

Case No. 74912

**In the Supreme Court of Nevada**

CRISTINA PAULOS,  
Appellant,

*vs.*

FCH1, LLC; LAS VEGAS  
METROPOLITAN POLICE  
DEPARTMENT; JEANNIE  
HOUSTON; and AARON BACA,  
Respondents.

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Elizabeth A. Brown  
Clerk of Supreme Court

**APPEAL**

from the Eighth Judicial District Court, Clark County  
The Honorable ROB BARE, District Judge  
District Court Case No. A716850

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**APPELLANT'S APPENDIX  
VOLUME 2  
PAGES 251-500**

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42. This expert report is based upon the materials provided to this date. The opinions presented in this report are based upon my specialized experience, training and knowledge of police practices as well as my continued research and work with law enforcement nationally. This work includes conducting training for law enforcement around the United States as well as auditing the policies and operations of law enforcement agencies around the United States. My opinions are provided with a reasonable degree of certainty within the fields of law enforcement, police activity and police administration and supervision. I am familiar with police civil litigation and know the normal phases of discovery. With this in mind I recognize that there may be additional documentation as the case progresses. In the event that additional material is produced I shall be prepared to supplement this report.

43. At the outset it is important to note that this report is based upon the facts as presented by the material and specifically avoids drawing conclusions based upon credibility issues of the parties.

44. The law enforcement event reviewed in this report occurred at approximately 3:15 p.m. on August 7, 2011. A motorist who witnessed the initial event identified as Kim Bak reported seeing a vehicle driving west on Flamingo Road running past the signal which was red in front of the Goldcoast where Bak was stopped. (Bak Statement). Bak then observed the vehicle continue and go through the signal which was red in front of the Palms. (Bak Statement). Bak watched as the vehicle turned into the Palms and collided with vehicles. (Bak Statement). According to reports from this incident, Cristina Paulos, the

operator of the vehicle, crossed over the median, struck a vehicle while travelling in the wrong direction, and then turned into the Palms striking a vehicle stopped at the exit head-on. (Bates PAULOS000016).

45. Brian Larson reported that he had picked up his brother at the Palms and was stopped at the exit waiting to turn onto Flamingo when a vehicle struck his vehicle head on. (Larson Statement). Larson reported that he went to the driver's side of the green car that had collided with him and a female exited the vehicle and ran toward the Palms. (Larson Statement). For purposes of clarity this female who ran from the vehicle is the plaintiff, Cristina Paulos. Brian Larson reported that Paulos returned and he asked her if anyone else was in the car, however she grabbed a laptop and left again. (Larson Statement). Paulos returned again, this time jumping into the seat of Larson's Nissan Xterra and trying to drive away. (Larson Statement). Larson reported that he reached in and grabbed his keys at which point Paulos exited his car just as an officer was arriving on the scene. (Larson Statement).

46. A review of the video makes clear that the Paulos vehicle entered on the exit lane struck Larson's vehicle head-on in the exit lane. (Video). A subject can be seen running from the area of the vehicle and then returning and going through the Paulos vehicle. (Video). As the camera zooms in, a female carrying items can be seen running from the area of the vehicle carrying an item and heading for the building. (Video). From a separate camera angle, Paulos can be seen in Larson's vehicle with Larson struggling to retrieve his keys to prevent her from driving his car. (Video). It is noted that from this point and through her

interaction with Officer Baca, Paulos is walking barefoot on the asphalt. (Video).

47. On the video Officer Baca can be seen in full uniform speaking with Paulos. Paulos was freely walking around as Baca speaks to her and is first intercepted by Baca as she moved toward the passenger door of her vehicle. (Video). Cristina Paulos then turned around and began to walk away at which point Officer Baca followed her until she turned around. (Video). Paulos reached with both hands toward the officer's waist area. (Video). It is noted that the female security officer (Houston) reported that the Paulos tried to grab Officer Baca's gun. (Houston Statement). It is also noted in the police report that Paulos reached for Baca's duty belt. (LVMPD 0004). Officer Baca then attempted to take control of Paulos using soft-empty hand control by grabbing her arms. (Video). At that point Paulos is observed fighting the officers attempt to control her arms by pulling, pushing, and pivoting her body. (Video). During the officer's attempt to control Paulos, she broke free and moved toward a man standing at the door of the Xterra (believed to be Larson). (Video). Officer Bacas reengaged Paulos grabbing her arm with soft-empty hand control. (Video). The male believed to be Larson can be seen back-peddling away from Paulos. (Video). Officer Bacas then escorted Paulos to the ground. (Video). It is noted that there are numerous bystanders watching and in close proximity as the officer was trying to control Paulos. (Video).
48. Once on the ground Paulos continued to move and it appears that the officer continued to have difficulty in gaining control. (Video). Officer Baca waved his

hand and a female security officer (Houston) from the Palms moved in to assist Baca. (Video). It is clear on the video that Paulos was still struggling and was not yet handcuffed. (Video). Once assisted by Security Officer Houston, Baca reached behind his back and appears to be retrieving a set of handcuffs/restraints. (Video). Once handcuffed, Houston assisted Officer Baca in maintaining control of Paulos until other backup officers arrived. (Video).

49. It is noted that Cristina Paulos testified that she had no memory of how the accidents she was involved in occurred and only some memory of what occurred after the accident. (Paulos Depo. P. 45-46). Paulos recalled being “pushed on the floor and screaming and being obtained in zip ties.” (Paulos Depo. P. 46). Paulos reported that she was just screaming, no words, because she was scared. (Paulos Depo. P. 47). Contrary to the video evidence reviewed in the materials, Paulos denied offering any resistance. (Paulos Depo. P. 48). Paulos testified to only remembering bits and pieces of the event including asking to get up and not being allowed to get. (Paulos Depo. P. 76). Paulos did not know who told her she could not get up reporting “but I know I wasn’t allowed to stand up.” (Paulos Depo. P. 77).

50. Paulos testified that a burn nurse told her she would have had to been on the asphalt for thirty minutes to receive the burn she received thus she was comfortable in saying that she was on the ground for twenty minutes. (Paulos Depo. P. 50). Paulos then testified that she did not know how long she was on the ground and could not identify the nurse who provided that information. (Paulos Depo. P. 50-51). Later in testimony, Paulos reported that she could not

say if she was picked up off the ground and sat up on the sidewalk immediately after she was restrained. (Paulos Depo. P. 147). It is noted that Paulos reported that at some point after being restrained she received an additional burn while seated on the sidewalk. (Paulos Depo. P. 76).

51. Cristina Paulos denied drinking any alcohol, taking any prescription drugs, taking any medications, or using illegal drugs within 24 hours of the collision and contact with LVMPD and Palms Security. (Paulos Depo. P. 130 -132).

52. It is my opinion, based upon my specialized training, background, education, and experience as well as my continued research, authoring, auditing, consulting, and training, on law enforcement practices nationwide that the actions of Officer Baca in using force to restrain and arrest Cristina Paulos was consistent with generally accepted policies, practices, training, and legal mandates. Additionally, it is my opinion that the actions of the responding officers who assisted Officer Baca in controlling and accomplishing the arrest of Ms. Paulos was also consistent with generally accepted policies, practices, training, and legal mandates.

53. At the outset it is noted that this was not a law enforcement initiated action but instead the event occurred as the result of Ms. Paulos striking two vehicles and initially fleeing the scene of the collision on foot.

54. Officers throughout the United States are trained in two formulas with respect to use of force decision making and justification. The first of these formulas is a three-part test which parallels the mandates announced by the United States

Supreme Court in *Graham v. Connor*.<sup>1</sup> The three-part test directs officers to consider the seriousness of offense; whether or not the subject poses a physical threat to the officer or anyone else; and finally whether the subject is actively resisting or attempting to evade arrest by flight.

55. Based on the video it is clear that Ms. Paulos was involved in a number of serious offenses. A reasonable officer confronted with this scene would recognize that a serious accident had occurred; would recognize that Ms. Paulos was trying to flee from an accident where in all likelihood serious injuries had occurred and, at the time Officer Baca used his initial force on Ms. Paulos she was moving toward him and her vehicle which any reasonable and well trained officer would recognize as behavior which needed to be controlled.

56. Based on the video it is also clear that Ms. Paulos posed a dramatic threat to the officer, to the other driver, Larson, as well as members of the public who were milling in the area. Ms. Paulos tried to forcibly take Mr. Larson's vehicle as the officer arrived at the scene. If she had been successful any officer would conclude that she would be a dramatic threat to the safety of motorists and pedestrians in the area. This threat was further escalated when Ms. Paulos reached toward the officer's waist (duty-belt). It is well known in law enforcement that if menacing individuals are allowed to get to close to an officer, the individual will have access to the weapons that an officer is carrying.

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<sup>1</sup> This formula is derived from *Graham v. Connor*, 490 U.S. 386 (1989) and can be found in law enforcement training lesson plans as well as Use of Force policies throughout the United States. See e.g. International Association of Chiefs of Police, Use of Force Model Policy 2005, IACP Model Policy Center, Virginia 2005.

To allow an individual to move that close to an officer dramatically increases the physical threat to the officer and anyone else that is present.<sup>2</sup>

57. The second formula was the "Use of Force Continuum." While agencies utilized different force continuum models, all of the models recognize that officers have various subject control tactics available to them and that these tactics range from a low-level intrusions, such as officer presence and verbal commands, to the highest level which is deadly force. It should be recognized that even in those agencies which still use of force continuum, the continuum is not a ladder which must be climbed step by step. Instead it is a presentation of various force options, each of which must be objectively reasonable under the circumstances with which the officer is faced. It is noted that due to confusion over application of such continuums, law enforcement is moving away from this concept and simply train "force options." It is recognized that many law enforcement agencies are moving away from the so-called "continuum" and moving toward a "Graham" decision making model.

58. It is undisputed based on the video and the materials in this case that Officer Baca used officer presence, soft-empty hand control tactics and a decentralization or take-down.

59. It should be noted that command presence and verbal commands are considered the least significant force options available to an officer. Officers are further trained that when these options fail to bring about compliance the officer is justified in escalating to a more significant force option. Officers are trained

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<sup>2</sup> See, IACP "Use of Force" Concept Paper: "Statistics on police officers killed feloniously over more than a decade reveal that about 15 percent of police homicides were perpetrated by assailants using the officer's own handgun."



that the force option chosen must be reasonable in light of the circumstances they face. It should again be noted that due to the rapidly evolving nature of events such as occurred here officers are not required to try each of the various force options before moving to a more significant option.

60. Officers are trained and are well aware that most people automatically respond to the least significant force option being officer presence without ever being told what to do. The natural reaction of law abiding persons upon seeing an officer is to immediately bring their behavior into compliance with what is expected under the law. It is clear from the video that Ms. Paulos did not comply with Baca's officer presence, in full uniform, and resisted Baca's attempt at low level soft-empty hand control. It is clear from the video that Ms Paulos escalated the incident by her motion toward the officer's belt and her combative resistance to his attempts to control her and her action placed the officer in a position where he had no choice but to respond to the resistance for his own protection, the protection of all person's in the area; and, in order to accomplish the restraint/arrest of Ms. Paulos.

61. A decentralization or take down tactic which places a person against a fixed object is well known in law enforcement. The use of such a tactic to place a subject against a wall or the ground is proper when an officer is faced with a subject who is actively resisting an officer's attempt to detain them, take custody of them, or otherwise control the subject. The goal is to put the subject in a position such that the officer gains a tactical advantage through the ability to stabilize the resistant subject so that the subject can be safely restrained. It is

clear from the video that Ms. Baca resisted the officer's efforts at controlling her with soft-empty hand control. A take-down under the circumstances which can be observed on the video is consistent with generally accepted policies, practices, and training, and is actually a suggested practice.

62. It is recognized that when considering the seriousness of the offense; that such consideration goes to the offense the officer suspects at the time the control tactic is used and not the original offense or other justification which led the officer to contact the individual at the outset. At the time Officer Baca started the interaction with Paulos she had just tried to escape by taking Larson's vehicle, both a serious offense as well as a dramatic threat. Additionally, she had reached for the officer's waistband which any reasonable and well-trained officer would conclude was a dramatic threat to the officer as well as all persons in the vicinity.

63. Officers throughout the United States are trained that they may use reasonable force to effect an arrest.<sup>3</sup> It is not incumbent that the officer be under attack since such a requirement would preclude the use of force where a suspect simply pulls away from an officer and walks away. Officers may even use deadly force under limited circumstances to prevent escape.

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<sup>3</sup> See, EG. IACP Model Policy "Use of Force" effective August 2001: Use of Non-Deadly Force

1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable to bring an incident under control.
2. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment to
  - a. Protect the officer or others from physical harm;
  - b. Restrain or subdue a resistant individual; and/or
  - c. Bring an unlawful situation safely and effectively under control.

64. It is clear from the materials and the video that although Officer Baca was able to stabilize Ms. Paulos on the ground, he was unable to accomplish restraint. Baca can be seen on the video waving to a security officer who responded to assist him. Additionally, Security Officer Houston reported that Officer Baca asked for her help in controlling Paulos while she was on the ground. The continued use of force, soft-empty hand control in this case, to maintain Paulos on the ground until she could be controlled was consistent with generally accepted policies, practices, training, and legal mandates with respect to use of force.
65. Upon responding to the assistance of another officer, all officers are expected to take action to assist the officer in controlling the situation. Here, additional officers responded to assist Baca in accomplishing the restraint and arrest of Cristina Paulos.
66. It is well understood in law enforcement that a responding officer may rely on information they receive from other law enforcement officers through information provided or through observation of the officers' actions. Each responding officer is not required to conduct an independent investigation to determine probable cause but instead may use the collective knowledge of other officers to assist in taking a person into custody. The actions of the officers who responded to accomplish the restraint of Paulos acted consistently with generally accepted policies, practices, training, and legal mandates in providing Officer Baca with assistance.

67. It is noted that the complaint alleges and Ms. Paulos testified that she was left on the ground for a long period of time causing significant burns to her leg and other burns on her buttocks and face. While there is no evidence in the material provided to date to indicate how long Ms. Baca was left on the asphalt or the sidewalk, it is clear based on Ms. Paulos' testimony, that she did not voice any discomfort to officers. In fact she reported that she continually screamed but did not form any words during this interaction. Additionally, her initial testimony was that she screamed because she was scared.
68. Officers are trained that when a restrained subject complains of discomfort caused by the restraint, the officer should investigate and determine if there is a need to alter the restraint position or mechanism. Where the subject is conscious and not verbalizing a complaint an officer would be unaware of any discomfort.
69. It is also clear based on the materials provided to date that officers moved her from the prone position where she was restrained to a seated position on the sidewalk. This movement was consistent with generally accepted policies, practices, training, and legal mandates with respect to restrained subjects. The purpose of such movement is to ensure that the restrained individual is in a position which facilitates breathing.
70. In reviewing the materials I note that there are allegations of deficiencies on the part of the Las Vegas Metropolitan Police Department with respect to hiring, training, supervision, and retention of officers. There is no evidence in the materials provided to date that would support any deficiencies in any of these areas.

71. At this stage of my review I do not know if I may be asked to review additional documents. Should I be asked to review any additional documents I will be prepared to render additional opinions or supplement the opinions stated within this report.
72. At this point in the development of this case I do not know whether I will be using any demonstrative aids during my testimony. Should I decide to use any such tool; I will assure that they are made available for review, if requested, prior to their use.
73. My fees for these professional services are outlined in the attached retainer agreement.

This report is signed under penalty of perjury on this 3<sup>rd</sup> day of February, 2014, in Greenville, Rhode Island.

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John J. Ryan

# Exhibit 8

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**DECLARATION OF SGT. JASON HARNEY**

I, Sgt. Jason Harney, do declare:

1. I am currently a Sergeant with the Las Vegas Metropolitan Police Department. I have been employed with LVMPD since June 28, 1991.

2. On August 7, 2011, I was also a Sergeant with the Las Vegas Metropolitan Police Department and the immediate supervisor of Ofc. Aaron Baca.

3. Prior to being promoted to the rank of sergeant, I was a use of force instructor at the Las Vegas Metropolitan Police Department academy both as a PO (Academy TAC Officer from 1998-2000) and as the Academy Sergeant (2004-2007) training officers in use of force and detention.

4. On the afternoon of August 7, 2011, I was dispatched to a motor vehicle accident that had occurred in front of the Palms Hotel & Casino.

5. Upon arrival, I noted that LVMPD officers were investigating two motor vehicle collisions that were caused by an individual later identified as Cristina Paulos.

6. When I first encountered Ms. Paulos, she was sitting in a grassy area underneath a tree and in handcuffs. I attempted to interview Ms. Paulos to learn what had occurred. Ms. Paulos was uncooperative and verbally abusive.

7. Ms. Paulos did not have any visible injuries on her legs or face beyond what appeared to be minor abrasions. I asked Ms. Paulos if she was injured and she denied any injuries. In addition, I observed Ms. Paulos attempts to fight with on scene medical personnel and deny any injuries to the medical personnel as well.

8. Based upon Ms. Paulos' lack of complaint of injury and the lack of visible evidence, it was my opinion that Ms. Paulos was not injured by Ofc. Baca. I was concerned she needed medical due to her unusual behavior.

9. After interviewing Ms. Paulos, I interviewed Ofc. Aaron Baca. Ofc. Baca informed me that as part of his investigation into the motor vehicle collisions, he attempted to contact Ms. Paulos. In response, Ms. Paulos attempted to fight with him and reached for his gun. Ofc. Baca eventually took her to the ground where Ms. Paulos was handcuffed.

10. On the date of the incident, LVMPD policy required officers to create a Use of Force Report when an individual: (1) has visible injuries, (2) complains of any injury or (3) a tool such as a baton, taser, and/or pepper spray is used.

11. In the subject case, because Ms. Paulos never reported any injuries, did not have any visible injuries, and because Ofc. Baca only executed an empty hand take down, it was my determination that a use of force report was not necessary

12. It is important to note that if Ms. Paulos had visible injuries and/or complained of injuries as a result of Ofc. Baca's tactics, I would have required that Ofc. Baca fill out a use of force report.

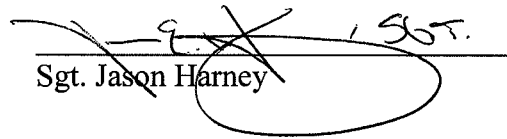
13. I am familiar with LVMPD's use of force and arrest/detention policies. I have served as a use of force instructor. LVMPD regularly advises its officers of the importance of getting suspects off of hot pavement in the summer months once it is safe to do so. The policy

and training does not prohibit the act of taking suspects to the ground in the summer months as the ground is the safest method to handcuff and detain a violent and combative suspect. Rather, the department stresses the importance of getting a suspect off the ground as soon as it is safe to do so.

14. During the summer months all LVMPD officers are reminded during briefings and trainings that it is important to get suspects off the ground once it is reasonably safe to do so.

15. I declare under penalty of perjury, and the laws of the State of Nevada (NRS 53.045), that the foregoing is true and correct.

Dated this 30 day of October, 2014.

A handwritten signature in black ink, appearing to be "Sgt. Jason Harney", is written over a horizontal line. The signature is stylized and includes the letters "Sgt." to the right of the main name. Below the signature, the printed text "Sgt. Jason Harney" is visible, partially obscured by the ink.

Sgt. Jason Harney

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# Exhibit 9

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# Exhibit 10

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1 Elliot S. Blut, Esq.  
 Nevada Bar No. 6570  
 2 BLUT LAW GROUP, APC  
 300 South Fourth Street, Suite 701  
 3 Las Vegas, NV 89101  
 Telephone (702) 384-1050  
 4 Facsimile (702) 384-8565  
 email: eblut@blutlaw.com

5  
 6 Cal J. Potter, III, Esq.  
 Nevada Bar No. 1988  
 C. J. Potter, IV, Esq.  
 7 Nevada Bar No. 13225  
 POTTER LAW OFFICES  
 8 1125 Shadow Lane  
 Las Vegas, NV 89102  
 9 Telephone (702) 385-1954  
 Facsimile (702) 385-9081  
 10 email: info@potterlawoffices.com

11 Attorneys for Plaintiff,  
 12 CRISTINA PAULOS

13 UNITED STATES DISTRICT COURT  
 14 DISTRICT OF NEVADA

15 CRISTINA PAULOS, an individual;  
 16 Plaintiff

17 v.

18 FCH1, LLC, a Nevada limited liability  
 company; LAS VEGAS METROPOLITAN  
 19 POLICE DEPARTMENT, a government  
 entity; JAKE VON GOLDBERG, an  
 20 individual; JEFFREY B. SWAN, an  
 individual; JEANNIE HOUSTON, an  
 21 individual; AARON BACA, an individual;  
 and DOES 1 through 10;

22  
 23 Defendants.

CASE NO.: 2:13-cv-01546-JCM-PAL

24  
 25 **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANT LAS VEGAS**  
**METROPOLITAN POLICE DEPARTMENT'S INTERROGATORIES, SET TWO**

26  
 27 Plaintiff, Cristina Paulos, hereby responds to Las Vegas Metropolitan Department's  
 28 Second Set of Interrogatories as follows:

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1 **INTERROGATORY NO. 19:**

2 On February 28, 2014, plaintiff took the deposition of defendant Aaron Baca. During the  
3 deposition, plaintiff attached to the deposition the photographs attached hereto as Exhibit 1. With  
4 respect to the photographs, please provide the following information:

- 5 (1) The location where the photographs were taken;
- 6 (2) The date the photographs were taken;
- 7 (3) The person that took the photographs; and
- 8 (4) The reason behind the taking of the photographs.

9 **RESPONSE TO INTERROGATORY NO. 19:**

- 10 (1) The photographs appear to be taken at UMC on August 7, 2011.
- 11 (2) The photographs appear to be taken at UMC on August 7, 2011.
- 12 (3) Unknown.
- 13 (4) Appears to be for medical purposes.

14 **INTERROGATORY NO. 20:**

15 Please state whether any photographs were taken of plaintiff's injuries on August 7, 2011  
16 (the date of the incident).

17 **RESPONSE TO INTERROGATORY NO. 20:**

18 Upon information and belief, yes, but certainly during my hospital stay in August, 2011.  
19

20 DATED this 24 day of March, 2014

BLUT LAW GROUP, APC

21  
22 By: 

23 Elliot S. Blut, Esq.  
24 NEVADA BAR No. 6570  
25 300 South Fourth Street, Suite 701  
26 Las Vegas, Nevada 89101  
27 Attorneys for Plaintiff,  
28 CRISTINA PAULOS

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VERIFICATION

STATE OF NEVADA, CLARK COUNTY

I have read the foregoing PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S INTERROGATORIES, SET TWO and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am party to this action. The matter stated in the foregoing documents are true of my own knowledge except as to those matter which are stated on information and belief, and as to those matters I believe them to be true.

I am  an officer  a partner of a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe that on that ground allege that the matter stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own personal knowledge except as to this matter which are stated on information and belief, and as to this matter I believe them to be true.

I am an attorney for \_\_\_\_\_, a party to this action. Such party is absent from the country of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for this reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on March 24, 2014 at Las Vegas, Nevada.

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

\_\_\_\_\_  
Cristina Paulos  
  
\_\_\_\_\_  
*Cristina Paulos*  
Signature

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, and over the age of 18 years and not a party to this action. My business address is 300 South Fourth Street, Suite 701, Las Vegas, Nevada 89101.

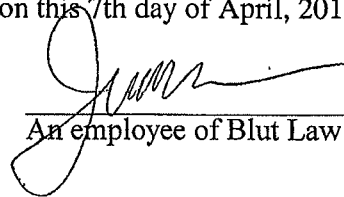
This is to certify that on the 7th day of April, 2014, I served the foregoing **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S INTERROGATORIES, SET TWO** upon each of the parties to this action by depositing copies in the United States mail, pre-paid, addressed to them as follows:

<p>Craig R. Anderson, Esq.  MARQUIS AURBACH COFFING  10001 Park Run Drive  Las Vegas, Nevada 89145  <i>Attorney for Defendants, Las Vegas Metropolitan Police Department, Jake Von Goldberg, Jeffrey B. Swan and Aaron Baca</i></p>	<p>Lew Brandon, Jr., Esq.  Justin Smerber, Esq.  Moran Law Firm  630 South Fourth Street  Las Vegas, NV 89101  <i>Attorney for Defendant, FCHI</i></p>
---	--

In addition to serving the foregoing by United States mail, I also caused the document to be served on above counsel as follows:

by placing sending the documents to above listed counsel via email.

I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on this 7th day of April, 2014.

  
\_\_\_\_\_  
An employee of Blut Law Group, APC

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# Exhibit 11

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RECEIVED  
DEC 23 2013  
MARQUIS & AURBACH

1 Elliot S. Blut, Esq.  
Nevada Bar No. 6570  
2 BLUT LAW GROUP, APC  
300 South Fourth Street, Suite 701  
3 Las Vegas, NV 89101  
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4 Facsimile (702) 384-8565  
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5 Cal J. Potter, III, Esq.  
6 Nevada Bar No. 1988  
C. J. Potter, IV, Esq.  
7 Nevada Bar No. 13225  
POTTER LAW OFFICES  
8 1125 Shadow Lane  
Las Vegas, NV 89102  
9 Telephone (702) 385-1954  
Facsimile (702) 385-9081  
10 email: info@potterlawoffices.com

11 Attorneys for Plaintiff,  
12 CRISTINA PAULOS

13 UNITED STATES DISTRICT COURT  
14 DISTRICT OF NEVADA

15 CRISTINA PAULOS, an individual; ) CASE NO.: 2:13-cv-01546-JCM-PAL  
16 Plaintiff )  
17 v. )  
18 FCH1, LLC, a Nevada limited liability )  
company; LAS VEGAS METROPOLITAN )  
19 POLICE DEPARTMENT, a government )  
entity; JAKE VON GOLDBERG, an )  
20 individual; JEFFREY B. SWAN, an )  
individual; JEANNIE HOUSTON, an )  
21 individual; AARON BACA, an individual; )  
and DOES 1 through 10; )  
22 Defendants. )  
23 )  
24 )

25 PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS OFFICER VON  
26 GOLDBERG, OFFICER SWAN AND OFFICER BACA'S FIRST SET OF  
27 INTERROGATORIES  
28

CEA ✓  
[Handwritten signature and stamp]

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1 Plaintiff, Cristina Paulos, hereby responds to Defendants Officer Von Goldberg, Officer  
2 Swan and Officer Baca's First Set of Interrogatories, as follows:

3 **INTERROGATORY NO. 1:**

4 Please state all facts supporting your claim that LVMPD Ofc. Aaron Baca violated  
5 plaintiff's constitutional rights as alleged in plaintiff's Third Cause of Action.

6 **RESPONSE TO INTERROGATORY NO. 1:**

7 This contention interrogatory is premature at this stage of discovery. At a minimum,  
8 Plaintiff will require the opportunity to depose the individual Defendants to fully respond to this  
9 interrogatory. With regard to the claims contained in my Third Cause of Action, I have no  
10 personal knowledge of this matter and rely entirely upon the advice of my attorney. The  
11 referenced allegation was drafted by my attorney based upon his investigation. Pursuant to the  
12 advice of my attorney, I respond that the Defendant officers have participated in numerous  
13 violations of civil rights and that their behavior indicates that they were neither trained to  
14 properly deal with emotionally disturbed individuals, nor were the Defendants properly trained  
15 concerning pinning individuals on excessively hot surfaces during the summer months in Clark  
16 County, Nevada. Additionally, the claims in my Complaint are predicated upon the fact that  
17 Defendant used excessive force upon me and that the Defendants whom may not have had  
18 physical contact with me are still culpable for failing to intervene to prevent the excessive force  
19 which was committed in their presence. Moreover, the subsequent failure to discipline these  
20 officers by the Las Vegas Metropolitan Police Department, after investigation, indicates at least  
21 that their actions were not inconsistent with LVMPD's actual customs, even when they depart  
22 from generally accepted policies.

23 Lastly, LVMPD has a pattern of conduct, custom, and de facto policy of refusing to hold  
24 officers accountable when those officers violate standards which are generally accepted within  
25 law enforcement communities. These patterns of conduct, customs and policies begin in  
26 LVMPD's academy when future officers are trained to jog while chanting "we are mighty  
27 Metro!" and continues when officers learn that they will not be disciplined or held accountable  
28 for violating the civil rights of citizens. However, discovery is ongoing and there may be

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1 additional bases for this allegation by my attorney which he will update through the discovery  
2 process.

3 **INTERROGATORY NO. 2:**

4 Please state all facts supporting your claim that LVMPD Ofc. Jake Von Goldberg violated  
5 plaintiff's constitutional rights as alleged in plaintiff's Third Cause of Action.

6 **RESPONSE TO INTERROGATORY NO. 2:**

7 This contention interrogatory is premature at this stage of discovery. At a minimum,  
8 Plaintiff will require the opportunity to depose the individual Defendants to fully respond to this  
9 interrogatory. With regard to the claims contained in my Third Cause of Action, I have no  
10 personal knowledge of this matter and rely entirely upon the advice of my attorney. The  
11 referenced allegation was drafted by my attorney based upon his investigation. Pursuant to the  
12 advice of my attorney, I respond that the Defendant officers have participated in numerous  
13 violations of civil rights and that their behavior indicates that they were neither trained to  
14 properly deal with emotionally disturbed individuals, nor were the Defendants properly trained  
15 concerning pinning individuals on excessively hot surfaces during the summer months in Clark  
16 County, Nevada. Additionally, the claims in my Complaint are predicated upon the fact that  
17 Defendant used excessive force upon me and that the Defendants whom may not have had  
18 physical contact with me are still culpable for failing to intervene to prevent the excessive force  
19 which was committed in their presence. Lastly, the subsequent failure to discipline these officers  
20 by the Las Vegas Metropolitan Police Department, after investigation, indicates at least that their  
21 actions were not inconsistent with LVMPD's actual customs, even when they depart from  
22 generally accepted policies.

23 Lastly, LVMPD has a pattern of conduct, custom, and de facto policy of refusing to hold  
24 officers accountable when those officers violate standards which are generally accepted within  
25 law enforcement communities. These patterns of conduct, customs and policies begin in  
26 LVMPD's academy when future officers are trained to jog while chanting "we are mighty  
27 Metro!" and continues when officers learn that they will not be disciplined or held accountable  
28 for violating the civil rights of citizens. However, discovery is ongoing and there may be

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1 additional bases for this allegation by my attorney which he will update through the discovery  
2 process.

3 **INTERROGATORY NO. 3:**

4 Please state all facts supporting your claim that LVMPD Ofc. Jeffrey Swan violated  
5 plaintiff's constitutional rights as alleged in plaintiff's Third Cause of Action.

6 **RESPONSE TO INTERROGATORY NO. 3:**

7 This contention interrogatory is premature at this stage of discovery. At a minimum,  
8 Plaintiff will require the opportunity to depose the individual Defendants to fully respond to this  
9 interrogatory. With regard to the claims contained in my Third Cause of Action, I have no  
10 personal knowledge of this matter and rely entirely upon the advice of my attorney. The  
11 referenced allegation was drafted by my attorney based upon his investigation. Pursuant to the  
12 advice of my attorney, I respond that the Defendant officers have participated in numerous  
13 violations of civil rights and that their behavior indicates that they were neither trained to  
14 properly deal with emotionally disturbed individuals, nor were the Defendants properly trained  
15 concerning pinning individuals on excessively hot surfaces during the summer months in Clark  
16 County, Nevada. Additionally, the claims in my Complaint are predicated upon the fact that  
17 Defendant used excessive force upon me and that the Defendants whom may not have had  
18 physical contact with me are still culpable for failing to intervene to prevent the excessive force  
19 which was committed in their presence. Lastly, the subsequent failure to discipline these officers  
20 by the Las Vegas Metropolitan Police Department, after investigation, indicates at least that their  
21 actions were not inconsistent with LVMPD's actual customs, even when they depart from  
22 generally accepted policies.

23 Lastly, LVMPD has a pattern of conduct, custom, and de facto policy of refusing to hold  
24 officers accountable when those officers violate standards which are generally accepted within  
25 law enforcement communities. These patterns of conduct, customs and policies begin in  
26 LVMPD's academy when future officers are trained to jog while chanting "we are mighty  
27 Metro!" and continues when officers learn that they will not be disciplined or held accountable  
28 for violating the civil rights of citizens. However, discovery is ongoing and there may be

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1 additional bases for this allegation by my attorney which he will update through the discovery  
2 process.

3 **INTERROGATORY NO. 4:**

4 Please state all facts supporting your allegation that Ofc. Baca was negligent in plaintiff's  
5 Second Cause of Action.

6 **RESPONSE TO INTERROGATORY NO. 4:**

7 This contention interrogatory is premature at this stage of discovery. At a minimum,  
8 Plaintiff will require the opportunity to depose the individual Defendants to fully respond to this  
9 interrogatory. With regard to the claims contained in my Second Cause of Action, I have no  
10 personal knowledge of this matter and rely entirely upon the advice of my attorney. The  
11 referenced allegation was drafted by my attorney based upon his investigation. Pursuant to the  
12 advice of my attorney, I respond that the Defendant officers have participated in numerous  
13 violations of civil rights and that their behavior indicates that they were neither trained to  
14 properly deal with emotionally disturbed individuals, nor were the Defendants properly trained  
15 concerning pinning individuals on excessively hot surfaces during the summer months in Clark  
16 County, Nevada. Additionally, the claims in my Complaint are predicated upon the fact that  
17 Defendant used excessive force upon me and that the Defendants whom may not have had  
18 physical contact with me are still culpable for failing to intervene to prevent the excessive force  
19 which was committed in their presence. Lastly, the subsequent failure to discipline these officers  
20 by the Las Vegas Metropolitan Police Department, after investigation, indicates at least that their  
21 actions were not inconsistent with LVMPD's actual customs, even when they depart from  
22 generally accepted policies.

23 Lastly, LVMPD has a pattern of conduct, custom, and de facto policy of refusing to hold  
24 officers accountable when those officers violate standards which are generally accepted within  
25 law enforcement communities. These patterns of conduct, customs and policies begin in  
26 LVMPD's academy when future officers are trained to jog while chanting "we are mighty  
27 Metro!" and continues when officers learn that they will not be disciplined or held accountable  
28 for violating the civil rights of citizens. However, discovery is ongoing and there may be

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1 additional bases for this allegation by my attorney which he will update through the discovery  
2 process.

3 **INTERROGATORY NO. 5:**

4 Please identify all funds and proceeds received by plaintiff as a result of her  
5 Gofundme.com account (See LVMPD 0024-0028).

6 **RESPONSE TO INTERROGATORY NO. 5:**

7 \$516.00 was the total amount received. I received less as there was a fee.

8 **INTERROGATORY NO. 6:**

9 Please state all facts supporting plaintiff's claim from her personal blog  
10 (<http://natsukonook.wordpress.com>) That "a year in a half [sic] I was got a chemical burn injuries  
11 on my left thigh, leg, butt and chest." (See LVMPD 0029)

12 **RESPONSE TO INTERROGATORY NO. 6:**

13 I was advised by nurses that I suffered chemical burns as the burns were suffered as a  
14 result of contact with the hot asphalt.

15 **INTERROGATORY NO. 7:**

16 Please identify all facts regarding plaintiff's claim of suffering chemical burn injuries.

17 **RESPONSE TO INTERROGATORY NO. 7:**

18 I was advised by nurses that I suffered chemical burns as the burns were suffered as a  
19 result of contact with the hot asphalt.

20 **INTERROGATORY NO. 8:**

21 If you deny any of the requests to admit served concurrently herewith, please identify the  
22 request to admit and state the reasons for plaintiff's denial.

23 **RESPONSE TO INTERROGATORY NO. 8:**

24 Request for Admission No. 21. Plaintiff was advised by nurses that she suffered  
25 chemical burns as a result of contact with the hot asphalt.

26 ///

27 ///

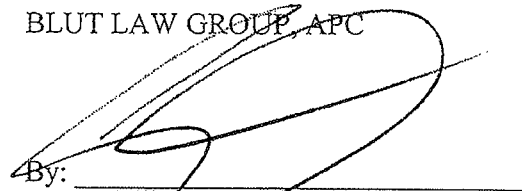
28 ///

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1 Request for Admissions No. 22. Plaintiff was advised by nurses that she suffered  
2 chemical burns as a result of contact with the hot asphalt.

3 DATED this 17 day of December, 2013 BLUT LAW GROUP, APC

4  
5 

6 By: \_\_\_\_\_  
7 Elliot S. Blut, Esq.  
8 NEVADA BAR No. 6570  
9 300 South Fourth Street, Suite 701  
10 Las Vegas, Nevada 89101  
11 Attorneys for Plaintiff,  
12 CRISTINA PAULOS

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VERIFICATION

STATE OF NEVADA, CLARK COUNTY

I have read the foregoing **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS OFFICER VON GOLDBERG, OFFICER SWAN AND OFFICER BACA'S FIRST SET OF INTERROGATORIES** and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am party to this action. The matter stated in the foregoing documents are true of my own knowledge except as to those matter which are stated on information and belief, and as to those matters I believe them to be true.

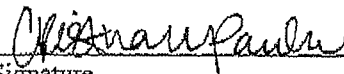
I am  an officer  a partner of a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe that on that ground allege that the matter stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own personal knowledge except as to this matter which are stated on information and belief, and as to this matter I believe them to be true.

I am an attorney for \_\_\_\_\_, a party to this action. Such party is absent from the country of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for this reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on December 19, 2013 at Las Vegas, Nevada.

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

Cristina Paulos  
Type name

  
Signature

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, and over the age of 18 years and not a party to this action. My business address is 300 South Fourth Street, Suite 701, Las Vegas, Nevada 89101.

This is to certify that the undersigned electronically filed this **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS OFFICER VON GOLDBERG, OFFICER SWAN AND OFFICER BACA'S FIRST SET OF INTERROGATORIES** with the Clerk of the Court using the CM/ECF system, which will cause the document to be served upon the following counsel of record:

Craig R. Anderson, Esq.  
MARQUIS AURBACH COFFING  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorney for Defendants, Las Vegas Metropolitan Police Department, Jake Von Goldberg, Jeffrey B. Swan and Aaron Baca*

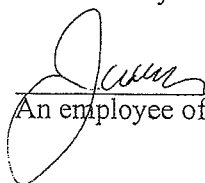
Lew Brandon, Jr., Esq.  
Moran Law Firm  
630 South Fourth Street  
Las Vegas, NV 89101  
*Attorney for Defendant, FCHI*

Cal Johnson Potter, Esq.  
Nevada Bar No. 1988  
POTTER LAW OFFICES  
1125 Shadow Lane  
Las Vegas, NV 89102  
*Associated Counsel for Plaintiff, Cristina Paulos*

In addition to using the CM/ECF system for service, I also caused the document to be served on above counsel as follows:

by placing same to be deposited in the United States mail in a sealed envelope, postage prepaid:

I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on this 20<sup>th</sup> day of December, 2013.

  
An employee of Blut Law Group, APC

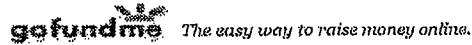
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# Exhibit 12

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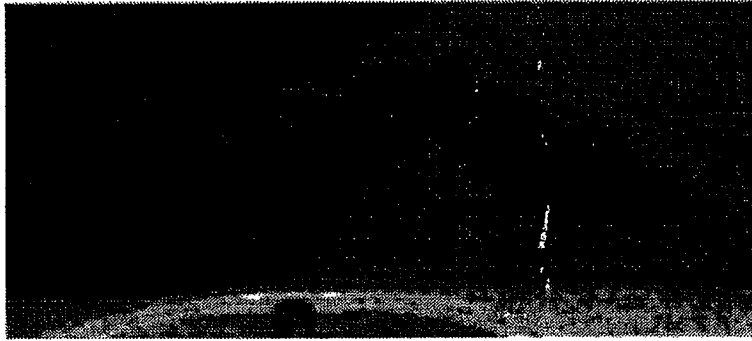
Search by name or location...

Help

Sign Up

Donate

# Compression Garment for Cristina's Burns...



Created by  
**Cristina Paulos**

610 Friends

Contact

Embed

*As you may have heard, a year in a half I was got a chemical burn injuries on my left thigh, leg, butt and chest. I successfully received Skin Graft Surgery at ... more*

[gofundme.com/1qteoc](http://gofundme.com/1qteoc)

Like 67

Tweet 5

Raised: \$516.00

Goal: \$400.00



Updated posted by Cristina Paulos 5 months ago

*Thank you for all your support....*

Thank you for all your support. I made my goal so you don't have to donate anymore funds. Thanks again!



Updated posted by Cristina Paulos 5 months ago

*Thank you for all your support!...*

Thank you for all your support! I'm so surprised how supportive people who never met me have been helping me out during this rough year. Thank you again! I'm so grateful!

Updated posted by Cristina Paulos 5 months ago

*You can help out by buying...*

## Recent Donations (22)

\$516 raised by 22 people in 5 months.

**\$26.00**

#26Acts SandyHill  
5 months ago

*In honor of the little lives lost at Sandy Hill Elementary. Health & Happiness to you Cristina!*

**\$25.00**

Beth McCall  
5 months ago

*Get better and make some art!*

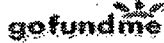
**\$25.00**

Tracy Sakowicz  
5 months ago

*I wish you all the best in the coming year! You are a great*

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Use of this content by buying artwork. Check out the updates friend, amazing artist, and a survivalist. Sign Up Donate  
The only way to raise money online. pieces currently available to purchase. Contact me at cristina.paulos@gmail.com for inquiries.  
<http://nookofcuriosity.weebly.com/artwork-available.html>



**\$10.00**

Jessica Hougen  
5 months ago

*I bought a piece of yours through Tripecta Gallery last year. I love your artwork. I hadn't heard about your accident. I'm so sorry that happened to you, and I'm happy to contribute a few bucks to your recovery!*

**\$20.00**

ernest hemmings  
5 months ago

**\$50.00**

Rozlyn Anderson  
5 months ago

*Hope this helps to focus on healing in the new year.*



Created by Cristina Paulos on December 26, 2012

HENDERSON, NV

Like (67) Tweet (5)

As you may have heard, a year in a half I was got a chemical burn injuries on my left thigh, leg, butt and chest. I successfully received Skin Graft Surgery at the UMC Hospital in August last year. The skin is still healing a scar and I have been needing to wear a compression garment for two - three years. I don't have medical insurance and I'm trying to raise enough money to buy a new compression garment since my current one is going to need to be replaced soon.

I'm asking for donations so I can buy the burn compression garment so my skin can continue to heal.

If you donate five dollars, I will email you a PDF document of my coloring book. Which you can print out and color in.

Please check out the coloring book here:  
<http://www.etsy.com/listing/117887590/nook-of-curiosity-coloringbook-pdf>

Thank you for your help!  
Love,

Cristina Paulos  
<http://www.cristinapaulos.com>

**\$10.00**

Su Limbert  
5 months ago

*You are inspiring and an incredibly beautiful artist. I wish you all the best.*

**\$10.00**

kathleen addison  
5 months ago

**\$20.00**

Suzanne Hackett-Morgan  
5 months ago

*I don't know if we have met, but we swim in the same ponds. When you feel better, come make some prints with us at Open Air Printers.*

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www.no...riosity.com  
**gofundme** @gmail.com to raise money online.

Search by name or location... Help Sign Up Donate


**\$20.00**  
 Dustin Wax  
 5 months ago  
*Wishing you a full and FASTER recovery!!*

**YOU CAN ALSO SEND FUNDS DIRECTLY TO ME BY USING PAYPAL AT [cristina.paulos@gmail.com](mailto:cristina.paulos@gmail.com)**

1-10 of 22 donations

<http://www.gofundme.com/1qteoc>

Have Questions? Contact the organizer of this campaign now:



### 4 Comments

#### Use Facebook to Leave a Comment

Nothing gets posted to your wall. Only your Facebook name & photo are used.



*I'm so proud of our community. It never fails to swell my heart.*

posted by Leigh McCormick 5 months ago



*THANK YOU SO MUCH! I have reached my goal for the stocking. I'm going to take the site down now.*

posted by Cristina Paulos 5 months ago



<http://natsukonook.wordpress.com/2012/12/27/one-year-ago-recovery-and-more-garments/>

posted by Cristina Paulos 5 months ago

<http://natsukonook.wordpress.com/2012/12/27/one-year-ago-recovery-and->

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Compression Garment for Cristina's Burns by Cristina Paulos - GoFundMe



*more-garments/ I posted on my blog too. Thank you for all your help everyone!*

posted by Cristina Paulos 5 months ago

Search by name or location...

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1 - 4 of 4 Comments

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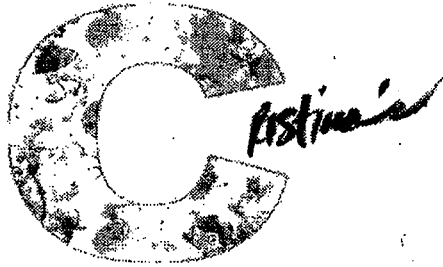
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daily blog  
pictures + words

Home About

MONTHLY ARCHIVES: DECEMBER 2012

## ONE YEAR ago: Recovery and more Garments

reply

Posted on 12/27/2012 by cpaulos

It is very difficult to ask for help. A friend of mine mentioned using a donation website to raise funds.

I set up a website on gofundme to help me raise money for a new compression stocking for my burn injuries.

<http://www.gofundme.com/1qteoc>

<http://natsukonook.wordpress.com/2012/12/>

6/14/2013

LVMPD 0028

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(Picture Above) My scar today.

Today my leg and thigh are recovering and now a keloid scar has taken it's place in some part of my skin. The scar is irritable and itchy and there is still a stretching sensation on the skin.

As you may have heard, a year in a half I was got a chemical burn injuries on my left thigh, leg, butt and chest. I successfully received Skin Graft Surgery at the UMC Hospital in August last year. The skin is still healing a scar and I have been needing to wear a compression garment for two – three years. I don't have medical insurance and I'm trying to raise enough money to buy a

December | 2012 |

Page 3 of 7

new compression garment since my current one is going to need to be replaced soon.

I'm asking for donations so I can buy the burn compression garment so my skin can continue to heal.

If you donate five dollars, I will email you a PDF document of my coloring book. Which you can print out and color in.

Please check out the coloring book here:

<http://www.etsy.com/listing/117887590/nook-of-curiosity-coloringbook-pdf>

Thank you for your help!  
Love,

Cristina Paulos

On my wish list:

1. A new compression garment
2. A plastic surgeon who will look at my keloid scar for free, so I can get an estimate on how much Burn Scar removal goes for.

**YOU CAN ALSO SEND FUNDS DIRECTLY TO ME BY USING PAYPAL AT [cristina.paulos@gmail.com](mailto:cristina.paulos@gmail.com)**

Posted in [Uncategorized](#) | Tagged [burns](#), [fundraising](#), [keloid](#), [wish list](#) | [Leave a reply](#)

## Silent Night

Posted on 12/12/2012 by [cpaulos](#)



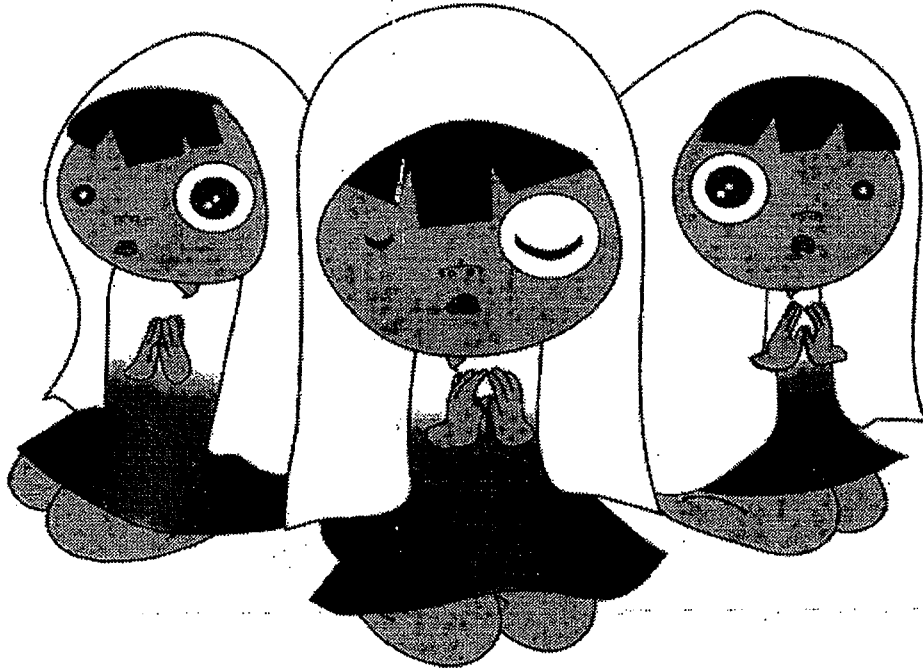
<http://natsukonook.wordpress.com/2012/12/>

6/14/2013

LVMPD 0030

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Silent Night, Happy Holidays

Posted in [Uncategorized](#) | Tagged [silent night](#) | [Leave a reply](#)

ARTIST'S FACEBOOK PAGE

Artwork of Cristina Paulos



Cristina N. Paulos is a visual artist. She works from mirror both characters and from life. She's a painter and animator.

Like

CRISTINAPAULOS.COM

CRISTINA  
PAULOS.COM

<http://natsukonook.wordpress.com/2012/12/>

6/14/2013

LVMPD 0031

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ARCHIVES

- December 2012
- November 2012
- October 2012
- April 2012
- November 2011
- July 2011
- June 2011
- May 2011
- April 2011
- March 2011
- February 2011
- January 2011
- December 2010
- November 2010
- October 2010
- September 2010
- August 2010

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- July 2010
- June 2010
- April 2010
- March 2010
- February 2010
- January 2010
- December 2009
- November 2009
- October 2009
- September 2009
- August 2009
- July 2009
- June 2009
- May 2009
- April 2009

RECENT POSTS

- ONE YEAR ago: Recovery and more Garments
- Silent Night
- Grimm Fairytales
- Flashback illustration for Jackson Hole Weekly
- Flower Studies

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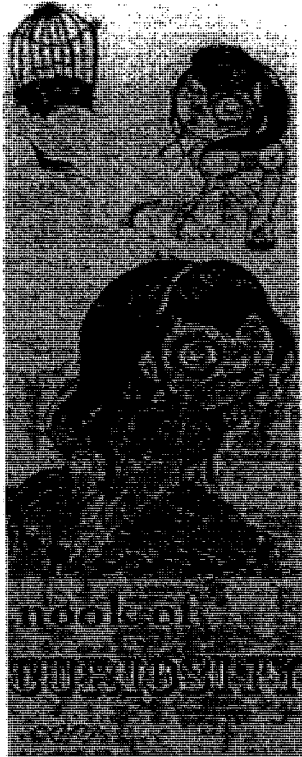
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December | 2012 |

Page 6 of 7

NOOK OF CURIOSITY

# ALL NEW COMIXS for the web



### EMAIL SUBSCRIPTION

Enter your email address to subscribe to this blog and receive notifications of new posts by email.

Join 9 other followers

Sign me up!

SKETCHBOOK

<http://natsukonook.wordpress.com/2012/12/>

6/14/2013

LVMPD 0033

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December | 2012 |

Page 7 of 7



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Blog at WordPress.com. | Theme: Duster by Automattic.

©

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<http://natsukonook.wordpress.com/2012/12/>

6/14/2013

LVMPD 0034



# Exhibit 13

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MARQUIS & AURBACH

1 Elliot S. Blut, Esq.  
Nevada Bar No. 6570  
2 BLUT LAW GROUP, APC  
300 South Fourth Street, Suite 701  
3 Las Vegas, NV 89101  
Telephone (702) 384-1050  
4 Facsimile (702) 384-8565  
email: eblut@blutlaw.com

5 Cal Johnson Potter, Esq.  
6 Nevada Bar No. 1988  
POTTER LAW OFFICES  
7 1125 Shadow Lane  
Las Vegas, NV 89102  
8 Telephone (702) 385-1954  
Facsimile (702) 385-9081  
9 email: info@potterlawoffices.com

10  
11 Attorneys for Plaintiff,  
CRISTINA PAULOS

12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 CRISTINA PAULOS, an individual;  
15 Plaintiff

16 v.

17 FCH1, LLC, a Nevada limited liability  
company; LAS VEGAS METROPOLITAN  
18 POLICE DEPARTMENT, a government  
entity; JAKE VON GOLDBERG, an  
19 individual; JEFFREY B. SWAN, an  
individual; JEANNIE HOUSTON, an  
20 individual; AARON BACA, an individual;  
and DOES 1 through 10;

21  
22 Defendants.  
23

CASE NO.: 2:13-cv-01546-JCM-PAL

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

CRA ✓

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**PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS LAS VEGAS METROPOLITAN POLICE DEPARTMENT, OFFICER VON GOLDBERG, OFFICER SWAN AND OFFICER BACA'S SECOND SET OF REQUESTS FOR ADMISSIONS**

Plaintiff, Cristina Paulos, hereby responds to Defendants Las Vegas Metropolitan Police Department, Officer Von Goldberg, Officer Swan and Officer Baca's Second Set of Requests for Admissions, as follows:

**REQUEST FOR ADMISSION NO. 19:**

Admit that Plaintiff Christina Paulos created an account with "gofundme.com" after the subject incident.

**RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

Admit.

**REQUEST FOR ADMISSION NO. 20:**

Admit that on Christina Paulos' Gofundme.com account, she represented that she "got a chemical burn injuries on my left thigh, leg, butt and chest." (See LVMPD 0024)

**RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

Admit.

**REQUEST FOR ADMISSION NO. 21:**

Admit that Christina Paulos has never suffered any chemical burn injuries.

**RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

Deny.

**REQUEST FOR ADMISSION NO. 22:**

Admit that the representations on Christina Paulos' Gofundme account that she suffered "chemical burn injuries" are not truthful.

**RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

Deny.

**REQUEST FOR ADMISSION NO. 23:**

Admit that Christina Paulos is or was the owner of a blog located at

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1 http://natsukonook.wordpress.com.

2 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

3 Admit.

4 **REQUEST FOR ADMISSION NO. 24:**

5 Admit taht LVMPD 0028-0033 are true and correct copies of portions of Christina  
6 Paulos' blog.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

8 Admit.

9 **REQUEST FOR ADMISSION NO. 25:**

10 Admit that on Christina Paulos' blog in December 2012, stated that "a year in [sic] a half  
11 I was got [sic] a chemical burn injuries on my left thigh, leg, butt and chest." (See LVMPD  
12 0029)

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

14 Admit.

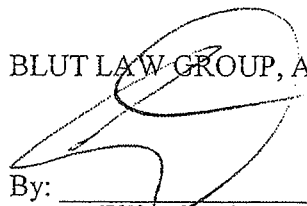
15 **REQUEST FOR ADMISSION NO. 26:**

16 Admit that Christina Paulos represented that she had chemical burn injuries to "raise  
17 money to buy a new compression garment since my current one is going to be replaced soon."  
18 (See LVMPD 0029-30)

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

20 Admit.

21 DATED this 21 day of December, 2013 BLUT LAW GROUP, APC

22  
23 By:   
24 Elliot S. Blut, Esq.  
25 NEVADA BAR No. 6570  
26 300 South Fourth Street, Suite 701  
27 Las Vegas, Nevada 89101  
28 Attorneys for Plaintiff,  
CRISTINA PAULOS

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VERIFICATION

STATE OF NEVADA, CLARK COUNTY

I have read the foregoing PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS LAS VEGAS METROPOLITAN POLICE DEPARTMENT, OFFICER VON GOLDBERG, OFFICER SWAN AND OFFICER BACA'S SECOND REQUESTS FOR ADMISSIONS and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am party to this action. The matter stated in the foregoing documents are true of my own knowledge except as to those matter which are stated on information and belief, and as to those matters I believe them to be true.

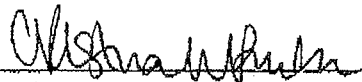
I am  an officer  a partner of a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.  I am informed and believe that on that ground allege that the matter stated in the foregoing document are true.  The matters stated in the foregoing document are true of my own personal knowledge except as to this matter which are stated on information and belief, and as to this matter I believe them to be true.

I am an attorney for \_\_\_\_\_, a party to this action. Such party is absent from the country of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for this reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on December 19, 2013 at Las Vegas, Nevada.

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

Cristina Paulos  
Type name

  
Signature

000300

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Clark, State of Nevada, and over the age of 18 years and not a party to this action. My business address is 300 South Fourth Street, Suite 701, Las Vegas, Nevada 89101.

This is to certify that the undersigned electronically filed this **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS LAS VEGAS METROPOLITAN POLICE DEPARTMENT, OFFICER VON GOLDBERG, OFFICER SWAN AND OFFICER BACA'S SECOND SET OF REQUESTS FOR ADMISSIONS** with the Clerk of the Court using the CM/ECF system, which will cause the document to be served upon the following counsel of record:

Craig R. Anderson, Esq.  
MARQUIS AURBACH COFFING  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorney for Defendants, Las Vegas Metropolitan Police Department, Jake Von Goldberg, Jeffrey B. Swan and Aaron Baca*

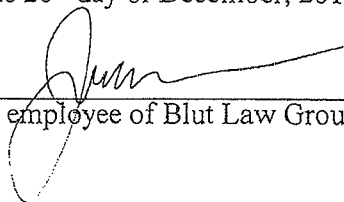
Lew Brandon, Jr., Esq.  
Moran Law Firm  
630 South Fourth Street  
Las Vegas, NV 89101  
*Attorney for Defendant, FCHI*

Cal Johnson Potter, Esq.  
Nevada Bar No. 1988  
POTTER LAW OFFICES  
1125 Shadow Lane  
Las Vegas, NV 89102  
*Associated Counsel for Plaintiff, Cristina Paulos*

In addition to using the CM/ECF system for service, I also caused the document to be served on above counsel as follows:

by placing same to be deposited in the United States mail in a sealed envelope, postage prepaid:

I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on this 20<sup>th</sup> day of December, 2013.

  
\_\_\_\_\_  
An employee of Blut Law Group, APC

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# Exhibit 14

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1 STATE OF CALIFORNIA )  
 2 )  
 3 COUNTY OF LOS ANGELES )  
 4

5 I, KAREN S. OSTROM, CSR No. 10341, RPR, do  
 6 hereby certify:  
 7

8 That the foregoing deposition testimony of  
 9 MATT N. YOUNG, M.D. was taken before me at the time and  
 10 place herein set forth, at which time the witness was  
 11 placed under oath and was sworn by me to tell the truth,  
 12 the whole truth and nothing but the truth;  
 13

14 That the testimony of the witness and all  
 15 objections made by counsel at the time of the examination  
 16 were recorded stenographically by me and were thereafter  
 17 transcribed under my direction and supervision, and that  
 18 the foregoing pages contain a full, true and accurate  
 19 record of all proceedings and testimony to the best of my  
 20 skill and ability.  
 21

22 I further certify that I am neither counsel  
 23 for any party to said action, nor am I related to any  
 24 party to said action, nor am I in any way financially  
 25 interested in the outcome thereof.

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---

**DEPOSITION OF MATT N. YOUNG, M.D.**

**CRISTINA PAULOS**

**VS.**

**FCH1, LLC, ET AL.**

**THURSDAY, JUNE 26, 2014**

---

---

CONDENSED TRANSCRIPT AND CONCORDANCE

PREPARED BY:

**KAREN S. OSTROM & ASSOCIATES**

**CERTIFIED COURT REPORTERS**

**(818) 425-8777**

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000305

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CRISTINA PAULOS, )  
Plaintiff, )  
vs. ) CASE NO:  
FCH1, LLC, a Nevada limited ) 2:13-cv-01546-JCM-PAL  
liability company; LAS VEGAS )  
METROPOLITAN POLICE DEPARTMENT, a )  
government entity; JAKE VON )  
GOLDBERG, an individual; JEFFREY B. )  
SWAN, an individual; JEANNIE )  
HOUSTON, an individual; AARON BACA, )  
an individual and DOES 1 through 10, )  
Defendants. )

DEPOSITION OF MATT N. YOUNG, M.D.  
THURSDAY, JUNE 26, 2014

REPORTED BY: Karen S. Ostrom  
CSR No. 10341, RPR

1 I N D E X  
2  
3 WITNESS EXAMINATION BY PAGE  
4 MATT N. YOUNG,  
5 M.D.  
6 MR. ANDERSON 4  
7 MR. DAVIS 38  
8  
9  
10 EXHIBITS  
11  
12 NO. PAGE DESCRIPTION  
13 1 8 Curriculum Vitae  
14 2 10 Burn Medical Report of Matt Young,  
15 M.D., 2/10/14  
16 3 24 Photograph  
17 4 35 Photograph  
18 5 35 Photograph  
19 7 36 Photograph  
20 8 37 Photograph  
21 9 37 Photograph  
22  
23  
24  
25

1 Deposition of MATT N. YOUNG, M.D., taken on behalf of  
2 Defendants, at 2:00 p.m., on Thursday, June 26, 2014, at  
3 16055 Ventura Boulevard, Suite 432, Encino, California,  
4 before Karen S. Ostrom, CSR No. 10341, RPR, pursuant to  
5 Notice.  
6  
7

8 APPEARANCES:

9 FOR PLAINTIFF:

10 BLUT LAW GROUP, APC  
11 BY: ELLIOT S. BLUT, ESQUIRE  
12 300 South Fourth Street, Suite 701,  
13 Las Vegas, Nevada 89101  
14 (702) 384-1050

15 FOR DEFENDANTS LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, JAKE VON GOLDBERG, JEFFREY SWAN,  
16 JEANNIE HOUSTON AND AARON BACA:

17 MARQUIS, AURBACH, COFFING  
18 BY: CRAIG R. ANDERSON, ESQUIRE  
19 10001 Park Run Drive  
20 Las Vegas, Nevada 89145  
21 (702) 382-0711

22 FOR DEFENDANT FCH1, LLC:

23 MORAN LAW FIRM  
24 BY: ADAM DAVIS, ESQUIRE  
25 630 South Fourth Street,  
Las Vegas, Nevada 89101  
(Via Telephone)

1 ENCINO, CALIFORNIA; THURSDAY, JUNE 26, 2014

2 2:00 P.M.

3 -000-

4  
5 MATT N. YOUNG, M.D.,

6 called as a witness, having been duly  
7 administered the oath, was examined and  
8 testified as follows:

9  
10 EXAMINATION

11 BY MR. ANDERSON:

12 Q. Doctor, can I get you to state your full name  
13 for the record?

14 A. Matt Norvel Young, III.

15 Q. Okay. Dr. Young, my name is Craig Anderson. I  
16 represent the Las Vegas Metropolitan Police Department  
17 and several officers in a lawsuit filed by Cristina  
18 Paulos. You understand that's why you are here today?

19 A. That's right.

20 Q. Also on the phone is Adam Davis who represents  
21 The Palms Hotel and Casino and security guard Jeannie  
22 Houston. Okay?

23 A. Okay.

24 Q. Now, you had the opportunity to actually do an  
25 examination of Ms. Paulos; correct?

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1 **A. Yes.**  
 2 **Q.** Okay. Have you had your deposition taken  
 3 before?  
 4 **A. Yes.**  
 5 **Q.** You know what we're going to do here today?  
 6 **A. Yes.**  
 7 **Q.** Do I need to go over the rules with you?  
 8 **A. No.**  
 9 **Q.** Any reason you can't give truthful or accurate  
 10 testimony today?  
 11 **A. No.**  
 12 **Q.** How many times have you been deposed?  
 13 **A. Probably about 50, 60.**  
 14 **Q.** And I noticed that you have not served as an  
 15 expert in the past four years; is that correct?  
 16 **A. I'm not sure if that's correct. I think I may**  
 17 **have done it two or three times in the last four years.**  
 18 **Q.** Okay. Have you served as an expert witness  
 19 prior to that?  
 20 **A. Yes.**  
 21 **Q.** Okay. About how many times have you served as  
 22 an expert witness?  
 23 **A. Probably 50, 60 times.**  
 24 **Q.** Okay.  
 25 **A. A lot of those are criminal cases.**

1 **Q.** Okay. Are you currently in private practice?  
 2 **A. Yes.**  
 3 **Q.** Can you give me a brief background of your  
 4 education?  
 5 **A. Okay. I went to medical school at the**  
 6 **University of Texas in Houston. I did my internship at**  
 7 **Bowman-Gray School of Medicine, Winston-Salem, North**  
 8 **Carolina. I was a resident at Children's Hospital of**  
 9 **Los Angeles, chief resident pediatrics at Cedars-Sinai.**  
 10 **I trained in burns at Shriners in Galveston and have been**  
 11 **at the Grossman Burn Center since 1978.**  
 12 **Q.** Okay. And is your current practice pediatric  
 13 burns?  
 14 **A. Exclusively burns.**  
 15 **Q.** So you exclusively work in burns and sometimes  
 16 your treatment involves adults?  
 17 **A. Oh, yes.**  
 18 **Q.** Is there any reason on your CV it just mentions  
 19 pediatrics?  
 20 **A. It should mention I'm director of the burn**  
 21 **outpatient clinic --**  
 22 **(Reporter's equipment malfunction recess.)**  
 23 **THE WITNESS: -- outpatient burns, hyperbaric**  
 24 **chamber. I assist in surgery on all of the burn patients**  
 25 **and then do pediatrics in the burn center.**

1 **Q.** Okay. How many times have you served as an  
 2 expert witness?  
 3 **A. Probably 20.**  
 4 **Q.** Have you ever served as an expert witness in a  
 5 civil case for a defendant?  
 6 **A. Yes.**  
 7 **Q.** Okay. About what percentage of your time is  
 8 divided between plaintiff and defendant work in civil  
 9 cases?  
 10 **A. I'd say probably 70 percent are for defendants.**  
 11 **Q.** Okay. Have you ever served as an expert witness  
 12 for Mr. Blut or his law firm before?  
 13 **A. No.**  
 14 **Q.** Have you ever testified in court as an expert  
 15 witness?  
 16 **A. Yes.**  
 17 **Q.** Have you ever testified in Nevada courts as an  
 18 expert witness?  
 19 **A. Yes.**  
 20 **Q.** Do you recall the name of that case or cases?  
 21 **A. It's a long time ago, and it was for the defense**  
 22 **and it was a child's foot that was burned as I remember.**  
 23 **Q.** Okay.  
 24 **A. But other than that, I don't recall. It's got**  
 25 **to be more than 10 years ago.**

1 BY MR. ANDERSON:  
 2 **Q.** Just to make sure in case anything was lost, I  
 3 have a copy of your CV for everybody. Doctor, is this a  
 4 correct copy of your CV?  
 5 **A. Yeah. I think so. It doesn't mention**  
 6 **hyperbaric chamber here so maybe I need to update that,**  
 7 **but otherwise it's right.**  
 8 **Q.** Okay. We'll go ahead and attach this as  
 9 Exhibit 1.  
 10 **A. Okay.**  
 11 (The document referred to was marked as  
 12 Defendants' Exhibit No. 1.)  
 13 BY MR. ANDERSON:  
 14 **Q.** And that accurately shows your education, your  
 15 academic appointments?  
 16 **A. Right.**  
 17 **Q.** Okay. Now, doctor, excuse my ignorance, is  
 18 there a board certification for burns?  
 19 **A. There is not a board certification for burns.**  
 20 **Burns are generally treated by general surgeons and**  
 21 **plastic surgeons and other kinds of intensivists,**  
 22 **pediatrics, depending, but there's not a specific board**  
 23 **certification for burns. There is the American Burn**  
 24 **Association which I've been a member of since 1978, but**  
 25 **it's not a certification.**

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1 Q. Okay. Are you board certified in any area?  
 2 A. **Pediatrics.**  
 3 Q. Okay. And have you served as an expert witness  
 4 in an adult burn case?  
 5 A. **Yes.**  
 6 Q. We've established this, but you do also treat  
 7 adult burns?  
 8 A. **That's right.**  
 9 Q. Moving on to Cristina Paulos. Now, you reviewed  
 10 her medical records from the University Medical Center;  
 11 is that correct?  
 12 A. **That's correct.**  
 13 Q. Did those records include her initial stay at  
 14 the University Medical Center from August 7 to August 9?  
 15 A. **Yes.**  
 16 Q. And then did it also include the outpatient  
 17 records from the UMC Burn Clinic?  
 18 A. **Yes.**  
 19 Q. Then did it include the UMC records beginning  
 20 August 24 when she underwent a surgical procedure?  
 21 A. **Yes.**  
 22 Q. Okay. Did you review any UMC medical billings?  
 23 A. **They may have been in there. I don't spend a**  
 24 **lot of time looking at those, but they might have been**  
 25 **there.**

1 Q. Your report does not contain any opinions  
 2 regarding her illness; is that correct?  
 3 A. **That's correct.**  
 4 Q. And then you reviewed her deposition transcript?  
 5 A. **Yes.**  
 6 MR. ANDERSON: I'll mark this as Exhibit 2.  
 7 (The document referred to was marked as  
 8 Defendants' Exhibit No. 2.)  
 9 MR. ANDERSON: Adam, what we just gave him was  
 10 his report.  
 11 MR. DAVIS: Okay. Thank you.  
 12 By MR. ANDERSON:  
 13 Q. So you reviewed her deposition and then  
 14 photographs from the injury of 2011; is that correct?  
 15 A. **That's correct.**  
 16 Q. Then you also took some photographs when you saw  
 17 her?  
 18 A. **That's correct.**  
 19 Q. Okay. And then you also reviewed the video  
 20 surveillance from The Palms?  
 21 A. **Yes.**  
 22 Q. How many different angles of the event were you  
 23 provided?  
 24 A. **I think there were two different angles if I**  
 25 **recall.**

1 Q. One in color and one in black and white?  
 2 A. **I think so.**  
 3 Q. Then you also saw the patient on February 10,  
 4 2014?  
 5 A. **Yes.**  
 6 Q. Other than what you have listed here on your  
 7 report, have you reviewed anything since generating this  
 8 report?  
 9 A. **No.**  
 10 Q. Okay. Is what I provided you, is that a copy of  
 11 the report you authored on February 10, 2014?  
 12 A. **Yes.**  
 13 Q. Have you authored any supplements to this  
 14 report?  
 15 A. **No.**  
 16 Q. Are the opinions in this report still the  
 17 opinions you intend to render at the time of trial?  
 18 A. **Yes.**  
 19 Q. Okay. Let me ask you some background questions  
 20 on burns. There are different types of burn; is that  
 21 correct?  
 22 A. **That's correct.**  
 23 Q. Okay. What's a heat burn?  
 24 A. **A heat burn just means burn -- it usually would**  
 25 **be considered a contact burn so it's related to heat that**

1 **is in contact with the skin.**  
 2 Q. Okay. What's a friction burn?  
 3 A. **A friction burn is pretty much what it says.**  
 4 **It's more like a road rash where your skin is in friction**  
 5 **against something, usually against a sidewalk or the**  
 6 **ground like if you have a motorcycle accident.**  
 7 Q. When what's a chemical?  
 8 A. **A chemical burn is caused by a chemical, usually**  
 9 **an acid or an alkaline that comes in contact with the**  
 10 **skin.**  
 11 Q. In your review of this file what type of burns  
 12 did Mr. Paulos suffer on August 7, 2011?  
 13 A. **It was my opinion that these were contact burns.**  
 14 Q. Okay. Now, can there be a hybrid, like if it's  
 15 a contact plus friction?  
 16 A. **I think that's certainly possible.**  
 17 Q. Did you see any evidence of friction burns with  
 18 respect to Ms. Paulos?  
 19 A. **Not really.**  
 20 Q. Okay. Any evidence of chemical burns with  
 21 respect to Ms. Paulos?  
 22 A. **Not in my opinion.**  
 23 Q. Now, what is the -- let's just start with what's  
 24 a first degree burn?  
 25 A. **A first degree burn is like sunburn where your**

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1 skin gets red but there's no blistering so there's just  
 2 redness which is some burning of the epidermis, the top  
 3 layer of skin, and that's considered first degree.  
 4 Q. Second degree?  
 5 A. Second degree would be a little deeper. Second  
 6 degree is known because it causes a blister so when you  
 7 have -- even a bad sunburn could be second degree. That  
 8 blister is your epidermis so it means the skin is burned,  
 9 it is dead all of the way through the epidermis and  
 10 sometimes part of the dermis is second degree, but it's  
 11 noted because it has blistering.  
 12 Q. Okay. Third degree?  
 13 A. Third degree can also have blistering, but the  
 14 injury is deeper. It's all of the way through the  
 15 dermis. So the epidermis is burned and let's say part of  
 16 the dermis is burned, that's second degree. When the  
 17 epidermis is burned and all of the dermis is burned,  
 18 that's third degree.  
 19 Q. Okay. And what is a full thickness third degree  
 20 burn?  
 21 A. Full thickness is kind of related to third  
 22 degree, in other words, it's all of the way through the  
 23 entire thickness of the skin. So third degree and full  
 24 thickness would be in the same category.  
 25 Q. Now, before we get into your report, at the time

1 of trial you don't intend to render any opinions  
 2 regarding police practices; is that fair?  
 3 A. That's fair.  
 4 Q. Okay. What about security guards?  
 5 A. That's fair.  
 6 Q. Okay. Your opinions are simply limited to the  
 7 medical treatment?  
 8 A. To the burn.  
 9 Q. Okay. You don't have any law enforcement  
 10 training?  
 11 A. No.  
 12 Q. Okay.  
 13 A. I do have trained law enforcement.  
 14 Q. And in what capacity have you trained them?  
 15 A. I have lectured at sheriff's homicide and the  
 16 LAPD school for police school, I'm sure there is a proper  
 17 term for that, on child abuse by burning.  
 18 Q. Okay. Now, sticking with the burns in general,  
 19 I believe I read in your report that the temperature of  
 20 the ground could have been anywhere between 130 to 160  
 21 degrees on this date?  
 22 A. That's right.  
 23 Q. Okay. How long would a person -- what's the  
 24 minimum time a person could have contact with that ground  
 25 and suffer a third degree burn?

1 A. Let's say, as I say in the report, it's a  
 2 function of both time and temperature and pressure. So  
 3 let's say it's 150 degrees, the temperature of the  
 4 surface, then it could cause a third degree burn in say 5  
 5 seconds, 10 seconds.  
 6 Q. Okay. Of course the same with second degree?  
 7 A. Well, it would not -- if the temperature is  
 8 less, it's not as deep.  
 9 Q. Okay. So someone that has skin contact with the  
 10 ground, with ground that's roughly 150 degrees, could  
 11 suffer a second or third degree burn within 5 seconds?  
 12 A. Yes.  
 13 Q. Now, do you have an opinion as to how long  
 14 Ms. Paulos was actually on the ground?  
 15 A. My opinion is that she was on the ground for at  
 16 least 3 minutes to 15 minutes.  
 17 Q. And sticking with 3 minutes, that time period  
 18 would be long enough to cause second or third degree  
 19 burns?  
 20 A. Third degree, yeah.  
 21 Q. Now, when you say that, that someone could  
 22 suffer third degree burns in say 5 seconds or 3 minutes,  
 23 are there people that wouldn't suffer burns in that  
 24 amount of time? I mean, does it depend on the person?  
 25 A. Well, there is a little variation between the

1 thickness of the skin let's say, and that thickness can  
 2 be different in children or in the elderly so they would  
 3 tend to have thinner skin so they would be burned faster  
 4 than an adult, but otherwise most people's skin is pretty  
 5 much the same thickness as far as just a normal adult.  
 6 Q. Now, you mentioned the burns to her face, left  
 7 thigh, left calf -- what's the popliteal region?  
 8 A. Behind your knee.  
 9 Q. I'll go with the behind your knee -- back, right  
 10 and left buttocks. Is it your opinion that all of those  
 11 burns were caused by ground contact?  
 12 A. Yes. The one -- you didn't mention the breast  
 13 which is supposedly not caused by that.  
 14 Q. Is that your opinion in this case, that the  
 15 breast was caused by the seat belt?  
 16 A. That's the general opinion that I received, and  
 17 of course the other areas are contiguous so they're  
 18 pretty much together so they make more sense than having  
 19 that isolated spot on the breast.  
 20 Q. Now, when you watched -- do you have a  
 21 recollection of watching the video of this event?  
 22 A. Yes.  
 23 Q. Do you have a recollection as to whether the  
 24 police officer or the security guard was actually  
 25 pressing Ms. Paulos to the ground?

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1 **A. You know, it's been several months since I saw**  
 2 **it so I would have to look at it again to say whether it**  
 3 **was pressing or not.**  
 4 **Q.** Okay. Do you have a recollection as to whether  
 5 Ms. Paulos was struggling with the officer on the ground?  
 6 **A. I think there is some indication she was**  
 7 **difficult to control.**  
 8 **Q.** Now, if someone has contact with the ground and  
 9 they're kicking or scooting along the ground, can that  
 10 exacerbate the burn process or would it have any impact  
 11 at all?  
 12 MR. BLUT: Object. Incomplete hypothetical.  
 13 THE WITNESS: You know, I don't think it would  
 14 have much of a factor because my opinion is it's the  
 15 heat, the temperature of the ground.  
 16 BY MR. ANDERSON:  
 17 **Q.** Could a friction burn occur by someone just  
 18 scooting on the ground or moving around?  
 19 MR. BLUT: Same objection.  
 20 THE WITNESS: Generally the only time you see a  
 21 friction burn is from some kind of motor vehicle or  
 22 motorcycle or bicycle accident. You don't just see it  
 23 from somebody scooting on the ground.  
 24 BY MR. ANDERSON:  
 25 **Q.** Okay. And by chance did you have an opportunity

1 to review the ambulance records from the date of the  
 2 incident?  
 3 **A. I'm not sure.**  
 4 **Q.** This is kind of what I want you to explain to  
 5 me, and I'll represent to you that according to the  
 6 ambulance records it listed her burns as superficial.  
 7 Okay? And then as you know, when she gets to UMC, and  
 8 correct me if I'm wrong, on August 7 there doesn't seem  
 9 to be a lot of interest in her burns as far as the  
 10 medical doctors. Now, if someone has suffered third  
 11 degree burns, is it possible that they are not visible  
 12 within a few hours or within an hour of the event?  
 13 MR. BLUT: I'll object to the form.  
 14 Go ahead.  
 15 THE WITNESS: It's certainly -- burns are a  
 16 continuum because when you first get burned, you may not  
 17 see, and this is common almost all of the time, it may  
 18 not show. The severity of the burn is kind of a work in  
 19 progress where the depth will show itself over a period  
 20 of days so initially it may not look like much and later  
 21 it will show blisters. When you are looking at the burn  
 22 and let's say you see blisters, you are only seeing the  
 23 top. You're seeing the dead epidermis. You are not  
 24 seeing how deep the injury goes. So even though the burn  
 25 can be full thickness and go all of the way through the

1 skin, it may not look that way for the first several  
 2 days.  
 3 **Q.** So if laypersons who saw Mr. Paulos the day  
 4 after the incident said they didn't see any burning,  
 5 would that make sense to you?  
 6 **A. Yeah. That's not unusual.**  
 7 **Q.** Okay. And it wouldn't be unusual for trained  
 8 paramedics to label such burns superficial?  
 9 MR. BLUT: Object to the form.  
 10 THE WITNESS: That's correct.  
 11 BY MR. ANDERSON:  
 12 **Q.** Am I correct that during August 7 through  
 13 August 9, when she's at UMC, her burns really aren't  
 14 being treated? Let me strike that because she is getting  
 15 Silvadene cream.  
 16 But the burns didn't seem to be an important  
 17 part of that treatment process. They were more focused  
 18 on her mental capacity.  
 19 **A. I think they were concerned with medical**  
 20 **problems and her mental capacity. They talk about**  
 21 **metabolic acidosis and hyperglycemia. But Silvadene is**  
 22 **the treatment for a burn. You don't put that on**  
 23 **something else.**  
 24 **Q.** Okay. But the medical treatment she's receiving  
 25 is primarily for her -- what they believe to be her

1 psychosis; is that fair?  
 2 **A. I think that's fair.**  
 3 **Q.** And Silvadene is just rubbing a cream on the  
 4 wound and putting a dressing on the top of it; is that  
 5 what they did?  
 6 **A. Or generally you can put the Silvadene on the**  
 7 **dressing and then put it on the wound.**  
 8 **Q.** Okay. And with respect to the other diagnoses  
 9 that she was being treated for, they are not related to  
 10 the burns, are they, the mental conditions?  
 11 **A. Not -- I don't think so. I should maybe mention**  
 12 **that the hyperglycemia certainly could be related to the**  
 13 **burns.**  
 14 **Q.** How can that be?  
 15 **A. You get hyperglycemia from a release of**  
 16 **epinephrine or adrenaline. It's the fight or flight**  
 17 **reaction in this kind of situation where somebody is**  
 18 **undergoing a lot of stress, you will get the release of**  
 19 **adrenaline and that can cause hyperglycemia.**  
 20 **Q.** Would that cause the burn or make the burn  
 21 worse?  
 22 **A. It would be a result of -- it could be the**  
 23 **result of the burn. In addition, it could be the result**  
 24 **from just the general fight or flight reaction of release**  
 25 **of adrenaline.**

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1 Q. Okay. I think my questions about her initial  
2 state may have been inarticulate. What I'm trying to get  
3 at, if she had just presented without the mental issues  
4 and just had the burns, would they have kept her in the  
5 hospital in your opinion? Would she have required  
6 hospitalization in your opinion?

7 A. From the appearance, they may or may not. It  
8 would be a judgment call.

9 Q. Okay. And from my review of the records, they  
10 contacted the burn -- the outpatient burn clinic on the  
11 last day, August 9, to look at her before they left. Is  
12 that your understanding?

13 A. That was my understanding.

14 Q. So from August 7 to August 8, obviously the  
15 emergency room doctors did not view the burns worthy of a  
16 visit from the burn clinic, and that would make sense  
17 based on what you prior testified to; is that correct?

18 MR. BLUT: Object to the form.

19 THE WITNESS: That's not unusual.

20 BY MR. ANDERSON:

21 Q. Now, did you notice in the outpatient records  
22 that it vacillates between the doctors saying that these  
23 were contact burns and road rash? Did you see that?

24 A. I think I may have seen that.

25 Q. Did you see any evidence that these burns were

1 looks bad and it's obviously third degrees and is going  
2 to require skin grafting. That's a pretty typical course  
3 for a lot of burn injuries.

4 Q. So Ms. Paulos's course was typical?

5 A. I think it's pretty typical.

6 Q. Do you know what sequential pneumatic  
7 compression devices are?

8 A. Yes.

9 Q. What are they?

10 A. They are to prevent thromboembolism of the lower  
11 extremities and so they kind of simulate compression and  
12 decompression to pump blood through your limbs, usually  
13 the legs, so that you don't get stasis which is where the  
14 blood kind of stops and clots. The danger of that is  
15 that you can die from a pulmonary embolus. It's like  
16 somebody who -- occasionally you hear about people who  
17 are riding a long time on an airplane and fall over dead.  
18 It's from thromboembolus from their legs not pumping  
19 enough blood.

20 Q. Would that treatment of the SPCD device or the  
21 sequential pneumatic compression device, would that in  
22 any way be related to the burns?

23 A. No.

24 Q. If those were placed on her legs, could they  
25 cause blistering, if I say this right, bullae?

1 the result of road rash?

2 A. No.

3 Q. Do you know why her nurses and doctors would  
4 have checked that box at times in this case?

5 MR. BLUT: Object to the form.

6 THE WITNESS: Well, I think the fact that there  
7 is a history of a motor vehicle accident, you have to  
8 consider that as a possibility.

9 BY MR. ANDERSON:

10 Q. Now, based upon your review of the records, on  
11 August 9, when she was released from UMC, what was the  
12 status of her burns?

13 A. I think it's my impression that they were  
14 treating her and she had blisters or at least open wounds  
15 and they were having her come back to the burn clinic.

16 Q. Now, I don't know if you can use the word  
17 "typical," but when a -- the burns are listed as second  
18 degree burns initially; is that correct?

19 A. Yeah.

20 Q. Typically how would you expect those type of  
21 burns to progress and be treated?

22 A. Well, most burns start out being not looking so  
23 bad and get worse over a period of days. So it's not  
24 unusual that they would say, well, it's second degree and  
25 we'll have her follow-up in the clinic, and then later it

1 A. Bullae. They shouldn't, no.

2 Q. Okay. So you have seen these pictures; correct?

3 A. That's correct.

4 Q. Okay. And I'll represent to you these have been  
5 produced as pictures of Ms. Paulos's left leg, her entire  
6 left leg.

7 (The document referred to was marked as  
8 Defendants' Exhibit No. 3.)

9 BY MR. ANDERSON:

10 Q. Ms. Paulos has stated that it's her belief that  
11 these pictures were taken on the day of the incident,  
12 August 7. Can you tell if these pictures were taken the  
13 day of the burn or if they show -- or if they were taken  
14 sometime after? Can you tell at all?

15 A. I can't tell. The only -- you know, to me they  
16 look worse than is described in the notes from the  
17 initial hospitalization. That would be my only guess,  
18 but I can't tell exactly when they were taken.

19 Q. If someone presented the emergency room with  
20 these wounds, would you expect the burn care unit to be  
21 immediately involved?

22 A. Yes.

23 Q. Okay. Would you expect on injury diagrams for  
24 the doctors to note these injuries?

25 A. Yes.

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1 Q. Okay. Now, are you familiar with the term "burn  
 2 conversion"?

3 A. Yes.

4 Q. Is that what you have been explaining to me as  
 5 to how these burns progress or what is burn conversion?

6 A. Burn conversion is where you have a burn and  
 7 it's not a -- a burn that looks basically more  
 8 superficial and then three days later looks deeper, and  
 9 sometimes you can say it converts. That might be  
 10 occasionally associated with something that is  
 11 superficial, let's say gets infected and then it's  
 12 deeper, but generally it's not so much burn conversion as  
 13 it is the fact that you're only viewing the top. The  
 14 burn we would say hasn't shown itself as far as how deep  
 15 it is. Over time it shows itself that it's deeper, even  
 16 though originally when it didn't look so deep, it was  
 17 always that deep. The burn didn't change. It just  
 18 didn't show us how deep it was.

19 Q. So I understand, did you see any evidence of  
 20 burn conversion with respect to Ms. Paulos?

21 A. No.

22 Q. Okay. So is what you are saying, and correct me  
 23 if I'm wrong, she had these deep burns and they just took  
 24 whatever it was, five or six days, to get to where they  
 25 were visible at the surface?

25

1 A. That's correct.

2 Q. Okay. So they were always there working their  
 3 way up so to speak?

4 A. Well, or the dead stuff is working its way off.  
 5 So as the blisters come off, you see the blister, well,  
 6 you think that's all it is, but then the blister comes  
 7 off and you see another layer that's dead. So it's the  
 8 difference between dead skin and healthy skin, and when  
 9 you are looking at the surface, you cannot tell how deep  
 10 that dead skin goes.

11 Q. Okay. And then Ms. Paulos eventually required a  
 12 graft and debridement of the wound?

13 A. That's correct.

14 Q. Do you agree with that procedure?

15 A. Yes.

16 Q. What is your understanding as to how well she  
 17 took to that procedure?

18 A. Well, I think she sounds like she tolerated the  
 19 procedure well. As I think I noted that she had the  
 20 graft take after 5 days postop, she had about a 90 to 95  
 21 percent graft take, and so that's reasonable. She  
 22 required her own autograft, a skin graft of her own skin.

23 Q. You noted in your report on the second page  
 24 under your "discussion" section, I'm just on the third  
 25 line down, starting on the second line down, it says, "It

26

1 is my opinion that although there may be a minor chemical  
 2 component," did you ever see any evidence there was a  
 3 chemical component?

4 A. No. The only reason I mentioned that in the  
 5 report is because it was mentioned to me. If I were  
 6 looking at this burn with the history that was given, I  
 7 wouldn't think there is any chemical component.

8 Q. Who mentioned that to you?

9 A. It may have been in the record.

10 Q. Yeah. I'll represent to you that Ms. Paulos has  
 11 told people that it was a chemical burn, but you don't  
 12 see any evidence?

13 A. I don't think so, no. You can't completely rule  
 14 that out. That's why I said there's maybe a minor  
 15 component, if anything, but I would say not.

16 Q. You can't point to a medical record that  
 17 supports a chemical burn in this case?

18 A. No. No.

19 Q. We've already established that the amount of  
 20 time she was on the ground was sufficient to cause a  
 21 second or deep third degree burn?

22 A. That's right.

23 Q. And was she on the ground long enough to cause a  
 24 full thickness third degree burn?

25 A. Yes.

27

1 Q. Can that also occur in about 5 seconds or does  
 2 that take longer?

3 A. You know, as you say, again, you don't know the  
 4 exact temperature of the thing so it's a function of the  
 5 temperature of the pavement and how long they are in  
 6 contact with it. So these are all approximations, but I  
 7 would say certainly it could happen in -- a third degree  
 8 burn can happen in 30 seconds if you're at 150 degrees.

9 Q. When you met with Ms. Paulos, did she tell you  
 10 or give you an estimate as to how long she was on the  
 11 ground?

12 A. Not that I recall.

13 Q. When she met with you, did she have any memory  
 14 of this incident that you recall her telling you?

15 A. I remember that she had minimal memory of it.

16 Q. In your report you state that the temperature at  
 17 the time of the incident was around 103 degrees. Where  
 18 did you get that information?

19 A. I looked it up on a weather site as far as what  
 20 the temperature was in Las Vegas that day.

21 Q. Do you have training that allows you to know the  
 22 temperature on a certain day that you could then estimate  
 23 asphalt temperature? Like how did you come to 130 to 160  
 24 degrees?

25 A. There is some research in the burn literature

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1 about the temperatures of certain objects when they are  
 2 exposed to the sun, let's say a car or a children's  
 3 slide, and how much hotter they get than the ambient  
 4 temperature of the air. I did look at some information  
 5 as far as the temperature of asphalt in the sun.  
 6 Q. So that was based upon the studies you have  
 7 read?  
 8 A. Right.  
 9 Q. Now, when you personally inspected -- or I'm  
 10 sorry -- examined Ms. Paulos, did her injuries look  
 11 typical for someone who suffered these wounds or did they  
 12 look worse or better?  
 13 A. Everybody heals differently. I would say in  
 14 general they look worse.  
 15 Q. Okay. And do you have an opinion as to why they  
 16 look worse? Do you know why?  
 17 A. As I say, everybody heals differently. Part of  
 18 it is the depth of the burn. The deeper the burn, the  
 19 more the scar. The second thing would be everybody has a  
 20 different genetic makeup and some people heal very  
 21 wonderfully and some people develop horrible keloids from  
 22 the same kind of injury. So there is a certain genetic  
 23 component to it.  
 24 Q. What looked worse about her treatment? Like  
 25 what did she have that stood out to you?

1 A. Well, her worse scars are obviously on her legs  
 2 where she has a great deal of hypertrophy.  
 3 Q. What's that?  
 4 A. That's a variation on a keloid. It's scar  
 5 formation where the body kind of doesn't know when to  
 6 stop healing and it just starts building up and building  
 7 up collagen in the skin and it makes a bad scar.  
 8 Q. And I will paraphrase poorly so Elliot can  
 9 object, but we took the deposition of Dr. Silver two days  
 10 ago who was one of her treating physicians. He said that  
 11 he did not believe that any future surgeries or cosmetic  
 12 surgeries would be beneficial to her because they usually  
 13 don't work that well. If he did testify to that, would  
 14 you agree or disagree with that?  
 15 A. I would disagree.  
 16 Q. Tell me why.  
 17 A. Certainly this is a scar that can -- this is a  
 18 scar that can't be treated topically. The only way in my  
 19 opinion it can be effectively treated would be to excise  
 20 the scar which would mean cut the scar out and then bring  
 21 the unscarred skin together.  
 22 Q. Okay. So you physically remove the scar and  
 23 then put the non-scarred skin together?  
 24 A. That's correct.  
 25 Q. Okay. And a plastic surgeon would do that?

1 A. That's correct.  
 2 Q. Have you ever personally performed that type of  
 3 surgery?  
 4 A. I have assisted in that kind of surgery.  
 5 Q. And what type of a result could you expect from  
 6 that type of surgery?  
 7 A. Well, instead of this big wide scar, you would  
 8 expect just a small linear scar up her leg.  
 9 Q. Okay. If you can, how wide would you expect  
 10 that scar to be?  
 11 A. You know, a centimeter or less.  
 12 Q. And is that the surgery you are describing in  
 13 your report?  
 14 A. Yes.  
 15 Q. And that surgery you estimate at 8,500 per day  
 16 for hospital fees and \$800 for anesthesia. Am I getting  
 17 that right, about a \$10,000 surgery?  
 18 A. Yes.  
 19 Q. What is this multiple injections of steroids  
 20 under anesthesia? Is that a different procedure?  
 21 A. That's a different procedure. That's a less  
 22 invasive procedure. The goal of that is you inject  
 23 steroids into the scar tissue. The best example I think  
 24 is considering the scar like a rope of collagen material,  
 25 and then you take that rope and you inject it multiple

1 times up the rope with steroids, and that helps soften --  
 2 the steroids help soften the collagen so it therefore  
 3 helps flatten and soften the scar. So instead of being  
 4 ropey, it's smooth.  
 5 Q. So that's an alternative to the surgery?  
 6 A. Well, or in addition to it.  
 7 Q. Okay. And that's roughly \$6,800 per session?  
 8 A. Yes.  
 9 Q. Where did you get that price from?  
 10 A. Just from what -- it's an estimate, as I say in  
 11 there, it's because you're injecting into the scar  
 12 tissue, you have to be in surgery. You have to be asleep  
 13 for it. It's too painful to be awake so it's much more  
 14 complicated than just coming in and getting an injection.  
 15 You have to go to surgery, you have to be asleep and you  
 16 have to have multiple injections all of the way up the  
 17 scar and all the way around the scar. So that's why it  
 18 costs that much.  
 19 Q. Okay. And she would have to undergo that two to  
 20 five times?  
 21 A. Yeah.  
 22 Q. That would be at \$6,800 per procedure?  
 23 A. Uh-huh. Yes.  
 24 Q. Okay. And then at the bottom it says, "The  
 25 approximate cost for hospitalizations and multiple tissue

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1 expanders' procedure." Is tissue expansion a different  
 2 procedure or is that what we just talked about?  
 3 **A. We just talked about tissue. Yeah. The stages**  
 4 **of the procedure it would as far as scar excision is you**  
 5 **expand the leg so you get extra skin, and then after you**  
 6 **have blown -- it's like a balloon underneath the skin,**  
 7 **and after you have blown it up and you've expanded the**  
 8 **legs, then you go and excise the skin, you take out the**  
 9 **balloon expanders and you bring the skin together. So**  
 10 **it's the same procedure as excising the scar. It's just**  
 11 **part of it.**  
 12 **Q.** What I'm trying to get at, the \$70,400 estimate,  
 13 is that inclusive of the cost of the steroids or is that  
 14 in addition to?  
 15 **A. Probably if you were going to do that, you would**  
 16 **do the excision. Now, you might do some steroids on her**  
 17 **face or some of the other locations, but if you are going**  
 18 **to excise this scar on her leg, then you would just do**  
 19 **the balloon expansion and probably not do the steroids.**  
 20 **You might need some steroids later in the excision that**  
 21 **you make here when you bring the skin together, but they**  
 22 **don't necessarily go together.**  
 23 **Q.** Okay. And if you were treating Ms. Paulos, out  
 24 of all of these procedures we've discussed, which ones  
 25 would you recommend to her?

1 **A. The one that's going to leave the least scar is**  
 2 **the balloon expansion and excision of the scar, but a lot**  
 3 **of it would also depend on her vision of what she wants**  
 4 **to do.**  
 5 **Q.** When you talked to her, did she tell you what  
 6 she was interested in doing?  
 7 **A. No.**  
 8 **Q.** Did she tell you whether she was interested in  
 9 future work on her scar?  
 10 **A. She expressed concern about her scar, but we**  
 11 **didn't really talk about specific -- we talked about some**  
 12 **things that could be done, and I probably mentioned this,**  
 13 **but she was not -- she knew this was -- what this was**  
 14 **for.**  
 15 **Q.** Okay. But if you were her treating physician,  
 16 you would recommend this \$70,400 procedure first and then  
 17 potentially some of the steroid treatment?  
 18 **A. That's correct.**  
 19 **Q.** Okay. And then the final treatment you  
 20 recommended was the laser treatment for -- and that's  
 21 just strictly for the scar to blend it in with the skin;  
 22 is that correct?  
 23 **A. That's right.**  
 24 **Q.** Would you recommend that regardless of whichever  
 25 procedure she were to choose? I mean, that's something

1 she would need anyway; correct?  
 2 **A. Yes.**  
 3 **MR. ANDERSON:** Now, Elliot, can I see the  
 4 pictures you brought?  
 5 **Q.** Doctor, these were pictures that you took;  
 6 correct?  
 7 **A. That's correct.**  
 8 (The document referred to was marked as  
 9 Defendants' Exhibit No. 4.)  
 10 **BY MR. ANDERSON:**  
 11 **Q.** Okay. Exhibit Number 4, what are we looking at  
 12 here?  
 13 **A. This is the scar -- this is the scar, the burn**  
 14 **scar on her buttocks.**  
 15 **Q.** Okay.  
 16 **A. It's so close it's kind of hard to tell, but**  
 17 **that's what it is.**  
 18 **Q.** Okay. And what we're marking as Exhibit  
 19 Number 5, what is that a picture of?  
 20 **A. That's the burn scar on her breast.**  
 21 (The document referred to was marked as  
 22 Defendants' Exhibit No. 5.)  
 23 **BY MR. ANDERSON:**  
 24 **Q.** Okay. Now, with Number 6, this is obviously a  
 25 picture of the front of her legs?

1 **A. Right.**  
 2 **Q.** What is this picture showing?  
 3 **A. These show her donor sites. You can see the**  
 4 **hyperpigmentation of the donor sites where they took her**  
 5 **skin.**  
 6 **Q.** Now, any of the procedures we talked about, are  
 7 any of them recommended for this area of the leg?  
 8 **A. Yeah. Certainly it's possible that the laser**  
 9 **might benefit this as far as the color difference here**  
 10 **and also maybe bleaches to bleach the skin because you**  
 11 **can see it's darker than the rest of her normal skin over**  
 12 **here but otherwise not. The excision or the steroid**  
 13 **injections would not be part of treating this.**  
 14 **Q.** Do you agree with the surgical doctor's decision  
 15 to use these areas as the donor sites?  
 16 **A. Yes.**  
 17 (The document referred to was marked as  
 18 Defendants' Exhibit No. 7.)  
 19 **BY MR. ANDERSON:**  
 20 **Q.** Then Number 7, this is obviously her left leg.  
 21 That's the primary area we've been talking about; is that  
 22 fair?  
 23 **A. That's correct.**  
 24 **Q.** So most of your opinions for the future surgical  
 25 work are based upon this area?

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1 A. Yes.  
 2 (The document referred to was marked as  
 3 Defendants' Exhibit No. 8.)  
 4 BY MR. ANDERSON:  
 5 Q. And then Number 8, that's her left cheek; is  
 6 that correct?  
 7 A. That's correct.  
 8 (The document referred to was marked as  
 9 Defendants' Exhibit No. 9.)  
 10 BY MR. ANDERSON:  
 11 Q. And 9 appears to be -- is that her right leg or  
 12 is that the left?  
 13 A. That's the left leg again. I think it shows the  
 14 donor site from her lower leg.  
 15 Q. Okay. That's what it's showing.  
 16 Now, you are not Ms. Paulos's treating  
 17 physician; is that correct?  
 18 A. That's correct.  
 19 Q. Okay. And you don't have any personal plans in  
 20 the future to perform any of these surgeries on her?  
 21 A. No.  
 22 Q. Have all of your opinions today been given to a  
 23 reasonable degree of medical probability?  
 24 A. Yes.  
 25 Q. That is all I have. Thank you very much,

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1 Doctor.  
 2 MR. BLUT: Thank you.  
 3 MR. ANDERSON: Do you have anything, Adam?  
 4 MR. DAVIS: One quick one.  
 5  
 6 EXAMINATION  
 7  
 8 BY MR. DAVIS:  
 9 Q. Doctor, I represent The Palms.  
 10 In terms of the steroid injections you were  
 11 talking about, how long does that procedure take?  
 12 A. Depends on how many injections you are going to  
 13 do, but usually you could do it in 20 minutes, half-hour.  
 14 Q. Is that outpatient procedure?  
 15 A. Yeah. It's outpatient surgery. You can go home  
 16 the same day.  
 17 Q. That's all of the questions I have, Doctor.  
 18 Thank you.  
 19 MR. ANDERSON: Thanks, Adam.  
 20 MR. DAVIS: Thank you, Craig. Have a good day.  
 21 (Whereupon, the deposition of MATT N.  
 22 YOUNG, M.D., was concluded at 2:47 p.m.)  
 23  
 24  
 25

38

1 PENALTY OF PERJURY CERTIFICATE  
 2  
 3  
 4  
 5 I hereby declare I am the witness in the  
 6 within matter, that I have read the foregoing transcript  
 7 and know the contents thereof; that I declare that the  
 8 same is true to my knowledge, except as to the matters  
 9 which are therein stated upon my information or belief,  
 10 and as to those matters, I believe them to be true.  
 11  
 12 I declare being aware of the penalties of  
 13 perjury, that the foregoing answers are true and correct.  
 14  
 15  
 16 Executed on the \_\_\_\_\_ day of  
 17 \_\_\_\_\_, 2014, at \_\_\_\_\_,  
 18 California.  
 19  
 20  
 21 \_\_\_\_\_  
 22 MATT N. YOUNG, M.D.  
 23  
 24  
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1 STATE OF CALIFORNIA )  
 2 )  
 3 COUNTY OF LOS ANGELES )  
 4  
 5 I, KAREN S. OSTROM, CSR No. 10341, RPR, do  
 6 hereby certify:  
 7  
 8 That the foregoing deposition testimony of  
 9 MATT N. YOUNG, M.D. was taken before me at the time and  
 10 place herein set forth, at which time the witness was  
 11 placed under oath and was sworn by me to tell the truth,  
 12 the whole truth and nothing but the truth;  
 13  
 14 That the testimony of the witness and all  
 15 objections made by counsel at the time of the examination  
 16 were recorded stenographically by me and were thereafter  
 17 transcribed under my direction and supervision, and that  
 18 the foregoing pages contain a full, true and accurate  
 19 record of all proceedings and testimony to the best of my  
 20 skill and ability.  
 21  
 22 I further certify that I am neither counsel  
 23 for any party to said action, nor am I related to any  
 24 party to said action, nor am I in any way financially  
 25 interested in the outcome thereof.

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# Exhibit 15

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I, the undersigned, a Certified Court Reporter of the State of Nevada, do hereby certify: That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that before completion of the proceedings, review of the transcript [ ] was [ X ] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: July 8, 2014

\_\_\_\_\_  
ELLEN L. FORD, CSR No. 846

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DISTRICT COURT  
CLARK COUNTY, NEVADA

CRISTINA PAULOS, an individual,  
Plaintiff,  
vs.

Case No. A-12-666754-C  
Dept. No. XXVI

FCH1, LLC, a Nevada limited  
liability company; LAS VEGAS  
METROPOLITAN POLICE DEPARTMENT,  
a government entity; JAKE VON  
GOLDBERG, an individual; JEFFREY  
B. SWAN, an individual; JEANNIE  
HOUSTON, an individual; AARON  
BACA, an individual and DOES 1  
through 10,

Defendants.

---

DEPOSITION OF ANDREW SILVER, M.D.  
Las Vegas, Nevada  
Tuesday, June 24, 2014  
Volume I

Reported By:  
Ellen L. Ford, RPR, CRR  
CSR No. 846

Job No. 1880669  
Pages 1 - 44

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1 DISTRICT COURT  
 2 CLARK COUNTY, NEVADA  
 3  
 4 CRISTINA PAULOS, an individual,  
 5 Plaintiff, Case No. A-12-666754-C  
 vs. Dept. No. XXVI  
 6  
 7 FCHI, LLC, a Nevada limited  
 liability company; LAS VEGAS  
 METROPOLITAN POLICE DEPARTMENT,  
 8 a government entity; JAKE VON  
 GOLDBERG, an individual; JEFFREY  
 9 B. SWAN, an individual; JEANNIE  
 HOUSTON, an individual; AARON  
 10 BACA, an individual and DOES 1  
 through 10,  
 11  
 12 Defendants.  
 13  
 14 Deposition of ANDREW SILVER, M.D., taken on  
 15 behalf of Defendants, at Marquis Aurbach Coffing,  
 16 10001 Park Run Drive, Las Vegas, Nevada, beginning at  
 17 2:07 p.m. and ending at 2:53 p.m. on Tuesday, June 24,  
 18 2014, before Ellen L. Ford, Certified Shorthand  
 19 Reporter No. 846.  
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 25

1 APPEARANCES:  
 2  
 3 On Behalf of Plaintiff:  
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 6 1125 Shadow Lane  
 7 Las Vegas, Nevada 89102  
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 9 e-mail: cj@potterlawoffices.com  
 10  
 11 On Behalf of Defendant LVMPD, Jake Von Goldberg,  
 Jeffrey B. Swan, and Aaron Baca:  
 12 MARQUIS AURBACH COFFING  
 13 BY: CRAIG R. ANDERSON, ESQ.  
 14 10001 Park Run Drive  
 15 Las Vegas, Nevada 89145  
 16 (702) 382-0711  
 17 e-mail: canderson@maclaw.com  
 18  
 19 On Behalf of FCHI, LLC and Jeannie Houston:  
 20 MORAN LAW FIRM  
 21 BY: JUSTIN W. SMERBER, ESQ.  
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 23 Las Vegas, Nevada 89101  
 24 (702) 384-8424  
 25 e-mail: j.smerber@moranlawfirm.com

1 Las Vegas, Nevada, Tuesday, June 24, 2014  
 2 2:07 p.m.  
 3 (NRCP Rule 30(b)(4) waived by the  
 4 parties before the commencement  
 5 of the deposition.)  
 6 Whereupon --  
 7 ANDREW SILVER, M.D.  
 8 being first duly sworn to tell the truth, the whole  
 9 truth, and nothing but the truth, was examined and  
 10 testified as follows:  
 11 EXAMINATION  
 12 BY MR. ANDERSON:  
 13 Q Can I get you to state your name for the  
 14 record?  
 15 A Andrew Silver.  
 16 Q Dr. Silver, have you had your deposition taken  
 17 before?  
 18 A Yes.  
 19 Q Okay. So you understand what we're going to do  
 20 here today?  
 21 A Yes.  
 22 Q Okay. So essentially, the oath you took you've  
 23 agreed to tell the truth. Is there any reason that  
 24 you can't tell the truth today; for example, are you  
 25 on any medication or anything that would prevent you

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1 from giving truthful testimony?  
 2 A No.  
 3 Q Okay. Do you need me to explain the deposition  
 4 process to you?  
 5 A You could.  
 6 Q Okay. My name is Craig Anderson and I  
 7 represent the Las Vegas Metropolitan Police Department  
 8 and several officers. Directly to my left is Justin  
 9 Smerber who represents The Palms Casino and one of its  
 10 security guards, and then Mr. C.J. Potter represents  
 11 the Plaintiff, Cristina Paulos, in this litigation.  
 12 You understand that you were one of  
 13 Miss Paulos's treating physicians?  
 14 A Correct.  
 15 Q Okay. This is the opportunity for all three of  
 16 us to just basically ask you questions about your care  
 17 and treatment of Miss Paulos. Do you understand that?  
 18 A Yes.  
 19 Q Okay. It's not an opportunity for us to harass  
 20 you or trick you in any way. So when I ask a  
 21 question, we only want the answers that you actually  
 22 remember. "I don't know"s, "I don't remember"s are  
 23 perfectly acceptable answers. Okay?  
 24 A Okay.  
 25 Q If at any time, you know, we ask a question

1 your answer, because we don't want to talk over one  
 2 another. Again, that's for the court reporter. Okay?  
 3 A Okay.  
 4 Q Did you review anything before coming here  
 5 today?  
 6 A Yes.  
 7 Q What did you review?  
 8 A The chart from her hospital stay.  
 9 Q Okay. And would that chart include just the  
 10 Burn Care Unit documents, or would it also include the  
 11 other UMC documents?  
 12 A It will include the Burn Care documents, all of  
 13 the documents that were produced while she was in the  
 14 hospital --  
 15 Q Okay.  
 16 A -- as well as the nursing records.  
 17 Q Okay. And as you sit here today, do you have  
 18 an independent recollection of treating Miss Paulos?  
 19 A Yes, I do.  
 20 Q Did reviewing the records refresh your memory  
 21 as to what treatment you provided her?  
 22 A Somewhat.  
 23 Q Okay. Can you give me just a thumbnail sketch  
 24 of your education?  
 25 A Yes. I went to college at Rockhurst

1 that you don't know the answer to, don't answer it.  
 2 Okay?  
 3 At the end of this process, the court reporter  
 4 will provide you with a transcript of what you and I  
 5 talked about today. You'll have the opportunity at  
 6 that point to go through, read my questions, read your  
 7 answers, and make any changes. Okay?  
 8 A Okay.  
 9 Q You understand that you're not being sued in  
 10 this litigation, correct?  
 11 A Correct.  
 12 Q Okay. You're simply here as a treating  
 13 physician to talk about what you did with Miss Paulos.  
 14 If at any time during this process I say,  
 15 'Dr. Silver, was that a yes, was that a no,' what that  
 16 either means is you either shook your head or nodded.  
 17 I'm trying to get a verbal response because to my  
 18 right here is a court reporter. She is taking down  
 19 everything you and I say, and the way that we speak in  
 20 everyday -- you know, the language we use and gestures  
 21 we use are difficult for her to get down. Okay?  
 22 A Okay.  
 23 Q There's times I'll ask you a question that  
 24 you'll know exactly where I'm going. Please allow me  
 25 to finish that question, as I'll allow you to finish

1 University, majored in chemistry. Then I went to  
 2 medical school at St. Louis University. And then I  
 3 have been a resident physician at UMC for the past  
 4 four years.  
 5 Q You're licensed in the State of Nevada?  
 6 A Correct.  
 7 Q Any other states?  
 8 A No.  
 9 Q Are you Board certified in anything?  
 10 A No.  
 11 Q Okay. Do you have any special training or  
 12 licensures with respect to burn care?  
 13 A We -- I'm a plastic surgery resident, and so we  
 14 are, within that, qualified to do burn surgery.  
 15 Q Okay. And I notice that you've -- a couple of  
 16 articles you've published on pavement burns?  
 17 A Correct.  
 18 Q Okay. What type of research and work have you  
 19 done with respect to pavement burns?  
 20 A The first paper that I presented and wrote was  
 21 based on a series of cases of similar patients that I  
 22 directly treated.  
 23 The second is a five-year review of all  
 24 patients treated for pavement burns at University  
 25 Medical Center.

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1 Q Okay. So you're familiar with the care and  
 2 treatment of pavement burns?  
 3 A Very.  
 4 Q Okay. And, I'm sorry, you may have answered  
 5 this, but how many years have you been practicing?  
 6 A Four.  
 7 Q And is burn care wound care, is that your  
 8 specialty?  
 9 A It's included within the specialty.  
 10 Q Okay. What would your specialty be and what  
 11 would that include?  
 12 A The specialty would be plastic surgery. We do  
 13 burn care, wound care, reconstructive surgery,  
 14 cosmetic surgery, and hand surgery, and craniofacial  
 15 surgery.  
 16 Q Now, with respect to -- is it called the UMC  
 17 Burn Care Unit? Is that what it's called?  
 18 A It's called the Lions Burn Care Unit.  
 19 Q Lyons, L-y-o-n-s?  
 20 A Yes, I believe so.  
 21 Q Okay. Now, you were working at the Lions Burn  
 22 Care Unit in August of 2011?  
 23 A Correct. July and August specifically, yes.  
 24 Q Now, at UMC, when would you become involved in  
 25 a patient's care who came to the Emergency Room? What  
 Page 10

1 A There are flame burns, scald burns, contact  
 2 burns, then people also consider frostbite as a type  
 3 of burn.  
 4 Q And what type of burn is created by asphalt?  
 5 A That would be a contact burn.  
 6 Q Contact. Okay.  
 7 Now, are there differences between heat burns  
 8 and chemical burns?  
 9 A Yes.  
 10 MR. POTTER: Just for the record, I object to  
 11 any opinion we offered, just by the fact that he's a  
 12 treating physician not retained as an expert. You can  
 13 go ahead, though.  
 14 BY MR. ANDERSON:  
 15 Q Okay. So are there differences between heat  
 16 burns and chemical burns?  
 17 A Yes.  
 18 Q Do you treat chemical burns?  
 19 A Occasionally.  
 20 Q What's the difference between a chemical burn  
 21 and a contact burn?  
 22 A Chemical burn is usually caused by contact with  
 23 a substance that burns the skin directly. There is  
 24 not necessarily a heat-associated factor that you  
 25 would see with a contact burn.  
 Page 12

1 would trigger them to contact someone at the Lions  
 2 Unit?  
 3 A If the physician determines that they need our  
 4 assistance in the Emergency Department, they call us  
 5 directly.  
 6 Q Okay. And so if someone has burns, do they  
 7 automatically call you?  
 8 A Not necessarily.  
 9 Q Do you have a feeling for when they contact  
 10 you, what type of injuries they're seeing that would  
 11 lead them to contact you?  
 12 A Yes. They generally describe those to us.  
 13 Q Okay. If someone arrived with third-degree  
 14 burns, would you automatically be contacted?  
 15 A We probably should be, but it's not necessarily  
 16 done, as such.  
 17 Q Just talking about burns in general, are there  
 18 different kinds of burns?  
 19 A Yes.  
 20 Q Okay. Is one type of burn a heat burn?  
 21 A Not specifically heat --  
 22 Q Okay.  
 23 A -- they're usually determined by mechanism.  
 24 Q Okay. So what type of mechanisms do you deal  
 25 with? What type of different burns are there?  
 Page 11

1 Q Can asphalt cause a chemical burn?  
 2 MR. POTTER: Can I just have a continuing  
 3 objection?  
 4 MR. ANDERSON: That's fine, yeah.  
 5 MR. POTTER: Thank you.  
 6 THE WITNESS: Not that I'm aware of.  
 7 BY MR. ANDERSON:  
 8 Q Okay. And is there still just three degrees of  
 9 burn; first-degree, second-degree, and third-degree?  
 10 A In some scales there's a fourth-degree.  
 11 Q Okay. Can you describe a first-degree burn to  
 12 me?  
 13 A A first-degree burn is commonly known as a  
 14 sunburn type of degree. So it's just to the most  
 15 superficial layers of the skin.  
 16 Q And what would be the expected progression of a  
 17 first-degree burn? How would you treat that?  
 18 A Just with symptom relief, purely.  
 19 Q What's a second-degree burn?  
 20 A A second-degree burn goes into the deeper  
 21 layers of the skin called the dermis, and it involves  
 22 only a portion of the dermis.  
 23 Q And how do you treat a second-degree burn?  
 24 A It depends truly upon the depth. Usually  
 25 symptom relief. And if the burn is not expected to  
 Page 13

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1 heal within the first few weeks, it is usually excised  
 2 and grafted. Primarily, we do mainly wound care on  
 3 them.  
 4 Q Okay. So a second-degree burn can lead to  
 5 grafting?  
 6 A Correct.  
 7 Q And then finally, what's a third-degree burn?  
 8 A A third-degree burn is when you go all the way  
 9 through that layer of the dermis.  
 10 Q And what's a full thickness third-degree burn?  
 11 A That's actually the same terminology --  
 12 Q Okay.  
 13 A -- just interchangeable.  
 14 Q Now, is there such thing as burn conversion?  
 15 A Could you clarify that?  
 16 Q There was a record in Miss Paulos's record that  
 17 says, "The burn has converted." Okay? Do you know  
 18 what that means?  
 19 A Yes.  
 20 Q Okay. What does that mean?  
 21 A Just means that it generally progressed in  
 22 depth.  
 23 Q Okay. So could a first-degree burn over days  
 24 progress into a third-degree burn?  
 25 A A first-degree burn would probably be unlikely

1 A I'd see the patient on a daily basis and report  
 2 what I had found to Dr. Ozobia. He usually saw her,  
 3 as well, but it was my main responsibility.  
 4 Q Do you have an understanding, based upon your  
 5 review of the medical records, as to why Miss Paulos  
 6 was taken to UMC on August 7th, 2011?  
 7 A I do not.  
 8 Q Okay. Did you review any records from her  
 9 initial stay at UMC, which is August 7th to  
 10 August 9th?  
 11 A I saw one brief report that alluded to her  
 12 stay, but did not review those records directly.  
 13 Q Okay. Do you know the status of her burns  
 14 during the two-day stay, August 7th to August 9th, at  
 15 UMC?  
 16 A I do not.  
 17 Q According to the initial intake sheet, she has  
 18 burns, second-degree on the left lateral thigh, left  
 19 lateral leg, and right medial leg.  
 20 If someone comes in with second-degree burns  
 21 from asphalt, the Lions Burn Unit would not  
 22 necessarily be called to treat them?  
 23 A Not necessarily.  
 24 MR. POTTER: Object to form. You can go ahead.  
 25

1 to progress that deep.  
 2 Q But could a second-degree burn progress into a  
 3 third-degree burn?  
 4 A Yes, it could.  
 5 Q So kind of what I'm looking for here is, so if  
 6 someone comes in with a second-degree burn, it's  
 7 possible for that burn to worsen and become a  
 8 third-degree?  
 9 A Correct.  
 10 Q Okay. What causes that? What factors cause  
 11 that?  
 12 A There are many different factors that can cause  
 13 it; pressure being one, inadequate fluid resuscitation  
 14 being another, infection, and there are times where a  
 15 burn can be documented inappropriately or incorrectly  
 16 based on the timing, as some continue to progress  
 17 regardless of what you do, you just don't notice it on  
 18 initial appearance how deep it really is.  
 19 Q Moving on to Miss Paulos. Generally, what role  
 20 did you play in her treatment?  
 21 A I was the resident physician in control of her  
 22 care under Dr. Nathan Ozobia.  
 23 Q And who would have been more responsible for  
 24 seeing her on a day-to-day basis; yourself or  
 25 Dr. Ozobia?

1 BY MR. ANDERSON:  
 2 Q Not necessarily?  
 3 A (Non-verbal response.)  
 4 Q Okay. Were there any records indicating that  
 5 anyone from the Lions Burn Care Unit treated  
 6 Miss Paulos between August 7th and August 9th?  
 7 A I don't know.  
 8 Q Okay. Now, in addition to treating burns, does  
 9 the Lions Burn Care Unit also treat injuries such as  
 10 road rash?  
 11 A Yes.  
 12 Q What's the difference between burns and road  
 13 rash?  
 14 A Road rash is more commonly caused by a friction  
 15 with the surface that removes layers of the skin. As  
 16 they burn, the damage is primarily done, in most  
 17 instances, by the actual heat transfer.  
 18 Q Can you have a hybrid injury which is both a  
 19 contact heat burn and friction?  
 20 MR. POTTER: Object, again, to the extent it's  
 21 calling for expert testimony.  
 22 THE WITNESS: You could.  
 23 BY MR. ANDERSON:  
 24 Q Okay. Have you ever treated someone with a  
 25 burn that was both a heat contact burn and a road rash

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1 burn?  
 2 A Yes.  
 3 Q I want to show you a UMC document which we'll  
 4 mark as Exhibit I.  
 5 (Exhibit I - UMC record - marked for  
 6 identification.)  
 7 BY MR. ANDERSON:  
 8 Q This is a document from -- the date is  
 9 August 7th, so this would have been, according to this  
 10 document, the date that she came into the Emergency  
 11 Room at UMC.  
 12 If you look at the diagram of the individual,  
 13 it lists some abrasions, but it doesn't list any  
 14 burns. Just if you know, would visible burns be  
 15 included on this chart by the nursing staff at UMC, or  
 16 should they be?  
 17 A I have not seen burns listed on this form  
 18 before.  
 19 Q Okay. Now, on -- if you develop -- if you have  
 20 second- or third-degree burns, are they immediately  
 21 visible or does it take time for them to become  
 22 visible?  
 23 A That varies.  
 24 Q And what do you mean by "it varies"?  
 25 A The appearance of the burn may not be as severe

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1 second- or third-degree burn, you don't always  
 2 immediately have like blistering and skin separation,  
 3 that sort of thing; is that fair?  
 4 A Yes. More so for a superficial burn than a  
 5 full thickness third-degree burn.  
 6 Q And so it's your experience that typically  
 7 burns are not included on the Patient Injury Diagram  
 8 Chart?  
 9 A This is not a form that I fill out, this is  
 10 usually filled out, I believe, by the nursing staff or  
 11 by the ER physician. But this is not a form that we  
 12 would use for the Burn Care Unit or for a trauma  
 13 evaluation by the Surgical Department.  
 14 Q Okay. But the UMC Emergency Room doctor and  
 15 Emergency Room nurses, would they be expected to  
 16 identify visible burns on a person, though, if they  
 17 were doing this chart?  
 18 A Can you rephrase that?  
 19 Q Yeah. What I'm wondering is why her burns are  
 20 not identified on this chart. And if that's standard  
 21 that they don't touch burns, they just leave that to  
 22 you guys, or if, you know, they weren't visible at  
 23 this time.  
 24 A I'm not completely aware of everything they're  
 25 expected to do, but I would expect that something of

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1 as the burn actually is.  
 2 Q Okay. So is it possible someone with second-  
 3 or third-degree burns has a non -- an injury that's  
 4 initially non-visible?  
 5 A That would be highly unlikely to be completely  
 6 non-visible.  
 7 Q Could a second- or third-degree burn suffered  
 8 from asphalt initially appear to just be abrasions?  
 9 A Yes, or bruising associated with abrasions.  
 10 Q Could it be an injury that a layperson would  
 11 not initially associate to be a burn?  
 12 MR. POTTER: Object, it calls for speculation.  
 13 But go ahead.  
 14 THE WITNESS: It's possible.  
 15 BY MR. ANDERSON:  
 16 Q Okay. I'll represent to you that the ambulance  
 17 drivers that carried Miss Paulos from The Palms to UMC  
 18 listed "superficial burns". Have you seen that sort  
 19 of a description before in medical records?  
 20 A I have seen that description.  
 21 Q Okay. Is it possible that a burn that is  
 22 called a superficial burn later progresses into a  
 23 second- or third-degree burn?  
 24 A Yes, it is.  
 25 Q So what I'm getting at, so if you suffer a

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1 this sort may be on the form.  
 2 MR. POTTER: I object to speculation on the  
 3 previous one. Sorry. I don't want to speak over  
 4 anyone.  
 5 BY MR. ANDERSON:  
 6 Q And now, according to the UMC Hospital records,  
 7 not the Lions Burn Care Unit records, Miss Paulos was  
 8 discharged on August 9th.  
 9 Now, between August 7th and August 9th, I can't  
 10 find any records where she was referred to the Burn  
 11 Care Unit or received any Burn Care Unit treatment.  
 12 What would that tell you about her burn injuries, if  
 13 anything?  
 14 A Not entirely too much.  
 15 Q Okay. Does the UMC Emergency Room staff  
 16 attempt to treat most burns themselves if they don't  
 17 view them as being to the level that you would treat  
 18 them?  
 19 A That would also be speculation on my part, but  
 20 at times they do call and ask for recommendations.  
 21 Q Okay. According to this discharge sheet, the  
 22 only references -- as far as the left -- this is what  
 23 the records states -- "As far as the left thigh, the  
 24 patient had developed blisters, as well as bullae."  
 25 Did I say that right?

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1 A Yes.  
 2 Q What's bullae?  
 3 A It's a confluence of blisters. It's just over  
 4 a larger area.  
 5 Q Okay. So according to this record, Miss Paulos  
 6 had blisters upon her discharge from UMC.  
 7 Are discharge -- I mean -- are blisters and  
 8 bullae something that require the Burn Care Unit to  
 9 investigate?  
 10 A Not necessarily.  
 11 Q And then the note goes on to state that, "We  
 12 consulted the Burn Care Unit nurses who have come over  
 13 and given the patient sulfadiazine and a dressing on  
 14 top."  
 15 Do you reach any conclusions from that  
 16 statement as to what happened?  
 17 A No.  
 18 Q Okay. So they put an ointment on top of it and  
 19 a dressing?  
 20 A Correct.  
 21 Q What level of burn would they treat in that  
 22 manner?  
 23 A Depends on who's treating the burn.  
 24 Q Okay. Just up to the person?  
 25 A Yes.

1 injuries are sometimes referred to as "burns", and at  
 2 other times they're referred to as "road rash". What  
 3 would account for that discrepancy?  
 4 MR. POTTER: Object, calls for speculation.  
 5 MR. ANDERSON: I can just read it. I'll mark  
 6 this as Exhibit 2.  
 7 (Exhibit 2 - medical record - marked for  
 8 identification.)  
 9 BY MR. ANDERSON:  
 10 Q This is just an example of what I'm referring  
 11 to. Bates stamp PAULOS000358 at the bottom. This is  
 12 from treatment dates August 12th, August 13th,  
 13 August 14th.  
 14 If I look up at the top part of that document  
 15 where it says "Wound Type", there's a box for  
 16 "Pressure Ulcer", "Burn and Degree", "Surgery" and  
 17 "Road Rash". Do you see that?  
 18 A Yes, I do.  
 19 Q And on this particular chart, "Road Rash" is  
 20 checked, and above it it says "Left leg, left thigh".  
 21 In your treatment of Miss Paulos, did you ever  
 22 reach a determination as to whether her injuries were  
 23 caused by heat burn or by road rash?  
 24 MR. POTTER: Object, calls for expert  
 25 testimony.

1 Q Okay. Is it unusual that she developed  
 2 blisters and bullae two days after the event, or is  
 3 that pretty standard for a burn?  
 4 A That can be standard.  
 5 Q Okay. And what's sulfadiazine?  
 6 A It's just an antibiotic ointment that's  
 7 commonly used on burns.  
 8 Q The discharge report states that she was  
 9 discharged in stable condition. Would you agree with  
 10 that, with a second-degree burn, if it had  
 11 sulfadiazine and dressing, that that could be stable?  
 12 A Yes.  
 13 Q And then according to my records, Miss Paulos  
 14 began receiving treatment at the Burn Care Unit on  
 15 August 11th. Does that sound right with what you  
 16 reviewed?  
 17 A My records are from her hospital stay only.  
 18 That was the only chart they had available.  
 19 Q Okay. So did you review any records from the  
 20 Lions Burn Care Unit?  
 21 A From the actual Burn Care Unit, yes, but not  
 22 from the Out-Patient Burn Care Center. They are  
 23 connected, so that may lead to some confusion.  
 24 Q Okay. Now, throughout Miss Paulos's records,  
 25 with respect to the left side of her body, the

1 THE WITNESS: Can you rephrase that for me,  
 2 please?  
 3 BY MR. ANDERSON:  
 4 Q Yeah. Do you have an opinion as to whether the  
 5 left leg wounds you treated on Miss Paulos were caused  
 6 by a heat burn or road rash?  
 7 A Yes.  
 8 Q Okay. What is that opinion?  
 9 A It would be more consistent with a burn  
 10 contacted with pavement than it would from road rash.  
 11 Q And throughout some of Dr. Ozobia's records and  
 12 the nursing records, it mentions both burns and road  
 13 rash. Is that common to have two different diagnoses?  
 14 A It's possible.  
 15 Q Is it possible that it's a hybrid of the two;  
 16 heat burns and also due to friction was aggravated?  
 17 A I imagine that it could be.  
 18 Q Okay.  
 19 MR. POTTER: Object, that that was calling for  
 20 possibilities rather than probability.  
 21 BY MR. ANDERSON:  
 22 Q And so how do you determine whether an injury  
 23 is caused by heat contact or by road friction? What  
 24 type of things are you looking at?  
 25 A You're looking at the pattern of the wound, the

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1 depth of the wound, and the consistency of the wound.  
 2 Q And what was Miss Paulos's wounds on her left  
 3 leg? How would you describe them?  
 4 A At the time that I saw them, it was when she  
 5 was at the hospital for her operation, and it was more  
 6 consistent with a burn, more so than a superficial  
 7 abrasion.  
 8 Q Now, road rash has three different --  
 9 first-degree, second-degree, third-degree, just like a  
 10 burn, correct?  
 11 A I'm not aware of a grading system, as such.  
 12 Q Okay.  
 13 A There are different names, such as degloving or  
 14 road rash, depending on how much tissue is removed.  
 15 Q Do you recall having any conversations with  
 16 Dr. Ozobia as to whether the injuries were caused by  
 17 road rash or a heat contact burn?  
 18 A Not directly, no.  
 19 Q Now, did you treat Miss Paulos prior to her  
 20 surgery on August 24th?  
 21 A Not that I'm aware of.  
 22 Q Okay. So the first time that you saw her  
 23 wounds and injuries was around the time of her  
 24 surgery?  
 25 A Correct.

1 A Yes, it was.  
 2 Q Let's start with this one. Exhibit three.  
 3 (Exhibit 3 - photograph - marked for  
 4 identification.)  
 5 BY MR. ANDERSON:  
 6 Q Does this look like Miss Paulos's wound? Do  
 7 you recognize it?  
 8 A I don't recognize this picture directly, but it  
 9 is consistent with the post-operative appearance.  
 10 Q Did you say "post-operative"?  
 11 A Yes.  
 12 Q Okay. I'll represent to you that Miss Paulos  
 13 has stated under oath that she believes this picture  
 14 was taken on August 7th, the day she came into the  
 15 hospital. Would you agree with that?  
 16 A I don't know when this picture was taken.  
 17 Q Okay. But this looks like a post operation  
 18 picture?  
 19 A The pattern of the wounds look similar to the  
 20 pattern of her wounds that I saw from the  
 21 post-operative photos.  
 22 Q Okay.  
 23 A The actual appearance does not -- of the wound  
 24 itself does not appear post-operative to me.  
 25 Q Does this look like a fresh wound?

1 Q Okay. Now, what surgery did you assist in  
 2 performing? What's that surgery called?  
 3 A Debridement and skin grafting.  
 4 Q Okay. Can you explain to me as a layperson  
 5 what that is?  
 6 A Debridement specifically is removing all of the  
 7 tissue which is no longer alive. And the skin  
 8 grafting is taking an area of skin from another  
 9 portion of the body and placing it over the wound that  
 10 has been created by the initial debridement.  
 11 Q And what was your role in this surgery?  
 12 A I performed similarly as Dr. Ozobia would.  
 13 Q Okay. And is this surgery performed all in one  
 14 sitting?  
 15 A Most of the time.  
 16 Q Okay. Was Miss Paulos's performed all in one  
 17 day?  
 18 A Yes, it was.  
 19 Q Okay. And what's the purpose of the surgery?  
 20 What's the goal?  
 21 A You need to remove all of the tissue that is no  
 22 longer alive, and to seal the wound as soon as  
 23 possible.  
 24 Q And how did she take to the surgery? Was it  
 25 successful?

1 A It's possible.  
 2 Q And when you say "the pattern of the wound",  
 3 tell me what you see in this picture to a layperson.  
 4 A The pattern specifically that I referred to is  
 5 similar to the area on the body in which we operated  
 6 for Miss Paulos.  
 7 Q Okay. And do you recall where you took the  
 8 donor sites from on Miss Paulos?  
 9 A I believe they were from the right thigh. Just  
 10 based on the general location of the wounds, it would  
 11 seem that that would be the most likely choice, but  
 12 I'm not positive where we took them from.  
 13 Q Okay. Could this be a pre-operative picture or  
 14 picture taken right before the surgery was performed?  
 15 A It could be.  
 16 MR. POTTER: Speculation and the possibility.  
 17 (Exhibit 4 - photograph - marked for  
 18 identification.)  
 19 BY MR. ANDERSON:  
 20 Q And this Exhibit 4 that I've just handed you is  
 21 a picture that actually has a date on it. It says  
 22 August 31st. Would that be the date of the picture?  
 23 A It appears as if it is.  
 24 Q So this would be about a week post-surgery?  
 25 A Yes.

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1 Q Okay. Can you tell me what that picture shows?  
 2 A The picture shows healing skin grafts. It also  
 3 shows a donor site on both the left and right  
 4 thighs -- or what appear to be donor sites, the part  
 5 that are covered with the yellow gauze on the tops of  
 6 the thighs.  
 7 And it looks like there may be an additional  
 8 donor site down below where the yellow gauze is also  
 9 present, or it also could have been an area where the  
 10 nurses were unable to take the dressing off at that  
 11 time.  
 12 Q Okay. So going back real quick to Exhibit 3,  
 13 looking at that picture. So is it possible that's a  
 14 fresh wound that was -- that that's something that  
 15 occurred that day?  
 16 MR. POTTER: Object to the characterization  
 17 "possibility".  
 18 THE WITNESS: I would say that it is possible.  
 19 BY MR. ANDERSON:  
 20 Q Okay. Is it the Burn Clinic's -- the Lions  
 21 Burn Clinic, is it a practice to take the picture  
 22 before the surgery, then pictures after?  
 23 A Once the Burn Care team becomes involved, they  
 24 usually take photos on a daily basis, except for the  
 25 days in which the dressings are not removed.

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1 have any future surgeries for cosmetic purposes?  
 2 A Yes, it is.  
 3 Q Were you involved in Miss Paulos's follow-up  
 4 after the surgery?  
 5 A For the time that she was in the hospital I saw  
 6 her, and I did see her one day in a post-operative  
 7 clinic with Dr. Ozobia.  
 8 Q And were there any complications associated  
 9 with her surgery that you're aware of?  
 10 A Not that I'm aware of.  
 11 Q No infections?  
 12 A Not that I'm aware of.  
 13 Q Okay. So just so I'm clear. The items here on  
 14 the right thigh, those represent the donor sites that  
 15 were used?  
 16 A It appears to be, yes.  
 17 Q Okay. And is that a standard site that you  
 18 would use as a donor?  
 19 A Yes, it is.  
 20 Q Okay. Now, in looking at these pictures, and  
 21 in your treatment of Miss Paulos, did you ever see any  
 22 evidence that any of her burns were chemical burns?  
 23 A I did not.  
 24 Q Okay. And do chemical burns look different  
 25 than heat burns?

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1 Q If someone were to come into the Emergency Room  
 2 with injuries as depicted in Exhibit 3, would you  
 3 expect the Burn Unit to be called?  
 4 A Yes, or the burn physician that's on-call.  
 5 Q Okay.  
 6 A I'm using that interchangeably.  
 7 Q Now, with respect to the surgery that was  
 8 performed, would Miss Paulos require future surgeries  
 9 in addition to what's already been done to her?  
 10 A After this operation?  
 11 Q Yes.  
 12 A After Exhibit 4? No, she would not require any  
 13 additional surgeries, unless there were cosmetic  
 14 deformities that she wanted to address.  
 15 MR. POTTER: I just object to the extent it  
 16 calls for expert opinion testimony.  
 17 BY MR. ANDERSON:  
 18 Q Okay. In your residency for plastic surgery,  
 19 is that -- do you do those type of surgeries?  
 20 A We do occasionally, but we usually leave these  
 21 as they are.  
 22 Q Okay. And why is that?  
 23 A Because it would require another operation and  
 24 the result may not be optimal.  
 25 Q So is it up to the patient as to whether they

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1 A Sometimes.  
 2 Q Okay. According to Miss Paulos, in a statement  
 3 she made under oath, she said the following, "I was  
 4 advised by nurses that I suffered chemical burns as  
 5 the burns were suffered as a result of contact with  
 6 hot asphalt."  
 7 Did any medical people ever tell you that she  
 8 had suffered chemical burns?  
 9 A No.  
 10 Q And I think you testified earlier that an  
 11 asphalt burn would not cause chemical burns.  
 12 A The only type of burn that could be considered  
 13 a chemical burn in contact with a street surface would  
 14 be wet concrete, that I'm aware of.  
 15 Q Okay. What is a sequential pneumatic  
 16 compression device?  
 17 A Those are things that we just put on the  
 18 patients to prevent blood clotting. It squeezes the  
 19 legs.  
 20 Q If those were put on someone with a burn, could  
 21 it exacerbate the burn?  
 22 A It's possible.  
 23 Q Have you seen that happen before?  
 24 A No.  
 25 Q Okay. Can it lead to blistering?

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1 A I've never seen that.  
 2 Q Okay. So if you put a sequential pneumatic  
 3 compression device on someone with burns, is it put on  
 4 to treat the burn?  
 5 A No.  
 6 Q Okay. What's it put on for?  
 7 A To prevent blood clots from forming.  
 8 Q Okay. And so if they were -- if such a device  
 9 was placed on Miss Paulos, would it have anything to  
 10 do with her burns?  
 11 A It would -- not that I'm aware of.  
 12 MR. POTTER: Objection, calls for speculation.  
 13 BY MR. ANDERSON:  
 14 Q Okay. I'm almost done here.  
 15 But so you had no involvement with Miss Paulos  
 16 from August 11th through the 24th. Your first  
 17 involvement was the 24th at the time of surgery?  
 18 A Correct.  
 19 Q Okay. Do road rash injuries and burns appear  
 20 the same to the naked eye?  
 21 MR. POTTER: Object to the form of the  
 22 question.  
 23 THE WITNESS: Not necessarily.  
 24 BY MR. ANDERSON:  
 25 Q I mean, what I'm confused on is her records go

1 her for second-degree and third-degree pavement  
 2 contact burns; is that correct?  
 3 A Correct.  
 4 Q You didn't treat her for road rash?  
 5 A We treated her for what had appeared to be a  
 6 burn.  
 7 Q Okay. And as a result of those burns, you  
 8 testified you did two procedures; debridement and skin  
 9 grafts?  
 10 A Yes, in the same setting.  
 11 Q Okay. Debridement, you said, was removing dead  
 12 skin?  
 13 A Yes, non-viable tissue.  
 14 Q Okay. And where did you perform the  
 15 debridement procedures on Miss Paulos's body -- or on  
 16 her body? That was a bad question.  
 17 A In the areas documented in the illustration,  
 18 you can see all the skin grafts applied to it  
 19 post-operatively, where we debrided.  
 20 Q Do you recall doing a debridement to her torso?  
 21 A I believe she also had a burn on her breast.  
 22 Q Okay. So there would be debridement to torso  
 23 and the lower left extremity --  
 24 A That's --  
 25 Q -- is that fair?

1 back and forth. In some records it's a road rash, in  
 2 other records it's a burn.  
 3 Is that discrepancy common? Do you see that in  
 4 medical records commonly?  
 5 A You can see people transfer diagnoses that are  
 6 not entirely accurate.  
 7 Q Okay. So in your opinion, does Miss Paulos  
 8 require any future care based upon her condition?  
 9 MR. POTTER: Object, it exceeds the scope of  
 10 his treatment.  
 11 THE WITNESS: I don't have any direct photos of  
 12 her appearance now, but I would assume that she didn't  
 13 require anything further as far as burn treatment.  
 14 MR. ANDERSON: Okay. That's all I have.  
 15 MR. SMERBER: I don't have anything.  
 16 MR. POTTER: All right. I only think I have a  
 17 handful.  
 18 EXAMINATION  
 19 BY MR. POTTER:  
 20 Q So your treatment in August of 2011 to  
 21 Miss Paulos, you testified you treated her for  
 22 third-degree pavement contact burns; is that correct?  
 23 A I wouldn't say they're all third-degree. Most  
 24 likely it's a combination of second- and third-degree.  
 25 Q Okay. You didn't treat her -- so you treated

1 A Yes.  
 2 Q And as far as the skin grafts, you're saying  
 3 the area that we've marked as Exhibit 4, which you  
 4 previously described as donor areas, are the yellow  
 5 areas?  
 6 A The donor areas are where the skin graft is  
 7 taken from, and then they are applied to the areas  
 8 that were debrided. You can see the net-like  
 9 appearance.  
 10 Q Okay. And so on Exhibit 4, for the record,  
 11 you're pointing to what appears kind of like an open  
 12 wound with a netting; is that fair?  
 13 A Yes.  
 14 Q Okay.  
 15 A Technically, it's a sealed wound because the  
 16 skin graft is present, although it may appear to be  
 17 weeping somewhat from underneath those holes in the  
 18 grafts.  
 19 Q And I think you've testified that it's up to  
 20 the patients to whether or not they have cosmetic  
 21 surgery.  
 22 Is it common for people to have a cosmetic  
 23 surgery in your treatment after they've had skin  
 24 grafts?  
 25 A Not common.

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1 Q Okay. As far as your treatment of Miss Paulos,  
2 you believe it was reasonable and customary for the  
3 burns that she had suffered?  
4 A Can you rephrase that, please?  
5 Q Was your treatment of Miss Paulos reasonable  
6 and customary to what you would do to someone who had  
7 suffered these burns?  
8 A Yes.  
9 Q Okay. I think also you testified earlier that  
10 you found no evidence of a chemical burn; is that  
11 accurate?  
12 A It's accurate.  
13 Q Okay.  
14 MR. POTTER: I don't have any further  
15 questions.  
16 MR. ANDERSON: I have ten more minutes. No.  
17 EXAMINATION  
18 BY MR. ANDERSON:  
19 Q As part of your training, do you have any  
20 knowledge or do you have any opinions as to how long  
21 someone has to be on concrete and how hot that  
22 concrete has to be to cause a second- or third-degree  
23 burn?  
24 MR. POTTER: And I'm just -- the same objection  
25 I had at the beginning as far as expert testimony.

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1 A If you were in contact -- direct contact and  
2 did not remove yourself from that surface for that  
3 time, it would be expected that you would have a burn.  
4 Q Okay. If the body is moving and in motion and  
5 has friction with the ground, does that increase the  
6 chances of a burn or does it decrease the chances?  
7 MR. POTTER: I just object to the same line.  
8 THE WITNESS: It would be both.  
9 BY MR. ANDERSON:  
10 Q Okay. So moving around, it could do either?  
11 A Correct, depending on the direct contact with  
12 the pavement or not.  
13 MR. ANDERSON: That's all I have. Thank you  
14 very much, Doctor.  
15 THE WITNESS: You're welcome.  
16 MR. SMERBER: I just have one follow-up  
17 question.  
18 EXAMINATION  
19 BY MR. SMERBER:  
20 Q The study that you referenced, what was the  
21 name of that, again?  
22 A I believe it was "Streets of Fire", but that  
23 may be inaccurate. It was performed out of Maricopa  
24 Burn Center. There are very few articles related to  
25 this, so it should be easy to find.

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1 THE WITNESS: I have knowledge from the work  
2 that I've done in my research, yes.  
3 BY MR. ANDERSON:  
4 Q Okay. If pavement is 140 degrees, how long  
5 would someone have to be on that pavement to suffer a  
6 second- or third-degree burn?  
7 MR. POTTER: The same objection, and improper  
8 hypothetical.  
9 THE WITNESS: Information obtained from a study  
10 performed in Southern Arizona with a similar climate  
11 showed once the ambient temperature was 100 degrees or  
12 higher, you could have a second-degree burn in as  
13 little as 30 seconds.  
14 BY MR. ANDERSON:  
15 Q And what determines whether a person suffers  
16 that burn? I mean, is it the person? Is it the  
17 environment?  
18 MR. POTTER: Object, calls for speculation. Go  
19 ahead.  
20 THE WITNESS: That varies. It's just the  
21 duration of contact with the hot surface and for any  
22 factor possible.  
23 BY MR. ANDERSON:  
24 Q And now it's not automatic that someone will  
25 have a burn in 30 seconds, it's just some people do?

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1 Q Okay. I have one more question. Counsel was  
2 asking you about follow-up surgeries a second ago.  
3 I believe the first time that you were asked  
4 about additional surgeries, you said that they  
5 wouldn't generally be recommended because they don't  
6 have a high success rate. Is that what you said?  
7 A Not -- if I said it that way, I misspoke. It's  
8 not -- we don't always do them because it requires  
9 another operation, and there's a possibility that you  
10 don't get the result that you're looking for.  
11 Q Can you quantify that at all?  
12 A Sure. There are a few other options. One  
13 would be replacing the skin graft with a sheeted skin  
14 graft. Another would be placing tissue expanders to  
15 expand the surrounding tissue so that you could remove  
16 some of the scar.  
17 Q What I meant in terms of quantifying it is, can  
18 you quantify the probabilities that you're going to  
19 get the result that you want?  
20 For instance, I've been told on numerous  
21 occasions with cervical fusions, third of the people  
22 get better, third of the people stay the same, third  
23 of the people get worse. Those are kind of your odds  
24 for a cervical fusion.  
25 With regards to an additional skin graft like

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1 this, can you give me a similar probability?  
 2 A A probability of what specifically?  
 3 Q Of success.  
 4 A It depends on what your definition of "success"  
 5 is.  
 6 Q Okay. How about in terms of getting any  
 7 benefit?  
 8 MR. POTTER: I would object, calls for expert  
 9 testimony.  
 10 THE WITNESS: I would say that it depends on  
 11 what the patient wants and what the patient would find  
 12 beneficial. If they wanted to maybe remove some of  
 13 the net-like appearance, that might be possible.  
 14 MR. SMERBER: Okay. That's all I have.  
 15 MR. POTTER: I have just one question after  
 16 that.  
 17 RE-EXAMINATION  
 18 BY MR. POTTER:  
 19 Q So with the skin graft, that net-like  
 20 appearance, it leaves a permanent scar after skin  
 21 graft; is that fair?  
 22 A There will be permanent scars after a skin  
 23 graft taken after a wound like this.  
 24 Q So the choice would be either a patient could  
 25 either live with a permanent scar or try to do

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1 I, the undersigned, a Certified Court  
 2 Reporter of the State of Nevada, do hereby certify:  
 3 That the foregoing proceedings were taken  
 4 before me at the time and place herein set forth; that  
 5 any witnesses in the foregoing proceedings, prior to  
 6 testifying, were duly sworn; that a record of the  
 7 proceedings was made by me using machine shorthand  
 8 which was thereafter transcribed under my direction;  
 9 that the foregoing transcript is a true record of the  
 10 testimony given.  
 11 Further, that before completion of the  
 12 proceedings, review of the transcript [ ] was [ X ]  
 13 was not requested.  
 14 I further certify I am neither financially  
 15 interested in the action nor a relative or employee of  
 16 any attorney or party to this action.  
 17 IN WITNESS WHEREOF, I have this date  
 18 subscribed my name.  
 19  
 20 Dated: July 8, 2014  
 21  
 22  
 23 \_\_\_\_\_  
 24 ELLEN L. FORD, CSR No. 846  
 25

Page 44

1 something about it?  
 2 A You'll have a new scar somewhere else in most  
 3 instances. And at the very least, a linear scar along  
 4 whatever you're able to close.  
 5 MR. ANDERSON: That's all we've got. Do you  
 6 want to read this and make sure that everything's  
 7 accurate or do you want to waive that?  
 8 THE WITNESS: I'll just waive that.  
 9  
 10 (TIME NOTED: 2:53 p.m.)  
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Page 43

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000330

# Exhibit 16

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Steven T. Baker-Security Consultant-Nevada License 1174

February 24, 2014

Elliot Blut, Esq.  
Blut Law Group  
300 S. Fourth Street, Suite 701  
Las Vegas, NV 89101

Re: Paulos vs. LVMPD and Palms Hotel Casino  
Clark County, Nevada Case: A-12-666754-C  
Expert Report

Dear Mr. Blut,

Please accept this letter as my expert report in the above referenced matter. Based on my knowledge, training, and experience, in conjunction with my review of discovery materials provided to me (see Exhibit A: Document List), I am qualified to provide expert opinions about the issues relating to this matter. If called upon to testify to the opinions stated herein, I could and would competently do so. The opinions outlined in this report are preliminary and are subject to change if and/or when additional discovery becomes available to review.

The following report addresses an incident that occurred on August 7, 2011 at the street entrance to the Palms Hotel and Casino located at 4321 West Flamingo Road, Las Vegas, NV 89103. My analysis was performed by reviewing the documents available [see Exhibit A: Document List] and the application of my education, training, and experience, to the facts of this case. [See Exhibit B: Curriculum Vitae of Steven T. Baker]. My fee for all services is \$250.00 per hour.

#### **Experience and Qualifications**

I have over 25 years of experience in the security and investigative field. This includes experience in contract security, shopping centers and retail operations, hotels, manufacturing, nightclubs and bars, critical infrastructure-utilities, and entertainment industries.

I am a former member of the ASIS International Hospitality, Entertainment, and Tourism Council and past Chapter Chairman of the Las Vegas Chapter. I am an active member of the Association of Certified Fraud Examiners, American Society of Criminology, and the Academy of Criminal Justice Sciences.

I have achieved several academic degrees and certifications relevant to the security industry including a Bachelor of Science Degree in Criminal Justice/Loss Control, a Master of Science Degree in Security Administration and I am currently pursuing a PhD in Public Affairs, Workforce Development and Organizational Leadership. I have earned all three Board Certifications offered by ASIS International, the Certified Protection Professional (CPP), Physical Security Professional (PSP), and Professional Certified Investigator (PCI). I was the thirteenth individual worldwide to obtain all three certifications. I possess and maintain multiple instructor and instructor trainer certifications in security related disciplines including defensive tactics, handcuffing, pepper spray, management of aggressive behavior, TASER, baton, use-of-deadly force, and multiple firearm instructor ratings. I instruct in these areas on a regular basis.

Steven T. Baker-Security Consultant-Nevada License 1174

February 24, 2014

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Steven T. Baker-Security Consultant-Nevada License 1174

I am a licensed Private Investigator and Private Patrolman by the State of Nevada (1174/a/b) and a licensed Private Investigator by the State of California (20808). I have extensive operational and practical experience in contract and proprietary security. My experience and training allow me to opine on this matter.

**Scope and Retention**

Elliot Blut, Esq. retained me in this case on April 10, 2013 as Security Expert for the Plaintiff.

**Methodology**

The methodology for the analysis utilized in this case is consistent with good and accepted practices within the security industry and based on my experience as a security practitioner and consultant.

**Incident Summary**

The flowing summary was derived from Palms video footage, LVMPD Police Report and Palms Security report. On August 7, 2011 at approximately 15:13 hrs., a car driven by Plaintiff is seen grossing the median from west bound Flamingo Road, across oncoming traffic, and upon entering the exit drive of the Palms Hotel striking a vehicle waiting to depart head-on.

At 15:14 Plaintiff is observed moving in her vehicle and then exiting via the passenger side door. Plaintiff then runs from the crash location toward the main entrance to the Palms and then returns to the accident scene at 15:15. Plaintiff is seen entering the driver seat of the silver SUV that her vehicle struck at 15:16:31. A male (vehicle driver) is observed struggling with Plaintiff until he removes the keys from the vehicle ignition.

Plaintiff exits the SUV and approaches a uniformed LVMPD police officer standing next to her vehicle (15:16:48). Plaintiff walks away from the officer who follows Plaintiff and stops her. Plaintiff is seen to reach toward the right waist area of the officer (15:16:55) then grabbing the officers arms as he responds. LVMPD officer attempts to place Plaintiff into a standing handcuffing position (15:17:00) and then takes Plaintiff to the ground as she resists (15:17:05). From 15:17:05 until 15:17:30 the officer is observed attempting to get plaintiff into a prone handcuffing position. The video is obscured by trees and bystanders so it is difficult to determine what if any resistance is exhibited by Plaintiff.

Palms Security arrives at 15:17:30 and at 15:17:38 the Palms security officer is observed kneeling to assist the LVMPD officer. Plaintiff is observed struggling with both officers from 15:17:38 until handcuffs are applied at approximately 15:18. LVMPD back-up officers arrive at 15:19:48. Plaintiff is not observed to be resisting or moving from 15:18 until the video ends at 15:20:16. The final screen shot of the east facing video (color) is of three LVMPD officers standing encircling the prone Plaintiff while one officer bends over possibly speaking to her. The west facing video (black and white) shows the Palms security officer stand up and move away from Plaintiff at 15:20:13. The three LVMPD officers are seen standing near Plaintiff and appear to be talking at 15:20:44. An ambulance arrives at 15:24:54 and a Clark County Fire truck arrives at 15:25:23. Paramedics arrive at Plaintiffs location at approximately 15:26:11. Clark County Fire ambulance arrives at 15:26:56. The video ends at 15:30:37 with plaintiff still at the location next to the SUV.

Steven T. Baker-Security Consultant-Nevada License 1174

### Analysis & Opinions

**1. Defendant LVMPD failed to exercise care and caution for Plaintiff by keeping Plaintiff prone on the hot pavement after restraining.**

LVMPD officer was justified in his arrest of Plaintiff, however, once plaintiff was under control and restrained Defendant LVMPD Officer and Palms Security officer should have removed Plaintiff from the hot pavement. Plaintiff had been on the pavement for approximately 55 seconds when she was controlled and placed in restraints. Backup arrived at 15:19:48 and with three LVMPD officers present and two LVMPD caged vehicles parked just feet away Plaintiff was left on the hot pavement. Paramedics arrive at Plaintiffs Location approximately six minutes later. Approximate elapsed time from the time plaintiff went down until paramedics arrive is 9 minutes. LVMPD had restraint-control one minute into the altercation and multiple officers three minutes into the altercation. Leaving the Plaintiff on the hot pavement for 6-8 unnecessary minutes was below the standard of care for prisoners in an extreme climate environment. At the time of this report it is still undetermined at what time Plaintiff was removed from the hot pavement and when she was transported to the hospital.

**2. Palms Security officer is observed holding Plaintiffs down after LVMPD restrained Plaintiff. Palms Security Officer should have recognized the hazard of the hot pavement.**

The east facing video (color) shows Palms Security officer assisting LVMPD. Palms Security is observed holding Plaintiff down while LVMPD officer is kneeling and engaged in conversation with a bystander.

The Palms Security manual is void of any discussion relating to care and control of arrested persons. The sole mention is that arrested persons will be taken to the Palms Security Processing room (jail). The Palms has an onsite jail. As it is routine to have arrested persons in custody and restrained in that jail one would expect policy and training in areas related to care, custody, and control of arrested persons, in-custody death prevention, and general guidelines and procedures for ensuring the safety of those in custody. The Palms use-of-force protocol on page 22 of the manual identifies weather as a factor with the use of force. The protocol indicates that extremes in temperature (hot or cold) can cause quick acceleration to gain compliance (by officer).

Palms Security Policy on Cooperation with the Police (p. 27) states:

“Each security officer should strive to provide the Police with total cooperation any time a Law Enforcement Agency is called onto the property. If a security officer feels that the request of the Peace Officer may put the security officer in non-compliance of either state law or company policy, then the security officer will contact his supervisor and seek guidance. In Nevada, it is the LAW to assist the official request of a Peace Officer in execution of due process, so each security officer should bar this in mind.”

Steven T. Baker-Security Consultant-Nevada License 1174

Palms Security Policy on Handling Mentally Challenged/Emotionally Disturbed Persons (p. 69) makes reference to drunk driving as a form of emotional disturbance and requests that officers take into account the city's high transient population and indicates that a high percentage of individuals with mental disorders are coming to Las Vegas on a daily basis. The following guidelines are provided.

- Use as little force as necessary
- Try not to excite or frighten the individual
- Ignore verbal abuse
- Keep individual away from crowds
- Physically restrain the individual only when absolutely necessary
- Do not use pain compliance techniques. Chances are the individual is [past the point of experiencing pain.

Had the Palms Security officer followed these policy guidelines they would have recognized the behaviors of the Plaintiff mirrored the concerns of this policy. According to the Palms Policy she should have contacted her supervisor for guidance. Palms lack of policy on arrest and care of in-custody persons is an unacceptable condition and below the standard of care in an environment where individuals are taken into custody and held.

It is my understanding that discovery is continuing on this matter, when additional materials are provided I anticipate an addendum report prior to trial. My opinions are based on materials reviewed to date and may be modified or supplemented based on further discovery.



Steven T. Baker, CPP, PSP, PCI



Steven T. Baker-Security Consultant-Nevada License 1174

**Exhibit A: Document List**

1. Amended Complaint
2. Defendant FCH1 Early Case Conference List of Documents and Witnesses
3. Defendant FCH1 Answer to Plaintiff's First Amended Complaint-security report
4. Defendant Las Vegas Metropolitan Police Department's Answer to Plaintiff's Amended Complaint
5. Defendant FCH1 Answer to Plaintiff's First Amended Complaint
6. Defendant Las Vegas Metropolitan Police Department Initial Disclosure Statement-police report and statement
7. Surveillance Video
8. Palms Security Manual
9. Deposition of Christina Paulos
10. Conformed Second Amended Complaint
11. Amended Answer to Second Amended Complaint
12. FCH1 Answer to Second Amended Complaint

# Exhibit 17

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STEVEN BAKER

9/4/2014

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1 CERTIFICATE OF REPORTER  
2 STATE OF NEVADA )

3 ) ss:  
4 COUNTY OF CLARK )

5 I, Rene' Hannah, Certified Court Reporter,  
6 do hereby certify:

7 That I reported the deposition of STEVEN  
8 T. BAKER, commencing on Thursday, September 4th,  
9 2014, at 10:00 a.m.

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

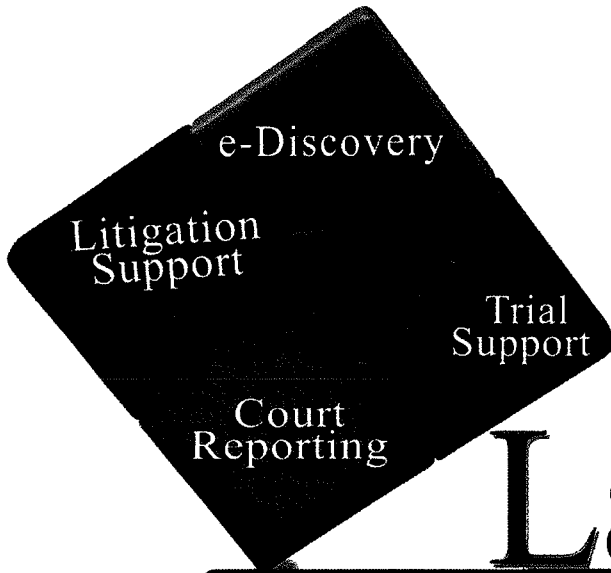
16 I further certify that I am not a relative  
17 or employee of counsel of any of the parties, nor a  
18 relative or employee of the parties involved in said  
19 action, nor a person financially interested in  
20 the action.

21 IN WITNESS WHEREOF, I have set my hand in  
22 my office in the County of Clark, State of Nevada,  
23 this 16TH day of September, 2014.

24 /s/ Rene R. Hannah  
25 RENE' R. HANNAH, CCR NO. 326

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000339



# Lawyer Solutions Group

Transcript of **STEVEN BAKER**

**Date:** September 4, 2014

**Case:** PAULOS v. FCH1, LLC

Lawyer Solutions Group  
Phone: 702-430-5003

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000340

STEVEN BAKER

9/4/2014

Page 1

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CRISTINA PAULOS, an )  
individual, )CASE NO.: 2:13-cv-01546-  
) JCM-PAL  
Plaintiff, )  
)  
vs. )  
)  
FCH1, LLC, a Nevada )  
limited liability )  
company; LAS VEGAS )  
METROPOLITAN POLICE )  
DEPARTMENT, a government )  
entity; JAKE VON GOLDBERG, )  
an individual; JEFFREY B. )  
SWAN an individual; JEANNIE )  
HOUSTON, an individual; )  
AARON BACA, an individual, )  
and DOES 1 through 10, )  
)  
Defendants. )  
)  
)

DEPOSITION OF STEVEN T. BAKER  
Taken on Thursday, September 4, 2014  
At 10:00 a.m.  
630 South Fourth Street  
Las Vegas, Nevada

Reported by: RENE HANNAH, CCR #326

Page 3

1 (NRCF Rule 30(b)(4) was waived by the parties prior  
2 to commencement of the deposition.)  
3 Thereupon,  
4 STEVEN BAKER,  
5 having been first duly sworn, was examined and  
6 testified as follows:  
7 DIRECT EXAMINATION  
8 BY MR. SMERBER:  
9 Q Mr. Baker, please state your full name for  
10 the record.  
11 A Steven T. Baker.  
12 Q Mr. Baker, my understanding is you've been  
13 deposed on several occasions; is that correct?  
14 A Correct.  
15 Q Do I need to go through the standard  
16 admonitions or are you comfortable proceeding  
17 without them?  
18 A We can proceed. I'm comfortable.  
19 Q The only one that I'll remind you of is  
20 you've been given an oath, subject to the same  
21 penalty of perjury as if you were sitting in a  
22 court. Do you understand that?  
23 A I do.  
24 Q All right. Mr. Baker, you have been  
25 retained as an expert in this matter. Are you aware

Page 2

1 APPEARANCES:  
2 For the Plaintiff: ELLIOT BLUT, ESQ.  
Blut Law Group, APC  
3 300 South Fourth Street #701  
Las Vegas, Nevada 89101  
4 (702) 384-1050  
eblut@blutlaw.com  
5  
6 For the Defendant FCH1, LLC:  
JUSTIN W. SMERBER, ESQ.  
Moran Law Firm  
7 630 south fourth street  
Las Vegas, Nevada 89101  
8 (702) 384-8424  
9 For the Defendant LVMPD:  
CRAIG R. ANDERSON, ESQ.  
10 Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
11 (702) 382-0711  
canderson@maclaw.com  
12  
13  
14 INDEX  
15 Examination by: Direct Cross Re-direct Recross  
16 Mr. Smerber 3  
Mr. Anderson 49 54  
17 Mr. Blut 53  
18

19 EXHIBITS

Number	Description	Page
20 Defendant's		
21 Exhibit A	Expert report	7
22 Exhibit B	Curriculum Vitae	9
23 Exhibit B-1	Curriculum Vitae	10
24 Exhibit C	Testimony at deposition	12
	or trial	
25 Exhibit D	Fee schedule	55

Page 4

1 of that?  
2 A Yes.  
3 Q Who retained you as an expert?  
4 A Elliott Blut.  
5 Q When were you first retained?  
6 A Let me look at my book for the exact date.  
7 April 10th of '13.  
8 Q And what's your understanding of your  
9 expert designation in this matter?  
10 A I was retained to look at the security  
11 practices and the procedures surrounding an arrest  
12 and detention in the parking lot entrance to The  
13 Palms.  
14 Q Okay. Were you asked to evaluate the  
15 Palm's private security practices or were you asked  
16 to assess and evaluate The Palms as well as Metro?  
17 A Predominantly The Palms. Metro as far as  
18 how they interacted.  
19 Q Okay.  
20 A So they're kind of intertwined. You can't  
21 really separate them fully.  
22 Q Mr. Baker, your services that you provides  
23 us here as expert, do you do it under a company or  
24 sole proprietorship?  
25 A I am a sole proprietor under the name VTI

1 (Pages 1 to 4)

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STEVEN BAKER

9/4/2014

Page 5

1 Associates.  
 2 Q What's it called again?  
 3 A VTI Associates.  
 4 Q How long have you been operating that  
 5 company?  
 6 A Since about 19, I guess '95, '96,  
 7 somewhere in there.  
 8 Q Do you have any employees other than  
 9 yourself that are employed by VTI Associates?  
 10 A Currently I have one part-timer.  
 11 Q Did that one part-time employee assist you  
 12 in, participate in any way in your expert opinions  
 13 in this matter?  
 14 A No. They've had no involvement in any  
 15 expert work.  
 16 Q So as far as the expert reports and  
 17 opinions that you've provided in this matter, these  
 18 were generated solely by you without the assistance  
 19 of anyone; is that fair?  
 20 A Correct.  
 21 Q Okay. Mr. Baker, I understand that you've  
 22 got, I think it's three formal degrees; is that  
 23 correct.  
 24 A Yes.  
 25 Q What are your formal degrees you have?

Page 6

1 A I have an associates degree from Lancing  
 2 Community College.  
 3 Q In?  
 4 A Business.  
 5 Q Okay.  
 6 A I have a bachelors in criminal justice  
 7 from Lake Superior State.  
 8 Q Okay.  
 9 A And a masters in security administration  
 10 from the University of Detroit.  
 11 Q So as far as your formal degrees, seems  
 12 like the masters is the one that is most applicable  
 13 to your expert opinions in this case; is that fair?  
 14 A Masters or bachelors.  
 15 Q Okay. Criminal justice is a little  
 16 broader; would you agree?  
 17 A Yes. It was a criminal justice slash loss  
 18 control, so it was a private-sector focused degree.  
 19 Q We're not dealing with any loss control in  
 20 this case, though, right?  
 21 A Well, it was just a term at the time that  
 22 they were using for the private sector.  
 23 Q Let's run through some exhibits real quick  
 24 that we'll attach to the deposition. The first one  
 25 that I have, I'm going to give you a copy, it's your

Page 7

1 February 24th, 2014 report.  
 2 MR. SMERBER: Gentlemen, I assume you have  
 3 these?  
 4 MR. BLUT: Sure, I'll take one.  
 5 MR. SMERBER: This is everything I'm going  
 6 to give him.  
 7 BY MR. SMERBER:  
 8 Q Do you recognize that document, sir?  
 9 A Yes, I think it's just got two first pages  
 10 on it.  
 11 Q Yeah, I got it that way. In any event.  
 12 A Interesting.  
 13 Q Aside from the fact it has two first  
 14 pages, is that your report that you drafted in this  
 15 matter?  
 16 A I'm trying to remember if I had one or two  
 17 that I had at the time where I typed something. It  
 18 could be something like a double first page. But  
 19 yeah, it appears to be that, correct.  
 20 Q Okay. We're going to mark that as Exhibit  
 21 A real quick so we can reference it.  
 22 (Defendant's Exhibit A marked.)  
 23 BY MR. SMERBER:  
 24 Q Now, Mr. Baker, is this the only report  
 25 you have drafted in this matter?

Page 8

1 A Only report. I may have had a couple of  
 2 versions in there that were typos. I'm trying to  
 3 think of that. That's one I did have. So I'm not  
 4 sure what sequence of what.  
 5 Q You're indicating there are potentially  
 6 other drafts of your report?  
 7 A Yeah. They would have been in the file I  
 8 produced.  
 9 Q Do you happen to have that file that you  
 10 produced?  
 11 A I already gave it to you, didn't I? Back  
 12 around the original date?  
 13 MR. BLUT: At some point we gave you guys  
 14 a CV that had all those, I believe expert and Mr.  
 15 Baker, CV. You had asked for it and we turned it  
 16 over.  
 17 BY MR. SMERBER:  
 18 Q Okay.  
 19 A If not, I can reproduce it. Not a  
 20 problem.  
 21 Q These drafts, would they contain anything  
 22 else of substance or would it just be typographical  
 23 changes?  
 24 A No, I believe just typo changes.  
 25 Q If you look at Exhibit A in front of you

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000342

2 (Pages 5 to 8)

Phone: 702-430-5003

Lawyer Solutions Group  
www.lawyersolutionsgroup.com

Fax: 702-974-0125

1 right now, does that report contain a complete  
 2 listing of all of your opinions in this matter?  
 3 A Yes.  
 4 Q We're going to come back to that, but let  
 5 me have it. Run through these other exhibits I  
 6 have. So that's A. The next one I have here is,  
 7 take yours out of order. Show you a document that's  
 8 been provided to me as your CV. If you'd take a  
 9 look at that. Let me know if that is an accurate  
 10 copy of your CV.  
 11 A It appears to be, yes.  
 12 Q Okay. Is there anything that is missing  
 13 from that CV?  
 14 A Yeah. There's a page missing from it.  
 15 Q Okay. What does that page include?  
 16 A Professional presentation and media  
 17 interviews.  
 18 Q Is that page, what page is that? I have  
 19 another CV here.  
 20 A Correct.  
 21 Q So here's what I want to do. I want to  
 22 take and want you to give me back the CV that I  
 23 have. We're going to mark that as Exhibit B.  
 24 (Defendant's Exhibit B marked.)  
 25 MR. SMERBER: I'm going to mark the CV you

1 MR. BLUT: The original B.  
 2 MR. SMERBER: Well, it's how I got them.  
 3 They've got exhibits on the front of them. I didn't  
 4 take them out of order. Okay.  
 5 BY MR. SMERBER:  
 6 Q So here. Your testimony list, is that one  
 7 or two pages?  
 8 A One.  
 9 Q Okay. So let's do this. There we go.  
 10 Now you're holding a document in your hand. Is that  
 11 your testimony list?  
 12 A It is.  
 13 Q Okay. Is it a complete testimony list for  
 14 all cases that you testified either deposition or  
 15 trial in the past four yours?  
 16 A Not any longer.  
 17 Q How many cases should be added to that?  
 18 A One.  
 19 Q What's the name of that case?  
 20 A That is Bezak v. Bellagio, which is the  
 21 added on the last page of B-1. So you do have it on  
 22 the new CV copy as well.  
 23 MR. ANDERSON: First case.  
 24 BY MR. SMERBER:  
 25 Q Oh, okay. And you were a plaintiff's

1 just gave me as B-1.  
 2 (Defendant's Exhibit B-1 marked.)  
 3 BY MR. SMERBER:  
 4 Q Now, tell me, I'm going to give you B-1,  
 5 show me the new page.  
 6 A Not a new page, just not on the copy you  
 7 had.  
 8 Q Oh, don't rip it.  
 9 A It's the last page was not there.  
 10 Q Okay. That's weird. So as far as your  
 11 professional CV, the one with B-1 is the complete  
 12 and accurate copy?  
 13 A Correct.  
 14 Q Okay. Got that. Next one I'll show you  
 15 has been represented to me to be your case testimony  
 16 list. Could you please take a look at that?  
 17 A Oh, look. Attached to that is the other  
 18 page of the CV.  
 19 Q Interesting production we got here.  
 20 MR. BLUT: Actually, if you look at.  
 21 THE WITNESS: 12 and 11.  
 22 MR. BLUT: In Exhibit C the pages 12 and  
 23 11, it looks like page 11 of it went behind page 10,  
 24 which with the evidence that's number on it.  
 25 MR. SMERBER: Oh.

1 expert in that matter?  
 2 A Correct.  
 3 Q Now, is this something that was previously  
 4 provided to you just out of order, or is this brand  
 5 new?  
 6 A That was last Thursday.  
 7 Q Okay.  
 8 A Fresh as we can get.  
 9 Q Okay. Let's take that, we're going to  
 10 mark that as Exhibit C.  
 11 A That's the old one there.  
 12 Q That's the one I got. I'm going to show  
 13 you another document produced to me. Take a look at  
 14 it. Represented there is your fee schedule. Is  
 15 that an accurate copy of your fee schedule?  
 16 A For cases taken before June 1 of this  
 17 year.  
 18 Q Which would be inclusive of in this case?  
 19 A Correct.  
 20 (Defendant's Exhibit C marked.)  
 21 BY MR. SMERBER:  
 22 Q You are being paid for your services in  
 23 this matter, correct?  
 24 A Correct.  
 25 Q And you are being paid by, I assume Elliot

000343

000343



STEVEN BAKER

9/4/2014

Page 13

Page 15

1 Blut's office?  
 2 A Correct.  
 3 Q How much have you billed so far in this  
 4 case?  
 5 A You know, I didn't look at that pricing.  
 6 I'm going to estimate that we're in the 35 to \$4,000  
 7 range.  
 8 Q Does that include preparation for this  
 9 deposition?  
 10 A Yes.  
 11 Q Okay. In your case list, Exhibit C, tell  
 12 me how many of these were cases where you testified  
 13 at trial versus where you testified at deposition.  
 14 A One.  
 15 Q Which case would that be?  
 16 A That would be Valdez where it says  
 17 deposition and testimony at trial.  
 18 Q Okay. Let me see.  
 19 A It's the very bottom one.  
 20 Q All right. So the Valdez, that's the only  
 21 one where you have testified at trial?  
 22 A Correct.  
 23 Q I circled it. That's the one where you  
 24 testified at trial?  
 25 A Correct.

1 video; is that fair?  
 2 A Yes.  
 3 Q Okay. In the very last paragraph of that  
 4 page you describe The Palms security officers'  
 5 participation in this matter; is that fair?  
 6 A Uh-huh.  
 7 Q Is that a yes?  
 8 A Yes, sorry.  
 9 Q Okay. Based upon my math it looks like  
 10 The Palms security officer was involved in retaining  
 11 the plaintiff for about two minutes and 35 seconds;  
 12 is that about right? I'm not trying to trick you.  
 13 I'll tell you where I'm getting this. It says Palms  
 14 security arrives at 15:17:30.  
 15 A Uh-huh.  
 16 Q And at 15:17:38 a Palms security officer  
 17 is observed kneeling to assist LVMPD officers. Do  
 18 you see that?  
 19 A I do.  
 20 Q So that's my starting point. 11:17:38,  
 21 right? Are you with me?  
 22 A Yes.  
 23 Q If you go back down about halfway through  
 24 that paragraph it said the west facing video, black  
 25 and white, shows the Palms officer, security officer

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1 Q Okay. In terms of your retention as an  
 2 expert in the security field in general, would you  
 3 say you do more work for plaintiffs or defendants?  
 4 A Defense.  
 5 Q What would the percentage be?  
 6 A I looked at this the other day and I was  
 7 23 cases defense and 19 plaintiff.  
 8 Q So it's almost 50/50, probably about 45?  
 9 A Yeah. Phone may ring today and go the  
 10 other way. So it's about half and half.  
 11 Q Okay. Let's go through your report a  
 12 little bit. Exhibit A, do you have a copy of it in  
 13 your book?  
 14 A I do.  
 15 Q Okay. First in your report I want to ask  
 16 you, I don't see where you made citation to any type  
 17 of written authority. What I mean by that is I  
 18 don't see where you cite to any statute, guidelines,  
 19 administrative code, you know, security treatise,  
 20 best practices manual, I don't see where you cite to  
 21 anything; is that accurate?  
 22 A Yes, there's a specific cite.  
 23 Q Okay. I'm looking at page 2 of your  
 24 report and you gave an incident summary there, and I  
 25 think you obtained this mostly from the surveillance

1 stand up and move away from the plaintiff at  
 2 15:20:13; see that?  
 3 A Yes.  
 4 Q About two minutes and 35 seconds; is that  
 5 right?  
 6 A That would be that, at least the initial  
 7 encounter.  
 8 Q Are you aware of them having an additional  
 9 encounter with her after that?  
 10 A I have no idea. I have no evidence of  
 11 that or not.  
 12 Q In terms of any additional encounters, you  
 13 wouldn't be able to testify to those at trial,  
 14 right?  
 15 A Correct.  
 16 Q As far as your opinions go they're limited  
 17 to that one encounter that lasted about two minutes  
 18 and 35 seconds?  
 19 A Well, that was the hands-on encounter,  
 20 yes.  
 21 Q That's what I'm getting at. Was there  
 22 another encounter?  
 23 A They were involved still, but as far as  
 24 hands-on, you're absolutely correct.  
 25 Q How were the Palms involved after

4 (Pages 13 to 16)

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1 15:20:13?  
 2 A They were still there at the incident.  
 3 Q So anybody who's there is involved?  
 4 A We could say that.  
 5 Q Okay.  
 6 A You know, either witness, participant.  
 7 Q So what is their role after 15:20:13 in  
 8 your professional opinion?  
 9 A They're still providing support.  
 10 Q They're providing support to whom?  
 11 A To Metro and to the incident itself.  
 12 Q Okay.  
 13 A We don't know who some of these other  
 14 people I see them interacting with are. There's no  
 15 documentation saying what they're doing, so.  
 16 Q Okay.  
 17 A So I would be speculating as to what that  
 18 involvement is, but they're still interacting. They  
 19 didn't leave.  
 20 Q So as far as what their involvement was  
 21 after 15:20:13, you would only be speculating as to  
 22 what that involvement was?  
 23 A Other than what's in the documentation,  
 24 yes.  
 25 Q Is there something else you can identify

1 totally separate everything out, but yes.  
 2 Q Let me ask you this. The interaction or  
 3 overlap that pertained to Palms, is that contained  
 4 within opinion two?  
 5 A Well, it's addressed in both because even  
 6 in number one, even though that's the heading title,  
 7 I also have the same LVMPD officer and Palms  
 8 security officer.  
 9 Q Okay. So let's, I was going to try and  
 10 save some time because I'm paying for it, but let's  
 11 go through the first one. The first one you do  
 12 reference both of them. You say, "Once plaintiff  
 13 was under control and retained, defendant LVMPD  
 14 officer and Palms security officer should have  
 15 removed plaintiff from the hot pavement"; is that  
 16 correct?  
 17 A Correct.  
 18 Q Is there anything else in that opinion  
 19 that pertains to the Palms or is it just that they  
 20 should have moved the plaintiff off the hot  
 21 pavement?  
 22 A The rest of it is just supporting  
 23 information, so that's the gist of that, if you  
 24 will.  
 25 Q Okay. Let's focus on the very first line

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1 in the documentation, because I haven't read  
 2 anything that you say they did after 15:20:13.  
 3 A Yeah, we can just guess at what they're  
 4 doing from the video.  
 5 Q So it's important, I know it sounds like  
 6 I'm nitpicking with you as far as Palms' involvement  
 7 in this case after 15:20:13, you don't have any  
 8 opinions on what they're doing because as far as  
 9 what they're doing you could only speculate; is that  
 10 fair?  
 11 A Well, we are, it would be speculation.  
 12 Q Okay. So let's go to the next page of  
 13 your report, page 3. That's where you have your  
 14 analysis and opinion; is that correct?  
 15 A Correct.  
 16 Q Your first opinion there appears to be  
 17 focused on Metro and what they're doing, and I'll  
 18 tell you why I'm saying that. The heading says  
 19 defendant LVMPD failed to exercise care and caution  
 20 for plaintiff by keeping plaintiff prone on the hot  
 21 pavement after restraining. Is my understanding  
 22 correct that opinion is directed towards Metro and  
 23 their actions?  
 24 A Predominantly, yes. As I said, there is  
 25 some interaction here. It's a little tough to

1 of this that I skipped. It says, "LVMPD officer was  
 2 justified in his arrest of plaintiff," correct?  
 3 A Yes.  
 4 Q So would you agree with me that the  
 5 plaintiff was arrested by Metro in this matter; is  
 6 that fair?  
 7 A Well, detained, arrested, depending,  
 8 because there was no actual charge from the initial  
 9 part. But they're taking that person into custody,  
 10 if you will, might be a better way to clarify that.  
 11 Q Okay.  
 12 A It was done by Metro, yes.  
 13 Q So the terminology in your report is  
 14 incorrect when you say arrest?  
 15 A Well.  
 16 Q You know what? That didn't sound right.  
 17 I didn't mean to be harsh.  
 18 A Okay.  
 19 Q But you would agree with me at this point  
 20 there wasn't an arrest?  
 21 A Correct. It was more of a detention at  
 22 least at that time. We don't know exactly why, you  
 23 know. And we didn't find that out until much later  
 24 what exactly Mr. Baca was thinking there.  
 25 Q So no arrest in this matter?

5 (Pages 17 to 20)

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1 A Uh-huh.  
 2 Q The next issue that, going back to my  
 3 first question, the detention was done by Metro in  
 4 this matter, correct?  
 5 A Yes.  
 6 Q Okay. Just because the nomenclature here,  
 7 the terms that you use, you do use arrest throughout  
 8 this report.  
 9 A Correct.  
 10 Q Either arrest or detention, that would  
 11 have been done by Metro, not Palms?  
 12 A Correct.  
 13 Q Okay. Let's go back down to your second  
 14 opinion. I want to talk about that one. The second  
 15 paragraph you have there, it says, "The Palms  
 16 security manual is void of any discussion related to  
 17 care and control of arrested persons." Did I read  
 18 that right?  
 19 A Yes.  
 20 Q But you agree with me at this point the  
 21 Palms didn't arrest anybody there?  
 22 A In this particular incident you're talking  
 23 about?  
 24 Q Yeah, in this case, the one that we're  
 25 here and you have been retained as an expert in, the

1 primary, the lead person?  
 2 A Absolutely.  
 3 Q Well, it goes a little further than that.  
 4 Let's say after 15:20:13, that's the end of your  
 5 knowledge of Palms' involvement in this case,  
 6 correct?  
 7 MR. BLUT: Object to the form.  
 8 THE WITNESS: Sorry, at what time?  
 9 BY MR. SMERBER:  
 10 Q 15:20:13. In this case beyond that you  
 11 would be speculating with regard to Palms'  
 12 involvement. We already established that.  
 13 MR. BLUT: Object to the form.  
 14 THE WITNESS: Yes; however, that doesn't  
 15 necessarily mean that it ceases their involvement.  
 16 It ceases their direct physical contact with the  
 17 plaintiff that I'm aware of at that point.  
 18 BY MR. SMERBER:  
 19 Q Yeah, I know.  
 20 A But they're still out there, I just don't  
 21 know exactly what they're doing, so.  
 22 Q Well, you're only here to testify about  
 23 what you have actual opinions on and what you do  
 24 know about. So my point is after 15:20:13 you can  
 25 only speculate as to what the Palms is doing?

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1 Palms didn't arrest anyone?  
 2 A They assisted in one, but no, they didn't  
 3 actually make an arrest.  
 4 Q Right. The arrest was made by Metro,  
 5 correct?  
 6 A Correct.  
 7 Q You agree with me as a security  
 8 professional when Metro is making an arrest, that  
 9 they are the ones controlling the arrest; is that  
 10 fair?  
 11 MR. BLUT: Object to the form.  
 12 THE WITNESS: Well, they are the ones  
 13 making the arrest.  
 14 Q (By Mr. Smerber:) Right. And the  
 15 person --  
 16 A Controlling would be another issue.  
 17 Q The person who's being arrested.  
 18 A Uh-huh.  
 19 Q Are they in Metro's control when they're  
 20 arresting someone?  
 21 A That is the issue here, because if they  
 22 were in Metro's control they wouldn't need  
 23 assistance.  
 24 Q Okay. So is Metro, I think maybe just so  
 25 we're not splitting hairs here, is Metro the

1 A Correct. We know they're there, but we  
 2 don't know exactly what they're doing.  
 3 Q After 15:20:13 you agree with me you  
 4 cannot say that the plaintiff was in control and  
 5 custody of the Palms? You can't say that, can you?  
 6 A We don't know whose custody they were in  
 7 at that point.  
 8 Q Okay. So in terms of saying, hey, the  
 9 Palms was in control and custody of the plaintiff  
 10 after 15:20:13, you cannot say that; is that  
 11 correct?  
 12 A We cannot see on the video who they're in  
 13 the care and control of.  
 14 Q You do know at 15:20:13 the Palms security  
 15 officer moves away from the plaintiff?  
 16 A Stood up and stepped back.  
 17 Q Okay. Is anybody making control of the  
 18 plaintiff at that time?  
 19 A Metro stands up shortly thereafter, or  
 20 just moments. I'm not sure exactly. I'd have to  
 21 look at the sequence of who was up first.  
 22 Q So Palms gets up, Metro gets up, what's  
 23 the plaintiff doing?  
 24 A We lose sight of the plaintiff going to a  
 25 different camera angle and they're behind the

6 (Pages 21 to 24)

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1 vehicle still, apparently on the ground.  
 2 Q So it's your opinion based on the video  
 3 there's a point in time where the Palms security  
 4 gets up and moves away from the plaintiff. Metro  
 5 gets up and moves away from the plaintiff. She's  
 6 still on the ground and you don't know what's  
 7 happening?  
 8 A Correct.  
 9 Q The only thing you cite to in your report,  
 10 it's on page 3, you reference Palms security policy  
 11 on cooperation with the police.  
 12 A Uh-huh.  
 13 Q You see that?  
 14 A Yep.  
 15 Q Okay. I'm assuming you had typed this in  
 16 your report?  
 17 A Yes.  
 18 Q So you read that policy; is that correct?  
 19 A Correct.  
 20 Q Do you disagree with that policy in any  
 21 way?  
 22 A No.  
 23 Q Nothing wrong with their policy?  
 24 A No, I do not see anything wrong with the  
 25 policy.

1 negative. Is there anything wrong with that policy?  
 2 A No. I don't see anything wrong with that  
 3 policy.  
 4 Q I'm bad with the double negatives this  
 5 week. I don't know why.  
 6 A It's the haunted house.  
 7 Q You guys are going to laugh so hard when I  
 8 tell you this story. Let's go through the policy  
 9 that we have. You made a bullet point list there.  
 10 You pulled these right out of the manual, correct?  
 11 A Correct.  
 12 Q The first one, it says use as little force  
 13 as necessary. Is it your opinion that the Palms  
 14 security officers used excessive force towards the  
 15 plaintiff in this matter?  
 16 A Excessive as in too much force, no.  
 17 Q Okay.  
 18 A The way they grabbed the plaintiff or were  
 19 holding her by the head, I would think that would  
 20 not be the good way to hold somebody down. Not a  
 21 good restraint tactic.  
 22 Q Are you saying it falls below the standard  
 23 of care?  
 24 A I'm saying it would be just dangerous if  
 25 I'm trying to hold somebody to cuff them, holding

1 Q Earlier when I was asking you about who  
 2 arrested or detained the plaintiff, you said it was  
 3 Metro and you said the Palms assisted.  
 4 A Correct.  
 5 Q Is there anything wrong with the Palms  
 6 security officer assisting a Metro officer in an  
 7 arrest or detention when that Metro officer has  
 8 requested it?  
 9 A No.  
 10 Q Go to page 4 of your report. Page 4 you  
 11 continue to discuss the Palms' security manual; is  
 12 that right?  
 13 A Yes.  
 14 Q You talk about there are policies on  
 15 dealing with people with mental disorders or  
 16 mentally challenged, back slash, emotionally  
 17 disturbed persons; is that right?  
 18 A Correct.  
 19 Q And you list out the factors that they  
 20 have. First let me ask you in terms of that policy  
 21 that they have, do you disagree with that policy?  
 22 A No.  
 23 Q So nothing wrong that policy, correct?  
 24 A No.  
 25 Q Actually, that was kind of a double

1 them by their head is not anything that's taught.  
 2 Q So it's your opinion you can see on video  
 3 the Palms security officer holding the plaintiff by  
 4 her head?  
 5 A Yeah.  
 6 Q Say that out loud.  
 7 A Yes. I'm sorry.  
 8 Q So you're saying they used an improper  
 9 handcuffing technique?  
 10 A Well, restraint technique in this case.  
 11 They're not actually doing the handcuffing.  
 12 Q So as far as this first factor, they use  
 13 as little force as necessary, you think they  
 14 violated that?  
 15 A They certainly could have done much worse  
 16 as far as when we're thinking excessive force.  
 17 Q Right.  
 18 A Again, I'm just limiting it to using the  
 19 head as a control device.  
 20 Q I understand, but we have a unique  
 21 situation here, correct?  
 22 A Actually, no. We have one that happens  
 23 many times a day at a private casino in this town.  
 24 So it's not really that unique. This is very  
 25 standard in arrest and control.

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1 Q You're saying it's very common for a  
 2 person to drive backwards into the entrance of a  
 3 valet while thinking that the devil is talking to  
 4 her, get out of her car, try and get in somebody  
 5 else's car, take their car and then have to be  
 6 arrested by the police in the entrance of the valet?  
 7 You're saying that's a pretty common thing?

8 MR. BLUT: Object to the form.

9 THE WITNESS: No, I'm saying it's very  
 10 common to have these issues during the arrest of a  
 11 person by a private person.

12 BY MR. SMERBER:

13 Q What do you mean, these issues?

14 A Issues of where they're grabbing the  
 15 person by the head, how they're taking them down and  
 16 how they're restraining them. Those are what I'm  
 17 talking to, the situation that leads up to it. That  
 18 can be varied from time to time.

19 Q Okay.

20 A But I wouldn't doubt if we have that same  
 21 type of delusional or manic episodes many times a  
 22 day here. I've experienced it, I'm sure you have  
 23 before. Whether we want to say that's the common  
 24 standard, no, but it does occur.

25 Q So do you think that -- let me ask you

1 they pretty much worked through that and kind of  
 2 downplayed it, ignored it to a degree.

3 Q You're talking about the plaintiff's  
 4 screaming?

5 A Yes, plaintiff's screaming. I'm sorry.

6 Q So the third factor, ignore verbal abuse,  
 7 that's not applicable here?

8 A Correct.

9 Q Next one, keep individual away from the  
 10 crowds. I didn't see where you said that the Palms  
 11 failed to keep Miss Paulos away from crowds.

12 A Yeah. I have no issues with that.

13 Q Okay. The next one, do not use pain  
 14 compliance technique. Chances are the individual is  
 15 past the point of experiencing pain; is that  
 16 correct?

17 A Correct. You skipped one, though.

18 Q Oh, I did. I'm sorry. Let's do that one  
 19 since we're on it.

20 A Okay.

21 Q "I don't think that there was any pain  
 22 compliance technique supplied."

23 A Depending on where you grab their head  
 24 there are certain pressure points. I don't have any  
 25 reason to believe that they were applying a pressure

1 this. Do you think that the force used by the Palms  
 2 in this case was excessive for the facts and  
 3 circumstances surrounding what was happening?

4 A I would not say excessive, I would say  
 5 inappropriate.

6 Q Okay.

7 A They had better options.

8 Q What's the option that was better?

9 A Shoulders, arms, other limbs.

10 Q Okay.

11 A If we're trying to control somebody for  
 12 handcuffing, these are what I want to get control  
 13 of.

14 Q Let's move to the next one, try not to  
 15 excite or frighten the individual. I didn't see in  
 16 opinions in your report where it says that the Palms  
 17 were trying to excite or frighten Miss Paulos.

18 A And I don't believe that they did anything  
 19 to excite or frighten her.

20 Q The next factor, ignore verbal abuse. I  
 21 don't see anywhere in the report where you said they  
 22 failed to ignore verbal abuse.

23 A I think the only verbal abuse, I have no  
 24 knowledge of what the screaming is and I don't know  
 25 the exact content, if it was abusive or not, but

1 point. I can't see that in the video; however, that  
 2 would be pain compliant. Pressing down on the head  
 3 would be a pain compliance technique. So I can't  
 4 say exactly what they were doing to the head, so.

5 Q Is it fair to say that this head grabbing  
 6 or pressing things, it's not really one of your  
 7 opinions in this matter, because I don't see  
 8 anything about that anywhere in your report.

9 A It's just the method I'm talking that they  
 10 used.

11 Q Okay. But I'm saying you've got to give  
 12 me all your reports your opinion in your reports.

13 A Sure.

14 Q And I'm saying at the time of trial it  
 15 appears you don't intend to stand up and say, "Oh,  
 16 they were grabbing the head and they were using the  
 17 head pressure point," because that's not in any of  
 18 your opinions.

19 A I'm not saying they used head pressure  
 20 points. I'm just saying as parts of the why I.

21 Q I'm trying to figure out, say at the trial  
 22 you're not going to talk about inappropriate head  
 23 grabbing methods at trial; fair?

24 A If they asked where they grabbed the  
 25 plaintiff, I would answer they grabbed her by the

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1 head.  
 2 Q Well, I know, but.  
 3 A They were pressing on her head.  
 4 Q But you're not going to say that fell  
 5 below the standard of care, correct?  
 6 A I would certainly say it concerned me in  
 7 that there were much better, more appropriate things  
 8 to use, and I would not use that.  
 9 Q Did you talk about that anywhere in the  
 10 your report?  
 11 A Apparently not, no.  
 12 Q Why didn't you talk about that in that  
 13 report if that was something that concerned you?  
 14 A Well, the whole procedure concerned me,  
 15 so.  
 16 Q I don't see where you talk about it at  
 17 all.  
 18 A Okay.  
 19 Q I'll get down to the last paragraph here.  
 20 It says it appears that is your opinion. It's the  
 21 second to the last paragraph on page 4. It says,  
 22 "Had the Palms security officer followed these  
 23 policy guidelines, they would have recognized the  
 24 behaviors of the plaintiff mirrored the concerns of  
 25 this policy. According to the Palms policy she

1 arrested persons in custody and retained. Generally  
 2 I would expect policy and training areas to relate  
 3 to care and custody and control of arrest of persons  
 4 in custody, death prevention and general guidelines.  
 5 Q So you're saying there should be training  
 6 and guidelines on these things, correct?  
 7 A Correct.  
 8 Q But where are you saying the Palms officer  
 9 in this case violated the industry standards on  
 10 those?  
 11 A Well, that was my point. That was the  
 12 point I was making.  
 13 Q Can you show me where you said that?  
 14 A I just did.  
 15 Q Okay. Where at?  
 16 A I just read it to you.  
 17 Q I just don't see what you're saying.  
 18 You're saying --  
 19 A That's what I'm saying here in this  
 20 paragraph. That's what I'm talking about, is their  
 21 training, that it wasn't there and they didn't do  
 22 it.  
 23 Q Well, here. Let's do this. I want to  
 24 make sure that we're clear on this. I want you to  
 25 take, I'm going to give you a pen and I want you to

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1 should have contacted her supervisor for guidance.  
 2 Palms lack of policy on arrest and care of  
 3 in-custody persons is an unacceptable condition and  
 4 below the standard of care in an environment where  
 5 individuals are taken into custody and held." Did I  
 6 read that accurately?  
 7 A Yes.  
 8 Q Does it say anything about improperly  
 9 handcuffing her?  
 10 A No. I've not said anything about Palms  
 11 and handcuffing.  
 12 Q Does it say anything inappropriate about  
 13 grabbing someone's head?  
 14 A No, just general arrest and detention  
 15 procedures.  
 16 Q Does it say that the Palms security  
 17 officers' actions do not follow general arrest and  
 18 detention policies?  
 19 A In that paragraph, no.  
 20 Q You're looking somewhere else in your  
 21 report.  
 22 A I'm looking to see if I covered that  
 23 earlier. Yes.  
 24 Q You did? Where did you cover it earlier?  
 25 A Where I'm saying it's routine to have

1 underline the lines where you're saying the Palms'  
 2 actions fell below, the Palms security officers in  
 3 this case, their actions fell below the standards of  
 4 care.  
 5 A I didn't say it in the words you're hoping  
 6 I did, but here's what I'm talking about.  
 7 Q Would you agree with me that what you  
 8 circled or underlined on page 3, this is a general  
 9 statement, correct?  
 10 A Correct.  
 11 Q You don't reference any actions taken by  
 12 the Palms security officer in this matter; is that  
 13 fair?  
 14 A I'm talking about the incident in  
 15 totality, yes.  
 16 Q Okay. Actually, just to be a little more  
 17 clear, you're not taking about the incident at all.  
 18 You're saying that one would expect policies and  
 19 training in areas. You're not really talking about  
 20 this incident, you're just saying one would expect  
 21 there to be policies and training?  
 22 A Correct.  
 23 Q Okay. And we already talked about what  
 24 you kind of identified on page 4. This again, these  
 25 are general statements, they don't pertain

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<p>1 specifically to the actions taken by the security 2 officer in this case; is that correct? 3 A Sorry, could you repeat that? 4 Q Yes. The second to the last paragraph on 5 page 4 that you kind of put parenthesis around here, 6 correct? 7 A Yes. 8 Q That again is not discussing the specific 9 actions of the security officer in this case, you're 10 saying in general, you know, these guidelines should 11 have been applied; is that fair? 12 A Well, they should have been applied in 13 this case. 14 Q The security officer from the Palms that 15 responded to this incident and you see on the video 16 the female security officer, do you know her name? 17 A Janae Houston. 18 Q Okay. Now, in your report you say on page 19 4 in that little paragraph that you put the 20 parenthesis around, according to the Palms policy, 21 she should have contacted her supervisor for 22 guidance. 23 A She as in Houston. I'm sorry. 24 Q Okay. Do you know if Miss Houston 25 consulted her supervisor before she got involved in</p>	<p>1 Q Let's keep it in the context of your 2 report. 3 A Uh-huh. 4 Q Your report says, and I'm just reading 5 right out of the report, page 4, "in an environment 6 where individuals are taken into custody and held." 7 A Uh-huh. 8 Q So I'm talking about the term held and the 9 context you have it in your report. 10 A Yes, okay. 11 Q Are you of the opinion the Palms held Miss 12 Paulos on the date of this incident? 13 A Again, Metro was there, the Palms was 14 there. Exactly who turned over what, I don't know 15 exactly. It's not clearly delineated in the report. 16 Q Okay. 17 A I would lean towards that the Palms 18 assisted during the taking into custody. 19 Q Uh-huh. 20 A And then at some point they're separated 21 away from it. 22 Q Okay. So were you aware in Nevada there's 23 a law that says if a security or peace officer asks 24 for your assistance, then you should assist them? 25 A Yes.</p>
<p>Page 38</p> <p>1 this matter? 2 A There's nothing in the record on that, 3 just that she was dispatched. 4 Q Do you know who her supervisor was? 5 A No. 6 Q So as far as whether or not she actually 7 followed this policy and contacted her supervisor, 8 you don't know whether she did that or not? 9 A Correct. 10 Q The next sentence you have there says, 11 "Palms lack of policy on arrest and care of 12 in-custody persons is an unacceptable condition and 13 below the standard of care in an environment where 14 individuals are taken into custody and held." Did I 15 read that right? 16 A Yes. 17 Q Okay. As far as this specific case goes, 18 you would agree with me the Palms didn't take Miss 19 Paulos into custody and hold her; is that fair? 20 A Well, they assisted in the taking into 21 custody. 22 Q Did they hold her? 23 A To the ground, yes. Did they detain her, 24 keep her afterwards? That's undetermined who was in 25 charge there.</p>	<p>Page 40</p> <p>1 Q Okay. You don't disagree with that law, 2 do you? 3 A No. 4 Q Do you think that the Palms was doing 5 anything inappropriate in following officer Baca's 6 request for assistance? 7 A Following the request, no. 8 Q At what point could you say the Palms' 9 lack of policy on arrest and care and custody of 10 persons is unacceptable? How does that apply to 11 this case? 12 A Well, again, it goes down into their 13 training and what their knowledge is. They're in an 14 environment where it's a routine business practice 15 to arrest people, taking their civil liberties, 16 handcuff them, put them into their on-site jail and 17 then transfer them to law enforcement. 18 Q Well, let me just stop you right there. 19 Do you agree with me some of that has nothing to do 20 with this case. Miss Paulos never went to the Palms 21 jail, correct? 22 A Correct. 23 Q And as far as you already told me, it was 24 Metro who arrested or detained the plaintiff, 25 correct?</p>

10 (Pages 37 to 40)

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1 A Correct.  
 2 Q They were doing that before the Palms ever  
 3 got involved in this, correct?  
 4 A Correct.  
 5 Q The only reason the Palms got involved in  
 6 this is because they were requested to by Metro; is  
 7 that fair?  
 8 A That's fair.  
 9 Q Okay. But you think their actions in  
 10 assisting Metro was inappropriate, correct?  
 11 A Correct.  
 12 Q I want you to tell me specifically how  
 13 their actions in assisting Metro was inappropriate.  
 14 A Inappropriate in that the officer didn't  
 15 appear to have any idea of how to help to restrain  
 16 that person. And again, this should be a regular  
 17 routine thing. Instead of going to the head again,  
 18 which happens to be the issue here, wouldn't be  
 19 appropriate. Holding them down on the pavement  
 20 wouldn't be appropriate. Continuing to let them lay  
 21 on the pavement wouldn't be appropriate. These are  
 22 all things that that care and custody I'm talking  
 23 about. So where you say it doesn't apply to this  
 24 case, it does because we who do this every day, this  
 25 should, these things should be second nature, that

1 Sagic?  
 2 A Sagic.  
 3 Q Sagic. Do you know him?  
 4 A Very well.  
 5 Q How long have you known Al?  
 6 A Fifteen years.  
 7 Q He drafted a report in this matter. Have  
 8 you seen his report?  
 9 A I have.  
 10 Q I notice that you didn't comment anywhere  
 11 in your report on his. Have you drafted any type of  
 12 rebuttal report to his?  
 13 A No.  
 14 Q So, at the time of trial in this matter  
 15 you won't be giving any opinions regarding his  
 16 report, correct?  
 17 A Correct. His report starts or ends before  
 18 mine really starts to address issues.  
 19 Q Okay. I want to talk a little bit about  
 20 your CV, if you can get your CV in front of you. I  
 21 want to look at your professional experiences on  
 22 page 2 and 3. Have you ever personally worked in a  
 23 Las Vegas casino?  
 24 A No. Not as an employee, no.  
 25 Q Have you ever worked in a Las Vegas hotel?

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1 they should know how to do it.  
 2 Q How long did the Palms allow Miss Paulos  
 3 to remain on the pavement?  
 4 A I'm still undetermined exactly when she  
 5 got off the pavement.  
 6 Q And you can't, you already told me you  
 7 can't say that they held her on the pavement after  
 8 15:20:13, correct?  
 9 A Correct.  
 10 Q Okay. So at the max you could say the  
 11 Palms had her on the pavement for two minutes and 35  
 12 seconds?  
 13 A Okay.  
 14 Q Is that accurate or not?  
 15 A Well, we know that they held her  
 16 physically there or alone, yes.  
 17 Q Okay. After that you can't say they did  
 18 anything to hold her on the pavement; is that fair?  
 19 A Correct. We don't know, doesn't appear  
 20 anyone was holding her at that point, they just left  
 21 her laying there.  
 22 Q Okay. So she was on the ground by  
 23 herself?  
 24 A Correct.  
 25 Q Okay. Do you know an individual named Al

1 A Not as an employee.  
 2 Q So as far as personal experience as a  
 3 security officer in a Las Vegas casino, you have  
 4 none; is that fair?  
 5 A I've done numerous contracted training  
 6 assignments and evaluations, but I've not worked as  
 7 an employee.  
 8 Q Do you know if Mr. Sagic, or how did you  
 9 just say that?  
 10 A Sagic. I-C, like in magic.  
 11 Q Sagic. Do you know if he's done that?  
 12 A I don't know if he's worked in a casino in  
 13 Las Vegas, no.  
 14 Q Okay.  
 15 A He was predominantly in northern Nevada.  
 16 Q Have you ever worked in the casinos as a  
 17 security officer?  
 18 A No, not as an employee.  
 19 Q Do you know if Mr. Sagic has?  
 20 A I believe so, yes.  
 21 Q He has quite an extensive background in  
 22 it; is that fair?  
 23 A Sure.  
 24 Q I'm trying to familiarize myself with your  
 25 CV. Either I had it wrong or I was missing

11 (Pages 41 to 44)

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1 something. I apologize. Do you have any written  
 2 publications in the field of security?  
 3 A No.  
 4 Q Do you know if Mr. Sagic does?  
 5 A He does.  
 6 Q Do you know how many he has?  
 7 A Are we talking peer reviewed or are we  
 8 talking magazine articles?  
 9 Q Both.  
 10 A I don't believe he has anything peer  
 11 reviewed.  
 12 Q Okay.  
 13 A Magazine articles, he's written a bunch.  
 14 Q Do you have any criticisms of his  
 15 publications?  
 16 A You know, they're trade magazines, so they  
 17 are what they are. It's not a peer-reviewed  
 18 article, it's an opinion piece.  
 19 Q Okay. You have a list here. I'm looking  
 20 through your CV. You have got professional  
 21 presentations here. Looks like you've got one, two,  
 22 three, nine, ten of them.  
 23 A Yes. I'm looking at it, yeah.  
 24 Q Are you aware of if Mr. Sagic has any  
 25 professional presentations?

1 A In a lot of ways, yes.  
 2 Q Do you think you have more experience than  
 3 he does in casino security?  
 4 A No.  
 5 Q He has more experience than you do in  
 6 casino security, correct?  
 7 A In the operation of the casinos, yes.  
 8 Q That is what we're here to discuss today,  
 9 right?  
 10 A Actually, we were talking about arrest and  
 11 control. It just happened to be in a casino parking  
 12 lot.  
 13 Q Well, you are critiquing training of  
 14 casino security officers, are you not?  
 15 A Correct, because of the environment and  
 16 the propensity for making arrests.  
 17 Q You think that you are more specialized in  
 18 making arrests than Mr. Sagic --  
 19 A Yes.  
 20 Q -- is that correct?  
 21 MR. BLUT: Object to the form.  
 22 BY MR. SMERBER:  
 23 Q And what do you base that on?  
 24 A The frequency with which Mr. Sagic calls  
 25 me with a question on arrest and control and

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1 A I'm sure he does.  
 2 Q Do you know how many?  
 3 A I have no idea.  
 4 Q Do you know if he has more than you do?  
 5 A I would assume so. He's a lot older than  
 6 I am.  
 7 Q Got more experience than you do; is that  
 8 fair?  
 9 A He's a lot older than I am. Come see me  
 10 in 15 more years and we'll talk about it.  
 11 Q And then you have got media interviews  
 12 listed here. You have got one, two three, four,  
 13 five, six. You've got six media interviews.  
 14 A Correct.  
 15 Q Do you know if Mr. Sagic has any media  
 16 interviews?  
 17 A I would assume that he does.  
 18 Q It's clear to me mr. Sagic is a more  
 19 senior security officer than yourself.  
 20 A He's older than I am.  
 21 Q Do you think he has more experience than  
 22 you do?  
 23 A No.  
 24 Q Okay. You think you have more experience  
 25 than he does?

1 detention.  
 2 Q Do you call him on topics?  
 3 A Generally, but not in the same manner.  
 4 Q What does that mean?  
 5 A I deal more with Al when I'm calling him  
 6 for something as far as maybe an introduction or  
 7 some background. We've talked a lot about billing  
 8 practices.  
 9 Q What do you mean?  
 10 A You know, how he bills for certain  
 11 professional services. So, you know, if I had a use  
 12 of force or arrest question, I would not call Al.  
 13 Q Okay. You said that earlier you said your  
 14 opinions addressing that take place after  
 15 Mr. Sagic's stopped. Is that what you said?  
 16 A Mr. Sagic's report predominantly just says  
 17 that Metro requested them to assist and everything  
 18 is good from there on out.  
 19 Q Do you disagree with anything Mr. Sagic  
 20 said?  
 21 A I think we pretty much stipulated that the  
 22 arrest and their ability to request assistance we  
 23 didn't have any issues with.  
 24 Q Okay. It's what happened after the arrest  
 25 and detention, correct?

12 (Pages 45 to 48)

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1 A Correct.  
 2 Q And as far as what the Palms' involvement  
 3 was after the arrest and detention, you can only  
 4 speculate; is that fair?  
 5 MR. BLUT: Object to the form.  
 6 THE WITNESS: Well, yes, based on what's  
 7 in the video because there is no written  
 8 documentation.  
 9 MR. SMERBER: Okay. That's all the  
 10 questions I have.  
 11 MR. ANDERSON: I'll be quick.  
 12 CROSS-EXAMINATION  
 13 BY MR. ANDERSON:  
 14 Q Mr. Baker, my name is Craig Anderson. I  
 15 represent the cops. I've got the police officers in  
 16 this matter. Have you ever worked as a policeman?  
 17 A No, sir.  
 18 Q Have you ever gone to a police academy?  
 19 A Taught in some, assisted in some, but I've  
 20 never attended them as a police officer.  
 21 Q Have you ever served as an expert against  
 22 a law enforcement agency or police officer before?  
 23 A No.  
 24 Q Have you ever received any specific  
 25 training in the Fourth Amendment?

1 the cuffs, no, I don't have any issues with that.  
 2 Q Okay. At what point did you believe Miss  
 3 Paulos should have been lifted off the ground?  
 4 A Well, just within moments, I'm not sure  
 5 how many seconds, it's less than minutes after the  
 6 officer actually gets the custodial control and gets  
 7 her into handcuffs, the two other units arrive. So  
 8 now you've got four caged units available. That's  
 9 where you then put her in the cage. That's why  
 10 we've got a caged vehicle.  
 11 Q Have you ever gone hands-on with an  
 12 individual during your career?  
 13 A Yes.  
 14 Q When that occurred and you have been  
 15 involved in an altercation similar to Officer Baca,  
 16 do you get tired?  
 17 A Absolutely.  
 18 Q Is it surprising how quickly your body  
 19 loses its oxygen?  
 20 A It's amazing how quickly you lose it.  
 21 Q And so if I understand correctly, correct  
 22 me if I'm wrong, it's your opinion the officers have  
 23 got Miss Paulos to her feet around the time the  
 24 second group of officers arrive?  
 25 A Either that officer or the second group of

1 A Multiple classes or things where it's been  
 2 discussed.  
 3 Q Okay, classes. Have you ever taught the  
 4 Forth Amendment?  
 5 A No, because it really isn't a private  
 6 sector issue as much as it is a public. There's  
 7 some cross-over in certain states, but.  
 8 Q At trial do you intend to render an  
 9 opinion against the individual officers or the Las  
 10 Vegas Metropolitan Police Department?  
 11 A Only what's included in the report about  
 12 the time on the ground.  
 13 Q Okay. And so let's see if we're on the  
 14 same page. You agree that Metro had the right to  
 15 take Miss Paulos into custody?  
 16 A Correct.  
 17 Q Do you have any criticisms of the actual  
 18 taking her to the ground?  
 19 A No.  
 20 Q So your criticisms against the officers  
 21 are for the time spent on the ground?  
 22 A Yes. Some up there it does appear that  
 23 the officer at one time reaches up and holds her  
 24 head to the ground, too, which I do have a little  
 25 issue with. But as far as that, getting her into

1 officers, the back-up officers could have absolutely  
 2 taken her and put her in the vehicle.  
 3 Q Okay. Do you have any criticisms of  
 4 Officer Baca? You understand he's the primary  
 5 officer?  
 6 A Correct.  
 7 Q Do you have any criticisms of his conduct  
 8 prior to the second group of officers arriving  
 9 beyond him touching her head?  
 10 A No.  
 11 Q Okay. Now, you stated in your report that  
 12 you're unsure how long she was on the ground.  
 13 A Correct.  
 14 Q And from the time that she's handcuffed  
 15 until the paramedics, from the time she went down  
 16 until the paragraphs arrived, which is roughly nine  
 17 minutes according to your report.  
 18 A Yes.  
 19 Q I'm reading from the paragraph.  
 20 A I believe it's, I have since found out it  
 21 was like 32 to 36 that she was transported. Right  
 22 in there. 30 some minutes.  
 23 Q All right. Is it your opinion that she  
 24 was on the ground for that entire nine minutes?  
 25 A I do not know.

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1 Q I believe you referred to it as the west  
 2 facing video, the black and white one?  
 3 A Correct.  
 4 Q Did you watch that one?  
 5 A I have.  
 6 Q Did you notice at 3:22:40, or 15:22:40  
 7 Miss Paulos walked over to a grassy area?  
 8 A I can't tell if that was Miss Paulos. I  
 9 see the officers walk over there. I couldn't tell  
 10 if that was her with them or not.  
 11 Q Do you know who else it would be?  
 12 A I couldn't tell how many people it was in  
 13 my copy.  
 14 Q Okay. So we just don't know, or you just  
 15 don't know when she was lifted up and walked over?  
 16 A Correct.  
 17 MR. ANDERSON: Okay. That's all I have,  
 18 sir. Appreciate it.  
 19 CROSS-EXAMINATION  
 20 BY MR. BLUT:  
 21 Q Just while we're sitting here Mr. Smerber  
 22 asked you about speculating what the Palms did after  
 23 the arrest and detention. I think that was the  
 24 word. Does that include this two minutes and 35  
 25 seconds that he was asking you about?

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1 A That was part of the arrest and detention,  
 2 yes.  
 3 Q So what part don't you know what the Palms  
 4 s did?  
 5 A Can you rephrase? Maybe I'm not  
 6 understanding your question.  
 7 Q I'm just wondering, you said you were  
 8 speculating. Does the speculation include any of  
 9 the two minutes and 35 seconds that he asked you  
 10 about?  
 11 A No, I'm sorry. That would be afterwards,  
 12 after the officer stands up. We can see them on the  
 13 video, but I don't know exactly what their  
 14 interaction is. You see them talking to people,  
 15 moving around and gesturing. What exactly they're  
 16 doing, I don't know. So I could guess, speculate,  
 17 say in my past experience they may be, but I can't  
 18 say for certain what their interactions are.  
 19 Q All right. Nothing further.  
 20 RE-CROSS-EXAMINATION  
 21 BY MR. ANDERSON:  
 22 Q One more question. You don't intend to  
 23 render any medical opinions at the time of trial, do  
 24 you?  
 25 A No.

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1 MR. ANDERSON: Okay. That's it.  
 2 MR. SMERBER: Do you want to read and  
 3 sign?  
 4 THE WITNESS: Please.  
 5 (Defendant's Exhibit D marked.)  
 6 (Whereupon, proceedings concluded at 11:15 a.m.)  
 7  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
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1 \*\*\*\*\*  
 2 CERTIFICATE OF DEPONENT  
 3 PAGE LINE CHANGE REASON  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \*\*\*\*\*  
 13 I, STEVEN T. BAKER, deponent herein, do hereby  
 14 certify and declare the within and foregoing  
 15 transcription to be my deposition in said action;  
 16 that I have read, corrected and do hereby affix my  
 17 signature to said deposition.  
 18 \_\_\_\_\_  
 19 STEVEN T. BAKER, Deponent  
 20 STATE OF NEVADA )  
 21 SS:  
 22 COUNTY OF CLARK )  
 23  
 24 Subscribed and sworn to before me this \_\_\_\_\_  
 25 day of \_\_\_\_\_, 2014.  
 \_\_\_\_\_  
 Notary Public

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11 *Attorneys for Plaintiff,*  
12 *CRISTINA PAULOS*

13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15 CRISTINA PAULOS, an individual;

16 Plaintiff

17 v.

18 FCH1, LLC, a Nevada limited liability  
company; LAS VEGAS METROPOLITAN  
19 POLICE DEPARTMENT, a government  
entity; JAKE VON GOLDBERG, an  
individual; JEFFREY B. SWAN, an  
20 individual; JEANNIE HOUSTON, an  
individual; AARON BACA, an individual;  
21 and DOES 1 through 10;

22 Defendants.  
23

CASE NO.: 2:13-cv-01546-JCM-PAL

24 **PLAINTIFF'S OPPOSITION TO DEFENDANT LVMPD'S**

25 **MOTION FOR SUMMARY JUDGMENT**

26 COMES NOW the Plaintiffs, named above, by and through their counsel of record,  
27 Elliott S. Blut, , Esq., Cal J. Potter, III, Esq., C. J. Potter, IV, Esq. and hereby respond and oppose  
28 Defendant LVMPD'S Motion for Summary Judgment. (doc. 33).

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1 This Opposition is made and based upon all of the files and pleadings herein, the Points  
2 and Authorities set forth hereunder, and any oral argument that this Court may entertain at the  
3 hearing of the Motion.

4 DATED this 15th day of December, 2014.

5 POTTER LAW OFFICES  
6 BLUT LAW GROUP

7 By /s/ Cal J. Potter, III, Esq.  
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17 Las Vegas, NV 89101  
18 *Attorneys for Plaintiff*

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I.**

21 **FACTS**

22 **A. INCIDENT AT THE PALMS HOTEL AND CASINO**

23 On August 7, 2011, at approximately 3:30 p.m., Cristina Paulos (“Ms. Paulos” or  
24 “Plaintiff”) was driving to the Palms Casino to go to the pool with her sister and friend. (Exhibit  
25 1 - Deposition of Cristina Paulos p. 143, ln. 4). At that time, Ms. Paulos was involved in a motor  
26 vehicle collision at the entrance of the Palms Casino. (Exhibit 2 - Deposition of Defendant Baca,  
27 p. 23, lns. 19-21). Immediately following the incident Ms. Paulos exhibited strange behavior  
28 including aimlessly wandering around, briefly leaving and returning to the scene, and sitting in  
another person’s vehicle. (doc. 35-5).

Officer Baca expressed that Ms. Paulos was suffering from “excited delirium” and that at  
times, Ms. Paulos would be way up high and then all of a sudden she would shut down and be  
totally quiet and complacent like she didn’t even know what was going on around her. (Exhibit 3  
- Deposition of Officer Swan, p. 18, lns. 3-9). Likewise, Officer Swan observed that Ms. Paulos



1 was crying and then she was happy and then she was screaming and she ran the gamut of all  
2 emotion. (Ex. 3, p. 22, lns. 2-4). Officer Swan testified that Ms. Paulos was having a mental  
3 episode. (Ex. 3, p. 41, lns. 17-19). Ms. Paulos was later diagnosed as being bi-polar and learned  
4 that she was suffering a manic episode at the time of the incident. (Ex. 2, p. 132, lns. 1-5). Ms.  
5 Paulos was not aware of her disability at the time of the incident. (Ex. 1, p. 137, ln. 6).  
6 Additionally, Ms. Paulos blood draw following this incident was negative for the presence of  
7 drugs and alcohol. (Ex. 3, p. 28, lns. 19-22; p. 40, lns. 17-23). ).

8       Officer Baca is the officer who pinned Ms. Paulos on the hot asphalt. (Ex. 2, p. 13, ln.  
9 24). A Palms security officer assisted Officer Baca in pinning Ms. Paulos to the hot asphalt. (Ex.  
10 2, p. 18, lns. 14-19). Prior to Defendant Baca's use of force against Ms. Paulos, the presumed  
11 owner of the vehicle which Ms. Paulos sat in that was not hers, had no problem getting Ms.  
12 Paulos out of his vehicle with a simple gesture. (doc. 35-5, beginning at 15:16:42). Defendant  
13 Baca did not believe Ms. Paulos had not committed any crime at the time she got into and out of  
14 the gentleman's car. (Ex. 2, p. 62, lns. 7-12).

15       Immediately upon exiting that vehicle, Ms. Paulos walked to individual identified as  
16 Defendant Baca. (Id.). Defendant Baca alleges that Ms. Paulos attempts to grab his gun, however  
17 it is not clear on the video that Ms. Paulos attempted to do so. (Id.). Additionally, Officer Swan,  
18 who issued the citation to Ms. Paulos, did not mention anything concerning Ms. Paulos  
19 attempting to grab Baca's weapon. (Ex. 3, p. 34, ln. 1).

20       Defendant Baca then appears to have either shoved or struck Ms. Paulos near the head.  
21 (doc. 35-5, beginning at 15:16:57). Ms. Paulos then staggered away from Baca and turned her  
22 back to him. (doc. 35-5, beginning at 15:16:58). At the time, Defendant Baca grabbed Ms.  
23 Paulos, she had her back to him and her arms at her side. (doc. 35-5, beginning at 15:16:59).  
24 Defendant Baca then grabbed Ms. Paulos and immediately threw her to the ground. (Id). Ms.  
25 Paulos was then on the asphalt from that point in time until, at least, 15:20:16, when the video  
26 ends. A Palms employee is also depicted holding Ms. Paulos against the asphalt. (Id). When Ms.  
27 Paulos was pinned on the hot asphalt she screamed because she was in so much pain. (Ex. 1, p.  
28 79, ln. 9).

1 Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after  
2 she was controlled. (Ex. 2, p. 83 lns. 12-13). Baca conceded he had no concern for placing Ms.  
3 Paulos on the hot asphalt. (Ex. 2, p. 81, lns. 4-13). Despite the fact that Officer Baca deployed  
4 force against Ms. Paulos, his supervisor instructed him not to file a use of force report. (Ex. 2, p.  
5 39, lns. 4-10).

6 Ms. Paulos has limited memory of the events of August 7, 2011. (Ex. 1, p. 76, lns. 3-24).  
7 However, Ms. Paulos explained that she was not resisting Officer Baca. (Ex. 1, p. 48, lns. 12-14).  
8 Moreover, Ms. Paulos explained that she remembers being pushed on the hot pavement really  
9 hard and she remembers the burning sensation on her face and legs and she remembers not being  
10 able to get up. (Ex. 1, p. 76, lns. 3-24).

11 **B. MS. PAULOS' MEDICAL TREATMENT FOR SECOND AND THIRD DEGREE PAVEMENT**  
12 **CONTACT BURNS**

13 Eventually, paramedics were called to the scene. (Ex. 2, p. 40, lns. 7-8). Ms. Paulos was  
14 transported to University Medical Center ("UMC"). At Ms. Paulos intake to UMC on August 7,  
15 2011, she was noted to suffer second-degree burns on the left lateral thigh, left lateral leg and  
16 right medial leg. (Exhibit 4 - Deposition of Andrew Silver, p. 16, lns. 17-23). As a result of being  
17 pinned against the hot asphalt by Defendant Baca and Palms' employee, Ms. Paulos suffered  
18 burns to her left leg, left side and face. (Ex. 1, p. 108, lns. 4-10). After being released from UMC  
19 after several days at the hospital, Ms. Paulos immediately presented to the Lyons Burn Center the  
20 very next day. (Ex. 1, p. 118, lns. 8-9).

21 Dr. Andrew Silver, M.D. is a specialist with the Lyons Burn Care Unit adjacent to  
22 University Medical Center ("UMC") in Las Vegas, Nevada. (Ex. 4, p. 10, lns. 10-20). Dr. Silver  
23 also described the process of "burn conversion" which means that a burn has progressed in depth,  
24 such that an individual who initially has second-degree burns worsen and progress to third degree  
25 burns (Ex. 4, p. 14 ln. 14 through p. 15, ln. 9). Dr Silver further explained that as some burns  
26 continue to progress you don't notice on initial appearance how deep the burn really is. (Ex. 4, p.  
27 15, lns. 12-18). Additionally, a burn that is initially described as "superficial" can progress into  
28 second or third degree burns. (Ex. 4, p. 19, lns. 19-24). Dr. Silver further explained that a

1 second-degree burn is a burn that goes into the deeper layers of the skin called the dermis and it  
2 involves a portion of the dermis. (Ex. 4, p. 13, lns. 19-22). He elaborated that a third-degree burn  
3 is when the burn progresses all the way through the dermis. (Ex. 4, p. 14, lns. 8-10).

4 As a result of her burns, Dr. Silver and his supervisor, Dr. Nathan Ozobia, performed  
5 surgical procedures of debridement and skin grafting upon Ms. Paulos. (Ex. 4, p. 27, lns. 1-3).  
6 Debridement involves removing all of the skin that is no longer alive and skin grafting involves  
7 taking skin from another portion of the body and placing it over the wound that has been created  
8 by the debridement. (Ex. 4, p. 27, lns. 6-11).

9 Dr. Silver testified, unequivocally, that he treated Ms. Paulos for second and third degree  
10 “pavement contact burns.” (Ex. 4, p. 36, lns. 1-6). Dr. Silver found no evidence of chemical  
11 burns. (Ex. 4, p. 36, 9-12). Dr. Silver explained that when the ambient temperature is 100  
12 degrees or higher, an individual can suffer a second degree burn in as little as 30 seconds. (Ex 4,  
13 p. 39, lns. 9-13).

14 **C. LVMPD’S KNOWLEDGE OF THE DANGER OF HOT ASPHALT AND LACK OF TRAINING**  
15 **CONCERNING THAT DANGER**

16 LVMPD had actual notice of the danger of burns caused by hot asphalt, as early as 2001,  
17 because LVMPD had been sued as a result of an incident where an individual suffered burns to  
18 her forearms after she was placed on hot asphalt. *See, Hughes v. LVMPD*, District of Nevada  
19 case number 01-0176-LRH-RJJ.

20 Additionally, the renowned burn center at Maricopa Medical Center, in Phoenix, Arizona,  
21 published a study, in 1995, which found that during the summer months it is hot enough to cause  
22 second-degree burns within 35 seconds from 10 a.m. to 5 p.m. (Exhibit 5 - “Pavement  
23 Temperature and Burns: Streets of Fire”). The Maricopa Burn Center concluded “During summer  
24 days in the desert, pavement is often hot enough to cause burns and does so with regularity in the  
25 southwestern United States. (Id. at p. 1). No one should be allowed to remain in contact with hot  
26 pavement, even transiently. (Id.).

27 Despite the certainty of the danger associated with placing individuals on hot asphalt,  
28 LVMPD never specifically trained Officers concerning the danger of asphalt burns, rather it was

1 merely advised to be aware. (Exhibit 6 - Deposition of Von Goldberg, p. 11, ln. 25). Moreover,  
2 Defendant officers whom were present at the scene in this case were not aware of any written  
3 policy concerning the danger of pinning individuals on asphalt. (Ex. 6, p. 12, ln. 6). Similarly,  
4 Defendant Baca was never trained concerning the dangers of pinning individuals on hot asphalt  
5 during the summer in Las Vegas, rather it was merely mentioned during briefings. (Ex. 2, p. 51,  
6 lns. 18-25). Defendant Baca also did not recall any training during the LVMPD Police Academy  
7 concerning putting people down on the asphalt during summer months. (Ex. 2, p. 53, lns. 20-25).  
8 Defendant Baca not disciplined as a result of this incident. (Ex. 2, p. 77, lns. 9-11).

9 **D. TESTIMONY OF PLAINTIFF’S POLICE PRACTICES EXPERT**

10 Lastly, Plaintiff’s police practices expert concluded that Ms. Paulos was a victim of  
11 unreasonable force. (Exhibit 7 - Report of D. P. Van Blaricom ¶ 12). Mr. Van Blaricom  
12 explained that regardless of whether probable cause existed to detain or arrest the plaintiff, it was  
13 absolutely unconscionable for any police officer to leave a secured person in a position of direct  
14 contact with a surface so hot as to cause the extreme burns suffered by Ms. Paulos. (Ex. 7, at ¶  
15 12(c)). Furthermore, Defendant Baca demonstrated deliberate indifference to the probable  
16 consequence of such an obvious disdain for human suffering which clearly amounts to an  
17 objectively unreasonable use of excessive force, especially after plaintiff was clearly secured and  
18 under complete police control. (Ex. 7, at ¶ 12(d)).

19 **E. UNCONTESTED FACTS**

20 With regard to Defendant LVMPD’s “undisputed facts,” Plaintiff disputes: purported fact  
21 “5” that she tried to “steal” Brain Larson’s vehicle. The surveillance video merely shows Plaintiff  
22 briefly sitting in the vehicle. Plaintiff never attempts to leave in the vehicle and Baca testified  
23 that at the point in time that Plaintiff exited Larson’s vehicle, Plaintiff had not committed any  
24 crime. (Ex. 2, p. 62, lns. 7-12). Consequently, it is disingenuous for Defendants to argue that  
25 Plaintiff attempted to “steal” the vehicle.

26 Plaintiff disputes purported fact “9” that she reached towards Baca’s gun, it is not clear  
27 on the video that Ms. Paulos attempts to do so. (doc. 35-5.). Additionally, Officer Swan, who  
28 . . .

1 issued a citation to Ms. Paulos, did not mention anything concerning Ms. Paulos attempting to  
2 grab Baca’s weapon. (Ex. 3, p. 34, ln. 1). This is a question of fact for a jury to determine.

3 Plaintiff disputes purported fact 13, that she resisted Baca’s attempts to handcuff her. Ms.  
4 Paulos explained that she was not resisting Officer Baca. (Ex. 1, p. 48, lns. 12-14). This is a  
5 question of fact for a jury to determine.

6 Plaintiff disputes the characterization that she “never told anyone at the scene she was  
7 injured or burned,” In actuality, Plaintiff testified as follows:

8 Q. Do you remember ever telling anybody that you were burning as  
9 you were sitting on the ground?

10 A. I just remember screaming.

11 Q. Okay. So screaming, but you’re not telling anybody that you  
12 were injured , you weren’t telling anybody that you were burning,  
13 you were just screaming correct?

14 A. Yeah, because it hurt so much.”

(Ex. 1, p. 79, lns. 2-9).

15 Additionally, Plaintiff was transported by ambulance from The Palms to UMC and was treated at  
16 the Burn Center adjacent to UMC.

17 With regard to facts 24 and 25 Steven Baker is Plaintiff’s security expert, not a police  
18 practices expert. D. P. Van Blaricom, is Plaintiff’s police practices expert, and Mr. Van Blaricom  
19 testified unequivocally, that Ms. Paulos was a victim of unreasonable force. (Ex. 7, at ¶ 12). Mr.  
20 Van Blaricom explained that regardless of whether probable cause existed to detain or arrest the  
21 plaintiff, it was absolutely unconscionable for any police offer to leave a secured person in a  
22 position of direct contact with a surface so hot as to cause the extreme burns suffered by Ms.  
23 Paulos. (Ex. 7, at ¶ 12(c)). Furthermore, Defendant Baca demonstrated deliberate indifference to  
24 the probable consequence of such an obvious disdain for human suffering which clearly amounts  
25 to an objectively unreasonable use of excessive force, especially after plaintiff was clearly  
26 secured and under complete police control. (Ex. 7, at ¶ 12(d)).

27 ...

28 ...

1           1.       Plaintiff's uncontested facts

2       •       LVMPD is a municipality in Clark County, Nevada, that employs Officers Baca, Von  
3       Goldberg and Swan. All three officers were acting in the course and scope of their  
4       employment on August 7, 2011. (doc. 33, p. 11, lns. 4-6).

5       •       Officer Swan observed that Ms. Paulos was crying and then she was happy and then she  
6       was screaming and she ran the gamut of all emotion. (Ex. 3, p. 22, lns. 2-4).

7       •       Officer Swan testified that Ms. Paulos was having a mental episode. (Ex. 3, p. 41, lns.  
8       17-19). Ms. Paulos was later diagnosed as being bi-polar and learned that she was  
9       suffering a manic episode at the time of the incident. (Ex. 1, p. 132, lns. 1-5).

10      •       Ms. Paulos was not aware of her disability at the time of the incident. (Ex. 1, p. 137, ln.  
11      6).

12      •       Ms. Paulos blood draw following this incident was negative for the presence of drugs and  
13      alcohol. (Ex. 3, p. 28, lns. 19-22; p. 40, lns. 17-23). ).

14      •       Officer Baca is the officer who pinned Ms. Paulos on the hot asphalt. (Ex. 2, p. 13, ln.  
15      24).

16      •       A Palms security officer assisted Officer Baca in pinning Ms. Paulos to the hot asphalt.  
17      (Ex. 2, p. 18, lns. 14-19).

18      •       Defendant Baca did not believe Ms. Paulos had not committed any crime at the time she  
19      got into and out of the gentleman's car. (Ex. 2, p. 62, lns. 7-12).

20      •       Officer Swan, who issued the citation to Ms. Paulos, did not mention anything concerning  
21      Ms. Paulos attempting to grab Baca's weapon. (Ex. 3, p. 34, ln. 1).

22      •       Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after  
23      she was controlled. (Ex. 2, p. 83 lns. 12-13).

24      •       Baca conceded he had no concern for placing Ms. Paulos on the hot asphalt. (Ex. 2, p. 81,  
25      lns. 4-13).

26      •       Despite the fact that Officer Baca deployed force against Ms. Paulos, his supervisor  
27      instructed him not to file a use of force report. (Ex. 2, p. 39, lns. 4-10).

28      •       Paramedics were called to the scene. (Ex. 2, p. 40, lns. 7-8).

- 1 • As a result of her burns, Dr. Silver and his supervisor, Dr. Nathan Ozobia, performed  
2 surgical procedures of debridement and skin grafting upon Ms. Paulos. (Ex. 4, p. 27, Ins.  
3 1-3).
- 4 • Dr. Silver testified, unequivocally, that he treated Ms. Paulos for second and third degree  
5 “pavement contact burns.” (Ex. 4, p. 36, Ins. 1-6).
- 6 • Dr. Silver found no evidence of chemical burns. (Ex. 4, p. 36, 9-12).
- 7 • LVMPD was sued in 2001 as a result of an incident where an individual suffered burns to  
8 her forearms after she was placed on hot asphalt. *See, Hughes v. LVMPD*, District of  
9 Nevada case number 01-0176-LRH-RJJ.
- 10 • LVMPD never specifically trained Officers concerning the danger of asphalt burns, rather  
11 it was merely mentioned during briefings during the summer time. (Ex. 6, p. 11, ln. 25;  
12 Ex. 2, p. 53, Ins. 20-25).
- 13 • Defendant Baca not disciplined as a result of this incident. (Ex. 2, p. 77, Ins. 9-11).

## 14 II.

### 15 ARGUMENT

#### 16 A. STANDARD FOR MOTIONS FOR SUMMARY JUDGMENT

17 Summary judgment is appropriate only if all available facts show that there is no genuine  
18 issue of material fact and that the moving party is entitled to a judgment as a matter of law.  
19 Fed.R.Civ.P. 56. A genuine issue of fact exists if the evidence is such that a reasonable jury  
20 could resolve the issue in either parties favor and "an issue is material if it is essential to the  
21 proper disposition of the claim." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574  
22 (1986). The Court must examine all of the evidence, and all reasonable inferences, in the light  
23 most favorable to the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255,  
24 106 S. Ct. 2505, 2513 (1986).

25 If any genuine issue of material fact appears to the trial court, it is not the function of the  
26 trial court to weigh evidence on that issue. Even if the weight or believability of the evidence is  
27 clearly in favor of one party, the other party is entitled to a trial by jury to determine the facts.  
28 *See, Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 106 S. Ct. 2505 (1986). The decision to



1 grant summary judgment will be reviewed *de novo* on appeal. Oliver v. Keller, 28 F.2d 623, 266  
2 (9th Cir. 2002).

3 **B. CASES INVOLVING CIVIL RIGHTS VIOLATIONS ARE OFTEN INAPPROPRIATE FOR**  
4 **SUMMARY JUDGMENT BECAUSE SUCH CASES INVOLVE QUESTIONS OF FACT FOR A**  
5 **JURY TO DETERMINE**

6 Cases based on violations of constitutional rights are often inappropriate for summary  
7 judgment. Wright, Miller and Kane, *Federal Practice and Procedure Civil*, 3d § 2732.2, at 152  
8 (1998). This is because police misconduct cases almost always turn on a jury's credibility  
9 determinations. Drummond v. City of Anaheim, 343 F.3d 1052, 1056 (9th Cir. 2003). "Further,  
10 the very nature of the claims involved often presents factual issues that require summary  
11 judgment to be denied." Id. "Credibility determinations, the weighing of evidence and the  
12 drawing of legitimate inferences from the facts are jury functions, not those of a judge . . . the  
13 evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in her  
14 favor." See Anderson, supra, 477 U.S. at 255, 106 S. Ct. at 513.

15 **C. DEFENDANTS' MOTION FAILS TO DEMONSTRATE THAT DEFENDANTS ARE ENTITLED TO**  
16 **JUDGMENT AS A MATTER OF LAW**

17 Defendants argument begs the question of whether Defendant Baca's use of force was  
18 reasonable? Consequently, Defendants are not entitled to summary judgment because the  
19 question of whether Defendant Baca deployed excessive force upon Ms. Paulos is a genuine  
20 issue of material fact for a jury to determine.

21 State officials, sued in their individual capacities, are "persons" within the meaning of  
22 section 1983 and may be held personally liable for damages under 42 U.S.C. § 1983 based on  
23 actions taken in their official capacities. Hafer v. Melo, 502 U.S. 21, 112 S. Ct. 358, 116 L. Ed.  
24 2d 301 (1991). "To sustain an action under section 1983, a plaintiff must show (1) that the  
25 conduct complained of was committed by a person acting under color of state law; and (2) that  
26 the conduct deprived the plaintiff of a federal constitutional or statutory right." Wood v.  
27 Ostrander, 879 F.2d 583, 587 (9th Cir. 1989).

28 . . .

1 A person deprives another "of a constitutional right, within the meaning of § 1983 if he  
2 does an affirmative act, participates in another's affirmative acts, or omits to perform an act  
3 which he is legally required to do that causes the deprivation of which the plaintiff complains  
4 (emphasis added). Leer v. Murphy, 844 F.2d 628,633 (9th Cir. 1988) (*quoting Johnson v. Duffy*,  
5 588 F.2d 740, 743 (9th Cir. 1978).

6 Direct participation in commission of a constitutional deprivation is not the sole predicate  
7 for liability under § 1983. Anyone who "causes" any citizen to be subjected to a constitutional  
8 deprivation is also liable. The requisite causal connection can be established not only by some  
9 kind of direct personal participation in the deprivation, but also by setting in motion a series of  
10 acts by others which the actor knows or reasonably should know would cause others to inflict the  
11 constitutional injury. Johnson, 588 F. 2d at 743-44 (emphasis added). Additionally, officers who  
12 idly standby and fail to prevent fellow officers from using excessive force are also liable to the  
13 plaintiff. U.S. v. Koon, 34 F.3d 1416, 1447 n. 25 (9th Cir. 1994)(judgment aff'd in part, rev'd in  
14 part on other grounds, 518 U.S 81, 116 S.Ct. 2038 (1996).

15 To determine whether the force used by the officers was excessive under the Fourth  
16 Amendment, we must assess whether it was objectively reasonable "in light of the facts and  
17 circumstances confronting [the officers], without regard to their underlying intent or motivation."  
18 Graham v. Connor, 490 U.S. 386, 397, 109 S.Ct. 1865 (1989). "Determining whether the force  
19 used to effect a particular seizure is 'reasonable' under the Fourth Amendment requires a careful  
20 balancing of the nature and quality of the intrusion on the individual's Fourth Amendment  
21 interests against the countervailing governmental interests at stake." *Id.* at 396, 109 S.Ct. 1865  
22 (internal quotation marks omitted). In this analysis, we must consider the following factors: (1)  
23 the severity of the crime at issue; (2) whether [plaintiff] posed an immediate threat to the safety  
24 of the officers or others; and (3) whether [plaintiff] actively resisted arrest. *See Arpin v. Santa*  
25 Clara Valley Transp. Agency, 261 F.3d 912, 921 (9th Cir.2001). A simple statement by an officer  
26 that he fears for his safety is not enough to justify the use of force. There must be objective  
27 factors justifying such a concern. Deorle v. Rutherford, 272 F.3d 1272 (9th Cir. 2001).

28 . . .

1 In the case at hand, Defendant Baca conceded that even at the point in time that Ms.  
2 Paulos had sat in a vehicle belonging to someone else, she had not committed a crime. (Ex. 2, p.  
3 62, Ins. 7-12). Additionally, it is disputed whether Plaintiff attempted to grab Baca's weapon. In  
4 fact, Officer Swan, who issued the citation to Ms. Paulos, did not mention anything concerning  
5 Ms. Paulos attempting to grab Baca's weapon. (Ex. 3, p. 34, ln. 1). Consequently, Defendants  
6 arguments that Plaintiff was attempting to "steal" a car and grab Baca's gun are attempts to make  
7 it appear that Ms. Paulos had committed a sever crime and posed a threat to the officer's safety.

8 With regard to Baca's testimony that Ms. Paulos attempted to grab his weapon, "[t]he  
9 court may not simply accept what may be a self-serving account by the police officer. It must also  
10 look at the circumstantial evidence that, if believed, would tend to discredit the police officer's  
11 story, and consider whether this evidence could convince a rational fact-finder that the officer  
12 acted unreasonably" Scott v. Henrich 39 F.3d 912, 915 (9th Cir. 1994). The Court must look at  
13 the circumstantial evidence that if believed tend to discredit the police officer's story and  
14 consider whether this evidence could convince a rational fact finder that the officer acted  
15 unreasonably. Gregory v. County of Maui, 523 F.3d 1103 (9th Cir. 2008). A simple statement by  
16 an officer that he fears for his safety is not enough to justify the use of force, there must be  
17 objective factors to justify the use of force. Deorle v. Rutherford, 272 F.3d 1272 (9th Cir. 2001).  
18 Here, a reasonable juror could conclude that Baca used force because he had perceived that  
19 Paulos disrespected his authority as a police officer when she turned her back to him and walked  
20 away

21 Moreover, Ms. Paulos was suffering from a manic episode. Whether an individual is  
22 emotionally disturbed is a factor to consider in the reasonableness of the use of force. Deorle v.  
23 Rutherford, 272 F.3d 1272 (9th Cir. 2001). Even if an emotionally disturbed person is acting out  
24 and inviting others to use force to subdue him, the governmental interest is diminished by the fact  
25 that the officers are confronted with an individual, not who has committed a serious crime, but  
26 with a mentally ill individual. Id. Here, Officer Baca expressed that Ms. Paulos was suffering  
27 from "excited delirium" and that at times, Ms. Paulos would be way up high and then all of a  
28 sudden she would shut down and be totally quiet and complacent like she didn't even know what

1 was going on around her. (Ex. 3, p. 18, Ins. 3-9). Likewise, Officer Swan observed that Ms.  
2 Paulos was crying and then she was happy and then she was screaming and she ran the gamut of  
3 all emotion. (Ex. 3, p. 22, Ins. 2-4). Officer Swan testified that Ms. Paulos was having a mental  
4 episode. (Ex. 3, p. 41, Ins. 17-19).

5 Even if an officer has probable cause to effectuate an arrest, use of force while effectuating  
6 the arrest can be excessive. Blandenhorn v. City of Orange, 485 F.3d 463 (9th Cir. 2007). **Most**  
7 **importantly, for purposes of the reasonableness of Baca's use of force, is the fact that**  
8 **Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after**  
9 **she was controlled.** (Ex. 2, p. 83 Ins. 12-13). Additionally, Ms. Paulos explained that she was  
10 not resisting Officer Baca. (Ex. 1, p. 48, Ins. 12-14). Plaintiff's police practices expert explained  
11 that regardless of whether probable cause existed to detain or arrest the plaintiff, it was absolutely  
12 unconscionable for any police officer to leave a secured person in a position of direct contact with  
13 a surface so hot as to cause the extreme burns suffered by Ms. Paulos. (Ex. 7, at ¶ 12(c)).

14 Furthermore, Mr. Van Blaricom testified that Defendant Baca demonstrated deliberate  
15 indifference to the probable consequence of such an obvious disdain for human suffering which  
16 clearly amounts to an objectively unreasonable use of excessive force, especially after plaintiff  
17 was clearly secured and under complete police control. (Ex. 7, at ¶ 12(d)). Lastly, the individual  
18 whose car Ms. Paulos sat in, had no problem getting Ms. Paulos out of his vehicle with a simple  
19 gesture and was not required to use any force to get Ms. Paulos to comply with his request. (doc.  
20 35-5, beginning at 15:16:42). Consequently, a jury should be permitted to determine whether  
21 pinning Ms. Paulos to hot asphalt, even after she was under Baca's control, was excessive under  
22 the totality of the circumstances, because reasonableness of force is normally a question for the  
23 jury. *See, Herrera v. LVMPD*, 298 F.Supp 2d 1043 (D. Nev. 2004).

24 Similarly, with regard to Defendants Swan and Von Goldberg, officers who idly stand by  
25 and fail to prevent fellow officers from using excessive force are also liable to the plaintiff. U.S.  
26 v. Koon, 34 F.3d 1416, 1447 n. 25 (9th Cir. 1994)(judgment aff'd in part, rev'd in part on other  
27 grounds, 518 U.S 81, 116 S.Ct. 2038 (1996). In this case, when Ms. Paulos was pinned on the  
28 hot asphalt she screamed because she was in so much pain. (Ex. 1, p. 79, ln. 9). Despite her

1 screams, Defendants Swan and Von Goldberg, chose not to intervene. Consequently, a  
2 reasonable juror could determine that Defendants Swan and Von Goldberg are liable to Ms.  
3 Paulos for choosing to allow Defendant Baca to pin Ms. Paulos on the hot asphalt, even after she  
4 was under police control.

5 **D. DEFENDANTS ARE NOT ENTITLED TO QUALIFIED IMMUNITY**

6 Qualified Immunity is an affirmative defense, therefore the Defendant's bear the burden  
7 of proof. Saucier v. Katz, 533 U.S. 194 (2001). In evaluating the issue of qualified immunity, the  
8 court follows a two-part test: (1) whether the facts alleged "show [that] the officer[s] conduct  
9 violated a constitutional right"; and (2) whether the constitutional right in question was "clearly  
10 established" such that "it would be clear to a reasonable officer that his conduct was unlawful in  
11 the situation he confronted." Saucier v. Katz, 533 U.S. 194, 201-02, 121 S. Ct. 2151, 150 L. Ed.  
12 2d 272 (2001); See also modifications to Saucier following Pearson v. Callahan, 555 U.S. 223,  
13 129 S.Ct. 808, 821, 172 L. Ed. 2d 565 (2009).

14 The test for qualified immunity is objective. The defendant's actual purpose or state of  
15 mind is not material. Whether rights were "clearly established" at the relevant time is determined  
16 in most instances by looking at controlling published court decisions as of that time. See, United  
17 States v. Lanier, 520 U.S.259, 269-71 (1997). It is not necessary, however, for the plaintiff to  
18 show a published decision establishing the rights in question under precisely the same  
19 circumstances as those presented in the case in question. See, Anderson v. Romero, 72 F.3d 518,  
20 526-27 (7th Cir.1995); Buonocore v. Harris, 65 F.3d 347, 356-57 (4th Cir.1995); cf. Key v.  
21 Grayson, 179 F.3d 996, 999-1000 (6th Cir.1999). To rule that until the Supreme Court has  
22 spoken, no right of litigants in this circuit can be deemed established before we have decided the  
23 issue would discourage anyone from being the first to bring a damages suit in this court; he  
24 would be certain to be unable to obtain any damages. Burgess v. Lowery, 201 F.3d 942, 85  
25 A.L.R.5th 719 (7th Cir. 2000) (affirming denial of summary judgment based on qualified  
26 immunity).

27 Officers have no "discretion" to violate the Constitutional rights of citizens. See Owen v.  
28 City of Independence, Mo., 445 U.S. 622, 100 S.Ct.1398 (1980). A Defendant is only entitled to

1 qualified immunity if the Defendant did not violate "clearly established rights" at the time of the  
2 conduct in question. Harlow v. Fitzgerald, 457 U.S. 800, 817-818, 102 S.Ct. 2727 (1982). See  
3 Mattos v. Agarano, 661 F.3d 433 (9th Cir. 2011)(holding that the law must be well settled).

4 Additionally, the right to be free from excessive force was clearly established at the time  
5 of Ms. Paulos' arrest. Graham v. Connor, 490 U.S. 386 (1989). Similarly, numerous other courts  
6 have also determined that causing an individual to suffer the effects of harsh environmental  
7 conditions can constitute excessive force.

8 Specifically, another court in this district had found, prior to this incident, that dragging  
9 an individual so that the person's knees were in contact with hot asphalt can violate the Fourth  
10 Amendment. Burnett v. Bottoms, 368 F. Supp. 2d 1033, 1041 (D. Ariz. 2005) (Finding that a  
11 plaintiff stated a claim for excessive force when she alleged that after she was handcuffed  
12 officers "dragged Plaintiff on her knees across the asphalt pavement to the police car").  
13 Moreover, an arrestee's claim of excessive force does not "necessarily require allegations of  
14 assault, but rather can consist of the physical structure and conditions of the place of detention."  
15 Burchett v. Kiefer, 310 F.3d 937, 946 (6th Cir. 2002) (holding that a detainee's unnecessary  
16 detention in extreme temperatures violated the Fourth Amendment). *See also*, Robinson v.  
17 Solano County, 278 F.3d 1007, 1014-1015 (9th Cir. 2002) (en banc) (holding that pointing a gun  
18 at someone may constitute excessive force). In this regard, "subjecting a prisoner to special  
19 confinement that causes him to suffer increased effects of environmental conditions . . . can  
20 constitute excessive force." Danley v. Allen, 540 F.3d 1298, 1308 (11th Cir. 2008), *overruled in*  
21 *part on other grounds*, Randall v. Scott, 610 F.3d 701 (11th Cir. 2010). *See also* Hope v. Pelzer,  
22 536 U.S. 730, 738, 122 S. Ct. 2508 (2002) (holding that handcuffing inmate to hitching post, and  
23 thus causing "unnecessary exposure to the heat of the sun," violated clearly established rights);  
24 Cornwell v. Dahlberg, 963 F.2d 912, 915 (6th Cir. 1992) (rejecting Fourth Amendment excessive  
25 force claim on the grounds that a convicted prisoner could bring only an Eighth Amendment  
26 excessive force claim, but recognizing that "detention on the cold, muddy ground" could  
27 constitute claim of excessive force).

28 . . .

1 Most instructive for this case, is Howard v. Kansas City Police Dept., 570 F.3d 984,  
2 989-90 (8th Cir. 2009) (holding that forcing shooting victim to lay on hot asphalt for seven to  
3 eight minutes resulting in second-degree burns constituted excessive force). Defendant attempts  
4 to distinguish the Howard case from the case at hand by arguing that the individual in Howard  
5 was not a suspect whereas Ms. Paulos was a suspect. (doc. 33, p. 25, lns. 6-10). However,  
6 Defendants argument is flawed because regardless of whether an individual is suspected of  
7 criminal activity, the Fourth Amendment prohibits the use of excessive force. Graham v. Connor,  
8 490 U.S. 386 (1989). Additionally, Defendants arguments that Ms. Paulos had committed a  
9 crime, did not complain of pain, and attempted to flee and resist arrest fail to view the evidence  
10 in the light most favorable to Ms. Paulos. (doc. 33, p. 25, lns. 6-10).

11 Viewing the facts in the light most favorable to Ms. Paulos, there are genuine issues of  
12 material fact concerning whether Ms. Paulos had committed any crime at the time Baca used  
13 force considering Baca's testimony that did not believe Ms. Paulos had not committed any crime  
14 at the time she got into and out of the gentleman's car. (Ex. 2, p. 62, lns. 7-12). Additionally,  
15 factual questions exist whether Ms. Paulos screaming in pain constituted a complaint of pain.  
16 Lastly, Ms. Paulos returned to the scene and testified that she did not resist Defendant Baca. (Ex.  
17 1, p. 48, lns. 12-14). Therefore, contrary to the LVMPD's argument, Howard v. Kansas City is  
18 instructive with regard to the Court's qualified immunity analysis due to the factual similarities  
19 with this case.

20 \_\_\_\_\_ In Howard, Officers were initially justified in drawing their weapons and forcing Howard  
21 to the ground upon arriving at the scene. Howard v. Kan. City Police Dep't, 570 F.3d 984, 989-  
22 991 (8th Cir. 2009). The Officers were aware there was a shooting and a high-speed car chase,  
23 and, even though Howard approached them trying to get their assistance, it was necessary for the  
24 Officers to ensure their safety until they could ascertain Howard's role in the incident and  
25 determine whether he was armed. Id. However, it was the Officers' actions after forcing Howard  
26 to the ground, that were objectively unreasonable. Howard v. Kan. City Police Dep't, 570 F.3d  
27 984, 989-991 (8th Cir. 2009).

28 ...



1 “While the Officers initially acted reasonably in administering first  
 2 aid, Howard soon thereafter began complaining that the asphalt  
 3 was burning his exposed skin. Howard asked to await an  
 4 ambulance while leaning on a police cruiser or while lying on a  
 5 nearby patch of grass; the Officers denied both requests. In spite of  
 6 Howard's constant complaints, it took the Officers four to six  
 7 minutes before they responded and ordered someone to retrieve a  
 8 blanket, which they then placed underneath him. Moreover, not  
 9 only did the Officers fail to act in response to Howard's complaints,  
 10 they affirmatively resisted his attempts to move his exposed skin  
 11 off the asphalt. The Officers were aware of the damage the asphalt  
 12 was inflicting on Howard when he began to complain and move to  
 13 free himself, and, instead of remedying the situation with  
 reasonable dispatch, the Officers did nothing while Howard's  
 injuries worsened. As a result, Howard received severe  
 second-degree burns. Given Howard's persistent, specific  
 complaints about the exposure of his exposed skin to hot asphalt  
 on a day when the temperature exceeded 100 degrees, a reasonable  
 officer should have recognized the danger to Howard and  
 responded appropriately. Instead, Officers Bronner and Sartain did  
 nothing for four to six minutes except pin Howard's arms and legs  
 to the ground in spite of his attempts to move his exposed skin off  
 the asphalt. On this version of the facts, we conclude the Officers'  
 actions were not objectively reasonable.” Howard v. Kan. City  
 Police Dep't, 570 F.3d 984, 989-991 (8th Cir. 2009).

14 The Howard court concluded that “the Officers used excessive force in seizing Howard  
 15 because they acted unreasonably in responding to the dangers posed by hot asphalt. . . . a  
 16 reasonable official would understand that such conduct constitutes excessive force.” Howard v.  
 17 Kan. City Police Dep't, 570 F.3d 984, 989-991 (8th Cir. 2009). Consequently, it was clearly  
 18 established, at the time of Ms. Paulos’ incident, that causing an individual to suffer the effects of  
 19 harsh environmental conditions can constitute excessive force. Additionally, the right to be free  
 20 from excessive force was also clearly established at the time of this incident. Therefore,  
 21 Defendants are not entitled to qualified immunity and a jury should be allowed to determine  
 22 whether Defendant Baca’s pinning Ms. Paulos on hot asphalt, after she was under complete  
 23 control and while she screamed in pain constituted excessive force under the circumstances.

24 **E. LVMPD IS LIABLE FOR DEFENDANT’S UNCONSTITUTIONAL MISCONDUCT**

25 A plaintiff can establish municipal liability under 42 U.S.C. § 1983 in one of three ways.  
 26 Gillette v. Delmore, 979 F.2d 1342, 1346 (9th Cir. 1992). “First, the plaintiff may prove that a  
 27 city employee committed the alleged constitutional violation pursuant to a formal government  
 28 policy or a longstanding practice or custom which constitutes the standard operating procedure of

1 the local governmental entity.” Id. “Second, the plaintiff may establish that the individual who  
2 committed the constitutional tort was an official with ‘final policy-making authority’ and that the  
3 challenge action itself thus constituted an act of official governmental policy.” Id. (citing  
4 Pembaur v. City of Cincinnati, 475 U.S. 469, 480-81 (1986)). “Third, the plaintiff may prove that  
5 an official with final policy-making authority ratified a subordinate’s unconstitutional decision or  
6 action and the basis for it. Id. at 1346-47 (citing City of St. Louis v. Praprotnik, 485 U.S. 112,  
7 127 (1988))

8 1. Policy or Custom

9 A local government entity may be held liable pursuant to 42 U.S.C. § 1983 where the  
10 alleged constitutional tort was inflicted in the execution of the entity’s (1) policy or (2) custom.  
11 Monell v. Dept. of Social Services, 436 U.S. 658, 690-91, 98 S.Ct. 2018, 2035-36 (1978).

12 In the case at hand, LVMPD has a *de facto* policy to not train its officers of the danger of  
13 placing individuals on hot asphalt during the summer in the desert. (Ex. 2, p. 51, Ins. 18-25; Ex.  
14 6, p. 11, ln. 25). Moreover, LVMPD had actual notice of the danger of burns caused by hot  
15 asphalt, as early as 2001, because LVMPD had been sued as a result of an incident where an  
16 individual suffered burns to her forearms after she was placed on hot asphalt. *See, Hughes v.*  
17 LVMPD, District of Nevada case number 01-0176-LRH-RJJ.

18 Additionally, the renowned burn center at Maricopa Medical Center, in Phoenix, Arizona,  
19 published a study, in 1995, which found that during the summer months it is hot enough to cause  
20 second-degree burns within 35 seconds from 10 a.m. to 5 p.m. (Ex. 5 - “Pavement Temperature  
21 and Burns: Streets of Fire”). The Maricopa Burn Center concluded “During summer days in the  
22 desert, pavement is often hot enough to cause burns and does so with regularity in the  
23 southwestern United States. (Id. at p. 1). No one should be allowed to remain in contact with hot  
24 pavement, even transiently. (Id.). Consequently, there is a factual question concerning LVMPD’s  
25 unconstitutional policy to choose not to train it’s officers concerning the certain danger of placing  
26 individuals on hot asphalt during the summer in the desert. Therefore, Defendant LVMPD is not  
27 entitled to summary judgment on Plaintiff’s Monell claim.

28 . . .

1           2.     Ratification

2           A single decision by a municipal official that ratifies unconstitutional conduct may be  
3 sufficient to trigger section 1983 liability if that official has “final policymaking authority.”  
4 Pembaur, 475 U.S. at 481/83; Gillette, 979 F.2d at 1347.

5           The Ninth Circuit distinguishes between affirmative or deliberate conduct by a  
6 policymaker, which constitutes ratification, and mere acquiescence, which is insufficient to  
7 establish municipal liability by ratification. See Gillette. In Fuller v. City of Oakland, 47 F.3d  
8 1522, 1534 (9th Cir. 1995), the court found section 1983 municipal liability where a police chief  
9 ratified an unconstitutional investigation by expressly “approv[ing] both of the propriety of the  
10 investigation and the reports conclusions.” See Christie, 176 F.3d at 1240 (finding municipal  
11 liability via ratification where prosecutor “affirmatively approved” of alleged constitutional  
12 violations).

13           In the case at hand, Defendant Baca not disciplined as a result of this incident. (Ex. 2, p.  
14 77, Ins. 9-11). Consequently, Defendant LVMPD is not entitled to summary judgment on  
15 Plaintiff’s Monell claim because LVMPD has ratified Defendant Baca’s unconstitutional conduct  
16 by choosing not to discipline Defendant Baca after he caused Ms. Paulos to suffer second and  
17 third degree pavement contact burns.

18     **F.     LVMPD WAS NEGLIGENT AND CAUSED PLAINTIFF’S INJURIES**

19           In order to prevail on a negligence theory a plaintiff must demonstrate that (1) the  
20 defendant owed the plaintiff a duty of care, (2) the defendant breached that duty, (3) the breach  
21 was the legal cause of the plaintiff’s injuries, and (4) the plaintiff suffered damages. Dauber v. Sr.  
22 Bridges of Sparks Fam. Hosp., 282p.3d727, 732 (2012). Summary judgment should be  
23 considered with caution in a negligence case; summary judgment may not be entered, unless one  
24 of the prima facie elements is “clearly lacking as a matter of law.” DOD v. Las Vegas Hilton  
25 Corp., 109 Nev. 1096, 864 P.2d 796 (1993). In negligence actions, courts are generally reluctant  
26 to grant summary judgment. Van Cleave v. Kietz-Mill Minit Mart, 97 Nev. 414, 633 P.2d 1220  
27 (1991). Courts are reluctant to grant summary judgment in negligence cases because there may  
28 be factual disputes as to duty, breach, actual causation, legal causation, and damages.

1 The issues of proximate cause and reasonableness usually present questions of fact for the  
2 jury. Harrington v. Syufy Enters., 113 Nev. 246, 931 P.2d 1378 (1997); Riley v. Opp IX, L.P.,  
3 112 Nev. 826, 919 P.2d 1071 (1996); Sims v. Gen Tel. & Elecs., 107 Nev. 516, 815 P.2d 151  
4 (1991); Thomas v. Bokelman, 86 Nev. 10, 13, 462 P.2d 1020, 122 (1970). Lastly, summary  
5 judgment may not be used as a shortcut to the resolution of disputes upon facts material to the  
6 determination of the legal rights of the parties. Collins v. Union Federal Savings & Loan  
7 Association, 99 Nev. 284, 662 P.2d 610 (1983).

8 LVMPD's argument that the cause of Plaintiff's injuries creates a factual question for a  
9 jury to determine. At this stage, the Court is required to view the evidence in the light most  
10 favorable to Ms. Paulos. When doing so, it is apparent that Ms. Paulos was transported to  
11 University Medical Center ("UMC"). At Ms. Paulos intake to UMC on August 7, 2011, she was  
12 noted to suffer second-degree burns on the left lateral thigh, left lateral leg and right medial leg.  
13 (Ex. 4, p. 16, Ins. 17-23). These burns were suffered as a result of being pinned against the hot  
14 asphalt by Defendant Baca and Palms' employee. (Ex. 1, p. 108, Ins. 4-10). After being released  
15 from UMC after several days at the hospital, Ms. Paulos immediately presented to the Lyons  
16 Burn Center the very next day. (Ex. 1, p. 118, Ins. 8-9).

17 Dr. Andrew Silver, M.D. is a specialist with the Lyons Burn Care Unit adjacent to  
18 University Medical Center ("UMC") in Las Vegas, Nevada. (Ex. 4, p. 10, Ins. 10-20). Dr. Silver  
19 described the process of "burn conversion" which means that a burn has progressed in depth,  
20 such that an individual who initially has second-degree burns worsen and progress to third degree  
21 burns (Ex. 4, p. 14 ln. 14 through p. 15, ln. 9). Dr Silver further explained that as some burns  
22 continue to progress you don't notice on initial appearance how deep the burn really is. (Ex. 4, p.  
23 15, Ins. 12-18). Additionally, a burn that is initially described as "superficial" can progress into  
24 second or third degree burns. (Ex. 4, p. 19, Ins. 19-24).

25 As a result of her burns, Dr. Silver and his supervisor, Dr. Nathan Ozobia, performed  
26 surgical procedures of debridement and skin grafting upon Ms. Paulos. (Ex. 4, p. 27, Ins. 1-3).  
27 Debridement involves removing all of the skin that is no longer alive and skin grafting involves  
28 taking skin from another portion of the body and placing it over the wound that has been created

1 by the debridement. (Ex. 4, p. 27, lns. 6-11).

2 Dr. Silver testified, unequivocally, that he treated Ms. Paulos for second and third degree  
3 "pavement contact burns." (Ex. 4, p. 36, lns. 1-6). Dr. Silver found no evidence of chemical  
4 burns. (Ex. 4, p. 36, 9-12). Dr. Silver explained that when the ambient temperature is 100  
5 degrees or higher, an individual can suffer a second degree burn in as little as 30 seconds. (Ex. 4,  
6 p. 39, lns. 9-13).

7 In its Motion, LVMPD attempts to attack the character and credibility of Ms. Paulos by  
8 arguing that Ms. Paulos' initial confusion concerning the nature of her burns was an "intentional  
9 lie." (doc. 33, p. 9, ln. 25). As a general rule, character evidence is only of slight probative value  
10 and may be very prejudicial. Fed. R. Evid. 403. Credibility is not at issue on a motion for  
11 summary judgment. "Credibility determinations, the weighing of the evidence, and the drawing  
12 of legitimate inferences from the facts are jury functions, not those of a judge, whether he is  
13 ruling on a motion for summary judgment or for a directed verdict." *Anderson v. Liberty Lobby*  
14 *Inc.*, U.S. 242, 255 (1986). The Defendants' argument concerning Ms. Paulos' credibility is an  
15 attempt to distract from the determination of the reasonableness of the officers' actions. It is an  
16 effort to punish the "bad" person and confuse the issue.

### 17 III.

### 18 CONCLUSION

19 Plaintiff respectfully requests that this Honorable Court deny Defendant LVMPD's  
20 Motion for Summary Judgment because a reasonable juror could determine that Defendant Baca  
21 unreasonably deployed excessive force upon Ms. Paulos by pinning her against hot asphalt even  
22 after she was under his control. Moreover, a reasonable juror could determine that Defendants  
23 Swan and Von Goldberg chose not to prevent Baca's excessive force which was committed in  
24 their presence.

25 Similarly, a reasonable juror could, determine that LVMPD's choice not to train its  
26 offices concerning the certain danger posed by hot asphalt instituted *de facto* policy and an  
27 organizational custom and culture whereby the Department was deliberately indifferent to the  
28 constitutional rights of citizens. A reasonable juror could, likewise, determine that LVMPD's

1 failure to discipline Defendant Baca, after investigation, demonstrates the LVMPD ratified  
2 Defendant Baca's unconstitutional conduct.

3 Additionally, Defendants are not entitled to Qualified Immunity because the right to be  
4 free from excessive force was clearly established at the time of this incident.

5 Lastly, a reasonable juror could also conclude that LVMPD was negligent under Nevada  
6 law. Therefore, Plaintiff respectfully requests that this Court allow a jury to determine all of the  
7 genuine issues of material fact which exist in this case.

8 DATED this 15th day of December, 2014.

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# Exhibit 1

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# Exhibit 1



# Lawyer Solutions Group

Transcript of the Testimony of  
**CRISTINA PAULOS**

**Date:** March 25, 2013

**Case:** PAULOS v. FCH1

prepare. discover. litigate

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CRISTINA PAULOS 3/25/2013

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1 DISTRICT COURT  
 2 CLARK COUNTY, NEVADA  
 3  
 4 CRISTINA PAULOS, an individual)  
 5 Plaintiff, )Case No. A12-666754-C  
 6 vs. )Dept No. XXVI  
 7 )  
 8 FCHI, LLC, a Nevada limited )  
 9 liability company; LAS VEGAS )  
 10 METROPOLITAN POLICE DEPARTMENT)  
 11 a government entity; DOES 1 )  
 12 through 10, )  
 13 )  
 14 Defendants. )  
 15 -----)

16 DEPOSITION OF CRISTINA PAULOS  
 17 Taken on March 25, 2013  
 18 At 9:02 a.m.  
 19 At Moran Law Firm  
 20 630 S. Fourth Street  
 21 Las Vegas, Nevada

22 Reported by: Yvette Rodriguez, CCR NO. 860  
 23  
 24  
 25 PHONE: 702-430-5003 FAX: 702-974-0125  
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CRISTINA PAULOS 3/25/2013

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2

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CRISTINA PAULOS 3/25/2013

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1 LAS VEGAS, NEVADA, MARCH 25, 2013  
 2 9:02 A.M.  
 3 -oOo-  
 4 (In an off-the-record discussion  
 5 held prior to the commencement  
 6 of the deposition proceedings,  
 7 counsel agreed to waive the  
 8 court reporter requirements  
 9 under Rule 30(b)(4) of the  
 10 Nevada Rules of Civil  
 11 Procedure.)  
 12 -oOo-

13 Whereupon,  
 14 CRISTINA PAULOS,  
 15 having been first duly sworn to testify to the  
 16 truth, the whole truth and nothing but the truth,  
 17 was examined and testified as follows:

18 -oOo-  
 19 EXAMINATION  
 20 BY MR. SMERBER:  
 21 Q Could you please state your name for the  
 22 record.  
 23 A Cristina Paulos.  
 24 Q Have you ever had your deposition taken  
 25 before?

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1 A No.  
2 Q Because it's kind of a weird process, I'm  
3 going to go over the ground rules of a deposition.  
4 That way you know exactly what I'm going to expect  
5 from you today and what you can expect from me.  
6 Okay?

7 A Okay.

8 Q The first thing is, is the oath that you  
9 just took is the same oath that you would take in a  
10 court of law. So you're subject to the same  
11 penalties of perjury as if you're testifying in a  
12 courtroom. Do you understand?

13 A Understand.

14 Q The next important thing to remember is  
15 that the gal sitting to my left and your right is a  
16 court reporter. And she's taking down a verbatim  
17 transcript of everything that is being said today.  
18 Do you understand that?

19 A Understand.

20 Q Because she's doing that, we have to  
21 observe certain formalities that we wouldn't  
22 otherwise if it was just you and I having a  
23 conversation. The first thing is that I need you to  
24 verbalize all of your responses. Do you understand?  
25 A Understand.

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1 over each other and she can't type down everything  
2 that is being said. So if you could just be patient  
3 with me and get my entire question out, then give  
4 your response, that will help us out a lot. Okay?

5 A Okay.

6 Q I will do the same for you, I will try not  
7 to speak over you. During your deposition today, I  
8 might ask you a question that you don't understand.  
9 That is fine. Just tell me. Again, my name is  
10 Justin. I introduced myself out in the lobby. Just  
11 say, Justin, I don't understand what you're asking.  
12 Okay?

13 A Okay.

14 Q If I ask you a question and you give me a  
15 response, then I'm going to assume that you  
16 understood what I was asking; is that fair?

17 A Yes.

18 Q Okay. Again, if you need any  
19 clarification, just let me know. Okay?

20 A Okay.

21 Q During your deposition today, we're not  
22 here for an endurance contest. We're going to be  
23 here a little while. So if at any point you need to  
24 take a break, you want to stretch your legs, you  
25 want to go to the bathroom or whatever you want to

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1 Q So things such as nodding or head shaking  
2 or things like big (indicating), none of that will  
3 come out on the record. If you give a response of  
4 that nature, myself or perhaps other counsel might  
5 say, Cristina, is that a yes or a no or can you tell  
6 us that measurement. We're not trying to be rude.  
7 It's just that we're trying to make a clear records.  
8 Okay? Do you understand?

9 A Understand.

10 Q All right. Terms such as uh-huh, huh-huh,  
11 nah, yeah, mm-hmm, mm-mmm, none of that comes out  
12 clearly on the record either. So if you give us a  
13 response of that nature, again, one of us might say,  
14 you know, Cristina, is that a yes or a no. We're  
15 not trying to be rude. We're just trying to make a  
16 clear records. Okay?

17 A Okay.

18 Q Another important thing is that our court  
19 reporter can only type down one person talking at a  
20 time. You will have a tendency today to maybe  
21 understand some of the questions I'm asking you or  
22 where I'm going with some of the questions I'm  
23 asking you. You might want to give your response in  
24 the middle of my question. That makes it difficult  
25 for our court reporter because then we are talking

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1 do, that is fine. Just let me know that you want to  
2 take a break. Okay?

3 A Okay.

4 Q The only exception to that is that, if I  
5 have a question pending to you, you will have to  
6 answer my question before you take your break. Do  
7 you understand?

8 A Understand.

9 Q From time to time, during the deposition  
10 today, you are represented by counsel, and he may  
11 have an objection to a question that I ask. If he  
12 has an objection, what we're going to do, we're  
13 going to pause and we're going to allow him to state  
14 his objection on the record. And then when he's  
15 done, you will answer my question. Okay?

16 A Okay.

17 Q The only exception to that is if your  
18 counsel tells you, listen Cristina, don't answer  
19 that question. Then go ahead and follow the  
20 recommendation of your counsel. Okay?

21 A Understand.

22 Q It is always kind of weird when that  
23 happens because you and I are going to have this  
24 dialogue going and then someone will object to  
25 something and then everybody is kind of looking

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1 around like nobody knows what to do. Once they're  
 2 done, then go ahead and answer the question. Okay?  
 3 A Okay.  
 4 Q During your deposition I might ask you to  
 5 give me your best estimate of things.  
 6 A Okay.  
 7 Q And I'm entitled to your best estimate of  
 8 things, but I don't want you to guess. The  
 9 difference between a guess and an estimate that  
 10 every attorney uses basically is if I was to say,  
 11 Cristina, can you give me an estimate of the length  
 12 of this table. And you can look at this conference  
 13 table and say it's probably about 14 feet long.  
 14 That is an estimate. Now, your counsel might think  
 15 it's a different length. Whatever his estimate is.  
 16 If I was to ask you, Cristina, what is the length of  
 17 my our conference room table upstairs and you said  
 18 oh, that one is about 7 feet long. Well, that will  
 19 be just a pure guess. You've never seen that table.  
 20 You don't know what it looks like. You're just  
 21 throwing a number out there. Do you understand the  
 22 difference between a guess and an estimate?  
 23 A I do.  
 24 Q In two weeks or something like that, maybe  
 25 longer, you will get a copy of your deposition  
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1 follow-up questions. Okay?  
 2 A Understood.  
 3 Q At the end of your deposition, I'm going  
 4 to tell you, Cristina, is there any changes to any  
 5 of the answers that you want to make. And if you  
 6 have any changes, by all means let me know today,  
 7 that way I can address any follow-up questions that  
 8 I need and we don't have to go over that credibility  
 9 issue later. Okay?  
 10 A Understand.  
 11 Q With all of that being said, let's get  
 12 started. Have you been known by any other names  
 13 besides Cristina Paulos?  
 14 A No.  
 15 Q And what is your date of birth?  
 16 A 8/21/79.  
 17 Q Where were you born?  
 18 A Tarzana, California.  
 19 Q Are you married?  
 20 A No.  
 21 Q Have you ever been married?  
 22 A No.  
 23 Q Do you have children?  
 24 A No.  
 25 Q What are the last four digits of your  
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1 transcript. You will have the ability to review it  
 2 for accuracy and you can even make changes to it if  
 3 you would like. However, I want to warn you. If  
 4 you change anything important, anything of  
 5 substance, either myself or one of the attorneys in  
 6 this matter can comment upon those changes at the  
 7 time of trial in order to attack your credibility.  
 8 Do you understand that?  
 9 A Understand.  
 10 Q And let me just explain to you what will  
 11 happen. You will testify under oath today and if  
 12 you review your transcript later and you change  
 13 something of substance, something important, myself  
 14 or other counsel will stay, Cristina, during your  
 15 deposition you testified under oath as to this and  
 16 then you changed it later. So we have two different  
 17 versions of the same thing. We will attack your  
 18 credibility in that fashion. Do you understand?  
 19 A Understand.  
 20 Q I just want to make sure that that is very  
 21 well understood, because I'm not trying to trick  
 22 you. And if during your deposition today, as we go  
 23 on, you want to change an answer or clarify  
 24 something, please let me know and I will allow you  
 25 to do that because I need to ask appropriate  
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CRISTINA PAULOS 3/25/2013

12

1 Social Security number?  
 2 A 0480.  
 3 Q What is your current address?  
 4 A I moved recently.  
 5 Q Okay.  
 6 A So I'm going to guess this is correct.  
 7 It's 2600 Flowering Cactus Avenue, Henderson 89052.  
 8 Q Now, with regards to the guessing that  
 9 you're doing, are you guessing on the street?  
 10 A No. The address. The 2600, it might be  
 11 like an extra number. I can check my license. I  
 12 always proof it.  
 13 Q Okay.  
 14 A Because I just moved. I moved in, like,  
 15 November sometime, something like that.  
 16 Q Okay. So we're sure that you live on  
 17 Flowering Cactus Avenue?  
 18 A Yes.  
 19 Q And you moved there in November of 2012?  
 20 A Around that time.  
 21 Q What is your address prior to that?  
 22 A I'm forgetting the address. It's Via  
 23 Meridiana, Henderson, Nevada. I think it's 2800 Via  
 24 Meridiana. It's Henderson, Nevada 89052.  
 25 Q How long did you live at the Via Meridiana  
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1 address?  
 2 A Like off and on, like 2002 to -- then I  
 3 went to school and stuff. So that's -- so 2002 to  
 4 2012.  
 5 Q Okay?  
 6 A But I was moving around too. I wasn't  
 7 always there 'cause I was I lived in other place  
 8 too.  
 9 Q Other places within the State of Nevada?  
 10 A No. In 2008 and '09, I lived in New York.  
 11 And then 2004 through 2006, I was living in a dorm  
 12 in CalArts where I was going to college.  
 13 Q Where were you living in August of 2011?  
 14 A I was living in -- with my boyfriend at  
 15 the time. That was a different address. I don't  
 16 remember where it was. We were only there since  
 17 March. So that was -- the street name was Quail  
 18 Cactus. And I was living with him March through  
 19 February. So it was like 2011, March. And then the  
 20 next 2012 was February.  
 21 Q Okay.  
 22 A Cause I -- we broke up, so...  
 23 Q Okay. Quail Cactus, what city is that in?  
 24 A Henderson, Nevada.  
 25 Q And your boyfriend at the time, what was  
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CRISTINA PAULOS 3/25/2013

15

1 Q Did you graduate?  
 2 A Yes.  
 3 Q What year did you graduate?  
 4 A I believe 2008 -- '98 -- not 2000. Sorry.  
 5 1998. It has been a while, so...  
 6 Q It's okay. Do you have any education  
 7 after high school?  
 8 A Yes.  
 9 Q What type of education --  
 10 A I have a BFA, Bachelors in Fine Arts from  
 11 California Institute of the Arts.  
 12 Q When did you obtain that?  
 13 A 2006.  
 14 Q Any education aside from the Bachelor of  
 15 Fine Arts?  
 16 A No.  
 17 Q Do you hold any type of professional  
 18 licenses?  
 19 A No.  
 20 Q Do you hold any type of certifications?  
 21 A No.  
 22 Q You understand that we're here to discuss  
 23 a lawsuit that you filed against my client, which is  
 24 the Palms Resort and Casino, correct?  
 25 A Yes.  
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1 his name?  
 2 A Terry Woltman.  
 3 Q Can you spell his last name.  
 4 A W-O-L-T-M-A-N.  
 5 Q Does anyone currently reside with you at  
 6 your address on Flowering Cactus Avenue?  
 7 A Yes, I live with my parents.  
 8 Q What are your parents' names?  
 9 A Aiko, A-I-K-O. And Leroy, L-E-R-O-Y.  
 10 Q So Leroy is your dad and Aiko is your  
 11 mother --  
 12 A Aiko is my mother.  
 13 Q And is there last name Paulos?  
 14 A Yes.  
 15 Q What is a current telephone number for  
 16 you?  
 17 A (702)577-7208t.  
 18 Q Ma'am, have you ever been convicted of a  
 19 felony?  
 20 A No.  
 21 Q Have you ever been convicted of a crime  
 22 involving dishonesty?  
 23 A No.  
 24 Q Where did you go to high school, ma'am?  
 25 A I went to Los Angeles County High School.  
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CRISTINA PAULOS 3/25/2013

16

1 Q We're also here to discuss the same  
 2 lawsuit that you filed against Las Vegas  
 3 Metropolitan Police Department. Do you understand  
 4 that?  
 5 A Yes.  
 6 Q It's my understanding that you are not  
 7 asserting a claim for loss wages in this matter; is  
 8 that correct?  
 9 A Yes.  
 10 Q And you're not also asserting a claim for  
 11 future loss income, correct?  
 12 A I guess, yes.  
 13 **MR. SMERBER: I will even let you consult**  
 14 **with your counsel just this one time.**  
 15 **(Off the record.)**  
 16 **BY MR. SMERBER:**  
 17 Q You have had a chance to confer with your  
 18 counsel. And I will tell you, the wage loss  
 19 assertion claim is the only time I'm going to let  
 20 you confer with counsel just cause counsel has an  
 21 input on what claims you're pursuing.  
 22 My question was you are not asserting  
 23 a claim for future lost income, correct?  
 24 A I'm -- because of the injuries, I can't  
 25 apply to certain jobs because I can't stand for long  
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17

1 periods of time because what happens with my leg, I  
 2 get these pins and needles sensations when I'm  
 3 standing. So it changes what I can do. So  
 4 basically I cannot apply to jobs where you're  
 5 constantly have to stands.  
 6 Q Okay.  
 7 A So that changes my future of what I can  
 8 apply to.  
 9 Q Are you currently employed?  
 10 A Yes.  
 11 Q What is your current employment --  
 12 A I'm an artist and I'm an art teacher.  
 13 Q Where are you an art teacher?  
 14 A I'm starting to teach at the North Vegas  
 15 rec centers to teach senior citizens painting.  
 16 Q Have you applied for any other teaching  
 17 jobs?  
 18 A No.  
 19 Q Have you ever held any other teaching  
 20 jobs?  
 21 A Yes.  
 22 Q So currently you're employed as an artist  
 23 and an art teacher are and you're an art teacher at  
 24 the North Vegas Rec Center, correct?  
 25 A Yeah. But I haven't started it yet. I'm  
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19

1 Q Do you have any other teaching degrees?  
 2 A No.  
 3 Q Do you have a teaching license?  
 4 A No.  
 5 Q Are you pursuing an education where you  
 6 will be able to get a teaching degree?  
 7 A Not currently.  
 8 Q Have you ever in your life been pursuing a  
 9 teaching degree?  
 10 A No.  
 11 Q As an artist do you work for yourself or  
 12 do you work for some other gallery or something like  
 13 that?  
 14 A I work for myself.  
 15 Q Do you have a company or are you just a  
 16 sole proprietor, you work under your own name?  
 17 A Under my own name.  
 18 Q Do you have a business license?  
 19 A No, not currently.  
 20 Q Have you ever?  
 21 A Yes.  
 22 Q When was the last time you had a business  
 23 license.  
 24 A 2000 -- like 2010, 2011.  
 25 Q Did you have a business license for your  
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18

1 like -- I just -- I'm right now, we're scheduling  
 2 the classes, so -- I guess I maybe shouldn't have  
 3 mentioned it if I wasn't -- I haven't started it  
 4 yet.  
 5 Q That's fine. But you're going to be  
 6 starting in a position as a teacher with the North  
 7 Vegas Rec Center --  
 8 A Yeah. With the Senior citizen program  
 9 there.  
 10 Q Are you actively pursuing any other  
 11 employment currently?  
 12 A No. And that's only twice -- two times --  
 13 twice a week.  
 14 MR. BLUT: He'll ask. He knows what to  
 15 ask?  
 16 THE WITNESS: Okay. Never mind then.  
 17 BY MR. SMERBER:  
 18 Q That's okay. Do you know how many hours  
 19 you will be working as a teacher at the North Vegas  
 20 Rec Center?  
 21 A Between like five to six a week.  
 22 Q What is your rate of compensation?  
 23 A 8.15 an hour.  
 24 Q You receive any benefits?  
 25 A No.  
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CRISTINA PAULOS 3/25/2013

20

1 company in August of 2011?  
 2 A I was going to say, because what I think  
 3 is a business license, I don't if it's the right --  
 4 but I had to get a license with Henderson to teach  
 5 at Henderson Rec Center which I taught in 2011 and  
 6 '10. '10 to '11. And I believe that was a business  
 7 license because I needed to get something through  
 8 the state. But I'm not sure if that is called the  
 9 same business license we're thinking of.  
 10 Q Okay.  
 11 A But I had to get a license to teach.  
 12 Q What kind of art do you do?  
 13 A I do painting and I do commercial graphic  
 14 design. So basic art, I guess. Art, painting,  
 15 illustration. That's the commercial arts, so...  
 16 Q When you're doing your painting and  
 17 illustration, do you sit or do you stand?  
 18 A I sit.  
 19 Q Have you ever undergone any type of  
 20 vocational assessment?  
 21 A No.  
 22 Q Do you understand what I mean by  
 23 vocational assessment?  
 24 A I believe it is when people help you find  
 25 jobs.  
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1 Q Right. You sit down with a counselor and  
2 you will go over your abilities and your talents and  
3 things of that nature and your physical  
4 capabilities. And then they will tell you jobs that  
5 you would be appropriate for or less appropriate  
6 for. Do you understand?

7 A Yes.

8 Q And you have never done that, right?

9 A Yes. But I'm interested to look into that  
10 too.

11 Q Okay. Is there any reason why you haven't  
12 done it?

13 A I've -- I called for information and I  
14 missed the days. Like, when I can go into there.

15 Q Who did you call?

16 A I called the -- the Southern Nevada Mental  
17 Health facility, and I also called disability. And  
18 the days that they had, I couldn't come in 'cause  
19 they only do it like once a month, I believe or --  
20 but I found out recently about it last month.

21 Q Okay. Do you know the date of the  
22 accident that -- or the date of the incident which  
23 forms the basis for this lawsuit?

24 A I believe the date was -- it was -- it was  
25 August 8, 2011.

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CRISTINA PAULOS 3/25/2013

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1 then I have just been scatter brain and forgetful to  
2 go back in and stuff.

3 Q You live with your parents, correct?

4 A Yeah.

5 Q Do your parents have driver's licenses?

6 A Yes, but they couldn't drive me that day.

7 Q Okay. So you made one attempt to get  
8 vocational counseling and you missed your  
9 appointment and you have not made any other  
10 attempts; correct?

11 A Yeah.

12 Q Do you like what you do?

13 A Yes.

14 Q You like being an artist and a teacher?

15 A Yes.

16 Q You're not looking to change your field of  
17 employment or your occupation; are you?

18 A Currently, no.

19 Q In fact, you went to school to be an  
20 artist, correct?

21 A Animator.

22 Q Okay?

23 A I went to school for animation?

24 Q What did that consist of? How long was  
25 the program?

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CRISTINA PAULOS 3/25/2013

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1 Q So we're in --

2 A I mean, not August. I'm sorry --

3 Q You're okay.

4 A Oh, wait. It was August. Yeah, it was  
5 August. Sorry. The date of the accident. Yeah.

6 Q Today's date is, we're in March of 2013,  
7 correct?

8 A Yes.

9 Q It's the 25th of March, 2013. So we're a  
10 little over a year and a half after your accident,  
11 correct?

12 A Mm-hmm.

13 Q Yes?

14 A Yes.

15 Q And up until last month, you have made no  
16 attempt to do any type of vocational counseling,  
17 correct?

18 A Will I did look, research before. And --  
19 before, but I never made it there 'cause I couldn't  
20 drive.

21 Q Okay.

22 A And that was -- that was like last year in  
23 Henderson. They had an appointment, but I couldn't  
24 get there because I didn't have a car to drive  
25 there. So I missed the -- I just missed it. And

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1 A It was for four years. In -- you're in  
2 film and video. And you -- I am not sure how many  
3 credits. It's been a while. But I had to get  
4 general requirements, like general. You know math  
5 and English. And the rest were all the programs  
6 through animation and film and video.

7 Q Now, when you do animation, that is a job  
8 that requires you to sit while you work, correct?

9 A Yes.

10 Q So I guess if you were going to change  
11 your job or your occupation, it would be to go into  
12 animation; is that what you're saying?

13 A Why would I change? I don't understand  
14 what you're asking me.

15 Q Well, I asked you if you had any  
16 current -- or if you were going to change your job  
17 or if you wanted to change your occupation. You  
18 said not currently. So I was asking you what you  
19 went to school for, and you said, I actually went to  
20 school to do animation. So I'm asking you, because  
21 you qualified your response. You said I'm not  
22 currently looking to change my job. Is that because  
23 you might want to do animation which is what you  
24 have your background in?

25 A No. I'm not going to go back to -- I

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1 don't understand what you're saying because art and  
 2 animation are so similar to me. So it's not like  
 3 it's any different.  
 4 Q Okay.  
 5 A So I'm not quite understanding why you're  
 6 saying a change because it's exactly the same,  
 7 animation and art. If you hold a bachelors degree,  
 8 when you get a bachelors in art, they generalize any  
 9 type of art as fine arts. In the school I went to,  
 10 which is CalArts. So if I studied jazz, if I  
 11 studied theater, it will still be a bachelors in  
 12 fine art.  
 13 Q As far you're concerned animation and art  
 14 are the same thing?  
 15 A Yeah. It's the same degree I hold as  
 16 bachelors in fine arts.  
 17 Q Okay. But currently you don't do  
 18 animation, right?  
 19 A Well, I do -- I do -- I guess -- no, I  
 20 don't do it currently, so no.  
 21 Q How many hours a week do you work as an  
 22 artist?  
 23 A Probably like 35 hours a week or  
 24 something. 30, 35.  
 25 Q Do you have a studio or do you work out of  
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1 there?  
 2 A No.  
 3 Q It doesn't matter, day and night,  
 4 whenever?  
 5 A When I'm in the area, I usually.  
 6 Q You don't have any current inability to  
 7 perform as an artist, correct?  
 8 A As an artist, no.  
 9 Q You're able to perform as an artist and  
 10 you're able to perform as an art teacher without any  
 11 restriction, correct?  
 12 A Yeah. 'Cause I could sit down when I  
 13 teach art. But I only teach -- I also take into  
 14 consideration that I'm only teaching six to five  
 15 hours a week. So I don't know if that was going to  
 16 be more hours, if that would change.  
 17 Q Have you put any applications for jobs  
 18 that would require you to teach more hours?  
 19 A Not currently.  
 20 Q So it would be pure speculation to say  
 21 that you will be working more hours in the future  
 22 because you have no basis upon which to make that  
 23 statement, correct?  
 24 MR. BLUT: Object to the form.  
 25 You can answer, if you understand what  
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1 your home?  
 2 A I work -- I work from home and I work --  
 3 sometimes I work in my friend's studio.  
 4 Q Where is your friend's studio located?  
 5 A On Commerce Street.  
 6 Q Do you know the address?  
 7 A I don't know the address, but it's called  
 8 Blackbird Studios.  
 9 Q Can you spell it for the record?  
 10 A Black, B-L-A-C-K. Bird, B-I-R-D.  
 11 Q And that is located on Commerce?  
 12 A Yeah. It's on Commerce and Wyoming.  
 13 Q In Las Vegas?  
 14 A Yes.  
 15 Q How often do you go there?  
 16 A Probably like two to three times a week.  
 17 Q Do you have any set time, like you have to  
 18 purchase studio time?  
 19 A No.  
 20 Q So you just go when you want --  
 21 A I go when it's available. So I like call  
 22 ahead and see if there is something available.  
 23 Q Do they have sign-in sheets?  
 24 A No.  
 25 Q Do you have regular hours when you will go  
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1 he's asking.  
 2 MR. SMERBER: Don't coach her. Don't tell  
 3 her, if you understand.  
 4 MR. BLUT: No --  
 5 MR. SMERBER: Just make your statement.  
 6 MR. BLUT: You have admonished her for 20  
 7 minutes and insulted her --  
 8 MR. SMERBER: How did I inust her?  
 9 MR. BLUT: -- and are arguing with her.  
 10 So you ask the questions, I'll make the  
 11 objections --  
 12 MR. SMERBER: We can get the discovery  
 13 commissioner on the phone right now. You will  
 14 not tell her that she can answer if she  
 15 understands. There is a well established  
 16 opinion from Federal Judge Payton (PHONETIC)  
 17 that says you cannot object and instruct the  
 18 witness that they can answer if they  
 19 understand. It is coaching. You can object to  
 20 form. You can object to foundation, but you  
 21 cannot coach your witness.  
 22 MR. BLUT: You're not going to tell me how  
 23 to object. Ask your next question. She will  
 24 give you your next answer. Obviously, she can  
 25 answer that question. There is no -- there is  
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1 no privilege answer on that.  
2 MR. SMERBER: I'm just going to warn you,  
3 if you make another objection of that fashion,  
4 we'll stop this deposition, we will get the  
5 discovery commissioner on the phone or we will  
6 suspend it and go in front of her and have her  
7 address the issue. Okay?

8 MR. BLUT: You will do whatever you're  
9 going to do.

10 BY MR. SMERBER:

11 Q Okay. So go ahead.

12 A Can you ask the question.

13 MR. SMERBER: I will have her read it  
14 back.

15 (Record read.)

16 THE WITNESS: I did not understand the  
17 question. Can you rewrite it?

18 MR. SMERBER: I will rephrase it for you.

19 BY MR. SMERBER:

20 Q Right now you're working five to six hours  
21 a week, right?

22 A Yes.

23 Q As a teacher?

24 A Correct.

25 Q And you're not applying for any jobs that

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1 Q When was the last group show that you did?

2 A I did one in February. Just one. And it  
3 didn't sell. The piece didn't sell.

4 Q You did one in February of this year?

5 A Yeah. Just -- that was the only one I did  
6 for a long time. And that piece didn't sell.

7 Q When was the last time you did a group  
8 show prior to February -- I'm sorry. I said 2012.  
9 You did a show in February of 2013?

10 A Yes.

11 Q When was the last time you did a showing  
12 prior to February of 2013?

13 A Spring -- or was it summer? I don't  
14 remember if it was spring or summer, but it was warm  
15 time. So it was last year. So 2012.

16 Q Okay.

17 A I believe it was in, like, April. So  
18 I'm -- yeah. That is spring; isn't it? So  
19 April 2012.

20 Q How many shows did you do total in 2012?

21 A One.

22 Q So far in 2013, how many shows have you  
23 done?

24 A One.

25 Q How many shows did you do in 2011?

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CRISTINA PAULOS 3/25/2013

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1 will require you to work more hours as a teacher,  
2 correct?

3 A Not currently.

4 Q Okay. So you don't have any perspective  
5 employers or job positions that will require you to  
6 work more hours as a teacher currently --

7 A Currently --

8 Q -- correct?

9 Okay. With regards to your

10 employment as an artist, explain to me how are you  
11 compensated? You sell art and then you collect  
12 income or do you sell through a gallery? How does  
13 that work?

14 A I sell when I have shows.

15 Q Okay.

16 A Gallery shows.

17 Q All right. How often do you do gallery  
18 shows?

19 A Well, up to like -- before, I was doing at  
20 least like one solo show and a group show once a  
21 month as of -- that was in 2011. And I haven't done  
22 that at all so -- and so, like as of now, I don't do  
23 any group shows once a month anymore. And I have a  
24 group -- a gallery solo show in July. So that's the  
25 next time I will.

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1 A Around five.

2 Q Can you tell me when you did your last  
3 show in 2011?

4 A I believe it was July.

5 Q Do you know how much income you generated  
6 from your art in 2010?

7 A I don't know. Can I -- I have a question.  
8 Can I ask questions back?

9 MR. BLUT: No.

10 THE WITNESS: Oh, I can't. Okay.

11 MR. BLUT: If you need to ask me a  
12 question. Answer his question first, and then  
13 we can take a break.

14 THE WITNESS: Okay.

15 MR. BLUT: You to want to ask me something  
16 and take a break?

17 THE WITNESS: Yeah. I have a question  
18 too.

19 BY MR. SMERBER:

20 Q I want to make sure that I understand.  
21 Your response to my question of what was your income  
22 from art in 2010 is that you do not know, correct?

23 A Correct.

24 MR. SMERBER: Okay. Take a break.  
25 (Off the record.)

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1 **BY MR. SMERBER:**  
2 **Q** We're going back on the record. Do you  
3 understand that all the admonishments I gave you  
4 before we went on break, they still apply. Do you  
5 understand?  
6 **A** Understand.  
7 **Q** Okay. We were getting into some questions  
8 about your income. With regards to 2011, do you  
9 know what your income was in 2011?  
10 **A** I do not know.  
11 **Q** Do you know what your income was in 2012?  
12 **A** I do not know.  
13 **Q** Did you file tax returns for any of those  
14 years? And the years I'm referring to are 2010, '22  
15 and '12?  
16 **A** No.  
17 **Q** When was the last time that you filed an  
18 income tax return?  
19 **A** I believe it was 2009, 2010.  
20 **Q** Do you know what your income was in 2009?  
21 **A** I do not know.  
22 **Q** Do you know, are you currently eligible  
23 for Medicare?  
24 **A** I do not know because I have not -- I  
25 never -- I never applied for Medicare or Medicaid.  
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1 **Q** Medicare?  
2 **A** Medicare, I never applied for it so I  
3 wouldn't know.  
4 **Q** So you have never applied for it and  
5 you're not receiving any benefits from Medicare?  
6 **A** No.  
7 **Q** How about Social Security Disability, are  
8 you on Social Security Disability?  
9 **A** No.  
10 **Q** Are you receiving any type of assistance  
11 from the state or federal government?  
12 **A** No.  
13 **Q** Okay.  
14 **A** I get -- oh, I get food stamps.  
15 **Q** Okay.  
16 **A** That's it.  
17 **Q** Have you ever served in the military,  
18 ma'am?  
19 **A** No.  
20 **Q** Going back one second. With regards to  
21 your career as an artist, do you have any type of  
22 business address or anything like that?  
23 **A** No.  
24 **Q** Do you have -- how do you advertise your  
25 art? Do you have a website or?  
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1 **A** I have a website and I use Facebook.  
2 **Q** What is the name of your website?  
3 **A** It's my name. Cristinapaulos.com.  
4 **Q** Is it case sensitive or anything?  
5 **A** No.  
6 **Q** I don't use Facebook. So if I was going  
7 to go onto Facebook to find you. How would I  
8 find --  
9 **A** You put the artwork of Cristina Paulos.  
10 **Q** You just type that in --  
11 **A** Yeah. Artwork of Cristina Paulos.  
12 **Q** Let's talk about the incident that forms  
13 the basis for this lawsuit. Do you recall that  
14 incident?  
15 **A** Yes.  
16 **Q** And I believe you told me that that  
17 incident occurred on/or about August 8, 2011,  
18 correct?  
19 **A** Correct.  
20 **Q** Okay. Do you know about the time of day  
21 that it occurred?  
22 **A** I believe it was -- it was like 3:00 or  
23 4:00 o'clock.  
24 **Q** 3:00 or 4:00 p.m.?  
25 **A** It was day, yeah.  
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1 **Q** What had you been doing that day prior to  
2 your incident occurring?  
3 **A** I was -- I was meeting my girlfriends at  
4 the pool. That is what I was going to do -- oh, you  
5 want to know what I did before?  
6 **Q** Yeah. Take --  
7 **A** I had coffee. I don't know -- I was.  
8 **Q** Let me do it this way. That morning you  
9 woke up, right?  
10 **A** Right.  
11 **Q** Did you wake up that morning at your home?  
12 **A** No -- well, yeah it was my home.  
13 **Q** Where was that?  
14 **A** Quail Crest -- I mean, well yeah. Quail  
15 Crest.  
16 **Q** So you woke up at your home on Quail  
17 Crest. That is where you lived with your boyfriend,  
18 Tony, right -- or Terry?  
19 **A** His name was Terry, yes.  
20 **Q** Okay. Did you see Terry at all before you  
21 left the house that day?  
22 **A** Yes.  
23 **Q** Did you and Terry have any type of  
24 altercation or confrontation that morning?  
25 **A** We had a fight.  
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1 Q What were you and Terry fighting over?  
 2 A He said I was ignoring him.  
 3 Q Was it a physical confrontation or just  
 4 verbal?  
 5 A Verbal.  
 6 Q And then at what point did you leave your  
 7 residence? About what time?  
 8 A I am not sure.  
 9 Q Okay. Was it still morning?  
 10 A Well, it was the daytime, yes.  
 11 Q Okay. When you left your residence did  
 12 Terry go with you?  
 13 A No, he did not.  
 14 Q Did you leave the residence as a result of  
 15 the confrontation?  
 16 A Yes.  
 17 Q Did you go directly from your residence to  
 18 the Palms or did you make stops in between?  
 19 A No, I just went to the Palms.  
 20 Q So you arrived at the Palms by yourself,  
 21 correct?  
 22 A Yes.  
 23 Q Did your incident occur when you were  
 24 first going to the Palms or had you been to the  
 25 Palms for a while before your incident occurred?  
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1 as you. 3037 Scenic Valley Way --  
 2 A Yes --  
 3 Q Henderson, Nevada --  
 4 A Yes.  
 5 Q Cristina, if you could let me get my  
 6 entire question out.  
 7 A Oh.  
 8 Q I'm sorry --  
 9 A Sorry about that.  
 10 Q It's okay. It just makes our court  
 11 reporter's job a little easier. Okay?  
 12 A Okay.  
 13 Q So the address that I have on Scenic  
 14 Valley Way, that is the correct and current address  
 15 for your sister?  
 16 A Yes.  
 17 MR. BLUT: If you want to depose her, let  
 18 me know. We can call her.  
 19 MR. SMERBER: Okay. Thank you.  
 20 MR. BLUT: You got it.  
 21 BY MR. SMERBER:  
 22 Q So you met your sister. Did you meet  
 23 anyone else at the Palms that morning?  
 24 A No.  
 25 Q So how long were you at the Palms before  
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1 A I had been in the Palms -- I was at the  
 2 Palms before the incident.  
 3 Q Okay. So you arrived at the Palms. Do  
 4 you remember approximately at what time you first  
 5 arrived at the Palms?  
 6 A I do not recall.  
 7 Q But it would have been -- before  
 8 3:00 o'clock?  
 9 A Yes.  
 10 Q What did you do when you first arrived at  
 11 the Palms?  
 12 A I went to meet my sister.  
 13 Q What is your sister's name?  
 14 A Jennifer Rosario.  
 15 Q Do you have a current telephone number for  
 16 her?  
 17 A I would have to look it up.  
 18 MR. BLUT: It's in the interrogatory  
 19 answers. If you pull 16.1 I saw that over the  
 20 weekend. We put her in the interrogatories,  
 21 but didn't update the 16.1.  
 22 THE WITNESS: (702)235-5377. You want her  
 23 address? I have the address written down.  
 24 MR. SMERBER: I have the address written  
 25 down. Just tell me if what I have is the same  
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1 you left the first time?  
 2 A I don't know.  
 3 Q Can you tell me what you did during that  
 4 time period when you were at the Palms before you  
 5 left the first time?  
 6 A I met with my sister.  
 7 Q What part of the hotel did you go to?  
 8 A We were walking around, probably the main  
 9 floor.  
 10 Q Did you do anything particular during that  
 11 time? What I mean is, did you maybe go to the  
 12 restaurant or visit the pool or gamble or anything  
 13 like that?  
 14 A No.  
 15 Q With regards to your sister, did you and  
 16 your sister, Jennifer, have any type of  
 17 confrontation or problem that morning at the Palms?  
 18 A Yeah. We got into an argument.  
 19 Q What did you and your sister get into an  
 20 argument over?  
 21 A I don't recall. I think it was over --  
 22 because I was upset with the boyfriend. So we were  
 23 talking about that, I believe.  
 24 Q And this caused you and your sister to get  
 25 in an argument?  
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1 A I believe so.  
 2 Q Okay. How did that argument end?  
 3 A I stormed off.  
 4 Q Did that argument, was it verbal or  
 5 physical or both?  
 6 A No. It was just verbal. And it wasn't  
 7 really like an argument. Like, it wasn't -- like,  
 8 it wasn't very angry. Like, it wasn't like angry  
 9 argument. It was just, like, I was just upset.  
 10 Like, just upset.  
 11 Q And when you stormed off, did you then  
 12 leave the premises?  
 13 A Yes.  
 14 Q How did you leave the premises, on foot or  
 15 on a vehicle?  
 16 A In a vehicle.  
 17 Q Where did you go?  
 18 A I just drove around until I -- I went to  
 19 go find my sister again to go talk to her.  
 20 Q Were you still upset at that point when  
 21 you decided to go back and find your sister?  
 22 A I guess I was upset.  
 23 Q When you went to go find your sister,  
 24 where did you go? Where were you looking for her?  
 25 A I went to go back to the Palms. That is  
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1 Q Do you have any contact information for  
 2 Sarah?  
 3 A Not with me.  
 4 Q Somewhere in your possession, perhaps in  
 5 your phone or your address book, somewhere like  
 6 that, do you have any information for Sarah?  
 7 A Let's see if I have any contact for her.  
 8 I have her phone number.  
 9 Q Okay.  
 10 A (323)309-3504.  
 11 Q Do you know if Sarah still lives here in  
 12 town?  
 13 A She doesn't live here.  
 14 Q Where does Sarah live?  
 15 A In L.A.  
 16 Q Do you have Sarah's address anywhere?  
 17 A No.  
 18 Q Have you seen Sarah at all since this  
 19 incident occurred?  
 20 A I saw her, yes.  
 21 Q Have you spoke to Sarah at all on the  
 22 phone or in other form since this incident occurred?  
 23 A Yes.  
 24 Q Have you spoke to her regarding this  
 25 incident?  
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1 where she was.  
 2 Q Do you know if she was there with anyone  
 3 else at the Palms that day besides you?  
 4 A No, I do not know.  
 5 Q I thought that I had reviewed in some of  
 6 answer that maybe you met a girlfriend at some point  
 7 during these events. Do you have any idea what I'm  
 8 talking about?  
 9 A I do.  
 10 Q Okay.  
 11 A But I never met my girlfriend. The reason  
 12 me and my sister were at the Palms was to meet my  
 13 girlfriend.  
 14 Q And you never ended up meeting up with her  
 15 that day?  
 16 A Yeah, we never met up with her.  
 17 Q What was the name of the girlfriend that  
 18 you were supposed to meet?  
 19 A Sarah.  
 20 Q What is Sarah's last name?  
 21 A Yuki (PHONETIC).  
 22 Q Can you spell it for the record, please.  
 23 A I'm not sure how to spell it.  
 24 Q It's Yuki?  
 25 A Yeah.  
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1 A No.  
 2 Q So going back to the day of the incident,  
 3 you had told me that you had left the Palms and then  
 4 you had decided to return to the Palms to look for  
 5 your sister, correct?  
 6 A Correct.  
 7 Q Did you make it back to the Palms?  
 8 A Yes.  
 9 Q Okay. What happened when you arrived back  
 10 to the Palms?  
 11 A I got in a car accident.  
 12 Q Can you tell me how that car accident  
 13 occurred?  
 14 A No.  
 15 Q Do you know where that car accident  
 16 occurred?  
 17 A No.  
 18 Q Can you tell me what you were driving when  
 19 that car accident occurred?  
 20 A A Toyota Corolla.  
 21 Q What kind of a vehicle was that?  
 22 A It's a hatchback.  
 23 Q What color is it?  
 24 A Blue-green.  
 25 Q Was that your vehicle?  
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1 A Yes. Actually, it was under my parents'

2 name. So it wasn't my vehicle. I was just using

3 it. I just like to call it mine just because, you

4 know, I was driving it.

5 Q Okay. Do you -- can you tell me the type

6 of accident that you had. Did it involve just your

7 vehicle or did it involve multiple vehicles?

8 A It involved multiple vehicles.

9 Q How many?

10 A I believe three.

11 Q Do you know who caused the accident?

12 A No.

13 Q Do you know if you sustained any injuries

14 in that accidents?

15 A Yes.

16 Q What injuries did you sustain in that

17 accident?

18 A The seat belt teared my skin off my

19 breast.

20 Q What breast, your right or your left?

21 A My left.

22 Q Did your air bag deploy?

23 A Yes.

24 Q Do you know if you sustained any injuries

25 or burns as a result of the air bag deploying?

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1 question.

2 BY MR. SMERBER:

3 Q Was it one person who pushed you on the

4 floor or multiple people?

5 A I'm not sure.

6 Q Did this person say anything to you prior

7 to pushing you on the floor?

8 A No, not that I recall.

9 Q Did you say anything to this person prior

10 to pushing you -- prior to them pushing you on the

11 floor?

12 A Just screamed.

13 Q What did you scream? Anything verbal or

14 just actual screams?

15 A Just screaming.

16 Q Do you know why you were screaming?

17 A Cause I was scared.

18 Q And you said that you were pushed on the

19 floor and you continued to scream, correct?

20 A Yes.

21 Q And you're just screaming out screams, no

22 verbal words, correct?

23 A Not that I can recall.

24 Q And then you were placed in zip ties?

25 A No, I was in zip ties when they pushed me

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1 A No.

2 Q Besides the seatbelt tearing the skin off

3 of your left breast, did you sustain any other

4 injury in that accident?

5 A No.

6 Q Can you tell me what you did immediately

7 after the accident occurred?

8 A No.

9 Q Do you have any recollection of the event

10 that occurred immediately after your accident?

11 A Some.

12 Q Tell me what you do remember occurring

13 after your accident.

14 A I remember being pushed on the floor and

15 screaming and being obtained in zip ties.

16 Q Who pushed you on the floor?

17 A I'm not sure. Somebody in a uniform.

18 Q What did the uniform look like?

19 A I'm not sure. Just a general uniform.

20 Q What color was the uniform?

21 A I don't remember.

22 Q Was the person a male or female --

23 A Male.

24 MR. BLUT: You have to wait till he

25 finishes, even though you can anticipate his

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1 on the floor.

2 Q Okay.

3 A They restrained my -- they restrained me

4 so I was restrained. On the floor, it -- they

5 restrained me.

6 Q Were you restrained with the zip ties

7 before you were placed on the ground?

8 A No.

9 Q So you were put on the ground and then you

10 were put in zip ties, correct?

11 A I don't remember.

12 Q Were you resisting this person in the

13 uniform?

14 A No.

15 Q Were you complying with their requests?

16 A There was no request made. Not that I

17 remember.

18 Q Okay.

19 A I don't remember the person saying

20 anything to me.

21 Q So your recollection as you sit here today

22 is that this person approached you, without saying

23 anything to you, and pushed you on the ground, and

24 at some point, put zip ties on you?

25 MR. BLUT: Object to the form.

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1 **THE WITNESS: I don't understand.**  
 2 **BY MR. SMERBER:**  
 3 **Q** You told me that a person in a uniform  
 4 approached you; is that right?  
 5 **A** Yes.  
 6 **Q** You told me that a person in a uniform  
 7 pushed you on the floor; is that right?  
 8 **A** Yes.  
 9 **Q** You told me that a person in a uniform put  
 10 zip ties on you?  
 11 **A** Yes.  
 12 **Q** And you also told me that you don't recall  
 13 this person in the uniform saying anything to you  
 14 during these events; is that correct?  
 15 **A** I don't remember what anyone was telling  
 16 me. Yes, I don't know.  
 17 **Q** There is a bit of a distinction. I don't  
 18 mean to be nitpicky. But were people saying things  
 19 to you and you just don't recall what they were or  
 20 was no one saying anything to you?  
 21 **A** I don't remember. Yeah.  
 22 **Q** Okay.  
 23 **A** Yeah, I don't know what was going on.  
 24 **Q** Okay. And as you said you were on the  
 25 ground, correct?

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1 any of the events that occurred that we have been  
 2 discussing, right?  
 3 **A** Right. She just was looking at injuries.  
 4 **Q** Do you know the name of this nurse?  
 5 **A** I do not know.  
 6 **Q** Do you know what hospital or doctor's  
 7 office she was from?  
 8 **A** Yes.  
 9 **Q** Where was she from?  
 10 **A** UMC.  
 11 **Q** And do you recall about when the date when  
 12 this conversation took place?  
 13 **A** It -- I don't know the date for sure.  
 14 **Q** Was it -- was it within a week of your  
 15 incident?  
 16 **A** I'm not sure.  
 17 **Q** Has anyone besides this nurse told you  
 18 that based upon your burns you would have had to  
 19 have been on the asphalt for 30 minutes?  
 20 **A** No. No one said anything besides this  
 21 nurse.  
 22 **Q** Okay. Aside from the statement from this  
 23 nurse, do we have -- or do you have any other  
 24 evidence or knowledge as to how long you were on the  
 25 ground or the asphalt?

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1 **A** Yes.  
 2 **Q** Do you know --  
 3 **A** Asphalt.  
 4 **Q** Okay. The asphalt. And you were  
 5 screaming while you were on the asphalt, correct?  
 6 **A** Yes.  
 7 **Q** Do you know how long you were on the  
 8 asphalt?  
 9 **A** I was told by a burn nurse that to have  
 10 the burns I had I would have been on the ground for  
 11 like 30 minutes. So I felt comfortable after  
 12 hearing what my nurse told me that I was there for  
 13 at least 20 minutes. I felt comfortable saying  
 14 that.  
 15 **Q** Okay. So let me ask you a couple of  
 16 follow-up questions on that. Do you have any  
 17 independent recollection of being on the ground for  
 18 20 minutes?  
 19 **A** I don't know how long I was on the ground.  
 20 **Q** Okay. This nurse that told you that you  
 21 would have had to have been on the ground for 30  
 22 minutes. This is a nurse that you treated with  
 23 after the incident, correct?  
 24 **A** Yes.  
 25 **Q** And this nurse was not present to observe

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1 **A** No.  
 2 **Q** Okay.  
 3 **A** Other than you could look at the video and  
 4 count the minutes, but I have never seen the video.  
 5 **Q** Do you know where -- 'cause you said that  
 6 you were held down on asphalt -- do you know where  
 7 on the defendant's premises you were being held down  
 8 on the asphalt?  
 9 **A** I believe it was in front of the Palms.  
 10 **Q** Why do you believe that?  
 11 **A** Because there was a grassy area. And  
 12 there's grass in the front of the Palms.  
 13 **Q** So part of your recollection of this event  
 14 is that there was grass in the area where this  
 15 occurred?  
 16 **A** Yes.  
 17 **Q** You said that you believe the video would  
 18 show what occurred but you have never seen the  
 19 video, correct?  
 20 **A** Correct.  
 21 **Q** I'm going to show you some photographs  
 22 that were taken from the video that has been  
 23 produced in this matter. Okay?  
 24 **A** Now, I understand that you have never  
 25 seen the video, but I want you to take a look at

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1 this picture that was taken from the video, okay. I  
2 want you to take a look at it and I want you to tell  
3 me whether or not you recognize any of the items in  
4 that photograph.

5 A Are you asking me to recognize the car?  
6 That is my car -- or it was not my car. It was  
7 my -- I'm going to call it my car even though it is  
8 not my car. Okay.

9 Q That's fine. I understand. So in this  
10 video -- in this picture where there is a date and a  
11 time at the bottom. It shows the date of August 7,  
12 2011 and a time of 15:16:27, which would be about  
13 3:16 p.m. You see your vehicle that you were  
14 driving that day; is that correct?

15 A Correct.

16 Q And that is the blue-green hatchback that  
17 we were talking about?

18 A Yes.

19 **MR. SMERBER: We're going to mark that as**  
20 **Exhibit A.**

21 **(Exhibit A marked for**  
22 **identification.)**

23 **BY MR. SMERBER:**

24 Q In Exhibit A where it shows your car, it  
25 appears to me that the rear passenger door is open.

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1 boyfriend I was living with.

2 Q Okay. So you had decided to move out of  
3 the your home that day; is that correct?

4 A Yes.

5 Q I'm going to show you another photograph.  
6 This is kind of -- this is another one that came  
7 from the video. Again, it has the same date on it  
8 of August 7th of 2011. And if you like at the very  
9 center of that photograph, do you see your vehicle  
10 again?

11 A Yes.

12 Q As you look at the photograph to the left,  
13 approximately 2 inches is another vehicle. It is  
14 like -- I don't know -- like a silver looking car.

15 Do you see that?

16 A Yes.

17 Q Do you know who that vehicle belongs to?

18 A No.

19 Q That vehicle appears to have some damage  
20 to the front of it. Does that refresh your  
21 recollection at all as to how this accident  
22 occurred?

23 A Yes.

24 Q How does that refresh your recollection?

25 A Well, the picture. So it looks like I hit

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1 Do you see that?

2 A Yes.

3 Q Do you know why the rear passenger door in  
4 your vehicle was open after your incident?

5 A No.

6 Q Was there anyone with you inside your  
7 vehicle when this occurred?

8 A No.

9 Q There is a, I believe, there is a suitcase  
10 with clothing next to your car. Do you recognize  
11 that item?

12 A Yes.

13 Q Do you know who that belongs to?

14 A Yes.

15 Q Who does that belong to?

16 A To me.

17 Q Do you know why your suitcase was on the  
18 ground outside of your vehicle after your car --  
19 after your incident?

20 A I don't know.

21 Q Do you know why you had a suitcase full of  
22 clothing with you that day?

23 A Yes.

24 Q Why?

25 A 'Cause I got in an argument with the

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1 a vehicle.

2 Q So as you look at this picture, does that  
3 remind you that you probably ran into that other  
4 car; is that what you're saying?

5 A I'm not sure what you're asking --

6 **MR. BLUT: Maybe -- I think the two of you**  
7 **may not be pointing to the same silver car.**

8 **THE WITNESS: This one, right?**

9 **MR. BLUT: She is pointing to the one in**  
10 **the middle. And just so the record is clear --**  
11

12 **MR. SMERBER: Okay.**

13 **MR. BLUT: -- and I was following**  
14 **something else.**

15 **BY MR. SMERBER:**

16 Q Ma'am, what I meant -- and I appreciate  
17 that, Counsel -- so as you look at the picture in  
18 front you, if you look to the left. So that would  
19 be this way (indicating).

20 A Oh, this one?

21 Q Yeah. Do you see that vehicle?

22 A Oh, yeah. I see that vehicle.

23 Q And do you see where there is some damage  
24 to the front of that vehicle?

25 A Okay.

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1 Q Do you see what I'm referencing?

2 A This one here (indicating)?

3 Q Yes.

4 MR. BLUT: Just for the record, that this  
5 one is on the left border.

6 THE WITNESS: I don't know.

7 BY MR. SMERBER:

8 Q Here is what I want you to do. I want you  
9 to circle it for me. I am going to give you a pen.  
10 I want you to circle the silver vehicle that we're  
11 talking about.

12 A This one?

13 Q That one (indicating). Okay.  
14 As you look at that vehicle with the  
15 damage to the front of it, does that refresh your  
16 recollection as to how this incident occurred?

17 A No, I don't know.

18 Q Okay. Now, there is another vehicle.  
19 Again, yours is the blue -- it looks to me like kind  
20 of a minivan in the middle --

21 A I don't have a minivan. It's a hatchback.

22 Q Okay. I'm good with hatchback. So the  
23 blue hatchback right in the middle of the photograph  
24 is your car?

25 A Yes.

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1 photograph. And in that photograph, this is another  
2 still taken from the surveillance video. This on is  
3 at 16 5:16:42. This shows a female sitting in a  
4 vehicle. Do you recognize who that female is?

5 A Yes.

6 Q Who is that?

7 A Me.

8 Q That is not your vehicle, correct?

9 A Correct.

10 Q There is a gentleman standing directly  
11 next to you in this photograph. Do you know who  
12 that gentleman is?

13 A No.

14 MR. BLUT: Just for the record, I'm not  
15 sure if it means anything but I know that there  
16 is multiple videos. And I'm not sure if this  
17 is one that was produced before. But I'm sure  
18 at some point we will have all of them. So it  
19 is what it is.

20 MR. SMERBER: This is from the video that  
21 we produced that is in our production. And it  
22 is camera, I believe, the number on the bottom  
23 left hand corner signifies Camera No. 513. So  
24 if you want to cross reference it. I think  
25 that is how you would do it.

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1 Q Directly in front of it is another  
2 vehicle. It's like -- I guess, it's like a silver  
3 gray color as well.

4 A Okay.

5 Q Do you see that vehicle?

6 A Yes.

7 Q Seeing that vehicle right in front of your  
8 vehicle, does that refresh your recollection at all  
9 as to how this accident occurred?

10 A No.

11 Q Do you know who owns either of those  
12 vehicles?

13 A No.

14 MR. SMERBER: We're going to mark that  
15 picture as Exhibit B.

16 (Exhibit B marked for  
17 identification.)

18 BY MR. SMERBER:

19 MR. SMERBER: I'm going to show another  
20 paragraph. I'm going to mark this as Exhibit C  
21 just so we know what we're talking about.

22 (Exhibit C marked for  
23 identification.)

24 BY MR. SMERBER:

25 Q I want you to take a look at that

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1 MR. BLUT: Thank you. I know there are  
2 multiple. I'm not sure internally -- and since  
3 she hadn't been deposed, I understand how the  
4 production flows.

5 BY MR. SMERBER:

6 Q And again, I might have asked you this  
7 question and I apologize if I'm being redundant.  
8 The vehicle that you're sitting in at this point,  
9 that is not your vehicle, correct?

10 A Correct.

11 Q Do you know why you're in that vehicle?

12 A No.

13 Q Do you remember going into somebody else's  
14 vehicle after the incident occurred?

15 A No.

16 Q Do you know if that person offered to  
17 allow you into their vehicle?

18 A No.

19 Q If this gentleman in this photograph were  
20 to say that he did not allow you in his vehicle, do  
21 you have any reason to dispute that?

22 MR. BLUT: Object to the form.

23 THE WITNESS: Can you ask me again what  
24 you're asking me.  
25

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1 BY MR. SMERBER:

2 Q Yes. It is my understanding -- and this  
3 is all subject to later proof -- but in my point, it  
4 is my understanding that this gentleman in the  
5 photograph that you're looking at, that that was his  
6 car, okay. If that gentleman were to say that he  
7 did not give you permission to get in his vehicle,  
8 do you have any reason to dispute that?

9 MR. BLUT: Object to the form. You can  
10 answer.

11 THE WITNESS: I guess.

12 BY MR. SMERBER:

13 Q You do?

14 A Well, like he -- he's saying he didn't let  
15 me in his vehicle, then that is his word. So I  
16 don't have an opinion. I just -- I'm just repeating  
17 what you're telling me. Because I really don't have  
18 an opinion.

19 Q What I'm asking you --

20 A What you're telling me --

21 Q -- what I'm asking you is: Do you have  
22 any reason to believe that that person did allow you  
23 into his vehicle?

24 A I don't have any opinion.

25 Q Let me ask you this way: As you sit here

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1 Q Do you have any recollection of any  
2 interaction that you had with that man?

3 A No.

4 Q Do you recall having any physical contact  
5 with that man?

6 A No.

7 Q I have seen in certain documents an  
8 allegation, and I'm not saying whether or not it is  
9 true, I don't know at this point, but I have seen an  
10 allegation that you bit that man. Do you have any  
11 recollection of that?

12 A No.

13 MR. BLUT: Belatedly object to the form.

14 THE WITNESS: I -- what was the question?

15 MR. SMERBER: No problem.

16 THE WITNESS: I'm confused.

17 BY MR. SMERBER:

18 Q Do you have any recollection as to whether  
19 or not you bit that man?

20 A I did not bite that man.

21 Q Okay. So you do recall the intersections  
22 that you had with that man to some extent because  
23 you're telling me affirmatively that you did not  
24 bite him, correct?

25 A I don't remember anything. But I know my  
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1 today, is there any reason why you would think that  
2 this person allowed you to get inside of their  
3 vehicle?

4 A No.

5 MR. SMERBER: I'm going to show you  
6 another photograph. We will mark this as  
7 Exhibit D.

8 (Exhibit D marked for  
9 identification.)

10 BY MR. SMERBER:

11 Q Again, in the center of this photograph  
12 there is a female woman. Can you identify that  
13 person?

14 A Yeah.

15 Q Who is that?

16 A That's me.

17 Q What are you wearing in this photograph  
18 for the record?

19 A A brown sun dress.

20 Q And the same male individual is shown in  
21 this photograph. He appears to be sticking his hand  
22 out as if you guys are talking or he's saying  
23 something to you. Do you recall what if anything he  
24 said to you?

25 A No.

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1 nature, and a I would never bite anybody.

2 Q And ma'am, I'm not trying to be tedious.  
3 I just have to get these things on the record, okay.

4 If I understand what you're saying, you don't  
5 remember any of the intersections that you had with  
6 this man, correct?

7 A Correct.

8 Q So because you cannot remember any of the  
9 intersections that you had with him, you cannot tell  
10 me affirmatively whether or not you bit him; is  
11 that --

12 A I know I wouldn't bite anybody.

13 Q Okay. So you're telling me that based  
14 upon your knowledge of yourself and how you would  
15 act, you would not bite him?

16 A Yeah, I wouldn't bite people.

17 MR. BLUT: Let me know when is a good  
18 break time. Whatever works.

19 MR. SMERBER: I just have a couple more  
20 pictures.

21 MR. BLUT: Okay.

22 MR. SMERBER: I'm going to show you  
23 another photograph. We are going to mark this  
24 as Exhibit E.

25 (Exhibit E marked for

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1 identification.)

2 **BY MR. SMERBER:**

3 **Q** I want you to take a look at this

4 photograph. In the very center right of the

5 photograph, I believe you are shown wearing the same

6 brown sun dress, correct?

7 **A** Correct.

8 **Q** There is a man standing behind you. Do

9 you see him?

10 **A** Yes.

11 **Q** Is that the man that you contend

12 restrained you?

13 **A** I don't know.

14 **Q** Do you have any recollection of a man in a

15 uniform like that restraining you?

16 **A** I don't know who restrained me.

17 **Q** Okay.

18 **A** I know it was someone in a uniform.

19 **Q** How many --

20 **A** I don't know if that is the person.

21 **Q** Okay. Based upon that photograph, what do

22 you think is happening at that point?

23 **A** I don't know. People are watching

24 something occur. I'm not sure what is going on. It

25 looks like I'm -- I don't know what is going on in

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1 **MR. SMERBER:** I'm going to show you

2 another picture. We're going to mark it as F.

3 (Exhibit F marked for

4 identification.)

5 **BY MR. SMERBER:**

6 **Q** I want you to keep E in front of you,

7 though. Okay. Taking a look at that picture, in

8 the very center of this picture, there is two

9 tree -- I don't know what you call that. There is

10 two trees there. Do you see those two trees?

11 **A** Yes.

12 **Q** Directly in between those two trees, there

13 is a woman in a brown dress. Is that you?

14 **A** Yes.

15 **Q** Okay. And then there also appears to be

16 that same officer in the uniform. Do you see him?

17 **A** I guess you can make out there is somebody

18 there.

19 **Q** Okay. You can see that your arms and this

20 other person's arms are touching each other,

21 correct?

22 **A** I guess I can see it, kind of.

23 **Q** Okay.

24 **A** I don't know what is going on.

25 **Q** Do you remember having any physical

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1 that picture.

2 **Q** What are you doing in that picture?

3 **A** I don't know what I'm doing.

4 **Q** How many people are touching you at that

5 point?

6 **A** It looks like one person.

7 **Q** Do you recall at any point any one else

8 touching you besides that person shown in the

9 photograph?

10 **A** I don't know. There's -- in this picture,

11 it only looks like one person is there next to me.

12 **Q** Do you remember at any point any

13 additional people coming?

14 **A** I remember more people, yes.

15 **Q** How many more people?

16 **A** Like a group of people, which --

17 **Q** Were they all wearing uniforms like this?

18 **A** No. They were wearing different outfits.

19 **Q** What did the other outfits look like?

20 **A** Like a blue shirt or -- I think -- I think

21 were shirts. I don't know. I don't remember.

22 **Q** Does this picture refresh your

23 recollection at all as to the events that occurred

24 on the date of your incident?

25 **A** No.

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1 interaction like this with a police officer after

2 your incident occurred?

3 **A** No.

4 **Q** Do you remember having any type of

5 physical contact with the police officer during the

6 events of your incident?

7 **A** I don't know who I had contact with, but I

8 had contact with somebody.

9 **Q** Okay. I have read in this case

10 allegations that you were wrestling with the police

11 officer and resisting him. Do you dispute that?

12 **MR. BLUT: Object to the form.**

13 **THE WITNESS: I -- I -- I don't agree upon**

14 **that.**

15 **BY MR. SMERBER:**

16 **Q** Okay. So it would be your contention that

17 you were not wrestling or resisting an officer?

18 **A** I don't -- I wouldn't resist an officer.

19 **Q** Again, is that based upon your

20 recollection from this date or is that just based

21 upon your knowledge of yourself?

22 **A** My knowledge of myself.

23 **Q** Okay.

24 **A** I don't remember what happened.

25 **Q** So again, if I understand what you're

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1 saying, you cannot tell me whether or not you were  
2 resisting a police officer because you don't  
3 remember, but you think based upon your knowledge of  
4 yourself that you wouldn't act that way?

5 A Yeah.

6 Q Do you have any reason to believe that on  
7 the date of this incident you were acting out of  
8 character for yourself?

9 A I don't know.

10 Q Do you believe that because you had been  
11 in a fight with your boyfriend and decided to move  
12 out of your home, and then got in a fight with your  
13 sister, that maybe you were acting out of character  
14 for yourself?

15 A Yeah, probably.

16 Q You would agree with me that if you were  
17 shown on surveillance video struggling with this  
18 officer, that that would be out of character for  
19 you, correct?

20 MR. BLUT: Object to the form.

21 THE WITNESS: What was that again?

22 BY MR. SMERBER:

23 Q Would you agree with me that if you were  
24 shown on surveillance video struggling with this  
25 police officer, that that would be out of character

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1 A Right.

2 Q Okay. I'm just saying if I were to show  
3 you a video of yourself, struggling with this police  
4 officer then you would agree with me that that is  
5 you acting out of character, correct?

6 MR. BLUT: Object to the form.

7 THE WITNESS: Yeah, I guess.

8 BY MR. SMERBER:

9 Q Okay. As you look in Exhibits D, E, and  
10 F, are you able to identify anyone who works for the  
11 Palms?

12 A I wouldn't know. I do recognize that as  
13 Palms' property. Cause there is the sign right  
14 here. That's the Palms' sign; isn't it?

15 Q Okay.

16 MR. BLUT: You cannot ask him questions.

17 THE WITNESS: Oh, I can't ask him  
18 questions.

19 (Off the record.)

20 BY MR. SMERBER:

21 Q Ma'am, we're going back on the record.  
22 You had a break and an opportunity to speak with  
23 your counsel. You understand that all of the  
24 admonishments that I previously gave you, they still  
25 apply. You understand?

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1 for you?

2 MR. BLUT: Same objection.

3 THE WITNESS: I have never been shown a  
4 video.

5 BY MR. SMERBER:

6 Q I'm not asking what your review of the  
7 video is. I'm saying if you were shown a video and  
8 it did show you struggling with this officer, that  
9 that would be out of character for you, correct?

10 MR. BLUT: Same objection.

11 THE WITNESS: So you're saying if someone  
12 were to show me a video that I'm wrestling with  
13 an officer, that I would be surprised?

14 BY MR. SMERBER:

15 Q Yes. Do you think that that would be  
16 something that you would do?

17 A But you're showing me a video. So -- what  
18 are you asking me? I'm not quite sure. What --  
19 what do you want to ask me? I don't quite  
20 understand what you're getting at.

21 Q Okay. Let me break it down. You're  
22 saying that you did not resist and struggle with  
23 this officer. And you're saying that your basis for  
24 that is that that is simply out of character for  
25 you, you would not do that, right?

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1 A Understand.

2 Q Okay. So let's go back to the incident  
3 that you had at the Palms. Can you tell me any  
4 interaction that you had, physical or verbal, with  
5 anyone from the Palms?

6 A I only would talk to a woman. That's all  
7 I remember. And she worked for the Palms.

8 Q So you spoke to a woman from the Palms.  
9 Was this during your incident or after?

10 A After.

11 Q So after your incident you spoke to a  
12 woman, and do you know her name?

13 A No.

14 Q What did you and this woman speak to you  
15 after your incident occurred?

16 A I don't remember. But I remember I  
17 wouldn't talk to anybody. Any of the men. I wanted  
18 to talk to a woman. I felt threatened. So I felt  
19 like, that the only person I could talk to was a  
20 woman.

21 Q So you requested to speak to a woman?

22 A That's -- I only would talk to the woman.  
23 That's all I remember. There was -- there was only  
24 one woman there, if I remember.

25 Q So there was a woman there, and you would

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1 only speak to her?  
 2 A Yeah.  
 3 Q Do you remember, did you have to -- did  
 4 you have to call out to this woman for her to come  
 5 talk to you?  
 6 A No, I don't remember any of that. I just  
 7 remember being able -- being able to talk to a  
 8 woman. That is the only thing I remember of the  
 9 whole incident. How I felt threatened, and I would  
 10 only talk to a woman.  
 11 Q So speaking to this woman made you feel  
 12 less threatened?  
 13 A Yes, because I was really threatened. And  
 14 another thing I should state is, I don't know if she  
 15 was from the Palms. I just know there was a woman  
 16 there. I assumed she was from the Palms.  
 17 Q Okay.  
 18 A But I'm not sure. And the reason I'm  
 19 assuming she worked for the Palms, it seemed like  
 20 she had some sort of an outfit that made me think  
 21 that.  
 22 Q What did her outfit looked like?  
 23 A I believe she was wearing a shirt. Like,  
 24 a -- like, a collared -- like a work shirt or  
 25 something. Like a -- not like a golf shirt, but it

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1 THE WITNESS: I don't know. I don't know.  
 2 I don't know.  
 3 BY MR. SMERBER:  
 4 Q Do you remember this woman --  
 5 A There is a whole period of I don't know.  
 6 Who is the ones that did that. There is a whole  
 7 blank period that I don't know what occurred.  
 8 Q What is the last thing that you do  
 9 remember --  
 10 A Um --  
 11 Q -- what is the last thing that you do  
 12 remember before the blank period again?  
 13 A Ask me that question again.  
 14 Q Okay. Let me put it in context. You told  
 15 me that you were driving back to the Palms to find  
 16 your sister, correct?  
 17 A Yes.  
 18 Q Then at some point you have what starts as  
 19 a blank period, right?  
 20 A Yes.  
 21 Q What is the last thing you remember before  
 22 that blank period starts?  
 23 A The last thing I remember? I remember  
 24 getting hit really hard by vehicle.  
 25 Q And then your memory goes blank for a

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1 looked like a golf shirt.  
 2 Q Okay. Let me see if I can help. Did the  
 3 uniform that this woman was wearing look different  
 4 from the uniform of the people that put you in the  
 5 restraints and pushed you on the ground?  
 6 A I don't know. I cannot answer that.  
 7 Q Okay.  
 8 A I don't know who put me on restraints.  
 9 Q So the only person that you even suspected  
 10 being with the Palms is a woman that you spoke to  
 11 after your incident occurred; is that fair?  
 12 A No. Because the people who were there  
 13 were all in uniform are surrounding me. I don't  
 14 know what they were, where they worked but they all  
 15 worked -- they were men of service, like people. I  
 16 thought they were fireman, to tell you the truth.  
 17 But I don't if they were firemen. I don't know what  
 18 they were. So actually I have no recollection. I  
 19 don't really know what happened. I just know that I  
 20 spoke to a woman because she was the only woman  
 21 there after the whole thing occurred.  
 22 Q Did this woman threaten you in any way?  
 23 A No.  
 24 Q Did this woman harm you in any way?  
 25 MR. BLUT: Object to form --

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1 period of time. And then what is the next thing  
 2 that you remember?  
 3 A I remember little bits and pieces. I  
 4 don't know what occurred first, what could have  
 5 occurred second. That is all fuzzy. I remember  
 6 talking to a woman. And I remember being pushed in  
 7 the ambulance type of thing where -- I also remember  
 8 being pushed in the hot pavement, really hard and my  
 9 face burning. I remember the sensation on my face.  
 10 And I remember the sensation on my leg. And I was  
 11 screaming. I remember being pushed hard. I  
 12 remember the zip ties, how that felt. I remember  
 13 the feeling of being tied and pushed. I remember  
 14 not being able to get up. I remember being burnt on  
 15 the -- on the sidewalk because I wasn't allowed to  
 16 stand up. I remember wanting to stand up and not  
 17 being able to stand up. I asked to stand up, and I  
 18 remember people telling me, no, you can't stand up  
 19 or -- I wasn't allowed to stand up so I had more  
 20 burns on my ass -- sorry. Excuse me. My butt.  
 21 Sorry about my language.  
 22 Q It's okay.  
 23 A It's upsetting, the whole thing so I get a  
 24 little frazzled by how I speak.  
 25 Q It's okay.

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1 A But I got burns on my butt because I  
2 remember all the pain. That's what I remember the  
3 most, is how much it hurt and how I wanted to stand  
4 up and nobody let me stand up. And that really was  
5 painful.

6 Q Who told you that you could not stand up?

7 A I don't know who told me I could not stand  
8 up, but I know I wasn't allowed to stand up.  
9 Because every time -- I just remember a crowd of  
10 people. There were a crowd of people around me.  
11 And I don't know who these people were.

12 Q Can you give me a physical description of  
13 the people who told you, you could not stand up?

14 A No.

15 Q Could you tell me if they're male or  
16 female?

17 A Male.

18 Q Could you tell me what they were wearing?

19 A No.

20 Q So you specifically remember that you were  
21 not permitted to stand up; however, you can't tell  
22 me anything about who told you, you can't stand up;  
23 is that correct?

24 A All I know is that they were men.

25 Q Okay. A?

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1 And that's all I remember.

2 Q Do you remember ever telling anybody that  
3 you were burning as you were sitting on the ground?

4 A I just remember screaming.

5 Q Okay. So screaming, but you're not  
6 telling anybody that you were injured, you weren't  
7 telling anybody that you were burning, you were just  
8 screaming, correct?

9 A Yeah, because it hurt so much.

10 Q Okay.

11 A Like if you have ever been burned, you  
12 would understand that you're just screaming.

13 Q But you were also just screaming before  
14 you were ever placed on the ground, correct?

15 A Was I? I don't recall.

16 Q Well, that is what you told me about 20  
17 minutes ago. You told me that when this officer  
18 approached you, you remember screaming.

19 A I don't remember screaming. So if I did  
20 state that, then I misunderstood your question  
21 because I don't remember screaming. I remember  
22 screaming on the ground, but I do not remember  
23 screaming, just to scream.

24 Q So before you were placed on the ground,  
25 you are saying you were not screaming at all?

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1 A And the time periods are going to be  
2 fuzzy. I don't know how long things were there and  
3 occurred. I know I was on the floor for quite a  
4 while and I was not allow to get --

5 (Off the record.)

6 **BY MR. SMERBER:**

7 Q To get up; is that what you're going to  
8 say?

9 A Probably.

10 Q Well, let me go back and we'll ask a  
11 couple of follow-up questions. You said that you  
12 remember being pushed. Who do you remember pushing  
13 you?

14 A I don't know who did. I don't know.

15 Q Okay.

16 A I don't know.

17 Q You said that you remember that there was  
18 a woman there speaking to you afterwards. Do you  
19 have any recollection of this woman participating in  
20 any of these events that you just described?

21 A I don't know. I don't know any of that.  
22 Again, I don't remember. I don't know who was the  
23 ones who were holding me down. I don't know any of  
24 these things. I do know there was -- when I have a  
25 memory, I remember a group of people surrounding me.

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1 A I don't know what occurred before I was  
2 placed on the ground.

3 Q How about when you were placed on the  
4 sidewalk, you said that you were placed on the  
5 sidewalk at some point?

6 A Yes.

7 Q And you said that your butt was burning  
8 because you were sitting on the sidewalk?

9 A Yeah. Yeah, I couldn't stand up. They  
10 wouldn't let me stand up.

11 Q At that point did you tell anyone, hey,  
12 I'm burning, I need to stand up?

13 A I don't remember what I told them, but I  
14 remember just wanting to stand up. Like just keep  
15 telling them I need to stand up. I just remember  
16 that.

17 Q So --

18 A Like wanting to stand up. And every time  
19 I tried to stand up, I was pushed back down.

20 Q Give me a physical description of the  
21 person that pushed you back down when you were  
22 trying to stand up.

23 A I don't know. It was a male. Probably  
24 Caucasian.

25 Q Caucasian male --

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1 A I don't -- actually, you know what, I  
 2 don't know the race. So I don't know what they  
 3 were, but I know it was a male.  
 4 Q What were they wearing?  
 5 A I don't know.  
 6 Q And they would physically push you back  
 7 down to the ground, is what you're saying?  
 8 A Yeah. Every time I tried to go back up  
 9 'cause I was trying to stand up and I they wouldn't  
 10 let me stand up.  
 11 Q And it's your estimate, based upon this  
 12 nurse, that this went on for 30 minutes; is that  
 13 right?  
 14 A No. You have different instance.  
 15 Q Okay.  
 16 A We were talking about two different  
 17 things.  
 18 Q When were you on the ground for 30  
 19 minutes?  
 20 A I was on the ground on my left side of the  
 21 ground -- so like my whole left side, including my  
 22 face was on the ground.  
 23 Q Okay.  
 24 A And during this period of time, I believe  
 25 that was 20 minutes.

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1 Q Then during this time that you were on the  
 2 curb, however long that may have been, you never  
 3 told anyone that you were being injured while  
 4 sitting on the curb or that you were burning while  
 5 you were sitting on the curb, correct?  
 6 A I don't remember what I was saying.  
 7 Q Let me put it this way: As you sit here  
 8 today you have no recollection of ever telling  
 9 anyone that as you were sitting on the curb you were  
 10 being injured?  
 11 A I'm going to re -- resay what you're  
 12 saying, what I believe you're saying.  
 13 Q Okay.  
 14 A I do not remember what I said to anyone.  
 15 Q Okay.  
 16 A So it doesn't say that -- did I say  
 17 please, get me off the curb? I could have said  
 18 that. Easily I could have said that. I do not  
 19 remember anything I said.  
 20 Q Do you remember what anyone said to you?  
 21 A I do not remember anyone.  
 22 Q So as you are sitting on the curb you  
 23 don't remember what anyone said to you. When you  
 24 were on the asphalt for that 20 minute period, do  
 25 you remember what anyone said to you?

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1 Q Okay.  
 2 A I was in two instances held down.  
 3 Q Okay.  
 4 A So after they got me off the ground, I was  
 5 allowed to sit on the curb. And during that sitting  
 6 on the curb is when I wanted to stand up because my  
 7 butt kept burning.  
 8 Q So you were on the -- let's distinguish it  
 9 this way. One of the grounds that we're talking is  
 10 asphalt --  
 11 A Asphalt, yes.  
 12 Q -- the other one is a curb?  
 13 A Yes.  
 14 Q During the 20 minute period that you were  
 15 on the asphalt, did you ever tell anyone that you  
 16 were burning and you needed to be let up?  
 17 A I remember just screaming.  
 18 Q Now, how long were you sitting on the  
 19 curb?  
 20 A That, I don't know.  
 21 Q You have no idea how long were on this  
 22 curb?  
 23 A No.  
 24 Q Okay.  
 25 A I don't remember.

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1 A I remember I think someone was giving me  
 2 my rights. But I don't really remember. Like it  
 3 was so -- I don't know what was going on. So I  
 4 guess -- I don't know is better 'cause I don't know.  
 5 I don't know.  
 6 Q The lady that you were discussing a minute  
 7 ago, do you know what she looked like physically?  
 8 Let me clear that up a little bit. You said that  
 9 the only person that you would speak to after this  
 10 incident was a woman, correct?  
 11 A Yes.  
 12 Q Can you give me a physical description of  
 13 her?  
 14 A She was a woman and she had dark hair.  
 15 That's all I remember.  
 16 Q Do you remember if she was a larger woman  
 17 or a smaller woman?  
 18 A Probably average.  
 19 Q And you said that you would only speak to  
 20 this woman because you felt threatened by all the  
 21 men that were around, correct?  
 22 A Yes.  
 23 Q Did this woman offer you any type of aid?  
 24 A I don't remember.  
 25 Q But you did tell me that you don't

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1 remember being threatened by this woman at all,  
 2 right?  
 3 A I don't remember anything. I just  
 4 remember in my head I was afraid and there was only  
 5 one woman there. And that is the only person I  
 6 spoke to. That's all I remember. Do I remember  
 7 what she told me? No, I don't remember what she  
 8 told me. I don't remember if she offered me aid. I  
 9 don't remember if she threatened me. I do not  
 10 recall any of this. I only remember I would just  
 11 only speak to a woman. That's the only thing.  
 12 Q Well, can you tell me what if any  
 13 involvement my client had in your incident?  
 14 **MR. BLUT: Object to the form.**  
 15 **THE WITNESS: It was on private property.**  
 16 **I do not recall who was the people that was**  
 17 **surrounding me. I do not recall who held me**  
 18 **down on the ground. I do not who -- recall who**  
 19 **told me I couldn't stand up or who let me sit**  
 20 **on the sidewalk to burn. I do not know who --**  
 21 **I do not recall who -- who was the people who**  
 22 **held me on the ground. I cannot answer your**  
 23 **question.**  
 24 **BY MR. SMERBER:**  
 25 Q Do you know how hot the asphalt was on the  
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1 **information other than anything that we**  
 2 **discussed, he is entitled to know that.**  
 3 **THE WITNESS: I don't understand.**  
 4 **BY MR. SMERBER:**  
 5 Q Can you tell me the names of any of the  
 6 Palms' security officers involved in your incident?  
 7 A No.  
 8 Q Can you give me a physical description of  
 9 any of the Palms' security officers involved in your  
 10 incident?  
 11 A No.  
 12 Q Can you tell me the specific actions taken  
 13 by any of the Palms' security officers involved in  
 14 your incident?  
 15 **MR. BLUT: Object to the extent it calls**  
 16 **for attorney-client privilege.**  
 17 **If I told you something, not showed you**  
 18 **something, if I told you something, he is not**  
 19 **entitled to know that.**  
 20 **THE WITNESS: Wait. Say that again.**  
 21 **MR. SMERBER: Can you read the question**  
 22 **back.**  
 23 **THE WITNESS: What you told me. What did**  
 24 **you say?**  
 25  
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1 date of your incident?  
 2 A I do not know how hot, what the  
 3 temperature of the asphalt was.  
 4 Q I think I understand your previous  
 5 statement, that you cannot tell me what involvement  
 6 Palms' security had in this incident because you  
 7 don't know who did what; is that fair?  
 8 A Can you say the -- the question again.  
 9 Q Well, I'm trying to figure out because you  
 10 sued my client and you said that our security has  
 11 done something. And you're saying that you don't  
 12 know who committed what act or who did what to you,  
 13 right? You just know that it happened; is that  
 14 fair?  
 15 A And it was on the Palms' property.  
 16 Q So in terms of the prior history of any of  
 17 the Palms' security officers that were involved in  
 18 this incident, you don't know anything about that,  
 19 right?  
 20 **MR. BLUT: Object to the extent it --**  
 21 **THE WITNESS: I can't --**  
 22 **MR. BLUT: If it is something I -- hold on**  
 23 **one second -- if it is something that I told**  
 24 **you, he is not entitled to that. That would be**  
 25 **attorney-client privilege. If you have any**  
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1 **BY MR. SMERBER:**  
 2 Q He is protecting his attorney-client  
 3 privilege. He is saying -- and I'm not entitled to  
 4 know anything that you and your counsel spoke about?  
 5 A Okay.  
 6 Q And if you reviewed something, if you  
 7 looked at something or you remember from the date of  
 8 your incident what happened cause you were there,  
 9 then you need to answer my question --  
 10 A Oh, I don't remember. So no, I don't  
 11 know.  
 12 Q Just to clarify, because we had a little  
 13 dialogue in between. You can't tell me what actions  
 14 any of the Palms' security officers took in these  
 15 events because you don't remember, right?  
 16 A I don't remember anything. You have to  
 17 look at the video cause I don't remember what  
 18 happened.  
 19 Q So you would go with whatever is on the  
 20 video, right?  
 21 **MR. BLUT: Object to the form.**  
 22 **BY MR. SMERBER:**  
 23 Q Is that correct?  
 24 A I don't have a choice. I don't remember  
 25 what occurred.  
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1 Q Okay.

2 A But I mean, I also know that certain

3 videos will show certain things. And I know that

4 certain videos will show other things. And that --

5 I would if -- I would like to see all the footage as

6 I don't really know -- I don't know.

7 Q And you have said today that you have not

8 seen surveillance videos --

9 A No, I never saw any of the videos.

10 Q Do you have any understanding as to why

11 Palms security became involved in this incident?

12 MR. BLUT: Object to the form.

13 THE WITNESS: My understanding is that

14 it's private property. And that's -- it -- by

15 it being on their property alone, that gives

16 them responsibility of what occurs on their

17 property.

18 BY MR. SMERBER:

19 Q Do you know who approached you first,

20 whether it was someone from Las Vegas Metropolitan

21 Police Department or from the Palms?

22 A I do not know.

23 Q Do you know who was the first to arrive to

24 the scene of the accident that you had?

25 A I do not know.

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1 am I agreeing or what am I not agreeing to?

2 BY MR. SMERBER:

3 Q What I'm saying is that you cannot agree

4 or disagree because you don't remember; is that

5 right?

6 A Yeah. Yeah, I can't -- I can't say yes or

7 no.

8 Q Right. Do you know if you struck your

9 head in your car accident?

10 A I know the air bag hit me pretty hard. I

11 don't know if it struck my head, but I remember the

12 air bag really was forceful.

13 Q You said that at some point you remember

14 being placed into an ambulance; is that right?

15 A Yes.

16 Q Do you recall all of the events that

17 occurred after you being placed in the ambulance or

18 do you still have a spotty recollection of what

19 happened?

20 MR. BLUT: Object to the form.

21 BY MR. SMERBER:

22 Q Do you understand what I'm saying? It is

23 not a great question. You told me that from the

24 time you got into your accident until the time that

25 you were placed on the curb, you have bits and

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1 Q There was a statement written by a Palms'

2 security officer regarding this incident. And the

3 statement written by the Palms' security officer

4 indicates that metro was in the process of engaging

5 you, and metro requested the Palms' security officer

6 to assist. Do you have any recollection of that

7 happening?

8 A No, I have never seen the report.

9 Q No, what I'm asking you is: During the

10 events that occurred involving you, you have

11 described several things happening. You said that a

12 police officer approached you. You said that you

13 were pushed to the ground. You said that you were

14 placed in restraints. These are all the things that

15 you have told me today, correct?

16 A Correct.

17 Q At any time during these events, do you

18 recall the person who is doing this to you asking

19 the Palms' security to assist them?

20 A I don't remember what happened, so I don't

21 remember.

22 Q So you don't have any reason to agree or

23 disagree with that? You just don't remember?

24 MR. BLUT: Object to the form.

25 THE WITNESS: I'm not agreeing to -- what

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1 pieces of memory, right?

2 A Right.

3 Q What I want to know is, from the time that

4 you were placed in the ambulance, from then on, do

5 you only have bits and pieces of memory or do you

6 have a good recollection of everything that

7 occurred?

8 A I have bits and pieces. It's not -- I --

9 I remember being put in the vehicle. And I remember

10 waking up in the hospital. I remember parts of it,

11 like, being -- like, getting X-rays and stuff like

12 that. They freaked me out. But I don't really

13 remember -- I don't have a clear -- I don't have a

14 clear -- I don't clearly remember.

15 Q As a result of this incident, did you

16 begin treating with some sort of mental health care

17 professional?

18 A No.

19 Q Have you ever treated with a mental

20 healthcare professional?

21 A As of today? Yes.

22 Q When did you first treat with a mental

23 healthcare professional?

24 A When I was like a teenager, I had like

25 night terrors, which were -- which I believe were

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1 caused by the Northridge earthquake. So -- because  
2 I started seeing night terrors. I was probably 15  
3 when I first got night terrors. And then I went to  
4 go to a neurologists. I think he referred me to a  
5 psychiatrist. I've only -- did I occur -- I stopped  
6 seeing both those treatments because the night  
7 terrors disappeared when I was probably like 18  
8 or -- like college time. That was the first time I  
9 went to mental health facility was for night  
10 terrors.

11 Q Were you taking any prescription  
12 medications from those doctors?

13 A When I was 19, 15?

14 Q At any time when you were treating with  
15 them.

16 A Yes.

17 Q What medications were you taking?

18 A I don't remember. It was so long ago.

19 Q What was the name of the psychiatrist that  
20 you treated with?

21 A I don't remember his name. It was so long  
22 ago. I was a kid.

23 Q What was the name of neurologist that you  
24 saw?

25 A I think his name was -- no. I don't

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1 Q How long did that last for?

2 A My night terrors?

3 Q Yes.

4 A Probably 15 to like my early 20s.

5 Q Okay?

6 A I might have also gotten night terrors,  
7 you know, before but I just don't remember, you  
8 know, because I don't remember when I have them.

9 Q Do you know when the last time you had one  
10 of these night terror episodes was?

11 A I don't remember.

12 Q Now, a minute ago I asked you if you have  
13 ever treated with a psychiatrist or mental health  
14 person in Nevada and you said that you have,  
15 correct?

16 A As of today, yes.

17 Q Who have you -- what type of mental  
18 healthcare -- give me the name of the mental  
19 healthcare professional that you have treated with  
20 here in Nevada.

21 A I'm seeing a therapist here. And his name  
22 a Mark Premselaar.

23 Q Can you spell his last?

24 A No can I look it up? P-R-E-M-S-E-L-A-A-R.

25 Q How long view been treating with him?

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1 remember. I don't remember his name. It was so  
2 long ago.

3 Q Did you treat with any psychiatrist here  
4 in Las Vegas?

5 A As of today? Yes.

6 Q When you were treating for your night  
7 terrors, did you treat with any doctors in Nevada?

8 A No. I was living in Los Angeles at the  
9 time.

10 Q Did you ever fill any prescriptions in  
11 Nevada?

12 A During the time for the night terrors?

13 Q Yes.

14 A No. No one in Las Vegas.

15 Q When you were having the night terrors,  
16 what were your symptoms?

17 A Well, it's your basic night terror. I  
18 would wake up, scream, and run out of the room.

19 Q In the morning or whenever you woke up or  
20 whatever, did you have a recollection of doing that?

21 A No.

22 Q So later someone would tell you, hey, last  
23 night you woke up, you were screaming and running  
24 around, and you would have no recollection of that?

25 A Right.

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1 A Since August of 2011.

2 Q Who referred you to that doctor?

3 A I found him through my Discount Ameriplan  
4 I have.

5 Q What is Discount Ameriplan?

6 A It is not a health -- it's not -- it's not  
7 an insurance. It's just called a discount plan,  
8 it's called Ameriplan.

9 Q So you buy a plan and then you can go to  
10 various providers who participate with that plan for  
11 a discounted rate?

12 A Yeah.

13 Q And does Dr. Premselaar prescribe you  
14 medication?

15 A No. He's not a doctor. He's a therapist.

16 Q How often do you treat with him?

17 A I go to see him every two weeks.

18 Q Have you treated with any other mental  
19 healthcare professionals in Nevada since this  
20 incident occurred?

21 A Yes.

22 Q Who else have you treated with?

23 A Dr. Waits, who works at the state. So  
24 it's the Southern Nevada Adult Mental Health  
25 Services. He prescribes me medication.

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1 Q What medication is he prescribing for you?  
 2 A I'm currently on Respinol.  
 3 Q What is your dosage?  
 4 A 1 milligrams, 1mm -- something. M  
 5 something.  
 6 Q MG?  
 7 A Yeah. I think that is what it is, MG.  
 8 Q How often do you take that?  
 9 A Every day before I go to bed.  
 10 Q Do you know what that medication is  
 11 supposed to do for you?  
 12 A It's an antipsychotic.  
 13 Q How long have you been taking that  
 14 medication?  
 15 A Since March last year -- oh, wait. Wait.  
 16 What year are we in now?  
 17 Q We're in 2013 --  
 18 A We past March, so -- yeah. March of last  
 19 year. So 2012.  
 20 Q Do you take any other medications?  
 21 A No. Oh, I have an inhaler. An inhaler.  
 22 I think that is considered medication.  
 23 Q How often do you go sigh Dr. Waits?  
 24 A Every like two to three months.  
 25 Q What type of treatment does Dr. Waits give  
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1 Q What kind of questions does he ask you?  
 2 A Your basic questions that you ask any  
 3 mental health patient.  
 4 Q Which would be what?  
 5 A Like, do you feel suicidal today? Do you  
 6 feel like harming anybody today? I don't know.  
 7 Your basic questions that you ask.  
 8 Q Have you had to do any inpatient treatment  
 9 for your mental healthcare?  
 10 A Yes -- well, inpatient meaning? I had to  
 11 go to a hospital, yes.  
 12 Q When did you go to the hospital?  
 13 A March 2012. It might have been also -- it  
 14 might have been also early -- late February. Like,  
 15 I'm not sure the time period, but it was like  
 16 between late -- late February -- the last week of  
 17 February and the first week -- the first week of  
 18 March. That time period.  
 19 Q And what hospital did you go to?  
 20 A I went to Rawson Neal Psychiatric  
 21 Hospital.  
 22 Q Do you know how to spell that?  
 23 A I can look it up on Google.  
 24 Q Who sent you there?  
 25 A Saint Rose Hospital.  
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1 you?  
 2 A He just prescribes me medication. You  
 3 don't get the best services through the state.  
 4 Q Did Dr. Waits perform any tests on you or  
 5 anything like that?  
 6 A No.  
 7 Q So tell me what was -- what did your first  
 8 meeting with Dr. Waits consist of?  
 9 A He just asked me a bunch of questions, and  
 10 then wrote a prescription.  
 11 Q Did he have you fill out any paperwork?  
 12 A No.  
 13 Q And then you followed up with him several  
 14 times, because you see him every two to three  
 15 months, right?  
 16 A Right.  
 17 Q So you have probably seen him about six --  
 18 fix, six times since your initial visit, right?  
 19 A It doesn't feel like that many times, but  
 20 maybe I did see him that long. But it doesn't feel  
 21 like I've seen him that many times.  
 22 Q In your follow-up visits with Dr. Waits  
 23 what do you guys do?  
 24 A He just asks me questions and fills out  
 25 his pad.  
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1 Q How long did you stay in that facility?  
 2 A Over -- less than two weeks.  
 3 Q And what type of treatment did you receive  
 4 in that facility?  
 5 A They just -- they just treat -- I don't  
 6 know what is considered treatment. I just kind  
 7 of -- it felt like I was at a baby sitting. Like a  
 8 nursery. I don't know. It's just -- I don't know  
 9 what kind of treatment you would call it. It is  
 10 probably your basic treatment that they supply  
 11 anyone who is sent there. They feed you. They give  
 12 you medication. They have group therapy sessions  
 13 that you are free to go, but you don't have to go if  
 14 you don't want to go. They have a gym. Those are  
 15 the facilities they give you. You sleep there.  
 16 Q Do you know what Jordanica, Inc. is?  
 17 A Yeah that is -- Mark Premselar's company.  
 18 That is what he calls his company, where he bills  
 19 you from.  
 20 Q And you said that you went into the  
 21 inpatient facility for mental healthcare in March of  
 22 2012, right?  
 23 A Correct.  
 24 Q And you were referred there by Saint Rose?  
 25 A Yes.  
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1 Q Who at St. Rose referred you?  
 2 A I don't know. It is just from St. Rose,  
 3 they sent me there.  
 4 Q Did you go to the St. Rose ER or  
 5 something?  
 6 A Yeah.  
 7 Q For what?  
 8 A I had a mania episode.  
 9 Q And that was in --  
 10 A In --  
 11 Q March or February --  
 12 A Yeah.  
 13 Q -- of 2012?  
 14 A Mm-hmm.  
 15 Q That is a yes?  
 16 A Yes.  
 17 Q Prior to February of 2012, have you ever  
 18 had a mania episode?  
 19 A I really -- I realized that the -- that I  
 20 had a mania episode during the car accident. That  
 21 is what I -- but I didn't at that time know that it  
 22 was a mania episode.  
 23 Q Okay.  
 24 A Until I was diagnosed with bipolar in  
 25 March -- March 2012 time, around March 2012 time. I  
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1 A No, they don't do that.  
 2 Q What doctor told you that the incident  
 3 that you had at the Palms was a mania episode?  
 4 A My therapist told my, Mark Premseelaar.  
 5 And when I was -- yeah. He's the only one who told  
 6 me.  
 7 Q What about Dr. Waits, has Dr. Waits ever  
 8 commented on that?  
 9 A Dr. Waits doesn't say much, so no.  
 10 Q Okay.  
 11 A He just gives me drugs. That's his job.  
 12 Q So in terms of mental health care that you  
 13 have received since this incident, we discussed the  
 14 inpatient treatment that you had at Rawson Neal, the  
 15 treatment that you had with Mark Premseelaar, and the  
 16 treatment that you get from Dr. Waits. Is there any  
 17 other mental healthcare providers that have you  
 18 treated with after this incident?  
 19 A Yes.  
 20 Q Okay.  
 21 A There was another doctor I saw at USC.  
 22 And her name was Kiomi (PHONETIC). I don't remember  
 23 her name. I only saw her for like a month. I  
 24 forget her last name.  
 25 Q What time period was that --  
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1 was diagnosed with bipolar. So then the doctors can  
 2 now tell me that what I experienced from the car  
 3 accident was actually a mania episode. That is from  
 4 bipolar. Bipolar 1.  
 5 Q You just give me a lot of information, so  
 6 I want to go through it to make sure I understand  
 7 it. Your doctors at this point have told you that  
 8 the episode that you had at the Palms was a mania  
 9 episode, correct?  
 10 A Yes.  
 11 Q And they told you that you had that  
 12 episode because of the car accident that you were in  
 13 and because you are bipolar?  
 14 A They didn't say because of the car  
 15 accident. They didn't say any of that stuff. All  
 16 they said was what I experienced that day was a  
 17 mania episode.  
 18 Q Okay.  
 19 A Yeah. They don't know what causes it.  
 20 Your -- so I don't know.  
 21 Q Okay. Did they tell you -- I don't know  
 22 if they can do this. You told me that you were  
 23 diagnosed as being bipolar in March of 2012, did  
 24 they review your history and determine how long you  
 25 have been bipolar?  
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1 A I think it was Cohen. Yeah, it was  
 2 Dr. Cohen. That was summer, last year.  
 3 Q Summer of 2012?  
 4 A Yeah.  
 5 Q Do you know if Cohen is spelled C-O-H-E-N?  
 6 A I believe that's correct, yeah.  
 7 Q What did Dr. Cohen do for you?  
 8 A She gave me -- she changed the  
 9 prescription of my medication -- not she -- I was  
 10 still on Respinol, but I was trying a different mood  
 11 stabilizer. And I forgot what medication she put me  
 12 on. And I no longer take the mood stabilizer.  
 13 Q Okay. How many times do you think you met  
 14 with Dr. Cohen?  
 15 A Probably twice or three times.  
 16 Q So we can add Dr. Cohen to the list of  
 17 mental healthcare providers that you have treated  
 18 with since this incident. Has there been any  
 19 additional providers that we haven't discussed yet?  
 20 A There was doctors -- there was several --  
 21 there is a team of doctors at Rawson Neal Hospital.  
 22 I don't remember their names, but there was a team  
 23 of them. We didn't talk about them, but they were  
 24 at Rawson Neal.  
 25 Q Now, before this incident you treated with  
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1 a psychiatrist in Los Angeles for your night  
 2 terrors, correct?  
 3 A Yes.  
 4 Q And you also treated with a neurologist in  
 5 California for your night terrors, correct?  
 6 A Yes.  
 7 Q But you don't remember either of their  
 8 names?  
 9 A No.  
 10 Q Is there anything in your possession,  
 11 maybe at home or at your parents' house or something  
 12 that would have those people's names?  
 13 A Yes. Medical records.  
 14 Q So you have medical records from your  
 15 treatment with those doctors, correct?  
 16 A Not -- I don't know if it is all of the  
 17 records. Again, it was -- it was '90s and it was a  
 18 while ago so I -- I do have medical records. I'm  
 19 not sure if that was from all the doctors I saw, but  
 20 there is some doctors.  
 21 Q I'm going to ask, because they have been  
 22 requested, I'm going to ask that you produce those  
 23 to your counsel. Okay?  
 24 A Yeah, I have turned them in.  
 25 Q Okay.

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1 health care providers that you treated with prior to  
 2 the incident at the Palms?  
 3 A No, I don't remember.  
 4 Q Do you know if there were other mental  
 5 healthcare providers besides that one psychiatrist  
 6 and that one neurologist?  
 7 A There was a therapist I was seeing. Her  
 8 name Lisa, but I don't remember her last name.  
 9 Q Okay.  
 10 A She was -- and I was seeing her when I was  
 11 in high school. And I was not seeing her during  
 12 college at all. I only saw her during the time I  
 13 was in high school, because I was having problems in  
 14 high school with my grades. My grades dropped and  
 15 stuff, like that, so my parents put me to see a  
 16 therapist.  
 17 Q Was that in Los Angeles?  
 18 A Yes.  
 19 Q Have we discussed all the mental health  
 20 care treatment that you received?  
 21 A Yes.  
 22 Q Let's talk about the medical treatment  
 23 that you received as a result of this incident. You  
 24 told me that during this incident you sustained  
 25 burns to your body, correct?

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1 **MR. BLUT: I'm not sure if they fall in**  
 2 **the date and time span, but I can take a look**  
 3 **at them.**  
 4 **THE WITNESS: They're in the '90s.**  
 5 **BY MR. SMERBER:**  
 6 Q Well, it's my understanding that you  
 7 treated up to through your early 20s, correct?  
 8 A Yeah, I guess. Yeah.  
 9 Q That's what you told me earlier.  
 10 A Yeah. Like, college. Before college.  
 11 Precollege.  
 12 Q How old are you right now?  
 13 A Thirty-three.  
 14 Q So this incident would have happened in  
 15 2011 when you were 31, right?  
 16 A Yes.  
 17 Q So ten years prior to that, you would have  
 18 been 21, right?  
 19 A Yeah.  
 20 Q That would be in your early 20s, right?  
 21 A Yes.  
 22 Q The psychiatrist -- I'm going back to my  
 23 line of questioning -- you don't know the name of  
 24 the psychiatrist or the neurologist that you treated  
 25 with. Do you know the names of any other mental

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1 A Correct.  
 2 Q Tell me what parts of your body received  
 3 burns as a result of this incident.  
 4 A I have left thigh, left leg. So the leg  
 5 and the thigh. And on the left side, I have the --  
 6 head burns. And then I had skin graft surgery. And  
 7 then I have a burn from my butt. And I also had  
 8 burns on my face that scarred -- the left side of my  
 9 cheek, kind of. I still have a scar from it on my  
 10 face.  
 11 Q Okay. Let me go through. I have got left  
 12 leg and thigh, right?  
 13 A Yes.  
 14 Q And then you said on your head. Is it on  
 15 the left or right side of your head?  
 16 A My cheek.  
 17 Q So your left cheek?  
 18 A Cheek and chin. Right here. You can see  
 19 it. Like right here (indicating). I cover it with  
 20 make up. Like right here (indicating).  
 21 Q Okay. And then you said you have a scar  
 22 on your butt or you got burned on your butt?  
 23 A Yeah.  
 24 Q On what side?  
 25 A It's on my -- it's on my -- it is on the

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1 right side of my cheek of my butt. It's kind of  
 2 close to the leg part of the butt. I guess.  
 3 Q So let me go through the list again. I  
 4 have left thigh leg, right?  
 5 A Thigh and leg, yes.  
 6 Q I have the right side of your butt?  
 7 A Yeah. Well, it's small though. It's like  
 8 the cheek, the butt cheek. It's not like the whole  
 9 butt or anything.  
 10 Q I will go over the size and everything  
 11 else in a minute. I just want to make sure I have  
 12 all the parts.  
 13 A Mm-hmm.  
 14 Q And then I have left cheek/chin?  
 15 A Mm-hmm.  
 16 Q Is that right?  
 17 A Yes.  
 18 Q Let's talk about your left leg and thigh.  
 19 How big is the burn that you have on your left leg  
 20 and thigh?  
 21 A It's very large. It -- I mean, I can  
 22 measure. I don't have a ruler, but...  
 23 MR. BLUT: She can show it to you.  
 24 THE WITNESS: You want to see it? I can  
 25 show it to you.  
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1 Q We have a little bit.  
 2 A I can go put it on.  
 3 (Off the record.)  
 4 BY MR. SMERBER:  
 5 Q We're going back on the. Ma'am we have  
 6 had a chance to take a lunch break. You're still  
 7 under oath and all the admonishments that I  
 8 previously gave you still apply. Do you understand?  
 9 A I understand.  
 10 Q Before we went on the break, we had just  
 11 started talking about your injuries in this matter,  
 12 and you had just shown me the scar to your left leg  
 13 and left thigh, correct?  
 14 A Correct.  
 15 Q You also said that you had a burn injury  
 16 to your right buttocks; is that correct?  
 17 A Right.  
 18 Q How large is that? Did that result in a  
 19 scar?  
 20 A Yes.  
 21 Q How large is that scar?  
 22 A It's probably like a quarter size.  
 23 Q So the size of a quarter? You're talking  
 24 about the U.S. currency, of course?  
 25 A Yes.  
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1 MR. SMERBER: Yeah. Let's take a look and  
 2 see what it looks like.  
 3 THE WITNESS: It goes all the way up there  
 4 to there (indicating).  
 5 BY MR. SMERBER:  
 6 Q With regards to the item, it looks like  
 7 you have a compression sleeve or something on your  
 8 leg; is that right?  
 9 A Yeah. It's a compression stocking. It  
 10 covers the -- the burn.  
 11 Q What does that do?  
 12 A It -- it helps with the circulation and it  
 13 pushes the skin down so that your burn will -- the  
 14 scarring will be like smoother, like skin instead of  
 15 being like a keloid, which it is. So it's helping  
 16 the scar tissue. And it helps circulation.  
 17 Q How often do you wear that?  
 18 A I wear it every day. And I take it off  
 19 when I sleep, because it's uncomfortable.  
 20 Q Do you want to take a break to put it back  
 21 on?  
 22 A Yeah, I can just put it back on.  
 23 Q We can take a break and you can go to the  
 24 bathroom and put it on?  
 25 A Well, how many more questions do we have?  
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1 Q And in terms of coloration and  
 2 discoloration, what does it look like?  
 3 A It looks like a bruise and a little keloid  
 4 growth on it.  
 5 Q You showed us your leg. Is it the same  
 6 color as your leg?  
 7 A No. It's -- it's more like a bruise  
 8 color. Like it's darker -- well, actually, you know  
 9 what, it is probably a little darker than what you  
 10 saw, scar. It's -- because there is no compression  
 11 on it, it's really raised cause there is no  
 12 compression that can be used for that.  
 13 Q And you told me that you, I think earlier  
 14 you told me that you had skin graft procedures for  
 15 your leg, correct?  
 16 A Correct.  
 17 Q Have you had any skin graft procedures for  
 18 the scar on your right butt cheek?  
 19 A No.  
 20 Q And then the final area where you were  
 21 burned was the left side of your face on your cheek  
 22 and your chin, correct?  
 23 A Correct.  
 24 Q Have you had any skin graft procedures on  
 25 that area of your body?  
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1 A Not on my face.  
 2 Q With regards to the burns that you had on  
 3 your right buttocks and your chin and cheek, what  
 4 type of treatment did you receive?  
 5 A None. I have just been putting creams on  
 6 it.  
 7 Q Okay.  
 8 A They just told me to put creams on it and  
 9 massage it.  
 10 Q Now with regards to your leg, you have  
 11 been receiving medical treatment or you have  
 12 received medical treatment in the past, correct?  
 13 A Correct.  
 14 Q It's my understanding that that treatment  
 15 started the day of your incident; is that right?  
 16 A Correct.  
 17 Q And you told me you were taken by  
 18 ambulance to the hospital, right?  
 19 A Yes.  
 20 Q Do you know what hospital you were taken  
 21 to?  
 22 A UMC.  
 23 Q And you told me that at UMC, I think you  
 24 said they took some X-rays of you; is that right?  
 25 A The emergency room, yeah.

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1 Q What type of treatment did they give you  
 2 during that three day period?  
 3 A I had somebody in the room with me. So --  
 4 and they would wake me up. I didn't really remember  
 5 they do -- I know they didn't do anything for my  
 6 leg. I don't -- I don't recall what they did. I  
 7 had a whole bunch of stuff strapped to me. That's  
 8 about all I remember.  
 9 Q So I want to kind of narrow that down so I  
 10 make sure I understand what you are saying. Are you  
 11 saying that you just remember them kind of  
 12 monitoring you during that time?  
 13 A That's what I understand or believe,  
 14 because I remember talking to a different doctors --  
 15 I don't know if they were doctors, but people coming  
 16 in and out of my room.  
 17 Q Okay.  
 18 A Again, I was awake and I would sleep. I  
 19 slept most of the time I was there.  
 20 Q Did they perform any surgeries or  
 21 procedures on you at that time?  
 22 A No.  
 23 Q And then when they discharged you from the  
 24 hospital, did they give you any instruction to  
 25 follow up with another doctor or did they tell you

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1 Q Do you know what parts of the body they  
 2 did X-rays on?  
 3 A I don't know.  
 4 Q Besides X-rays, do you know anything else  
 5 that they did for you in terms of treatment?  
 6 A When I first was in the emergency room? I  
 7 don't recall -- remember.  
 8 Q Did they admit you into the hospital and  
 9 keep you there?  
 10 A Yeah, I was there for around three days  
 11 after the accident.  
 12 Q So you were initially taken to the  
 13 emergency room, you received some treatment, but is  
 14 that part of your memory that you have just bits and  
 15 pieces?  
 16 A Yeah, I was in and out. Like I would wake  
 17 up and I would be in a different room, and then I  
 18 would wake up again and they moved me around the  
 19 hospital for a little bit.  
 20 Q And then you finally woke up and you were  
 21 still in the hospital; is that right?  
 22 A Yes.  
 23 Q And you said they kept you for three days?  
 24 A Around three day. I'm not sure of the  
 25 exact days, but it was around three days.

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1 what to do?  
 2 A Yes. I had to go to the burn clinic every  
 3 day after I was released. And they would apply  
 4 creams and clean the blistering, because it was all  
 5 blistered. So I would go every day after that to go  
 6 to see to the burn center.  
 7 Q Did they tell you when you were in the  
 8 hospital at UMC, did they tell you what type of  
 9 burns you had?  
 10 A No, because I didn't see a specialist  
 11 until a couple of weeks after the accident. There  
 12 wasn't anyone who was a specialist there to look at  
 13 my burns. So...  
 14 Q How long again was it until you saw a  
 15 specialist?  
 16 A It was more than a week. It was -- I  
 17 don't know how long exactly, but I know it was more  
 18 than a week. It was a while, because the nurses  
 19 kept calling me to see a specialist but there was no  
 20 doctors there. So I remember there was a big ordeal  
 21 about trying to even get a doctor to look at my  
 22 burns because the head burn nurse was like these are  
 23 really severe burns, we really have to get you in.  
 24 So it was -- but it was a big delay because the  
 25 service -- there was just enough doctors at the UMC.

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1 Q The burns that you had, you said that they  
 2 were blistering, correct?  
 3 A They blistered first, yeah.  
 4 Q Okay.  
 5 A They were all like -- the skin was all --  
 6 all -- I didn't know the severe -- no one knew the  
 7 severity of the injury until later when the skin  
 8 just was ripping off and there was layers and layers  
 9 of skin that was removed.  
 10 Q So you went to the burn center every day.  
 11 How long did you do that for?  
 12 A Over a month. I don't really remember,  
 13 but it was a while.  
 14 Q Why did you eventually stop going to the  
 15 burn center?  
 16 A I was released -- I think the last day of  
 17 my burn -- when I stopped going to see the burns was  
 18 like the next year. I think it was like January or  
 19 something.  
 20 Q Is that --  
 21 A I don't remember when they stopped seeing  
 22 me.  
 23 Q Let me clarify that a little bit. You  
 24 started going to the burn center when you were  
 25 discharged from UMC, right?

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1 A Okay.  
 2 Q It was the next day --  
 3 A The next day --  
 4 Q And then you said -- what prompted my  
 5 question was you said you treated with the burn  
 6 center for a little over a month, right?  
 7 A Oh, it was -- it was more than a month. I  
 8 was treated for the burn center. That was like a  
 9 season I was at the burn center.  
 10 Q So when say you say, "a season" -- I think  
 11 I'm going to go, and what caused my confusion is,  
 12 first you said it was a month. And then you said  
 13 you got done the next year. That would have been,  
 14 because this was in August --  
 15 A Mm-hmm.  
 16 Q -- and then January of next year. That  
 17 would have been like four or five months --  
 18 A Yeah.  
 19 Q -- does that sound more accurate?  
 20 A Yeah. Yeah.  
 21 Q So you treated with the burn center for  
 22 four or five months?  
 23 A Yeah.  
 24 Q How long after your discharge from UMC did  
 25 you go to the burn specialist?

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1 A Yeah.  
 2 Q Do you know how long after you were  
 3 discharged from UMC?  
 4 A The first time? So I was at the UMC for  
 5 like around three days.  
 6 Q And then you got discharged. And how many  
 7 days was it before you went to the burn center?  
 8 A Oh, no. I was -- I went to the burn  
 9 center the very next day.  
 10 Q Okay.  
 11 A Yeah. I would go -- I would go see them  
 12 every day.  
 13 Q So --  
 14 A And it wasn't until mid August where they  
 15 were like your burns are really bad. You need to  
 16 see the surgeon. And then I went to go see the  
 17 surgeon and the surgeon is like, he okayed me the  
 18 skin grafts pretty soon because there was a delay.  
 19 When I should have had skin graft surgery, I should  
 20 have had it like earlier but there was no doctors.  
 21 So it was really confusing. I don't know what you  
 22 asked. What did you ask me?  
 23 Q You answered my question. I just want to  
 24 know how many days there was in between you leaving  
 25 UMC and going to the burn center.

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1 A Specialist? You mean a doctor? Like a  
 2 surgeon to see my burns?  
 3 Q Well, yeah. You said you were treating  
 4 with the burn center for a while. And finally they  
 5 said you need to go see a burn specialist, right?  
 6 A Well, a specialist meaning a surgeon.  
 7 Q Okay.  
 8 A Yeah.  
 9 Q So how long was it after you were  
 10 discharged from UMC that you went to see the  
 11 surgeon?  
 12 A Probably like a week or a bit more than a  
 13 week.  
 14 Q Okay.  
 15 A I didn't get to see the specialist for a  
 16 while.  
 17 Q Then do you know the name of the surgeon  
 18 that you saw?  
 19 A Yeah. Nathan Ozobia.  
 20 Q I'm looking for that doctor's name, so I  
 21 could spell it for the record. It's O-Z-O-B-I-A.  
 22 So about a week after you were discharged from UMC  
 23 you went to or you were sent to Dr. Ozobia who is a  
 24 surgeon, right?  
 25 A Mm-hmm.

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1 MR. BLUT: Yes?

2 BY MR. SMERBER:

3 Q Is that a yes?

4 A Yes. I'm sorry.

5 Q That's okay. What did Dr. Ozobia do for

6 you?

7 A He told me I had to get skin graft

8 surgery. So he scheduled me to get surgery the end

9 of August time. I went to get skin graft surgery.

10 Q Did Dr. Ozobia perform that surgery?

11 A Yes.

12 Q Is that an outpatient procedure?

13 A What do you mean outpatient?

14 Q Did you go into the hospital where you had

15 the surgery done and come out the same day?

16 A Oh, no, no. I was there for a couple of

17 days.

18 Q Okay.

19 A Yeah. It was about a week I was in the

20 hospital after the surgery.

21 Q How many times have you had the skin graft

22 procedure performed?

23 A One time.

24 Q And that was the one time in August of

25 2011?

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1 MR. BLUT: You have to wait. You answered

2 three times before he finished.

3 THE WITNESS: Sorry. Okay.

4 BY MR. SMERBER:

5 Q So my question was: At this point you

6 have about a year left before you go in to see what

7 the results of the compression stocking is, right?

8 A It's been about two years, so yeah,

9 another year.

10 Q Did any of your doctors, Dr. Ozobia or any

11 of the other doctors that you treated with tell you

12 that your scar or your injury to your left leg was a

13 result of an infection or anything like that?

14 A No. It's a burn.

15 Q Did you have any complications with your

16 burn or your treatment?

17 A No. Everything went accordingly.

18 Q You said earlier that you should have

19 gotten skin grafts earlier than you did --

20 A Mm-hmm.

21 Q -- but there was no doctors to do it. Did

22 Dr. Ozobia or anyone else say what impact, if any,

23 that had on your healing?

24 A The doctor said no -- nothing, but the

25 nurses were really concerned. The nurses were

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1 A Yeah. It was around the end of August.

2 Q Have you discussed with Dr. Ozobia or any

3 other doctors the potential for additional skin

4 graft procedures?

5 A No. It took about 75 percent so that is a

6 good result.

7 Q So what did they tell you is going to

8 happen with regards to the scar on your leg?

9 A They said to wear the compression stocking

10 for three years. And then I asked about plastic

11 surgery, and then most of them didn't know about it.

12 They just said -- you don't -- like wait three years

13 and you see how the scarring comes out, I guess.

14 But I guess there is a time period you wait between

15 the scar heals so -- cause I went to go see a

16 plastic surgeon, and he didn't have any -- he didn't

17 give me much feedback. He just like, wear the

18 compression stocking for three years and then you

19 could, you know, see if there is anything else they

20 can do.

21 Q So you have about a year before you go

22 back to see how the results --

23 A Yeah --

24 Q -- of the compression stocking are --

25 A Yeah.

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1 like -- they were like, you really need to see a

2 doctor right now. And then they were trying to put

3 like pig skin on me. And they were like -- they

4 just were a big mess at the UMC during the whole

5 time of the treatment. They don't know what they're

6 doing really. They were very confused.

7 Q Is Dr. Ozobia at UMC?

8 A Yes.

9 Q Did Dr. Ozobia seem like he didn't know

10 what he was doing?

11 A He knew what he was doing. It's just

12 the -- the -- he -- the only -- the only thing I'm

13 complaining about is the time period it took for me

14 to see a specialist was longer than I should have.

15 Q When is the last time you treated with

16 Dr. Ozobia?

17 A Was probably -- I don't really remember.

18 Q Okay.

19 A Probably least year at the end of the

20 year -- I mean, early last year probably.

21 Q So some time, let's say, in the first

22 three months of 2012?

23 A That's what I'm -- yeah. That's what I'm

24 assuming.

25 Q Have you treated with any other medical

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1 providers besides UMC and Dr. Ozobia in the burn  
 2 center?  
 3 A For my burn injuries?  
 4 Q Yes.  
 5 A That's it.  
 6 Q Okay. And then the other medical  
 7 providers that you would have treated with would  
 8 have been for your mental health?  
 9 A Correct.  
 10 Q In terms of your burns, did they give you  
 11 any pain medications for that?  
 12 A Yes.  
 13 Q Who gave you pain medications for your  
 14 burns?  
 15 A Dr. Ozobia.  
 16 Q And what medications did he give you?  
 17 A Like Percocet and something else. I think  
 18 for like infection or something. I was on a lot of  
 19 creams. They gave me a lot of creams. Those were  
 20 prescriptions as well. And I don't remember what  
 21 those creams were.  
 22 Q How often would you take the pain  
 23 medication?  
 24 A As directed. So probably like twice a  
 25 day, maybe three times a day.

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1 was little by little, it was less and less.  
 2 Q With regards to your changing your  
 3 bandages, did you change your bandages two times a  
 4 day as you were prescribed?  
 5 A I did exactly as I was directed by the  
 6 doctors.  
 7 Q And you said that your mother and your  
 8 sister would help you with that, right?  
 9 A Yeah. And sometimes it was the -- the  
 10 ex-boyfriend. But I don't know how long it was.  
 11 But they were the ones who helped me during the  
 12 time that I couldn't dress myself or put on the  
 13 dressings.  
 14 Q When was the last time that you took any  
 15 pain medication as a result of this incident?  
 16 A Probably the winter of 2011.  
 17 Q So within a couple of months of your  
 18 incident occurring?  
 19 A Yeah. That whole season from the new year  
 20 up, I was on the medication.  
 21 Q So by the time the 2012 came, you stopped  
 22 your medication?  
 23 A I -- I am not sure. I think. I'm not  
 24 sure, but it was...  
 25 Q Let me ask you this way: We're well into

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1 Q And then with regards to your burns, you  
 2 had to put creams on them?  
 3 A Mm-hmm, yes.  
 4 Q How often did you have to do that?  
 5 A Every couple of hours.  
 6 Q So would -- was your leg in a dressing?  
 7 Was it wrapped up?  
 8 A Yeah. I would have to go to the burn  
 9 center and they would dress my wound. And then I  
 10 would have to change the wound. And I had my sister  
 11 and my mom redress me, the wounds. Cause I couldn't  
 12 apply the creams myself because of where the injury  
 13 was.  
 14 Q How many times a day did you have to  
 15 change your bandages?  
 16 A Probably like twice a day.  
 17 Q And then you would also go to the burn  
 18 center once a day, correct?  
 19 A As -- as time went by, it was -- it  
 20 started once a day, and then as it was healing, they  
 21 slowly changed it to like every other day, every --  
 22 from there, every -- every three days. Until one  
 23 week. And then it would just progress. And I don't  
 24 remember the time period of when that occurred.  
 25 Like it was just -- it was every day, and then it

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1 March of 2013 right now. Is it fair to say that  
 2 it's been almost a year since you have taken pain  
 3 medication?  
 4 A Yes. But I do take medication like -- I  
 5 don't know if this counts. It's over the counter.  
 6 But I -- when it flares up, the burn flares up,  
 7 like, I take -- I take allergy medicine constantly  
 8 when the burn flares up, because like when the  
 9 seasons change and stuff, like when it's really hot  
 10 the leg gets really, really itchy. So I take a lot  
 11 of the allergy medicine, which is what the doctor  
 12 told me to do when that happens, to take allergy  
 13 medicine. Because when I -- I was prescribed the  
 14 painkillers, I was really, really cautious about  
 15 taking the painkillers a lot because a girlfriend of  
 16 mine told me her friend got addicted to painkillers  
 17 so I was like -- I didn't -- I know I didn't take it  
 18 that much because I was scared of the addiction and  
 19 stuff that people were telling me about.  
 20 Q Currently are you treating for your  
 21 injuries at all?  
 22 A The burns?  
 23 Q Yes.  
 24 A Currently just the compression stocking  
 25 which I get replaced every so often.

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1 Q I know that you're supposed to wait three  
 2 years before you go back to see the results of the  
 3 compression stocking. Do you have an appointment  
 4 scheduled with Dr. Ozobia or somebody to go back and  
 5 have the results of that reviewed?  
 6 A No.  
 7 Q So as you sit here today, you're not  
 8 scheduled for any future medical treatment, correct?  
 9 A Correct.  
 10 Q And because your skin graft -- I think you  
 11 said 75 percent of it took; is that right?  
 12 A Yeah, something like that.  
 13 Q And so that was considered a success?  
 14 A Yeah.  
 15 Q And because of that success, you're not  
 16 going to be scheduled for future skin grafts; is  
 17 that your understanding?  
 18 A It's my understanding.  
 19 Q Did you have follow-up visits with  
 20 Dr. Ozobia after your skin graft?  
 21 A Yes.  
 22 Q And did he tell you that you're going to  
 23 need future skin grafts?  
 24 A No.  
 25 Q Do you know who Dr. Silver is?

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1 medications that day?  
 2 A No.  
 3 Q In the 24 hours prior to your incident had  
 4 you consumed any medications?  
 5 A No.  
 6 Q Were you under the care of any type of  
 7 healthcare provider for any reason during that time?  
 8 A No.  
 9 Q Did you have a general care practitioner?  
 10 A Yes.  
 11 Q What was the name of your general care  
 12 practitioner?  
 13 A Rita Chong.  
 14 Q C-H-O-N-G?  
 15 A I think so. It sounds right.  
 16 Q In the 24 hours prior to your incident,  
 17 had you consumed any illegal drugs?  
 18 A No.  
 19 Q Had you consumed, in the 24 hours prior to  
 20 your incident, over the counter medications?  
 21 A No.  
 22 Q We talked about this earlier. Your mental  
 23 healthcare providers told you that during the  
 24 incident that occurred at the Palms you were having  
 25 a mania episode, correct?

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1 A Yeah. He was the assistant to Ozobia. Or  
 2 that's how I understood it. And he was always with  
 3 Ozobia so I assumed he was his assistant.  
 4 Q At the burn center, did they do  
 5 debridement of your leg?  
 6 A What does that mean?  
 7 Q That is where they scrape your leg, pull  
 8 all the dead skin off. Did they do that?  
 9 A Yeah.  
 10 Q Did they do that to any other part of your  
 11 body or just your leg?  
 12 A They did it to my breast.  
 13 Q And I believe you told me earlier the  
 14 injury to your breast was a result of the car  
 15 seat -- the seatbelt?  
 16 A Yeah.  
 17 Q And that is from the automobile accident?  
 18 A Right. They also did wrappings on my  
 19 butt. I don't know if they pulled the skin out, but  
 20 they did apply the creams and they were also able to  
 21 do the butt area too.  
 22 Q On the date of this incident before it  
 23 occurred had you consumed any alcoholic beverages?  
 24 A No.  
 25 Q Had you consumed any prescription

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1 A That is what I was told, yes.  
 2 Q And I think you also told me that they  
 3 don't know why you had that; is that right?  
 4 A They don't know why. I mean, they just  
 5 said I'm bipolar. That's what they said.  
 6 Q Have they described to you what a mania  
 7 episode consists of? What it is?  
 8 A Yeah.  
 9 Q What is it?  
 10 A It's like a -- well, I don't know the  
 11 terms. I -- actually, I don't know. I mean, they  
 12 told it to me before. I just don't remember like  
 13 the text book of a mania episode. But it's like you  
 14 hallucinate. And it's caused by extreme stressful  
 15 situations cause it. That is all I'm told. Like  
 16 the text book will say like a death in your family  
 17 or like, you know, change in, you know, job or, you  
 18 know, things will cause it if someone is bipolar.  
 19 Q Did you tell your doctor about the events  
 20 that led up to the incident at the Palms?  
 21 A I told -- yeah. I told -- I started  
 22 seeing a therapist and he is aware, well aware of  
 23 all that stuff.  
 24 Q Did your doctor ever indicate to you  
 25 whether or not he believed that the altercation you

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1 had with your boyfriend, you deciding to move out  
2 contributed to your mania episode?

3 A I don't know exactly what his words were.  
4 I don't remember.

5 Q How about the car accident that you were  
6 in?

7 A I don't know. I don't remember. I don't  
8 know which -- I don't really -- I don't know. I  
9 mean, I just -- it's just -- like I just discovered  
10 I was bipolar like a year ago. So now it's just  
11 kind of trying to figure out what everything means.  
12 So I'm kind of confused about that, because it's a  
13 lot of stuff for me to deal with.

14 Q Have any of your doctors told you that you  
15 became bipolar as result of the event that occurred  
16 at the Palms after your automobile accident?

17 A No.

18 Q If I understand correctly, your -- the  
19 events that occurred at the Palms after your  
20 automobile accident was a result of your having a  
21 mania episode, correct?

22 MR. BLUT: Object to the form.

23 BY MR. SMERBER:

24 Q Is that your understanding?

25 A My understanding is that what I had that  
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1 she doesn't understand it.

2 THE WITNESS: What does it mean?

3 BY MR. SMERBER:

4 Q The mental health care treatment that you  
5 received, that's for your condition as being bipolar  
6 and for your having mania episodes, correct?

7 MR. BLUT: Object to form --

8 THE WITNESS: No. And also I have a lot  
9 of anxiety of what occurred.

10 MR. SMERBER: Okay.

11 THE WITNESS: So it's also dealing with a  
12 lot of stuff that occurred that day.

13 BY MR. SMERBER:

14 Q Okay. So as a result of the things that  
15 occurred that day, you have anxiety?

16 A I started seeing the doctor because of the  
17 anxiety I had after the accident. That's the prior  
18 reason. And then months later, I discovered I was  
19 bipolar, you know, in March. So the reason I first  
20 went to go see the therapist was because of what  
21 happened on that day. I did not know I was bipolar  
22 and all that -- whatever that means. Bipolar stuff.  
23 I went to go see a therapist because of what  
24 occurred that day.

25 Q What type of anxiety were you having  
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1 day was a mania episode.

2 Q So the way that you were acting during  
3 those events was a result of your having a mania  
4 episode; is that fair to say?

5 MR. BLUT: Object to the form.

6 THE WITNESS: Yes. That I was having a  
7 mania episode.

8 BY MR. SMERBER:

9 Q No one has ever told you that because you  
10 were detained or allegedly detained after your  
11 automobile accident now you're bipolar? No one has  
12 ever said that?

13 A No one has ever said that.

14 Q And no one ever said that because you were  
15 allegedly detained after you were in an automobile  
16 accident that is what caused you to have a mania  
17 episode? No one has ever said that either, right?

18 A No one has said those words.

19 Q Is it your understanding that the mental  
20 healthcare treatment that you received is a result  
21 of a condition that existed prior to your incident  
22 at the Palms?

23 MR. BLUT: Can I have the question back --

24 THE WITNESS: Can you ask it -- yeah.

25 MR. BLUT: Then I don't need it back since

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1 because of what occurred that day?

2 A Like, I'm nervous about going out in  
3 public and stuff. I just kind of shut myself up in  
4 the room and didn't talk to nobody.

5 Q Do you think that your automobile accident  
6 has anything to do with that?

7 A I don't know which, you know, I think  
8 everything kind of -- everything together.

9 Q Do you think that the altercation you had  
10 with your boyfriend has anything to do with that?

11 A I don't know.

12 Q Do you think --

13 A I mean, it's -- a lot of things causes it.  
14 You know, it's a lot of different things.

15 Q Do you think that the altercation you had  
16 with your sister that day causes that anxiety?

17 A No, because I fight with her all the time.

18 Q That's pretty normal?

19 A Yeah.

20 Q So if I understand what you're saying, you  
21 had anxiety after this incident but you're not sure  
22 if it came from maybe one thing or a conglomeration  
23 of all the things --

24 A I think it's from all of them. I mean,  
25 yeah, definitely. I mean, a life changing event. I

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1 mean, I have scars but I have a lot of problems that  
2 I'm dealing with. So I mean, I mainly came because  
3 of the scars because they just -- they just really  
4 bothered me. The pain I was in and, like, just  
5 looking different really bothered me. So -- but I  
6 didn't know I was bipolar. So I did -- I assumed  
7 what occurred was like a panic attack, because, you  
8 know, I had like night terrors and things like that  
9 and panic attack type deals so I just assumed it was  
10 a panic attack that I was jus really, really  
11 confused of what happened that day. And I went to  
12 see a counselor because I couldn't deal with it in  
13 my head of what occurred that day.

14 Q With regards to the doctors that you  
15 treated as a result of this incident were you honest  
16 and candid with them regarding your injuries?

17 A Yeah.

18 Q Were you honest and candid with them  
19 regarding your treatment and your progress?

20 A Yeah.

21 Q Have you ever had an incident like this in  
22 your past?

23 A No.

24 Q Have you ever any subsequent incidents  
25 like this where you had mania episodes?

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1 A They don't know what caused it -- no one  
2 knows what causes. They just say it's something  
3 stressful.

4 Q Was there some sort of stressful event  
5 that occurred in March of 2012 that you believe  
6 caused that?

7 A The only thing that was different is that  
8 I was in L.A. promoting an art show that I was in.  
9 And that was the only event that occurred.

10 Q Cristina, have you understood all the  
11 questions that I have asked you here today?

12 A To the best of my knowledge.

13 Q For all the questions that you didn't  
14 understand that you let me know, did I rephrase them  
15 so you could understand them and answer them?

16 A Yes.

17 Q Do you want to change any of your  
18 response?

19 MR. BLUT: Object to the form.

20 THE WITNESS: I would like to get reviewed  
21 what I said before I agree on that question.  
22 So like, if I have a chance to like read back  
23 what was said.

24 BY MR. SMERBER:

25 Q Okay. As you sit here today, do you know

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1 A No. Not a mania episode, no.

2 Q What about in March of 2012, what happened  
3 then when you had to go to Saint Rose?

4 A That's -- oh, okay. Is that what you're  
5 saying? You are saying prior, right? I answer the  
6 questions like you're asking me. Like, before  
7 August 2011, did you have a mania episode and I said  
8 no. That's what I'm answering.

9 Q And so now I want to know subsequent?

10 A After?

11 Q After.

12 A Yeah.

13 Q After the incident at the Palms, have you  
14 had any other similar episodes --

15 A Yes, I did.

16 Q How many?

17 A Just one. In -- it was the end of  
18 February.

19 Q We talked about that a little bit, but I  
20 didn't ask you, do you know what caused that  
21 incident to occur?

22 A No, I don't know.

23 Q Did your doctors ever give you any  
24 indications as to what they believed caused it to  
25 occur?

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1 of any changes that you want to make?

2 A Of what I just told you?

3 Q Right.

4 A As of now, no.

5 Q Is there anything that you told me today  
6 that was untruthful or inaccurate?

7 A I told the truth.

8 MR. SMERBER: All right. Then I will pass  
9 the witness.

10 MR. BLUT: Can we take a short break.

11 MR. SMERBER: Sure.

12 EXAMINATION

13 BY MR. ANDERSON:

14 Q Ms. Paulos, my name is Craig Anderson. I  
15 represent the cops. Okay?

16 A Okay.

17 Q You understand that?

18 A I understand.

19 Q You still understand that you're under  
20 oath?

21 A Understand.

22 Q This is not going to take very long. This  
23 is not going to take very long. He has covered most  
24 everything. I just want to fill in a couple of  
25 holes. Okay.

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1 A I understand.  
 2 Q So I'm going to be going back and then  
 3 working my way forward again.  
 4 A Understand.  
 5 Q And some of these questions are very  
 6 simple background questions again. Have you ever  
 7 received any training in security work?  
 8 A No.  
 9 Q Have you received any police officer  
 10 training?  
 11 A No.  
 12 Q Prior to August 2011, had you ever been  
 13 arrested?  
 14 MR. BLUT: Object to the form.  
 15 THE WITNESS: No.  
 16 BY MR. ANDERSON:  
 17 Q Outside of traffic tickets, basic traffic  
 18 stops, have you ever had any prior contact with Las  
 19 Vegas Metropolitan Police Department?  
 20 MR. BLUT: Object to the form.  
 21 THE WITNESS: Yes.  
 22 BY MR. ANDERSON:  
 23 Q In what type of a capacity?  
 24 MR. BLUT: Same objection.  
 25 THE WITNESS: I got into a car accident in  
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1 Q On that date, whichever date that was, why  
 2 did you meet your sister at the Palms?  
 3 A My girlfriend, Sarah, was in town and we  
 4 were going to go meet her at the Palms' pool.  
 5 Q Now, prior to getting in the fight with  
 6 why your sister and leaving and driving around, how  
 7 were you feeling that day?  
 8 A I guess I was upset.  
 9 Q Understanding that you were upset, you had  
 10 been in a dispute with your boyfriend, were you  
 11 feeling like drunk or out of it or any of those  
 12 types of feelings?  
 13 A No. I just felt caffeinated because I had  
 14 coffee.  
 15 Q So when you feel caffeinated, how do you  
 16 feel? Hyper?  
 17 A Yeah, I guess hyper, a little.  
 18 Q Did you have any type of pre-incident  
 19 feelings that a manic episode was going to come on?  
 20 Anything different that day?  
 21 A No.  
 22 Q So when you got in your care, prior to  
 23 3:00 o'clock, you felt fine to drive?  
 24 A Yes.  
 25 Q You didn't notice anything unusual about  
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1 2002.  
 2 BY MR. ANDERSON:  
 3 Q And so was it just traffic officers that  
 4 came out?  
 5 A I believe so.  
 6 Q But it wasn't like they were investigation  
 7 you for a crime besides a traffic accident?  
 8 A Right.  
 9 Q Okay. Had you ever filed an internal  
 10 affairs complaint against any police officer prior  
 11 to August 2011?  
 12 A No.  
 13 Q Now, with respect to the accident that  
 14 occurred on August 2011, have either of the other  
 15 vehicle owners sued you?  
 16 A I had -- I have auto insurance, so I  
 17 wouldn't know if they sued me.  
 18 Q But you never had to give like a  
 19 deposition like this --  
 20 A Oh. No.  
 21 Q Okay.  
 22 A Sorry.  
 23 Q It's okay. Now, on August 7th, is that  
 24 right, 2011? Is that the right date?  
 25 A I think it was August 7th or 8th.  
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1 yourself from the way that you were driving?  
 2 A Not at that time, no.  
 3 Q And your memory ends at the time that you  
 4 were in the first accident, correct?  
 5 A Yes.  
 6 Q Do you remember the impact or does the  
 7 memory end prior to the impact?  
 8 A I remember getting hit really hard, and  
 9 just that. Yeah.  
 10 Q So you have a memory of that first  
 11 accident?  
 12 A Yes.  
 13 Q Now, what is your very first next memory?  
 14 A The air bag.  
 15 Q From the first accident?  
 16 A Was there more than one accident?  
 17 Q Was your vehicle involved in more than one  
 18 accident, to your knowledge?  
 19 A No. I -- I was under the incident --  
 20 understanding that there was only one accident.  
 21 Q So as you sit here today, it's your belief  
 22 that you were only involved in one accident?  
 23 A Yes.  
 24 Q So now let's go to the part to where you  
 25 have contact with the other individuals, okay, the  
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1 police officer and the security guards. Okay?

2 A (Witness nodded head).

3 Q What is your first memory at that point?

4 A I just remember being on the ground and

5 the zip ties being zip tied by somebody who looked

6 like they were in a uniform.

7 Q And you don't know how long you were kept

8 on the ground, correct?

9 A I don't know the time period, no.

10 Q Do you recall being lifted up and escorted

11 to the sidewalk?

12 A No.

13 Q Do you recall -- so there is a difference.

14 There is a time that you were laying on the ground,

15 correct, and the time where you were seated on the

16 curb that you are suffering burns, correct?

17 A Yeah. I -- I remember -- I don't remember

18 getting to the sidewalk, but I remember being on the

19 sidewalk.

20 Q So with respect to the time period where

21 you're lying down on your left side, okay?

22 A Mm-hmm.

23 Q Are you on the ground at any point where

24 the zip ties are secured?

25 A I don't remember.

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1 person?

2 A No.

3 Q Do you recall how you ended up on the

4 ground?

5 A No.

6 Q And then on the ground, you were lifting

7 up your head to get your face off the ground and you

8 were screaming, correct?

9 A Yes.

10 Q But you don't recall any specific

11 conversations were had?

12 A No.

13 Q Now, is it possible that you were picked

14 up off the ground as soon as the zip ties were

15 secured?

16 A I don't recall. I don't know.

17 Q Now, we talked about a nurse who told you

18 that it was her estimate that you were on the ground

19 for somewhere between 20 to 30 minutes, correct?

20 A Yes.

21 Q Have you ever talked to any witnesses who

22 were present that day?

23 A No.

24 Q Has anyone ever contacted you?

25 A No.

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1 Q Do you remember struggling while you were

2 on the ground with anybody?

3 A I don't remember.

4 Q While you were on the ground, do you

5 recall, as you sit here today, you remember having

6 sensations in your leg, in your left leg and the

7 left side of your face, correct?

8 A Yes. Well, they kept pushing my face

9 down. I remember that. Because I kept putting my

10 face up and the person kept pushing it back down,

11 whoever it was. And that is how the face got

12 burned, because I kept trying to raise my head

13 because it was burning my face.

14 Q And when that was occurring was your hands

15 zip tied --

16 A Yes.

17 Q Were they all they way zip tied, were they

18 being zip tied or were they not zip tied, if you

19 know?

20 A I didn't have access to my hands.

21 Q Besides trying to lift up your head and

22 face, were you moving any other part of your body?

23 A No, I couldn't move.

24 Q Do you have any memory prior to going to

25 the ground of any interaction with the uniformed

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1 Q And I think you were asked this, but the

2 nurse is the only person that has given you an

3 opinion as to how long were you on the ground,

4 correct?

5 A Correct.

6 Q Now, you mentioned today that you have not

7 viewed the video; is that correct?

8 A Correct.

9 Q Is there any reason why you haven't viewed

10 the video?

11 A Never got access to it.

12 Q Is it anything that you would be

13 interested in viewing?

14 A Yes.

15 Q Now, after you were detained, you

16 mentioned that you just wanted to speak to a woman,

17 you didn't want to speak to the men around you,

18 correct?

19 A Yes.

20 Q You said you felt threatened; is that

21 correct?

22 A Yes.

23 Q Why did you feel threatened?

24 A Because my experiences in the past with

25 people in uniforms have always been negative.

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1 Q What other negative experiences have you  
 2 had with men in uniform?  
 3 A I had -- I was -- I -- like when I was 21,  
 4 I got in a car accident and I had a panic attack and  
 5 the cops, like, wrestled with me and ripped my skirt  
 6 off. And I had to go to the -- I never had a  
 7 criminal record at all from this. It was all  
 8 dropped, but I had to go to the police station and  
 9 stuff like that in my underwear.  
 10 Q Where did that occur?  
 11 A On Las Vegas near Venetian behind by the  
 12 convention center.  
 13 Q So it was Las Vegas Metropolitan Police  
 14 Department officers?  
 15 A Yes.  
 16 Q Is this the accident that we talked about  
 17 briefly about five minutes ago?  
 18 A The one I said that occurred when I was  
 19 like 21, yes, it was that one.  
 20 Q Do you recall what year that was?  
 21 A 2002, I believe.  
 22 Q And were you arrested?  
 23 A No.  
 24 Q But you were taken to the police station?  
 25 A Yes.

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1 A I stopped breathing, and I couldn't  
 2 breath, and I was hyperventilating.  
 3 Q So how did it evolve into a physical  
 4 altercation with the police officers?  
 5 A I don't know.  
 6 Q Did they handcuff you?  
 7 A Yeah.  
 8 Q Did they take you in a police car to  
 9 wherever they took you?  
 10 A Yeah.  
 11 Q And then they just let you go?  
 12 A Well, I was at a police station for quite  
 13 a while with -- there was -- there was two young  
 14 cops that restrained me and then the older cop let  
 15 me go.  
 16 Q Were you actually arrested?  
 17 A No.  
 18 Q So let's -- did you have any other  
 19 negative events with men in uniform?  
 20 A Just that was the first that I ever had  
 21 and I had it with the second incident.  
 22 Q The one we're here to talk about today?  
 23 A Mm-hmm.  
 24 Q Is that a yes?  
 25 A Yes.

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1 Q Now were you taken to the jail or a police  
 2 station?  
 3 A I don't know which is the difference. I  
 4 just was taken to some bench and they handcuffed me  
 5 to a bench. And I was in my underwear.  
 6 Q So you had an accident that caused you to  
 7 suffer a panic take?  
 8 A Mm-hmm.  
 9 Q Is that a yes?  
 10 A Yes.  
 11 Q Do you have a memory of that event?  
 12 A It was a long time ago.  
 13 Q What I'm trying to figure out is, is it  
 14 the same as the manic attack that you had on August  
 15 of 2011 or is it one where you have a memory of?  
 16 A They were different.  
 17 Q But you ended up wrestling with the cops,  
 18 is that what you said, wrestling with the cops?  
 19 A When was this?  
 20 Q Sorry. In the 2002 incident.  
 21 A I don't -- I wasn't really wrestling with  
 22 them. I don't -- I don't really remember. It was  
 23 so long ago.  
 24 Q When you said you had a panic attack, what  
 25 did you do that you remember --

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CRISTINA PAULOS 3/25/2013

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1 Q Anything between 2002 and 2011?  
 2 A No.  
 3 Q So on August 7, 2011, you were -- that's  
 4 why you were threatened by the male presence around  
 5 you?  
 6 A I just don't talk to male cops.  
 7 Q To your recollection did any of the male  
 8 cops on August 7, 2011 mistreat you verbally?  
 9 A I don't recall.  
 10 Q Physically. Did any of them --  
 11 A I don't recall -- oh, but I mean, the --  
 12 obviously being -- when the burns and stuff, that is  
 13 mistreated. So take -- take that part off because  
 14 that question is too vague to answer.  
 15 Q Okay.  
 16 **MR. BLUT: Wait till he finishes the whole**  
 17 **question --**  
 18 **THE WITNESS: Sorry --**  
 19 **MR. BLUT: Then you will know if it's**  
 20 **vague or not.**  
 21 **THE WITNESS: Sorry.**  
 22 **BY MR. ANDERSON:**  
 23 Q So with excepting the time that you were  
 24 on the ground after you were placed on the curb, did  
 25 any male officers to your recollection mistreat you

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CRISTINA PAULOS 3/25/2013

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1 from that point forward?  
 2 A I don't remember.  
 3 Q Now, going -- I think you answered this,  
 4 but going back to the time where you were seen in  
 5 the silver vehicle that was not your own, do you  
 6 remember those pictures?  
 7 A Yes.  
 8 Q And supposed allegations that you bit  
 9 another person's arm, do you remember discussing  
 10 that?  
 11 A I remember that.  
 12 Q As you sit here today, I was a little bit  
 13 unclear, you said that you didn't bite the arm  
 14 because that is not something that you would do, do  
 15 you recall saying that?  
 16 A Yes.  
 17 Q Would you agree with me that on August 7,  
 18 2011, you did things that you would normally not do  
 19 due to the manic episode that you were suffering?  
 20 A I don't like how you worded that. When  
 21 you get to the question, because then it assumes  
 22 stuff.  
 23 Q What do you think I'm assuming?  
 24 A I wouldn't bite anybody.  
 25 Q Okay. So are you saying that you for sure  
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CRISTINA PAULOS 3/25/2013

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1 **BY MR. ANDERSON:**  
 2 Q So is the way that you behaved on  
 3 August 7, 2011 consistent with the way you behave  
 4 every day?  
 5 A No.  
 6 Q So did things in August 7, 2011 that you  
 7 normally would not do?  
 8 A No -- I mean, I was -- I had a mania  
 9 episode. So yes, I don't have mania episodes every  
 10 day. So it's a rare occasion.  
 11 Q So a mania episode would cause you to  
 12 sometimes behave in a manner you normally do not  
 13 behave?  
 14 A That's what the text book says.  
 15 Q And I believe you testified that you did  
 16 not resist the police officer. Now, is that  
 17 something you know or something you believe to be  
 18 true?  
 19 A I believe I wouldn't resist an officer.  
 20 Q But if the video shows differently, you  
 21 would agree with the video?  
 22 **MR. BLUT: Object to the form.**  
 23 **THE WITNESS: You know, that's a hard**  
 24 **question because it's like one footage and then**  
 25 **the other footage. I mean, you would have to**  
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CRISTINA PAULOS 3/25/2013

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1 did not bite anyone that day or is it possibly you  
 2 bit someone?  
 3 A I did not bite anyone.  
 4 Q So if someone testifies that you bit them,  
 5 they would not be telling the truth?  
 6 **MR. BLUT: Object to the form.**  
 7 **THE WITNESS: How could you assume that**  
 8 **question? That doesn't make any sense because**  
 9 **I don't know that person. I don't know if**  
 10 **they're going to tell the truth. I don't know**  
 11 **their nature. How can I answer that question?**  
 12 **I can't.**  
 13 **BY MR. ANDERSON:**  
 14 Q If someone said that you had bitten them  
 15 on August 7, 2011, would that person be lying?  
 16 **MR. BLUT: Same objection.**  
 17 **THE WITNESS: I don't understand how I can**  
 18 **answer that.**  
 19 **BY MR. ANDERSON:**  
 20 Q Well, you have just testified that you  
 21 never bit anybody --  
 22 A I never bit anybody.  
 23 **MR. BLUT: You have to wait until he**  
 24 **finishes his question --**  
 25 **THE WITNESS: Sorry.**  
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CRISTINA PAULOS 3/25/2013

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1 **see quite a bit of footage to really get a**  
 2 **clear understanding of what occurred.**  
 3 **BY MR. ANDERSON:**  
 4 Q Why would you need to see?  
 5 A Because sometimes they are blocked and  
 6 sometimes you don't really see anything that shows  
 7 up in footage.  
 8 Q What do you mean by --  
 9 A I mean, if you see footage that I'm biting  
 10 somebody and it's me in the picture, you know, I  
 11 guess that happened. But if there is no footage of  
 12 that -- I don't know. I mean...  
 13 **MR. BLUT: He's asking about the**  
 14 **wrestling.**  
 15 **THE WITNESS: Oh. Well, I mean I would**  
 16 **have to look at footage. So yes, I would like**  
 17 **to look at footage.**  
 18 **BY MR. ANDERSON:**  
 19 Q The question is actually more simple. You  
 20 would agree, you testified several times, you don't  
 21 have a complete memory of what occurred on August 7,  
 22 2011?  
 23 A Correct.  
 24 Q And so you would differ to the video if it  
 25 shows certain acts; is that correct?  
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CRISTINA PAULOS 3/25/2013

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1 A I would have to 'cause I don't know what  
 2 occurred.  
 3 Q Now, were you arrested on August 7, 2011?  
 4 A I got a ticket -- I don't think I was  
 5 arrested. They gave me a traffic ticket.  
 6 Q Were you arrested for DUI? Does that ring  
 7 a bell?  
 8 A They gave me a traffic ticket for DUI,  
 9 yes. And they said they took blood on the scene.  
 10 And it had a piece of paper that was pink.  
 11 Q Did you --  
 12 A I didn't get that until like a couple of  
 13 days after being out of the hospital.  
 14 Q Okay. And so did you ever have to make  
 15 any court appearances?  
 16 A I didn't make a court appearance, but  
 17 there was a court -- someone to go for my behalf.  
 18 Q Did you hire a criminal attorney?  
 19 A I did.  
 20 Q And who was that?  
 21 A Margaret Stanish (PHONETIC).  
 22 Q And did he ever --  
 23 A She.  
 24 Q She. Okay. And so no, to your knowledge,  
 25 no criminal charges were ever brought against you?  
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CRISTINA PAULOS 3/25/2013

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1 Q Let's go back to the arrest. So it your  
 2 understanding that you were never arrested; is that  
 3 crick.  
 4 A Correct.  
 5 Q And so just if you know, are you suing the  
 6 police for a false arrest? Not talking about your  
 7 injuries or the force used against you, but are you  
 8 claiming that they did not have a right to detain  
 9 you on August 7, 2011?  
 10 A No --  
 11 MR. BLUT: Objection to form. I think  
 12 she --  
 13 THE WITNESS: I'm -- wait. 'Cause I'm --  
 14 I'm -- I was never arrested, so how would I?  
 15 BY MR. ANDERSON:  
 16 Q I understood that you were never arrested,  
 17 but you were handcuffed, correct?  
 18 A Yeah.  
 19 Q Zip tied?  
 20 A Yeah.  
 21 Q Do you believe the police had a right to  
 22 do that?  
 23 A They had a right to -- to -- to restrain  
 24 me, but not to the severity of how they did.  
 25 Q So they had a right to detain you. It's  
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CRISTINA PAULOS 3/25/2013

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1 A Correct.  
 2 Q And you hired a criminal attorney who  
 3 handled any aspect of that for you?  
 4 A Correct.  
 5 Q Did you have to pay any fines or anything?  
 6 A No -- or actually, I don't remember.  
 7 There might have been a parking ticket.  
 8 Q With respect to this incident, did you  
 9 ever file an internal affairs complaint with the Las  
 10 Vegas Metropolitan Police Department?  
 11 A Ask me that again.  
 12 Q With respect to the August 7, 2011  
 13 incident, did you ever file an internal affairs  
 14 complaint with Las Vegas Metropolitan Police  
 15 Department?  
 16 A So before, have I ever --  
 17 Q After --  
 18 A After? I just got lawyers, so I got a  
 19 lawyer.  
 20 Q Okay.  
 21 A So I don't know if that's the same.  
 22 Q Have you ever given a statement to anyone  
 23 about what occurred on August 7, 2011 besides your  
 24 attorney and besides this deposition?  
 25 A No.  
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CRISTINA PAULOS 3/25/2013

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1 the force they used to detain you that you're  
 2 complaining about?  
 3 A Yes.  
 4 MR. BLUT: Just so it's clear, we haven't  
 5 seen the video of the whole incident. We're  
 6 not making that claim right now. I think the  
 7 way it was -- the question, answer accurately  
 8 reflects where we are.  
 9 MR. ANDERSON: Okay.  
 10 BY MR. ANDERSON:  
 11 Q Now you talked about the one person in  
 12 uniform who you remember on the ground. Do you  
 13 remember any other similar uniforms to that person?  
 14 A I don't remember.  
 15 Q I want to jump forward to 2012 when you  
 16 went to St. Rose Hospital, okay. Do you understand  
 17 where I'm at right now?  
 18 A Yes.  
 19 Q Who took you to St. Rose Hospital?  
 20 A The ambulance.  
 21 Q Where did the ambulance pick you up at?  
 22 A At my parents' house.  
 23 Q What had happened that required an  
 24 ambulance?  
 25 A I had a mania episode.  
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1 Q Did it involve -- what type of actions did  
 2 you take?  
 3 A I attacked my parents.  
 4 Q Now, is that something that you normally  
 5 do?  
 6 A No.  
 7 Q So was it the mania that caused you to  
 8 attack your parents?  
 9 A Yes.  
 10 Q Did the police come?  
 11 A No.  
 12 Q Just an ambulance?  
 13 A Just an ambulance.  
 14 Q Just if you know, do you know which  
 15 ambulance company it was?  
 16 A I don't remember.  
 17 Q Who called the ambulance?  
 18 A Either my mother or sister.  
 19 Q And when you say attacked them, what did  
 20 you do?  
 21 A I attacked my mom with a potted plant.  
 22 Q Did she require hospitalization?  
 23 A Yes.  
 24 Q Did you go together?  
 25 A No.

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CRISTINA PAULOS 3/25/2013

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1 evil spirit or the devil is coming after you?  
 2 A Yes.  
 3 Q Do you recall having those feelings at the  
 4 Palms prior to being taken to the hospital?  
 5 A Yes.  
 6 Q Now, is anyone that is in front of you  
 7 that appears to be the devil or is it specific  
 8 people?  
 9 A It's like voices. It is not people,  
 10 really. But it's like voices appear.  
 11 Q And have you only heard these voices on  
 12 the two occasions? The 7th incident and the March  
 13 2012 incident?  
 14 A Yes.  
 15 Q And since you have been seeing a therapist  
 16 and are on medication, have you had any additional  
 17 experiences with that?  
 18 A No.  
 19 Q Do you believe the medication helps?  
 20 A Yes.  
 21 Q And I think that you were asked this.  
 22 Have you ever been told by any of these doctors what  
 23 triggers these hallucinations, the voices?  
 24 A No.  
 25 Q Just stress?

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CRISTINA PAULOS 3/25/2013

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1 Q Now, do you have a memory of that or is  
 2 that what you have been told what happened?  
 3 A I -- I remember some of it.  
 4 Q Some of it?  
 5 A Yeah.  
 6 Q Do you remember attacking your mom?  
 7 A I remember thinking it was the devil.  
 8 Q That brings up an interesting point. Back  
 9 to August 7, 2011 when you went to UMC. Are you  
 10 with me where I'm at now? I don't mean to jump  
 11 around.  
 12 A We're at UMC now.  
 13 Q Yes.  
 14 A Okay.  
 15 Q Part of your medical records indicate that  
 16 you were having religious hallucinations. You  
 17 thought you were in Hawaii and you were having  
 18 religious hallucinations. Do you remember any of  
 19 that?  
 20 A I remember thinking it was the devil was  
 21 after me.  
 22 Q At UMC?  
 23 A Yes.  
 24 Q So was that a common theme when you begin  
 25 to have these manic episodes, that you believe an

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CRISTINA PAULOS 3/25/2013

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1 A That's what the text book says, stress.  
 2 Q Now, on March 12th -- now, maybe I heard  
 3 you wrong. Did you say that you were in L.A. at an  
 4 art show when the second one occurred?  
 5 A It wasn't March 12th.  
 6 Q I'm sorry. I'm terrible. You never gave  
 7 a date. I apologize. Were you in L.A. when the  
 8 second one happened?  
 9 A Yes.  
 10 Q And was your mother there with you?  
 11 A No.  
 12 Q So now I'm completely confused. So where  
 13 are you physically -- you're at your parents' house  
 14 when you get taken to St. Rose Hospital, correct?  
 15 A Yes.  
 16 Q So you mentioned a time in L.A. when you  
 17 were at an art show. What happened then?  
 18 A I went to L.A. and I had an art show and  
 19 then I went with -- I went with my boyfriend at the  
 20 time. And I started having hallucinations and he  
 21 took off. And he called my mom to pick me off in  
 22 L.A. So my mother and my father drove all the way  
 23 to L.A. to pick me up. And it lasted about two  
 24 days, the mania. And then a couple of days later, I  
 25 attacked my mother and my father.

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CRISTINA PAULOS 3/25/2013

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1 Q Did --  
 2 A I wasn't really attacking my father.  
 3 Q Did your father suffer any injuries?  
 4 A No.  
 5 Q Who was your boyfriend?  
 6 A Terry Woltman.  
 7 Q The same one from August 7, 2011?  
 8 A Yes.  
 9 Q Did you attack Terry?  
 10 A No.  
 11 Q So in L.A. did Terry suffer any injuries?  
 12 A No.  
 13 Q When did you break up with Terry?  
 14 A Right after that.  
 15 Q Is he still local?  
 16 A No.  
 17 Q Where is he at now?  
 18 A Mexico City.  
 19 Q So you began to have manic episode in L.A.  
 20 Terry called your parents, they picked you and drove  
 21 you back to Las Vegas. The manic episode lasted  
 22 about two days, and that is how you ended up at St.  
 23 Rose?  
 24 A Yes.  
 25 Q Understanding your attorney's prior  
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CRISTINA PAULOS 3/25/2013

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1 CERTIFICATE OF DEPONENT  
 2 PAGE LINE CHANGE REASON  
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 17 \_\_\_\_\_  
 18 \* \* \* \* \*  
 19 I, CRISTINA PAULOS, deponent herein, do  
 20 hereby certify and declare the within and  
 21 foregoing transcription to be my deposition in  
 22 said action; under penalty of perjury; that I  
 23 have read, corrected, and do hereby affix my  
 24 signature to said deposition.  
 25 \_\_\_\_\_  
 CRISTINA PAULOS, Deponent Date  
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CRISTINA PAULOS 3/25/2013

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1 objection, other than the force used on you on  
 2 August 7, 2011, is there any other action the police  
 3 took that you are suing them for to your knowledge  
 4 at this point?  
 5 MR. BLUT: Object to the form.  
 6 THE WITNESS: My only knowledge is the  
 7 burns and injuries and the mental health.  
 8 BY MR. ANDERSON:  
 9 Q And the burns, are the ones to your thigh,  
 10 your face, and your right butt cheek, correct?  
 11 A And my leg.  
 12 Q Your leg?  
 13 A Yeah.  
 14 Q And are you including the breast burn --  
 15 A No.  
 16 MR. ANDERSON: Okay. That's all I got.  
 17 MR. SMERBER: I don't have anything else.  
 18 MR. BLUT: Send me the signature page.  
 19 -oOo-  
 20 (Whereupon, the deposition  
 21 concluded at 2:45 p.m.)  
 22  
 23  
 24  
 25  
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CRISTINA PAULOS 3/25/2013

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1 CERTIFICATE OF REPORTER  
 2 STATE OF NEVADA )  
 ) ss:  
 3 COUNTY OF CLARK )  
 4 I, Yvette Rodriguez, a duly commissioned  
 5 Notary Public, Clark County, State of Nevada,  
 6 do hereby certify:  
 7 That I reported the deposition  
 8 of CRISTINA PAULOS, commencing on March 25, 2013 at  
 9 2:45 p.m.  
 10 That prior to being deposed, the witness  
 11 was duly sworn by me to testify to the truth;  
 12 that I thereafter transcribed my said shorthand  
 13 notes into typewriting; and that the  
 14 typewritten transcript is a complete, true, and  
 15 accurate transcription of my said shorthand  
 16 notes.  
 17 I further certify that I am not a relative  
 18 or employee of counsel or any of the parties,  
 19 nor a relative or employee of the parties  
 20 involved in said action, nor a person  
 21 financially interested in the action.  
 22 IN WITNESS WHEREOF, I have set my hand  
 23 in my office in the County of Clark, State of  
 24 Nevada, this 11th day of April, 2013.  
 /s/YVETTE RODRIGUEZ  
 25 \_\_\_\_\_  
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000421

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# Exhibit 2

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# Exhibit 2



AARON BACA 2/28/2014

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CRISTINA PAULOS, an individual,	)	CASE NO.:
	)	2:13-cv-01546-JCM-PAL
Plaintiff,	)	
	)	
v.	)	
	)	
FCH1, LLC, a Nevada limited	)	
liability company; LAS VEGAS	)	
METROPOLITAN POLICE DEPARTMENT,	)	
a government entity; JAKE VON	)	
GOLDBERG, an individual;	)	
JEFFREY B. SWAN, an individual;	)	
JEANNIE HOUSTON, an individual;	)	
AARON BACA, an individual; and	)	
DOES 1 through 10,	)	
	)	
Defendants.	)	
	)	

**COPY**

DEPOSITION OF OFFICER AARON BACA  
  
Taken on Friday, February 28, 2014  
  
at 1:07 p.m.  
  
at 630 South Fourth Street  
  
Las Vegas, Nevada

Reported by: Gina J. Mendez, CCR No. 787

000424

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AARON BACA 2/28/2014

1 APPEARANCES:

2 For the Plaintiff:

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20 For the Defendant LVMPD:

21 CRAIG R. ANDERSON, ESQ.  
22 Marquis Aurbach Coffing  
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24 Las Vegas, Nevada 89145  
25 (702) 382-0711

I N D E X

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AARON BACA 2/28/2014

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E X H I B I T S

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AARON BACA 2/28/2014

1 Thereupon --

2 OFFICER AARON BACA,  
3 being first duly sworn to tell the truth, the whole  
4 truth and nothing but the truth, was examined and  
5 testified as follows:

6  
7 EXAMINATION

8 BY MR. SMERBER:

9 Q. Could you please state your name for the record.

10 A. Aaron Baca.

11 Q. Officer Baca, have you ever had your deposition  
12 taken before?

13 A. No.

14 Q. It's a bit of a weird process, I'm sure you had  
15 an opportunity to speak to counsel about it. I'm going  
16 to go through the ground rules of a deposition today so  
17 you can know what to expect from me and what I'll expect  
18 from you.

19 Okay?

20 A. Okay.

21 Q. The first thing is the oath you just took is the  
22 same oath you'd take in a court of law so you're subject  
23 to the same penalties of perjury as if you were  
24 testifying in a courtroom.

25 Do you understand?

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AARON BACA 2/28/2014

1 A. Yes.

2 Q. The next thing is that the lady sitting to my  
3 left and your right is a court reporter, she's taking  
4 down a verbatim transcript of everything that's being  
5 said today.

6 Do you understand?

7 A. Yes.

8 Q. Being that that's the case and the point of  
9 today's exercise is to make a clear record of what you  
10 have to say we have to observe certain formalities that  
11 we wouldn't otherwise if we were just sitting here  
12 having a conversation. The first thing is I need you to  
13 verbalize all of your responses, things such as nods,  
14 shaking the head, saying it was this big, none of those  
15 things come out clear on the record.

16 Okay?

17 A. Okay.

18 Q. Similarly terms such as uh-huh, uh-uh, nah, yeah,  
19 those don't come out clearly on the record either. I  
20 will probably understand what you're saying because I  
21 can see you, but later six months down the road when  
22 we're reading the transcript no one will really  
23 understand what the response was.

24 So if you give a response of that nature or a  
25 nonverbal response either myself or maybe one of the

AARON BACA 2/28/2014

1 other attorneys might say, Officer Baca, is that a yes  
2 or a no, not trying to be rude or discourteous, we just  
3 want to make a clear record.

4 Okay?

5 A. Okay.

6 Q. During your deposition today I'm entitled to your  
7 best estimate of things, but I don't want you to guess.  
8 If you can give me an estimate based upon what you have  
9 observed or something you have knowledge of by all means  
10 please do that, but if you simply have no basis to give  
11 me a response just tell me, I don't know.

12 Okay?

13 A. Okay.

14 Q. If today during your deposition I ask you a  
15 question and it does not make sense to you, sometimes  
16 things sound better in my head than when they actually  
17 come out, just say, Justin, I don't understand your  
18 question. I don't want you to guess at what I'm trying  
19 to ask you.

20 Okay?

21 A. Okay.

22 Q. From time to time your counsel might have an  
23 objection to a question that I ask or one of the other  
24 counsel might have an objection to a question I ask, if  
25 that happens, we'll just pause, we'll allow them to



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1 state their objection on the record. We don't have a  
2 judge here to rule on that objection so what will happen  
3 is when they are done then you'll go ahead and answer my  
4 question.

5 Okay?

6 A. Okay.

7 Q. The only exception to that would be is if your  
8 counsel says, Officer Baca, don't answer that, then go  
9 ahead and follow counsel's recommendation?

10 Okay?

11 A. Okay.

12 Q. We're not here for an endurance contest today, if  
13 at any time you want to take a break for any reason  
14 that's fine, the only caveat to that is if I have a  
15 question pending to you, you'll have to answer my  
16 question before you take your break.

17 Okay?

18 A. Okay.

19 Q. During your deposition it's very important that  
20 we don't speak over each other. Sometimes you'll have a  
21 tendency and understand my question and want to give me  
22 my response and we'll finish each other's sentence,  
23 unfortunately our court reporter can't type down both of  
24 us talking at the same time so we have to be real  
25 patient for her sake and for the record's sake.

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1 Okay?

2 A. Okay.

3 Q. In two weeks or three weeks or something like  
4 that, I don't really know how long, but at some point  
5 after this you will have an opportunity to review and  
6 sign your deposition for accuracy. You can even make  
7 changes to your testimony when you review the  
8 transcript; however, I want to warn you if you do change  
9 anything of substance, anything important then either  
10 myself or any of the other attorneys here could comment  
11 upon those changes with regards to your credibility  
12 should this matter proceed to trial.

13 Do you understand?

14 A. Yes.

15 Q. Now, that's not to say that today if during the  
16 questioning you remember something or a memory is  
17 sparked that you can't tell me, Hey, Justin, you know, I  
18 need to clarify something, because by all means I want  
19 you to do that, I just need to have the opportunity to  
20 ask any follow-up questions that I need to.

21 Okay?

22 A. Okay.

23 Q. That's the basic gist of the deposition, if  
24 anything else comes up then we'll address it at that  
25 point.

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1 Officer Baca, where are you currently employed?

2 A. Las Vegas Metropolitan Police Department.

3 Q. What is your official title with the department?

4 A. Police officer level two patrol.

5 Q. And I assume for purpose of this litigation you  
6 can be reached through Metro and Metro's counsel?

7 MR. ANDERSON: Yes, I'm representing him in  
8 this action.

9 BY MR. SMERBER:

10 Q. That way I don't have to try and take your  
11 address or anything.

12 A. Okay.

13 Q. Do you have any plans to leave Las Vegas  
14 Metropolitan Police Department in the near future?

15 A. No, sir.

16 Q. How long have you been with Metro?

17 A. Approximately eight years.

18 Q. Have you held any other positions besides a level  
19 two police officer, level two patrol?

20 A. Well, I was a police recruit and then I was a  
21 Police Officer I and then after probation Police Officer  
22 II.

23 Q. Officer Baca, do you recall responding to an  
24 incident at the Palms Casino Resort around  
25 August 7th, 2011?

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1 A. Yes.

2 Q. And when you responded to that incident were you  
3 acting within your scope as a police officer?

4 A. Yes, I was.

5 Q. And do you recall what type of incident you were  
6 responding to?

7 A. I believe it was a traffic accident.

8 Q. Do you recall how you were notified of the  
9 incident?

10 A. I actually just rolled up on it.

11 Q. Were you the first Metro officer to arrive on  
12 scene?

13 A. Yes.

14 Q. All of my questions are going to be focused on  
15 that date so around August 7th, 2011.

16 Okay?

17 A. Yes, sir.

18 Q. Around that time were you -- I'm going to use the  
19 term "patrol," is that fairly accurate?

20 A. Yes.

21 Q. Were you on patrol by yourself or did you have a  
22 partner assigned with you?

23 A. I was a solo officer.

24 Q. And you told me you just kind of rolled up on the  
25 scene, can you describe for me what you saw when you

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1 first arrived?

2 A. I saw two, three vehicles that appeared to be  
3 involved in an accident.

4 Q. Do you know who Cristina Paulos is?

5 A. I do now.

6 Q. Do you recall coming in contact with Ms. Paulos  
7 on the date of the incident?

8 A. Yes.

9 Q. Can you kind of give me a general description of  
10 what you recall in terms of your interaction with  
11 Ms. Paulos that day?

12 A. I tried to contact her to see if she was okay as  
13 far as the accident after she was pointed out by some  
14 people that apparently she had crashed into. One male  
15 stated to me, She's trying to steal my car. I saw the  
16 female in the -- like inside the vehicle, I think it was  
17 a green SUV type vehicle.

18 When I made contact with her she wasn't listening  
19 to me, she kept walking away from me and trying to turn  
20 around and finally when she did make contact with me she  
21 started screaming and I felt that she was reaching for  
22 my firearm.

23 Q. Here's what I want to do. I have some  
24 surveillance video that's been produced in this case. I  
25 want to have you take a look at it, it's only three or

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1 four minutes long so I'm going to show it to you and  
2 then we'll go back through and we'll ask some questions  
3 about it.

4 Okay?

5 A. Okay.

6 MR. SMERBER: Counsel, do you guys want to  
7 review it first? It's what's been produced.

8 BY MR. SMERBER:

9 Q. I'm just going to kind of turn it towards him and  
10 we can all stand over there.

11 (Playing video.)

12 BY MR. SMERBER:

13 Q. What I want to do is ask you specific questions  
14 about parts of this video.

15 A. Okay.

16 Q. I'm showing you a frame it's approximately  
17 15:16:41 and just for the record so we all know what  
18 we're looking at, we're looking at a surveillance, in  
19 the bottom right-hand corner it says 0513, I believe  
20 that's the camera that it's associated with. I'm going  
21 to play this for you and then stop it.

22 You were describing an individual earlier as  
23 Ms. Cristina Paulos, do you see her in this clip?

24 A. Yes, I do.

25 Q. Can you describe for me in the scene that I'm



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1 showing you right now, which is 15:16:42 is the time  
2 stamp, can you explain to me what she's doing to your  
3 understanding?

4 A. She's sitting in a vehicle with one leg hanging  
5 out.

6 Q. And you indicated earlier that someone had  
7 identified her as a person who was attempting to get in  
8 their vehicle or steal their vehicle; is that correct?

9 A. Yes.

10 Q. Do you see that individual in this frame?

11 A. Yes, I do.

12 Q. Is he the individual standing directly in front  
13 of her?

14 A. Yes.

15 Q. Looks like he's wearing maybe some swim trunk  
16 shorts and a -- I don't know -- maybe a black or gray  
17 shirt?

18 A. Yes.

19 Q. Okay. I'm stopping it. I'm at about 15:16:48 is  
20 the time stamp, we're dealing with some palm trees here,  
21 but you can see behind this palm tree there's an  
22 individual that appears to be in a police uniform, do  
23 you have any idea who that is?

24 A. That's me.

25 Q. Let me play it a little more so you can get a

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1 better shot. Again, it's the back of you, but can you  
2 identify that as yourself?

3 A. Yes, I can.

4 Q. At this point can you describe the interaction  
5 that's taking place between yourself and Ms. Paulos?

6 A. I'm asking her if she's okay to my recollection.

7 Q. Do you recall what her response was, if any?

8 A. No response.

9 Q. I'm going to play the video a little more for  
10 you. At approximately 15:16:51 it appears that  
11 Ms. Paulos turns away from you and starts walking away  
12 from you. You said earlier that she kept walking away  
13 from you; is this what you were describing?

14 A. Yes.

15 Q. Again, were you giving her directions at this  
16 point or speaking to her or having any communication  
17 with her?

18 A. I was attempting to.

19 Q. Do you recall specifically were you asking her to  
20 do anything or were you just asking her questions about  
21 her welfare at this point?

22 A. I don't remember specifically.

23 Q. I just stopped it, we're at 15:16:55, if you look  
24 in the middle of the frame right between the two palm  
25 trees it appears that there's an exchange going on

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1 between yourself and Ms. Paulos, are you able to  
2 describe for me what's happening at that point?

3 A. To my recollection she started screaming and she  
4 reached for my firearm.

5 Q. I'm stopping the tape at 15:17:00, can you please  
6 describe what's taking place on the screen at this time.

7 A. After she attempted to grab my firearm I created  
8 distance from her. At that point she was away from me  
9 approximately two or three feet, I attempted to get her  
10 into custody by placing her hands behind her back.

11 Q. At this point is Plaintiff cooperating with you  
12 or is she resisting?

13 A. She's resisting.

14 Q. Do you recall if you were giving her verbal  
15 directions at that time?

16 A. Yes.

17 Q. Do you recall specifically what those were?

18 A. Police officer, stop resisting.

19 Q. Did Plaintiff make -- and I'm sorry, I kept using  
20 the term "plaintiff," I mean Cristina Paulos, do you  
21 understand?

22 A. Yes.

23 Q. Did Plaintiff have any verbal response to you  
24 during these events?

25 A. Just yelling.

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1 Q. Was she yelling anything in particular or was it  
2 just incoherent kind of screaming?

3 A. Incoherent, yeah.

4 Q. Play the video a little more for you. I've  
5 stopped the video at 15:17:02, can you describe what's  
6 going on at this point?

7 A. I took Ms. Paulos to the ground in an attempt to  
8 handcuff her.

9 Q. So at approximately 15:17:02 Ms. Paulos is taken  
10 to the ground. Once she's taken to the ground is she  
11 being compliant with you?

12 A. No.

13 Q. When she's on the ground are you continuing to  
14 give her verbal instruction?

15 A. Yes.

16 Q. And what would those instructions be?

17 A. Stop resisting, show me your hands, give me your  
18 hands, stop resisting.

19 Q. And I believe it's reflected on the video, but  
20 during these events you're wearing a Las Vegas  
21 Metropolitan police officer uniform; is that correct?

22 A. Summer uniform, yes.

23 Q. That consists of a badge that says Las Vegas  
24 Metropolitan Police Department, correct?

25 A. Yes, sir.

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1 Q. Patches on both sides of your -- well, both  
2 sleeves on your shoulders to indicate that you're a  
3 Metro police officer?

4 A. Yes.

5 Q. Today you're wearing, like, an undershirt that  
6 says LVMPD, do you wear that in the summer?

7 A. No.

8 Q. And then in addition to your uniform that you're  
9 wearing you're also verbally indicating that you are a  
10 police officer; is that correct?

11 A. Yes.

12 Q. I'm going to play the video a little further for  
13 you. I'm stopping the video at 15:17:06. It appears  
14 that you just moved a little bit while Plaintiff was on  
15 the ground, do you recall why you were required to make  
16 that movement? I can play it again for you if you'd  
17 like.

18 A. Can I see it again, please.

19 Q. Yeah. So I'm going back to 15:17:02, I'm going  
20 to play it again for you.

21 A. From what I gather it doesn't appear that she was  
22 completely lying face down and trying to scoot away from  
23 me. When she scooted forward I was able to adjust my  
24 position to better gain control of her.

25 Q. I'm stopping the video at 15:17:25. Are you able

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1 to identify where you were at on the frame? It's right  
2 here.

3 A. Yes.

4 Q. I want you to pay attention to what you're doing.  
5 I'm going to show you about 10 seconds of film and then  
6 I'm going to ask you questions about what you're doing  
7 and why you're doing it.

8 Okay?

9 A. Okay.

10 Q. I actually played about eight seconds. I stopped  
11 it at 15:17:33. Did you see what occurred during that  
12 time? Do you want me to play it again?

13 A. I think I summoned somebody.

14 Q. Do you recall on the date of this incident  
15 summoning someone for help or assistance?

16 A. Yes.

17 Q. Do you recall who that was?

18 A. I believe it was a black female adult wearing a  
19 Palms security uniform.

20 Q. And if we look on the video, I'm going to back it  
21 up to 15:17:25 again, I'm going to play it for you, tell  
22 me if you see the individual you recall summoning?

23 A. Yes.

24 Q. And it appears that it's a blond female wearing a  
25 black uniform; is that correct?

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1 A. Yes.

2 Q. Do you recall why you gestured to that person for  
3 assistance?

4 A. I still didn't have Ms. Paulos in custody.

5 Q. Would you agree with me that the Palms security  
6 officer became involved in this matter at your request?

7 A. Yes.

8 Q. I assume the point of what's going on here was  
9 that you were trying to detain the plaintiff at that  
10 point, correct?

11 A. Yes.

12 Q. Was that being done at your discretion or at the  
13 Palms' discretion?

14 A. At mine.

15 Q. Would you agree that Plaintiff was being detained  
16 under your control and not the Palms' control?

17 A. Yes.

18 Q. Do you agree that the Palms did not participate  
19 in this matter until you requested them to do so?

20 A. Yes.

21 Q. Did you request that they aid in detaining the  
22 plaintiff because that was necessary?

23 A. Yes.

24 Q. Was that for your safety?

25 A. For my safety and for Ms. Paulos' safety.

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1 Q. As well as the people around?

2 A. As well as the people around and bystanders.

3 Q. I'm going to play out the next couple minutes  
4 just so you can watch it because I'm going to ask you a  
5 couple more questions. You see at approximately  
6 15:17:38 you can see the Palms security officer bending  
7 down; is that accurate?

8 A. Yes.

9 Q. Do you recall what she was doing at that time?

10 A. Attempting to help me get Ms. Paulos' arms out  
11 from underneath her.

12 Q. At any point while the Palms security officer was  
13 assisting you do you believe that their actions exceeded  
14 what you were asking of them?

15 A. No.

16 Q. Do you believe that the Palms security officer  
17 used any excessive or unnecessary force while assisting  
18 you?

19 MR. POTTER: Objection. Calls for an expert  
20 opinion.

21 BY MR. SMERBER:

22 Q. Go ahead.

23 A. Could you resay the question again.

24 Q. No problem. You were asking the Palms security  
25 officer to assist you in detaining the plaintiff; is

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1 that fair?

2 A. Yes.

3 Q. The Palms security officer comes over and begins  
4 assisting you; is that right?

5 A. Yes.

6 Q. Eventually you're able to place Ms. Paulos into  
7 custody and she's detained; is that correct?

8 A. Yes.

9 Q. And the Palms security officer participated in at  
10 least part of that; is that fair?

11 A. Yes.

12 Q. While the Palms security officer was  
13 participating in assisting you do you believe that they  
14 used any excessive force towards the plaintiff?

15 A. No.

16 MR. POTTER: Objection. Calls for legal  
17 opinion, expert opinion. He's not qualified.

18 BY MR. SMERBER:

19 Q. Do you believe that the Palms security officer  
20 engaged in any inappropriate actions or -- strike that.  
21 Let me start over.

22 Do you believe that any of the Palms security's  
23 actions were inappropriate while they were assisting  
24 you?

25 A. No.

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1 MR. POTTER: Same objection. Calls for an  
2 expert opinion.

3 BY MR. SMERBER:

4 Q. I'm going to show you a little more of the video.  
5 I'm stopping the video at 15:17:51. I can see on the  
6 video it looks like you're reaching back for something  
7 off of your utility belt?

8 A. Yes.

9 Q. Is that what you call it, utility belt?

10 A. Yes.

11 Q. Do you recall what you were grabbing there?

12 A. My handcuffs.

13 Q. I'm going to pause the video right here, we're at  
14 15:18:35. At this point during these events would you  
15 agree that Metro and yourself are in control of the  
16 situation?

17 A. Somewhat.

18 Q. Let me put that in a finer context. Would you  
19 agree that Metro is the authority at this point versus  
20 the Palms?

21 A. Yes.

22 MR. POTTER: Objection. Calls for an  
23 opinion.

24 BY MR. SMERBER:

25 Q. Let me ask you this, if the Palms security

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1 officer were to start giving you directives as to what  
2 should be done at this point, would you follow them or  
3 would you be following your own directives?

4 MR. POTTER: Improper hypothetical.

5 THE WITNESS: I would be acting in the best  
6 interest of everybody involved.

7 BY MR. SMERBER:

8 Q. I understand. But who is making the decision as  
9 to what's being done here, is it you or the Palms  
10 security officer?

11 A. Me.

12 Q. If the Palms security officer was to tell you,  
13 Officer Baca, let this woman go right now, would you  
14 feel compelled or obligated to follow that direction?

15 A. No.

16 Q. Because you are the one who is the authority at  
17 the scene, correct?

18 A. Yes.

19 Q. These events have all been taking place at the  
20 entrance of the Palms Casino Resort; is that correct?

21 A. Yes.

22 Q. Do you have any reason to believe that the Palms  
23 security is dictating where this person is being  
24 detained?

25 A. No.

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1 Q. If the Palms security officer were to tell you,  
2 Officer Baca, we want to go and do this somewhere else  
3 would that be at your discretion or their discretion?

4 MR. POTTER: Objection. Improper  
5 hypothetical.

6 Let me make my objection before you answer.

7 THE WITNESS: Sorry.

8 THE COURT REPORTER: Can you repeat your  
9 answer.

10 THE WITNESS: Could you restate the  
11 question.

12 MR. SMERBER: No problem. Go ahead and read  
13 it back.

14 (Record read.)

15 THE WITNESS: It would be my discretion.

16 BY MR. SMERBER:

17 Q. Let's watch the video for a couple more minutes  
18 here.

19 (Playing video.)

20 BY MR. SMERBER:

21 Q. I'm stopping the video at 15:19:42. At this  
22 point the camera is panning out back towards the  
23 intersection and you can see there's a Metro, I think,  
24 police car on the street; is that accurate?

25 A. Yes.

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1 Q. And then there appears to be another Metro  
2 officer standing in front of it; is that correct?

3 A. To the rear of it.

4 Q. Do you know who that Metro officer is?

5 A. I can't make it out.

6 Q. Fair enough. Do you know if that was your car or  
7 is that the car he just pulled up in?

8 A. I believe that's the car he pulled up in.

9 Q. Do you know if that was the second officer to  
10 respond?

11 A. I don't know.

12 Q. That same officer that we were just describing  
13 now at 15:19:50 appears that he's made his way over to  
14 where you're at; is that fair?

15 A. Yes.

16 Q. Just following up on that question. It appears  
17 that up until that time you were the only officer on  
18 scene; is that fair?

19 A. Yes.

20 Q. Is that part of the reason why you needed the  
21 assistance from the Palms during these events?

22 A. Yes.

23 Q. I'm stopping the video at 15:20:13. At this  
24 point it appears that there's several Metro officers on  
25 scene; is that correct?

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1 A. Yes.

2 Q. At this point they are assisting you in the  
3 detention of the plaintiff?

4 A. Yes.

5 Q. Do you see over here it appears that the blond  
6 female security officer has moved away and is no longer  
7 assisting you; is that correct?

8 A. Correct.

9 Q. Once your fellow officers arrived and were  
10 assisting you did you need any further assistance from  
11 Palms security?

12 A. No.

13 Q. From that point on the detention would have been  
14 handled solely by Metro; is that correct?

15 A. Yes.

16 Q. And then the tape ends at approximately 15:20:15.  
17 Do you recall what happened after your fellow Metro  
18 officers arrived and were assisting you?

19 A. I believe Ms. Paulos was taken off the ground and  
20 escorted out of the roadway.

21 Q. Do you recall where she was taken?

22 A. To a grassy area.

23 Q. We established it earlier, Plaintiff was taken to  
24 the ground at 15:17:02; does that sound accurate?

25 A. Yes.

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1 Q. It appears here that your fellow officers come  
2 and assist you and she's taken off of the ground at  
3 approximately 15:20:15; is that fairly accurate?

4 MR. BLUT: Objection. Misstates the  
5 evidence.

6 BY MR. SMERBER:

7 Q. Is that fairly accurate from what you recall?

8 MR. ANDERSON: Just answer if you can. If  
9 you don't know, you don't know.

10 THE WITNESS: I don't know.

11 BY MR. SMERBER:

12 Q. Once your fellow officers arrived on the scene,  
13 which we know that they're there at 15:20:15, do you  
14 recall Ms. Paulos being kept in that roadway for any  
15 extended period of time?

16 A. No.

17 Q. Would she have been removed from that area within  
18 a minute?

19 A. I don't know.

20 MR. POTTER: Object to the form of the  
21 question.

22 BY MR. SMERBER:

23 Q. Let me ask it this way: Can you give me an  
24 estimate from how long it would have been from the time  
25 when your fellow officers arrive to assist you to the

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1 point where Ms. Paulos would have been moved to this  
2 grassy area?

3 A. I don't know. I was tired from fighting her.

4 Q. Let me put it to you another way. We know --  
5 I've shown you about three minutes of her being detained  
6 on the roadway, the plaintiff has indicated she was held  
7 in this roadway for over 20 minutes. Do you feel that  
8 that's accurate?

9 A. No.

10 Q. In discovery the plaintiff Ms. Paulos was asked  
11 why she felt the Palms was responsible for her incident.  
12 She responded and she's referring to Palms' formal name  
13 which is FCH1, LLC, okay. She responded and said, The  
14 FCH1, LLC employees should not have held me down on the  
15 asphalt and should have moved me off of the ground to  
16 any where that I would not be subject to extreme heat on  
17 the ground.

18 I want to ask you again was it the Palms security  
19 officer's discretion as to where Plaintiff was being  
20 detained?

21 MR. POTTER: Objection. Calls for a legal  
22 opinion as well as an expert opinion.

23 THE WITNESS: No.

24 BY MR. SMERBER:

25 Q. And I'm asking you factually because you were

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1 there. Was it at the discretion of the Palms security  
2 officer where she was being detained?

3 MR. POTTER: Objection. Calls for a legal  
4 opinion as well as an expert opinion.

5 THE WITNESS: No.

6 BY MR. SMERBER:

7 Q. The plaintiff has also indicated in her discovery  
8 responses that the Palms or FCH1, LLC subjected her to  
9 significant injury while she was on their premises.

10 Do you agree with that?

11 MR. POTTER: Doesn't matter what he agrees  
12 to. Object to the form of the question.

13 THE WITNESS: No.

14 BY MR. SMERBER:

15 Q. With regards to the duration of time that the  
16 plaintiff was detained in the roadway that we see on the  
17 video, did Palms security have any say in how long the  
18 plaintiff was detained in that area?

19 A. No.

20 MR. POTTER: Object to the form of the  
21 question.

22 BY MR. SMERBER:

23 Q. I just want to have you -- I'm going to show you  
24 some still photographs of the video that we reviewed  
25 today and I want to have you circle some people, that

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1 way when we're reviewing the transcript later we know  
2 who you were talking about.

3 Okay?

4 A. Okay.

5 Q. I'm going to show you a still photograph, this is  
6 from the exact video we just reviewed and it's at  
7 15:16:44. I showed you this screen earlier and I asked  
8 you if you recognized the woman in the brown dress, do  
9 you recall that?

10 A. Yes.

11 Q. And you identified her as Cristina Paulos?

12 A. Yes.

13 Q. If I can just give you my pen, if you can just  
14 circle Ms. Paulos.

15 A. (Witness drawing.)

16 MR. SMERBER: I'm going to make that as  
17 Exhibit A.

18 (Whereupon, Defendant's Exhibit A  
19 was marked for identification.)

20 BY MR. SMERBER:

21 Q. I'm going to show you another still photograph,  
22 it's from the same surveillance video, this is at the  
23 time of 15:17:00.

24 Do you see yourself in this still?

25 A. Yes.

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1 Q. And can you just circle yourself.

2 A. (Witness drawing.)

3 MR. SMERBER: We'll mark that as Exhibit B.  
4 (Whereupon, Defendant's Exhibit B  
5 was marked for identification.)

6 BY MR. SMERBER:

7 Q. Officer Baca, have you understood all of the  
8 questions I've asked you here today?

9 A. Yes.

10 Q. Have I given you a full and fair opportunity to  
11 answer my questions?

12 A. Yes.

13 Q. Do you want to change any of your responses at  
14 this time?

15 A. No.

16 MR. SMERBER: I'm going to pass you as a  
17 witness and reserve my right to follow up.

18

19 EXAMINATION

20 BY MR. POTTER:

21 Q. Officer Baca, my name is Cal Potter. I represent  
22 Cristina Paulos along with Mr. Elliot Blut to my right.  
23 I'm going to ask you some questions and I'm going to  
24 start with your background.

25 Can you tell me where you graduated high school?

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AARON BACA 2/28/2014

1 A. Grants High School.

2 Q. Where is that?

3 A. New Mexico.

4 Q. What year did you graduate?

5 A. 1987.

6 Q. And when you graduated in 1987 what did you do  
7 employment-wise?

8 A. Employment-wise?

9 Q. Yes.

10 A. I joined the United States Air Force.

11 Q. How long were you in the Air Force?

12 A. Six years, ten months, three days.

13 Q. And during that time did you have any assignments  
14 dealing with security or police work?

15 A. Yes, I did.

16 Q. What did you do?

17 A. I was security police.

18 Q. And were you ever stationed out here at Nellis?

19 A. No.

20 Q. Where were your duty stations during that time?

21 A. I was stationed in Minot, North Dakota for  
22 approximately two years, Bitburg Air Base Germany for  
23 approximately four years and F.E. Warren, Wyoming,  
24 Cheyenne, Wyoming for two years.

25 Q. And during the time frame you were security

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1 police during that entire period?

2 A. Yes, sir.

3 Q. Did you go through training to be a security  
4 police officer?

5 A. Yes, I did.

6 Q. And did it also involve -- or tell me what kind  
7 of academy training, if any, it involved?

8 A. The security police academy.

9 Q. Where is that physically?

10 A. Lackland Air Force Base, San Antonio, Texas.

11 Q. And how long did it last?

12 A. I don't know.

13 Q. You don't recall?

14 A. I don't recall.

15 Q. Do you recall if it involved handcuffing  
16 procedures?

17 A. Yes.

18 Q. As well as use of force?

19 A. Yes.

20 Q. And did you receive any kind of citations or  
21 merit conduct while you were in the security police?

22 A. Just graduation certificate.

23 Q. Were you ever disciplined for any use of force  
24 issues?

25 A. No.

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1 Q. Were you honorably discharged?

2 A. Yes.

3 Q. And upon your discharge -- what was the date  
4 again? You said six years, ten days -- what did it play  
5 out to?

6 A. I believe I got out in '93, '92.

7 Q. When you got out of the Air Force where did you  
8 go after that?

9 A. I had several jobs.

10 Q. Any law enforcement?

11 A. Yes.

12 Q. Where were you in law enforcement after the Air  
13 Force?

14 A. I was employed by the Department of Interior  
15 Bureau of Reclamation Hoover Dam Police.

16 Q. What periods of time were you there?

17 A. '97 to 2005.

18 Q. Who did you serve under, if you recall?

19 A. The chief there when I was there was Ron Bayer,  
20 B-a-y-e-r, and after that it was Richard Melim.

21 Q. Any discipline during the time you were with the  
22 Bureau of Land Management Police?

23 A. Define discipline. Letters of counseling or --

24 Q. All of those.

25 A. I'm sure.

AARON BACA 2/28/2014

1 Q. Do you recall what they were?

2 A. No, I don't.

3 Q. How about use of force?

4 A. No.

5 Q. Did you go through academy training with that  
6 agency?

7 A. Yes.

8 Q. Where was that?

9 A. Federal Law Enforcement Training Center, Glynco,  
10 Georgia.

11 Q. Is that different from Brunswick?

12 A. It's in Brunswick.

13 Q. How long was that training?

14 A. I think it was 12 weeks, something like that.

15 Q. How about in terms of that training did you go  
16 through use of force?

17 A. Yes.

18 Q. Did you ever have to retake any of the  
19 components?

20 A. Not that I can remember.

21 Q. Did you have field training as a result of going  
22 through the academy with the federal government?

23 A. No.

24 Q. Any use of force incidents involving the Hoover  
25 Dam Police?

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1 A. Not that I can recall.

2 Q. What year does that take us up to when you left  
3 there?

4 A. 2005 when I entered the Metro academy.

5 Q. How did it come about that you had went to work  
6 with Metro?

7 A. I applied and got hired.

8 Q. Were you a recruit in any fashion?

9 A. No.

10 Q. Had you applied for other police departments  
11 besides the Las Vegas Metropolitan Police Department at  
12 that time period?

13 A. No.

14 Q. Were you accepted the first time you applied with  
15 Metro?

16 A. Yes.

17 Q. Were you required to go through academy training  
18 with Metro?

19 A. Yes.

20 Q. And how long was that academy?

21 A. Six months.

22 Q. During the time that you went through that  
23 academy training did you also go through search and  
24 seizure?

25 A. Yes.

AARON BACA 2/28/2014

1 Q. Use of force?

2 A. Yes.

3 Q. Firearms training?

4 A. Yes.

5 Q. How to testify in court?

6 A. Yes.

7 Q. Investigations?

8 A. Yes.

9 Q. And you had both classroom and practical  
10 applications?

11 A. Yes.

12 Q. Were you ever required to repeat any of the  
13 classes?

14 A. I don't believe so.

15 Q. And do you recall whether you graduated in a  
16 certain position, received any kind of awards from the  
17 Metro academy?

18 A. No.

19 Q. You then went through training with a field  
20 training officer --

21 A. Yes.

22 Q. -- is that correct?

23 A. Yes.

24 Q. How many field training officers did you have?

25 A. Off the top of my head, I don't know.

AARON BACA 2/28/2014

1 Q. Can you approximate the number?

2 A. Fifteen maybe.

3 Q. During the time you had the 15 training officers  
4 were you ever required to retake training or received  
5 any kind of request that you go over some deficiency in  
6 your police work?

7 A. No.

8 Q. Any write-ups during the time that you've been  
9 with Metro?

10 A. Negative or --

11 Q. Yeah, negative first.

12 A. Negative write-ups?

13 Q. Yeah.

14 A. As far as training? I don't understand the  
15 question.

16 Q. Were you ever disciplined for any reason with  
17 Metro? Start there.

18 A. No.

19 Q. Any use of force requirements where you've had to  
20 file use of force reports?

21 A. No -- oh, use of force reports, yes.

22 Q. How many use of force reports have you been  
23 required to file?

24 A. I don't know.

25 Q. More than 10?

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1 A. No, I would say less than five.

2 Q. Less than five?

3 A. Yes.

4 Q. Do you recall whether you filed one in this case?

5 A. I did not.

6 Q. And why is that?

7 A. I was instructed not to do it.

8 Q. Who instructed you not to file a use of force  
9 report?

10 A. My supervisor.

11 Q. Who was that?

12 A. Sergeant Harney.

13 Q. I'm sorry?

14 A. Sergeant Jason Harney.

15 Q. What was the discussion dealing with not to file  
16 the use of force report?

17 A. Sergeant Harney came to the scene, interviewed  
18 the subject and I asked if I needed to do a use of force  
19 and he told me no.

20 Q. What's your understanding of when you are  
21 required to do a use of force report?

22 A. When there's complaint of injury.

23 Q. And are you aware of the injuries that Ms. Paulos  
24 sustained?

25 MR. ANDERSON: Objection. Form.

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Go ahead and answer.

THE WITNESS: I am now.

BY MR. POTTER:

Q. What do you mean by that?

A. There was no complaint of injury at the scene by her to my sergeant from what I understand.

Q. Paramedics were called; is that correct?

A. Yes.

Q. Did you call the paramedics?

A. Yes, requested medical and additional officers.

Q. So you recognized that there was a medical issue?

A. Well, she had just been involved in a vehicle accident.

Q. Is it your testimony here under oath that the reason you called for medical is because she had been in a vehicle accident?

A. I requested medical due to the totality of the circumstances, her actions, being involved in a vehicle accident and not complying with my instructions.

Q. Let's deal with those. What from the vehicle accident were you concerned about medically?

A. Because it appeared to be a pretty good vehicle accident and there was three cars involved, I believe.

Q. Have you been trained in recognition of traumatic brain injuries?

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1 A. No, but I'm aware of them.

2 Q. How are you aware of them?

3 A. Just from reading and what I've seen on the  
4 streets.

5 Q. Did you see any signs that she had suffered from  
6 any brain injury?

7 A. I really didn't have any time to assess that and  
8 I'm not a doctor.

9 Q. So you didn't make a determination; is that fair?

10 A. Yes.

11 Q. Based upon time and the fact that you don't have  
12 training as a physician, correct?

13 A. Yes.

14 Q. And she wasn't obeying your commands, what about  
15 that made you want to call for medical?

16 A. Like I said, she was involved in an accident from  
17 what I could tell, she wasn't complying with my  
18 instructions and I felt that after everything that she  
19 probably needed to see -- that I needed to have medical  
20 there on scene.

21 Q. I mean, were you contemplating Legal 2000 at that  
22 point?

23 A. At that point I didn't know what I had.

24 Q. What about the injuries that she had sustained,  
25 was that a concern to you?

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1 A. I didn't have time to see any injuries on her.

2 Q. Let me have these marked and we'll go over them.

3 (Whereupon, Plaintiff's Exhibits 1-7  
4 were marked for identification.)

5 BY MR. POTTER:

6 Q. These are Exhibits 1 through 7. I'm just going  
7 to hand you the stack and ask you in terms of the  
8 picture.

9 Do you recognize that individual?

10 A. Ms. Paulos, I believe.

11 Q. Have you ever seen that picture before?

12 A. No.

13 Q. In the picture it shows an injury to her left  
14 side of her face, do you recall seeing that at the  
15 scene?

16 MR. ANDERSON: Mr. Potter, do you know when  
17 these were taken?

18 MR. POTTER: No, I don't.

19 MR. ANDERSON: I'll do a running objection  
20 to foundation.

21 MR. POTTER: All right.

22 MR. ANDERSON: You can answer his question.

23 BY MR. POTTER:

24 Q. Do you recall seeing that injury?

25 THE WITNESS: I'm sorry, I didn't hear you.

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1 MR. ANDERSON: You can answer his question.

2 THE WITNESS: Okay. What was the question?

3 BY MR. POTTER:

4 Q. Do you recall seeing the injuries that are  
5 depicted in that photo?

6 A. No.

7 Q. There's a mark on her cheek and under her left  
8 eye, do you recall seeing that?

9 A. No.

10 Q. There's also scabs on her hands, do you recall  
11 whether she had any injuries to her hand?

12 A. No.

13 Q. The next photo appears to be of one of her limbs,  
14 it's a close-up, do you recall if you saw any of the  
15 injuries that are depicted in that?

16 A. No.

17 Q. The Exhibit 3 appears to be of her left hip area  
18 and leg, do you recall seeing that -- any injuries on  
19 that?

20 A. No.

21 Q. The next exhibit in line, 4, it looks to be a  
22 close-up of the same area, once again do you recall if  
23 you've ever saw the injuries that are depicted in that?

24 A. No.

25 Q. The following picture is another of a lower limb,

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1 do you recall whether you saw any of those injuries?

2 A. No.

3 Q. And 6 is the same picture from a different angle,  
4 once again do you recall seeing any of those injuries?

5 A. No.

6 Q. And 7 appears to be a picture perhaps that's the  
7 one that shows, although it's not very clear in here  
8 where it was taken, but it appears to be taken while  
9 she's got hospital clothes on, do you recall if you saw  
10 anything of the injuries that are depicted in that  
11 picture?

12 A. No.

13 Q. After you had an opportunity to talk to your  
14 sergeant concerning whether you file a use of force  
15 report, did you have any further discussions with any of  
16 your supervisors about the injuries dealing with  
17 Cristina Paulos?

18 A. No.

19 Q. As you sit here today have you ever discussed  
20 Cristina Paulos with any of your supervisors?

21 A. Have I discussed with any of my supervisors?

22 Q. Yes.

23 A. Sergeant Harney.

24 Q. And what did you discuss with Sergeant Harney?

25 A. Just asked him if I needed to do a use of force.

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1 Q. But after that period of time, after you left the  
2 scene --

3 A. Oh, I asked him --

4 Q. -- any discussions --

5 A. -- I asked him later when I was informed that  
6 there was a lawsuit if I needed to do use of force if we  
7 should have done a use of force and once again I was  
8 told no.

9 Q. Did he tell you why?

10 A. No. No complaint of injury.

11 Q. Let me go back to your academy training in terms  
12 of -- in dealing with Metro. Did you go through the --  
13 yes, no, maybe -- training at Freedom Park, do you  
14 recall going down to Freedom Park and going through  
15 scenarios or simulated situations where people would be  
16 either complying with your request or definitely  
17 wouldn't be -- you would say, no, they're not going to  
18 respond or maybe, do you recall ever going through that  
19 type of process?

20 A. As far as training?

21 Q. Yes.

22 A. You have your yes people, your no people and your  
23 maybe people?

24 Q. Yes.

25 A. Yes, but not at Freedom Park.

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1 Q. Where did you do yours?

2 A. I did my training at the academy off of Cheyenne.

3 Q. Would you go to a park and go through different  
4 scenarios or was it all --

5 A. We would do scenarios, yes.

6 Q. Did you ever leave the academy itself to do the  
7 training?

8 A. Outside the academy?

9 Q. Yes.

10 A. Of course. We did scenarios around the academy.

11 Q. Okay. But I'm asking if you ever actually  
12 physically left the academy, it's not a big deal but --

13 A. Did we leave the academy --

14 Q. Right.

15 A. -- to do training?

16 Yes.

17 Q. And during the time that you did the training  
18 were you also a victim? I mean, would you serve as a  
19 victim sometimes where you would or not a victim, but  
20 maybe the individual that was being cuffed or dealt with  
21 or questioned would you --

22 A. They had role players for that.

23 Q. So you didn't do that?

24 A. No.

25 Q. Have you ever done that?

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1 A. On occasion.

2 Q. I mean, have you ever been a field training  
3 officer?

4 A. No.

5 Q. Have you ever taken the sergeants exam?

6 A. No.

7 Q. Is there a reason why?

8 A. No.

9 Q. You're satisfied with being a patrol officer?

10 A. I like what I do.

11 Q. In terms of the scenarios that you would go  
12 through, we've established you did it up at the academy  
13 up off of Cheyenne, what do you recall about that type  
14 of training where you would through and try to determine  
15 whether they were yes, no, maybe?

16 A. Just to handle the situation.

17 Q. And handling the situation would be a situation  
18 where through your training you've been taught to deal  
19 with people that are not necessarily responsive,  
20 correct?

21 A. Correct.

22 Q. You've dealt with people that are drunk?

23 A. Yes.

24 Q. You've dealt with people that are under the  
25 influence of drugs?

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1 A. Yes.

2 Q. You've dealt with people that don't like dealing  
3 with you as an officer and maybe swear at you?

4 A. Yes.

5 Q. And under those scenarios if they're swearing at  
6 you or they're screaming at you you've been taught as an  
7 officer that you're kind of thick skinned and where a  
8 sensitive guy like myself might be upset you deal with  
9 those situations on a day in and day out basis --

10 A. Yes.

11 Q. -- isn't that true?

12 A. Yes.

13 Q. And in terms of the situation here with  
14 Ms. Paulos did you make a determination of whether she  
15 was a yes, no or maybe?

16 A. I hadn't made any determination until she tried  
17 to grab my gun.

18 Q. Did you make any type of assessment?

19 A. I couldn't have -- I didn't have the time to make  
20 any kind of assessment, she wasn't answering me, she was  
21 going back and forth and then when she did look at me  
22 she immediately looked at my gun and reached for my gun  
23 and started screaming.

24 Q. In terms of the call that you received what's  
25 going through your mind when you received the call?

AARON BACA 2/28/2014

1 MR. SMERBER: Objection. Form. Foundation.  
2 Mischaracterizes.

3 THE WITNESS: I didn't receive a call, I  
4 arrived on the call as it was happening.

5 BY MR. POTTER:

6 Q. Did you receive any kind of message over your  
7 radio system?

8 A. I believe the only notification I had came up on  
9 the computer as an accident, a high priority incident is  
10 what it comes up through at 4321 West Flamingo, which is  
11 the address for the Palms. I happened to be traveling  
12 eastbound on Flamingo around Arville, I got on my radio,  
13 I announced that I'm arriving on it, at that point I  
14 believe the dispatcher probably assigned me to that  
15 event, I got out and that happened.

16 Q. So on the real time, when we look at it you  
17 were -- you received a dispatch on it, though; is that  
18 correct? Is that fair?

19 A. Probably after I -- after I announced on the  
20 radio that I arrived on the call.

21 Q. But you had a call, fair?

22 A. Not fair because I arrived on it and then I got  
23 assigned to it once I notified her that I arrived.

24 Q. So simultaneously is that what you're saying?

25 A. Simultaneously with everything that was happening

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1 it probably happened within five or 10 seconds of me  
2 getting there, me being assigned.

3 Q. So if the call shows that it went out before you  
4 actually arrived would there be a reason?

5 A. Be a reason for what?

6 Q. That the call shows it went out before you  
7 arrived?

8 A. Would there be a reason why the call would show  
9 before I arrived?

10 Q. Yeah.

11 A. Because it's a high priority incident apparently.

12 Q. What does that mean to you?

13 A. To me that means if somebody calls 911 and gives  
14 some details the dispatcher in the dispatch center is  
15 going to prioritize different calls. Automatically  
16 those calls will come up on the screen to let officers  
17 know what's going on. If I hear the alert term on the  
18 computer and I look at it and I'm right here, then I  
19 have that opportunity to stop any -- or help render  
20 assistance to anybody in that area.

21 Q. And by "render assistance" it would be victims of  
22 an accident; is that fair?

23 A. Of an accident, of a robbery, of a burglary,  
24 whatever.

25 Q. I mean, when you were going there did you think

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1 you were going to a burglary or a robbery?

2 A. I wasn't going specifically there, that was the  
3 end of my shift, I was actually on my way to the I-15 to  
4 head south.

5 Q. Okay. And where was your duty station at?

6 A. At Enterprise, Rainbow and Windmill.

7 Q. And you had worked a full shift at that point in  
8 time?

9 A. Our shift ends at 4:30.

10 Q. What time do you actually go back then normally  
11 if you're concluding your 4:30 shift?

12 A. With travel time we usually start heading back to  
13 the station around 3:00, 3:30.

14 Q. Now, prior to this had you ever been in a  
15 situation where somebody that you had placed under  
16 arrest had suffered these type of burn injuries?

17 A. No.

18 Q. Were you ever trained in dealing with individuals  
19 in the heat of Las Vegas and surfaces that can burn an  
20 individual such as depicted in Pictures 1 through 7?

21 MR. ANDERSON: Objection. Form.

22 Go ahead.

23 THE WITNESS: It's been discussed in  
24 briefing during summer hours.

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AARON BACA 2/28/2014

1 BY MR. POTTER:

2 Q. During the time frame in question do you recall  
3 whether it was discussed during the time that  
4 Sergeant Harney was your supervisor?

5 A. Not specifically, but in general in briefings.

6 Q. Tell me what you recall, take as much time as you  
7 need to recall.

8 A. Just about, you know, when we get out of spring  
9 and it starts getting into the summer months we're  
10 reminded to, you know, with all -- at all possible if we  
11 can to remove subjects off of asphalt in a reasonable  
12 amount of time once the situation is safe.

13 Q. And prior to this incident had you ever seen as a  
14 result of some other officer's actions the burns that  
15 people have sustained?

16 A. No.

17 Q. Is that a formal training that you had in  
18 addition to the briefing when you went through academy  
19 training?

20 A. A formal training?

21 Q. Yes, did you go through scenarios with role  
22 players where you would try to take people into custody  
23 as part of your use of force handcuffing techniques to  
24 ensure people were not burned as a result of coming in  
25 contact with hot asphalt?

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1 A. We were reminded of it, but like I said when the  
2 situation is safe then we move those subjects.

3 Q. What about vehicles, were you ever taught not to  
4 put individuals on vehicles during the summer months?

5 A. I'm sure it's been mentioned, yes.

6 Q. I'm not asking whether you're sure, I'm asking  
7 you whether you recall specific training where you're  
8 told not to put people on the hood of a cruiser?

9 A. Well, they stand in front of the cruiser. I  
10 don't put people on the hood, per se, I'll stand them  
11 near the front of the car or the back of the car.

12 Q. And what's the reason for that?

13 A. Because the vehicle is my office and that's where  
14 I conduct my business.

15 Q. As you sit here today you don't recall whether  
16 there was any specific academy training dealing with  
17 individuals being taken down on hot asphalt during the  
18 summer months in Las Vegas?

19 A. State that again.

20 Q. During the time that you were in academy training  
21 with the Las Vegas Metropolitan Police Department, do  
22 you recall whether there was any specific training  
23 dealing with not putting people down on asphalt during  
24 the summer months?

25 A. I don't recall.

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1 Q. Now, during the time that you went through the  
2 academy were you also trained on excited delirium?

3 A. Yes.

4 Q. What do you recall about being trained on excited  
5 delirium?

6 A. That the person is in need of medical attention.

7 Q. What's your understanding of what excited  
8 delirium is?

9 A. As far as their demeanor?

10 Q. Yes.

11 A. Profuse sweating, they're in a state of medical  
12 emergency.

13 Q. Did you make that determination that Ms. Paulos  
14 was suffering from excited delirium at the time that you  
15 were involved with her?

16 A. No, I didn't.

17 Q. Did you ever ask for any treatment for her for  
18 excited delirium?

19 A. I requested medical.

20 Q. Specifically dealing with excited delirium, did  
21 you ever ask for any treatment dealing with excited  
22 delirium?

23 A. No.

24 Q. Is there a reason why you didn't?

25 A. Time, I had very limited time with Ms. Paulos.



AARON BACA 2/28/2014

1 Q. Did you ever make a determination that she was  
2 suffering from excited delirium?

3 A. I didn't, no.

4 Q. Do you know if anybody did?

5 A. I do not know.

6 Q. In terms of your training with excited delirium,  
7 are you trained not to place individuals down for a  
8 prolonged period on a prone position with excited  
9 delirium?

10 A. Yes.

11 Q. What's the training you've received?

12 A. That they should be sitting up.

13 Q. Why is that?

14 A. So they can breathe a little bit better.

15 Q. If they're left in a prone position what's the  
16 risk or danger?

17 A. They could stop breathing.

18 Q. And ultimately die; is that fair?

19 A. Yes.

20 Q. I mean, you've been trained that, right?

21 A. Yes.

22 Q. And how many academies have you learned that in,  
23 you've been through, what, three academies?

24 A. Yes.

25 Q. Did you learn about excited delirium with the

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1 federal government back in Georgia?

2 A. No, I don't believe they covered that.

3 Q. How about the Air Force, did they train on  
4 excited delirium?

5 A. No.

6 Q. So Metro trained you about excited delirium?

7 A. Yes.

8 Q. Did you also go through any type of training with  
9 Metro about deescalating situations?

10 A. Yes.

11 Q. When did you go through that training?

12 A. During the academy and every year with advanced  
13 officer skills training.

14 Q. In terms of the advanced officer skills training  
15 about deescalation prior to the date in question  
16 August 7th, 2011, first of all, in 2011 do you recall  
17 whether you went through deescalation training?

18 A. We covered defensive tactics and that type of  
19 training quarterly.

20 Q. So you did go through it when?

21 A. I don't know specifically prior to that date what  
22 date I may have gone through it.

23 THE WITNESS: Can I use the rest room.

24 MR. POTTER: Sure.

25 (Short recess taken.)

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(Record read.)

BY MR. POTTER:

Q. And you had answered previously you do it quarterly; is that fair?

A. Training?

Q. Yeah, deescalation training.

A. We do training consistently every other week.

Q. How about in terms of the deescalation, were you ever certified in the recent deescalation training that was mandated after the justice department review?

A. Yes.

Q. And in terms of that training do you recall what was involved in that training?

A. To deescalate situations.

Q. What did that mean to you?

A. To me?

Q. Yes.

A. Do your best to try to deescalate the situation while maintaining a safe environment for officers and the public.

Q. Do you recall whether you were ever interviewed by internal affairs concerning this matter?

A. Never.

Q. Have you ever been involved in any internal affairs investigations?

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AARON BACA 2/28/2014

1 A. As a witness.

2 Q. Other than as a witness have you ever been the  
3 subject for the IB investigation?

4 A. No.

5 Q. And the times that you were a witness do you  
6 recall what the incident was?

7 A. Not at this time.

8 Q. Have you testified more than once as a witness in  
9 terms of internal affairs?

10 A. No.

11 Q. Just one time?

12 A. Yes.

13 Q. And you don't recall what the one time was about?

14 A. Yes, I do.

15 Q. What did it involve?

16 A. Lost property.

17 Q. Anything more than that? Was it allegations of  
18 theft or misappropriation or what?

19 A. It was lost property.

20 Q. And lost property about -- what had happened to  
21 the lost property?

22 A. It was lost by another officer.

23 Q. When did you first learn about this lawsuit?

24 A. I don't remember.

25 Q. Do you remember how you learned about it?

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AARON BACA 2/28/2014

1 A. I was contacted by risk management.

2 Q. Have you ever been certified in any kind of  
3 critical incident type training?

4 A. Are you asking if I'm a CIT officer?

5 Q. Yes.

6 A. Yes, I am.

7 Q. You are CIT?

8 A. Yes.

9 Q. And were you at the time of the incident?

10 A. Yes.

11 Q. When did you become a CIT officer?

12 A. I want to say maybe 2008. I have to go through  
13 my training records to get exact dates.

14 Q. What did you have to do to become a critical  
15 incident training officer?

16 A. We attended a 40-some hour class that was put on  
17 by a doctor from Rawson-Neal, I believe.

18 Q. Do you know who the doctor was?

19 A. I can't remember his name.

20 Q. Were you ever trained to deal with people that  
21 were bipolar?

22 A. We talk to people that are bipolar on a daily  
23 basis.

24 Q. During the contact as a police officer you come  
25 in contact with mentally ill people on a frequent basis?

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1 A. Frequent basis.

2 Q. Pursuant to your training with Rawson-Neal, what  
3 are you taught to do in those situations?

4 A. Talk to them, find out what's going on with them,  
5 see how I can assist them if they need any mental help  
6 as far as getting them to a hospital to be evaluated.

7 Q. What about if they're anxious or yelling or  
8 screaming and not listening, what are you trained to do  
9 in those situations?

10 A. Try to calm them down.

11 Q. How do you do that?

12 A. By talking to them.

13 Q. What if they don't listen, what are you trained  
14 to do at that point in time?

15 A. Well, if there's no crime that is committed they  
16 can go on their way. Mental illness is not a crime.

17 Q. So you would release them at that point in time?

18 A. I could, yes, unless they're a danger to  
19 themselves or they could not provide nourishment for  
20 themselves or it's reasonably believed that they may  
21 cause harm to themselves or inflict harm on others.

22 I can go get you the form if you need me to.

23 Q. I'm sorry?

24 A. I can get the legal form if you need me to read  
25 it all.

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1 Q. The Legal 2000 form?

2 A. Yes.

3 Q. I'm familiar with it --

4 A. Okay.

5 Q. -- professionally.

6 In terms of the situation you recall you drive  
7 up, do you believe a crime was taking place at that  
8 point in time?

9 A. At that point in time I don't know what had taken  
10 place.

11 Q. You come in contact with Ms. Paulos, prior to  
12 that had you talked to any other individuals at the  
13 scene?

14 A. I was walking up, I remember the man that was  
15 wearing the swim shorts, swim trunks saying, She's  
16 trying to steal my car and tried to ask what was going  
17 on with her, she wasn't listening to me or even  
18 acknowledging me and then she tried to grab my gun.

19 Q. You saw the picture of her getting out of the  
20 car, did you actually see the incident that we've showed  
21 to you either in the video and the pictures?

22 A. That she's getting -- I've seen it in the video,  
23 yes.

24 Q. Getting out of the car?

25 A. Yes.

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AARON BACA 2/28/2014

1 Q. Do you recall if you were there at the scene when  
2 that occurred?

3 A. I believe he said, She's in my car.

4 Q. Did you see him get her to come out?

5 A. She came out of the vehicle and I tried to talk  
6 to her.

7 Q. Before we get to that point, did you see the  
8 gentleman that you've described in the trunks having her  
9 come out of the car?

10 A. I don't recall.

11 Q. At that point in time had she committed a crime?

12 A. No.

13 Q. In terms of the conduct that you saw did she  
14 appear to get out of the car with the individual?

15 A. I don't know when she got out of the car what was  
16 on her mind.

17 Q. But you didn't see her come out of the car?

18 A. I saw her in the general area.

19 Q. And is it fair to say in reviewing the video that  
20 she has her arms out; is that fair?

21 A. I would have to look at the video again.

22 Q. At any time did she touch you?

23 A. When she tried to grab my firearm.

24 Q. And by touching the firearm or by trying to touch  
25 the firearm did she ever touch your firearm?

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1 A. Yes, she got her hands on my belt down here.

2 Q. And by the belt down here, just for the record  
3 what are you talking about?

4 A. I'm talking about the area where I hold my extra  
5 magazine, my pepper spray and my firearm, this general  
6 area.

7 Q. My question to you, though, is did she ever touch  
8 your weapon?

9 A. Yes.

10 Q. And what part of the weapon did she touch?

11 A. Right on the front here, the hammer, the holster  
12 release area.

13 Q. Is it fair to say that you did not see that on  
14 the tape?

15 A. No, I saw it on the tape.

16 Q. You saw her touch your firearm on the tape?

17 A. I saw her hands go where I felt her hands go on  
18 the tape.

19 Q. My question is not where you felt or -- first of  
20 all, did you actually feel it?

21 A. Did I feel her attack me, yes, I did.

22 Q. Not did you -- I'm asking whether you felt her  
23 touch the firearm.

24 A. Yes.

25 Q. And did you actually see at the time of the

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1 incident did you look down at what she was doing?

2 A. I don't recall.

3 Q. What's going through your mind at that point in  
4 time?

5 A. To create distance from her and maintain my  
6 firearm.

7 Q. Isn't that what your concern was before, I mean,  
8 weren't you supposed to create distance from her to  
9 begin with?

10 A. To begin with when?

11 Q. Well, she gets out of the car and she's walking  
12 away from you, isn't she?

13 A. I would have to look at the video again.

14 Q. You don't recall if she walked away?

15 A. I remember she's walking back and forth. She did  
16 turn once and then she turned back to me and attacked  
17 me.

18 Q. You've testified that she turned around, what are  
19 you saying to her at that point in time?

20 A. What's going on? Can I help you? I'm probably  
21 making a lot of comments to her.

22 Q. At that point in time are you in fear for your  
23 safety?

24 A. When she tried to grab my firearm, yes.

25 Q. I move to strike the answer as being

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1 nonresponsive. I ask you to not refrain my question,  
2 listen to my question --

3 A. Okay.

4 Q. -- and stay at that point in time.

5 I'm asking you at the point in time when she  
6 turns around, first of all, has she committed any crime  
7 at that point?

8 A. I don't know.

9 Q. And why don't you know at that point in time?

10 A. Because the investigation hadn't been conducted  
11 to what she -- how she was involved in anything other  
12 than the gentleman in the shorts saying she's trying to  
13 steal my vehicle.

14 Q. At that point in time did you ask for any backup?

15 A. I don't recall.

16 Q. You've had an opportunity to review the call or  
17 have you? Have you had an opportunity to review the  
18 call list?

19 A. The call that came on the screen?

20 Q. No, the calls that -- the real-time recordings  
21 dealing with what transpired.

22 A. No, I have not.

23 Q. You haven't?

24 A. No.

25 Q. So you don't have a recollection of whether you

AARON BACA 2/28/2014

1 called --

2 A. No, I haven't heard any of the radio traffic.

3 Q. How about after the point in time where you say  
4 she physically touched your weapon, do you recall  
5 whether you made any efforts to call for backup at that  
6 point?

7 A. I believe I did say that on the radio. I don't  
8 know exact verbiage that I used, though.

9 Q. Generally speaking you asked for some kind of  
10 backup?

11 A. Yes.

12 Q. More than once?

13 A. I don't recall.

14 Q. And you haven't had an opportunity to review  
15 that; is that fair?

16 A. I haven't.

17 Q. You decided to go hands on at that point?

18 A. When she tried to grab my gun?

19 Q. Yes.

20 A. Yes.

21 Q. And what was the reason that was going through  
22 your mind at that point in time?

23 A. That she's a danger to me and to the public.

24 Q. And at that point in time you're trying to create  
25 a distance; is that fair?

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1 A. I created a distance from her, yes.

2 Q. How did you do that?

3 A. By pushing her away.

4 Q. And at that point in time what's your intent?

5 A. To create distance and to reevaluate the  
6 situation and to get her into custody.

7 Q. What are you reevaluating at that point in time?

8 A. See how she reacts to it. I don't know if she  
9 was going to further attack me or run, take flight.

10 Q. What did she do at that point in time?

11 A. She turns away after I pushed her.

12 Q. And turns away meaning what, her back's to you at  
13 that point?

14 A. I would have to review the video.

15 Q. What's your recollection?

16 A. My recollection is that she attempted to grab my  
17 firearm, I created distance by pushing her away, her  
18 back was to me, at that point I reengaged her in an  
19 attempt to take her into custody with her hands behind  
20 her back. She failed to heed my instructions.

21 Q. What instructions do you give at that point?

22 A. Police officer, stop resisting, put your hands  
23 behind your back, she failed to do that, I took her to  
24 the ground.

25 Q. How did you take her to the ground?

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1 A. I took her to the ground.

2 Q. Sweep her or did you use some kind of maneuver?

3 A. I don't recall.

4 Q. You watched the tape, as you sit here today you  
5 don't have any recollection as to how you took her to  
6 the ground?

7 A. It looked like I placed her on the ground by her  
8 arms.

9 Q. And you're motioning with your two hands and  
10 moving to your right; is that correct?

11 A. Trying to -- I don't know how I did it, but I got  
12 her on the ground. I don't know if I foot swept her or  
13 what.

14 Q. What's going through your mind at that point in  
15 time?

16 A. To put her hands into handcuffs.

17 Q. How big are you?

18 A. Five-eleven.

19 Q. How much do you weigh?

20 A. At that point probably 205 pounds.

21 Q. Did you consider yourself to be in good  
22 condition?

23 A. Relative.

24 Q. What do you mean by that?

25 A. I work out.



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1 Q. Do you recall how big she was?

2 A. No.

3 Q. And what happens at that point in time when you  
4 take her down?

5 A. She's resisting me, not giving me her hands to  
6 place in handcuffs.

7 Q. Is she screaming at that point?

8 A. Incoherently.

9 Q. Is she screaming in pain at that point in time  
10 that she's being burned?

11 A. She's screaming like she screamed when she  
12 attacked me.

13 Q. You don't have any --

14 A. Inaudible. It was just a yelling, screaming.

15 Q. Do you believe she was being injured at that time  
16 after looking at these pictures?

17 MR. ANDERSON: Objection. Form.

18 THE WITNESS: No.

19 BY MR. POTTER:

20 Q. No?

21 A. No.

22 Q. Do you believe these pictures are the result of  
23 the actions that you took?

24 A. No.

25 Q. What do you believe they're from?

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A. I have no idea.

Q. You don't believe she was burned?

MR. SMERBER: Objection. Form. Foundation.

THE WITNESS: I believe she was burned.

BY MR. POTTER:

Q. Do you believe she was burned at the time that she was on the asphalt and you were holding her down?

MR. SMERBER: Same.

MR. ANDERSON: Objection. Form.

THE WITNESS: No.

BY MR. POTTER:

Q. You don't believe she was burned then?

A. I don't believe she was burned as a result of my actions, no.

Q. Oh, I see. But you believe she was burned at that point in time?

A. I don't believe she was burned at that point in time. I don't have any medical training on what kind of burn she received.

Q. Well, let me tell you that she's -- the medical records show that she received third degree burns, have you ever heard that before?

A. Yes.

MR. ANDERSON: Objection. Form.

MR. SMERBER: Same objection.

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1 Mischaracterizes.

2 MR. POTTER: What does it mischaracterize?

3 MR. SMERBER: They actually indicate  
4 superficial burns, they also indicate second degree  
5 burns. It's not until a much later point that there's  
6 reference of third degree burns. So I'd say that to  
7 just say that they reference third degree burns is a  
8 mischaracterization.

9 MR. POTTER: Okay.

10 BY MR. POTTER:

11 Q. Well, let's deal with what Mr. Smerber has  
12 brought up. Have you been told that ultimately it was  
13 determined that she received third degree burns?

14 A. Have I been told?

15 Q. Yes.

16 A. You just told me that, yes, sir.

17 Q. You never heard it before?

18 A. I've seen pictures I guess of this so --

19 Q. You've seen these pictures today, your testimony  
20 was you hadn't seen them before; is that fair?

21 A. I haven't seen these pictures.

22 Q. Which pictures?

23 A. These.

24 Q. The pictures of her face?

25 A. All these pictures that you have --

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1 Q. Okay. What pictures have you seen of her?

2 A. I think that one.

3 Q. Which one, this one?

4 A. This one.

5 Q. For the record it's No. 7.

6 In terms of the reports that were conducted in  
7 this case is there a report that you generated yourself?

8 A. No.

9 Q. Why is that?

10 A. There was no use of force --

11 Q. I'm not talking about use of force, did you do an  
12 officer's report at the time of the incident?

13 A. No.

14 Q. Why?

15 A. I was instructed not to do one.

16 Q. By your sergeant?

17 A. By my supervisor, yes.

18 (Whereupon, Plaintiff's Exhibit 8  
19 was marked for identification.)

20 BY MR. POTTER:

21 Q. I'm going to hand you what's been marked as  
22 Exhibit 8. Do you recognize that document?

23 A. It's a traffic ticket.

24 Q. Have you ever seen this before?

25 A. A traffic ticket or this ticket?

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1 Q. This ticket.

2 A. No.

3 Q. Do you know whose signature that is?

4 A. No.

5 Q. Is that your signature?

6 A. No.

7 Q. The P number is 7303, that is not your P number?

8 A. No.

9 Q. What is your P number for the record?

10 A. 8754.

11 Q. This deals with a DUI accident drugs or alcohol,  
12 do you recall whether, in fact, you have any knowledge  
13 of this citation being issued?

14 A. No knowledge of it being issued. I don't know if  
15 I told you, but I was relieved from the scene.

16 Q. No, you didn't. What happened?

17 A. I was relieved and I left, swing shift handled  
18 all this.

19 Q. I've been doing this for 35 years, never seen a  
20 typed citation. Do you know why this one's typed?

21 A. I have no idea.

22 Q. The excited delirium, I'll reference to the  
23 delirium on the DUI accident, do you recall ever seeing  
24 that before?

25 MR. ANDERSON: Just where it says delirium?

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MR. POTTER: Yeah.

THE WITNESS: No.

BY MR. POTTER:

Q. Never saw it before?

A. No.

(Whereupon, Plaintiff's Exhibit 9  
was marked for identification.)

By MR. POTTER:

Q. Have you ever seen this document before?

A. A blank one, not this -- this one particular?

Q. Yes.

A. No.

Q. I mean, you do DUIs, right, as a traffic police  
officer?

A. I have done DUIs.

Q. There's a reference to yourself on the second  
page, it's LVMPD 12, it's the second page of the  
document. Any recollection of discussions with the  
officer that signed this particular report?

A. Just him putting, Fought with first responding  
officer, Officer Baca?

Q. Yes.

A. No.

Q. It's written by an Officer Swan, do you know  
Officer Swan?

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1 A. Personally, no.

2 Q. And what's the distinction that you're making?

3 A. Do I know him on a personal level, no. Have I  
4 come across him in passing, probably.

5 Q. On the second page there's a discussion about  
6 excited delirium. Do you recall ever discussing  
7 Officer Swan's report about excited delirium?

8 A. No.

9 Q. Any recollection of any discussion with any DA's  
10 about the charges themselves?

11 A. No.

12 Q. Were you ever called to testify in the DUI case?

13 A. No.

14 Q. How about at Department of Motor Vehicles, do you  
15 recall whether there was any DMV type hearing?

16 A. No.

17 Q. Do you normally testify in DMV hearings if you're  
18 involved in a case?

19 A. If I make the arrest, normally.

20 Q. It's your testimony you weren't involved in the  
21 arrest; is that fair?

22 A. I was not involved in the arrest.

23 Q. During the time that the incident was taking  
24 place, did you have any contact with the paramedics?

25 A. Probably.



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1 Q. I'm not asking you to speculate, but I'm trying  
2 to find out if you have a recollection of whether you  
3 talked to the paramedics?

4 A. I believe I let them know what she tried to do.

5 Q. What did you say to them?

6 A. That she tried to grab my gun.

7 Q. Did you talk to them about any of the thoughts of  
8 excited delirium?

9 A. No.

10 Q. You hadn't made that determination?

11 A. No.

12 Q. Did you talk to them about the fact that she was  
13 yelling and screaming and you couldn't tell what she was  
14 yelling and screaming about?

15 A. No.

16 Q. Did you consider her to be emotionally disturbed  
17 at the time --

18 A. Did I consider her to be?

19 Q. Yes.

20 A. I didn't know what was going on with her.

21 Q. Did you consider her to have any specific  
22 injuries? I know we've gone over this before, but did  
23 you have any specific recollection of discussing any  
24 injuries with the paramedics?

25 A. I may have advised them that she had been

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1 involved in a vehicle accident.

2 Q. As a result of this incident were you required to  
3 go through any type of hands-on training in terms of  
4 dealing with handcuffing procedure of an aggressive or  
5 emotionally disturbed person?

6 A. Because of this incident?

7 Q. Yeah.

8 A. No.

9 Q. And we discussed before you were not disciplined  
10 by anyone that was in a supervisory position, correct?

11 A. No.

12 Q. Did you consider all of your actions in this  
13 particular matter dealing with her pursuant to your  
14 policies and practice and training?

15 A. Did I consider --

16 Q. Yes, were you in sync with your training and your  
17 actions --

18 A. Do I believe that I was in --

19 Q. Yes.

20 A. Yes, I do.

21 Q. And no supervisor has ever told you that what you  
22 did wasn't proper; is that correct?

23 A. No.

24 Q. And if you had the opportunity to do it again  
25 would you do it the same way you did on that date?

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