol Modes	VSS003456 - VSS003458
229.	Section 3.04F-Security Patrolling-Security Patrol-Vital Patrol Tactics	VSS003459
230.	Section 3.04G-Security Patrolling-Security Patrol-Vital Patrol Tactics	VSS003460 - VSS003461
231.	Section 3.05-Security Patrolling-Interior Patrol	VSS003462 - VSS003467
232.	Section 3.06-Security Patrolling-Exterior Patrol	VSS003468 - VSS003472

Exhibit	Description of Documents	Bates Range
233.	Section 4.01-Community Relations-Customer Relations	VSS003473 - VSS003478
234.	Section 4.01-Curriculum Chart (Non-Simon)	VSS003479 - VSS003486
235.	Section 4.02-Community Relations-Tenant Relations	VSS003487 - VSS003494
236.	Section 4.02-Curriculum chart (Simon)	VSS003495 - VSS003502
237.	Section 4.03-Community Relations-Cultural Competence	VSS003503 - VSS003506
238.	Section 4.04-Community Relations-Professionalism and Ethics	VSS003507 - VSS003511
239.	Section 4.05-Community Relations-Communication Skills	VSS003512 - VSS003516
240.	Section 5-FTG Information on how to use the guide	VSS003517 - VSS003523
241.	Section 5.01-Code of Conduct-Enforcing the Code of Conduct	VSS003524 - VSS003527
242.	Section 5.02-Code of Conduct- Ejection and banning Guidelines	VSS003528 - VSS003534
243.	Section 6-Session Ratings	VSS003535 - VSS003541
244.	Section 6.01-Crime-Criminal Laws	VSS003542 - VSS003549
245.	Section 6.02-Crime-Shoplifting Response	VSS003550 - VSS00003555
246.	Section 6.03-Crime-Arrest	VSS003556 - VSS003559
247.	Section 6.04A-Crime-Gang Recognition and Interaction	VSS003560 - VSS003570
248.	Section 6.04B-Crime-Gang Recognition and Interaction-Person al Gang Identifiers	VSS003571 - VSS003572
249.	Section 6.04C-Crime-Gang Recognition and Interaction-Gang Profile Recognition Chart	VSS003573

Exhibit	Description of Documents	Bates Range
250.	Section 6.04D-Crime-Gang Recognition and Interaction-Role of Police regarding gangs	VSS003574
251.	Section 6.04E-Crime-Gang Recognition and Interaction-Gang Interaction Principals	VSS003575 - VSS003578
252.	Section 6.04F-Crime-Gang Recognition and Interaction-Patrol Functions Related to	VSS003579 - VSS003580
253.	Section 6.04G-Crime-Gang Recognition and Interaction-Gang Activity Levels	VSS003581
254.	Section 7.01-VSS MCO-Security Orientation-Preventing Sexual Harassment	VSS003582
255.	Section 7.01A-Incident Response-Incident Response	VSS003583 - VSS003599
256.	Section 7.01B-Incident Response-Incident Response- Incident Response Phases and Functions	VSS003600
257.	Section 7.02-VSS MCO-Security Orientation-Preventing Violence in the workplace	VSS003601 - VSS003602
258.	Section 7.02A-Incident Response-Tactical Interaction	VSS003603 - VSS003638
259.	Section 7.02B-Incident Response-Tactical Interaction-Conflict Interaction Assessment	VSS003639 - VSS003643
260.	Section 7.02E-Incident Response-Tactical Interaction-Multi ofc 8 pts-cover and contact	VSS003644
261.	Section 7.03-VSS MCO-Security - Patrolling-Awareness	VSS003645 - VSS003646
262.	Section 7.03A-Incident Response-Use of Force	VSS003647 - VSS003655

Exhibit	Description of Documents	Bates Range
263.	Section 7.03B-Incident Response-Use of Force-Weaponless Striking Chart B	VSS003656
264.	Section 7.03C-Incident Response-Use of Force - 1 Use of Force Study Chart	VSS003657
265.	Section 7.04-Incident Response-Preliminary Investigation	VSS003658 - VSS003664
266.	Section 7.04-VSS MCO-Security Patrolling-Officer Safety	VSS003665 - VSS003666
267.	Section 7.05-Incident Response-Report Writing	VSS003667 - VSS003678
268.	Section 7.05-VSS MCO-Security Patrolling-Radio Communication	VSS003879 - VSS003681
269.	Section 7.06-Incident Response-Crowd Management	VSS003682 - VSS003687
270.	Section 7.06-VSS MCO-Security Patrolling-Security Patrol	VSS003688 - VSS003691
271.	Section 7.07-VSS MCO-Security Patrolling-Interior Patrol	VSS003692 - VSS003695
272.	Section 7.08-VSS MCO-Security Patrolling-Exterior Patrol	VSS003696 - VSS003697
273.	Section 7.09-VSS MCO-Community Relations-Customer Relations	VSS003698 - VSS003700
274.	Section 7.10-VSS MCC-Community Relations-Tenant Relations	VSS003701 - VSS003702
275.	Section 7.11-VSS MCO-Community Relations-Cultural Competence	VSS003703 - VSS003704
276.	Section 7.12-VSS MCO-Community Relations-Professionalism and Ethics	VSS003705
277.	Section 7.13-VSS MCO-Community Relations-Communication Skills	VSS003706 - VSS003707
278.	Section 7.14-VSS MCO-Code of Conduct-Enforcing the Code of Conduct	VSS003708

Exhibit	Description of Documents	Bates Range
279.	Section 7.15-VSS MCO-Code of Conduction-Ejection and Banning Guidelines	VSS003709 - VSS003711
280.	Section 7.16-VSS MCO-Crime-Criminal Laws	VSS003712 - VSS003714
281.	Section 7.17-VSS MCO-Crime-Shoplifting Response	VSS003715 - VSS003718
282.	Section 7.18-VSS MCO-Crime-Arrest	VSS003719 - VSS003721
283.	Section 7.19-VSS MCO-Crime-Gang Recognition and Interaction	VSS003722 - VSS003725
284.	Section 7.20-VSS MCO Crime-Arrest	VSS003726 - VSS003730
285.	Section 7.21-VSS MCO-Incident Response-Tactical Interaction	VSS003731 - VSS003738
286.	Section 7.22-VSS MCO-Incident Response-Use of Force	VSS003739 - VSS003742
287.	Section 7.23-VSS MCO-Incident Response-Preliminary Investigation	VSS003743 - VSS003745
288.	Section 7.24-VSS MCO-Incident Response-Report Writing	VSS003746 - VSS003748
289.	Section 7.25-VSS MCO-Incident Management Crowd Management	VSS003749 - VSS003751
290.	Section 7.26-VSS MCO Hazard Management-Hazard Management	VSS003752 - VSS003754
291.	Section 7.27-VSS MCO-Hazard Management-Bloodborne Pathogens	VSS003755 - VSS003758
292.	Section 7.28-VSS MCO-Hazard Management-Hazardous Materials Awareness	VSS003759 - VSS003761
293.	Section 7.29-VSS MCO-Mobile Patrolling-traffic Control	VSS003762 - VSS003763
294.	Section 7.30-VSS MCO Mobile Patrolling- Bicycle Patrolling	VSS003764 - VSS003787

Exhibit	Description of Documents	Bates Range
295.	Section 7.31-VSS MCO-Mobile Patrolling-Segway Operation and Patrolling	VSS003768 - VSS003774
296.	Section 7.32-VSS MCO-Mobile Patrolling-Tactical Driving	VSS003775 - VSS003778
297.	Section 7.33-VSS MCO-Communications and Dispatch-CCTV Operations and Video Patrolling	VSS003779 - VSS003790
298.	Section 7.34-VSS MCO-Communications and Dispatch-Dispatch Procedures	VSS003789 - VSS003791
299.	Section 7.35-VSS MCO-Emergency Response-Emergency Response	VSS003792 - VSS003795
300.	Section 7.36-VSS MCO-Emergency Response-Terrorism Awareness	VSS003796 - VSS003800
301.	Section 7.37-VSS MCO-Defensive Tactics-MDTS	VSS003801 - VSS003805
302.	Section 7.38-VSS MCO-Defensive Tactics-OC Defense Tactics	VSS003806 - VSS003808
303.	Section 08 Trainer Readiness Self Assessment	VSS003809 - VSS003875
304.	Section 8.01-Hazard Management- Hazard Management	VSS003876 - VSS003885
305.	Section 8.02-Hazard Management- Bloodborne Pathogen	VSS003886 - VSS003891
306.	Section 8.03a-Hazard Management- Hazardous Materials Awareness	VSS003892 - VSS003901
307.	Section 8.03b-Hazard Management- Hazardous Materials Awareness-1 Department of Transportation	VSS003902
308.	Section 9.01a-Mobile Patrolling-Bicycle Patrol	VSS003903 - VSS003910
309.	Section 9.01b-Mobile Patrolling-Bicycle Patrol-Hand Signals	VSS003911

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Exhibit	Description of Documents	Bates Range
310.	Section 9.01c-Mobile Patrolling-Bicycle Patrol-How to Wear a Helmet-Updated 04/15/09	VSS003912
311.	Section 9.02 Mobile Patrolling-Traffic Control	VSS003913 - VSS003916
312.	Valor Employee Handbook-05/13/12	VSS003917 - VSS004006
313.	Valor Operations Manual	VSS004007 - VSS004129
314.	VSS 2011 Holiday Refresher Training Modules-D1 and D3	VSS004130 - VSS004172
315.	Section 12.01 Sessions Ratings and Training Schedule-Training Session Ratings Tracking Sheet	VSS004173 - VSS004179
316.	Section 12.02 Initial Training Scheduler	VSS004180 - VSS004182
317.	Section 10.01 Communications and Dispatch-Dispatch	VSS004183 - VSS004190
318.	Section 11.01-Emergency Response-Emergency Response	VSS004191 - VSS004200
319.	Section 11.02-Emergency Response-Emergency Response to Terrorism	VSS004201 - VSS004216
320.	Certificate of Completion-Defensive Tactics	VSS004217 - VSS004218
321.	VSS Employees 08/16/13 - 08/17/13	VSS004219 - VSS004220
322.	Photos taken by Mark Warner by incident area	VSS004221 - VSS004235
323.	Post Orders 2014	VSS004236 - VSS004293
324.	Deployment Sheets 07/17/13 - 08/17/13	VSS004294 - VSS004325
325.	Security Patrol Log 07/17/13-07/31/13	VSS004326 - VSS005145
326.	Security Patrol Log 08/01/13 - 08/17/13	VSS005146 - VSS006059

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Exhibit	Description of Documents	Bates Range
327.	Incident Reports 08/17/12-08/17/13 (Crimes against people) (Crimes against Property)	VSS006060 - VSS007044
328.	Map of Exterior Cameras	VSS007045
329.	Transcript of Recorded Voluntary Statement of X'Zavion Hawkins (provided by Detective Majors)	VSS007046 - VSS007054
330.	Transcript of Recorded Voluntary Statement of Darrellonda Peterson (provided by Detective Majors)	VSS007055 - VSS007060
331.	Transcript of Recorded Voluntary Statement of Kesha Love (provided by Detective Majors)	VSS007061 - VSS007065
332.	Compact disc containing audio recorded statement of X'Zavion Hawkins (provided by Detective Majors)	VSS007066
333.	Compact disc containing audio recorded statement of Darrellonda Peterson (provided by Detective Majors)	VSS007067
334.	Compact disc containing audio recorded statement of Kesha Love (provided by Detective Majors)	VSS007068
335.	Responsive subpoena documents from Las Vegas Metropolitan Police Department	VSS007069 - VSS007100
336.	Three (3) compact discs containing 911 call recordings from Las Vegas Metropolitan Police Department	VSS007101 - VSS007103
337.	Compact disc containing surveillance footage from Las Vegas Metropolitan Police Department	VSS007104

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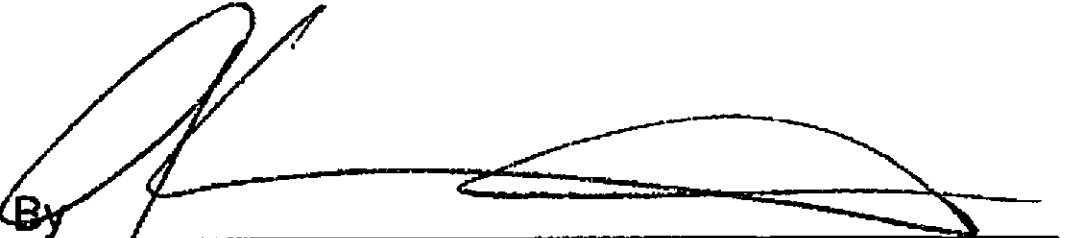
///

1 Defendants hereby reserve their right to supplement the above list of documents
2 as discovery continues in this litigation and information becomes available.

3 DATED this 18 day of February, 2016.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6
7
8 By 

9 JOSH COLE AICKLEN
10 Nevada Bar No. 007254
11 DAVID B. AVAKIAN
12 Nevada Bar No. 009502
13 HAROLD J. ROSENTHAL
14 Nevada Bar No. 010208
15 6385 S. Rainbow Boulevard, Suite 600
16 Las Vegas, Nevada 89118
17 Tel. 702.893.3383
18 Attorneys for Defendants MYDATT
19 SERVICES, INC. d/b/a VALOR SECURITY
20 SERVICES and MARK WARNER
21
22
23
24
25
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27
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CERTIFICATE OF SERVICE

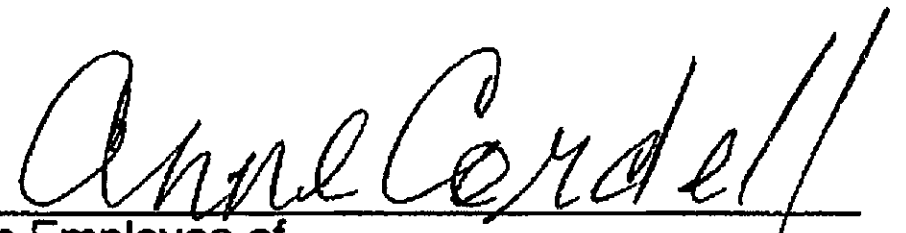
Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this 18th day of February, 2016, I did cause a true copy of DEFENADNTS MYDATT SERVICES, INC.'S dba VALOR SECURITY SERVICES AND MARK WARNER'S NRCP 16.1(A) THIRD SUPPLEMENT TO EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

David J. Churchill
Jolene J. Manke
INJURY LAWYERS OF NEVADA
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Las Vegas, NV 89145
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SERVICES, INC. d/b/a VALOR SECUIRTY
SERVICES and MARK WARNER

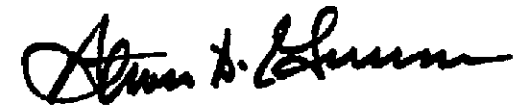
**MEDIA EXHIBITS SERVED VIA U.S.
MAIL

By



An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

Exhibit “12”



CLERK OF THE COURT

1 **OBJ**

2 DAVID J. CHURCHILL (SBN: 7308)

3 JOLENE J. MANKE (SBN: 7436)

4 **INJURY LAWYERS OF NEVADA**

5 6900 Westcliff Drive, Suite 707

6 Las Vegas, Nevada 89145

7 T: 702-868-8888

8 F: 702-868-8889

9 david@injurylawyersnv.com

10 jolene@injurylawyersnv.com

11 Attorneys for Plaintiff

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 X'ZAVION HAWKINS,

15 Plaintiff,

16 vs.

17 GGP MEADOWS MALL LLC, a Delaware
18 Limited Liability Company; MYDATT
19 SERVICES, INC. d/b/a VALOR SECURITY
20 SERVICES, an Ohio Corporation; MARK
21 WARNER, individually; DOES 1 through 10;
22 DOE SECURITY GUARDS 11 through 20; and
23 ROE ENTITIES 21 through 30, inclusive,

24 Defendants.

CASE NO.: A-15-717577-C
DEPT. NO.: XXXI

**PLAINTIFF'S OBJECTION TO
DEFENDANTS MYDATT SERVICES,
INC.'S d/b/a VALOR SECURITY
SERVICES AND MARK WARNER'S
NRCP 16.1(A) THIRD SUPPLEMENT
TO EARLY CASE CONFERENCE LIST
OF WITNESSES AND PRODUCTION
OF DOCUMENTS**

25 COMES NOW, Plaintiff X'ZAVION HAWKINS, by and through his attorneys, DAVID J.
26 CHURCHILL, ESQ. and JOLENE J. MANKE, ESQ. of INJURY LAWYERS OF NEVADA and
27 hereby objects to Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES
28 and MARK WARNER's exhibits 329 through 334 identified in their third supplement pursuant to
NRCP 16.1.

Plaintiff makes this objection pursuant to NRCP 16.1(a)(3)(C), 26 and 37.

Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES and MARK
WARNER's exhibits 329 through 334 lack authenticity inasmuch as they were not produced by Las
Vegas Metropolitan Police Department's designated custodian of records with an accompanying
certificate of authenticity that the exhibits were kept and/or maintained in the ordinary course of Las
Vegas Metropolitan Police Department's dissemination policies and procedures.


///

Plaintiff's Objection to Defendants Mydatt/Valor and Warner's Third Supplement Pursuant to NRCP 16.1(a) - 1

Further, Plaintiff hereby reserves the right to supplement this objection as discovery is continuing.

DATED this 18th day of February, 2016.

INJURY LAWYERS OF NEVADA


DAVID J. CHURCHILL (SBN: 7308)
JOLENE J. MANKE (SBN: 7436)
6900 Westcliff Drive, Suite 707
Las Vegas, NV 89145
Attorneys for Plaintiff

CERTIFICATE OF E-SERVICE

Pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(4), I certify that on the 18th day of January, 2016, I served the foregoing PLAINTIFF'S OBJECTION TO DEFENDANTS MYDATT SERVICES, INC.'S d/b/a VALOR SECURITY SERVICES AND MARK WARNER'S NRCP 16.1(A) THIRD SUPPLEMENT TO EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS on the following parties via Electronic Service as follows:

DAVID S. LEE (SBN: 6033)
CHARLENE N. RENWICK (SBN: 10165)
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GGP MEADOWS MALL LLC;
MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES; and
and MARK WARNER

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Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
SECURITY SERVICES and MARK WARNER


an employee of Injury Lawyers of Nevada

Exhibit “13”

DEPOSITION ERRATA SHEET

File No. J0263337

Case Caption: Hawkins vs. GGP Meadows Mall, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed this 31 day of March, 2016.

X'ZAVION J HAWKINS
3/31/2016

X'ZAVION HAWKINS

DEPOSITION ERRATA SHEET

Page No. 16 Line No. 19 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 24 Line No. 10 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 24 Line No. 24 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 25 Line No. 24 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 26 Line No. 13 Change to: I PRESENTLY DON'T RECALL.

Reason for change: RECOLLECTION REFRESHED.

Page No. 26 Line No. 15-16 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED

Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 28 Line No. 7-8 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER I BELIEVE AT ONE TIME I BELIEVED THAT

Reason for change: SOMEONE HAD SAID SOMETHING SIMILAR TO, "ZAK, GET HIM."
RECOLLECTION REFRESHED

Page No. 29 Line No. 12-13 Change to: I DON'T HAVE AN INDEPENDENT RECOLLECTION AT THIS TIME, HOWEVER I BELIEVE AT ONE TIME I BELIEVED

Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS.
RECOLLECTION REFRESHED

Page No. 31 Line No. 10 Change to: I PRESENTLY DON'T RECALL, HOWEVER, I DON'T DISPUTE THAT I THREW A SHARPLE BUTLE TO DEFEND MYSELF

Reason for change: RECOLLECTION REFRESHED

Page No. 31 Line No. 24 Change to: I PRESENTLY DON'T RECALL

Reason for change: RECOLLECTION REFRESHED

SIGNATURE:

X'ZAVION I. HAWKINS
X'ZAVION HAWKINS

DATE:

3/31/2016

DEPOSITION ERRATA SHEET

Page No. 32 Line No. 1 Change to: I PRESENTLY DON'T RECALL,
HOWEVER, I DON'T DISPUTE THAT I THREW A SNAPPLE BOTTLE TO DEFEND MYSELF
Reason for change: RECOLLECTION REFRESHED

Page No. 35 Line No. 23 Change to: I PRESENTLY DON'T RECALL
HOW I LEARNED POCH-MAN'S REAL NAME.
Reason for change: RECOLLECTION REFRESHED

Page No. 35-36 Line No. 25-1 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POCH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 37 Line No. 2-3 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 37 Line No. 7-8 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 38 Line No. 11 Change to: I DON'T PRESENTLY RECALL.
Reason for change: RECOLLECTION REFRESHED

Page No. 38 Line No. 21-22 Change to: I DON'T PRESENTLY RECALL,
HOWEVER, I DON'T DISPUTE THAT I SAID THAT.
Reason for change: RECOLLECTION REFRESHED

Page No. 39 Line No. 21-23 Change to: I PRESENTLY DON'T RECALL,
HOWEVER, I DON'T DISPUTE THAT I THREW A SNAPPLE BOTTLE TO DEFEND MYSELF
Reason for change: RECOLLECTION REFRESHED

Page No. 40-41 Line No. 24-25 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE
Reason for change: I AT ONE TIME I BELIEVED SOMEONE SAID, "ZAK, GET HIM"
RECOLLECTION REFRESHED

Page No. 42 Line No. 18 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POCH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

SIGNATURE:

X'Zavion S Hawkins
X'ZAVION HAWKINS

DATE:

2/31/2016

[Handwritten signature]
63

DEPOSITION ERRATA SHEET

Page No. 42 Line No. 20-21 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS
RECOLLECTION REFRESHED

Page No. 42 Line No. 24 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: POOH-MAN'S REAL NAME WAS ASHLEY CHRISTMAS.
RECOLLECTION REFRESHED

Page No. 44 Line No. 7-8 Change to: I PRESENTLY DON'T RECALL
WHAT I TOLD THE POLICE, HOWEVER, I AM WILLING TO TESTIFY AGAINST HIM.
Reason for change: RECOLLECTION REFRESHED

Page No. 55 Line No. 5 Change to: I PRESENTLY DON'T RECALL.
Reason for change: RECOLLECTION REFRESHED

Page No. 56 Line No. 22 Change to: I DON'T HAVE AN INDEPENDENT
RECOLLECTION AT THIS TIME, HOWEVER, I BELIEVE AT ONE TIME I BELIEVED
Reason for change: SOMEONE SAID, "ZAK, LET HIM."
RECOLLECTION REFRESHED.

Page No. Line No. Change to:

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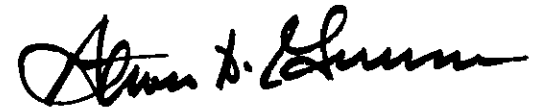
SIGNATURE:

X'ZAVION HAWKINS

DATE:

X'Zavion J Hawkins 3/31/2016

EXHIBIT “15”



CLERK OF THE COURT

1 RPLY
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
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6 702.893.3383
FAX: 702.893.3789
7 Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
8 SECURITY SERVICES and MARK
WARNER

DISTRICT COURT

CLARK COUNTY, NEVADA

11 X'ZAVION HAWKINS,
12
Plaintiff,

13 vs.

14 GGP MEADOW MALL LLC, a Delaware
15 Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR
16 SECURITY SERVICES, an Ohio
Corporation; MARK WARNER,
17 individually; DOES 1 through 10; DOE
SECURITY GUARDS 11 through 20; and
18 ROE ENTITITES 21 through 30,
INCLUSIVE,

19 Defendants.
20

Case No. A-15-717577-C
Dept. No. XXXI

DEFENDANTS MYDATT SERVICES,
INC. d/b/a VALOR SECURITY SERVICES
AND MARK WARNER'S REPLY TO
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S COMPLAINT AND
OPPOSITION TO PLAINTIFF'S
COUNTERMOTION FOR SANCTIONS

Date of Hearing: May 3, 2016

Time of Hearing: 9:00 AM

21 COME NOW, Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY
22 SERVICES and MARK WARNER ("Defendants"), by and through their counsel of record,
23 Josh Cole Aicklen and David B. Avakian, of LEWIS BRISBOIS BISGAARD & SMITH LLP,
24 and hereby submit their Reply to Plaintiff's Opposition to Defendants MYDATT
25 SERVICES, INC. d/b/a VALOR SECURITY SERVICES and MARK WARNER'S Motion to
26 Dismiss Plaintiff's Complaint pursuant to NRCP 37, the Court's inherent authority and the
27 doctrine of unclean hands, and Opposition to Plaintiff's Countermotion for Sanctions.

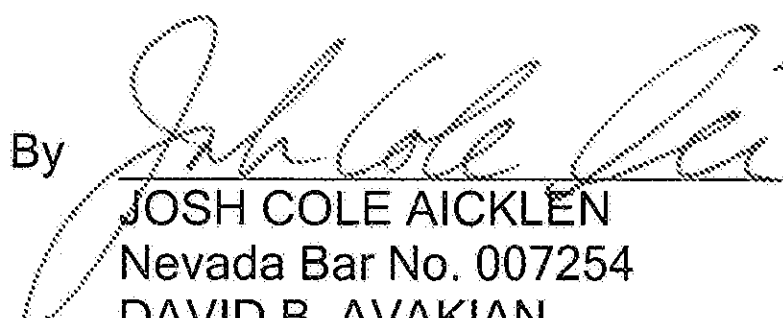
28 ///

1 This Reply and Opposition are made and based upon the Memorandum of Points
2 and Authorities submitted herewith, the exhibits attached hereto, the Affidavit of David B.
3 Avakian, and any arguments that may be allowed at the time of the hearing on this
4 Motion.

5 DATED this 26th day of April, 2016

6 Respectfully submitted,

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8
9
10 By 
11 JOSH COLE AICKLEN
12 Nevada Bar No. 007254
13 DAVID B. AVAKIAN
14 Nevada Bar No. 009502
15 6385 S. Rainbow Boulevard, Suite 600
16 Las Vegas, Nevada 89118
17 Tel. 702.893.3383
18 Attorneys for Defendants MYDATT
19 SERVICES, INC. d/b/a VALOR SECURITY
20 SERVICES and MARK WARNER
21
22
23
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28

1 AFFIDAVIT OF JOSH COLE AICKLEN IN SUPPORT OF DEFENDANTS' REPLY TO
2 PLAINTIFF'S OPPOSITION TO DEFENDANTS MYDATT SERVICES, INC. d/b/a VALOR
3 SECURITY SERVICES AND MARK WARNER'S REPLY TO PLAINTIFF'S OPPOSITION
4 TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT AND
5 OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR SANCTIONS

4 STATE OF NEVADA)
5 COUNTY OF CLARK) ss.

7 Josh Cole Aicklen, Esq. being first duly sworn, deposes and states as follows:

8 1. Affiant is an attorney duly licensed and authorized to practice law in the
9 State of Nevada, and a Partner in the law firm of LEWIS BRISBOIS BISGAARD &
10 SMITH, LLP, counsel for Defendants.

11 2. Affiant has knowledge of the facts in this case and if called as a witness
12 could and would competently testify as below.

13 3. Affiant makes this Affidavit in support of DEFENDANTS MYDATT
14 SERVICES, INC. d/b/a VALOR SECURITY SERVICES and MARK WARNER'S REPLY
15 TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S
16 COMPLAINT AND OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR
17 SANCTIONS.

18 4. Attached hereto as Exhibit A is a true and correct copy of Defendants'
19 Subpoena Duces Tecum served on the custodian of records for the Las Vegas
20 Metropolitan Police Department (Criminal Division).

21 5. Attached hereto as Exhibit B is a true and correct copy of the Deposition
22 Transcript of William Lee Majors (dated February 25, 2016).

23 6. Attached hereto as Exhibit C is a true and correct copy of Plaintiff's E-mail
24 dated February 12, 2016.

25 7. Attached hereto as Exhibit D is a true and correct copy of Defendants'
26 Letter to Plaintiff dated February 17, 2016.

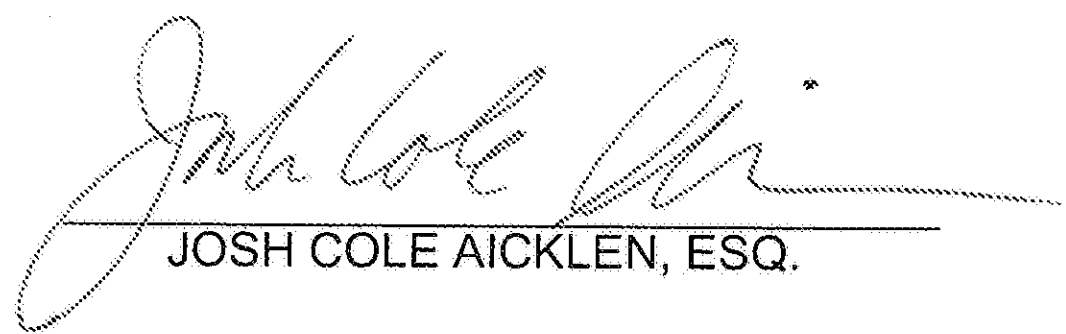
27 8. Attached hereto as Exhibit E is a true and correct copy of Plaintiff's
28 Deposition Errata Sheet dated March 31, 2016.

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9. Attached hereto as Exhibit F is a true and correct copy of Esquire's letter to Plaintiff's advising that Plaintiff's deposition was available for review and signature dated February 25, 2016.

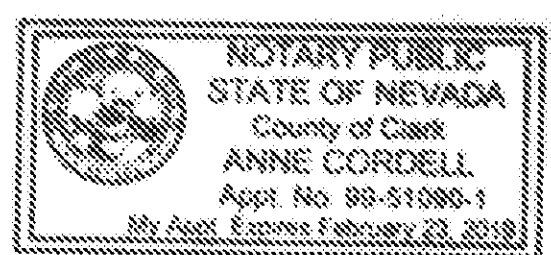
FURTHER AFFIANT SAYETH NAUGHT.

DATED this 26th day of April, 2016.


JOSH COLE AICKLEN, ESQ.

SUBSCRIBED AND SWORN to before me this 26th day of April, 2016.


NOTARY PUBLIC in and for said
County and State



1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Plaintiff's Opposition to Defendants' Motion to Dismiss and his "Counter-motion for
4 Sanctions" amount to nothing more than a specious attempt to distract the Court from the
5 fact that Plaintiff's entire lawsuit is a sham built on Plaintiff's lies. After Plaintiff committed
6 extensive perjury at his deposition, Defendants brought the issue to the Court's attention
7 through this motion, seeking dismissal as the proper remedy pursuant to NCRP 37 and
8 the Court's inherent authority. Incredibly, Plaintiff's conduct since the filing of Defendants'
9 Motion merely exacerbates the misconduct that the Court must address and bolsters
10 Defendants' Motion.

11 After Defendants filed this Motion to Dismiss, Plaintiff unabashedly (i) sought to
12 rewrite his deposition testimony—through an untimely "errata"—apparently attempting to
13 undo his rampant perjury; and (ii) submitted a "Counter-motion" seeking sanctions against
14 Defendants, claiming that Defendants improperly obtained and withheld discovery—*i.e.*,
15 evidence of Plaintiff's *own prior statements* to the police—that illuminates Plaintiff's
16 perjury. Plaintiff's Opposition and Counter-motion continue to reflect a pattern of
17 misconduct that began when Plaintiff filed this lawsuit. Plaintiff's conduct is so egregious
18 that dismissal of this action is the only just remedy available to Defendants.

19 Defendants' Motion is not, as Plaintiff claims, a motion for summary judgment.
20 Defendants' Motion does not even purport to address the merits of Plaintiff's case; it is a
21 motion for discovery sanctions and must be evaluated as such. Relatedly, because
22 Plaintiff's Opposition does not actually oppose Defendants' Motion to Dismiss—but
23 instead opposes a nonexistent motion for summary judgment—Plaintiff's Opposition
24 should be disregarded in its entirety.¹ Defendants have clearly established that Plaintiff's

25
26
27 ¹ Even if this Court does not formally disregard the Opposition under EDCR 2.20, as a
28 matter of logic Plaintiff's Opposition is irrelevant to Defendants' motion as it fails to assert
arguments against terminating sanctions.

1 conduct warrants dismissal based on the eight-factor test established by the Nevada
2 Supreme Court in Young v. Johnny Ribeiro Bldg., 106 Nev. 88 (1990). Plaintiff's
3 wholesale failure to dispute Defendants' Motion is tantamount to a concession that
4 dismissal is warranted.

5 Finally, the Court should deny Plaintiff's "Counter-motion" for Sanctions. In a
6 desperate attempt to avoid the consequences of filing a lawsuit premised on lies and
7 committing rampant perjury, and following the adage "the best defense is a good
8 offense," Plaintiff seeks sanctions for a discovery abuse that does not exist. Defendants
9 did not improperly obtain or withhold evidence of Plaintiff's own statements to police.
10 Indeed, not only did Defendants obtain Plaintiff's statements through legitimate avenues
11 of discovery, Defendants *also* shared that and other documents with Plaintiff in a
12 reasonable and timely manner. Plaintiff's Counter-motion reflects nothing more than a
13 baseless sideshow, and the Court should deny it as such.

14 **A. Factual Background**

15 This lawsuit arises out of a gang-related shooting that occurred at the Meadows
16 Mall. In the early morning hours of August 17, 2013, Plaintiff X'ZAVION HAWKINS
17 ("Plaintiff" or "HAWKINS") was at the Mall with his cousin for a Michael Jordan Nike shoe
18 release. As he waited, Plaintiff was approached by two men: "Zak"² and Ashley Bernard
19 Christmas. Zak and Christmas had robbed Plaintiff of \$150 at a park two years before
20 meeting again that morning at the mall. After a few blows were thrown, Plaintiff threw a
21 Snapple bottle at Christmas. Zak pulled a .45 caliber semi-automatic pistol and fired at
22 least eight rounds, at least three of which struck Plaintiff.

23 Five (5) days later on August 22, 2013, Plaintiff gave Detective Majors of the Las
24 Vegas Metropolitan Police Department (Metro) a voluntary recorded statement explaining
25 the events of the shooting. Plaintiff also identified Ashley Christmas and the shooter,

26 _____
27 ² Las Vegas Metropolitan Police Detective Majors later identified "Zak" as Zacharias Barry
28 (and in some reports "Zachary") a member of the Gerson Park Kingsmen street gang.

1 “Zak.” Plaintiff’s statement described an inevitable confrontation following a history of
2 violence between Plaintiff, Zak and Christmas.

3 After this lawsuit was filed, Plaintiff changed his story about the events leading up
4 to the shooting and the identity of his assailants. Plaintiff’s “litigation” story now portrays
5 Plaintiff as the victim of a random shooting by unknown assailants drawn to the Mall by
6 the Jordan shoe release.

7 **B. Procedural History**

8 On December 29, 2015, Defendants served their Subpoena Duces Tecum on the
9 Custodian of Records for the Las Vegas Metropolitan Police Department (Criminal
10 Division). See, Exhibit A. Las Vegas Metropolitan Police Officer William Lee Majors
11 (Detective Majors) gathered some documents regarding his investigation into the subject
12 shooting and communicated with Plaintiff and Defendants’ counsel about these records.
13 See, Exhibit B at P. 14-15. On January 28, 2016, Detective Majors met with Defendants’
14 counsel and provided some documents to them. Id. at P.16:19-14. Defendants asked if
15 Detective Majors had provided copies of these documents to Plaintiff’s counsel. Id.
16 Detective Majors stated that he had provided Plaintiff’s counsel with copies of the
17 documents. Id. See also, Id. at 112-13.

18 On February 12, 2016, Defendants deposed Plaintiff. Counsel fully informed
19 Plaintiff about the penalties of perjury during Plaintiff’s deposition and asked if Plaintiff
20 had taken any medications within the last 12 hours. See, Deposition Transcript of
21 X’Zavion Hawkins at P. 6-7.³ Plaintiff listed the medications he had taken. Id. at 7.
22 Plaintiff then was explained:

23 Q. Okay. Are you able to answer the questions using those pain medications?
24 Are you going to be able to give your best testimony today?

25 A. I probably won’t be able to give my best testimony. I forget sometimes,
26

27 ³ The deposition transcript of X’Zavion Hawkins is attached as **Exhibit C** to Defendants’
28 underlying Motion.

1 because of the medication, but I'll be able to bear with it.

2 Q. Okay. So what I'm going to ask you to do is if at any time during the
3 process today you get to the point where either because of pain or the
4 medications, that you think you cannot give your best answers, I want you
5 to tell us that. Okay?

6 A. Yes, sir.

7 Q. But if I ask you a question and you answer the question, I'm going to
8 assume that you understood my questions and you gave the best answer.
9 Do you understand?

10 A. Yes, I understand.

11 Id. at P. 7-8.

12 Defendants' counsel asked Plaintiff questions during the deposition that were
13 gleaned from information Detective Majors had provided to Defendants on January 28,
14 2016. Defendants' questions were largely based on the recorded statement Plaintiff
15 voluntarily gave to Detective Majors five (5) days after the shooting. Defendants believed
16 Plaintiff's counsel had this information based on Detective Majors' January 28, 2016
17 statement:

18 Q. When you and I met, did you tell me that you had turned these materials
19 over to [Plaintiff's former counsel,] Mr. Barrus.

20 A. Yes.

21 See, Exhibit B at P. 16:19-22.

22 Plaintiff answered all of Defendants' questions during his deposition. Plaintiff
23 never requested a break to accommodate his pain or voiced any problems related to his
24 pain medications. Plaintiff perjured himself dozens of times during his deposition.

25 Plaintiff's counsel e-mailed Defendants following Plaintiff's deposition. See,
26 Exhibit C. Plaintiff's counsel accused Defendants of knowingly concealing evidence and
27 attempting to litigate this case by "ambush." Id. Plaintiff's counsel demanded that
28 Defendants produce all evidence (which Detective Majors already said he provided

1 Plaintiff) by February 17, 2016. Id.

2 On February 17, 2016, Defendants informed Plaintiff's counsel that Plaintiff was
3 already in possession of the evidence Plaintiff's counsel demanded Defendants' produce
4 (per Detective Majors' representations). See, Exhibit D. Defendants, however, disclosed
5 the evidence to Plaintiff anyway on February 18, 2016, as a show of good faith.⁴ On
6 February 25, 2016, Defendants deposed Detective Majors. Defendants learned (for the
7 first time) during Detective Majors' deposition that Detective Majors had not provided the
8 evidence he had provided to Defendants on January 28, 2016 to Plaintiff's counsel.
9 However, this information cannot be a surprise to Plaintiff because he was the person
10 who provided the recorded statement to Detective Majors.

11 On March 3, 2016, Defendants filed the underlying Motion to Dismiss Plaintiff's
12 Complaint (as a discovery sanction for Plaintiff's false written discovery responses and
13 perjury). On March 31, 2016, Plaintiff served his extensive deposition Errata sheet
14 attempting to "muddy" his multiple acts of perjury. See, Exhibit E. Below are a few
15 examples of Plaintiff's prior and the "new" answers contained in Plaintiff's Errata to his
16 deposition:

17 Q. Do you know what Pooh Man's real name is?

18 A. No.

19 See, Exhibit C to Defendants Motion to Dismiss at p. 16, lines 18-19.

20 New Errata Answer: I presently don't recall. See, Exhibit E.

21 Q. Do you know someone named Ashley Christmas?

22 A. No.

23 Q. You have no idea who Ashley Christmas is?

24 A. I don't know any Ashley Christmas. Who is Ashley Christmas?

25 See, Exhibit C to Defendants' Motion to Dismiss at p. 26: lines 11-16.

26

27 ⁴ Defendants produced the evidence provided by Detective Majors to Plaintiff's counsel
28 21 days after Defendants first obtained the evidence from Detective Majors.

1 New Errata Answer: I don't have an independent recollection at this time,
2 however, I believe at one time I believed Pooh-Man's real name was Ashley
3 Christmas.

4 See, Exhibit E.

5 Q. Did anyone yell, "Zak, get him," before you were shot?

6 A. I don't know. I don't know. I didn't hear that. I don't believe so. I'm not—I
7 don't know.

8 Q. Is that "no," or you don't know?

9 A. That's "no."

10 See, Exhibit C to Defendants' Motion to Dismiss at p. 28: lines 1-10.

11 New Errata Answer: I don't have an independent recollection at this time,
12 however, I believe at one time I believed that someone said something similar to,
13 Zak Get Him. See, Exhibit E.

14 Q. So you did not throw a bottle at anyone before the shooting correct?

15 A. No.

16 Q. Is that correct?

17 A. No. I didn't throw a bottle at all.

18 See, Exhibit C to Defendants' Motion to Dismiss at g. 31-32: lines 22.

19 New Errata Answer: I presently don't recall, However, I don't dispute that I
20 threw a Snapple bottle to defend myself.

21 See, Exhibit E.

22 Plaintiff's responses contained in the Errata are "unintelligible jibberish" and
23 demonstrate the length he is willing to go to deceive this Court and to manipulate the
24 evidence in this case. Plaintiff's new position on the statements Defendants cited in the
25 underlying Motion is "I do not have an independent recollection at this time. However, I
26 believe at one time I believed. . [.]" Id. at 61-31. Plaintiff changed 18 statements in his
27
28

1 deposition testimony to reflect some iteration of the above “recollection recalled.”⁵ The
2 Errata sheet merely compounds Plaintiff’s false discovery responses in this case. The
3 mere fact that he changed this testimony after Defendants filed the instant Motion to
4 Dismiss is proof positive that Plaintiff’s sole intent with his unintelligible Errata is to try to
5 conceal his perjury and defeat the instant Motion. Plaintiff did not revise any of his prior
6 false statements contained in discovery responses and in his Complaint. The Errata
7 sheet is just further proof that the Court should dismiss Plaintiff’s Complaint based on his
8 repeated, continuing perjury and discovery abuse.

9 II. LEGAL ARGUMENT IN SUPPORT OF MOTION TO DISMISS

10 A. Plaintiff’s Summary Judgment Argument Should be Disregarded

11 NRCP 37 combined with the Court’s inherent powers mandate dismissing
12 Plaintiff’s Complaint for his discovery abuses. Litigants and attorneys alike should be
13 aware that the Court’s inherent powers permit dismissal of a complaint for discovery and
14 other litigation abuses not specific proscribed by statute or court order. See, Young, 106
15 Nev. at 92. In Young, The District Court dismissed Young’s Complaint and ordered
16 Young to pay attorneys’ fees and costs as a sanction for Young’s willful fabrication of
17 evidence and lying under oath. Id. The Young court did not regard the motion for
18 sanctions and/or request for an evidentiary hearing (to dismiss Young’s complaint) as a
19 motion for summary judgment. The Young court only analyzed Young’s lying and
20 discovery abuses before dismissing Young’s Complaint, holding that the following factors
21 should be analyzed when determining whether to dismiss a complaint as a discovery
22 sanction:

- 23 1. The degree of willfulness of the offending party;
24 2. The extent to which the non-offending party would be prejudiced by a lesser

25
26 ⁵ Plaintiff’s Deposition Errata Sheet is untimely. Defendants took Plaintiff’s deposition on
27 February 12, 2016. Plaintiff received a copy of his deposition transcript on February 25,
28 2016. See, Exhibit F. Plaintiff had 30 days to “correct” his deposition testimony.
Plaintiff’s Deposition Errata Sheet on March 31, 2016, five (5) days after the cut-off
period.

Case No.

IN THE SUPREME COURT OF THE STATE OF NEVADA

X'ZAVION HAWKINS, an Individual,

Petitioner,

vs.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE
COUNTY OF CLARK, THE HONORABLE Joanna Kishner, DISTRICT JUDGE,

Respondent,

-and-

GGP MEADOWS MALL, a Delaware Limited Liability Company; MYDATT
SERVICES, INC. D/B/A VALOR SECURITY SERVICES, an Ohio Corporation; and
MARK WARNER, an Individual.

Real Parties in Interest.

District Court Case No. A-15-717577-C

PETITION'S APPENDIX VOLUME II

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JOLENE J. MANKE, Nev. Bar No. 7436

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Attorneys for Petitioner

CHRONOLOGICAL INDEX TO PETITIONER'S APPENDIX

<u>Ex.</u>	<u>Title</u>	<u>Vol.</u>	<u>Pages</u>
1.	Complaint: Hawkins v. GGP Meadows Mall, LLC, et al.; Case No. A-14-717577-C, filed April 27, 2015	1	0001-0012
2.	Defendant Mydatt Services Inc. d/b/a Valor Security Services' Answer to Plaintiff's Complaint, filed on May 20, 2015	1	0013-0025
3.	Defendant GGP Meadows Mall, LLC's Answer and Cross Claims, filed on May 20, 2015	1	0026-0038
4.	Defendant Mark Warner's Answer to Plaintiff's Complaint, filed on May 30, 2015	1	0039-0050
5.	Defendant/Cross-Claimant GGP Meadows Mall, LLC's Notice of Voluntary Dismissal of Cross-Claims as to Defendant/Cross-Defendant Mydatt Services, Inc. d/b/a Valor Security Services, filed on July 22, 2015	1	0051-0053
6.	Notice of Appearance, filed on September 9, 2015	1	0054-0055
7.	Notice of Appearance, filed on September 21, 2015	1	0056-0057
8.	Substitution of Counsel, filed on September 22, 2015	1	0058-0059
9.	Notice of Disassociation of Counsel, filed on September 30, 2015	1	0060-0062
10.	Notice of Association of Counsel, filed on November 16, 2015	1	0063-0065
11.	Defendants' Motion to Dismiss Plaintiff's Complaint, filed March 23, 2016	1	0066-0190
12.	Defendants' Supplemental Exhibits of Audio and Video Discs in Support of Motion to Dismiss Plaintiff's Complaint, filed on March 24, 2016	1	0191-0194
13.	Defendant GGP Meadows Mall, LLC's Joinder to Defendants Mydatt Services, Inc. d/b/a Valor Security Services and Mark Warner's Motion to Dismiss Plaintiff's Complaint, filed on April 1, 2016	1	0195-0197

<u>Ex.</u>	<u>Title</u>	<u>Vol.</u>	<u>Pages</u>
14.	Plaintiff's Opposition to Defendants' Motion to Dismiss Plaintiff's Complaint and Countermotion for Sanctions, filed on April 11, 2016	2	0198-0338
15.	Defendants Mydatt Services, Inc. d/b/a Valor Security Services and Mark Warner's Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss Plaintiff's Complaint and Opposition to Plaintiff's Countermotion for Sanctions, filed on April 26, 2016	2	0339-0453
16.	Plaintiff's Motion to Disqualify Lewis Brisbois Bisgaard & Smith and for Sanctions on Order Shortening Time, filed on May 11, 2016	2	0454-0489
17.	Proposed Order on Defendants' Motion to Dismiss Plaintiff's Complaint and Plaintiff's Countermotion for Sanctions; Defendants' Motion for Leave to File Third-Party Complaint; and Plaintiff's Countermotion to Bifurcate Trial, filed on May 16, 2016	2	0490-0493
18.	Notice of Entry of Order, filed on May 17, 2016	2	0494-0500
19.	Defendants Mydatt Services, Inc. d/b/a Valor Security Services and Mark Warner's Opposition to Plaintiff's Motion to Disqualify Lewis Brisbois Bisgaard & Smith and for Sanctions on Order Shortening Time, filed on May 18, 2016	3	0501-0641
20.	Plaintiff's Reply in Support of Motion to Disqualify Lewis Brisbois Bisgaard & Smith and for Sanctions on Order Shortening Time, filed on May 20, 2016	3	0642-0657
21.	Defendant GGP Meadows Mall, LLC's Supplemental Exhibit to Joinder to Defendants Mydatt Services, Inc. and Mark Warner's Motion to Dismiss Plaintiff's Complaint, filed on June 7, 2016	3	0658-704
22.	Substitution of Attorneys, filed on July 6, 2016	3	0705-0709
23.	Defendants' Motion for Attorneys Fees and Costs, filed on August 19, 2016	4	0710-0814
24.	Order Granting in Part and Denying in Part Motion to Dismiss, filed on August 24, 2016	4	0815-0822

<u>Ex.</u>	<u>Title</u>	<u>Vol.</u>	<u>Pages</u>
25.	Findings of Fact, Conclusions of Law and Order re: Plaintiff's Motion to Disqualify Lewis Brisbois Bisgaard & Smith and for Sanctions on Order Shortening Time, filed on August 30, 2016	4	0823-0829
26.	Notice of Entry of Order, filed on September 7, 2016	4	0830-0838
27.	Plaintiff's Opposition to Defendants' Motion for Attorneys Fees and Costs and Countermotion for Attorneys Fees and Costs re: Motion to Disqualify Lewis Brisbois Bisgaard & Smith, filed on September 7, 2016	4	0839-0852
28.	Defendants' Opposition to Plaintiff's Countermotion for Attorneys Fees and Costs re: Motion to Disqualify Lewis Brisbois Bisgaard & Smith, filed on September 13, 2016	4	0853-0868
29.	Defendants' Reply to Plaintiff's Opposition to Motion for Attorney's Fees and Costs, filed on September 13, 2016	4	0869-0888
30.	Plaintiff's Supplemental Brief in Opposition to Defendants' Motion for Attorneys Fees and Costs, filed on September 26, 2016	4	0889-0921
31.	Defendants' Mydatt Services, Inc. and Mark Warner's Reply to Plaintiff's Supplemental Brief in Opposition to Motion for Attorney's Fees and Costs, filed on October 3, 2016	4	0922-0931
32.	Order re: Defendants' Motion for Attorney's Fees and Costs, filed on October 3, 2016	4	0932-0937
33.	Notice of Entry of Order re: Defendants' Motion for Attorney's Fees and Costs, filed on October 4, 2016	4	0938-0947
34.	Order Denying in Part and Granting in Part Motion for Attorney's Fees and Costs Related to Motion to Dismiss, filed on October 17, 2016	4	0948-0951
35.	Notice of Entry of Order, filed on October 18, 2016	4	0952-0959
36.	Defendants, Mydatt Services, Inc. d/b/a Valor Security Services and Mark Warner, Motion to Strike Plaintiff's Complaint and Dismissal, filed on November 18 2016	4	0960-0987

<u>Ex.</u>	<u>Title</u>	<u>Vol.</u>	<u>Pages</u>
37.	Reporter's Transcript of Proceedings All Pending Motions, from May 3, 2016	5	0988-1029
38.	Reporter's Transcript re: Evidentiary Hearing: Defendants' Motion to Dismiss Plaintiff's Complaint/Defendant GGP Meadows Mall LLC's Joinder to Defendants' Mydatt Services, Inc. and Mark Warner's Motion to Dismiss Plaintiff's Complaint/Plaintiff's Opposition to Defendants' Motion to Dismiss Complaint Plaintiff's Motion to Disqualify Lewis Brisbois Bisgaard & Smith and for Sanctions on Order Shortening Time, from June 8, 2016	5	1030-1129
39.	Reporter's Transcript of Proceedings – Evidentiary Hearing: Defendants' Motion to Dismiss Plaintiff's Complaint/Defendant GGP Meadows Mall, LLC's Joinder to Defendants Mydatt Services, Inc. and Mark Warner's Motion to Dismiss Plaintiff's Complaint/Plaintiff's Opposition to Defendants' Motion to Dismiss Complaint, from July 21, 2016	6	1130-1331
40.	Reporter's Transcript of Proceedings on Defendants' Motion for Attorneys' Fees and Costs; Plaintiff's Opposition to Defendants' Motion for Attorneys' Fees and Costs and Countermotion for Attorneys' Fees and Costs re: Motion to Disqualify Lewis, Brisbois, Bisgaard & Smith, from September 20, 2016	6	1332-1359

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HON. JOANNA KISHNER
DEPARTMENT XXXI
Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Respondent

Email:
dlee@lee-lawfirm.com

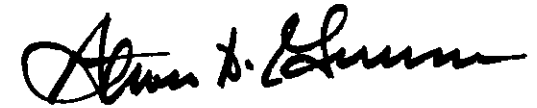
Attorneys for Real Parties in Interest
GGP MEADOWS MALL, LLP,
MYDATT SECURITY SERVICES,
INC. d/b/a VALOR SECURITY
SERVICES and MARK WARNER

Email:
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Attorneys for Real Parties in Interest
MYDATT SECURITY SERVICES,
INC. d/b/a VALOR SECURITY
SERVICES and MARK WARNER

Employee of INJURY LAWYERS OF NEVADA

EXHIBIT “14”



CLERK OF THE COURT

OPPS
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

X'ZAVION HAWKINS,

Plaintiff,

vs.

GGP MEADOWS MALL LLC, a Delaware
Limited Liability Company; MYDATT
SERVICES, INC. d/b/a VALOR SECURITY
SERVICES, an Ohio Corporation; MARK
WARNER, individually; DOES 1 through 10;
DOE SECURITY GUARDS 11 through 20; and
ROE ENTITIES 21 through 30, inclusive,

Defendants.

CASE NO.: A-15-717577-C
DEPT. NO.: XXXI

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S COMPLAINT AND
COUNTERMOTION FOR SANCTIONS**

Date of Hearing: 05/03/2015
Time of Hearing: 9:30 a.m.

Plaintiff X'ZAVION HAWKINS (hereinafter "Plaintiff" or "X'Zavion"), by and through his attorneys, David J. Churchill, Esq. and Jolene J. Manke, Esq. of INJURY LAWYERS OF NEVADA, hereby opposes Defendants MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES and MARK WARNER'S motion to dismiss Plaintiff's Complaint and moves this Honorable Court for sanctions against the defense for discovery abuses.

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1 This opposition and countermotion are made and based on the points and authorities set forth
2 herein, the exhibits attached hereto and all papers and pleadings on file herein as well as any oral
3 argument that may be entertained at the time of the hearing of this matter.

4 DATED this 17th day of April, 2016.

5 INJURY LAWYERS OF NEVADA

6
7 
8 DAVID J. CHURCHILL (SBN: 7308)
9 JOLENE J. MANKE (SBN: 7436)
10 6900 Westcliff Drive, Suite 707
11 Las Vegas, Nevada 89145
12 *Attorneys for Plaintiff*

11 **POINTS AND AUTHORITIES**

12 **I. CASE OVERVIEW**

13
14 On or about August 17, 2013, the Air Jordan 4 "Green Glow" shoe launch took place at
15 Meadows Mall. Patrons participating in the shoe launch had to arrive at Meadows Mall very early
16 before the entrance doors opened to increase their chance of obtaining a pair of the limited quantity of
17 shoes. X'Zavion accompanied his minor female cousin to Meadows Mall to participate in the shoe
18 launch. They arrived at Meadows Mall during the early morning hours to wait with other patrons
19 participating in the shoe launch. After they arrived, they found a place near the south entrance where all
20 the other patrons had gathered to wait for the doors to open. While they were waiting, they stood in the
21 area of the entrance or sat on a bench near the entrance.
22

23 At no time did X'Zavion observe any individuals who appeared to be associated with security for
24 Meadows Mall. At no time did X'Zavion observe any police cars or individuals who appeared to be
25 associated with law enforcement assisting with crowd control or keeping the peace.

26 While it was still dark outside and several hours remained before the entrance doors would open,
27 a group of young men present for the shoe launch approached X'Zavion and his minor female cousin.
28

1 One of the young men in the group stared at X'Zavion and rushed toward him in a threatening manner.
2 X'Zavion was first physically assaulted by one of the young men in the group and knocked to the
3 ground. X'Zavion then heard the young man yell to one of the other young men in the group something
4 that sounded like, "Get him Zach!"

5 X'Zavion then recalls hearing a number of gun shots ring out and X'Zavion suffered multiple
6 gun shot wounds. X'Zavion recalls being assisted by another patron who had been waiting in line for
7 the shoe launch. X'Zavion then recalls that police officers arrived at the scene and emergency personnel
8 transported him from the scene. The gun shot wounds caused X'Zavion to suffer very serious injuries,
9 including permanent paralysis from the waist down. He will likely require some sort of assistance with
10 his daily needs for the remainder of his life.
11

12 **II. PROCEDURAL POSTURE**

13 Plaintiff's complaint was filed on April 27, 2015. This matter is currently set for this Honorable
14 Court's jury trial stack commencing November 14, 2016.
15

16 **III. SUMMARY OF UNDISPUTED FACTS**

17 1. On July 23, 2013, X'Zavion electronically served his first set of requests for production
18 of documents to Defendant MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES.
19 Requests No. 4, 7 and 8 specifically related to investigative materials. (Please see the affidavit of Jolene
20 J. Manke, Esq. attached hereto as Ex. "1" at 12-14.)(Please also see a true and correct copy of Plaintiff's
21 request for production of documents attached hereto as Ex. "2.")

22 **REQUEST NO. 4:**

23 Please produce any and all incident or accident reports from the date of the
24 subject incident, which have not already been produced pursuant to NRCP 16.1

25 **REQUEST NO. 7:**

26 Please produce copies of any and all investigative reports made with respect to the
27 subject incident, whether from public or private entities, which have not already been
28 produced pursuant to NRCP 16.1

REQUEST NO. 8:

Please produce any and all documents and/or other information received and/or obtained from a source other than Plaintiff X'ZAVION HAWKINS or Plaintiff X'ZAVION HAWKINS' representatives not already produced and/or identified by you that you intend to rely upon at the time of trial in this matter. (*Id.* at 2:4:24-26; 5:1-10.)

2. X'Zavion subpoenaed Las Vegas Metropolitan Police Department ("Metro") for the "entirety" of its criminal investigative materials relating to X'Zavion being shot at Meadows Mall. Metro's custodian of records produced 154 color photographs, video footage obtained from Meadows Mall, and a 17 page investigative report that included witness statements. Plaintiff timely produced these materials to Defendants pursuant to NRCP 16.1. (Ex. "1" at 2:1-5.)

3. On January 29, 2015, Defendants noticed the deposition of Metro's custodian of records for January 18, 2016, and issued a subpoena duces tecum for records relating to the criminal investigation. The subpoena duces tecum said that the deposition was for records only – no appearance was required. (*Id.* at 2:6-9.)(True and correct copies of the deposition notice and subpoena duces tecum are attached hereto as Ex. "3" and "4," respectively.)

4. On Friday, February 12, 2016, Defendants deposed X'Zavion for a little less than two (2) hours because that is how long he could sit due to pressure sores. (Ex. "1" at 2:11-12.)(Please also see a true and correct copy of X'Zavion's deposition transcript attached hereto as Ex. "5.")

5. X'Zavion testified during his deposition that he takes a number of medications each day for pain, including the following: morphine, 100 mg, hydrocodone 10 mg, bacopin 20 mg and gabapentin 600 mg. (Ex. "1" at 2:14-16.)(Ex. "5" at 7:10-16.)

6. X'Zavion testified that the pain medications would probably not allow him to give his best testimony because they make him forgetful. (Ex. "1" at 2:17-18.)(Ex. "2" at 7:17-22.)

7. During the deposition, defense counsel asked questions of X'Zavion while reading from documents containing material that was unfamiliar to X'Zavion and his counsel. Defense counsel did not provide a Bates range or otherwise identify the documents, and defense counsel did not allow X'Zavion or his counsel to see the documents. (Ex. "1" at 2:19-22.)(Please also see a true and correct copy of the deposition transcript of Det. William Majors attached hereto as Ex. "10" at 114:10-24.)

1 8. Shortly after the deposition concluded, Plaintiff's counsel tried to call defense counsel
2 who had taken the deposition, Josh Cole Aicklen, Esq., but was advised that he was unavailable. (Ex.
3 "1" at 2:24-25.)

4 9. Plaintiff's counsel then called Mr. Aicklen's co-counsel, Charlene Renwick, Esq. and
5 asked for the Bates range of the documents Mr. Aicklen was referencing during X'Zavion's deposition.
6 Ms. Renwick said there was no Bates range for the documents, but Metro Det. Majors would bring a
7 copy of the documents to his deposition on Thursday, February 25, 2016. Plaintiff's counsel told Ms.
8 Renwick that was unacceptable, and would consider our telephone conversation to be a good faith
9 attempt to receive a copy of the documents before Det. Majors' deposition and before X'Zavion's
10 continuing deposition. Plaintiff's counsel sent an e-mail to all defense counsel memorializing the
11 conversation with Ms. Renwick, and requesting production of the documents before 5 p.m. on
12 Wednesday, February 17, 2016. (Ex. "1" at 2:26-28; 3:1-6.) (A true and correct copy of Plaintiff's
13 counsel's e-mail of February 12, 2016, is attached hereto as Ex. "6.")

14 10. Plaintiff's counsel was not in the office on Monday, February 15, 2016, for President's
15 Day, but on Tuesday, February 16, 2016, Plaintiff's counsel spoke with Mr. Aicklen who said he could
16 not produce the documents in his possession until he spoke with his co-counsel, Ms. Renwick.
17 Plaintiff's counsel said that pursuant to the e-mail of February 12, 2016, she would wait until 5 p.m. that
18 day before seeking court intervention to obtain the documents. Mr. Aicklen implied the documents he
19 had in his possession were somehow similar to *sub rosa* that would not have to be timely produced.
20 Plaintiff's counsel told him there could be no work product privilege between him and Det. Majors and
21 the documents should have been timely produced pursuant to both NRCP 16.1 and 34. (Ex. "1" at 3:14.)

22 11. On February 17, 2016, over a week before the deposition of Det. Majors, Mr. Aicklen
23 wrote Plaintiff's counsel a letter explaining he met with Det. Majors and obtained "some documents"
24 directly from him. However, at the end of the letter Mr. Aicklen said he was "in the process of gathering
25 these materials." (Ex. "1" at 3:15-18.) (A true and correct copy of Mr. Aicklen's letter of February 17,
26 2016, is attached hereto as Ex. "7.")

27 ///

28 ///

1 12. That same day, February 17, 2016, Plaintiff's counsel then wrote an e-mail to defense
2 counsel explaining that their continuing refusal to produce the documents obtained from Det. Majors
3 that were not *sub rosa* was simply wrongful. (Ex. "1" at 3:20-22.)(Please also see a true and correct
4 copy of Plaintiff's counsel's e-mail of February 17, 2016, attached hereto as Ex. "8.")

5 13. During the telephone conversation and in his letter, Mr. Aicklen said Det. Majors had
6 given these same documents to X'Zavion's prior counsel, Jason W. Barrus, Esq. However, while Mr.
7 Barrus spoke with Det. Majors before this matter went into litigation, he never met with Det. Majors and
8 he never obtained any documents from him. (Ex. "1" at 3:24-27.)(Please also see a true and correct
9 copy of Mr. Barrus' affidavit attached hereto as Ex. "9" with accompanying e-mails attached thereto.)

10 14. During his deposition on February 25, 2016, Det. Majors testified he met with defense
11 counsel prior to his deposition and gave them copies of documents as well as allowing them to make
12 notes of other documents in his possession that were not available through Metro's designated custodian
13 of records. (Ex. "1" at 4:1-4.)(Please also see a true and correct copy of Det. Majors' deposition
14 transcript attached hereto as Ex. "10" at 114:10-24.)

15 15. Det. Majors is not and never has been the custodian of records for Las Vegas
16 Metropolitan Police Department. (Ex. "1" at 4:7-8.)(Ex. "10" at 25:9-25; 26:1-25; 27:1-25; 28:1-25;
17 29:1-25; 30:1-25; 31:1-21.)

18 16. Pursuant to Det. Majors' e-mail correspondence to X'Zavion's former counsel, Jason
19 Barrus, only Metro's custodian of records is supposed to provide copies of documents pursuant to
20 subpoena. (Ex. "1" at 4:9-11.)(Ex. "9" at 1:16-20; p. 2 attached to Ex. "9.")

21 17. Specifically, Det. Majors told Mr. Barrus that if he gave documents to Mr. Barrus it
22 would be a "huge dissemination violation." (Ex. "1" at 4:12-13.)(Ex. "9" at 1:16-20; p. 2 attached to Ex.
23 "9.")

24 18. Det. Majors gave documents to defense counsel in violation of Metro's dissemination
25 policies. (*Id.*)

26 19. Only after Plaintiff's counsel said she would seek a motion for protective order to prevent
27 X'Zavion's continuing deposition did Defendants provide copies of documents they received during
28 their meeting with Det. Majors. This was approximately 30 days after they met with Det. Majors and

1 obtained the documents. Defendants Mydatt and Warner's third supplement pursuant to NRCP 16.1,
2 exhibits 335, 336 and 337 clearly indicate the defense received the same documents from Metro's
3 designated custodian of records that X'Zavion received from his subpoena. Defendants' supplement,
4 exhibits 329, 330, 331, 332, 333 and 334 also clearly indicate the defense received documents directly
5 from Det. Majors that were NOT available through Metro's designated custodian of records. (Ex. "1" at
6 4:14-21.)(Please also see a true and correct copy of Defendants Mydatt and Warner's third supplement
7 pursuant to NRCP 16.1 attached hereto as Ex. "11" at 25:6-25.)

8 20. On February 18, 2016, X'Zavion served an objection to Defendants' third supplement
9 pursuant to NRCP 16.2 for lack of authenticity. (Ex. "1" at 4:24-25.)(Please also see a true and correct
10 copy of Plaintiff's objection attached hereto as Ex. "12.")

11 21. Defense counsel acknowledged he was playing discovery games on February 17, 2016,
12 when he wrote a letter admitting he had "some documents" obtained directly from Det. Majors but then
13 said he was "in the process of gathering these materials" to continue thwarting Plaintiff's efforts to
14 receive these materials. (Ex. "1" at 5:1-4.)(Ex. "7.")

15 22. Because X'Zavion has memory problems, he completed a deposition errata sheet
16 clarifying his testimony given before defense counsel produced any documents relating to their meeting
17 with Det. Majors which were purposefully withheld until Plaintiff's counsel said she would bring a
18 motion for protective order precluding Defendants from taking another volume of X'Zavion's
19 deposition. (Ex. "1" at 5:6-9.)(Please also see a true and correct copy of X'Zavion's deposition errata
20 sheet attached hereto as Ex. "13.")

21 **IV. LEGAL ARGUMENT**

22 **A. Defendant's Motion to Dismiss is a Motion for Summary Judgment.**

23 Pursuant to NRCP 12(b):

24 If . . . matters outside the pleading are presented to and not excluded by the court, the
25 motion shall be treated as one for summary judgment and disposed of as provided in Rule
26 56, and all parties shall be given reasonable opportunity to present all material made
pertinent to such a motion by Rule 56.

27 / / /

1 An order of dismissal entered following such a motion, where matters outside the pleading were
2 offered, will be treated upon appellate review as a grant of a motion for summary judgment unless the
3 trial court has expressly excluded the matters outside the pleading from consideration. *Schmidt v.*
4 *Washoe County*, 123 Nev. ____, 159 P.3d 1099, 1103 (2007); *Tahoe Village Homeowners Ass'n v.*
5 *Douglas County*, 106 Nev. 660, 799 P.2d 556, *Stevens v. McGimsey*, 99 Nev. 840, 673 P.2d 499 (1983);
6 *Paso Builders, Inc. v. Hebard*, 83 Nev. 165, 426 P.2d 731 (1967).

8 Defendants have attached multiple documents to their motion to dismiss. They are requesting
9 the court consider these documents in determining whether X'Zavion has "unclean hands."
10 Accordingly, Defendants' motion to dismiss should be considered a motion for summary judgment.

11 **B. Standard for Determination of Motion for Summary Judgment.**

12 There are two factors to be considered in ruling on a motion for summary judgment: (1) whether
13 there exist genuine issues of material fact, and (2) whether the moving party is entitled to judgment as a
14 matter of law. NRCp 56(c); *O'Dell v. Martin*, 101 Nev. 142, 696 P.2d 996 (1985); *Lapica v. Eighth*
15 *Jud. Dist. Ct.*, 97 Nev. 86, 624 P.2d 1003 (1981). When hearing a motion for summary judgment, a trial
16 court takes into account many considerations to determine whether there exists a genuine issue of
17 material fact. The burden of establishing the lack of a triable issue of fact is upon the party moving for
18 summary judgment. *Weaver v. Shell Oil Co.*, 91 Nev. 324, 535 P.2d 787 (1975). All doubts are
19 resolved against the moving party and its supporting affidavits and depositions, if any, are carefully
20 scrutinized by the court even as to inferences. *Hoffmeister Cabinets of Nev., Inc. v. Bivins*, 87 Nev.
21 282, 486 P.2d 57 (1971); *Mullins v. Nevada Nat'l Bank*, 98 Nev. 510, 654 P.2d 533 (1982). The court
22 should view the evidence most favorable to the party against whom the motion for summary judgment is
23 directed, resolved resolving all doubt in that party's favor and giving to that party the benefit of all
24 favorable inferences that may be reasonably drawn from the evidence. *Lipshie v. Tracy Invest. Co.*, 93
25 Nev. 370 566 P.2d 819 (1977); *O'Dell v. Martin*, 101 Nev. 142, 696 P.2d 996 (1985); *Hubert v. Werner*,
26
27
28

1 101 Nev. 193, 698 P.2d 426 (1985). Most importantly, the summary judgment procedure is not
2 available to test the credibility of opposing witnesses to fact issues. *Aldabe v. Adams*, 81 Nev. 280, 402
3 P.2d 34 (1965).

4 **C. NRCP 37 Governs Discovery.**

5 Defendants are moving to dismiss X'Zavion's complaint pursuant to NRCP 37. This rule
6 governs sanctions relating to failure to make discovery. Ironically, Defendants failed to make discovery
7 pursuant to NRCP 16.1 and 34 after they obtained documents from Det. Majors in violation of Metro's
8 dissemination procedures. On the other hand, X'Zavion has seasonably supplemented discovery
9 throughout the course of litigation. Accordingly, X'Zavion respectfully requests that Defendants'
10 motion be denied.
11

12 **D. The Fact Finder Makes Determinations Regarding Credibility.**

13 As indicated, X'Zavion told defense counsel that his pain medications make him forgetful. After
14 X'Zavion had an opportunity to review the documents that Defendants obtained through Det. Majors'
15 dissemination violation, he completed and produced a deposition errata sheet clarifying his deposition
16 testimony. Defendants should not be allowed to benefit from documents obtained from Det. Majors in
17 advance of his deposition in violation of Metro's dissemination policies. The defense purposefully
18 withheld documents that should have been produced pursuant to NRCP 16.1 and 34 and is now seeking
19 to benefit from X'Zavion's memory problems associated with be required to take pain medications daily
20 because of chronic associated with his permanent injuries.
21

22 "Credibility is a matter to be decided by the jury." *United States v. Binder*, 769 F.2d 595, 602 (9th
23 Cir. 1985). While judges frequently instruct juries about factors that the jury may or should consider in
24 weighing the veracity of a witness, credibility, is for the jury – the jury is the lie detector in the
25 courtroom. *See United States v. Rosenberg*, 168 F.Supp 798, 806 (S.D.N.Y. 1952); *United States vs.*
26 *Daileda*, 229 F.Supp 148, 153-4 (M.D.Pa. 1964).
27
28

1 **E. Countermotion for Sanctions**

2 Defendants are well aware of the fact that they have a duty to seasonably supplement discovery
3 pursuant to NRCP 16.1 and 34. Defendants should also know that obtaining documents directly from
4 Det. Majors rather than from Metro's designated custodian of records was a "huge dissemination
5 violation." First, they should not have participated in the dissemination violation. Second, they should
6 not have waited 30 days to produce the materials they obtained from Det. Majors when they were under
7 a duty to produce documents. Defense counsel's claim that the documents somehow constituted *sub*
8 *rosa* was incorrect. There was no relationship between Defendants and Det. Majors that would create a
9 relationship permitting a *sub rosa* argument. Plaintiff's counsel should not have had to conduct EDCR
10 2.34 conferences and be willing to seek a protective order and/or a motion to compel before Defendants
11 produced the documents.
12

13 X'Zavion told defense counsel that his pain medications make him forgetful. Defendants are
14 attempting to punish X'Zavion for having chronic pain. X'Zavion told Defendants he was not sure that
15 he would be able to give his best testimony because of the pain medications. Defense counsel chose to
16 ambush X'Zavion with documents that defense counsel obtained through a "huge dissemination
17 violation," and are now attempting to punish X'Zavion for his damages resulting from Defendants' acts
18 and omissions.
19

20 X'Zavion has reviewed the documents Defendants withheld during his deposition. He has
21 provided an errata to his deposition testimony based upon reviewing the documents Defendants were
22 withholding.
23

24 X'Zavion respectfully requests that this Honorable Court prevent Defendants from benefitting
25 from their obstreperous discovery tactics by striking the first volume of his deposition. Further, the
26 purpose of sanctions is to thwart future bad behavior. Accordingly, X'Zavion also respectfully requests
27
28


1 that this Honorable Court award him attorney's fees and costs associated with attending the first volume
2 of his deposition and for having to oppose Defendants' motion to dismiss.

3 **V. CONCLUSION**

4 For the reasons set forth above Plaintiff respectfully requests that Defendants' motion to dismiss
5 be denied. Plaintiff also respectfully requests that sanctions be issued against the defense for blatant
6 discovery abuses.

7
8 DATED this 11TH day of April, 2016.

9 INJURY LAWYERS OF NEVADA

10
11 
12 DAVID J. CHURCHCHILL (SBN: 7308)
13 JOLENE J. MANKE (SBN: 7436)
14 6900 Westcliff Drive, Suite 707
15 Las Vegas, Nevada 89145
16 *Attorneys for Plaintiff*
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CERTIFICATE OF E-SERVICE

Pursuant to NRCp 5(b)(2)(D) and EDCR 7.26(a)(4), I certify that on the 11th day of April, 2016, I served the foregoing **PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT AND COUNTERMOTION FOR SANCTION** on the following parties via Electronic Service as follows:

DAVID S. LEE (SBN: 6033)
CHARLENE N. RENWICK (SBN: 10165)
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GAROFALO
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E-Mail: dlee@leelawfirm.com
crenwick@lee-lawfirm.com
Attorneys for Defendants
GGP MEADOWS MALL LLC;
MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES; and
and MARK WARNER

JOSH COLE AICKLEN (SBN: 7254)
DAVID B. AVAKIAN (SBN: 9502)
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Attorneys for Defendants
MYDATT SERVICES, INC. d/b/a VALOR
SECURITY SERVICES and MARK WARNER


an employee of Injury Lawyers of Nevada

Exhibit “1”

AFFIDAVIT OF JOLENE J. MANKE, ESQ.

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, JOLENE J. MANKE, ESQ., hereby certify, affirm and state:

1. I am an attorney duly licensed to practice law in the state of Nevada and am of counsel to the law firm of Injury Lawyers of Nevada, counsel of record for Plaintiff X'ZAVION HAWKINS (hereinafter "X'Zavion") in the matter of *Hawkins v. GGP Meadows Mall, LLC/Mydatt Services, Inc. d/b/a Valor Security Services/Mark Warner*, Clark County District Court Case No.: A-15-717577.

2. The facts set forth in this affidavit are known to me personally, and I am competent to testify under oath regarding the same.

3. On July 23, 2013, X'Zavion electronically served his first set of requests for production of documents to Defendant MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES. Requests No. 4, 7 and 8 specifically related to investigative materials.

REQUEST NO. 4:

Please produce any and all incident or accident reports from the date of the subject incident, which have not already been produced pursuant to NRCP 16.1

REQUEST NO. 7:

Please produce copies of any and all investigative reports made with respect to the subject incident, whether from public or private entities, which have not already been produced pursuant to NRCP 16.1

REQUEST NO. 8:

Please produce any and all documents and/or other information received and/or obtained from a source other than Plaintiff X'ZAVION HAWKINS or Plaintiff X'ZAVION HAWKINS' representatives not already produced and/or identified by you that you intend to rely upon at the time of trial in this matter. (Please see a true and correct copy of X'Zavion's first set of requests for production to Mydatt attached hereto as Ex. "2" at 4:24-26; 5:1-10.)

1 4. X'Zavion subpoenaed Las Vegas Metropolitan Police Department ("Metro") for the
2 "entirety" of its criminal investigative materials relating to X'Zavion being shot at Meadows Mall.
3 Metro's custodian of records produced 154 color photographs, video footage obtained from Meadows
4 Mall, and a 17 page investigative report that included witness statements. X'Zavion timely produced
5 these materials to Defendants pursuant to NRCP 16.1.

6 5. On January 29, 2015, Defendants noticed the deposition of Metro's custodian of records
7 for January 18, 2016, and issued a subpoena duces tecum for records relating to the criminal
8 investigation. The subpoena duces tecum said that the deposition was for records only – no appearance
9 was required. (True and correct copies of the deposition notice and subpoena duces tecum are attached
10 hereto as Ex. "3" and "4," respectively.)

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15 for pain, including the following: morphine, 100 mg, hydrocodone 10 mg, bacopin 20 mg and
16 gabapentin 600 mg. (*Id.* at 7:10-16.)

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18 best testimony because they make him forgetful. (*Id.* at 7:17-22.)

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20 documents containing material that was unfamiliar to X'Zavion and his counsel. Defense counsel did
21 not provide a Bates range or otherwise identify the documents, and defense counsel did not allow
22 X'Zavion or his counsel to see the documents. (Please see a true and correct copy of the deposition
23 transcript of Det. William Majors attached hereto as Ex. "10" at 114:10-24.)

24 10. Shortly after the deposition concluded, I tried to call defense counsel who had taken the
25 deposition, Josh Cole Aicklen, Esq., but was advised that he was unavailable.

26 11. I then called Mr. Aicklen's co-counsel, Charlene Renwick, Esq. and asked for the Bates
27 range of the documents Mr. Aicklen was referencing during X'Zavion's deposition. Ms. Renwick said
28 there was no Bates range for the documents, but Metro Det. Majors would bring a copy of the

1 documents to his deposition on Thursday, February 25, 2016. I told Ms. Renwick that was
2 unacceptable, and would consider our telephone conversation to be a good faith attempt to receive a
3 copy of the documents before Det. Majors' deposition and before X'Zavion's continuing deposition. I
4 sent an e-mail to all defense counsel memorializing my conversation with Ms. Renwick, and requesting
5 production of the documents before 5 p.m. on Wednesday, February 17, 2016. (A true and correct copy
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8 Tuesday, February 16, 2016, I spoke with Mr. Aicklen who said he could not produce the documents in
9 his possession until he spoke with his co-counsel, Ms. Renwick. I said that pursuant to my e-mail of
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11 documents. Mr. Aicklen implied the documents he had in his possession were somehow similar to *sub*
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14 to both NRCPP 16.1 and 34.

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22 simply wrongful. (A true and correct copy of my e-mail of February 17, 2016, is attached hereto as Ex.
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26 Barrus spoke with Det. Majors before this matter went into litigation, he never met with Det. Majors and
27 he never obtained any documents from him. (Please see a true and correct copy of Mr. Barrus' affidavit
28 attached hereto as Ex. "9" with accompanying e-mails attached thereto.)

1 16. During his deposition on February 25, 2016, Det. Majors testified he met with defense
2 counsel prior to his deposition and gave them copies of documents as well as allowing them to make
3 notes of other documents in his possession that were not available through Metro's designated custodian
4 of records. (Ex. "10" at 114:10-24.)

5 17. At the time of the shooting, Det. Majors worked in Metro's violent crimes division. (*Id.*
6 at 29:10-17.)

7 18. Det. Majors is not and never has been the custodian of records for Las Vegas
8 Metropolitan Police Department. (*Id.* at 25:9-25; 26:1-25; 27:1-25; 28:1-25; 29:1-25; 30:1-25; 31:1-21.)

9 19. Pursuant to Det. Majors' e-mail correspondence to X'Zavion's former counsel, Jason
10 Barrus, only Metro's custodian of records is supposed to provide copies of documents pursuant to
11 subpoena. (Ex. "9" at 1:16-20; p. 2 attached to Ex. "8.")

12 20. Specifically, Det. Majors told Mr. Barrus that if he gave documents to Mr. Barrus it
13 would be a "huge dissemination violation." (*Id.*)

14 21. Only after I said I would seek a motion for protective order to prevent X'Zavion's
15 continuing deposition did Defendants provide copies of documents they received during their meeting
16 with Det. Majors. This was approximately 30 days after they meet with Det. Majors and obtained the
17 documents. Defendants Mydatt and Warner's third supplement pursuant to NRCP 16.1, exhibits 335,
18 336 and 337 clearly indicate the defense received the same documents from Metro's designated
19 custodian of records that X'Zavion received from his subpoena. Defendants' supplement, exhibits 329,
20 330, 331, 332, 333, and 334 also clearly indicate the defense received documents directly from Det.
21 Majors that were NOT available through Metro's designated custodian of records. (Please see a true and
22 correct copy of Defendants Mydatt and Warner's third supplement attached hereto as Ex. "11" at 25:6-
23 25.)

24 22. On February 18, 2016, X'Zavion served an objection to Defendants' third supplement
25 pursuant to NRCP 16.1 for lack of authenticity. (Please see a true and correct copy of Plaintiff's
26 objection attached hereto as Ex. "12.")

27 ///

28 ///

23. Defense counsel acknowledged he was playing discovery games on February 17, 2016, when he wrote a letter admitting he had “some documents” obtained directly from Det. Majors but then said he was “in the process of gathering these materials” to continue thwarting Plaintiff’s efforts to receive these materials. (Ex. “7.”)

24. Because X'Zavion has memory problems, he completed a deposition errata sheet clarifying his testimony given before defense counsel produced any documents relating to their meeting with Det. Majors which were purposefully withheld until I said that I would bring a motion for protective order precluding Defendants from taking another volume of X'Zavion's deposition. (Please see a true and correct copy of X'Zavion's deposition errata sheet attached hereto as Ex. "13.")

FURTHER YOUR AFFIANT SAYETH NAUGHT.


JOLENE J. MANKE, ESQ.

Subscribed and Sworn to before me
this 11 day of April, 2016.

NOTARY PUBLIC in and for said
County and State

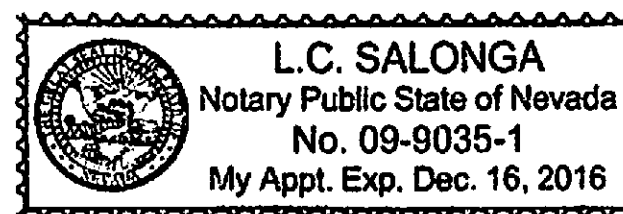


Exhibit “2”

1 **REQT**
2 **DAVID J. CHURCHILL (SBN: 7308)**
3 **JOLENE J. MANKE (SBN: 7436)**
4 **INJURY LAWYERS OF NEVADA**
5 **6900 Westcliff Drive, Suite 707**
6 **Las Vegas, Nevada 89145**
7 **T: 702-868-8888**
8 **F: 702-868-8889**
9 **david@injurylawyersnv.com**
10 **jolene@injurylawyersnv.com**
11 **Attorneys for Plaintiff**

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **X'ZAVION HAWKINS,**

10 **Plaintiff,**

11 **vs.**

12 **GGP MEADOWS MALL LLC, a Delaware**
13 **Limited Liability Company; MYDATT**
14 **SERVICES, INC. d/b/a VALOR SECURITY**
15 **SERVICES, an Ohio Corporation; MARK**
16 **WARNER, individually; DOES 1 through 10;**
17 **DOE SECURITY GUARDS 11 through 20; and**
18 **ROE ENTITIES 21 through 30, inclusive,**

19 **Defendants.**

CASE NO.: A-15-717577-C
DEPT. NO.: XXXI

PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION TO
DEFENDANT MYDATT SERVICES,
INC. d/b/a VALOR SECURITY
SERVICES

17 **TO: MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES; and**

18 **TO: BRIAN A. GONSALVES, ESQ., of RESNICK & LOUIS, P.C., attorney for Defendant.**

19 **COMES NOW, Plaintiff X'ZAVION HAWKINS by and through his counsel of record, David J.**
20 **Churchill, Esq. and Jolene J. Manke, Esq. of INJURY LAWYERS OF NEVADA, and hereby produce**
21 **the following within thirty (30) days from the date of service hereof, pursuant to NRCP 34.**

22 **These requests to produce call for all information (including information contained in or on**
23 **writings, recordings or any other tangible thing or material) that is known or available to Defendant**
24 **MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES, including all information in**
25 **possession of any other person(s) acting on behalf of or under the direction or control of Defendant**
26 **MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES.**

27 **///**

1 All references in these requests to produce to "Defendant," "Defendant MYDATT SERVICES,
2 INC. d/b/a VALOR SECURITY SERVICES" or "you" includes Defendant MYDATT SERVICES,
3 INC. d/b/a VALOR SECURITY SERVICES and any other person(s) under Defendant MYDATT
4 SERVICES, INC. d/b/a VALOR SECURITY SERVICES's direction or control.

5 If Defendant cannot produce any requested item fully and completely after exercising due
6 diligence to make inquiry and secure said item, please so state and further specify those facts upon
7 which Defendant MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES relies to support
8 its contention that it is unable to produce such item. In addition, specify what knowledge, information
9 or belief Defendant MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES has
10 concerning the item not produced and describe fully and in detail, the acts done and inquiries made by
11 Defendant MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES to show it has exercised
12 due diligence to make inquiry and secure the requested item.

13 DEFINITIONS

14 The following definitions shall apply to each of the requests and shall be deemed to be
15 incorporated therein:

16 A. "Writing" means and includes any printed, typewritten or handwritten matter, or
17 reproduction thereof, of whatever character, including, but not limited to, contracts, agreements, letters,
18 memoranda, telegrams and handwritten notes, electronic transmissions, whether copy or original.

19 B. "Identify" a writing means to state with respect thereto:
20 1. The name of the person who prepared it;
21 2. The name of the person who signed it or over whose name it was issued;
22 3. The name of each person to whom it was addressed or distributed;
23 4. The nature and substance of the writing with sufficient particularity to enable it to
24 be identified adequately in a motion by Plaintiff for her production and copying;
25 5. Its date, and if it bears no date, the date when it was prepared;
26 6. The physical location of it and the name of its custodian(s); and
27 7. Whether it will be voluntarily made available to Plaintiff for inspection and
28 copying.

1 C. "Identify" an oral communication means to state:
2 1. The name and address of each person who participated in the communication and
3 the name and address of each person who was present at the time it was made;
4 2. By whom each such person was employed and whom such person represented or
5 purported to represent in making the oral communication;
6 3. What each such person said;
7 4. The date and the place where such oral communication was made; and
8 5. The nature and substance of each writing or record pertaining to such oral
9 communication with sufficient particularity to enable it to be identified adequately in a motion by
10 Plaintiff for their production and copying.

11 D. "Identify" a person or "identity" of a person means to state his or her name and last
12 known address, and his or her last known telephone number.

13 E. "In your possession" means under your control or under the control of your employees,
14 officers, agents, representatives, accountants or attorneys.

15 F. The masculine, feminine or neuter gender and the singular or plural number shall each be
16 deemed to include the others.

17 G. "You" or "Your" means Defendant MYDATT SERVICES, INC. d/b/a VALOR
18 SECURITY SERVICES and/or its agents and/or employees.

19 H. "Subject Incident" means the shooting incident on August 17, 2013, which occurred at
20 Meadows Mall located in Las Vegas, Nevada wherein Plaintiff X'ZAVION HAWKINS was injured.

21 I. "Subject Litigation" means the above-entitled litigation, Clark County District Court
22 Case No. A-15-717577-C.

23 J. "Subject Shoe Launch" means the Nike event taking place at Meadows Mall at the time
24 of the Subject Incident.
25

26 ///

27 ///

1 **REQUESTS**

2 **REQUEST NO. 1:**

3 Please produce any and all audio and/or video recordings, including, but not limited to, any *sub*
4 *rosa* investigation of Plaintiff X'ZAVION HAWKINS since the date of the subject incident.

5 **REQUEST NO. 2:**

6 Please produce any and all documents, including, but not limited to, reports, transcripts, maps,
7 diagrams, photographs, etc. relating to any *sub rosa* investigation of Plaintiff X'ZAVION HAWKINS
8 since the date of the subject incident.

9 **REQUEST NO. 3:**

10 Please produce any written or recorded statement(s) made by any party or witness (whether
11 signed or unsigned), which have not already been produced pursuant to NRCP 16.1, or if not in your
12 possession, please state in whose custody each written or recorded statement is presently.

13 **REQUEST NO. 4:**

14 Please produce any and all incident or accident reports from the date of the subject incident,
15 which have not already been produced pursuant to NRCP 16.1.

16 **REQUEST NO. 5:**

17 Please produce any maps, motion pictures, photographs, plats, drawings, diagrams,
18 measurements, audiotapes, videotapes (including any saved to a server or hard drive), or other written
19 description of the subject incident, the scene of the subject incident, or the area or persons involved in
20 the subject incident, which have not already been produced pursuant to NRCP 16.1.

21 **REQUEST NO. 6:**

22 Please produce all documents which in any way support the affirmative defenses asserted in your
23 answer to the subject complaint, which have not already been produced pursuant to NRCP 16.1.

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1 **REQUEST NO. 7:**

2 Please produce copies of any and all investigative reports made with respect to the subject
3 incident, whether from public or private entities, which have not already been produced pursuant to
4 NRCP 16.1.

5 **REQUEST NO. 8:**

6 Please produce any and all documents and/or other information received and/or obtained from a
7 source other than Plaintiff X'ZAVION HAWKINS or Plaintiff X'ZAVION HAWKINS representatives.
8 not already produced and/or identified by you that you intend to rely upon at the time of trial in this
9 matter.
10

11 **REQUEST NO. 9:**

12 Please produce the entirety of your policies and procedures for training and supervision of your
13 security personnel relating to events such as the subject shoe launch in place at the time of the subject
14 incident.

15 **REQUEST NO. 10:**

16 Please produce the entirety of your rules and regulations for your security personnel relating to
17 events such as the subject shoe launch in place at the time of the subject incident.
18

19 **REQUEST NO. 11:**

20 Please provide copies of any and all safety manuals specifically relating to Meadows Mall at the
21 time of the subject incident.

22 **REQUEST NO. 12:**

23 Please provide copies of any and all training manuals for security personnel for Meadows Mall at
24 the time of the subject incident.

25 **REQUEST NO. 13:**

26 Please produce copies of any and all expert liability and expert medical reports which you intend
27 to rely upon at the time of trial of this matter.


28 ///

1 **REQUEST NO. 14:**

2 Please produce a complete copy of the job file for each and every expert you have identified
3 including, but not limited to, copies of all correspondence, notes, e-mails, telephone logs and messages,
4 charges, reports, draft reports, investigations, summaries, calculations, draft calculations, photographs,
5 video tapes, digital images, billing records, recorded statements, discovery provided to the expert, and
6 each and every other tangible item in the expert's file which has ever been provided, reviewed,
7 considered, or generated by the expert in formulating his or her opinions or conclusions in this matter.

8 DATED this 23rd day of July, 2015.

9 INJURY LAWYERS OF NEVADA

10
11 
12 DAVID J. CHURCHILL (SBN: 7308)
13 JOLENE J. MANKE (SBN: 7436)
14 6900 Westcliff Drive, Suite 707
15 Las Vegas, NV 89145
16 Attorneys for Plaintiff
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CERTIFICATE OF E-SERVICE

Pursuant to NRCP 5(b)(2)(D) and EDCR 7.26(a)(4), I certify that on the 23rd day of July, 2015, I served the foregoing **PLAINTIFF'S FIRST SET OF REQUEST FOR PRODUCTION TO DEFENDANT MYDATT SERVICES, INC. d/b/a VALOR SECURITY SERVICES** on the following parties via Electronic Service, as follows:

PHILIP GOODHART (SBN: 5332)
THORNDAL ARMSTRONG DELK
BALKENBUSH & EISINGER
1100 E. Bridger Avenue
Las Vegas, Nevada 89101
E-mail: png@thorndal.com
Attorneys for Defendant
GGP MEADOWS MALL, LLC;

BRIAN A. GONSALVES (SBN: 9815)
RESNICK & LOUIS, P.C.
5940 S. Rainbow Boulevard
Las Vegas, Nevada 89118
Email: bgonsalves@rlattorneys.com
Attorneys for Defendants
MYDATT SERVICES, INC.
d/b/a VALOR SECURITY SERVICES and
and MARK WARNER

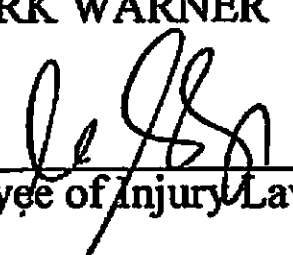

an employee of Injury Lawyers of Nevada

Exhibit “3”

1 NDEP
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
HAROLD J. ROSENTHAL
5 Nevada Bar No. 010208
Harold.Rosenthal@lewisbrisbois.com
6 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
7 Las Vegas, Nevada 89118
702.893.3383
8 FAX: 702.893.3789
Attorneys for Defendants
9 MYDATT SERVICES, INC. d/b/a MYDATT
SERVICES, INC. and MARK WARNER

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

14 X'ZAVION HAWKINS,
15 Plaintiff,
16 vs.

Case No. A717577
Dept. No. XXXI

17 GGP MEADOW MALL LLC, a Delaware
Limited Liability Company; MYDATT
18 SERVICES, INC. d/b/a VALOR
SECURITY SERVICES, an Ohio
19 Corporation; MARK WARNER,
individually; DOES 1 through 10; DOE
20 SECURITY GUARDS 11 through 20; and
21 ROE ENTITIES 21 through 30,
INCLUSIVE,
22 Defendants.

NOTICE OF TAKING DEPOSITION OF
THE CUSTODIAN OF RECORDS FOR
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT

23
24 PLEASE TAKE NOTICE that on January 18, 2016, 10:00 a.m., Defendants,
25 MYDATT SERVICES, INC. d/b/a MYDATT SERVICES, INC. and MARK WARNER, by
26 and through their attorneys, Josh Cole Aicklen, Esq., David B. Avakian, Esq., and Harold
27 J. Rosenthal, Esq. of LEWIS BRISBOIS BISGAARD & SMITH LLP, will take the
28 deposition of THE CUSTODIAN OF RECORDS FOR LAS VEGAS METROPOLITAN

1 POLICE DEPARTMENT upon oral examination, pursuant to NRCP 30, before a notary
2 public or some other officer authorized by law to administer oaths.

3 The examination of the above-named deponents will continue from day-to-day until
4 completed. You are invited to attend and cross-examine

5 DATED this 28 day of December, 2015.

6 Respectfully submitted,

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8
9
10 By 

JOSH COLE AICKLEN

Nevada Bar No. 007254

DAVID B. AVAKIAN

Nevada Bar No. 009502

HAROLD J. ROSENTHAL

Nevada Bar No. 010208

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

Attorneys for Defendants MYDATT

SERVICES, INC. d/b/a MYDATT SERVICES,

INC. and MARK WARNER

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this 29th day of December, 2015, I did cause a true copy of NOTICE OF TAKING DEPOSITION OF THE CUSTODIAN OF RECORDS FOR LAS VEGAS METROPOLITAN POLICE DEPARTMENT be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

David J. Churchill
Jolene J. Manke
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
P: 702-868-8888
F: 702-868-8889
david@injurylawyersnv.com
jolene@injurylawyersnv.com
Attorneys for Plaintiff
X'ZAVION HAWKINS

David S. Lee
Charlene N. Renwick
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
dlee@leelawfirm.com
crenwick@lee-lawfirm.com
Attorneys for Defendants MYDATT
SERVICES, INC. d/b/a VALOR SECUIRTY
SERVICES and MARK WARNER

By 
An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

Exhibit “4”

1 SUBP
JOSH COLE AICKLEN
2 Nevada Bar No. 007254
Josh.aicklen@lewisbrisbois.com
3 DAVID B. AVAKIAN
Nevada Bar No. 009502
4 David.avakian@lewisbrisbois.com
HAROLD J. ROSENTHAL
5 Nevada Bar No. 010208
Harold.Rosenthal@lewisbrisbois.com
6 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
7 Las Vegas, Nevada 89118
702.893.3383
8 FAX: 702.893.3789
Attorneys for Defendants
9 MYDATT SERVICES, INC. d/b/a MYDATT
SERVICES, INC. and MARK WARNER

11 DISTRICT COURT
12 CLARK COUNTY, NEVADA

14 X'ZAVION HAWKINS,
15 Plaintiff,

16 vs.

17 GGP MEADOW MALL LLC, a Delaware
Limited Liability Company; MYDATT
18 SERVICES, INC. d/b/a VALOR
SECURITY SERVICES, an Ohio
19 Corporation; MARK WARNER,
individually; DOES 1 through 10; DOE
20 SECURITY GUARDS 11 through 20; and
ROE ENTITIES 21 through 30,
21 INCLUSIVE,

22 Defendants.

Case No. A717577
Dept. No. XXXI

SUBPOENA DUCES TECUM

Date: January 18, 2016
Time: 10:00 a.m.

(records only - no appearance required)

24 THE STATE OF NEVADA SENDS GREETINGS TO:

25 CUSTODIAN OF RECORDS
Las Vegas Metropolitan Police Department - Criminal Division
26 400 South Martin Luther King Boulevard, Building C
Las Vegas, Nevada 89106
27

1 YOU ARE HEREBY COMMANDED, that all and singular, business and excuses
2 set aside, you appear and attend a deposition on January 18, 2016 at 10:00 a.m., at the
3 law office of LEWIS BRISBOIS, BISGAARD & SMITH LLP, located at 6385 S. Rainbow
4 Blvd., Suite 600, Las Vegas, Nevada 89118.

5 Your attendance is required to give testimony and to produce and permit
6 inspection and copying of designated books, documents or tangible things in your
7 possession, custody or control, or to permit inspection of premises. You are required to
8 bring with you at the time of your appearance any items set forth below. If you fail to
9 attend, you will be deemed guilty of contempt of Court and liable to pay all losses and
10 damages caused by your failure to appear.

11 Deponent is to bring the following items:

12 All documents in your possession, custody, or control relating to event number
13 130817-0794, specifically but not limited to, all incident reports, voluntary
14 statements, diagrams, photographs, 911 call recordings, CAD reports, surveillance
footage, investigative reports, citations, dispositions, correspondence,
memoranda, and any other tangible item relating to this incident.

15 IN LIEU OF APPEARANCE, you are permitted to provide a copy of all the items
16 requested above, together with a signed and notarized Certificate of Custodian of
17 Records, on or before January 15, 2016, to LEWIS BRISBOIS BISGAARD & SMITH LLP,
18 at 6385 S. Rainbow Boulevard, Suite 600, Las Vegas, Nevada 89118; (702) 893-3383.

19 Please see EXHIBIT A attached hereto for information regarding the rights of the
20 person subject to this Subpoena.

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Please execute the Custodian of Records affidavit, attached as EXHIBIT B.

DATED this 28 day of December, 2015.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By


JOSH COLE AICKLEN

Nevada Bar No. 007254

DAVID B. AVAKIAN

Nevada Bar No. 009502

HAROLD J. ROSENTHAL

Nevada Bar No. 010208

6385 S. Rainbow Boulevard, Suite 600

Las Vegas, Nevada 89118

Tel. 702.893.3383

Attorneys for Defendants MYDATT

SERVICES, INC. d/b/a MYDATT SERVICES,

INC. and MARK WARNER

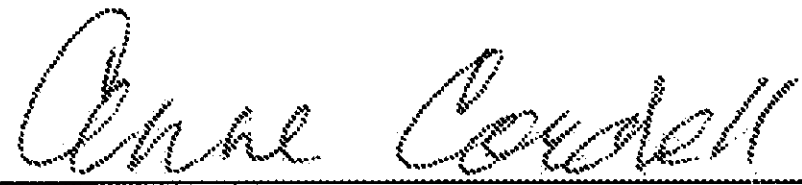
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Brisbois Bisgaard & Smith LLP and that on this 29th day of December, 2015, I did cause a true copy of SUBPOENA DUCES TECUM be placed in the United States Mail, with first class postage prepaid thereon, and addressed as follows:

David J. Churchill
Jolene J. Manke
INJURY LAWYERS OF NEVADA
6900 Westcliff Dr., Ste. 707
Las Vegas, NV 89145
P: 702-868-8888
F: 702-868-8889
david@injurylawyersnv.com
jolene@injurylawyersnv.com
Attorneys for Plaintiff
X'ZAVION HAWKINS

David S. Lee
Charlene N. Renwick
LEE, HERNANDEZ, LANDRUM &
GAROFALO
7575 Vegas Dr., Ste. 150
Las Vegas, NV 89128
dlee@leelawfirm.com
crenwick@lee-lawfirm.com
Attorneys for Defendants MYDATT
SERVICES, INC. d/b/a VALOR SECURIT
SERVICES and MARK WARNER

By



An Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP

EXHIBIT A

NEVADA RULES OF CIVIL PROCEDURE
Rule 45

(c) Protection of Persons Subject to Subpoena.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (v) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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EXHIBIT B

CUSTODIAN OF RECORDS AFFIDAVIT

STATE OF _____)
COUNTY OF _____) ss.

Affiant being first duly sworn deposes and says:

1. That the Affiant is the Custodian of Records LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

2. That on the _____ day of _____, 2016, the Affiant was served with a Subpoena Duces Tecum in connection with Hawkins v. GGP Meadows Mall LLC, et al., Eighth Judicial District Court, District of Nevada, Case Number A717577, calling for the production of all incident records contained in LAS VEGAS METROPOLITAN POLICE DEPARTMENT's file relating to event no. 130817-0794.

☐ That the Affiant has examined the original of the above-referenced documents and has made a true and exact copy of them except that all privileged, protected, and irrelevant materials have been withheld or redacted and that the reproduction of them attached hereto is true and complete.

OR

☐ That the Affiant has performed a thorough search of LAS VEGAS METROPOLITAN POLICE DEPARTMENT's files and produced no records or documents responsive to this request. It is to be understood that this does not mean that records do not exist under another spelling, name or classification.

COMMENTS:

FURTHER AFFIANT SAYETH NAUGHT.

Dated this _____ day of _____, 2016.

SWORN and SUBSCRIBED to before me
this _____ day of _____, 2016.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT

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Exhibit “5”

CONDENSED

In the Matter Of:

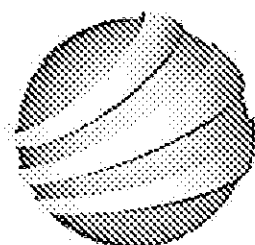
X'ZAVION HAWKINS vs. GGP MEADOWS MALL LLC

A-15-717577-C

X'ZAVION HAWKINS

February 12, 2016

VOLUME I



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X'ZAVION HAWKINS VOLUME I
X'ZAVION HAWKINS vs. GGP MEADOWS MALL LLC

February 12, 2016
1-4

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1	DISTRICT COURT	1	INDEX OF EXAMINATION
2	CLARK COUNTY, NEVADA	2	
3		3	WITNESS: X'Zavion Hawkins
4	X'ZAVION HAWKINS,	4	
5	Plaintiff,	5	
6	vs.	6	
7	CASE NO. A-15-717577-C	7	
8	GGP MEADOWS MALL LLC, a	8	
9	Delaware Limited	9	EXAMINATION
10	Liability Company; MYDATT	10	PAGE
11	SERVICES, INC., dba VALOR	11	By Mr. Aicklen
12	SECURITY SERVICES, an	12	By Ms. Renwick
13	Ohio Corporation; MARK	13	
14	WARNER, individually;	14	
15	DOES 1 through 10; DOE	15	
16	SECURITY GUARDS 11	16	
17	through 20; and ROE	17	INDEX TO EXHIBITS
18	ENTITIES 21 through 30,	18	
19	inclusive,	19	EXHIBITS
20	Defendants.	20	MARKED
21	-----	21	
22	VIDEO DEPOSITION OF	22	None marked.
23	X'ZAVION HAWKINS	23	
24	Friday, February 12, 2016	24	
25	10:24 a.m.	25	
	2300 W. Sahara Avenue		
	Las Vegas, Nevada		
	Carol O'Malley, CCR 178, RMR		
Page 2		Page 4	
1	APPEARANCES OF COUNSEL	1	Video Deposition of X'Zavion Hawkins
2		2	February 12, 2016
3	For Plaintiff:	3	(Prior to the commencement of the deposition,
4	INJURY LAWYERS OF NEVADA	4	all of the parties present agreed to waive
5	DAVID J. CHURCHILL, ESQ.	5	statements by the court reporter, pursuant to
6	Suite 707	6	Rule 30(b)(4) of NRCP.)
7	6900 W. Westcliff Drive	7	
8	Las Vegas, Nevada 89145	8	VIDEOGRAPHER: This is tape number 1 to
9	702.868.8888	9	the videotaped deposition of X'Zavion Hawkins in the
10	702.868.8889 Fax	10	matter of X'Zavion Hawkins vs. GGP Meadows Mall LLC,
11	david@injurylawyersnv.com	11	et al., being heard before the District Court, Clark
12		12	County, Nevada, Case Number A-15-717577-C.
13	For Defendant GGP Meadows Mall LLC:	13	This deposition is being held at
14	LEE, HERNANDEZ, LANDRUM & GAROFALO	14	2300 West Sahara, Suite 700, in Las Vegas Nevada on
15	CHARLENE N. RENWICK, ESQ.	15	February 12, 2016, and the time on the video monitor
16	Suite 150	16	is 10:24 a.m.
17	7575 Vegas Drive	17	My name is Nick Nardiello and I'm
18	Las Vegas, Nevada 89128	18	the videographer. The court reporter is Carol
19	702.880.9750	19	O'Malley.
20	702.314.1210 Fax	20	Counsel, will you please introduce
21	crenwick@lee-lawfirm.com	21	yourselves and affiliations, and the witness will be
22	For Defendants Mydatt Services, Inc., dba Valor	22	sworn in.
23	Security Services, and Mark Warner:	23	MR. CHURCHILL: David Churchill for
24	LEWIS BRISBOIS BISGAARD & SMITH LLP	24	X'Zavion Hawkins.
25	JOSH COLE AICKLEN, ESQ.	25	MR. AICKLEN: Josh Aicklen, Lewis
	Suite 600		
	6385 S. Rainbow Boulevard		
	Las Vegas, Nevada 89118		
	702.893.3383		
	702.893.3789 Fax		
	josh.aicklen@lewisbrisbois.com		
	Also present:		
	NICK NARDIELLO		
	Videographer		

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1 Brisbois, for Mydatt Services, Inc., d/b/a Valor
2 Security, and Mark Warner.
3 MS. RENWICK: Charlene Renwick on
4 behalf of GGP Meadows Mall LLC, in addition to Mydatt
5 Services and Mark Warner.
6
7 X'ZAVION HAWKINS,
8 having been first duly sworn, testified as follows:
9
10 EXAMINATION
11 BY MR. AICKLEN:
12 Q. Good morning, sir. Would you please state
13 and spell your full name for the record?
14 A. X'Z-a-v -- well, X'Z-a-v-i-o-n. Sorry.
15 H-a-w-k -- did you get my first name?
16 Q. I did.
17 A. -- i-n-s.
18 Q. How do you pronounce your first name?
19 A. X'Zavion.
20 Q. I'm going to call you "Mr. Hawkins." Okay?
21 A. Okay.
22 Q. Mr. Hawkins, my name is Josh Aicklen and I
23 represent the defendants in this matter, along with
24 Ms. Renwick, and we are here to take your
25 deposition -- what will be Volume I of your

Page 6

1 deposition today. Do you understand that?
2 A. Yes.
3 Q. Have you ever given a deposition before?
4 A. No.
5 Q. Have you had a chance to speak to
6 Mr. Churchill about the process? I don't want to
7 know what you talked about, but have you had a chance
8 to speak with him?
9 A. No. As far as like --
10 Q. Here's the question, okay? I want to know
11 if you've been able to talk to Mr. Churchill about
12 today you are going to give your deposition.
13 A. Oh, yes. He told me I was coming to take
14 my deposition.
15 Q. That's all. I just wanted to make sure you
16 spoke with him. Okay?
17 A. Okay.
18 Q. So I want to go through some of the ground
19 rules of the deposition process today.
20 The oath that you just took is the
21 same oath that you would take in a court of law, and
22 it carries the same penalty of perjury.
23 Do you understand that?
24 A. Yes.
25 Q. So even though we're here in an informal

Page 7

1 environment in a conference room at the court
2 reporter's office, this is just as if you were
3 sitting in front of a judge and jury, and you're
4 under oath. Do you understand?
5 A. Yes.
6 Q. Very good. Have you had any alcohol or
7 drugs in the last 12 hours, which might affect your
8 ability to give your best testimony today?
9 A. I had just my pain medication.
10 Q. What pain medication have you taken in the
11 last 12 hours.
12 A. Morphine, 100 milligrams. Hydrocodone,
13 that's 10 milligrams. Bacopin is 20 milligrams. And
14 also I have Gabapentin, also 600 milligrams.
15 Q. You said Gabapentin?
16 A. Yes, 600 milligrams.
17 Q. Okay. Are you able to answer the questions
18 using those pain medications? Are you going to be
19 able to give your best testimony today?
20 A. I probably won't be able to give my best
21 testimony. I forget sometimes, because of the
22 medication, but I'll be able to bear with it.
23 Q. Okay. So what I'm going to ask you to do
24 is if at any time during the process today you get to
25 the point where either because of pain or the

Page 8

1 medications, that you think that you cannot give your
2 best answers, I want you to tell us that. Okay?
3 A. Yes, sir.
4 Q. But if I ask you a question and you answer
5 the question, I'm going to assume that you understood
6 my question and you gave the best answer.
7 Do you understand?
8 A. Yes, I understand.
9 Q. Very good. It's important that only one
10 person speaks at a time, because the lady seated to
11 your right is taking down every word we say as we say
12 it, and the gentleman at the end of the table is
13 videotaping the testimony.
14 So what I will ask you to do is
15 make sure that I or Ms. Renwick complete our question
16 before you begin your answer, and then we'll show you
17 the same courtesy and allow you to finish your answer
18 before we ask you another question.
19 Will you do that?
20 A. Yes.
21 Q. I'm going to ask you some questions about
22 times, and perhaps distances. I do not want you to
23 guess, but I am entitled to your best estimate.
24 Do you understand the difference
25 between a guess and an estimate?

<p style="text-align: right;">Page 9</p> <p>1 A. Yes.</p> <p>2 Q. Make sure you understand the question</p> <p>3 before you answer it. If you don't understand it,</p> <p>4 let me know or ask me to rephrase it, and I'll be</p> <p>5 glad to do so until the question is clear to you.</p> <p>6 But again, as I said, if I ask you</p> <p>7 a question and you give me an answer, I'm going to</p> <p>8 assume that you understood my question and you</p> <p>9 answered it to your best ability. Do you understand?</p> <p>10 A. Yes.</p> <p>11 Q. In approximately two weeks you'll receive</p> <p>12 your deposition transcript. It comes typed in a</p> <p>13 booklet form. You'll have the opportunity to read</p> <p>14 through it and to make any changes that you believe</p> <p>15 are necessary or appropriate.</p> <p>16 However, I do want to caution you,</p> <p>17 if you change a substantive answer -- for example,</p> <p>18 let's say that this was a car accident case and today</p> <p>19 you said that the light was green when you were in</p> <p>20 the intersection, and then when you went back over</p> <p>21 and read your transcript you said, "Well, no, the</p> <p>22 light was red when I went through the</p> <p>23 intersection," that would be a substantive change to</p> <p>24 the transcript. Do you understand?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 Q. Do you have any questions about these</p> <p>2 ground rules, before we begin the actual questioning</p> <p>3 in your deposition?</p> <p>4 A. No.</p> <p>5 Q. Did you review any documents in preparation</p> <p>6 for your deposition testimony today?</p> <p>7 A. No. Just my medical documents.</p> <p>8 Q. What records did you review?</p> <p>9 A. Just all the medications that I take, and</p> <p>10 make sure I'm still taking them. I actually forgot</p> <p>11 one. I take Seroquel also for depression.</p> <p>12 Q. You take what for depression?</p> <p>13 A. Seroquel, 100 milligrams, for depression.</p> <p>14 VIDEOGRAPHER: Pardon me, can we raise</p> <p>15 your microphone up just a little bit?</p> <p>16 MR. AICKLEN: Yeah, we're having</p> <p>17 difficulty hearing you, sir.</p> <p>18 VIDEOGRAPHER: Just pull it up a little</p> <p>19 bit higher.</p> <p>20 THE WITNESS: I'm trying to speak as</p> <p>21 clearly as I can.</p> <p>22 MR. AICKLEN: I know, but it's just</p> <p>23 we're in a big room, so --</p> <p>24 THE WITNESS: Okay. Can you hear me</p> <p>25 now?</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. When you review your transcript, if you</p> <p>2 make substantive changes like that, I or any other</p> <p>3 attorney in the case could argue that the reason that</p> <p>4 you made those changes is because you were not being</p> <p>5 truthful. Do you understand?</p> <p>6 A. Yes.</p> <p>7 Q. So what I would ask you to do and what</p> <p>8 everybody wants you to do is give your best testimony</p> <p>9 today, so that you don't have to make changes later</p> <p>10 on. Will you try to do that?</p> <p>11 A. Yes.</p> <p>12 Q. It's important that you speak up, because</p> <p>13 we're both audiotaping and videotaping, and the lady</p> <p>14 is taking down every word we say as we say it.</p> <p>15 A. Correct.</p> <p>16 Q. Once in a while I may say to you, "Is that</p> <p>17 a yes or is that a no?" I'm not trying to be rude.</p> <p>18 I just want to make sure we get a clear transcript.</p> <p>19 Sometimes at deposition people will say "uh-huh,"</p> <p>20 "un-uhn," they'll point or nod, which are things that</p> <p>21 we do in normal conversation, but they don't come out</p> <p>22 clearly on a written transcript. So I'll need you to</p> <p>23 answer audibly, "yes," "no," or a description, if the</p> <p>24 question calls for it. Do you understand?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 VIDEOGRAPHER: Say it again?</p> <p>2 THE WITNESS: Can you hear me now?</p> <p>3 VIDEOGRAPHER: That sounds much better.</p> <p>4 WITNESS: Okay.</p> <p>5 MR. AICKLEN: Great. Thank you.</p> <p>6 MS. RENWICK: I think it's just an</p> <p>7 issue of volume.</p> <p>8 THE WITNESS: Okay.</p> <p>9 BY MR. AICKLEN:</p> <p>10 Q. Okay. So you reviewed medical records to</p> <p>11 determine what medications you were on.</p> <p>12 Did you look at any other</p> <p>13 paperwork to prepare for today?</p> <p>14 A. No.</p> <p>15 Q. Other than your attorneys, did you discuss</p> <p>16 the fact with anyone that you were going to give your</p> <p>17 deposition today?</p> <p>18 A. No.</p> <p>19 Q. Mr. Hawkins, I think that the most</p> <p>20 difficult part of this process is going to be talking</p> <p>21 about the shooting, so I want to start with that and</p> <p>22 get that out of the way; and then we will go back to</p> <p>23 things like background, education, your health,</p> <p>24 things like that. Okay?</p> <p>25 A. Yes.</p>

Page 13

1 Q. Very good. So I want to ask you some
2 questions regarding the shooting.
3 What were you doing in the two
4 minutes before the shooting? Tell me what you were
5 doing in the two minutes before the shooting.
6 A. I was sitting on a bench playing on my
7 phone.
8 Q. What on your phone?
9 A. I was playing on my phone.
10 Q. Playing on your phone?
11 A. I was, you know, on the internet.
12 Q. And this was at the Meadows Mall, correct?
13 A. Correct.
14 Q. Where were you located at the Meadows Mall?
15 Where were you sitting on the bench playing on your
16 phone?
17 A. I was sitting on a bench. It's like in the
18 middle of -- I believe the front of the Meadows Mall,
19 and I was sitting on a bench just playing with my
20 phone.
21 Q. Who was there with you?
22 A. My cousin Keisha.
23 Q. What is Keisha's last name?
24 A. Love.
25 Q. Did you know anybody else in line there at

Page 14

1 the Meadows Mall that morning, before the shooting?
2 A. Did I know anybody there before? No.
3 Q. Just Keisha Love?
4 A. Just Keisha.
5 Q. Very good. So it was just the two of you
6 there?
7 A. No. It was tons of other people, too. It
8 was like 70 other people that was there.
9 Q. I understand. There were 70 other people
10 waiting outside the mall, correct?
11 A. Yes.
12 Q. But as far as your group, it was just you
13 and Keisha?
14 A. Yes, just me and my cousin Keisha.
15 Q. I'm going to call these people that shot
16 you "the assailants." Do you understand?
17 A. Yes.
18 Q. How many assailants were there?
19 A. Just two, I believe.
20 Q. Two. Okay. So we have one person who shot
21 you, correct?
22 A. Yes.
23 Q. And then we have the person who was with
24 the person who shot you, correct?
25 A. Yes.

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1 Q. So if it's okay with you, I'm going to
2 refer to the person that shot you as "the shooter,"
3 and I'm going to refer to that second person as "the
4 second man." Is that acceptable? Do you understand
5 what I mean?
6 A. I understand what you mean, but -- yes, I
7 understand.
8 Q. Okay. Very good.
9 When did you first see the shooter
10 and the second man?
11 A. When people were telling him to go to the
12 back of the line, because they were cutting in, and
13 they were drinking and everything.
14 Q. How long before the shooting were people
15 telling them to go to the back of the line?
16 A. When they was telling Pooh Man to go to the
17 back of the line, that's when he seen me and he
18 approached me.
19 Q. How long before the shooting were people
20 telling those two men, the shooter and the second
21 man, to go to the back of the line?
22 A. I'm not sure. It could have been 20
23 minutes, 30 minutes. I'm not sure.
24 Q. Okay.
25 A. I'm not sure.

Page 16

1 Q. And you said people were telling Pooh Man.
2 Who is Pooh Man?
3 A. A guy that I used to trade video games with
4 at school. It wasn't just him. It was a group of
5 us.
6 Q. Okay. Was Pooh Man either the shooter, or
7 the second man with the shooter?
8 A. He is the guy that punched me and kicked me
9 when I fell to the ground, and then he had someone
10 shoot me.
11 Q. So Pooh Man is the second man, is that
12 correct?
13 A. Yes.
14 Q. What is Pooh Man's name?
15 A. We just called him Pooh Man. We just
16 traded games. It was at school. I didn't know him
17 like that. Everyone just called him Pooh Man.
18 Q. Do you know what Pooh Man's real name is?
19 A. No.
20 Q. When was the last time that you had spoken
21 with Pooh Man before the shooting incident?
22 A. We were still in high school, which was
23 2011 when I graduated.
24 Q. Was he in your same class -- Pooh Man?
25 A. No. He was just a guy that I would see

Page 17

1 around school that I would trade games with.
2 Q. All right. So let's go back to when you
3 first saw Pooh Man. When you first saw Pooh Man, was
4 the shooter with him?

5 A. No, I didn't see the shooter. I seen Pooh
6 Man as people was telling him to go to the back of
7 the line, because he was cutting. He was in a group
8 or something.

9 I didn't see the shooter. I
10 didn't see the shooter not one time. I didn't even
11 see it coming.

12 Q. How long before the shooting did you see
13 Pooh Man and the shooter trying to cut into the line?

14 A. Really, I wasn't paying no attention,
15 because it was a group of people that were cutting in
16 line. Pooh Man was told to go to the back of the
17 line. That's how he seen me.

18 Q. You have no estimate of how long before the
19 shooting you first saw Pooh Man?

20 A. We talked for about five minutes about the
21 game and the money that he had owed me a while back,
22 and I guess that would be the estimate in time --
23 five minutes. I'm not sure.

24 Q. So you talked to Pooh Man before the
25 shooting occurred?

Page 18

1 A. Yes.

2 Q. When did you talk to Pooh Man?

3 A. I talked to him when people was telling him
4 to go to the back of the line. That's when he seen
5 me and he approached me. And we talked for about
6 five minutes.

7 I looked for security, because I
8 smelled liquor on his breath and I knew the
9 conversation wasn't going so well. I looked for
10 security and there was none in sight.

11 And Pooh Man became more
12 aggressive. He hit me and I fell to the ground. As
13 I fell to the ground he kicked me, and then he had
14 one of his friends come over and shoot me.

15 I would have never thought it
16 would have went this way, for the simple fact that he
17 was just a guy that I traded games with at school.

18 Q. What were you talking with Pooh Man about
19 for those five minutes before he hit you and then you
20 were shot?

21 A. About the money that he owed me for the
22 game.

23 Q. When had you given him a game that he owed
24 you money for?

25 A. It was back in 2011 when I graduated. It

Page 19

1 was a group of us. We used to all trade games
2 together. It wasn't just him.

3 Q. What game had you given him?

4 A. I had given him a Play Station 3. And in
5 return for it I was expecting some money, but I
6 didn't get it. So I just went on about my business
7 and didn't care about it. I didn't get involved in
8 it at all -- not one bit.

9 Q. So tell me about the five-minute
10 conversation that you had with Pooh Man before the
11 shooting occurred. Tell me exactly who said what.

12 A. Well, Pooh Man approaches me like, "Hey,
13 man" -- he's a bully to begin with. And he
14 approaches me and he say, "Hey, man, you know, about
15 that" -- and I'm like, you know, "I'm not really
16 worried about that." Because I smelled the liquor on
17 his breath.

18 And I was looking for security,
19 but there were none in sight. And he became more
20 aggressive, and he punched me, and that was it.

21 Q. What did you talk about for five minutes
22 before the punch?

23 A. The game.

24 Q. Well, what did you say?

25 A. I had stopped talking about it, because

Page 20

1 when I smelled the liquor on his breath -- you know,
2 like if someone is drunk, you don't want to try to
3 talk about something that you owe that person, when
4 he's drunk and being aggressive.

5 Q. Was he carrying any liquor with him?

6 A. I'm not sure at the time. I'm not sure. I
7 can't remember. I don't remember.

8 Q. Well, did he have like a bottle of beer or
9 whiskey, or anything like that in his hands?

10 A. I'm not sure. I believe he had a bottle.
11 I'm not sure. I don't remember.

12 Q. What kind of bottle did he have in his
13 hands?

14 A. I don't remember.

15 Q. Well, was it alcohol?

16 A. I'm not sure. It could have been. He
17 smelled like alcohol on his breath.

18 Q. And you spoke with him -- were you seated
19 on the bench when you were talking with him?

20 A. Yes.

21 Q. You were sitting down and he was standing
22 up?

23 A. Yes.

24 Q. And you spoke for about five minutes?

25 A. Yes.

Page 21

1 Q. During this time that you were talking with
2 him for five minutes, did you see the shooter?
3 A. No, not at all. I did not see it coming.
4 Not one time. Not one time.
5 Q. So the only thing that you and Pooh Man
6 discussed was that he owed you money for a Play
7 Station 3 that you had given him in 2011?
8 A. Correct. And I left the conversation alone
9 as I looked for security for those five minutes, and
10 I didn't see any in sight.
11 Q. Did you ask anyone to call security?
12 A. At the time I didn't think about that. I
13 was just trying to look for my safety.
14 Q. Did you ask anyone to call security?
15 A. No, but it was tons of people that was
16 around watching it.
17 Q. So you did not ask anyone to call security,
18 correct?
19 A. They heard me call for security.
20 Q. Who did you call for security to? Who did
21 you say to, "Call security?"
22 A. It was a group of people. It was like 70
23 people out there. I'm not sure. I don't know. I
24 don't know.
25 Q. When did you ask them to call security?

Page 22

1 A. When me and Pooh Man was talking for those
2 five minutes.
3 Q. How many times did you ask people to call
4 security?
5 A. I called out security more than three times
6 before the incident happened.
7 Q. Who did you ask to call security?
8 A. The group of people that was standing out
9 there. It was like 70 people out there. It was a
10 shoe release, where you have to camp -- have you ever
11 heard of Black Friday?
12 Q. Actually --
13 A. -- where you go and camp, you know, and you
14 get electronics for low prices?
15 It was just like that, but it's a
16 shoe release, where everybody had to camp for the
17 shoes. If you don't have a ticket, you really have
18 to camp to try to get the shoes.
19 Q. So during the five minutes that you were
20 talking with Pooh Man, you asked at least three times
21 for the crowd of 70 people --
22 A. I believe it was more than three times that
23 I asked for security.
24 Q. You need to wait until I finish the
25 question.

Page 23

1 A. I understand. It's just that like it's
2 bringing back so many memories right now. It's kind
3 of messing with me.
4 Q. I understand.
5 During the five minutes that you
6 were talking with Pooh Man about the Play Station --
7 A. Hey, can we take a break?
8 Q. Okay.
9 A. I'm sorry.
10 VIDEOGRAPHER: The time is 10:44 a.m.
11 We're off the video record.
12 (Recess.)
13 VIDEOGRAPHER: The time is 10:54 a.m.
14 We are back on the video record.
15 BY MR. AICKLEN:
16 Q. All right, Mr. Hawkins. Do you understand
17 that you're still under oath?
18 A. "Under oath" meaning we're still talking?
19 Q. No. That the answers that you're giving
20 are under oath and under penalty of perjury.
21 A. Yes.
22 Q. Okay. Now, we know that you had seen Pooh
23 Man before.
24 How about the shooter? Had you
25 ever seen the shooter before that day?

Page 24

1 A. Not a day in my life.
2 Q. Can you describe the shooter for me?
3 A. I never seen him.
4 Q. So at the time of the shooting you never
5 saw the shooter?
6 A. No.
7 Q. Do you know the shooter's name?
8 A. No.
9 Q. Do you know the shooter's nickname?
10 A. No.
11 Q. So you had never spoken with the shooter
12 before the shooting, is that correct?
13 A. I had never seen him or spoken with him a
14 day in my life.
15 Q. Okay. Now, you said that the person that
16 you knew from high school was Pooh Man. Is that
17 person also known as "Little Pooh Man G?"
18 A. I'm not sure. He was just a guy that I
19 traded games with at school.
20 Q. Have you ever heard Pooh Man with any other
21 nicknames?
22 A. No.
23 Q. Do you know Pooh Man's real name?
24 A. No.
25 MR. CHURCHILL: Asked and answered.

Page 25

1 BY MR. AICKLEN:
2 Q. If you looked at a picture of Pooh Man,
3 would you be able to identify him?
4 A. Yes.
5 Q. Did Pooh Man try to hit you before the
6 shooting?
7 A. Pooh Man did hit me before the shooting. I
8 dropped to the ground, and he kicked me. Then he had
9 someone shoot me. I answered that already.
10 Q. Did you try to hit Pooh Man before the
11 shooting?
12 A. No. I didn't even have a chance to. I
13 didn't have a chance to defend myself at all.
14 Q. Before the shooting did you get ready to
15 fight with the shooter?
16 A. No. I was sitting down on the bench
17 playing with my phone. I told you that already, too.
18 Q. Did you square up with the shooter before
19 he shot you?
20 A. I was sitting down on the bench playing
21 with my phone when he approached me.
22 Q. So the answer is "no," you didn't square up
23 with him before the shooting?
24 A. No.
25 Q. The second man, the man named Pooh Man, the

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1 one that you went to school with -- had he robbed you
2 before this incident?
3 A. No. Well, just for the Play Station 3, the
4 money that he didn't give to me, if you call that
5 robbery.
6 Q. How much did he owe you for the Play
7 Station 3?
8 A. \$150.
9 Q. That second man, Pooh Man -- had he ever
10 jumped you in the park and robbed you?
11 A. No.
12 Q. Do you know someone named Ashley Christmas?
13 A. No.
14 Q. You have no idea who Ashley Christmas is?
15 A. I don't know an Ashley Christmas. Who is
16 Ashley Christmas?
17 Q. No, I'm asking you. You don't know who
18 Ashley Christmas is?
19 A. No, I don't.
20 Q. Did Ashley Christmas go to high school with
21 you?
22 A. I don't know who Ashley Christmas is.
23 Q. Do you know someone with a nickname of PMG?
24 A. PMG? No. What does that stand for?
25 Q. Do you know someone with a nickname of

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1 Little PMG?
2 A. No. I don't even know what that stands
3 for.
4 Q. Do you know a DeWayne Cornwell?
5 A. No.
6 Q. Do you know anyone named Cornwell?
7 A. No.
8 Q. So you don't know if the Cornwells own a
9 gray Dodge Charger?
10 A. No. I don't know a Cornwell. I don't even
11 know who Cornwell is. I don't know none of these
12 names that you're asking me.
13 Q. Did you tell the police that you knew who
14 the assailants were, but you would not testify in
15 court against them?
16 A. No, that's not true. No, that's not true
17 at all. Where did you get that from?
18 Q. Sir, I'm not required to answer questions.
19 I'm just asking you questions. All you have to do is
20 say "yes" or "no."
21 So my question to you is, did you
22 tell the police that you knew who the shooter and the
23 second man were, but you would not testify against
24 them?
25 A. That's not true.

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1 Q. Who is Zak?
2 A. I don't know.
3 Q. Do you know a man named Zacharias Berry?
4 A. No.
5 Q. Did anyone yell, "Zak, get him," before you
6 were shot?
7 A. I don't know. I don't know. I didn't hear
8 that. I don't believe so. I'm not -- I don't know.
9 Q. Is that "no," or you don't know?
10 A. That's "no."
11 Q. Okay. Who is Kamiko McMorris?
12 A. That's my sister.
13 Q. Why did Kamiko McMorris tell the police
14 that Pooh Man was the trigger man? Where did she
15 learn that from?
16 A. I'm not sure.
17 Q. Do you know who owned the gray Dodge
18 Charger that was at the scene of the shooting?
19 A. No.
20 Q. Did you tell the police that the
21 assailants -- the shooter and the second man -- left
22 the scene in a gray Dodge Charger?
23 A. No.
24 Q. So you don't know someone named Zacharias
25 Berry?

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1 A. I don't.
2 Q. Or Little Zak, or Zak?
3 A. No.
4 Q. Have you ever heard that nickname, "Zak,"
5 or "Little Zak?"
6 A. No.
7 Q. Did you tell the police that before you
8 were shot Ashley Christmas yelled out, "Get him,
9 Zak?"
10 A. I don't remember.
11 Q. Well, do you know who Ashley Christmas is?
12 A. No, I don't even know who Ashley Christmas
13 is.
14 Q. Do you know who Zak is?
15 A. I don't know a Zak. I answered that.
16 Q. All right. Well, more specifically, do you
17 know a Zacharias Berry?
18 A. No.
19 MR. CHURCHILL: Asked and answered like
20 ten times.
21 THE WITNESS: Yes, it has been. And I
22 told you, I don't know who he is. I'm being totally
23 honest with you. I don't know.
24 MR. CHURCHILL: There's no question.
25

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1 BY MR. AICKLEN:
2 Q. Let's go back to your statement about
3 asking for security.
4 How many times did you ask the 70
5 people around you to call security, before the
6 shooting?
7 A. I believe I yelled it out more than three
8 times.
9 Q. How loud did you yell it out?
10 A. Loud enough for everyone to hear me. They
11 were standing around when it happened. There were
12 like 70 people out there. I'm pretty sure someone
13 heard me.
14 Q. Did you ask anyone to call the police?
15 A. When I was down on the ground and shot,
16 yes.
17 Q. Before the shooting, did you ask anyone to
18 call the police?
19 A. I asked for security. That's what I told
20 you. I didn't ask anyone to call the police, no. I
21 asked for security. That's good enough help.
22 Q. Did you try to call the police before the
23 shooting, with your phone?
24 A. I didn't have a chance to.
25 Q. Did you try to call security with your

Page 31

1 phone, before the shooting?
2 A. I didn't have a chance to. Before the
3 shooting?
4 Q. Yes.
5 A. I didn't have a chance to. I was punched.
6 And when I fell on the ground, he kicked me. And
7 then I was shot.
8 Q. Did you throw a Snapple bottle at Ashley
9 Christmas before the shooting?
10 A. No.
11 Q. Did you throw a Snapple bottle at the
12 shooter before the shooting?
13 A. No.
14 Q. Did you have a bottle -- a glass bottle --
15 either a Snapple, or some other type of drink, in
16 your hand when you were sitting on the bench, before
17 the shooting?
18 A. I don't remember. I'm not sure. I didn't
19 have no -- no, I don't remember.
20 Q. Was that "no," or "I don't remember?"
21 A. "I don't remember."
22 Q. So you did not throw a bottle at anyone
23 before the shooting, correct?
24 A. No.
25 Q. Is that correct?

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1 A. No, I didn't throw a bottle at all.
2 Q. You were asked some questions you were
3 asked to admit or deny, and I want to go through
4 those questions with you, just to make sure that
5 they're accurate. Okay? These are "Plaintiff's
6 Responses for Requests for Admissions."
7 You were asked, "Admit that you
8 know the person who shot you." Your answer was,
9 "Deny." Is that an accurate answer?
10 A. No. I told them that it was Pooh Man. I
11 didn't know who actually shot me. I just know that
12 he had something to do with it.
13 Q. Do you want to change that answer then?
14 Would you say when you were asked, "Admit that you
15 know the person who shot you" --
16 A. I don't know the person who actually shot
17 me. I just know Pooh Man had something to do with
18 it.
19 Q. Okay. You were asked, "Admit that you were
20 related to the person who shot you." You denied it.
21 Is that an accurate answer?
22 A. Yes. I'm not related to him. It was just
23 a guy that I traded games with at school. It was a
24 group of us. We all traded games together. Trade,
25 buy, whatever. It was little gamers.

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1 Q. You were asked, "Admit that the person who
2 shot you goes by the name of Pooh Man."
3 Your answer was, "Plaintiff is
4 without sufficient information to either admit or
5 deny this request, and on this basis deny."
6 Is that an accurate answer?
7 A. No. I gave everything that I possibly
8 could give.
9 Q. I'm asking you, is that an accurate answer?
10 A. Can you repeat it?
11 Q. Sure. You were asked, "Admit that the
12 person who shot you goes by the name of Pooh Man."
13 Your answer was, "Plaintiff is
14 without sufficient information to either admit or
15 deny this request, and on this basis deny."
16 Is that an accurate answer?
17 A. No.
18 Q. What?
19 A. No. I don't know. I don't understand what
20 you're really asking me. I really don't.
21 Q. Well, I'm giving you back your answers,
22 sir, the answers that you gave to Requests For
23 Admissions. I'm asking you if --
24 A. If your man shot me?
25 Q. The question is, "Admit that the person who

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1 shot you goes by the name of Pooh Man."
2 Your answer was, "Plaintiff is
3 without sufficient information to either admit or
4 deny this request, and on this basis deny."
5 Is that an accurate answer?
6 A. I don't remember answering it.
7 Q. Okay. I want to ask you some questions
8 about interrogatories.
9 You were asked and you answered
10 questions under oath, but they were written questions
11 with written answers.
12 You were asked, "What is the name,
13 address, and phone number of the person who shot
14 you?" And you answered, "Plaintiff lacks information
15 to answer this interrogatory."
16 Is that an accurate answer?
17 A. I don't remember.
18 Q. Did you make any attempts to determine who
19 Pooh Man is, so you could sue him in this lawsuit?
20 A. Did I make -- can you repeat that, please?
21 Q. Sure. Did you make any attempts to
22 determine who Pooh Man is, so that you could sue him
23 in this lawsuit?
24 A. Well, I know who the guy is. I used to
25 trade video games with him at school.

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1 I don't know him like -- you know,
2 personally. Just by trading video games with.
3 It was a group of us. It was a
4 lot of them that I didn't know, that I would just
5 trade games with.
6 Q. My question to you though is, did you make
7 any attempts to identify who Pooh Man is? For
8 example, you know Pooh Man was with the shooter,
9 correct?
10 A. Yes.
11 Q. And you know that Pooh Man went to Cheyenne
12 High School the same time you did, correct?
13 A. Correct.
14 Q. Because you used to trade video games with
15 Pooh Man, correct?
16 A. Correct.
17 Q. Did you try to find out Pooh Man's real
18 name, from Cheyenne High School or anywhere else?
19 A. No. Everyone just called him Pooh Man.
20 Q. That's not my question, sir.
21 My question is, did you try to
22 find out what Pooh Man's real name is?
23 A. No.
24 Q. Is Pooh Man's real name Ashley Christmas?
25 A. You asked me that already. No, I don't

Page 36

1 know. I don't even know what his real name is.
2 MR. CHURCHILL: Hold on.
3 THE WITNESS: He goes by "Pooh Man."
4 MR. CHURCHILL: Hold on.
5 I'm lodging an objection. I've
6 got to say it's ten times you've asked that question.
7 Are we going to keep asking the
8 same questions over and over?
9 MR. AICKLEN: No. I won't ask that
10 question again.
11 MR. CHURCHILL: I would appreciate it.
12 THE WITNESS: Yeah. I don't know what
13 else to tell you.
14 BY MR. AICKLEN:
15 Q. I've asked you about these names, but I
16 want to ask a different question about these names.
17 Okay?
18 A. Okay.
19 Q. And if the answer is "no," then it's "no;"
20 and if it's "yes," it's "yes."
21 Have you ever heard of a person
22 named Zak, who called himself "Little Pooh Man G?"
23 A. No.
24 Q. Did you tell Las Vegas Metropolitan Police
25 that the shooter was Zak, who calls himself "Little

Page 37

1 Pooh Man G?"

2 A. No. I don't remember that, and I don't

3 believe I said that. So no.

4 Q. Did you tell Las Vegas Metropolitan Police

5 that the reason that these two men assaulted you was

6 because they had robbed you two years before?

7 A. No. I mean if you call not giving someone

8 money, I guess that's a robbery. But I didn't -- no,

9 I didn't say it was a robbery.

10 Q. When you were at Cheyenne High School, who

11 was the group of people that would trade video games?

12 A. I didn't know everyone's name like that. I

13 don't remember.

14 Q. Do you remember --

15 A. It's been years ago.

16 Q. Do you remember any of the names of the

17 persons who would trade video games when you were at

18 Cheyenne High School?

19 A. Patrick.

20 Q. Do you know Patrick's last name?

21 A. No.

22 Q. Who else would you trade video games with?

23 A. I don't remember. Like I said, it was so

24 many years ago. It was just a group of us.

25 Q. Was DeWayne Cornwell one of the people that

Page 38

1 you would trade video games with?

2 A. I don't even know who a DeWayne Cornwell

3 is.

4 Q. Before the shooting, did either the shooter

5 or the second man ever threaten that he was going to

6 kill you?

7 A. Repeat that?

8 Q. Before the shooting -- not at the scene of

9 Meadows Mall -- did either the shooter or the second

10 man ever threaten that he was going to kill you?

11 A. No. No.

12 Q. Before the shooting had either the shooter

13 or the second man stolen \$150 that your father had

14 given you?

15 A. Had they stolen \$150 from me?

16 Q. That your father had given you, yes.

17 A. I don't even know who the shooter is.

18 Q. Well, what about the second man? Had the

19 second man stolen \$150 from you, before this

20 shooting?

21 A. He had not given me \$150 for my Play

22 Station 3. I told you that already, you know?

23 Q. Now, you said that you could not describe

24 the shooter. How about the second man? Can you

25 describe what the second man -- what Pooh Man was

Page 39

1 wearing at the time of the shooting?

2 A. No. I don't remember.

3 Q. Was the second man wearing a baseball cap

4 when he shot you?

5 A. I don't remember. I never even got a look

6 at the -- who are you referring to as the second man?

7 Pooh Man?

8 Q. Pooh Man. Not the shooter.

9 A. Okay. Repeat it. Was he wearing a hat?

10 Q. Yes, a baseball hat.

11 A. I don't remember that. I don't even

12 remember what he had on. I answered that.

13 Q. Did he have on a baseball shirt?

14 A. I'm not sure. I don't remember what he had

15 on that night. I wasn't paying no attention to what

16 he had on. I was looking for security at the time,

17 for my safety. This is about my life.

18 Q. Okay. So before the shooting did either

19 the shooter or the second man dodge a glass bottle

20 that you had thrown at them?

21 A. I don't know anything about a glass bottle.

22 You asked me that, too. I don't know anything about

23 a glass bottle being thrown, dodged, whatever. No.

24 Q. Before the shooting did the second man push

25 you to the ground?

Page 40

1 A. I'm not sure. I remember when I was hit

2 and kicked when I was on the ground.

3 I was sitting down on the bench,

4 he hit me. As I fell to the ground he kicked me.

5 Then I was shot after that. I told you that.

6 Q. Did the second man punch you before he

7 pushed you to the ground, or kicked you?

8 A. Did he punch me?

9 Q. Yes.

10 A. Yes. He punched me before I hit the

11 ground, and then he kicked me when I was on the

12 ground.

13 Q. How many times did he kick you?

14 A. I'm not sure.

15 Q. Was it more than once?

16 A. I'm not sure. It could have been.

17 Q. Where did he kick you? Where on your body?

18 A. I'm not sure. I just know I was kicked.

19 Q. Well, was it in your head, or your body, or

20 your legs?

21 A. I don't remember.

22 Q. Before the shooting did Pooh Man say, "Zak,

23 get him?"

24 A. I'm not sure. I don't know who a Zak is.

25 I don't know none of that. Like I don't know what

Page 41

1 you're asking me.
2 Q. Could you identify Pooh Man if you saw a
3 picture of him?
4 A. Yes.
5 Q. Did the police ever show you a picture of
6 Pooh Man?
7 A. Yes, and I circled him plain as day.
8 Q. So you chose Pooh Man out of a lineup?
9 A. Yes. Now, that I do remember.
10 Q. Was it an in-person lineup or was it a
11 photographic lineup?
12 A. It was a photographic lineup, and I circled
13 his face plain as day.
14 Q. Where did that lineup take place? Where
15 did they show you the photographic --
16 A. UMC Hospital.
17 Q. Hold on one second, okay? Let me finish
18 the question.
19 Where did the police show you the
20 photographic lineup, and you identified Pooh Man?
21 A. UMC Hospital. It was by paper.
22 Q. How long after the shooting did you
23 identify Pooh Man at UMC Hospital?
24 A. I'm not sure.
25 Q. What's your best estimate?

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1 A. I guess when I woke up from my coma. I
2 really can't give a best estimate. I don't know.
3 Q. Was Pooh Man in the same grade as you at
4 school?
5 A. I'm not sure. I didn't know the guy like
6 that. I used to just trade video games with him.
7 That's it.
8 Q. Was Pooh Man younger or older than you?
9 A. I'm not sure.
10 Q. Is that, "I don't know?"
11 A. "I don't know," yes. I don't know. Again,
12 I didn't know him like that.
13 Q. Did Pooh Man go to Cheyenne High School?
14 A. Yes. I do know he attended Cheyenne High
15 School.
16 Q. And you do not know Pooh Man's real name,
17 correct?
18 A. No.
19 Q. Correct?
20 A. I don't know his real name, no. You said
21 answer "yes" or "no," so I'm saying "no."
22 Q. Okay. And so you don't know if Pooh Man's
23 real name is Ashley Bernard Christmas?
24 A. You just asked that and I just said, "No."
25 MR. CHURCHILL: I'm pretty sure that's

Page 43

1 the exact same question.
2 MR. AICKLEN: No, I added "Bernard."
3 THE WITNESS: Okay.
4 MR. AICKLEN: I added "Bernard."
5 THE WITNESS: Okay. No, I don't know.
6 That's a "no."
7 BY MR. AICKLEN:
8 Q. Did they ever call Pooh Man "PMG?"
9 A. I don't know. You asked that, too.
10 MR. CHURCHILL: Asked and answered.
11 BY MR. AICKLEN:
12 Q. When the police showed you the photographic
13 lineup and you identified Pooh Man, did you ask the
14 police if you could keep the copies of the pictures?
15 A. No. And if I did, I don't remember. But
16 no, because I don't have them to this day.
17 I have all my documents from this
18 time -- from when it happened to me, all up until
19 now. It's all in my mother's file cabinet.
20 Q. When you were at UMC Hospital, did anyone
21 come to your hospital room and threaten retaliation
22 against you if you identified the shooter, or Pooh
23 Man?
24 A. No.
25 Q. Did the Cornwell family go to your hospital

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1 room at UMC?
2 A. I don't know who the Cornwell is. I don't
3 know what's a Cornwell.
4 Q. When the police asked you if you would be
5 willing to testify against Pooh Man, did you tell
6 them that you would testify against Pooh Man?
7 A. Yes. If I circled his face, of course I
8 would testify against him.
9 Q. So when the police officer showed you the
10 photographic lineup, did you identify anyone?
11 A. I identified Pooh Man.
12 Q. Did the police officers tell you what Pooh
13 Man's real name was?
14 A. No. And if they did, I totally don't
15 remember. But no, because that's something I would
16 have remembered.
17 Q. All right.
18 MR. AICKLEN: If you guys don't mind,
19 I'd like to take about a five-minute break. Is that
20 okay?
21 MR. CHURCHILL: That's fine.
22 MR. AICKLEN: How are you doing? Are
23 you okay to go two hours? We had planned to have you
24 to go until about 12:00 o'clock.
25 THE WITNESS: I'm fine. We can go

<p style="text-align: right;">Page 45</p> <p>1 until 12:00 o'clock.</p> <p>2 MR. AICKLEN: Okay. Very good.</p> <p>3 VIDEOGRAPHER: The time is 11:22 a.m.</p> <p>4 We're off the video record.</p> <p>5 (Recess.)</p> <p>6 VIDEOGRAPHER: We're back on the</p> <p>7 record. The time is 11:36 a.m. You may proceed.</p> <p>8</p> <p>9 EXAMINATION</p> <p>10 BY MS. RENWICK:</p> <p>11 Q. Mr. Hawkins, I introduced myself on the</p> <p>12 record earlier. My name is Charlene Renwick and I</p> <p>13 represent GGP Meadows Mall LLC, in addition to Myatt</p> <p>14 Services and Mark Warner.</p> <p>15 Now, going back to the two minutes</p> <p>16 before the shooting, you were sitting on the bench</p> <p>17 you mentioned, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Now, when Pooh Man came over to you, I</p> <p>20 believe your testimony was that you heard him being</p> <p>21 told to get to the back of the line because he was</p> <p>22 trying to cut in, at which point he noticed you and</p> <p>23 came up to you?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. What did he say to you when he</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. You mentioned that you were at the shoe</p> <p>2 release with your cousin Keisha.</p> <p>3 A. Yes.</p> <p>4 Q. Where was your cousin Keisha?</p> <p>5 A. She was standing in line. She was at our</p> <p>6 spot in line.</p> <p>7 Q. She was in line?</p> <p>8 A. Yes.</p> <p>9 Q. And about how far away from you was she?</p> <p>10 A. I'm not sure. I'm not sure.</p> <p>11 Q. Was she within eyesight?</p> <p>12 A. Yes.</p> <p>13 Q. Would you be able to speak to her from that</p> <p>14 distance? Could you call over to her?</p> <p>15 A. I'm not sure. I probably would have to --</p> <p>16 I'm not sure. I'm not sure.</p> <p>17 Q. So you had a conversation with Pooh Man for</p> <p>18 five minutes?</p> <p>19 A. Yes.</p> <p>20 Q. And during that time you were looking for</p> <p>21 security?</p> <p>22 A. Yes.</p> <p>23 Q. And calling for security?</p> <p>24 A. Yes.</p> <p>25 Q. And in that five minutes did you call for</p>
<p style="text-align: right;">Page 46</p> <p>1 noticed you?</p> <p>2 A. Well, he said -- we talked about the game</p> <p>3 that he owed me. The gossip -- well, he was just</p> <p>4 talking really reckless, like saying --</p> <p>5 Q. Can I just stop you for a second there? My</p> <p>6 question was, "What did he say?" For example, did he</p> <p>7 say, "Hey?" Did he say, "Hi?" Did he acknowledge</p> <p>8 you? Did he call you by name?</p> <p>9 A. No. He just walked up and said about that</p> <p>10 game, and I went on, you know, with the conversation.</p> <p>11 But as I seen that he had been</p> <p>12 drinking, and the conversation had got more</p> <p>13 aggressive by him, you know, calling me out of my</p> <p>14 name and stuff like that -- I won't say the cuss</p> <p>15 words that he was saying, you know.</p> <p>16 Q. Well, I'm going to ask you to repeat the</p> <p>17 cuss words that he was saying. What did he say to</p> <p>18 you? What did he call you?</p> <p>19 A. Like he called me a bitch, and he told me</p> <p>20 that I was never going to get the \$150 that he owed</p> <p>21 me for the Play Station 3.</p> <p>22 And that's when I noticed that the</p> <p>23 conversation was just getting totally out of hand,</p> <p>24 and I was, you know, telling people that were</p> <p>25 standing around looking, "Get help from security."</p>	<p style="text-align: right;">Page 48</p> <p>1 security on your phone?</p> <p>2 A. No. I didn't even have time to.</p> <p>3 Q. You had five minutes, but you didn't have</p> <p>4 time to call for security?</p> <p>5 A. Well, he was getting aggressive with me.</p> <p>6 Yes, I didn't have time. I didn't think about it. I</p> <p>7 was just calling for security around. There was 70</p> <p>8 people there. I'm pretty sure someone else could</p> <p>9 have picked up their phone and called for security.</p> <p>10 Q. Did your cousin hear you call for security?</p> <p>11 A. Yes.</p> <p>12 Q. Did she confirm that with you after the</p> <p>13 shooting, that she heard you call for security?</p> <p>14 A. Yes. She said that she called 911</p> <p>15 actually.</p> <p>16 Q. Did she call 911 at the time you called for</p> <p>17 security, or after you had been shot?</p> <p>18 A. I believe after I had been shot. I'm not</p> <p>19 sure.</p> <p>20 Q. Did your cousin come to your aid when you</p> <p>21 were calling for security?</p> <p>22 A. I'm not sure. I don't remember.</p> <p>23 Q. Did anybody offer you any assistance when</p> <p>24 you were calling for security?</p> <p>25 A. No. Everyone just stood around and looked</p>

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1 with their stupid cellphones, as usual.
2 Q. How loudly did you call for security? Can
3 did you imitate --
4 A. Loud enough for everyone to hear me.
5 Q. Okay. In the volume that you called for
6 security that night, I want you to --
7 A. Morning.
8 Q. Sorry, that morning. Excuse me.
9 A. "Someone call for help. I need security.
10 He's getting aggressive with me. He's talking
11 reckless."
12 Q. And those were your exact words?
13 A. Yes. Everyone heard me.
14 Q. When -- actually, let's backtrack.
15 I believe you mentioned that Pooh
16 Man hit you?
17 A. Yes, he did.
18 Q. Where did he hit you?
19 A. In my face.
20 Q. Punched you in the face?
21 A. Yes.
22 Q. Were you sitting down at the time?
23 A. Yes.
24 Q. Did he punch you directly, like face front?
25 Or was it to the side of the face?

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1 A. I'm not sure. I just remember that I was
2 punched in the face.
3 Q. Okay. And then you fell down?
4 A. I fell to the ground, and then I was
5 kicked.
6 Q. You were sitting though, correct?
7 A. Yes.
8 Q. So you fell off the bench that you were
9 sitting on?
10 A. Yes.
11 Q. Prior to the shooting, had you ever been
12 jumped before?
13 A. No. Well, it happened when I was a kid,
14 but --
15 Q. How old were you?
16 A. I was like 13, I believe.
17 Q. And where were you when you were jumped?
18 A. I was in a park playing football with my
19 nephew.
20 Q. What park was that?
21 A. We stayed in -- I believe Alpine Village at
22 the time.
23 Q. And who jumped you?
24 A. I'm not sure. I don't know.
25 Q. Was it Pooh Man?

Page 51

1 A. No. I didn't even know him at the time.
2 Q. Were you attending Cheyenne at this time?
3 A. No. I wasn't even in high school.
4 Q. Were you injured when you were jumped?
5 A. Not badly.
6 Q. Did you have to receive medical treatment?
7 A. No.
8 Q. You didn't go to UMC for that?
9 A. Oh. Well, yeah, I did, because I was
10 bitten, and they had to test me for like HIV and
11 different -- you know.
12 Q. You were bit?
13 A. Yes. It happened when I was a kid. I was
14 a kid. It was just kid stuff.
15 Q. Were you robbed at that point? Did they
16 take something from you?
17 A. No.
18 Q. And I believe you testified earlier that
19 you have no recollection of a bottle the night you
20 were shot -- a bottle breaking?
21 A. No, I don't remember.
22 MR. AICKLEN: The morning.
23 MS. RENWICK: I'm sorry, the morning.
24 I keep saying "evening."
25 THE WITNESS: It happened around 3:30

Page 52

1 In the morning. But no, I don't remember.
2 BY MS. RENWICK:
3 Q. Have you ever been to a shoe release prior
4 to the one that you were at, that you were shot at?
5 Have you ever been to a shoe release at the Meadows
6 Mall before?
7 A. Yes, plenty. I used to always go with
8 Keisha to shoe releases.
9 Q. And how many have you been to at the
10 Meadows Mall?
11 A. I'm not sure.
12 Q. Would it be more than five?
13 A. I believe so. I'm not sure. I know I've
14 been quite a few times.
15 Q. And would you always attend with your
16 cousin?
17 A. Yes. She was the one that was into the
18 shoes. Not me.
19 Q. And I believe you testified earlier that
20 you had no idea that you were going to be shot. Is
21 that accurate?
22 A. Yes. It happened out of nowhere.
23 Q. Did you anticipate being hit by Pooh Man?
24 A. Repeat that?
25 Q. Did you anticipate being hit by Pooh Man?

Page 53

1 Did you expect to be in a fight with him?
2 A. No. But he was drunk. He was talking
3 recklessly to me and calling me out of my name and
4 stuff. So I believed that it would have led -- it
5 did lead to that.
6 But at the time I was calling for
7 security, so something should have been -- I should
8 have had help somewhere, you know?
9 Q. In your prior dealings with Pooh Man, you
10 mentioned that you traded video games with him.
11 A. Yes.
12 Q. Did you ever know him to be armed?
13 A. No, not at all.
14 Q. Did you ever know him to be violent?
15 A. No, not at all.
16 Q. At the prior shoe releases you've been to
17 at the Meadows Mall, have you ever seen anybody get
18 shot?
19 A. No, but I seen a lot of like cutting in
20 line, fussing and fighting. There's always something
21 going on at the mall when it's time for those shoe
22 releases, because people really want those shoes, and
23 people get hurt over them.
24 It's like Black Friday. They
25 fight over, you know, material stuff, and there's

Page 54

1 always pushing and shoving and cutting in line, and
2 stuff like that.
3 Q. Had you ever been to a shoe release at
4 Meadows Mall where you were camped out, like you were
5 the night that you were shot?
6 A. Yes.
7 Q. And the police had been called?
8 A. And the police had been called? No. No.
9 Sorry, I didn't wait until you finished your
10 question.
11 Q. That's quite all right.
12 A. I'm sorry.
13 Q. Can you estimate how long it was from the
14 time that you were punched by Pooh Man, to the time
15 that you were shot?
16 A. No. I don't remember. I can't remember
17 that. I just know that we were talking for five
18 minutes, and that's it. That's all the time I
19 remember.
20 Q. Prior to your shooting, had you ever had a
21 gun pulled on you before?
22 A. No, not at all. Never in my life.
23 Q. Did you ever tell Las Vegas Metro Police
24 that somebody had drew down on you?
25 A. I don't remember.

Page 55

1 Q. After the shooting, did anybody in your
2 family tell you that someone had come to the hospital
3 to threaten you or your family, regarding you
4 identifying the shooter?
5 A. No.
6 Q. Do you recall speaking to a Dr. Barness at
7 UMC after your shooting?
8 A. I don't remember. I spoke to so many
9 doctors, I really don't remember.
10 Q. Do you remember speaking to a psychiatrist?
11 A. I don't remember. I spoke to numerous
12 psychiatrists. But at the time when I got shot, no,
13 I don't remember.
14 Q. Do you recall telling Dr. Barness that you
15 had observed somebody at the lineup who had robbed
16 you a few years prior to the shooting?
17 A. No, I don't remember.
18 MR. AICKLEN: I'm sorry. It is "no,"
19 or "I don't remember?"
20 THE WITNESS: I don't remember.
21 MR. AICKLEN: Thank you.
22 BY MS. RENWICK:
23 Q. After you were shot, did anybody come over
24 to help you?
25 A. Yes.

Page 56

1 Q. Do you recall who that was?
2 A. No, I don't know who he is.
3 Q. Does the name D'Andre Thompson ring a bell?
4 A. No, it doesn't. I don't know who the guy
5 is. I just remember him taking his shirt off and
6 putting it under my head as if it was a pillow, after
7 the shooting.
8 Q. Do you remember talking to him?
9 A. No.
10 Q. Do you recall telling the person who helped
11 you that you knew the person who shot you?
12 A. No, I don't remember that.
13 Q. You mentioned that Pooh Man punched you,
14 you fell to the ground, he kicked you, and then he
15 had somebody shoot you.
16 A. Yes.
17 Q. How did he have somebody shoot you?
18 A. I don't know. I just know that I was shot.
19 And if I was punched and kicked by him, of course you
20 would think that he had something to do with it.
21 Q. So you didn't hear him say anything?
22 A. No.
23 MR. AICKLEN: Can I ask a quick
24 question?
25 MS. RENWICK: Absolutely.

Page 57

1 FURTHER EXAMINATION
2 BY MR. AICKLEN:
3 Q. How do you know Pooh Man wasn't the
4 shooter.
5 A. I don't know. I don't know.
6 Q. MR. AICKLEN: Okay. Thank you.
7 MS. RENWICK: All right.
8 THE WITNESS: All I remember Pooh Man
9 doing is hitting me, and when I fell to the ground he
10 kicked me.
11 BY MR. AICKLEN:
12 Q. But you said you didn't actually see who
13 the shooter was, correct?
14 A. I didn't.
15 Q. So it could have been Pooh Man?
16 A. I don't know.
17 Q. Okay.
18 A. I don't recall seeing Pooh Man with a gun,
19 so of course you would assume that it was someone
20 else, you know?
21 MR. AICKLEN: We're almost at noon.
22 Did you want to wrap this up?
23 MR. RENWICK: Yeah. Why don't we cut
24 it there.
25 VIDEOGRAPHER: This concludes today's

Page 58

1 deposition of X'Zavion Hawkins on February 12, 2016.
2 The time is 11:55 a.m. We're off the video
3 record.G4.
4
5
6 (The deposition concluded at 11:55 a.m.)
7
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Page 59

1 REPORTER'S CERTIFICATE
2 STATE OF NEVADA)
3) ss.
4 COUNTY OF CLARK)
5 I, Carol O'Malley, Nevada Certified Court
6 Reporter 178, do hereby certify:
7 That I reported the taking of the video
8 deposition of X'ZAVION HAWKINS on February 12, 2016
9 commencing at the hour of 10:24 a.m.;
10 That prior to being examined, the witness was by
11 me duly sworn to testify to the truth, the whole
12 truth, and nothing but the truth;
13 That I thereafter transcribed my said
14 shorthand notes into typewriting and that the
15 typewritten transcription of said deposition is a
16 complete, true, and accurate transcription of my said
17 shorthand notes taken down at said time. Review of
18 the transcript was requested.
19 I further certify that I am not a relative or
20 employee of an attorney or counsel involved in said
21 action, nor financially interested in said action.
22 IN WITNESS WHEREOF, I have hereunto set my hand
23 in my office in the County of Clark, State of Nevada,
24 this 24th day of February, 2016.
25 *Carol O'Malley*
Carol O'Malley, CCR No 178

Page 60

1 DEPOSITION ERRATA SHEET
2
3 File No. J0263337
4 Case Caption: Hawkins vs. GGP Meadows Mall, et al.
5
6
7
8 DECLARATION UNDER PENALTY OF PERJURY
9
10 I declare under penalty of perjury that I have
11 read the entire transcript of my deposition taken in
12 the captioned matter or the same has been read to me,
13 and the same is true and accurate, save and except
14 for changes and/or corrections, if any, as indicated
15 by me on the DEPOSITION ERRATA SHEET hereof, with the
16 understanding that I offer these changes as if still
17 under oath.
18
19 Signed this day of , 20 .
20
21
22
23 X'ZAVION HAWKINS
24
25

Page 61	
1	DEPOSITION ERRATA SHEET
2	Page No. Line No. Change to:
3	Reason for change:
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17	Reason for change:
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21	Reason for change:
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23	
24	SIGNATURE: DATE:
	X'ZAVION HAWKINS
25	

Page 62	
1	DEPOSITION ERRATA SHEET
2	Page No. Line No. Change to:
3	Reason for change:
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20	Page No. Line No. Change to:
21	Reason for change:
22	
23	
24	SIGNATURE: DATE:
	X'ZAVION HAWKINS
25	

Exhibit “6”

Jolene Manke

From: Jolene Manke
Sent: Friday, February 12, 2016 3:12 PM
To: 'Charlene Renwick'; David Churchill; Aicklen, Josh Cole (Josh.Aicklen@lewisbrisbois.com); Avakian, David (David.Avakian@lewisbrisbois.com); Rosenthal, Harold
Cc: David Churchill; Lili Salonga
Subject: Hawkins v. Meadows/Valor/Warner - Documents

Dear Counsel:

Pursuant to my conversation with Ms. Renwick this afternoon, I am putting you all on notice of my formal request that you produce the documents Mr. Aicklen was referencing during Mr. Hawkins' deposition this morning. As you all know you must produce all evidence, impeachment or otherwise, pursuant to NRC 16.1, and you must seasonably supplement your responses to our requests for production.

It is insufficient for you to say that Det. Majors is going to bring these documents to his deposition when these documents are already in your possession. It is not our practice to litigate by ambush, and we hope it is not your practice either.

As I indicated to Ms. Renwick, I will consider my telephone conference with her my good faith attempt to resolve this discovery dispute pursuant to EDCR 2.34.

Please supplement these materials to me by 5 p.m. on Wednesday, February 17th, or I will have no choice but to bring this up with the Discovery Commissioner.

Sincerely,

Jolene J. Manke
Of Counsel
INJURY LAWYERS OF NEVADA
P: (702) 868-8888
F: (702) 868-8889
E: jolene@injurylawyersnv.com

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Exhibit “7”

**LEWIS
BRISBOIS
BISGAARD
& SMITH LLP**
ATTORNEYS AT LAW

6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Telephone: 702.893.3383
Fax: 702.893.3789
www.lewisbrisbois.com

JOSH COLE AICKLEN
DIRECT DIAL: 702.693.4373
JOSH.AICKLEN@LEWISBRISBOIS.COM

February 17, 2016

File No.
33219.205

DAVID B. AVAKIAN
DIRECT DIAL: 702.693.1720
DAVID.AVAKIAN@LEWISBRISBOIS.COM

HAROLD J. ROSENTHAL
DIRECT DIAL: 702.693.4397
HAROLD.ROSENTHAL@LEWISBRISBOIS.COM

VIA ELECTRONIC SERVICE

Jolene Manke, Esq.
David Churchill, Esq.
Law Office of David Churchill
6900 Westcliff Drive, Suite 707
Las Vegas, NV 89145

Re: *Hawkins, X'Zavion v. Mydatt Services, Inc., et al.*
District Court Clark County, Nevada Case No. A717577
Our Client: Mydatt Services, Inc. d/b/a Valor Security Services
Your Client: X'Zavion Hawkins
Claim No.: CVEL-5859A1
Date of Loss: 08/17/2013
Subject: NRCP 16.1 Disclosures

Dear Ms. Manke:

Following Plaintiff's deposition on February 12, 2016, you called and emailed defense counsel demanding production of documentation provided by Detective Majors of the Las Vegas Metropolitan Police Department. We met with Det. Majors regarding the subpoena for deposition that was served on him which included a request for production of documents in his possession relevant to his investigation of Plaintiff's shooting. Det. Majors provided some documents during that meeting that he will also bring to his deposition, pursuant to the referenced subpoena. Det. Majors also stated that these materials were previously provided to Plaintiff's prior counsel, Jason Burrus, and we

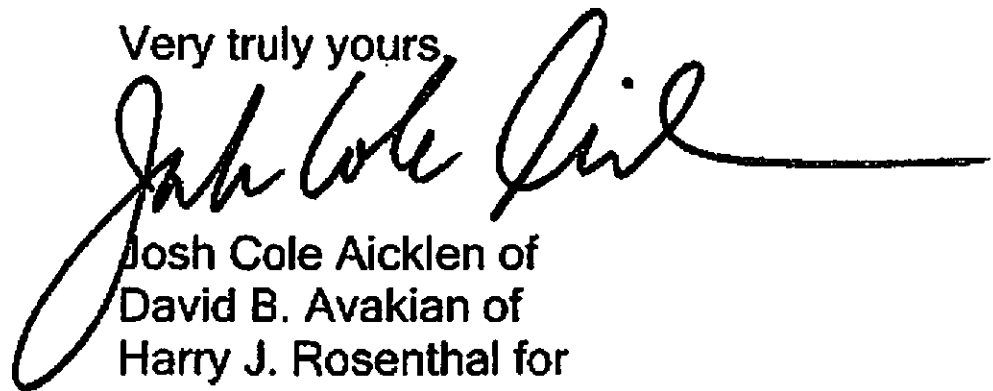
Jolene Manke, Esq.
RE: Hawkins, X'Zavion v. Mydatt Services, Inc., et al.
February 17, 2016
Page 2

reasonably assume those documents would have been turned over to your office when you assumed Plaintiff's case.

With respect to your accusation that the defense is litigating this matter by "ambush," we strongly disagree. Please be reminded that NRCP 16.1 requires the parties to seasonally update their discovery disclosures. We are in the process of gathering these materials for an updated NRCP 16.1 disclosure and we will attach them, but these materials are also located in the file from Mr. Burrus' office.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Josh Cole Aicklen", with a long horizontal flourish extending to the right.

Josh Cole Aicklen of
David B. Avakian of
Harry J. Rosenthal for
LEWIS BRISBOIS BISGAARD & SMITH LLP

JCA/DBA/HJR/an

Exhibit “8”

Jolene Manke

From: Jolene Manke
Sent: Wednesday, February 17, 2016 12:09 PM
To: Aicklen, Josh Cole (Josh.Aicklen@lewisbrisbois.com); 'Charlene Renwick'; David Lee; Rosenthal, Harold; Avakian, David (David.Avakian@lewisbrisbois.com)
Cc: David Churchill; Lili Salonga
Subject: Hawkins v. Meadows/Valor/Warner - Documents

Dear Counsel:

Pursuant to our respective telephone conversations and your correspondence of today's date, I am finishing Plaintiff's motion to compel documents and motion for protective order regarding his continuing deposition. I have spoken with Jason Barrus. He did not have any meetings with Det. Majors, nor did he obtain any documents similar to what I believe you currently possess. I subpoenaed documents from Metro relating to the investigation and I did not receive anything similar to what I believe you currently possess. As Mr. Aicklen and I discussed, these documents are not *sub rosa* and there is no work product privilege. Your refusal to timely produce these documents is simply wrongful.

Sincerely,

Jolene J. Manke
Of Counsel
INJURY LAWYERS OF NEVADA
P: (702) 868-8888
F: (702) 868-8889
E: jolene@injurylawyersnv.com

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Exhibit “9”

AFFIDAVIT OF JASON W. BARRUS, ESQ.

STATE OF NEVADA)
)ss:
COUNTY OF CLARK)

I, JASON W. BARRUS, ESQ., hereby certify, affirm and state:

1. I am an attorney duly licensed to practice law in the state of Nevada and am the principal of the Law Office of Jason W. Barrus. I was primary counsel for Plaintiff X'ZAVION HAWKINS (hereinafter "X'Zavion") before commencement of litigation. The facts set forth in this affidavit are known to me personally, and I am competent to testify under oath regarding the same.

2. I began representing X'Zavion while I worked at the law firm of Lloyd Baker Injury Attorneys. In September of 2014 I stopped working at Lloyd Baker Injury Attorneys and opened my own law firm.

3. After opening my own law firm I communicated with Det. Majors of Las Vegas Metropolitan Police Department on two or three occasions via e-mail in September of 2014 regarding the criminal investigation of X'Zavion being shot at Meadows Mall.

4. After initially agreeing to release the investigative file to my office, Det. Majors changed his mind and said I would have to subpoena the materials because releasing the documents would be a "huge dissemination violation." (A true and correct copy of Det. Majors' e-mail of October 2, 2014, is attached hereto as Ex. "8.")

5. Because X'Zavion's matter was not in litigation, I could not have a subpoena issued.

6. I never met with Det. Majors.

///

///

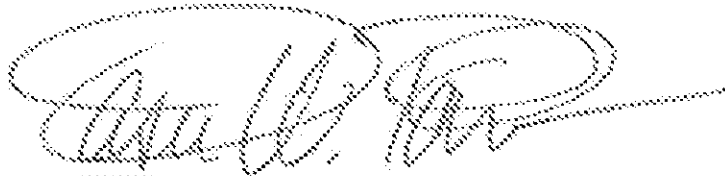
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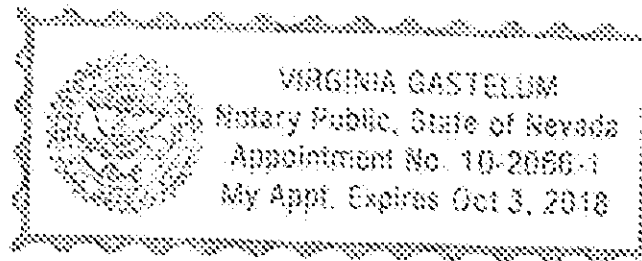
1 7. I never received any documents from Det. Majors.

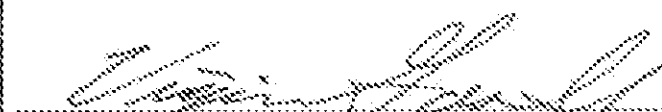
2 FURTHER YOUR AFFIANT SAYETH NAUGHT.

3
4 

5 JASON W. BARRUS, ESQ.

6 Subscribed and Sworn to before me
7 this 18 day of February, 2016.



8
9 
10 NOTARY PUBLIC in and for said
11 County and State

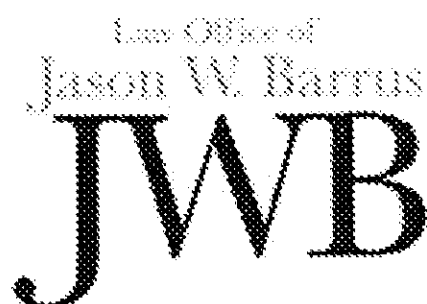
Jolene Manke

From: Jason Barrus [jason@jasonbarruslaw.com]
Sent: Thursday, February 18, 2016 1:20 PM
To: Jolene Manke
Cc: David Churchill
Subject: FW: X'zavion Hawkins case

I found the e-mail chain below.

Thanks,

Jason W. Barrus, Esq.



1601 E. Charleston Blvd : Las Vegas, NV 89104
Tel (702) 550-6500 : Fax (702) 550-6501

[website](#) | [map](#)

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From: William Majors [mailto:W7089M@LVMPD.COM]
Sent: Thursday, October 02, 2014 1:38 PM
To: Jason Barrus <jason@jasonbarruslaw.com>
Subject: RE: X'zavion Hawkins case

Whoever you had to make a call the photo lab made it sound like I already released these photos to you which was not true and a huge dissemination violation. Please produce a subpoena or court order. Thank you

From: Jason Barrus [mailto:jason@jasonbarruslaw.com]
Sent: Thursday, October 02, 2014 1:35 PM
To: William Majors
Subject: RE: X'zavion Hawkins case

Sorry to keep bothering you on this but I called the photo lab and they are telling me they will not release the photos until I receive a letter from you authorizing the release. They also said you have to send a form to them authorizing the release. I told them I have an e-mail from you that says you authorize the release and they told me an e-mail is not sufficient. Can you send me a letter or make a phone call to the photo lab so I can go pick up the photos?

Thanks,

Jason

From: William Majors [<mailto:W7089M@LVMPD.COM>]
Sent: Wednesday, September 24, 2014 12:09 PM
To: Jason Barrus
Subject: RE: X'zavion Hawkins case

I updated the case file confirming that I authorize this event # 130817-0794 to be released

From: Jason Barrus [<mailto:jason@jasonbarruslaw.com>]
Sent: Wednesday, September 24, 2014 9:53 AM
To: William Majors
Cc: Aideet Garcia
Subject: X'zavion Hawkins case

Detective Majors,

Thank you for taking my phone call earlier today. As we discussed, I am trying to obtain a complete copy of the investigation file relating to the Meadows Mall shooting involving my client, X'zavion Hawkins. It is my understanding that there are voluntary statements and photographs related to the investigation, but I have not been provided those by the records dept. I was told if the detective will grant a release of that information the records dept will release those items to me without the need of a subpoena. You stated your investigation is closed and that you have no problem releasing the photographs and voluntary statements to my office at this time. Please confirm by responding to this e-mail and by sending an e-mail to the records dept and photo lab of your agreement to release those items at this time.

I appreciate your cooperation.

Thanks,

Jason

Jason W. Barrus, Esq.
Law Office of Jason W. Barrus
1601 E. Charleston Blvd.
Las Vegas, NV 89101
(702) 550-6500 (phone)
(702) 550-6501 (fax)
www.jasonbarruslaw.com

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Exhibit “10”

COPY

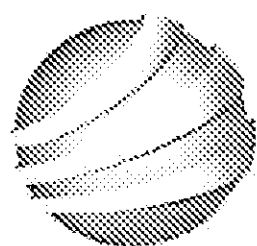
In the Matter Of:

HAWKINS vs. GGP MEADOWS MALL

A-15-717577-C

WILLIAM LEE MAJORS

February 25, 2016



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Page 1

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4 X'ZAVION HAWKINS,
5
6 Plaintiff,
7
8 vs. CASE NO. A-15-717577-C
9
10 GGP MEADOWS MALL LLC, a
11 Delaware Limited
12 Liability Company; MYDATT
13 SERVICES, INC., dba VALOR
14 SECURITY SERVICES, an
15 Ohio Corporation; MARK
16 WARNER, individually;
17 DOES 1 through 10; DOE
18 SECURITY GUARDS 11
19 through 20; and ROE
20 ENTITIES 21 through 30,
21 inclusive,
22 Defendants.
23 -----
24
25 DEPOSITION OF
WILLIAM LEE MAJORS
Thursday, February 25, 2016
9:00 a.m.
2300 W. Sahara Avenue
Las Vegas, Nevada
Carol O'Malley, CCR 178, RMR

Page 2

1 APPEARANCES OF COUNSEL
2
3 For Plaintiff:
4 INJURY LAWYERS OF NEVADA
5 DAVID J. CHURCHILL, ESQ.
6 JOLENE J. MANKE, ESQ.
7 Suite 707
8 6900 W. Westcliff Drive
9 Las Vegas, Nevada 89145
10 702.868.8888
11 702.868.8889 Fax
12 david@injurylawyersnv.com
13
14 For Defendant GGP Meadows Mall LLC:
15 LEE, HERNANDEZ, LANDRUM & GAROFALO
16 CHARLENE N. RENWICK, ESQ.
17 Suite 150
18 7575 Vegas Drive
19 Las Vegas, Nevada 89128
20 702.880.9750
21 702.314.1210 Fax
22 crenwick@lee-lawfirm.com
23
24 For Defendants Mydatt Services, Inc., dba Valor
25 Security Services, and Mark Warner:
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1 Deposition of William Lee Majors
2 February 25, 2016
3 (Prior to the commencement of the deposition,
4 all of the parties present agreed to waive
5 statements by the court reporter, pursuant to
6 Rule 30(b)(4) of NRCP.)
7
8 WILLIAM LEE MAJORS,
9 having been first duly sworn, testified as follows:
10
11 EXAMINATION
12 BY MR. AICKLEN:
13 Q. Good morning, sir. Would you state your
14 name for the record, please?
15 A. Sure. My name is Detective William Majors.
16 Q. Detective, have you ever had your
17 deposition taken before?
18 A. No, I have not.
19 Q. I'm going to go through some of the ground
20 rules so that you understand the process today.
21 You and I have met. My name is
22 Josh Aicklen. I represent a man named Mark Warner,
23 and Mydatt Services, d/b/a Valor Security, in a
24 lawsuit that has been filed by the plaintiff,
25 X'Zavion Hawkins. Do you understand that?

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1 A. I do.
2 Q. Very good. The conversation that we're
3 having here today is different than the normal
4 conversation, because everything that we are saying
5 is being taken down and becomes evidence in this
6 case.
7 You understand that the oath that
8 you just took is the same oath that you would take in
9 court and carries the same penalty of perjury?
10 A. I do.
11 Q. Have you had any alcohol or drugs in the
12 last 12 hours which might affect your ability to give
13 your best testimony today?
14 A. No, sir.
15 Q. I'm going to ask you some standard
16 questions, so don't be offended by anything that I
17 ask you.
18 Are you ill, or is there any other
19 reason that your deposition cannot go forward?
20 A. No.
21 Q. It's important that only one person speaks
22 at a time, because as I said, the lady is taking it
23 down. So what I would ask you to do is allow me, or
24 whomever else asks a question, to complete their
25 question before you begin your response. We'll show

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1 you the same courtesy and allow to you finish your
2 response before we ask you another question.
3 Do you understand?
4 A. Yes, I do.
5 Q. That way we get a question/answer format.
6 Understood?
7 A. I do.
8 Q. Make sure you understand the question
9 before you answer it. If you do not understand the
10 question, or if it's not clear to you, just say, "I
11 don't understand," or ask me to rephrase it. I'll be
12 glad to do so.
13 However, if I ask you a question
14 and you give me an answer, I'm going to assume that
15 you understood my question and then you answered it
16 appropriately.
17 Do you understand?
18 A. Yes.
19 Q. In approximately two weeks you'll have the
20 opportunity to review your deposition transcript. It
21 comes typed in a booklet form.
22 You will also have the chance to
23 make any changes that you believe are necessary or
24 appropriate, and then sign it under penalty of
25 perjury.

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1 However, I do want to caution you,
2 if you make a substantive change -- for example, if
3 today were about a car accident and I asked you,
4 "What color was the light when you entered the
5 intersection," and you said "green," and then when
6 you went through and made changes to your transcript
7 you changed that "green" to "red," then I or any
8 other attorney could argue the reason that you made
9 that substantive change is because you were not being
10 truthful today.
11 Do you understand?
12 A. I do.
13 Q. So it's important that you give your best
14 testimony today, so you don't have to make changes
15 later on. Will you try to give your best testimony
16 today?
17 A. Yes, sir.
18 Q. You need to answer audibly. You're doing a
19 good job of it, but I want you to say, "yes," "no,"
20 or a description, if the question calls for it.
21 Things that we do in normal
22 conversation like "uh-huh," "un-uhn," pointing,
23 nodding -- they don't come out clearly on a written
24 transcript.
25 Periodically I may say to you, "Is

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1 that a yes or is that a no?" I'm actually trying to
2 do two things. I'm not trying to be rude. I'm
3 trying to (a), get a clear transcript; and then (b),
4 remind you to answer audibly. Do you understand?
5 A. Yes.
6 Q. Do you have any questions about the ground
7 rules before we begin?
8 A. No, I do not.
9 Q. Now, you were served with a Subpoena Duces
10 Tecum, is that correct?
11 A. That is true.
12 Q. And you have brought documents responsive
13 to that Subpoena Duces Tecum?
14 A. I have.
15 Q. Very good. So would you tell me the
16 documents that you have brought today?
17 A. Okay. I have interviews from X'Zavion
18 Hawkins, Keisha Love, Darrellonda Peterson, which are
19 transcribed. I also have the audio files for those
20 interviews.
21 I also brought the 911 tapes, the
22 incident crime report, the voluntary statements made
23 by Keisha Love, DeAndre Thompson, Mario Pena,
24 Darrellonda Peterson.
25 Preservation requests for Facebook

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1 and Instagram. For Facebook of CM png, preservation
2 requests for Facebook of Little png, media release
3 reference this incident.
4 Attempt Homicide Followup
5 reference an RN that retrieved a bullet out of the
6 victim. A property report reference the security
7 footage. Crime Scene Investigation Report for the
8 incident. Additional crime scene evidence impound
9 reports reference the crime scene -- and I mean two
10 different crime scenes; one being at the hospital,
11 and the other being at Meadows Mall.
12 Criminalistics report reference a
13 bullet which was retrieved from Mike Darling, RN, at
14 UMC Trauma; and a forensics multimedia report
15 reference the CD that was impounded reference this
16 incident.
17 Q. So that would be the video of the incident
18 from Mydatt Security?
19 A. That is correct.
20 Q. Okay.
21 A. And I also brought my case notes reference
22 this. Let me make sure I have everything here. And
23 also the request from Attorney Lloyd Baker. Yeah,
24 that's what I have.
25 Q. Okay. After we go through these documents,

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1 what I would like to do is then ask you -- you
2 brought these for us to keep, correct?
3 A. That is correct.
4 Q. Okay. And then what I would ask to do is
5 we're going to attach them as Defendants' Exhibit A
6 en masse, all of them together, to your deposition
7 transcript, and they will be attached to the original
8 of the transcript.
9 MR. CHURCHILL: Josh, sorry to
10 interrupt.
11 What I need to know -- and we may
12 have to call the Discovery Commissioner -- is I need
13 to know of all these documents, which ones have
14 already been provided to you. Because he listed
15 several documents there that were not in your
16 disclosure to me.
17 MR. AICKLEN: Right. So I'm going to
18 ask him about every document that he -- I'm not
19 giving my deposition, but I will tell you on the
20 record, every document that he gave to Ms. Renwick
21 and I in our prior meeting, which I'm going to go
22 into about with him, was turned over to you in that
23 supplemental 16.1. So I have also noted some
24 documents that he's listed that I do not have copies
25 of. Okay?

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1 MR. CHURCHILL: Okay.
2 BY MR. AICKLEN:
3 Q. Now, as far as these documents go, you
4 received a Subpoena Duces Tecum, correct?
5 A. That's correct.
6 Q. And in response to that, did you go into
7 the computer and print these documents out?
8 A. I did.
9 Q. And these documents were produced in the
10 normal and ordinary course of business of the
11 Metropolitan Police Department, is that correct?
12 A. That is correct, with the exception of the
13 case notes, which usually you have to have a court
14 order before you can get, but the subpoena is the
15 same thing.
16 If somebody were to come and ask
17 for records, they get everything that I've described
18 to you that have actually been turned over for
19 processing.
20 The case notes are to remind us
21 when we're doing the case, especially if we have to
22 go back to court, so we can look back, "Okay, I did
23 this, I did this, I did this."
24 Q. Okay. Let's go back though to these
25 documents that you have produced today, because I

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1 want to complete laying the foundation for them.
2 So in response to the subpoena you
3 went through the Metro Police Department computer and
4 found every document and/or recording or disk that
5 was responsive, correct?
6 A. That is correct.
7 Q. And that is what you have produced today?
8 A. Yes, sir.
9 Q. And those documents were prepared in the
10 normal and ordinary course of your duties as a police
11 officer for the Metropolitan Police Department?
12 A. Yes.
13 Q. And these are true and correct copies of
14 those documents?
15 A. Yes.
16 Q. Very good. Now, I am also going to ask you
17 about what other persons have you spoken to about
18 this case, and on the record I will state that
19 Ms. Renwick and I met with you, correct?
20 A. That is correct.
21 Q. And we met with you in your office in
22 response to the subpoena, once it was served?
23 A. That is correct.
24 Q. And when you and I met, and Ms. Renwick,
25 what documents did you turn over to us then?

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1 A. I turned over what I had, and I hadn't
2 researched everything. But what I had I believe was
3 the voluntary statements, and the audio of those
4 voluntary statements. Incident crime report, and
5 actually written voluntary statements from the
6 witnesses.
7 Q. Okay. And then you also turned over the
8 transcription of the statements, correct?
9 A. That is correct.
10 Q. So now there are a number of other
11 documents that you have brought today?
12 A. Yes.
13 Q. And those are documents that you found
14 after our meeting?
15 A. That is correct.
16 Q. Can you list out the documents that you
17 have brought today that you found after the meeting?
18 A. Preservation request for Facebook in the
19 account of CM pmg. Preservation request for Facebook
20 for name of Lit pmg.
21 Q. Lit pmg?
22 A. Yes. It stands for "Little" and "Pooh Man
23 G," one of the suspects we were looking at.
24 Media release. It's asking for
25 help from witnesses that may have been at the scene.

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1 Officer's report reference Mike
2 Darling, RN, at UMC that retrieved a bullet from the
3 victim.
4 Property report reference this
5 incident, for the security footage. Crime Scene
6 Investigation Report reference the victim at the
7 hospital. Crime Scene Investigation Report reference
8 the scene at the Meadows Mall. Crime Scene
9 Investigation Report, again reference Mike Darling,
10 RN, who recovered a bullet from the victim.
11 Crime scene report reference Ralph
12 Lauren Polo brand boxer shorts recovered from the
13 victim from RN Guedry, UMC Trauma.
14 Criminalistics Bureau Evidence
15 Impound Report reference the scene. And I believe
16 this is a copy. It's a Criminalistics Evidence
17 Impound Report reference the bullet retrieved from
18 Mark Darling. And a Forensics Media Report reference
19 the two copies of surveillance video.
20 Q. Very good. Thank you.
21 Now, at the meeting that
22 Ms. Renwick and I had with you, we discussed the
23 facts of your investigation, correct?
24 A. That is true.
25 Q. And you turned over those documents that

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1 you had previously listed as the documents turned
2 over?
3 A. Yes.
4 Q. And you also told us that you had spoken to
5 Attorney Jason Barrus, correct?
6 A. That is correct.
7 Q. And what did Mr. Barrus ask you, and what
8 did you tell him?
9 A. I believe I have his email, if I can pull
10 it up.
11 Q. Yes, certainly. Any time you need to refer
12 to your notes. This isn't a memory test.
13 A. Okay. Here's his email.
14 "Detective Majors: Thank you for
15 taking my phone call earlier today. As we discussed,
16 I am trying to obtain a complete copy of the
17 investigation file relating to the Meadows Mall
18 shooting involving my client, X'Zavion Hawkins. It
19 is my understanding that there are voluntary
20 statements and photographs related to the
21 investigation, but I have not been provided those by
22 the records department. I was told if the detective
23 will grant a release of that information the records
24 department will release those items to me without the
25 need of a subpoena. You stated your investigation is

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1 closed and that you have no problem releasing the
2 photographs and voluntary statements to my office at
3 this time. Please confirm by responding to this
4 email and by sending an email to the records
5 department and photo lab of your agreement to release
6 those items at this time. I appreciate your
7 cooperation. Thanks, Jason," from Jason W. Barrus
8 Law Office.
9 Q. And what was your response to Attorney
10 Barrus?
11 A. I had to talk to counsel, and I sent one
12 back saying, "The case is closed and I give
13 permission to release this case file to Jason W.
14 Barrus."
15 Q. So Mr. Barrus then could have subpoenaed
16 those materials from the Metropolitan Police
17 Department?
18 A. That's true.
19 Q. Okay. When you and I met, did you tell me
20 that you had turned these materials over to Mr.
21 Barrus?
22 A. Yes.
23 Q. Okay.
24 A. I gave him authorization to get it on his
25 own. I didn't pick it up and make copies and give it