

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

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?

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 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 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 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.

Page 53		Page 55	
1	Q I believe you referred to it as the west	1	MR. ANDERSON: Okay. That's it.
2	facing video, the black and white one?	2	MR. SMERBER: Do you want to read and
3	A Correct.	3	sign?
4	Q Did you watch that one?	4	THE WITNESS: Please.
5	A I have.	5	(Defendant's Exhibit D marked.)
6	Q Did you notice at 3:22:40, or 15:22:40	6	(Whereupon, proceedings concluded at 11:15 a.m.)
7	Miss Paulos walked over to a grassy area?	7	
8	A I can't tell if that was Miss Paulos. I	8	
9	see the officers walk over there. I couldn't tell	9	
10	if that was her with them or not.	10	
11	Q Do you know who else it would be?	11	
12	A I couldn't tell how many people it was in	12	
13	my copy.	13	
14	Q Okay. So we just don't know, or you just	14	
15	don't know when she was lifted up and walked over?	15	
16	A Correct.	16	
17	MR. ANDERSON: Okay. That's all I have,	17	
18	sir. Appreciate it.	18	
19	CROSS-EXAMINATION	19	
20	BY MR. BLUT:	20	
21	Q Just while we're sitting here Mr. Smerber	21	
22	asked you about speculating what the Palms did after	22	
23	the arrest and detention. I think that was the	23	
24	word. Does that include this two minutes and 35	24	
25	seconds that he was asking you about?	25	
Page 54		Page 56	
1	A That was part of the arrest and detention,	1	*****
2	yes.	2	CERTIFICATE OF DEPONENT
3	Q So what part don't you know what the Palms	3	PAGE LINE CHANGE REASON
4	s did?	4	
5	A Can you rephrase? Maybe I'm not	5	
6	understanding your question.	6	
7	Q I'm just wondering, you said you were	7	
8	speculating. Does the speculation include any of	8	
9	the two minutes and 35 seconds that he asked you	9	
10	about?	10	
11	A No, I'm sorry. That would be afterwards,	11	
12	after the officer stands up. We can see them on the	12	
13	video, but I don't know exactly what their	13	
14	interaction is. You see them talking to people,	14	
15	moving around and gesturing. What exactly they're	15	
16	doing, I don't know. So I could guess, speculate,	16	
17	say in my past experience they may be, but I can't	17	
18	say for certain what their interactions are.	18	
19	Q All right. Nothing further.	19	
20	RECROSS-EXAMINATION	20	
21	BY MR. ANDERSON:	21	
22	Q One more question. You don't intend to	22	
23	render any medical opinions at the time of trial, do	23	
24	you?	24	
25	A No.	25	

14 (Pages 53 to 56)

STEVEN BAKER

9/4/2014

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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)

) ss:

3 COUNTY OF CLARK)

4 I, Rene' Hannah, Certified Court Reporter,
5 do hereby certify:6 That I reported the deposition of STEVEN
7 T. BAKER, commencing on Thursday, September 4th,
8 2014, at 10:00 a.m.9 That prior to being deposed, the witness
10 was duly sworn by me to testify to the truth. That
11 I thereafter transcribed my said shorthand notes
12 into typewriting and that the typewritten transcript
13 is a complete, true and accurate transcription of my
14 said shorthand notes.15 I further certify that I am not a relative
16 or employee of counsel of any of the parties, nor a
17 relative or employee of the parties involved in said
18 action, nor a person financially interested in
19 the action.20 IN WITNESS WHEREOF, I have set my hand in
21 my office in the County of Clark, State of Nevada,
22 this 16TH day of September, 2014.

23 /s/ Rene R. Hannah

24 RENE' R. HANNAH, CCR NO. 326

25

15 (Page 57)

Phone: 702-430-5003

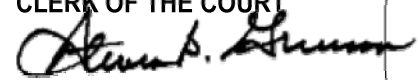
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Attorneys for Defendants LVMPD and Ofc. Baca

DISTRICT COURT

CLARK COUNTY, NEVADA

CRISTINA PAULOS,

Plaintiff,

Case No.: A-15-716850-C

Dept. No. XXXII

vs.

**SUPPLEMENT TO DEFENDANTS
LVMPD AND OFC. BACA'S MOTION
FOR SUMMARY JUDGMENT**

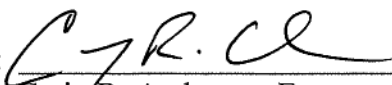
FCH1, LLC, a Nevada limited liability company;
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a government entity;
AARON BACA, an individual
and DOES 1 through 10,

Defendants.

Defendants Las Vegas Metropolitan Police Department ("LVMPD") and Officer Aaron Baca ("Ofc. Baca"), (collectively "LVMPD Defendants"), by and through their attorney of record, Craig R. Anderson, Esq., with the law firm of Marquis Aurbach Coffing, hereby submit their supplement to their Motion for Summary Judgment filed on January 6, 2016 pursuant to this Court's June 13, 2017 Minute Order.

Dated this 28 day of June, 2017.

MARQUIS AURBACH COFFING

By: 

Craig R. Anderson, Esq.

Nevada Bar No. 6882

10001 Park Run Drive

Las Vegas, Nevada 89145

Attorney(s) for LVMPD Defendants

MEMORANDUM OF POINTS & AUTHORITIES

I. INTRODUCTION

This is a negligence lawsuit brought by Plaintiff Cristina Paulos (“Paulos”) against LVMPD officer Aaron Baca (“Ofc. Baca”). The case was recently stayed during a Ninth Circuit appeal that the parties agreed was “inextricably intertwined” with this case. (*See* Stipulation to Stay 9/2016 on file with Court (“The Stay”). On March 28, 2017, the Ninth Circuit upheld the federal district court’s order dismissing the federal law claims against the LVMPD Defendants. (*See Exhibit A.*) Prior to The Stay, the LVMPD Defendants had two dispositive motions pending with this Court. The first motion is a motion to reconsider this Court’s refusal to dismiss the claims against the LVMPD Defendants on the basis of issue preclusion. That motion is fully briefed by the parties. The second motion was the LVMPD Defendants’ Motion for Summary Judgment. That motion argues that summary judgment is appropriate for the following three reasons: (1) issue preclusion (adopting the reasoning in the motion to reconsider); (2) that Ofc. Baca’s actions were discretionary and protected by Nevada’s discretionary-function statute, NRS 41.032; and (3) that Ofc. Baca acted reasonably under the circumstances. Paulos still needs to oppose the summary judgment motion as the briefing was not coupled prior to The Stay.

After the Ninth Circuit issued its memorandum in favor of the LVMPD Defendants, The Stay in this case was lifted. On June 13, 2017, this Court issued a minute order setting an August 1, 2017, hearing on the LVMPD Defendants’ Motion for Summary Judgment. (*See* Minute Order dated 6/13/2017 on file with Court.) The minute order allows for this supplement. (*Id.*)

The Ninth Circuit’s memorandum directly impacts two of the LVMPD Defendants’ arguments for summary judgment. First, the Ninth Circuit did not disturb the federal district court’s order that Ofc. Baca acted reasonably under the circumstances. Thus, this Court is bound by the federal district court’s reasonableness finding and issue preclusion undeniably applies to this case. Second, the Ninth Circuit’s decision confirms that, at a minimum, Ofc. Baca is immune pursuant to Nevada’s discretionary-immunity function statute. Both arguments are discussed in detail below.

II. LEGAL ARGUMENT

The LVMPD Defendants' Motion for Summary Judgment establishes that summary judgment is appropriate for three separate reasons. First, it argues that issue preclusion bars Paulos's claims. Second it argues that Ofc. Baca acted reasonably under the circumstances. Third, it argues that Ofc. Baca's actions are protected by Nevada's discretionary-function immunity statute. The Ninth Circuit's memorandum impacts the first and third arguments.

A. THE DOCTRINE OF ISSUE PRECLUSION BARS PAULOS'S CLAIMS

After the federal district court dismissed the federal law claims, Paulos re-filed her state law negligence claim in this Court. The defendants filed a motion to dismiss arguing issue preclusion. After a hearing, this Court denied the LVMPD Defendants' motion finding that the federal district court never found that Ofc. Baca acted reasonably. (*See* Court Order, dated 11/3/2015 on file with Court.) The LVMPD Defendants timely filed a motion for reconsideration because this Court erred in concluding that the federal district court did not make a reasonableness finding. The motion to reconsider was fully briefed but never ruled upon due to The Stay. The LVMPD Defendants incorporated the arguments from the motion to reconsider into their motion for summary judgment. (*See* LVMPD Defts' Motion for Summary Judgment at §IV(A).)

1. The federal district court undeniably found that Ofc. Baca acted reasonably

The gist of the LVMPD Defendants' issue preclusion argument is that this Court erred by concluding that the federal district court never ruled that Ofc. Baca acted reasonably and that the federal district court only dismissed the federal law claims on qualified immunity grounds. Specifically this Court stated:

After a fair reading of Judge Mahan's Order, this Court finds that his decision was based upon qualified immunity. It is true that Judge Mahan found that delay was not unreasonable under the head note, whether the suspect actively resisted arrest or attempted to evade arrest by flight. However, this was in the context of whether a violation of a constitutional right had occurred and whether qualified immunity applies. This Court finds that issue preclusion does not apply and dismissal is improper. Therefore, Defendants' Motion to Dismiss regarding the negligence claim is DENIED.

(See Court Minute Order, dated 9/14/2015 on file.) This Court then entered the following order:

5. Second, the LVMPD defendants move to dismiss the negligence claim under the doctrine of issue of preclusion. Issue preclusion requires: (1) the issue decided in the prior litigation must be identical to the issue presented in the current actions; (2) the initial ruling must have been on the merits and have become final; (3) the party against whom the judgment is asserted must have been a party or privy with a party to the prior litigation; and (4) the issue was actually and necessarily litigated. *Five Star Corp. v. Ruby*, 124 Nev. 1048, 1055 (2008) (holding modified by *Weddell v. Sharp*, 131 Nev. Adv. Op. 28, 350 (P.3d 80 (2015))). Paulos argues that issue preclusion does not apply in this case because the issue decided in a prior litigation was not identical to the issue presented in the current action.

6. This Court finds that Judge Mahan, in the federal case, did not issue a ruling or a finding that Ofc. Baca acted reasonably. This Court finds that Judge Mahan only found that Ofc. Baca was entitled to qualified immunity and only granted summary judgment on this issue. See *Paulos v. FCH1, LLC*, No. 2:13-cv-1546-JCM-PAL 2015 WL 1119972, at *12 (D. Nev. Mar. 12, 2015).

7. Because this Court finds that Judge Mahan's order and decision was based only upon qualified immunity and not a reasonableness finding, it finds that issue preclusion does not apply and dismissal is improper. Therefore, the LVMPD defendants' motion to dismiss the negligence claim based upon issue preclusion is DENIED.

(See Court Order, dated 11/3/2015 on file.) Therefore, this Court agreed that if Ofc. Baca was already found to have acted reasonably, issue preclusion would apply. (*Id.*)

As set forth in the LVMPD Defendants' Motion for Reconsideration, the federal district court's order clearly found that Ofc. Baca acted reasonably. Prior to even addressing the issue of qualified immunity, the federal court analyzed whether Ofc. Baca violated Paulos's constitutional rights – i.e., acted unreasonably. *Paulos v. FCH1, LLC*, No. 2:13-cv-1546-JCM (PAL), 2015 WL 1119972, *5-6, §III(A)(2) (D. Nev. March 12, 2015). The federal district court correctly noted that it was its job to make an objective inquiry as to “whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Id.* at *7 (citing *Graham v. Connor*, 490 U.S. 386, 397 (1989)). In making its decision, the federal district court analyzed each of the *Graham* factors and made the following findings:

///

///

- “Here, the incidents’ objective factors made it **reasonable** for officer Baca to believe that Paulos was reaching for his firearm and that she was therefore a serious threat to him and all involved. Paulos’ own security expert asserts that in the security footage, she ‘is seen to reach towards the right waist area of the officer . . .’ [citations omitted]. Even without considering the firearm itself, it is undeniable that Paulos lunged at Ofc. Baca after he calmly approached her mere seconds earlier. This erratic, irrational, and aggressive behavior indicated that Paulos was dangerous. **Therefore, both [Graham] factors 1 and 2 weigh in favor of the LVMPD defendants.**” *Paulos*, at *8 (emphasis added).
- “. . . the court has already found that there was at most a two minute and 40 second delay between additional officers’ arrival and Paulos being lifted off the ground. Such a delay is **not unreasonable** considering that the officers arrived to a scene involving a multi-vehicle accident, multiple bystanders, and individuals restrained on the ground, and a winded officer. It is thus **reasonable** to take a few minutes to assess the scene before moving a suspect that poses an unknown level of danger. This conclusion is further supported by the fact that Paulos admits she never verbalized her discomfort to any officer at any time. [citation omitted] Therefore, this factor weighs in favor of the LVMPD defendants. *Paulos*, at *9 (emphasis added).

After finding that all of the *Graham* factors weighed in favor of the LVMPD Defendants, the federal district court issued the following paragraph confirming the reasonableness of Ofc. Baca’s actions. *Paulos*, at *9 §III(2)(b)(IV).:

While it is unfortunate that Paulos incurred such burns as a result of her arrest in this incident, the court finds that officer Baca’s use of minimal force in restraining her was appropriate considering the objective threat she posed in her undeniable attempt to resist arrest. In light of this assessment and the lack of any genuine disputed material fact, the court finds that officer Baca did not use excessive force in arresting Paulos. The conclusion applies to all officers who arrived on scene after Paulos was restrained on the ground.

Paulos, *9 (emphasis added). Because the federal district court specifically found Ofc. Baca did not use excessive force, it also found that Ofc. Baca used reasonable force. That is because excessive force is unreasonable force. *See Mladzinski v. Lewis*, 648 F.3d 24, 33 (1st Cir. 2011) (“excessive force is by definition unreasonable force.”).

It is critical to note that all of the above analysis occurred even before the federal district court addressed the issue of qualified immunity. After finding that Ofc. Baca acted reasonably, the federal district court turned its attention to the issue of qualified immunity. In doing so, the federal district court specifically qualified its analysis by stating “[e]ven if officer Baca used excessive force against Paulos in violation of a constitutional right, LVMPD defendants **would**

1 *still be* entitled to qualified immunity if they could show that the rights Paulos claims is not
 2 ‘clearly established’.” *Paulos* at *10 (citations omitted) (emphasis added). The phrases “even
 3 if” and “would still be” clearly demonstrate that the federal district court was stating an
 4 alternative basis for its decision.

5 Finally, in Section III of the federal district court’s order, the court addressed LVMPD’s
 6 42 U.S.C. §1983 liability. Qualified immunity only applies to individuals and not municipalities.
 7 *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982); *Hynson v. City of Chester*, 827 F.2d 932,
 8 934 (3rd Cir. 1987) (qualified immunity only applies to individuals and not municipalities).
 9 Thus, a municipality could still be liable for an officer who violated the Constitution but received
 10 qualified immunity. Here, the federal district court, in addressing LVMPD’s liability,
 11 specifically stated “the court has already determined that LVMPD officers did not violate
 12 Paulos’s Fourth Amendment rights.” *Paulos* at 12. Thus, the federal district court specifically
 13 states there was no Fourth Amendment violation – i.e., Ofc. Baca acted reasonably.

14 In short, it is clear that the federal district court order made two specific findings: (1) that
 15 Ofc. Baca used reasonable force and (2) in the alternative, “even if” the force was excessive, he
 16 “would still be” entitled to qualified immunity. The federal district court specifically used the
 17 words “reasonable” and “not unreasonable” to describe Ofc. Baca’s actions on three separate
 18 occasions to reach its conclusion that Ofc. Baca “did not use excessive force.” Further, the
 19 federal district court specifically stated no Fourth Amendment violation ever occurred.
 20 Therefore, this Court’s Order stating that the federal district court “did not issue a ruling or a
 21 finding that Ofc. Baca reasonably” and that the federal court only granted summary judgment
 22 based upon qualified immunity is clearly erroneous and must be reconsidered.

23 **2. The Ninth Circuit’s decision supports the LVMPD Defendants’ issue**
 24 **preclusion position**

25 Having established that this Court erred by not dismissing this lawsuit based upon the
 26 doctrine of issue preclusion, the next issue is whether the Ninth Circuit’s affirmance of the
 27 federal district court’s order changes this Court’s analysis of the LVMPD Defendants’ Motion to
 28 Reconsider. The answer is “no.”

On March 28, 2017, the Ninth Circuit Court of Appeals affirmed the federal district court in its dismissal of Paulos's federal law claims. (Ex. A.) The Ninth Circuit's order agrees that Ofc. Baca was entitled to qualified immunity. Importantly, the Ninth Circuit does not disturb the federal district court's rulings that Ofc. Baca acted reasonably. Pursuant to federal law, the Ninth Circuit could affirm the federal district court by finding either that Ofc. Baca acted reasonably or that he was entitled to qualified immunity. *See Pearson v. Callahan*, 555 U.S. 223, 236-92 (2009) (courts have discretion to evaluate claims on either the reasonableness issue or the "clearly established" issue.) The Ninth Circuit order never disturbed the federal district court's finding of reasonableness and affirmed the federal district court's order. Because the Ninth Circuit did not specifically overturn the reasonableness finding, it remains binding on this Court. Therefore, the Ninth Circuit's decision supports the LVMPD Defendants' Motion for Reconsideration and confirms that dismissal on issue preclusion is correct.

B. THE NINTH CIRCUIT'S DECISION CONFIRMS THAT OFC. BACA IS ENTITLED TO DISCRETIONARY-FUNCTION IMMUNITY

In addition to the issue preclusion argument, the Ninth Circuit's affirmance also confirms that summary judgment is appropriate pursuant to Nevada's discretionary-immunity statute – NRS 41.032. As set forth in the LVMPD Defendants' Motion for Summary Judgment, Ofc. Baca's decisions on how to handle Paulos's violent outburst were discretionary and protected by NRS 41.032. The Ninth Circuit's affirmance that Ofc. Baca was entitled to qualified immunity confirms that Ofc. Baca acted in good faith.

1. NRS 41.032

Nevada has generally waived its sovereign immunity. *See* NRS 41.032(1). Its waiver, however, contains exceptions. One exception is that no action may be brought against an officer or employee of Nevada "[b]ased upon the exercise or performance or the failure to exercise or perform a discretionary-function or duty on the part of the State or any of its agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused." NRS 41.032(2). Nevada's discretionary-function statute mirrors the Federal Torts Claims Act ("FTCA"). *See Martinez v. Maruszczak*, 123 Nev. 433,

1 168 P.3d 720 (2007). The Nevada Supreme Court looks to federal decisional law on the FTCA
2 for guidance on what type of conduct discretionary immunity protects. I at 123 Nev. at 444, 168
3 P.3d at 727 (citations omitted). The purpose of Nevada's discretionary-immunity statute and the
4 FTCA is to compensate victims of negligence by government actors the same way they would be
5 compensated if the actors were private. *Id.* The Nevada Supreme Court has regularly held that a
6 police officer's decision on how to make a lawful seizure is protected by discretionary immunity
7 under NRS 41.032. *See, e.g., Ortega v. Reyna*, 114 Nev. 55, 62, 953 P.2d 18, 23 (1998) (“[W]e
8 conclude that the trooper is entitled to immunity with respect to the state-law claims against him
9 . . .”).

10 In 2007, the Nevada Supreme Court adopted the federal *Berkovitz-Gaubert* test for
11 determining what type of conduct is protected under discretionary immunity. The court adopted
12 a two-part test, allowing discretionary-function immunity to apply when (1) the acts alleged to be
13 negligent involved an element of individual judgment or choice; and (2) the decision is based on
14 considerations of social, economic or political policy. *Martinez*, 123 Nev. at 446-447, 168 P.3d
15 at 729. Notably, the Nevada Supreme Court explained in *Martinez* that “under Nevada law,
16 some acts that do not involve an element of judgment or choice may also be entitled to
17 immunity.” *Id.*, 123 Nev. at 445 168 P.3d at 728, n.35.

18 Since *Martinez*, the Nevada Supreme Court has held the decision of whether to detain is a
19 discretionary function covered by NRS 41.032. *See Gonzalez v. Las Vegas Metro Police Dep't.*,
20 2013 WL 7158415, *3 (Nev. S.Ct. Nov. 21, 2013) (“decision to arrest or detain [suspect on a
21 warrant] was part of a policy consideration” that invoked NRS 41.032). Further, the Nevada
22 Supreme Court implied, before *Martinez*, that uses of force are covered by NRS 41.032. *See*
23 *Maturi v. Las Vegas Metro Police Dep't.*, 110 Nev. 307, 310, 871 P.2d 932, 934 (1994) (decision
24 of how to handcuff discretionary). The Nevada Supreme Court has never specifically addressed
25 whether use of force decisions are covered.

a. **The Federal Torts Claims Act provides discretionary immunity for use of force**

The Nevada Supreme Court relies heavily upon federal law and the FTCA in determining what invokes discretionary-function immunity. Thus, it is presumed the Nevada Supreme Court would follow federal FTCA law on the use of force issue. The FTCA itself specifically has a provision dealing with uses of force by law enforcement officers. *See* 28 U.S.C. §2680(h). The very existence of this provision indicates that uses of force by police officers fall within the discretionary immunity provision of the FTCA. And, federal courts regularly conclude the decisions regarding the amount of the force are discretionary in nature. *See Kaufman v. United States*, 84 F.Supp.3d 519, 528-29 (S.D. W.Va. 2015) (the discretionary-function exception to the FTCA barred assault and battery claim); *see also Medina v. United States*, 259 F.3d 220, 226 (4th Cir. 2001) (FTCA discretionary-function analysis applies to intentional uses of force); *Beremann v. United States*, 689 F.2d 789 (8th Cir. 1982); *Gray v. Bell*, 712 F.2d 490 (D.C. Cir. 1983), cert. denied, 465 U.S. 1100 (1984); *Redmond v. United States*, 518 F.2d 811, 816-817 (7th Cir. 1975) (“government has a duty to maintain law and order but how best to fulfill this duty is solely within the discretion of its officers”); *Torres-Dueno v. United States*, 165 F.Supp. 2d 71, 74-75 (D. Puerto Rico 2001) (manner in which an arrest was carried out was protected by discretionary exception immunity); *Priah v. United States*, 590 F.Supp. 2d 920, 929 (N.D. Ohio 2008), (held that discretionary-function exception barred any negligence claim when an FBI agent used deadly force, since deciding when and how to use force by police officers clearly balances public and social policy and safety concerns). *Alfrey v. United States*, 276 F.3d 557, 565-67 (9th Cir. 2002) (finding that correctional officers have discretionary-function immunity in determining how to respond to threats).

In short, the FTCA and federal courts agree that use of force is a discretionary act for which discretionary immunity applies. The Nevada Supreme Court has specifically stated it looks to the FTCA and federal interpreting case law on this issue. Therefore, it is almost certain that the Nevada Supreme Court would conclude use of force is a discretionary-function subject to NRS 41.032 protections.

b. The Ninth Circuit and Nevada's discretionary immunity statute and use of force

The Ninth Circuit, in published decisions, has held that Nevada's discretionary-function immunity statute immunizes officers for their uses of force except in limited circumstances. In *Terry v. Nevada Gaming Control Board*, 279 F.3d 873, 878 (9th Cir. 2002), the Ninth Circuit held the decision by gaming control agents to detain an individual and how to utilize force in doing so were protected by discretionary immunity. In *Davis v. City of Las Vegas*, 478 F.3d 1048, 1059 (9th Cir. 2007), the Ninth Circuit held that discretionary immunity protected officers with respect to their use of force unless the officers' decisions were made in "bad faith." *Id.* at 1059. See also *Sandoval v. Las Vegas Metro Police Dep't.*, 756 F.3d 1154, 1168-69 (9th Cir. 2014) (how to perform a seizure is discretionary and subject to Nevada's governmental immunity unless seizure conducted in "an abusive manner as the result of the exercise of poor judgment.") Therefore, the Ninth Circuit has held that NRS 41.032 applies in use of force cases and only does not apply when evidence of "bad faith" or abuse exists.

c. The Nevada Federal District Court and Nevada's discretionary-function immunity statute and use of force

The majority of Nevada federal district courts follow the Ninth Circuit's published decision in *Davis v. City of Las Vegas* and hold that an officer is immune unless his actions are attributable to "bad faith" or "willful disregard" of the suspect's rights. See *Diaz v. Wheeler*, 3:14-cv-0436-LRH-WGC, 2017 WL 424862, *4 (D. Nev. Jan. 30, 2017); *Williams v. Las Vegas Metro Police Dep't.*, 2:13-cv-1340-GMN-NJK, 2016 WL 1169447, *6-7 (D. Nev. Mar. 22, 2016) (officer immune from state-law excessive force claim because no evidence of bad faith); *Jones v. Cnty. of Clark*, 2:13-cv-01002-RFB-VCF, 2015 WL 2185408, *4-5 (D. Nev. May 8, 2015) (officers immune from state-law claims due to no evidence of bad faith); *Flores-Zelaya v. Las Vegas Metro Police Dep't.*, 2:13-cv-01181-JAD-CWH, 2016 WL 697782, *13 (D. Nev. Feb. 19, 2016); *Jones v. Las Vegas Metro Police Dep't.*, 2:12-cv-01636-APG-CWH, 2014 WL 5793853, *7-8 (D. Nev. Nov. 6, 2014) (discretionary immunity protected the officers on a state-law battery and negligence claim because there was no evidence of bad faith or "willful or deliberate disregard" for the rights of the decedent); *Kelly v. Las Vegas Metro Police Dep't.*,

2:12-cv-02074, 2014 WL 3725927, *12-13 (D. Nev. July 25, 2014) (officers immune due to no evidence of bad faith); *Eastman v. City of North Las Vegas*, 2:07-cv-01658-RLH-RJJ, 2010 WL 428806, *7 (D. Nev. Feb. 1, 2010).

2. **The Ninth Circuit's decision confirms Ofc. Baca acted in good faith and is immune from plaintiff's negligence claim**

The purpose of discretionary-function immunity is to preserve independence of action without deterrence or intimidation by fear of personal liability and vexatious suits. Indeed, an officer confronted with a serious threat (such as the one confronted by Ofc. Baca) should not be second guessed for his decisions unless there is evidence of bad faith or willful disregard for the suspect's rights. Thus, the issue is whether Ofc. Baca acted in good faith when he used his discretion to take Paulos to the ground and keep her down until the scene was safe. The Ninth Circuit's affirmance of the federal district court establishes that Ofc. Baca did not act in bad faith or with willful disregard to the decedent's rights. Courts actually describe qualified immunity as "good faith immunity." *See Lucey v. Nevada ex. rel. Board of Regents*, 2:07-cv-00658-RLH-RJJ, 2009 WL 971667, *5 (D. Nev. Apr. 9, 2009) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 815 (1982)); *see also Mueller v. Aufer*, 576 F.3d 979, 993 (9th Cir. 2009) ("The purpose of this doctrine is to recognize that holding officials liable for reasonable mistakes might unnecessarily paralyze their ability to make difficult decisions in challenging situations, best disrupting the effective performance of their public duties.")

The Ninth Circuit's decision confirms that, at the very most, Ofc. Baca made a reasonable mistake of fact as to what force was necessary. The fact the Ninth Circuit found that Ofc. Baca acted in good faith places him under the umbrella of NRS 41.032. As stated by the Ninth Circuit in 2014 in *Sandoval v. Las Vegas Metro Police Dep't.*, an officer is protected by Nevada's governmental-function immunity unless evidence of "bad faith" or "maliciousness" exists. 756 F.3d at 1168-69 (citations omitted). Now that the law of the case is that Ofc. Baca acted in good faith, this court must conclude that he is protected by Nevada state law discretionary-function immunity as well.

1 **III. CONCLUSION**

2 Based upon the above, the LVMPD Defendants request that their summary judgment
3 motion be granted in its entirety.

4 Dated this 28 day of June, 2017.

5 MARQUIS AURBACH COFFING

6
7 By 

8 Craig R. Anderson, Esq.
9 Nevada Bar No. 6882
10 10001 Park Run Drive
11 Las Vegas, Nevada 89145
12 Attorney for LVMPD Defendants

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that the foregoing **SUPPLEMENT TO DEFENDANTS LVMPD AND**
15 **OFC. BACA'S MOTION FOR SUMMARY JUDGMENT** was submitted electronically for
16 filing and/or service with the Eighth Judicial District Court on the 28th day of June, 2017.
17 Electronic service of the foregoing document shall be made in accordance with the E-Service
18 List as follows:¹

19 Elliot S. Blut, Esq.
20 Attorney for Plaintiff
21 eblut@blutlaw.com
22 paralegal@blutlaw.com

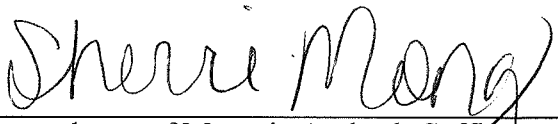
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¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

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Exhibit A

FILED

MAR 28 2017

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CRISTINA PAULOS,

Plaintiff-Appellant,

v.

FCH1, LLC, a Nevada
limited liability company; LAS VEGAS
METROPOLITAN
POLICE DEPARTMENT, a
governmental entity; JAKE VON
GOLDBERG, an individual; JEFFREY
SWAN, an individual; AARON BACA, an
individual; and JEANNIE HOUSTON, an
individual,

Defendants-Appellees.

No. 15-15728

D.C. No.
2:13-cv-01546-JCM-PAL

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Argued and Submitted March 13, 2017
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Before: FERNANDEZ and WATFORD, Circuit Judges, and STATON,** District Judge.

Cristina Paulos appeals the district court's order granting summary judgment in favor of the Las Vegas Metropolitan Police Department and Officers Aaron Baca, Jake Von Goldberg, and Jeffrey Swan.

"We review de novo both the grant of summary judgment and the conclusion that a public employee is entitled to qualified immunity." *C.F. ex rel. Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 983 (9th Cir. 2011). To overcome the officers' assertion of qualified immunity at summary judgment, Paulos had to demonstrate that, (1) when viewing the facts in the light most favorable to her, a reasonable jury could conclude that the officers engaged in excessive force, and (2) the right was clearly established at the time of the officers' conduct. *Saucier v. Katz*, 533 U.S. 194, 201 (2001), *overruled in part by Pearson v. Callahan*, 555 U.S. 223 (2009). We exercise our discretion to proceed immediately to whether any constitutional right at issue here was clearly established. *See Pearson*, 555 U.S. at 236-42.

An officer "cannot be said to have violated a clearly established right unless the right's contours were sufficiently definite that any reasonable official in the

** The Honorable Josephine L. Staton, United States District Judge for the Central District of California, sitting by designation.

defendant's shoes would have understood that he was violating it." *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2023 (2014). No decision from the Supreme Court or this Circuit clearly establishes that keeping a suspect on hot asphalt for approximately two minutes and forty seconds after backup officers arrive on the scene constitutes excessive force when the suspect does not inform the officers that the pavement is hurting her. *See, e.g., Alexander v. Cty. of Los Angeles*, 64 F.3d 1315, 1323 (9th Cir. 1995) (reversing a district court's grant of summary judgment when the suspect "repeatedly" asked the officer to loosen his handcuffs because of his medical condition). Nor is there a consensus among other courts that the conduct in question amounts to excessive force. *See Rubio v. Lopez*, 445 F. App'x 170, 173-75 (11th Cir. 2011) (finding no clearly established constitutional violation); *Howard v. Kansas City Police Dep't*, 570 F.3d 984, 990 (8th Cir. 2009) (finding that a reasonable jury could conclude that the officers used excessive force because the plaintiff voiced "persistent, specific complaints").

Paulos's *Monell* claim likewise fails because she did not provide sufficient evidence of a pattern of similar, allegedly unconstitutional conduct, *see Connick v. Thompson*, 563 U.S. 51, 62 (2011), and the Las Vegas Metropolitan Police Department's mere failure to discipline its officers "does not amount to ratification of their allegedly unconstitutional actions." *Sheehan v. City & Cty. of San*

Page 4 of 4

Francisco, 743 F.3d 1211, 1231 (9th Cir. 2014), *rev'd in part, cert. dismissed in part*, 135 S. Ct. 1765 (2015).

AFFIRMED.

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United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings**Judgment**

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)**Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)****(1) A. Purpose (Panel Rehearing):**

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

Case: 15-15728, 03/28/2017, ID: 10373786, DktEntry: 43-2, Page 3 of 5

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; St. Paul, MN 55164-0526 (Attn: Jean Green, Senior Publications Coordinator);
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

United States Court of Appeals for the Ninth Circuit

BILL OF COSTS

This form is available as a fillable version at:

<http://cdn.ca9.uscourts.gov/datastore/uploads/forms/Form%2010%20-%20Bill%20of%20Costs.pdf>.

Note: If you wish to file a bill of costs, it MUST be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of judgment, and in accordance with 9th Circuit Rule 39-1. A late bill of costs must be accompanied by a motion showing good cause. Please refer to FRAP 39, 28 U.S.C. § 1920, and 9th Circuit Rule 39-1 when preparing your bill of costs.

v.

9th Cir. No.

The Clerk is requested to tax the following costs against:

Cost Taxable under FRAP 39, 28 U.S.C. § 1920, 9th Cir. R. 39-1	REQUESTED <i>(Each Column Must Be Completed)</i>				ALLOWED <i>(To Be Completed by the Clerk)</i>			
	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST
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Reply Brief	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
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TOTAL:				\$ <input type="text"/>	TOTAL: \$ <input type="text"/>			

* *Costs per page:* May not exceed .10 or actual cost, whichever is less. 9th Circuit Rule 39-1.

** *Other:* Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to 9th Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

Attorneys' fees **cannot** be requested on this form.

Continue to next page

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("s/" plus attorney's name if submitted electronically)

Date

Name of Counsel:

Attorney for:

(To Be Completed by the Clerk)

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Costs are taxed in the amount of \$

Clerk of Court

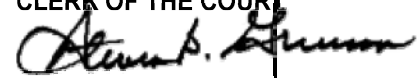
By: , Deputy Clerk

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

CRISTINA PAULOS, an individual;

Plaintiff

v.

FCH1, LLC, a Nevada limited liability company;
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a government entity; JEANNIE
HOUSTON, an individual; AARON BACA, an
individual; and DOES 1 through 10;

Defendants.

CASE NO.: A-15-716850-C

DEPT. NO.: XXXII

**PLAINTIFF'S OPPOSITION TO
LVMPD DEFENDANTS' MOTION
FOR SUMMARY JUDGEMENT AND
PALMS' JOINDER**

COMES NOW, the Plaintiff, CHRISTINA PAULOS by and through her counsel, CAL J. POTTER, III, ESQ. and C. J. POTTER, IV, ESQ. of POTTER LAW OFFICES, and hereby and oppose LVMPD Defendants Motion for Summary Judgment and Palms' Joinder.

...

...

...

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 12th day of July, 2017.

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*

14 MEMORANDUM OF POINTS AND AUTHORITIES

15 I.

16 INTRODUCTION

17 LVMPD's arguments concerning issue preclusion are unavailing because this Court has
 18 previously determined that the issue previously litigated in Federal Court concerning Baca's use
 19 of force concerned Qualified Immunity rather than reasonableness. Likewise, the Ninth Circuit's
 20 Order also concerned Qualified Immunity.

21 Additionally, members of this community who are familiar with the scorching Las Vegas
 22 summers are likely to determine that it was negligent for Baca and Houston to continue to hold
 23 Ms. Paulos on the scorching asphalt for several minutes after she was handcuffed and subdued.
 24 Therefore, Defendants Motions must be denied.

25 ...

26 ...

27 ...

28 ...

II.**FACTS****A. INCIDENT AT THE PALMS HOTEL AND CASINO**

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

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

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

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

6 Defendant Baca then appears to have either shoved or struck Ms. Paulos near the head.
7 (Surveillance video, beginning at 15:16:57). Ms. Paulos then staggered away from Baca and
8 turned her back to him. (Surveillance video, beginning at 15:16:58). At the time, Defendant Baca
9 grabbed Ms. Paulos, she had her back to him and her arms at her side. (Surveillance video,
10 beginning at 15:16:59). Defendant Baca then grabbed Ms. Paulos and immediately threw her to
11 the ground. (Id). Ms. Paulos was then on the asphalt from that point in time until, at least,
12 15:20:16, when the video ends. A Palms employee is also depicted holding Ms. Paulos against
13 the asphalt. (Id). When Ms. Paulos was pinned on the hot asphalt she screamed because she was
14 in so much pain. (Ex. 1, p. 79, ln. 9).

15 Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after
16 she was controlled. (Ex. 2, p. 83 lns. 12-13). Baca conceded he had no concern for placing Ms.
17 Paulos on the hot asphalt. (Ex. 2, p. 81, lns. 4-13). Despite the fact that Officer Baca deployed
18 force against Ms. Paulos, his supervisor instructed him not to file a use of force report. (Ex. 2, p.
19 39, lns. 4-10).

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

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

27 Eventually, paramedics were called to the scene. (Ex. 2, p. 40, lns. 7-8). Ms. Paulos was
28 transported to University Medical Center ("UMC"). At Ms. Paulos intake to UMC on August 7,

1 2011, she was noted to suffer second-degree burns on the left lateral thigh, left lateral leg and
2 right medial leg. (Exhibit 4 - Deposition of Andrew Silver, p. 16, lns. 17-23). As a result of being
3 pinned against the hot asphalt by Defendant Baca and Palms' employee, Ms. Paulos suffered
4 burns to her left leg, left side and face. (Ex. 1, p. 108, lns. 4-10). After being released from UMC
5 after several days at the hospital, Ms. Paulos immediately presented to the Lyons Burn Center the
6 very next day. (Ex. 1, p. 118, lns. 8-9).

7 Dr. Andrew Silver, M.D. is a specialist with the Lyons Burn Care Unit adjacent to
8 University Medical Center ("UMC") in Las Vegas, Nevada. (Ex. 4, p. 10, lns. 10-20). Dr. Silver
9 also described the process of "burn conversion" which means that a burn has progressed in depth,
10 such that an individual who initially has second-degree burns worsen and progress to third degree
11 burns (Ex. 4, p. 14 ln. 14 through p. 15, ln. 9). Dr Silver further explained that as some burns
12 continue to progress you don't notice on initial appearance how deep the burn really is. (Ex. 4, p.
13 15, lns. 12-18). Additionally, a burn that is initially described as "superficial" can progress into
14 second or third degree burns. (Ex. 4, p. 19, lns. 19-24). Dr. Silver further explained that a
15 second-degree burn is a burn that goes into the deeper layers of the skin called the dermis and it
16 involves a portion of the dermis. (Ex. 4, p. 13, lns. 19-22). He elaborated that a third-degree burn
17 is when the burn progresses all the way through the dermis. (Ex. 4, p. 14, lns. 8-10).

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

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

28 . . .

1 **C. THE DANGER OF HOT ASPHALT**

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

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

13 Despite the certainty of the danger associated with placing individuals on hot asphalt,
14 LVMPD never specifically trained Officers concerning the danger of asphalt burns, rather it was
15 merely advised to be aware. (Exhibit 6 - Deposition of Von Goldberg, p. 11, ln. 25). Moreover,
16 Defendant officers whom were present at the scene in this case were not aware of any written
17 policy concerning the danger of pinning individuals on asphalt. (Ex. 6, p. 12, ln. 6). Similarly,
18 Defendant Baca was never trained concerning the dangers of pinning individuals on hot asphalt
19 during the summer in Las Vegas, rather it was merely mentioned during briefings. (Ex. 2, p. 51,
20 lns. 18-25). Defendant Baca also did not recall any training during the LVMPD Police Academy
21 concerning putting people down on the asphalt during summer months. (Ex. 2, p. 53, lns. 20-25).
22 Defendant Baca not disciplined as a result of this incident. (Ex. 2, p. 77, lns. 9-11).

23 **D. TESTIMONY OF PLAINTIFF'S POLICE PRACTICES EXPERT**

24 Lastly, Plaintiff's police practices expert concluded that Ms. Paulos was a victim of
25 unreasonable force. (Exhibit 7 - Report of D. P. Van Blaricom ¶ 12). Mr. Van Blaricom
26 explained that regardless of whether probable cause existed to detain or arrest the plaintiff, it was
27 absolutely unconscionable for any police officer to leave a secured person in a position of direct
28 contact with a surface so hot as to cause the extreme burns suffered by Ms. Paulos. (Ex. 7, at ¶

1 12(c)). Furthermore, Defendant Baca demonstrated deliberate indifference to the probable
2 consequence of such an obvious disdain for human suffering which clearly amounts to an
3 objectively unreasonable use of excessive force, especially after plaintiff was clearly secured and
4 under complete police control. (Ex. 7, at ¶ 12(d)).

5 **E. UNCONTESTED FACTS**

- 6 • Officer Swan observed that Ms. Paulos was crying and then she was happy and then she
7 was screaming and she ran the gamut of all emotion. (Ex. 3, p. 22, lns. 2-4).
- 8 • Officer Swan testified that Ms. Paulos was having a mental episode. (Ex. 3, p. 41, lns.
9 17-19). Ms. Paulos was later diagnosed as being bi-polar and learned that she was
10 suffering a manic episode at the time of the incident. (Ex. 1, p. 132, lns. 1-5).
- 11 • Ms. Paulos was not aware of her disability at the time of the incident. (Ex. 1, p. 137, ln.
12 6).
- 13 • Ms. Paulos blood draw following this incident was negative for the presence of drugs and
14 alcohol. (Ex. 3, p. 28, lns. 19-22; p. 40, lns. 17-23).).
- 15 • Officer Baca is the officer who pinned Ms. Paulos on the hot asphalt. (Ex. 2, p. 13, ln.
16 24).
- 17 • A Palms security officer assisted Officer Baca in pinning Ms. Paulos to the hot asphalt.
18 (Ex. 2, p. 18, lns. 14-19).
- 19 • Defendant Baca did not believe Ms. Paulos had not committed any crime at the time she
20 got into and out of the gentleman's car. (Ex. 2, p. 62, lns. 7-12).
- 21 • Officer Swan, who issued the citation to Ms. Paulos, did not mention anything concerning
22 Ms. Paulos attempting to grab Baca's weapon. (Ex. 3, p. 34, ln. 1).
- 23 • Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after
24 she was controlled. (Ex. 2, p. 83 lns. 12-13).
- 25 • Baca conceded he had no concern for placing Ms. Paulos on the hot asphalt. (Ex. 2, p. 81,
26 lns. 4-13).
- 27 • Despite the fact that Officer Baca deployed force against Ms. Paulos, his supervisor
28 instructed him not to file a use of force report. (Ex. 2, p. 39, lns. 4-10).

- 1 • Paramedics were called to the scene. (Ex. 2, p. 40, lns. 7-8).
- 2 • As a result of her burns, Dr. Silver and his supervisor, Dr. Nathan Ozobia, performed
- 3 surgical procedures of debridement and skin grafting upon Ms. Paulos. (Ex. 4, p. 27, lns.
- 4 1-3).
- 5 • Dr. Silver testified, unequivocally, that he treated Ms. Paulos for second and third degree
- 6 “pavement contact burns.” (Ex. 4, p. 36, lns. 1-6).
- 7 • Dr. Silver found no evidence of chemical burns. (Ex. 4, p. 36, 9-12).
- 8 • LVMPD never specifically trained Officers concerning the danger of asphalt burns, rather
- 9 it was merely mentioned during briefings during the summer time. (Ex. 6, p. 11, ln. 25;
- 10 Ex. 2, p. 53, lns. 20-25).

11 II.

12 ARGUMENT

13 A. STANDARD FOR MOTIONS FOR SUMMARY JUDGMENT

14 When reviewing a motion for summary judgment, the Nevada Supreme Court has
15 propounded several standards and words of caution to the trial court. In Short v. Hotel Riviera,
16 Inc., 79 Nev. 94, 103, 378 P.2d 979, 984 (1963) the Court explained that NRCP 56 is not
17 designed to cut off a litigants right to trial by jury as long as issues to try really exist. Trial courts
18 have been cautioned to not grant summary judgment when there is the slightest doubt as to the
19 operative facts. Posadas v. City of Reno, 109 Nev. 448, 452, 851 P.2d 438, 442 (1993). The
20 Courts are also not to exercise summary judgment even when it senses the equities of the case are
21 obvious. Sierra Nev. Stagelines v. Rossi, 111 Nev. 360, 364, 892 P.2d 592, 595(1993).

22 Furthermore, the Court is not to pass upon the credibility and/or weight of the opposing
23 evidence and must accept as true all evidence favorable to the party against whom the motion for
24 summary judgment is made. Hidden Wells Ranch, Inc., v. Strip Realty, Inc., 83 Nev. 143, 145,
25 425 P.2d 599, 601 (1967). *See also*, Copeland v. Desert Inn Hotel, 99 Nev. 823, 825, 673 P.2d
26 490, 492 (1983) (pleadings and documentary evidence construed most favorably to the party
27 against whom the motion is made).

28 ...

B. ISSUE PRECLUSION DOES NOT APPLY IN THIS CASE

Issue preclusion refers to the effect of a judgment in foreclosing re-litigation of a matter that has been litigated and decided. Migra v. Warren Cirt School Dist. Bd. Of Ed., 465 U.S. 75, 77 fn. 1 (1984)(citing Restatement (Second) of Judgments § 27). The factors necessary for application of issue preclusion: (1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation; and (4) the issue was actually and necessarily litigated. Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 1055 (Nev. 2008).

LVMPD's arguments concerning issue preclusion are unavailing because this Court has previously determined that the issue previously litigated in Federal Court concerning Baca's use of force concerned Qualified Immunity rather than reasonableness. Likewise, the Ninth Circuit's Order also concerned Qualified Immunity.

Moreover, the law of this case, as determined by this Court in its September 14, 2015, minute order established that:

"Here, Paulos argues that issue preclusion does not apply in this case because the issue decided in the prior litigation was not identical to the issue presented in the current action. In Judge Mahan's Order, he states, Based on the foregoing reasons, the court finds that officer Baca did not violate a clearly established right and thus qualified immunity applies to him and all LVMPD defendants for Paulos' excessive force claim. The court will therefore grant LVMPD defendants' motion for summary judgment on this claim. Paulos v. FCH1, LLC, No. 2:13-CV-1546 JCM PAL, 2015 WL 1119972, at *12 (D. Nev. Mar. 12, 2015). After a fair reading of Judge Mahan's Order, this Court finds that his decision was based upon qualified immunity. It is true that Judge Mahan found that delay was not unreasonable under the headnote, whether the suspect actively resisted arrest or attempted to evade arrest by flight. However, this was in the context of whether a violation of a constitutional right had occurred and whether qualified immunity applies. This Court finds that issue preclusion does not apply and dismissal is improper. Therefore, Defendants Motion to Dismiss regarding the negligence claim is DENIED."

Likewise, the Ninth Circuit affirmed the grant of Qualified Immunity, it did not find that Defendants acted reasonably. Specifically, the Ninth Circuit's Order determined that "[n]o decision from the Supreme Court or this Circuit clearly establishes that keeping a suspect on hot

1 asphalt for approximately two minutes and forty seconds after backup officers arrive on the scene
2 constitutes excessive force when the suspect does not inform the officers that the pavement is
3 hurting her. . . .Nor is there a consensus among other courts that the conduct in question amounts
4 to excessive force." (Ninth Circuit Order at p. 3). Consequently, issue preclusion does not apply
5 in this case.

6 **C. A REASONABLE JUROR COULD DETERMINE THAT DEFENDANTS WERE NEGLIGENT**

7 In order to prevail on a negligence theory a plaintiff must demonstrate that (1) the
8 defendant owed the plaintiff a duty of care, (2) the defendant breached that duty, (3) the breach
9 was the legal cause of the plaintiff's injuries, and (4) the plaintiff suffered damages. Dauber v. Sr.
10 Bridges of Sparks Fam. Hosp., 282p.3d727, 732 (2012).

11 The question of whether a defendant was negligent is generally a question of fact for the
12 jury to resolve. Foster v. Costco, 128 Nev. Adv. Rep. 71; 291 P.3d 150 (2012). Summary
13 judgment should be considered with caution in a negligence case; summary judgment may not be
14 entered, unless one of the prima facie elements is "clearly lacking as a matter of law." Doud v.
15 Las Vegas Hilton Corp., 109 Nev. 1096, 864 P.2d 796 (1993). In negligence actions, courts are
16 generally reluctant to grant summary judgment. Van Cleave v. Kietz-Mill Mini Mart, 97 Nev.
17 414, 633 P.2d 1220 (1991). Courts are reluctant to grant summary judgment in negligence cases
18 because there may be factual disputes as to duty, breach, actual causation, legal causation, and
19 damages. Specifically, the issues of foreseeability, proximate cause, and reasonableness usually
20 present questions of fact for the jury. Harrington v. Syufy Enters., 113 Nev. 246, 931 P.2d 1378
21 (1997); Riley v. Opp IX, L.P., 112 Nev. 826, 919 P.2d 1071 (1996); Sims v. Gen Tel. & Elecs.,
22 107 Nev. 516, 815 P.2d 151 (1991); Thomas v. Bokelman, 86 Nev. 10, 13, 462 P.2d 1020, 122
23 (1970). Moreover, Nevada has a strong public policy of resolving cases on their merits. See,
24 Hotel Last Frontier Corp. v. Frontier Properties, 79 Nev. 150 (1963).

25 In the case at hand, Defendant Baca conceded that even at the point in time that Ms.
26 Paulos had sat in a vehicle belonging to someone else, she had not committed a crime. (Ex. 2, p.
27 62, Ins. 7-12). Additionally, it is disputed whether Plaintiff attempted to grab Baca's weapon. In
28 fact, Officer Swan, who issued the citation to Ms. Paulos, did not mention anything concerning

1 Ms. Paulos attempting to grab Baca's weapon. (Ex. 3, p. 34, ln. 1). Consequently, Defendants
2 arguments that Plaintiff was attempting to "steal" a car and grab Baca's gun are attempts to make
3 it appear that Ms. Paulos had committed a severe crime and posed a threat to the officer's safety.

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

17 Moreover, Ms. Paulos was suffering from a manic episode. Whether an individual is
18 emotionally disturbed is a factor to consider in the reasonableness of the use of force. Deorle v.
19 Rutherford, 272 F.3d 1272 (9th Cir. 2001). Even if an emotionally disturbed person is acting out
20 and inviting others to use force to subdue him, the governmental interest is diminished by the fact
21 that the officers are confronted with an individual, not who has committed a serious crime, but
22 with a mentally ill individual. Id. Here, Officer Baca expressed that Ms. Paulos was suffering
23 from "excited delirium" and that at times, Ms. Paulos would be way up high and then all of a
24 sudden she would shut down and be totally quiet and complacent like she didn't even know what
25 was going on around her. (Ex. 3, p. 18, lns. 3-9). Likewise, Officer Swan observed that Ms.
26 Paulos was crying and then she was happy and then she was screaming and she ran the gamut of
27 all emotion. (Ex. 3, p. 22, lns. 2-4). Officer Swan testified that Ms. Paulos was having a mental
28 episode. (Ex. 3, p. 41, lns. 17-19).

1 Even if an officer has probable cause to effectuate an arrest, use of force while effectuating
2 the arrest can be excessive. Blandenhorn v. City of Orange, 485 F.3d 463 (9th Cir. 2007). **Most**
3 **importantly, for purposes of the reasonableness of Baca's use of force, is the fact that**
4 **Defendant Baca conceded that he physically held Ms. Paulos on the hot asphalt even after**
5 **she was controlled.** (Ex. 2, p. 83 lns. 12-13). Additionally, Ms. Paulos explained that she was
6 not resisting Officer Baca. (Ex. 1, p. 48, lns. 12-14). Plaintiff's police practices expert explained
7 that regardless of whether probable cause existed to detain or arrest the plaintiff, it was absolutely
8 unconscionable for any police officer to leave a secured person in a position of direct contact with
9 a surface so hot as to cause the extreme burns suffered by Ms. Paulos. (Ex. 7, at ¶ 12(c)).
10 Furthermore, Mr. Van Blaricom testified that Defendant Baca demonstrated deliberate
11 indifference to the probable consequence of such an obvious disdain for human suffering which
12 clearly amounts to an objectively unreasonable use of excessive force, especially after plaintiff
13 was clearly secured and under complete police control. (Ex. 7, at ¶ 12(d)). Lastly, the individual
14 whose car Ms. Paulos sat in, had no problem getting Ms. Paulos out of his vehicle with a simple
15 gesture and was not required to use any force to get Ms. Paulos to comply with his request.
16 (Surveillance video, beginning at 15:16:42). Consequently, a jury should be permitted to
17 determine whether pinning Ms. Paulos to hot asphalt, even after she was under Baca's control,
18 was excessive under the totality of the circumstances, because reasonableness of force is
19 normally a question for the jury. *See, Herrera v. LVMPD*, 298 F.Supp 2d 1043 (D. Nev. 2004).

20 Similarly, with regard to Defendants Swan and Von Goldberg, officers who idly standby
21 and fail to prevent fellow officers from using excessive force are also liable to the plaintiff. U.S.
22 v. Koon, 34 F.3d 1416, 1447 n. 25 (9th Cir. 1994)(judgment aff'd in part, rev'd in part on other
23 grounds, 518 U.S. 81, 116 S.Ct. 2038 (1996). In this case, when Ms. Paulos was pinned on the
24 hot asphalt she screamed because she was in so much pain. (Ex. 1, p. 79, ln. 9). Despite her
25 screams, Defendants Swan and Von Goldberg, chose not to intervene. Consequently, a
26 reasonable juror could determine that Defendants Swan and Von Goldberg are liable to Ms.
27 Paulos for choosing to allow Defendant Baca to pin Ms. Paulos on the hot asphalt, even after she
28 was under police control.

1 Similarly, numerous other courts have also determined that causing an individual to suffer
2 the effects of harsh environmental conditions can constitute excessive force.

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

23 Most instructive for this case, is Howard v. Kansas City Police Dept., 570 F.3d 984,
24 989-90 (8th Cir. 2009) (holding that forcing shooting victim to lay on hot asphalt for seven to
25 eight minutes resulting in second-degree burns constituted excessive force). Defendant attempts
26 to distinguish the Howard case from the case at hand by arguing that the individual in Howard
27 was not a suspect whereas Ms. Paulos was a suspect. (doc. 33, p. 25, lns. 6-10). However,
28 Defendants argument is flawed because regardless of whether an individual is suspected of

1 criminal activity, the Fourth Amendment prohibits the use of excessive force. Graham v. Connor,
2 490 U.S. 386 (1989). Additionally, Defendants arguments that Ms. Paulos had committed a
3 crime, did not complain of pain, and attempted to flee and resist arrest fail to view the evidence
4 in the light most favorable to Ms. Paulos. (doc. 33, p. 25, lns. 6-10).

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

14 In Howard, Officers were initially justified in drawing their weapons and forcing Howard
15 to the ground upon arriving at the scene. Howard v. Kan. City Police Dep't, 570 F.3d 984, 989-
16 991 (8th Cir. 2009). The Officers were aware there was a shooting and a high-speed car chase,
17 and, even though Howard approached them trying to get their assistance, it was necessary for the
18 Officers to ensure their safety until they could ascertain Howard's role in the incident and
19 determine whether he was armed. Id. However, it was the Officers' actions after forcing Howard
20 to the ground, that were objectively unreasonable. Howard v. Kan. City Police Dep't, 570 F.3d
21 984, 989-991 (8th Cir. 2009).

22 "While the Officers initially acted reasonably in administering first
23 aid, Howard soon thereafter began complaining that the asphalt
24 was burning his exposed skin. Howard asked to await an
25 ambulance while leaning on a police cruiser or while lying on a
26 nearby patch of grass; the Officers denied both requests. In spite of
27 Howard's constant complaints, it took the Officers four to six
28 minutes before they responded and ordered someone to retrieve a
blanket, which they then placed underneath him. Moreover, not
only did the Officers fail to act in response to Howard's complaints,
they affirmatively resisted his attempts to move his exposed skin
off the asphalt. The Officers were aware of the damage the asphalt
was inflicting on Howard when he began to complain and move to
free himself, and, instead of remedying the situation with

1 reasonable dispatch, the Officers did nothing while Howard's
2 injuries worsened. As a result, Howard received severe
3 second-degree burns. Given Howard's persistent, specific
4 complaints about the exposure of his exposed skin to hot asphalt
5 on a day when the temperature exceeded 100 degrees, a reasonable
6 officer should have recognized the danger to Howard and
7 responded appropriately. Instead, Officers Bronner and Sartain did
8 nothing for four to six minutes except pin Howard's arms and legs
9 to the ground in spite of his attempts to move his exposed skin off
10 the asphalt. On this version of the facts, we conclude the Officers'
11 actions were not objectively reasonable.” Howard v. Kan. City
12 Police Dep’t, 570 F.3d 984, 989-991 (8th Cir. 2009).

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

23 **D. DEFENDANTS ARE NOT ENTITLED TO DISCRETIONARY IMMUNITY**

24 As the United States Supreme Court explained when it modified the discretionary
25 immunity test, “[t]he purpose of the exception is to prevent judicial second-guessing of
26 legislative and administrative decisions grounded in social, economic, and political policy
27 through the medium of an action in tort” United States v. Gaubert, 499 U.S. 315, 323
28 (1991)(Emphasis added)(Nevada has adopted the federal “*Gaubert* test”. See, Martinez v.
Maruszczak, 123 Nev. 433 (2007).

Therefore, the discretionary immunity test is rooted in the judiciary’s view of its proper role in government.

State tort claims favor a waiver of immunity. Hagblom v. State Director of Motor
Vehicles, 93 Nev. 599, 571 P.2d 1172 (1977). Nevada Revised Statute § 41.032 sets forth

1 exceptions to Nevada's general waiver of sovereign immunity. Pursuant to § 41.032(2), no
2 action may be brought against a state officer or employee or any state agency or political
3 subdivision that is "[b]ased upon exercise or performance or the failure to exercise or perform a
4 discretionary function or duty on the part of the State or any of its agencies or political
5 subdivisions or of any officer, employee or immune contractor of any of these, whether or not the
6 discretion involved is abused."

7 The Nevada Supreme Court has held that NRS 41.032 does not provide discretionary
8 immunity from liability in all cases. Williams v. City of North Las Vegas, 91 Nev. 622, 541 P.2d
9 652 (1975). The purpose of Nevada's waiver of sovereign immunity is to "compensate victims of
10 government negligence in circumstances like those in which victims of private negligence would
11 be compensated." Martinez v. Maruszczak, 168 P.3d 720, 727 (Nev. 2007). Further, officers have
12 no "discretion" to violate the Constitutional rights of citizens. *See, Owen v. City of*
13 Independence, Mo., 445 U.S. 622 (1980).

14 To determine whether immunity for a discretionary act applies, Nevada utilizes a two-part
15 test. First, an act is entitled to discretionary immunity if the decision involved an element of
16 individual judgment or choice. Martinez v. Maruszczak, 168 P.3d 720, 729 (2007). Second, the
17 judgment must be "of the kind that the discretionary function exception was designed to shield,"
18 which includes actions "based on considerations of social, economic, or political policy." Id. at
19 728-29 (quotations omitted).

20 "[M]atters of scientific and professional judgment particularly judgments concerning
21 safety are rarely considered to be susceptible to social, economic, or political policy. Whisnant v.
22 United States, 400 F.3d 1177, 1181 (9th Cir. 2005). Once the Government has undertaken
23 responsibility for an objective, the execution of that responsibility is not subject to the
24 discretionary function exception. Bear Medicine v. United States, 241 F.3d 1208, 1215 (9th Cir.
25 2001)(holding that negligence by Bureau of Indian Affairs in supervising and managing safety of
26 logging operation not policy based so as to warrant protection by discretionary function
27 exception). The Ninth Circuit has determined that the conduct of park service emergency medical
28 technicians in choosing not to stabilize the spine of someone involved in a serious automobile

1 accident was not protected by the discretionary function exception. Fang v. United States, 140
2 F.3d 1238, 1243 (9th Cir. 1998). The defendants in Fang argued that the decisions made by the
3 responders to the accident scene were the product of judgment driven by the consideration of
4 competing policy-based choices. The court disagreed. “No social, economic, or political policy is
5 implicated in the decision whether to stabilize the spine of a person who may have suffered a
6 head, neck or back injury prior to treatment.” Id. at 1243. Instead, the court indicated, it “is
7 simply an ordinary judgment made by EMTs in applying their training and expertise to an
8 emergency situation.” Id. As such, the discretionary function exception did not apply.

9 Similarly, **the District of Nevada has determined that defendants' decisions to use**
10 **force are not the kind of decisions the discretionary function exception was designed to**
11 **shield.** Huff v. N. Las Vegas Police Dep't, 2013 U.S. Dist. LEXIS 179683 (D. Nev. Dec. 23,
12 2013)(emphasis added).

13 In this case, Defendants’ conduct does satisfy the under the second prong of the test
14 because Defendants’ decision to unlawfully use force upon the Plaintiffs does not implicate
15 social, economic, or political policy. Instead, Defendant’s decisions were simply ordinary
16 judgments made in applying their training. Those types of decisions are not the type of decision
17 the discretionary function exception was designed to shield because evaluating whether a police
18 officer violated well-settled constitutional principles does not involve judicial second-guessing of
19 legislative and administrative decisions grounded in social, economic, and political policy. The
20 officers’ obligations in this regard are grounded in the United States Constitution, not policy
21 decisions from the legislative or executive branches. The decision use force upon the Plaintiff is
22 not an integral part of governmental policy-making or planning. Imposing liability on officers
23 who commit constitutional violations will not jeopardize the quality of the governmental process.
24 Further, declining to apply the exception does not usurp the legislative or executive branch’s
25 power or responsibility. Defendants’ conduct therefore does not fall within § 41.032 and
26 Defendants are not entitled to discretionary immunity.

27 **E. IT IS UNDISPUTED THAT DEFENDANTS’ ACTIONS CAUSED PAULOS’ BURNS**

28 At this stage, the Court is required to view the evidence in the light most favorable to Ms.

1 Paulos. When doing so, it is apparent that Ms. Paulos was transported to University Medical
2 Center (“UMC”). At Ms. Paulos intake to UMC on August 7, 2011, she was noted to suffer
3 second-degree burns on the left lateral thigh, left lateral leg and right medial leg. (Ex. 4, p. 16,
4 lns. 17-23). These burns were suffered as a result of being pinned against the hot asphalt by
5 Defendant Baca and Palms’ employee. (Ex. 1, p. 108, lns. 4-10). After being released from UMC
6 after several days at the hospital, Ms. Paulos immediately presented to the Lyons Burn Center the
7 very next day. (Ex. 1, p. 118, lns. 8-9).

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

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

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

26 **F. A REASONABLE JUROR COULD DETERMINE THAT PALMS WAS NEGLIGENT**

27 *Respondeat Superior* is a viable theory of liability for state torts committed in the very
28 . . .

1 course and scope of the employees duties. See, Prell Hotel Corp. v. Antonacci, 86 Nev. 390
2 (1970).

3 In the case, Defendants owed duties of care not to use excessive force upon Ms. Paulos.
4 Defendant Palms, through its employee Jeannie Houston, breached that duty when Houston held
5 Ms. Paulos against hot pavement during an August afternoon. (Surveillance video, beginning at
6 15:16:59). As a result of Defendant's breach Ms. Paulos sustained second and third degree
7 pavement contact burns. (Ex. 4, p. 36, Ins. 1-6). Consequently, a reasonable juror could
8 determine that Defendant breached their duties of care and caused Ms. Paulos damages.
9 Therefore, Palms is not entitled to judgment as a matter of law. Defendant argues that they are
10 insulated from liability because NRS 171.132 provides that: "[a]ny person making an arrest may
11 orally summon as many persons as the person making the arrest deems necessary to aid him or
12 her therein." However, even when making a lawful arrest, the party effectuating an arrest cannot
13 use excessive force. Blandenhorn v. City of Orange, 485 F.3d 463 (9th Cir. 2007).

14 Consequently, Palms is not entitled to summary judgment because there exists a genuine issue of
15 material fact whether it was reasonable for Houston to hold Ms. Paulos on hot pavement, even
16 after Ms. Paulos was under Houston's and Baca's control.

17 **G. A REASONABLE JUROR COULD CONCLUDE THAT PALMS FALSELY IMPRISONED MS.**
18 **PAULOS**

19 An individual is liable for the tort of false imprisonment if: (1) he or she act intending to
20 confine the other or a third person within boundaries fixed by the actor; (2) his or her acts
21 directly or indirectly results in such a confinement of the other; and (3) the other is conscious of
22 the confinement or is harmed by it. Switzer v. Rivera, 174 F. Supp. 2d 1097, 1110 (D. Nev.
23 2001). In Nevada false imprisonment is an unlawful violation of the personal liberty of another,
24 and consists of confinement or detention that is unlawful. Lerner Shops v. Marin, 83 Nev. 75,
25 423 P.2d 398 (1967). Even where a merchant has probable cause to detain a customer, he or she
26 may still be liable for false imprisonment if it is shown that the detention was unreasonable.
27 Lerner Shops, 83 Nev. 75 (1967).

28 In this case, Jeannie Houston intended to confine or detain Ms. Paulos when Houston

1 held Paulos. Ms. Paulos was confined or detained against hot pavement, while handcuffed, by
2 Palms' employee Jeannie Houston. Additionally, Ms. Paulos was conscious of the confinement
3 and harmed by the confinement against the hot asphalt because Ms. Paulos screamed because she
4 was in excruciating pain. (Ex. 1, p. 79, ln. 9). Consequently, a reasonable juror could determine
5 that Ms. Paulos was falsely imprisoned by Palms' employee Jeannie Houston when Houston
6 detained Ms. Paulos. Additionally, a reasonable juror could likewise conclude that Houston's
7 detention of Ms. Paulos while handcuffed against hot pavement was unreasonable. Therefore,
8 Palms is not entitled to judgement as a matter of law and a jury should be permitted to make the
9 factual determinations in this case.

10 III.

11 CONCLUSION

12 Plaintiff respectfully requests that this Honorable Court deny Defendant's Motion
13 because there exist numerous issues of material fact which a reasonable juror could resolve in
14 favor of the Plaintiff.

15 DATED this 12th day of July, 2017.

16 POTTER LAW OFFICES
17 BLUT LAW GROUP

18 By /s/ Cal J. Potter, III, Esq.
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27 300 South Fourth Street, Suite 701
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Attorneys for Plaintiff

/s/ Tanya Bain
An Employee of Potter Law Offices

Exhibit 1

001409

001409

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

1

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
23
24

25 Reported by: Yvette Rodriguez, CCR NO. 860
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2

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4

1 LAS VEGAS, NEVADA, MARCH 25, 2013
2 9:02 A.M.

-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-

Whereupon,

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:

-oOo-

EXAMINATION

BY MR. SMERBER:

21 Q Could you please state your name for the
22 record.

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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11

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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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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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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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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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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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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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

23

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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CRISTINA PAULOS 3/25/2013

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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 insult 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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CRISTINA PAULOS 3/25/2013

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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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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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CRISTINA PAULOS 3/25/2013

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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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CRISTINA PAULOS 3/25/2013

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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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CRISTINA PAULOS 3/25/2013

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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 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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CRISTINA PAULOS 3/25/2013

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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 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 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 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 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 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 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 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 **MR. SMERBER: Okay.**

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

14 **BY MR. SMERBER:**

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

19 A Oh, this one?

20 Q Yeah. Do you see that vehicle?

21 A Oh, yeah. I see that vehicle.

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

24 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 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 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 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?

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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 is Mark Premseelaar.

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. Premseelaar 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 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 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 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 Premseelaar'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 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 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 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 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 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 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 just 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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- 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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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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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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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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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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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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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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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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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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- 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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- 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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- 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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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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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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1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

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 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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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
 PHONE: 702-430-5003 FAX: 702-974-0125
 www.lawyersolutionsgroup.com

CRISTINA PAULOS 3/25/2013

168

CERTIFICATE OF REPORTER

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Yvette Rodriguez, a duly commissioned
Notary Public, Clark County, State of Nevada,
do hereby certify:

That I reported the deposition
of CRISTINA PAULOS, commencing on March 25, 2013 at
2:45 p.m.

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

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

IN WITNESS WHEREOF, I have set my hand
in my office in the County of Clark, State of
Nevada, this 11th day of April, 2013.

/s/ YVETTE RODRIGUEZ



Exhibit 2

001454

001454

Exhibit 2

AARON BACA

2/28/2014

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

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

COPY

13

14

15 DEPOSITION OF OFFICER AARON BACA

16 Taken on Friday, February 28, 2014

17 at 1:07 p.m.

18 at 630 South Fourth Street

19 Las Vegas, Nevada

20

21

22

23

24

25 Reported by: Gina J. Mendez, CCR No. 787

AARON BACA

2/28/2014

1 APPEARANCES:

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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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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

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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

AARON BACA 2/28/2014

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.

AARON BACA 2/28/2014

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?

AARON BACA 2/28/2014

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

AARON BACA

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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

AARON BACA

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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

AARON BACA 2/28/2014

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

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

AARON BACA 2/28/2014

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.

AARON BACA 2/28/2014

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?

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.

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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.

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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.

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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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1 Go ahead and answer.

2 THE WITNESS: I am now.

3 BY MR. POTTER:

4 Q. What do you mean by that?

5 A. There was no complaint of injury at the scene by
6 her to my sergeant from what I understand.

7 Q. Paramedics were called; is that correct?

8 A. Yes.

9 Q. Did you call the paramedics?

10 A. Yes, requested medical and additional officers.

11 Q. So you recognized that there was a medical issue?

12 A. Well, she had just been involved in a vehicle
13 accident.

14 Q. Is it your testimony here under oath that the
15 reason you called for medical is because she had been in
16 a vehicle accident?

17 A. I requested medical due to the totality of the
18 circumstances, her actions, being involved in a vehicle
19 accident and not complying with my instructions.

20 Q. Let's deal with those. What from the vehicle
21 accident were you concerned about medically?

22 A. Because it appeared to be a pretty good vehicle
23 accident and there was three cars involved, I believe.

24 Q. Have you been trained in recognition of traumatic
25 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,

AARON BACA 2/28/2014

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.

AARON BACA 2/28/2014

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?

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

2 Objection. This request is vague and ambiguous as to time. Without waiving these
3 objections, admit. I exited a vehicle.

4 **REQUEST NO. 9:**

5 Admit that after you exited the second vehicle, you were confronted by LVMPD Officer
6 Aaron Bacca.

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

8 Unable to admit or deny the identity of the officer.

9 **REQUEST NO. 10:**

10 Admit that Ofc. Bacca was in full LVMPD uniform.

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

12 Unable to admit as to the identity of the officer. Admit that the video reflects an officer
13 was in uniform.

14 **REQUEST NO. 11:**

15 Admit that you recognized Ofc. Bacca as a peace officer.

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

17 Deny.

18 **REQUEST NO. 12:**

19 Admit that you charged Ofc. Bacca.

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

21 Deny.

22 **REQUEST NO. 13:**

23 Admit that Ofc. Bacca took you to the ground.

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

25 Admit that I was pushed to the ground and my face and body were pushed to the burning
26 hot asphalt.

27 **REQUEST NO. 14:**

28 Admit that while on the ground, Ofc. Bacca attempted to handcuff you.

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

2 Unable to admit or deny as to his attempts.

3 **REQUEST NO. 15:**

4 Admit that you resisted Ofc. Bacca's attempts to handcuff you.

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

6 Unable to admit or deny.

7 **REQUEST NO. 16:**

8 Admit that you struggled on the ground with Ofc. Bacca to avoid detention.

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

10 Deny.

11 **REQUEST NO. 17:**

12 Admit that while on the ground, you never complained to Ofc. Bacca of any injury.

13 **RESPONSE TO REQUEST NO. 17:**

14 Deny.

15 **REQUEST NO. 18:**

16 Admit that once Ofc. Bacca handcuffed you, he lifted you to your feet.

17 **RESPONSE TO REQUEST NO. 18:**

18 Deny. I was never to my feet. I had to sit on the ground and wasn't allow to stand.

19 DATED this 18th day of January, 2013

ECOFF BLUT/LLP

20
21 By: _____

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

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of ECOFF BLUT, LLP, and that on the 18 day of January, 2013, I caused a correct copy of the **PLAINTIFF** **CRISTINA PAULOS' ANSWERS TO DEFENDANT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S REQUEST FOR ADMISSIONS, SET ONE** to be served as follows:

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

Craig R. Anderson, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Defendant, LVMPD

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

☐ pursuant to EDCR 7.26, to be sent via facsimile; and/or

☐ to be hand-delivered; to the attorneys listed below at the address and/or facsimile number indicated below:

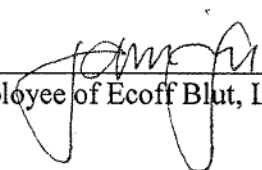

An employee of Ecoff Blut, LLP

Exhibit O

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

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

I N D E X

WITNESS	EXAMINATION BY	PAGE
MATT N. YOUNG, M.D.	MR. ANDERSON	4
	MR. DAVIS	38
<u>EXHIBITS</u>		
NO.	PAGE	DESCRIPTION
1	8	Curriculum Vitae
2	10	Burn Medical Report of Matt Young, M.D., 2/10/14
3	24	Photograph
4	35	Photograph
5	35	Photograph
7	36	Photograph
8	37	Photograph
9	37	Photograph

3

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.

8 APPEARANCES:

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13 Las Vegas, Nevada 89101
(702) 384-1050

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

17 MARQUIS, AURBACH, COFFING
18 BY: CRAIG R. ANDERSON, ESQUIRE
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Las Vegas, Nevada 89145
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20 FOR DEFENDANT FCH1, LLC:

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

2

1 ENCINO, CALIFORNIA; THURSDAY, JUNE 26, 2014
2 2:00 P.M.
3 -OOO-

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:

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?

4

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.**

5

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.**

6

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.**

7

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.**

8

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.**

9

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.**

10

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**

11

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**

12

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

13

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?

14

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

15

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?

16

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

17

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

18

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

19

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.**

20

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

21

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**

22

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?

23

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.**

24

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

28

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?

29

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?

30

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

31

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 ropery, 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

32

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?

33

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

34

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?

35

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?

36

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,

37

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
25

39

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.

40

1
2 IN WITNESS WHEREOF, I have subscribed my name
3 this _____ day of June, 2014.
4
5
6

7 KAREN S. OSTROM, C.S.R. NO. 10341, RPR
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41

1 ERRATA SHEET
2

3 If any corrections to your deposition are necessary,
4 indicate them on this sheet, giving the change, page
5 number, line number and reason for change.
6

7 PAGE/LINE FROM TO
8

9 Reason _____
10

11 Reason _____
12

13 Reason _____
14

15 Reason _____
16

17 Reason _____
18

19 Reason _____
20

21 Reason _____
22

23 Reason _____
24

25 Reason _____

42

Exhibit P

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

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

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12	B. SWAN, an individual; JEANNIE	12	EXHIBITS
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14	BACA, an individual and DOES 1	14	Exhibit 1 UMC Trauma Resuscitation Nursing
15	through 10,	15	Flow Sheet record 18
16	Defendants.	16	
17		17	Exhibit 2 UMC Outpatient Burn Care Unit
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19	behalf of Defendants, at Marquis Aurbach Coffing,	19	
20	10001 Park Run Drive, Las Vegas, Nevada, beginning at	20	Exhibit 3 photograph 28
21	2:07 p.m. and ending at 2:53 p.m. on Tuesday, June 24,	21	
22	2014, before Ellen L. Ford, Certified Shorthand	22	Exhibit 4 photograph 29
23	Reporter No. 846.	23	
24		24	
25		25	
	Page 2		Page 4
1	APPEARANCES:	1	Las Vegas, Nevada, Tuesday, June 24, 2014
2		2	2:07 p.m.
3	On Behalf of Plaintiff:	3	(NRCF Rule 30(b)(4) waived by the
4	POTTER LAW OFFICES	4	parties before the commencement
5	BY: C.J. POTTER, IV, ESQ.	5	of the deposition.)
6	1125 Shadow Lane	6	Whereupon --
7	Las Vegas, Nevada 89102	7	ANDREW SILVER, M.D.
8	(702) 385-1954	8	being first duly sworn to tell the truth, the whole
9	e-mail: cj@potterlawoffices.com	9	truth, and nothing but the truth, was examined and
10		10	testified as follows:
11	On Behalf of Defendant LVMPD, Jake Von Goldberg,	11	EXAMINATION
12	Jeffrey B. Swan, and Aaron Baca:	12	BY MR. ANDERSON:
13	MARQUIS AURBACH COFFING	13	Q Can I get you to state your name for the
14	BY: CRAIG R. ANDERSON, ESQ.	14	record?
15	10001 Park Run Drive	15	A Andrew Silver.
16	Las Vegas, Nevada 89145	16	Q Dr. Silver, have you had your deposition taken
17	(702) 382-0711	17	before?
18	e-mail: canderson@maclaw.com	18	A Yes.
19	On Behalf of FCH1, LLC and Jeannie Houston:	19	Q Okay. So you understand what we're going to do
20	MORAN LAW FIRM	20	here today?
21	BY: JUSTIN W. SMERBER, ESQ.	21	A Yes.
22	630 South Fourth Street	22	Q Okay. So essentially, the oath you took you've
23	Las Vegas, Nevada 89101	23	agreed to tell the truth. Is there any reason that
24	(702) 384-8424	24	you can't tell the truth today; for example, are you
25	e-mail: j.smerber@moranlawfirm.com	25	on any medication or anything that would prevent you
	Page 3		Page 5

2 (Pages 2 - 5)

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

Page 6

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

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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

Page 7

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.

Page 9

3 (Pages 6 - 9)

<p>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</p> <p style="text-align: right;">Page 10</p>	<p>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.</p> <p style="text-align: right;">Page 12</p>
<p>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?</p> <p style="text-align: right;">Page 11</p>	<p>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</p> <p style="text-align: right;">Page 13</p>

<p>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</p> <p style="text-align: right;">Page 14</p>	<p>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</p> <p style="text-align: right;">Page 16</p>
<p>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?</p> <p style="text-align: right;">Page 15</p>	<p>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</p> <p style="text-align: right;">Page 17</p>

5 (Pages 14 - 17)

1 burn?
 2 A Yes.
 3 Q I want to show you a UMC document which we'll
 4 mark as Exhibit 1.
 5 (Exhibit 1 - 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

Page 20

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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6 (Pages 18 - 21)

<p>1 A Yes.</p> <p>2 Q What's bullae?</p> <p>3 A It's a confluence of blisters. It's just over</p> <p>4 a larger area.</p> <p>5 Q Okay. So according to this record, Miss Paulos</p> <p>6 had blisters upon her discharge from UMC.</p> <p>7 Are discharge -- I mean -- are blisters and</p> <p>8 bullae something that require the Burn Care Unit to</p> <p>9 investigate?</p> <p>10 A Not necessarily.</p> <p>11 Q And then the note goes on to state that, "We</p> <p>12 consulted the Burn Care Unit nurses who have come over</p> <p>13 and given the patient sulfadiazine and a dressing on</p> <p>14 top."</p> <p>15 Do you reach any conclusions from that</p> <p>16 statement as to what happened?</p> <p>17 A No.</p> <p>18 Q Okay. So they put an ointment on top of it and</p> <p>19 a dressing?</p> <p>20 A Correct.</p> <p>21 Q What level of burn would they treat in that</p> <p>22 manner?</p> <p>23 A Depends on who's treating the burn.</p> <p>24 Q Okay. Just up to the person?</p> <p>25 A Yes.</p> <p style="text-align: right;">Page 22</p>	<p>1 injuries are sometimes referred to as "burns", and at</p> <p>2 other times they're referred to as "road rash". What</p> <p>3 would account for that discrepancy?</p> <p>4 MR. POTTER: Object, calls for speculation.</p> <p>5 MR. ANDERSON: I can just read it. I'll mark</p> <p>6 this as Exhibit 2.</p> <p>7 (Exhibit 2 - medical record - marked for</p> <p>8 identification.)</p> <p>9 BY MR. ANDERSON:</p> <p>10 Q This is just an example of what I'm referring</p> <p>11 to. Bates stamp PAULOS000358 at the bottom. This is</p> <p>12 from treatment dates August 12th, August 13th,</p> <p>13 August 14th.</p> <p>14 If I look up at the top part of that document</p> <p>15 where it says "Wound Type", there's a box for</p> <p>16 "Pressure Ulcer", "Burn and Degree", "Surgery" and</p> <p>17 "Road Rash". Do you see that?</p> <p>18 A Yes, I do.</p> <p>19 Q And on this particular chart, "Road Rash" is</p> <p>20 checked, and above it it says "Left leg, left thigh".</p> <p>21 In your treatment of Miss Paulos, did you ever</p> <p>22 reach a determination as to whether her injuries were</p> <p>23 caused by heat burn or by road rash?</p> <p>24 MR. POTTER: Object, calls for expert</p> <p>25 testimony.</p> <p style="text-align: right;">Page 24</p>
<p>1 Q Okay. Is it unusual that she developed</p> <p>2 blisters and bullae two days after the event, or is</p> <p>3 that pretty standard for a burn?</p> <p>4 A That can be standard.</p> <p>5 Q Okay. And what's sulfadiazine?</p> <p>6 A It's just an antibiotic ointment that's</p> <p>7 commonly used on burns.</p> <p>8 Q The discharge report states that she was</p> <p>9 discharged in stable condition. Would you agree with</p> <p>10 that, with a second-degree burn, if it had</p> <p>11 sulfadiazine and dressing, that that could be stable?</p> <p>12 A Yes.</p> <p>13 Q And then according to my records, Miss Paulos</p> <p>14 began receiving treatment at the Burn Care Unit on</p> <p>15 August 11th. Does that sound right with what you</p> <p>16 reviewed?</p> <p>17 A My records are from her hospital stay only.</p> <p>18 That was the only chart they had available.</p> <p>19 Q Okay. So did you review any records from the</p> <p>20 Lions Burn Care Unit?</p> <p>21 A From the actual Burn Care Unit, yes, but not</p> <p>22 from the Out-Patient Burn Care Center. They are</p> <p>23 connected, so that may lead to some confusion.</p> <p>24 Q Okay. Now, throughout Miss Paulos's records,</p> <p>25 with respect to the left side of her body, the</p> <p style="text-align: right;">Page 23</p>	<p>1 THE WITNESS: Can you rephrase that for me,</p> <p>2 please?</p> <p>3 BY MR. ANDERSON:</p> <p>4 Q Yeah. Do you have an opinion as to whether the</p> <p>5 left leg wounds you treated on Miss Paulos were caused</p> <p>6 by a heat burn or road rash?</p> <p>7 A Yes.</p> <p>8 Q Okay. What is that opinion?</p> <p>9 A It would be more consistent with a burn</p> <p>10 contacted with pavement than it would from road rash.</p> <p>11 Q And throughout some of Dr. Ozobia's records and</p> <p>12 the nursing records, it mentions both burns and road</p> <p>13 rash. Is that common to have two different diagnoses?</p> <p>14 A It's possible.</p> <p>15 Q Is it possible that it's a hybrid of the two;</p> <p>16 heat burns and also due to friction was aggravated?</p> <p>17 A I imagine that it could be.</p> <p>18 Q Okay.</p> <p>19 MR. POTTER: Object, that that was calling for</p> <p>20 possibilities rather than probability.</p> <p>21 BY MR. ANDERSON:</p> <p>22 Q And so how do you determine whether an injury</p> <p>23 is caused by heat contact or by road friction? What</p> <p>24 type of things are you looking at?</p> <p>25 A You're looking at the pattern of the wound, the</p> <p style="text-align: right;">Page 25</p>

7 (Pages 22 - 25)

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.

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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?

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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?

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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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8 (Pages 26 - 29)

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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9 (Pages 30 - 33)

<p>1 A I've never seen that.</p> <p>2 Q Okay. So if you put a sequential pneumatic</p> <p>3 compression device on someone with burns, is it put on</p> <p>4 to treat the burn?</p> <p>5 A No.</p> <p>6 Q Okay. What's it put on for?</p> <p>7 A To prevent blood clots from forming.</p> <p>8 Q Okay. And so if they were -- if such a device</p> <p>9 was placed on Miss Paulos, would it have anything to</p> <p>10 do with her burns?</p> <p>11 A It would -- not that I'm aware of.</p> <p>12 MR. POTTER: Objection, calls for speculation.</p> <p>13 BY MR. ANDERSON:</p> <p>14 Q Okay. I'm almost done here.</p> <p>15 But so you had no involvement with Miss Paulos</p> <p>16 from August 11th through the 24th. Your first</p> <p>17 involvement was the 24th at the time of surgery?</p> <p>18 A Correct.</p> <p>19 Q Okay. Do road rash injuries and burns appear</p> <p>20 the same to the naked eye?</p> <p>21 MR. POTTER: Object to the form of the</p> <p>22 question.</p> <p>23 THE WITNESS: Not necessarily.</p> <p>24 BY MR. ANDERSON:</p> <p>25 Q I mean, what I'm confused on is her records go</p> <p style="text-align: right;">Page 34</p>	<p>1 her for second-degree and third-degree pavement</p> <p>2 contact burns; is that correct?</p> <p>3 A Correct.</p> <p>4 Q You didn't treat her for road rash?</p> <p>5 A We treated her for what had appeared to be a</p> <p>6 burn.</p> <p>7 Q Okay. And as a result of those burns, you</p> <p>8 testified you did two procedures; debridement and skin</p> <p>9 grafts?</p> <p>10 A Yes, in the same setting.</p> <p>11 Q Okay. Debridement, you said, was removing dead</p> <p>12 skin?</p> <p>13 A Yes, non-viable tissue.</p> <p>14 Q Okay. And where did you perform the</p> <p>15 debridement procedures on Miss Paulos's body -- or on</p> <p>16 her body? That was a bad question.</p> <p>17 A In the areas documented in the illustration,</p> <p>18 you can see all the skin grafts applied to it</p> <p>19 post-operatively, where we debrided.</p> <p>20 Q Do you recall doing a debridement to her torso?</p> <p>21 A I believe she also had a burn on her breast.</p> <p>22 Q Okay. So there would be debridement to torso</p> <p>23 and the lower left extremity --</p> <p>24 A That's --</p> <p>25 Q -- is that fair?</p> <p style="text-align: right;">Page 36</p>
<p>1 back and forth. In some records it's a road rash, in</p> <p>2 other records it's a burn.</p> <p>3 Is that discrepancy common? Do you see that in</p> <p>4 medical records commonly?</p> <p>5 A You can see people transfer diagnoses that are</p> <p>6 not entirely accurate.</p> <p>7 Q Okay. So in your opinion, does Miss Paulos</p> <p>8 require any future care based upon her condition?</p> <p>9 MR. POTTER: Object, it exceeds the scope of</p> <p>10 his treatment.</p> <p>11 THE WITNESS: I don't have any direct photos of</p> <p>12 her appearance now, but I would assume that she didn't</p> <p>13 require anything further as far as burn treatment.</p> <p>14 MR. ANDERSON: Okay. That's all I have.</p> <p>15 MR. SMERBER: I don't have anything.</p> <p>16 MR. POTTER: All right. I only think I have a</p> <p>17 handful.</p> <p>18 EXAMINATION</p> <p>19 BY MR. POTTER:</p> <p>20 Q So your treatment in August of 2011 to</p> <p>21 Miss Paulos, you testified you treated her for</p> <p>22 third-degree pavement contact burns; is that correct?</p> <p>23 A I wouldn't say they're all third-degree. Most</p> <p>24 likely it's a combination of second- and third-degree.</p> <p>25 Q Okay. You didn't treat her -- so you treated</p> <p style="text-align: right;">Page 35</p>	<p>1 A Yes.</p> <p>2 Q And as far as the skin grafts, you're saying</p> <p>3 the area that we've marked as Exhibit 4, which you</p> <p>4 previously described as donor areas, are the yellow</p> <p>5 areas?</p> <p>6 A The donor areas are where the skin graft is</p> <p>7 taken from, and then they are applied to the areas</p> <p>8 that were debrided. You can see the net-like</p> <p>9 appearance.</p> <p>10 Q Okay. And so on Exhibit 4, for the record,</p> <p>11 you're pointing to what appears kind of like an open</p> <p>12 wound with a netting; is that fair?</p> <p>13 A Yes.</p> <p>14 Q Okay.</p> <p>15 A Technically, it's a sealed wound because the</p> <p>16 skin graft is present, although it may appear to be</p> <p>17 weeping somewhat from underneath those holes in the</p> <p>18 grafts.</p> <p>19 Q And I think you've testified that it's up to</p> <p>20 the patients to whether or not they have cosmetic</p> <p>21 surgery.</p> <p>22 Is it common for people to have a cosmetic</p> <p>23 surgery in your treatment after they've had skin</p> <p>24 grafts?</p> <p>25 A Not common.</p> <p style="text-align: right;">Page 37</p>

<p>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.</p> <p style="text-align: right;">Page 38</p>	<p>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.</p> <p style="text-align: right;">Page 40</p>
<p>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?</p> <p style="text-align: right;">Page 39</p>	<p>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</p> <p style="text-align: right;">Page 41</p>

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

25

ELLEN L. FORD, CSR No. 846

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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.)

11

12

13

14

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19

20

21

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23

24

25

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12 (Pages 42 - 44)

Exhibit Q

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

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

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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 crossing 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 R

STEVEN BAKER

9/4/2014

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
3) ss:
COUNTY OF CLARK)

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

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

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

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

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

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



Lawyer Solutions Group

Transcript of **STEVEN BAKER**

Date: September 4, 2014

Case: PAULOS v. FCH1, LLC

Lawyer Solutions Group
Phone: 702-430-5003

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.)
FCHI, 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 (NRCP 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:

DIRECT EXAMINATION

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 FCHI, 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
11 Las Vegas, Nevada 89145
(702) 382-0711
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12
13

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17 Mr. Blut 53

EXHIBITS

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

Phone: 702-430-5003

Lawyer Solutions Group
www.lawyersolutionsgroup.com

Fax: 702-974-0125

STEVEN BAKER

9/4/2014

Page 5

Page 7

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?

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 6

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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

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

2 (Pages 5 to 8)

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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 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 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 years?

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 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

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<p>1 Blut's office?</p> <p>2 A Correct.</p> <p>3 Q How much have you billed so far in this</p> <p>4 case?</p> <p>5 A You know, I didn't look at that pricing.</p> <p>6 I'm going to estimate that we're in the 35 to \$4,000</p> <p>7 range.</p> <p>8 Q Does that include preparation for this</p> <p>9 deposition?</p> <p>10 A Yes.</p> <p>11 Q Okay. In your case list, Exhibit C, tell</p> <p>12 me how many of these were cases where you testified</p> <p>13 at trial versus where you testified at deposition.</p> <p>14 A One.</p> <p>15 Q Which case would that be?</p> <p>16 A That would be Valdez where it says</p> <p>17 deposition and testimony at trial.</p> <p>18 Q Okay. Let me see.</p> <p>19 A It's the very bottom one.</p> <p>20 Q All right. So the Valdez, that's the only</p> <p>21 one where you have testified at trial?</p> <p>22 A Correct.</p> <p>23 Q I circled it. That's the one where you</p> <p>24 testified at trial?</p> <p>25 A Correct.</p>	<p>1 video; is that fair?</p> <p>2 A Yes.</p> <p>3 Q Okay. In the very last paragraph of that</p> <p>4 page you describe The Palms security officers'</p> <p>5 participation in this matter; is that fair?</p> <p>6 A Uh-huh.</p> <p>7 Q Is that a yes?</p> <p>8 A Yes, sorry.</p> <p>9 Q Okay. Based upon my math it looks like</p> <p>10 The Palms security officer was involved in retaining</p> <p>11 the plaintiff for about two minutes and 35 seconds;</p> <p>12 is that about right? I'm not trying to trick you.</p> <p>13 I'll tell you where I'm getting this. It says Palms</p> <p>14 security arrives at 15:17:30.</p> <p>15 A Uh-huh.</p> <p>16 Q And at 15:17:38 a Palms security officer</p> <p>17 is observed kneeling to assist LVMPD officers. Do</p> <p>18 you see that?</p> <p>19 A I do.</p> <p>20 Q So that's my starting point. 11:17:38,</p> <p>21 right? Are you with me?</p> <p>22 A Yes.</p> <p>23 Q If you go back down about halfway through</p> <p>24 that paragraph it said the west facing video, black</p> <p>25 and white, shows the Palms officer, security officer</p>
Page 14	Page 16
<p>1 Q Okay. In terms of your retention as an</p> <p>2 expert in the security field in general, would you</p> <p>3 say you do more work for plaintiffs or defendants?</p> <p>4 A Defense.</p> <p>5 Q What would the percentage be?</p> <p>6 A I looked at this the other day and I was</p> <p>7 23 cases defense and 19 plaintiff.</p> <p>8 Q So it's almost 50/50, probably about 45?</p> <p>9 A Yeah. Phone may ring today and go the</p> <p>10 other way. So it's about half and half.</p> <p>11 Q Okay. Let's go through your report a</p> <p>12 little bit. Exhibit A, do you have a copy of it in</p> <p>13 your book?</p> <p>14 A I do.</p> <p>15 Q Okay. First in your report I want to ask</p> <p>16 you, I don't see where you made citation to any type</p> <p>17 of written authority. What I mean by that is I</p> <p>18 don't see where you cite to any statute, guidelines,</p> <p>19 administrative code, you know, security treatise,</p> <p>20 best practices manual, I don't see where you cite to</p> <p>21 anything; is that accurate?</p> <p>22 A Yes, there's a specific cite.</p> <p>23 Q Okay. I'm looking at page 2 of your</p> <p>24 report and you gave an incident summary there, and I</p> <p>25 think you obtained this mostly from the surveillance</p>	<p>1 stand up and move away from the plaintiff at</p> <p>2 15:20:13; see that?</p> <p>3 A Yes.</p> <p>4 Q About two minutes and 35 seconds; is that</p> <p>5 right?</p> <p>6 A That would be that, at least the initial</p> <p>7 encounter.</p> <p>8 Q Are you aware of them having an additional</p> <p>9 encounter with her after that?</p> <p>10 A I have no idea. I have no evidence of</p> <p>11 that or not.</p> <p>12 Q In terms of any additional encounters, you</p> <p>13 wouldn't be able to testify to those at trial,</p> <p>14 right?</p> <p>15 A Correct.</p> <p>16 Q As far as your opinions go they're limited</p> <p>17 to that one encounter that lasted about two minutes</p> <p>18 and 35 seconds?</p> <p>19 A Well, that was the hands-on encounter,</p> <p>20 yes.</p> <p>21 Q That's what I'm getting at. Was there</p> <p>22 another encounter?</p> <p>23 A They were involved still, but as far as</p> <p>24 hands-on, you're absolutely correct.</p> <p>25 Q How were the Palms involved after</p>

4 (Pages 13 to 16)

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

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?

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?

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

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 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 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 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.

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

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

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

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

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.

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.

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?

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<p>1 A Correct.</p> <p>2 Q They were doing that before the Palms ever</p> <p>3 got involved in this, correct?</p> <p>4 A Correct.</p> <p>5 Q The only reason the Palms got involved in</p> <p>6 this is because they were requested to by Metro; is</p> <p>7 that fair?</p> <p>8 A That's fair.</p> <p>9 Q Okay. But you think their actions in</p> <p>10 assisting Metro was inappropriate, correct?</p> <p>11 A Correct.</p> <p>12 Q I want you to tell me specifically how</p> <p>13 their actions in assisting Metro was inappropriate.</p> <p>14 A Inappropriate in that the officer didn't</p> <p>15 appear to have any idea of how to help to restrain</p> <p>16 that person. And again, this should be a regular</p> <p>17 routine thing. Instead of going to the head again,</p> <p>18 which happens to be the issue here, wouldn't be</p> <p>19 appropriate. Holding them down on the pavement</p> <p>20 wouldn't be appropriate. Continuing to let them lay</p> <p>21 on the pavement wouldn't be appropriate. These are</p> <p>22 all things that that care and custody I'm talking</p> <p>23 about. So where you say it doesn't apply to this</p> <p>24 case, it does because we who do this every day, this</p> <p>25 should, these things should be second nature, that</p>	<p>1 Sagic?</p> <p>2 A Sagic.</p> <p>3 Q Sagic. Do you know him?</p> <p>4 A Very well.</p> <p>5 Q How long have you known Al?</p> <p>6 A Fifteen years.</p> <p>7 Q He drafted a report in this matter. Have</p> <p>8 you seen his report?</p> <p>9 A I have.</p> <p>10 Q I notice that you didn't comment anywhere</p> <p>11 in your report on his. Have you drafted any type of</p> <p>12 rebuttal report to his?</p> <p>13 A No.</p> <p>14 Q So, at the time of trial in this matter</p> <p>15 you won't be giving any opinions regarding his</p> <p>16 report, correct?</p> <p>17 A Correct. His report starts or ends before</p> <p>18 mine really starts to address issues.</p> <p>19 Q Okay. I want to talk a little bit about</p> <p>20 your CV, if you can get your CV in front of you. I</p> <p>21 want to look at your professional experiences on</p> <p>22 page 2 and 3. Have you ever personally worked in a</p> <p>23 Las Vegas casino?</p> <p>24 A No. Not as an employee, no.</p> <p>25 Q Have you ever worked in a Las Vegas hotel?</p>
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<p>1 they should know how to do it.</p> <p>2 Q How long did the Palms allow Miss Paulos</p> <p>3 to remain on the pavement?</p> <p>4 A I'm still undetermined exactly when she</p> <p>5 got off the pavement.</p> <p>6 Q And you can't, you already told me you</p> <p>7 can't say that they held her on the pavement after</p> <p>8 15:20:13, correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. So at the max you could say the</p> <p>11 Palms had her on the pavement for two minutes and 35</p> <p>12 seconds?</p> <p>13 A Okay.</p> <p>14 Q Is that accurate or not?</p> <p>15 A Well, we know that they held her</p> <p>16 physically there or alone, yes.</p> <p>17 Q Okay. After that you can't say they did</p> <p>18 anything to hold her on the pavement; is that fair?</p> <p>19 A Correct. We don't know, doesn't appear</p> <p>20 anyone was holding her at that point, they just left</p> <p>21 her laying there.</p> <p>22 Q Okay. So she was on the ground by</p> <p>23 herself?</p> <p>24 A Correct.</p> <p>25 Q Okay. Do you know an individual named Al</p>	<p>1 A Not as an employee.</p> <p>2 Q So as far as personal experience as a</p> <p>3 security officer in a Las Vegas casino, you have</p> <p>4 none; is that fair?</p> <p>5 A I've done numerous contracted training</p> <p>6 assignments and evaluations, but I've not worked as</p> <p>7 an employee.</p> <p>8 Q Do you know if Mr. Sagic, or how did you</p> <p>9 just say that?</p> <p>10 A Sagic. I-C, like in magic.</p> <p>11 Q Sagic. Do you know if he's done that?</p> <p>12 A I don't know if he's worked in a casino in</p> <p>13 Las Vegas, no.</p> <p>14 Q Okay.</p> <p>15 A He was predominantly in northern Nevada.</p> <p>16 Q Have you ever worked in the casinos as a</p> <p>17 security officer?</p> <p>18 A No, not as an employee.</p> <p>19 Q Do you know if Mr. Sagic has?</p> <p>20 A I believe so, yes.</p> <p>21 Q He has quite an extensive background in</p> <p>22 it; is that fair?</p> <p>23 A Sure.</p> <p>24 Q I'm trying to familiarize myself with your</p> <p>25 CV. Either I had it wrong or I was missing</p>

11 (Pages 41 to 44)

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.

Electronically Filed
Oct 24 2018 12:45 p.m.
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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OFFICER JAKE VON GOLDBERG - 09/29/2014

<p>1 DEPOSITION OF OFFICER JAKE VON GOLDBERG, held at 2 Potter Law Offices, located at 1125 Shadow Lane, Las 3 Vegas, Nevada 89102, on Monday, September 29, 2014, at 4 12:32 p.m., before Brittany J. Castrejon, Certified 5 Court Reporter, in and for the State of Nevada. 6 7 8 APPEARANCES: 9 FOR THE PLAINTIFF: 10 11 POTTER LAW OFFICES 12 BY: CAL J. POTER, III, ESQ. 13 1125 Shadow Lane 14 Las Vegas, Nevada 89102 15 702-385-1954 16 info@potterlawoffices.com 17 18 FOR DEFENDANTS: 19 20 MARQUIS AURBACH COFFING 21 BY: CRAIG ANDERSON, ESQ. 22 10001 Park Run Drive 23 Las Vegas, Nevada 89145 24 702-382-0711 25 canderson@maclaw.com</p> <p>MORAN LAW FIRM, LLC BY: JUSTIN W. SMERBER, ESQ. 630 South Fourth Street Las Vegas, Nevada 89101 702-384-8424</p>	<p>Page 2</p> <p>1 Las Vegas, Nevada; Monday, September 29, 2014 2 12:32 p.m. 3 -oOo- 4 Whereupon -- 5 (In an off-the-record discussion held prior 6 to the commencement of the proceedings, 7 counsel agreed to waive the court reporter's 8 requirements under Rule 30(b)(4) of the 9 Nevada Rules of Civil Procedure.) 10 OFFICER JAKE VON GOLDBERG, 11 having been first duly sworn by the court reporter to 12 testify to the truth, the whole truth, and nothing but 13 the truth, was examined and testified under oath as 14 follows: 15 EXAMINATION 16 BY MR. POTTER: 17 Q. Could you state your name for the record. 18 A. It's Jake. You want my middle name too? 19 Q. Sure. 20 A. Harland, H-a-r-l-a-n-d, Von Goldberg, V-o-n 21 G-o-l-d-b-e-r-g. 22 Q. All right. And have you ever had your deposition 23 taken before? 24 A. No. 25 Q. All right. Let me just go over a little bit</p>
<p>Page 3</p> <p>1 INDEX 2 WITNESS: OFFICER JAKE VON GOLDBERG 3 EXAMINATION PAGE 4 By Mr. Potter 4 5 By Mr. Anderson 26 6 By Mr. Potter 27 7 8 9 10 EXHIBITS 11 NUMBER DESCRIPTION PAGE 12 EXHIBIT 1 Voluntary Statement, LVMPD 0007 21 13 EXHIBIT 2 Impound Report, LVMPD 0006 23 14 EXHIBIT 3 Color Photo 27 15 EXHIBIT 4 Color Photo 28 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 5</p> <p>1 about what we're going to do here today with the 2 standard admonishments that we give. 3 The oath you took is the same oath you would take 4 in a court of law. 5 Do you understand that? 6 A. Yes. 7 Q. Have you testified in court? 8 A. Yes. 9 Q. And do you know how many times you've testified? 10 A. Handful of times. 11 Q. Okay. And the only difference is we're here at 12 my office. Because there's not a judge present if 13 there's objections made, we'll try to work out the 14 objections before you answer. 15 Do you understand that? 16 A. Okay. 17 Q. You still have to answer even if they object, 18 unless your counsel instructs you not to answer. 19 Do you understand that? 20 A. Okay. 21 Q. You have to answer aloud, and you're doing a good 22 job. Many times in conversations we say uh-huh or head 23 gestures or hand gestures, but to make sure we get a 24 clear record, you have to give us an audible answer. 25 Do you understand that?</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Understood.</p> <p>2 Q. Likewise, if my questions don't make any sense to</p> <p>3 you, you don't understand the question, you have the</p> <p>4 right to ask me to repeat it and clarify it until you do</p> <p>5 understand it. Okay?</p> <p>6 A. Okay.</p> <p>7 Q. The court reporter will put together a transcript</p> <p>8 in a couple of weeks. You'll have an opportunity to</p> <p>9 read and review and make changes in the transcript if</p> <p>10 you see fit.</p> <p>11 Do you understand that?</p> <p>12 A. I understand that.</p> <p>13 Q. If you do make changes and the case goes to trial</p> <p>14 and you come into trial and you made changes, I can call</p> <p>15 into question your ability to give me your best</p> <p>16 recollection on today's date and either call into</p> <p>17 question your ability to remember or tell the truth.</p> <p>18 Do you understand that?</p> <p>19 A. Understood.</p> <p>20 Q. In preparation for your deposition, have you</p> <p>21 looked at any documents?</p> <p>22 A. Not today.</p> <p>23 Q. Okay. At any time since the lawsuit was filed?</p> <p>24 A. We -- we had a meeting one time probably -- how</p> <p>25 many months ago?</p>	<p style="text-align: right;">Page 8</p> <p>1 A. A little over six years.</p> <p>2 Q. And I know that -- what you grew up in Cedar City</p> <p>3 area?</p> <p>4 A. Negative. I grew up on 28th Street.</p> <p>5 Q. Oh, you did?</p> <p>6 A. Yes.</p> <p>7 Q. Did you go to school in Southern Utah?</p> <p>8 A. No. It was out here in Nevada.</p> <p>9 Q. Okay.</p> <p>10 A. I went to school at Roy Martin, and then --</p> <p>11 actually I went to Sunrise Acres, Roy Martin, and Desert</p> <p>12 Pines.</p> <p>13 Q. So you're a native?</p> <p>14 A. I've been here since I was eight.</p> <p>15 Q. And have you also attended some college?</p> <p>16 A. Yes. I'm currently in college.</p> <p>17 Q. Where is that at?</p> <p>18 A. University of Phoenix.</p> <p>19 Q. I had that part right. I thought you were from</p> <p>20 Southern Utah.</p> <p>21 A. Nope.</p> <p>22 Q. Do you have military?</p> <p>23 A. Yes.</p> <p>24 Q. And how much military do you have?</p> <p>25 A. Eight years.</p>
<p style="text-align: right;">Page 7</p> <p>1 MR. ANDERSON: The one with me?</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. ANDERSON: Just tell him what you</p> <p>4 reviewed and looked at. Don't tell him what we said.</p> <p>5 THE WITNESS: We just reviewed the documents</p> <p>6 because I was unfamiliar with the case, and then I</p> <p>7 reviewed it and recollected it and that was it.</p> <p>8 MR. ANDERSON: And the video.</p> <p>9 THE WITNESS: And the video.</p> <p>10 MR. POTTER: All right.</p> <p>11 BY MR. POTTER:</p> <p>12 Q. How long ago did you see the video? Do you</p> <p>13 remember?</p> <p>14 A. I could not tell you what that date was.</p> <p>15 Q. Okay. Did you see yourself in the video?</p> <p>16 A. No.</p> <p>17 Q. Okay. Save me some time. We won't play it then.</p> <p>18 I want to go through a little bit about your</p> <p>19 history. I'm not trying to -- I know you answered some</p> <p>20 interrogatories and I've reviewed those, but I want to</p> <p>21 get into your history and then some of your training and</p> <p>22 then get into the incident.</p> <p>23 A. Okay.</p> <p>24 Q. All right. And can you tell me first of all, how</p> <p>25 long have you been a police officer?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. And part of it is as a reserves?</p> <p>2 A. Yes. Part of it active, part of it national</p> <p>3 guard, and part of it reservist.</p> <p>4 Q. And when you were in the service, what did you</p> <p>5 do?</p> <p>6 A. I had two jobs. First, I was a tank operator for</p> <p>7 the M1 Abrams and the second I was a cavalry scout.</p> <p>8 Q. And were you deployed overseas?</p> <p>9 A. Yes. I went to Iraq for 18 months.</p> <p>10 Q. Okay. Were you decorated at all?</p> <p>11 A. I have -- I'm maxed out on awards.</p> <p>12 Q. And how did it come about that you went to work</p> <p>13 for Metro?</p> <p>14 A. After I got out of the military, I was on leave</p> <p>15 from Iraq and I got my wife pregnant and instead of</p> <p>16 going special forces, I decided to stay and join the</p> <p>17 police to try to join SWAT.</p> <p>18 Q. Approximately what year was your hire?</p> <p>19 A. 2008.</p> <p>20 Q. And have you got on SWAT yet?</p> <p>21 A. Negative. Tested once.</p> <p>22 Q. During the time that you've been with the police</p> <p>23 department, have you ever had any discipline for any</p> <p>24 reason?</p> <p>25 A. Negative.</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q. Have you ever been named in a lawsuit prior to 2 this?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. Have you ever been the focus of an internal 5 affairs investigation?</p> <p>6 A. Not necessarily. I've had for domestic 7 violation. My wife got arrested, so internal affairs 8 came out.</p> <p>9 Q. Were you the victim?</p> <p>10 A. Yes.</p> <p>11 Q. How long ago was that?</p> <p>12 A. That was a year ago.</p> <p>13 Q. And do you know the outcome of that particular 14 matter?</p> <p>15 A. No.</p> <p>16 Q. Any other internal affairs investigations?</p> <p>17 A. None that cumulate into anything. Every once in 18 awhile someone will call in a complaint, and it will get 19 dissolved without me knowing even where it came from.</p> <p>20 Q. Have you ever had to give interviews on other 21 matters?</p> <p>22 A. I've never actually given an interview to 23 internal affairs.</p> <p>24 Q. Have you ever been trained as a critical incident 25 officer?</p>	<p style="text-align: right;">Page 12</p> <p>1 just be aware, you know, if it's -- if, you know, you 2 take someone to the ground or anything like that.</p> <p>3 Q. Are you aware of any written policies concerning 4 taking people to the ground on asphalt during the summer 5 months?</p> <p>6 A. I'm not aware of a specific policy.</p> <p>7 Q. And this particular matter after the incident 8 occurred -- first of all, was Sergeant Harney, was he 9 your sergeant on this matter?</p> <p>10 A. Negative.</p> <p>11 Q. Who was your sergeant?</p> <p>12 A. Sergeant Kleehammer (Phonetic) for swing shift. 13 I want to say Sergeant Harney was day shift. This 14 happened during the transition period.</p> <p>15 Q. Approximately what time is the transition period?</p> <p>16 A. Around three o'clock.</p> <p>17 Q. What time would your shift have started?</p> <p>18 A. Well, we start at 2:30. We have briefing. We 19 usually hit the streets about 3:00. So depending on 20 logging on how your computer is, depending on how early 21 you get out there between 3:00 and 3:15 is when you'll 22 be logged on, ready to handle calls.</p> <p>23 Q. Do you recall what the area was that you were 24 patrolling on the date in question of August the 7th, 25 2011?</p>
<p style="text-align: right;">Page 11</p> <p>1 A. Negative.</p> <p>2 Q. Have you ever been trained in recognition of 3 excited delirium?</p> <p>4 A. I've never taken a CIT class.</p> <p>5 Q. How about within your general training either in 6 academy or afterwards? Have you ever been trained in 7 recognition of excited delirium?</p> <p>8 A. Yes, I'm familiar with it. We went over it a few 9 times, the signs and symptoms.</p> <p>10 Q. Do you know what the signs are?</p> <p>11 A. You got excessive sweating. They got, you know, 12 they're agitated. Sometimes they have restricted eyes. 13 I think the most part is just they're profusely sweating 14 and just mental confusion.</p> <p>15 Q. Prior to the deposition, we were sitting here and 16 we were discussing about burns.</p> <p>17 Were you ever trained in the dangers of asphalt 18 burns as a police officer?</p> <p>19 A. There was never a specific -- it was just one of 20 those food-for-thought things, just be aware of it. 21 There was never a specific class just dedicated to burns 22 and having people on asphalt.</p> <p>23 Q. Okay. And when you talk about food for thought, 24 what are you referring to?</p> <p>25 A. I think it's just the common sense when they say</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes. I was working Enterprise area command. I 2 was actually responsible for Sam Ocean area, which is 3 Flamingo South to St. Rose Parkway and then the 15 west 4 to Red Rock.</p> <p>5 Q. This particular incident -- these resulted in 6 burns on my client Ms. Paulos, has it ever been used to 7 your knowledge as a training issue?</p> <p>8 A. No.</p> <p>9 Q. Did any supervisor ever discuss with you after 10 this occurred what had happened?</p> <p>11 A. No.</p> <p>12 Q. Were you ever asked to write out a report 13 concerning the incident?</p> <p>14 A. No.</p> <p>15 Q. I know that you took some statements at the 16 request of the sergeant. Do you remember who the 17 sergeant was that requested you to take statements?</p> <p>18 A. I don't remember his name. It was a traffic 19 sergeant.</p> <p>20 Q. And when you say a traffic sergeant, what does 21 that mean?</p> <p>22 A. He works the traffic. It's a different division 23 of our department.</p> <p>24 Q. Is he a motorcycle officer?</p> <p>25 A. Yes, motorcycle officer.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. Was he the ranking officer at the scene, if you 2 know?</p> <p>3 A. I think he's who took over the scene because at 4 first it was day shift and after the sergeant came out, 5 the sergeant for day shift left and then the traffic 6 sergeant stayed.</p> <p>7 Q. Do you know if the day shift sergeant was 8 Sergeant Jason Harney?</p> <p>9 A. No. I came after the fact of everything.</p> <p>10 Q. And what do you mean by after the fact?</p> <p>11 A. After the incident occurred.</p> <p>12 Q. Were you in a patrol vehicle?</p> <p>13 A. Yes.</p> <p>14 Q. And do you remember what your call numbers were?</p> <p>15 A. I would have to assume I was 3 Sam 41. That's 16 been my call sign for a while.</p> <p>17 Q. And do you recall what you received in terms of 18 the call or how you responded?</p> <p>19 A. I believe I just drove there. I didn't go code 20 or anything because everything was already pretty much 21 handled by the time I got there.</p> <p>22 Q. Okay. Do you recall whether you saw an 23 individual that had been detained or placed under 24 arrest?</p> <p>25 A. Yes, I saw Ms. Paulos.</p>	<p style="text-align: right;">Page 16</p> <p>1 suspected DUI?</p> <p>2 A. I'd be making a number up. I couldn't tell you.</p> <p>3 Q. Is it a frequent occurrence?</p> <p>4 A. It happens. Sometimes, you know, you don't 5 necessarily respond to a DUI, but you'll stop a car, and 6 it will become DUI. Or someone will call in some DUI in 7 the area. So it could occur one time to four times a 8 day depending on how the calls are.</p> <p>9 Q. Okay. And you said that she seemed to be talking 10 to her herself?</p> <p>11 A. She was shouting to herself.</p> <p>12 Q. What do you mean by that?</p> <p>13 A. Like someone that has some kind of mental 14 condition going on or under the influence of a drug.</p> <p>15 Q. And as a patrol officer, are you trained to 16 differentiate between whether an individual has a mental 17 condition or is under the influence?</p> <p>18 A. Sometimes it's hard to tell because sometimes the 19 drugs can lead to mental conditions.</p> <p>20 Q. Do you know if anybody had interviewed her about 21 whether she was under the influence of drugs?</p> <p>22 A. No.</p> <p>23 Q. No, meaning you don't know --</p> <p>24 A. No, I don't know if anybody talked to her about 25 it or not yet.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. And did you ever have any conversations 2 with her?</p> <p>3 A. No. As I got there, she was sitting on the grass 4 shouting profanities about how she hates men just to 5 herself, and I was like I better stay away from there.</p> <p>6 Q. Okay. What do you mean by that?</p> <p>7 A. What do you mean? By stay away from there?</p> <p>8 Q. No. In terms of she was sitting on the grass. 9 Can you be anymore descriptive? Was she sitting up?</p> <p>10 A. She was sitting down on the grass and she was in 11 handcuffs and it was a shaded area and that's all I 12 remember, and I just remember her shouting.</p> <p>13 Q. And can you be any more specific as to what she 14 was saying?</p> <p>15 A. You know, I just -- I just know it was diverted 16 towards men, and that's why I stayed away from there 17 because I didn't want to agitate her more. So that's 18 why I walked away.</p> <p>19 Q. Did you know why she was in custody?</p> <p>20 A. I had a hunch.</p> <p>21 Q. What was your hunch?</p> <p>22 A. For DUI and then from what the radio traffic I 23 heard.</p> <p>24 Q. And do you have any recollection prior to this 25 incident how many times you'd been on a call for</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Okay.</p> <p>2 A. I stayed away from the investigation.</p> <p>3 Q. Do you know who was doing the investigation?</p> <p>4 A. I couldn't tell you. I'd have to assume that the 5 traffic division since it was an accident with the 6 damage.</p> <p>7 Q. Did you conduct any visualization of her vehicle 8 or --</p> <p>9 A. I -- I was the one that impounded her vehicle.</p> <p>10 Q. Okay. And what was your process when you did 11 that?</p> <p>12 A. What I do is I -- first, I make sure that the 13 VINs and the plates match up, and then from there, I do 14 an inventory of the car. And then I document any damage 15 that's on the vehicle or make sure there's no other 16 drugs or narcotics in the vehicle, and then from there, 17 I call in a tow truck.</p> <p>18 Q. Okay. Did you determine whether there were any 19 drugs in the vehicle?</p> <p>20 A. Honestly, I don't remember.</p> <p>21 Q. Okay. Did you do an impound sheet?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. If you would have found drugs, would you 24 have booked them?</p> <p>25 A. They would have went -- unless they were</p>

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<p style="text-align: right;">Page 18</p> <p>1 prescriptions for her, in her name, if they were 2 anything outside of that, they would have been impounded 3 as evidence. 4 Q. And do you recall whether you found any alcohol 5 containers or anything of that nature? 6 A. The only thing I remember off the top of my head 7 without reviewing something was she had computers in her 8 car. 9 Q. Okay. Did you impound the computers? 10 A. I think I just listed them and documented them. 11 I had no reason to take them. 12 Q. Did you examine them at all? 13 A. Yes. I looked for the serial numbers and made 14 sure they weren't stolen. 15 Q. Did you turn them on? 16 A. No. 17 Q. And you determined they weren't stolen? 18 A. Yes. They didn't come back stolen at that time. 19 Q. Did they come back at any other time? 20 A. Not to my knowledge. 21 Q. And just so we're clear here, you never placed 22 your hands on Ms. Paulos at any time? 23 A. No. 24 Q. Did you ever obtain a GED in Cedar City? 25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. And it was your interpretation she was either 2 under the influence of some kind of narcotic or she was 3 mentally ill? 4 A. Yes. 5 Q. Okay. Did you observe any type of what you would 6 call delirium? 7 A. Obviously she was shouting to herself. 8 Q. So obviously she would be suffering from delirium 9 or possibly from delirium? 10 MR. ANDERSON: Objection. Form. Go ahead 11 and answer. 12 MR. SMERBER: Join. 13 MR. ANDERSON: You can go ahead and answer. 14 THE WITNESS: Oh, okay. She possibly could. 15 It's -- I didn't fully interview her, so I couldn't get 16 a better assumption of whether it was drugs or a mental 17 illness. 18 MR. POTTER: Okay. 19 BY MR. POTTER: 20 Q. Did you talk to an Officer Swan at the scene? 21 A. The only officer I remember talking to was an 22 Officer Mat Covatich (Phonetic) and he was helping me 23 inventory the vehicle. 24 Q. Did you at any time make any observations that 25 she was overly aggressive? She being Cristina Paulos?</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Okay. When was that? 2 A. That was probably early 2004. 3 Q. And what were you doing in Cedar City? 4 A. It's how the GED works out there. If you take 5 the test out here to get your GED, it can take eight or 6 nine months to get your results back. If you go to 7 Cedar City, it takes two weeks. 8 Q. Oh, okay. 9 A. So I did it so I can get into the military. 10 Q. I understand. 11 And you also answered you never stopped or 12 detained Cristina Paulos; correct? 13 A. That's correct. 14 Q. And you never used any physical force and never 15 touched her; correct? 16 A. That's correct. 17 Q. And there were no tactical plans or anything of 18 that nature that you were made aware of? 19 A. Nope. 20 Q. And the answer kind of tailed out here. It looks 21 like it stopped, but in any event, you arrived after she 22 was on what you said was a grassy area. She was seated 23 there and she was, what, yelling to herself about how 24 she hated men? 25 A. Yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. I would have to say aggressive because she was 2 yelling that hateful stuff towards men. Just -- I 3 didn't see her kicking or -- anybody. 4 Q. You didn't see her physically fight with anybody? 5 A. No. I could just tell she was amped up still 6 just by how she was yelling. 7 Q. Any observation of mood swings? 8 A. I didn't see what she was like before. 9 Q. Okay. Mark this one as 1. 10 (Exhibit 1 was marked for identification.) 11 BY MR. POTTER: 12 Q. Do you recognize this voluntary? 13 A. Yes. It was one of the ones I signed and helped 14 fill out. 15 Q. And by helping fill out, what exactly in terms of 16 the handwriting on there -- what handwriting is yours, 17 if any? 18 A. It looks like the specific crime, location of 19 occurrence, the -- pretty much that top block and the 20 event number along with the bottom part of my signature 21 and printed name. 22 Q. And the accident was injury. Do you recall who 23 was injured? 24 A. I don't remember. Usually what happens is I 25 don't do the investigation. They hand out a bunch of</p>

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1 voluntary statements, and I just make sure that they
2 have the vehicles on there and some of the details and I
3 sign it. And then whoever investigates, reviews them
4 all, and then they make the determination.

5 Q. Do you recall if you had any conversations with
6 any of the Palms employees or security?

7 A. I don't remember.

8 Q. Or whether they were present when you arrived?

9 A. Palms security was present.

10 Q. Can you identify any of the individuals who were
11 present?

12 A. I could not recognize them.

13 Q. Okay. Do you recall how you knew they were Palms
14 employees?

15 A. How they were dressed.

16 Q. Do you recall how they were dressed?

17 A. I want to say one was in an actual security
18 uniform. It was a female, and I think the other ones
19 standing around they were in their black suits; and I
20 think they were just trying to help divert some of the
21 traffic because it was over by the entrance.

22 Q. The individual that filled out the statement in
23 Exhibit 1, Kim Marie Bak, do you recall anything about
24 that individual?

25 A. No.

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1 Q. And how did it come about that you were assigned
2 to her?

3 A. The sergeant just said, hey, you, hand out
4 voluntaries.

5 Q. Meaning to you?

6 A. To me, directing towards me.

7 Q. All right. And the other document that I have is
8 a -- Mark this 2.

9 (Exhibit 2 was marked for identification.)

10 BY MR. POTTER:

11 Q. Take a look at that. Let me know when you've had
12 a chance to look at it.

13 A. Yes. That's the vehicle impound sheet that I
14 did.

15 Q. All right. And the information that you have on
16 the top of it about the owner of the vehicle, do you
17 recall how you obtained that information?

18 A. It would have been through the DMV.

19 Q. And physically how do you go about getting the
20 information from the DMV?

21 A. On my computer we have a program that says DMV.
22 Now the computer programs changed since 2011. They had
23 a DMV one and then you put in the plate number, and then
24 it returns and then you take the serial number or the
25 VIN number and then you just check it to confirm it with

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1 the actual VIN number and then make sure that everything
2 matches up, the year and the make.

3 Q. All right. And the information that you have
4 concerning about the driver being arrested for DUI on
5 that first part, first of all, Christina Natsuko, do you
6 know who that individual is?

7 A. That was Cristina Paulos.

8 Q. All right. And do you know how you came about
9 having the name Natsuko?

10 A. I asked the sergeant because I asked him what I
11 was impounding the vehicle for and then asked them what
12 the charge was that he was going to go with.

13 Q. Okay. And the fact that it was a DUI, is
14 there -- do you know if there was a drug recognition
15 officer on site or at the scene of the incident?

16 A. I don't know.

17 Q. Are you a drug recognition officer?

18 A. Negative.

19 Q. And then the information that's circle if present
20 speaks for itself, I guess. And then you also write
21 down areas or items that are not apart of the normal
22 inventory. How does that work?

23 A. What I try to do is I try to the best I can
24 actually document all her personal inventory, you know,
25 that way she doesn't lose anything or stuff comes up

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1 missing.

2 Q. And do you by reviewing this, does that refresh
3 your recollection of whether there were any type of
4 pills, narcotics, or controlled substances?

5 A. I didn't write any down, so there would have been
6 none.

7 Q. All right.

8 A. But that doesn't -- now if there was drugs in
9 there that was not prescribed to her, there is a chance
10 that those would have been taken without me inventorying
11 on there because she wouldn't have gotten that property
12 back. It wouldn't have went with the vehicle.

13 Q. Okay. But the computers and the other items, the
14 cell phones that were listed in here, they would have
15 gone with the vehicle?

16 A. Yes.

17 Q. Do you know how she was transported?

18 A. No, I do not.

19 Q. You know that you didn't transport her?

20 A. I did not transport her.

21 Q. Do you have any recollection of who handcuffed
22 her?

23 A. No. She was already handcuffed before I got
24 there.

25 Q. Okay. Fair enough.

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<p style="text-align: right;">Page 26</p> <p>1 Do you know if she had suffered any kind of head</p> <p>2 injuries that were visible to you?</p> <p>3 A. No.</p> <p>4 MR. POTTER: All right. I'll pass the</p> <p>5 witness.</p> <p>6 MR. SMERBER: I have nothing.</p> <p>7 EXAMINATION</p> <p>8 BY MR. ANDERSON:</p> <p>9 Q. Just a couple of real quick questions.</p> <p>10 Did you ever see Ms. Paulos on the pavement at</p> <p>11 all?</p> <p>12 A. No.</p> <p>13 Q. When you saw her on the grass, how close were you</p> <p>14 to her?</p> <p>15 A. I was probably, I'll say, ten feet away from her.</p> <p>16 Q. Do you recall what she was wearing?</p> <p>17 A. She was wearing a bathing suit.</p> <p>18 Q. Were her limbs exposed?</p> <p>19 A. Yes.</p> <p>20 Q. Arms and legs?</p> <p>21 A. Yes.</p> <p>22 Q. Did you notice any wounds to her arms or legs?</p> <p>23 A. No. The only thing that I saw was just the dirt</p> <p>24 transfer from the ground.</p> <p>25 Q. Did you notice any burns to her body?</p>	<p style="text-align: right;">Page 28</p> <p>1 where she had the skin grafts already.</p> <p>2 Q. Okay. Let me show you --</p> <p>3 A. I'm sure I saw those. Just what sticks out is</p> <p>4 the skin grafts.</p> <p>5 Q. Let me just mark this one as the next exhibit in</p> <p>6 order.</p> <p>7 (Exhibit 4 was marked for identification.)</p> <p>8 BY MR. POTTER:</p> <p>9 Q. This one is a pre-graft but post -- number 4 is a</p> <p>10 postincident but pre-grafting picture. It looks like</p> <p>11 it's been debrided.</p> <p>12 Do you recall seeing anything like that?</p> <p>13 A. No.</p> <p>14 Q. If in fact a situation like that exists, is an</p> <p>15 officer to your understanding required to use some type</p> <p>16 of -- or fill out some type of use of force?</p> <p>17 A. If they cause injury, they're supposed to do a</p> <p>18 blue team.</p> <p>19 Q. I'm sorry?</p> <p>20 A. They're supposed to do a blue team is what we</p> <p>21 call it. It's a use of force report.</p> <p>22 Q. The blue team?</p> <p>23 A. That's what we call it.</p> <p>24 Q. And what's involved in that?</p> <p>25 A. It's a bunch of drop-down boxes where you list</p>
<p style="text-align: right;">Page 27</p> <p>1 A. No.</p> <p>2 MR. ANDERSON: Nothing further.</p> <p>3 MR. POTTER: Let me just mark this one as 3.</p> <p>4 (Exhibit 3 was marked for identification.)</p> <p>5 EXAMINATION</p> <p>6 BY MR. POTTER:</p> <p>7 Q. Have you seen this picture before?</p> <p>8 A. I'm not sure. It doesn't stick out.</p> <p>9 Q. Do you recognize this individual as Cristina</p> <p>10 Paulos?</p> <p>11 A. I know it's her because I'm here, but if you</p> <p>12 would have shown this with a bunch of other pictures, I</p> <p>13 probably wouldn't have recognized her.</p> <p>14 Q. Okay. It shows a burn on her face or what I'll</p> <p>15 represent to you is a burn.</p> <p>16 Do you recall seeing anything of that nature on</p> <p>17 her face?</p> <p>18 A. No, I seen no injuries that stuck out. If that</p> <p>19 was present when I was there, that would have definitely</p> <p>20 sparked my attention.</p> <p>21 Q. And why is that?</p> <p>22 A. Because it's pretty noticeable.</p> <p>23 Q. If in fact there's a burn -- and you've seen the</p> <p>24 pictures of her legs also where she was burned?</p> <p>25 A. I saw -- the one that I remember is the news</p>	<p style="text-align: right;">Page 29</p> <p>1 the individual, demeanor, and then you write a synopsis</p> <p>2 of what occurred and what level of force you used.</p> <p>3 Q. Okay.</p> <p>4 A. And then that gets sent. I believe it goes</p> <p>5 internally to internal affairs and the use of force</p> <p>6 review board.</p> <p>7 Q. Do you know whether you had to testify in any</p> <p>8 other proceedings like a use of force board or anything</p> <p>9 of that nature in this matter?</p> <p>10 A. No, I haven't.</p> <p>11 Q. Is this the only time you've testified concerning</p> <p>12 this incident?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have any knowledge of whether it ever went</p> <p>15 to court on the DUI?</p> <p>16 A. I do not have knowledge if it did.</p> <p>17 Q. Okay. All right. Thank you.</p> <p>18 MR. ANDERSON: Nothing.</p> <p>19 MR. SMERBER: Nothing.</p> <p>20 (The proceedings concluded at 1:08 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1 STATE OF NEVADA)

) SS:

2 COUNTY OF CLARK)

3 CERTIFICATE OF REPORTER

4 I, Brittany J. Castrejon, a Certified Court
5 Reporter licensed by the State of Nevada, do hereby
6 certify: That I reported the DEPOSITION OF OFFICER JAKE
7 VON GOLDBERG, on Monday, September 29, 2014, at
8 12:32 p.m.;

9 That prior to being deposed, the witness was duly
10 sworn by me to testify to the truth. That I thereafter
11 transcribed my said stenographic notes into written
12 form, and that the typewritten transcript is a complete,
13 true and accurate transcription of my said stenographic
14 notes. That the reading and signing of the transcript
15 was not requested.

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

22 IN WITNESS WHEREOF, I have set my hand in my
23 Office in the County of Clark, State of Nevada, this 8th
24 day of October, 2014.

25 
Brittany J. Castrejon, CCR NO. 926

Exhibit H

OFFICER JEFFREY B. SWAN - 09/30/2014

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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
COUNTY OF CLARK)

3 I, Michelle R. Ferreyra, a Certified Court

4 Reporter licensed by the State of Nevada, do hereby

5 certify: That I reported the deposition of OFFICER

6 JEFFREY B. SWAN, commencing on TUESDAY, SEPTEMBER 30,

7 2014, at 12:35 p.m.

8 That prior to being deposed, the witness was

9 duly sworn by me to testify to the truth. That I

10 thereafter transcribed my said stenographic notes into

11 written form, and that the typewritten transcript is a

12 complete, true and accurate transcription of my said

13 stenographic notes, and that a request has been made to

14 review the transcript.

15 I further certify that I am not a relative,

16 employee or independent contractor of counsel or of any

17 of the parties involved in the proceeding, nor a person

18 financially interested in the proceeding, nor do I have

19 any other relationship that may reasonably cause my

20 impartiality to be questioned.

21 IN WITNESS WHEREOF, I have set my hand in my

22 office in the County of Clark, State of Nevada, this

23 14th day of October, 2014.

24

25


MICHELLE R. FERREYRA, CCR No. 876

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3)
4 CRISTINA PAULOS, an)
individual,)
5 Plaintiff,)
6 vs.) CASE NO.:
2:13-cv-01546-JCM-PAL
7 FCH1, LLC, a Nevada)
limited liability company;)
8 LAS VEGAS METROPOLITAN)
POLICE DEPARTMENT, a)
9 government entity; JAKE VON)
GOLDBERG, an individual;)
10 JEFFERY B. SWAN, an)
individual; JEANNE HOUSTON,)
11 an individual; AARON BACA,)
an individual; and DOES 1)
12 through 10,)
13 Defendants.)
14 _____)
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DEPOSITION OF OFFICER JEFFREY B. SWAN

TUESDAY, SEPTEMBER 30, 2014

12:35 P.M.

AT 1125 SHADOW LANE

LAS VEGAS, NEVADA

REPORTED BY: MICHELLE R. FERREYRA, CCR No. 876

JOB NO.: 221726-A

OFFICER JEFFREY B. SWAN - 09/30/2014

<p style="text-align: right;">Page 2</p> <p>1 DEPOSITION OF OFFICER JEFFREY B. SWAN, 2 taken at 1125 Shadow Lane, Las Vegas, Nevada, on 3 TUESDAY, SEPTEMBER 30, 2014, at 12:35 p.m., before 4 Michelle R. Ferreyra, Certified Court Reporter, in and 5 for the State of Nevada. 6 APPEARANCES: 7 For the Plaintiff: 8 POTTER LAW OFFICES 9 BY: CAL J. POTTER, III, ESQ. 10 1125 Shadow Lane 11 Las Vegas, NV 89102 12 (702) 385-1954 (702) 385-9081 Fax info@potterlawoffices.com</p> <p>For Defendants Las Vegas Metropolitan Police Department, Jake Von Goldberg, Jeffrey B. Swan, Jeanne Houston, Aaron Baca:</p> <p>MARQUIS AURBACH COFFING BY: CRAIG R. ANDERSON, ESQ. 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711 (702) 382-5816 Fax canderson@maclaw.com</p> <p>For Palms Hotel & Casino: MORAN LAW FIRM, LLC BY: TRAVIS DUNSMOOR, ESQ. 630 South Fourth Street Las Vegas, NV 89101 (702) 384-8424 (702) 384-6568 Fax t.dunsmoor@moranlawfirm.com</p>	<p style="text-align: right;">Page 4</p> <p>1 LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 30, 2014; 2 12:35 P.M. 3 -000- 4 (In an off-the-record discussion held prior to the 5 commencement of the deposition proceedings, counsel 6 agreed to waive the court reporter requirements under 7 Rule 30(b)(4) of the Nevada Rules of Civil Procedure.) 8 9 MR. POTTER: Let's go ahead and put our 10 appearances on the record. Go ahead, Travis. 11 MR. DUNSMOOR: Travis Dunsmoor, Moran Law 12 Firm. I am here for the Palms. 13 MR. ANDERSON: Craig Anderson on behalf of 14 Las Vegas Metropolitan Police Department, Officer Baca, 15 Officer Swan, and Officer Von Goldberg. 16 MR. POTTER: Can you go ahead and swear in the 17 witness? 18 And by the way, I'm Cal Potter. I don't know 19 if I introduced myself. 20 THE WITNESS: That's fine, sir. 21 MR. POTTER: I represent the plaintiff. 22 Whereupon, 23 OFFICER JEFFREY B. SWAN, 24 having been first duly sworn to testify to the truth, 25 the whole truth and nothing but the truth, was examined</p>
<p style="text-align: right;">Page 3</p> <p>1 I N D E X 2 WITNESS: OFFICER JEFFREY B. SWAN 3 EXAMINATION 4 Examination By Mr. Potter 5 6 7 INDEX TO EXHIBITS 8 EXHIBIT 9 Exhibit 1 Notice of Deposition of Officer Jeffrey B. Swan 10 11 Exhibit 2 First Amended Complaint filed by Mr. Brent Bryson 12 Exhibit 3 Citation in this matter 13 Exhibit 4 Officer Swan's report 14 Exhibit 5 Copy of lab report 15 Exhibit 6 Maricopa County Study, also sometimes called The Streets of Fire Study 16 Exhibit 7 Article by Paul Harrison, dated June 26, 2013 17 18 Exhibit 8 Ms. Paulos' facial shot 19 Exhibit 9 Photo of Ms. Paulos' leg 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 and testified as follows: 2 3 EXAMINATION 4 BY MR. POTTER: 5 Q. Can you state your name for the record? 6 A. Jeffrey B. Swan. 7 Q. Officer Swan, have you ever had your 8 deposition taken before? 9 A. Yes, I have, several times. 10 Q. Do you know how recently you were deposed? 11 A. I believe three months ago. 12 Q. All right. And when you say "several times," 13 is it more than ten? 14 A. In the last 13 years, yes. 15 Q. And related to your duties as a traffic 16 officer? 17 A. Yes. 18 Q. Have you ever given depositions in other than 19 car accident type situations? 20 A. No, sir. 21 Q. Let me just go over what we're going to do 22 here today. The oath is the same oath that you would 23 take in a court of law. Do you understand that? 24 A. Yes, sir. 25 Q. It carries with it the same solemnities and</p>

OFFICER JEFFREY B. SWAN - 09/30/2014

<p style="text-align: right;">Page 6</p> <p>1 sanctions if you were shown not to tell the truth. Do 2 you understand that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. I say that not to suggest you are not going to 5 tell the truth, but to impress upon the fact that even 6 though we're in my conference room, it's as if we were 7 in the courthouse. Do you understand that?</p> <p>8 A. Yes, sir, I do.</p> <p>9 Q. Have you testified in a number of traffic 10 criminal type situations, DUIs, things of that nature?</p> <p>11 A. Yes, sir, I do.</p> <p>12 Q. All right. The court reporter here, of 13 course, is taking down everything that we're saying, my 14 questions as well as your answers, any questions that 15 other counsel may have, as well as the objections that 16 may be made. If there's an objection made, we need to 17 make sure we get it sorted out. So rather than give an 18 answer, we will just try and work out the objection. 19 Unless you are instructed by Mr. Anderson not to answer 20 a question, you still have to answer the question after 21 the objection. Do you understand that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. The court reporter is taking everything we're 24 saying down. We need to make sure we get a clear 25 record. Many times in conversations we use head</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Yes, sir, I do.</p> <p>2 Q. And by the exhibits, what do you mean?</p> <p>3 A. I mean as far as the traffic report, my 4 incident crime report, my citation, and the CAD report 5 that -- of all the officers that were involved on that 6 scene.</p> <p>7 Q. Now, in terms of the deposition here, I'm 8 going to ask you some background question, and then I 9 will ask you about the incident itself and training 10 issues and things of that nature, but I wanted 11 to -- and I have your answers to interrogatories that 12 you answered previously, but I just wanted to get some 13 clarification. Where did you graduate high school, 14 what city and state?</p> <p>15 A. Chesterton High -- it's called Chesterton High 16 School, Chesterton, Indiana.</p> <p>17 Q. That was in 1980?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And then you went into the Air Force for, 20 what, 20 years?</p> <p>21 A. Yes, sir, I did.</p> <p>22 Q. You were trained in law enforcements?</p> <p>23 A. Security forces.</p> <p>24 Q. What's the difference?</p> <p>25 A. Security forces is a more or less a ground and</p>
<p style="text-align: right;">Page 7</p> <p>1 gestures or uh-huhs or hand gestures. But to make sure 2 we get a clear record, we ask you to answer aloud. Do 3 you understand that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. If you don't give me an answer aloud, I may 6 interrupt you and ask for a clarification on your 7 answer. I'm not trying to be rude to you, but I'm just 8 trying to make sure I get a clear record. Do you 9 understand that?</p> <p>10 A. Yes, sir, I do.</p> <p>11 Q. If my questions don't make any sense, you have 12 a right to ask me to repeat it, clarify it so that you 13 do understand it. Do you understand that?</p> <p>14 A. Yes, sir, I do.</p> <p>15 Q. In preparation for your deposition, do you 16 recall what you reviewed or if you reviewed any 17 materials?</p> <p>18 A. I reviewed the exhibits that were given to me 19 by my attorney.</p> <p>20 Q. That's the other thing, I don't need to go 21 into anything you may have discussed with your 22 attorney, but I am entitled to have your 23 understandings, as well as any conversations you may 24 have had with other police officers in the matter. Do 25 you understand that?</p>	<p style="text-align: right;">Page 9</p> <p>1 pound as far as security at the air base, air base 2 ground defense.</p> <p>3 Q. How did it come about that you ended up in 4 Las Vegas?</p> <p>5 A. I was stationed here in an undisclosed 6 location in Nevada.</p> <p>7 Q. Were you recruited to join Metro?</p> <p>8 A. I actively seeked application with Metro 9 through friends of mine that were Metro officers who 10 suggested that I apply, and I did so.</p> <p>11 Q. During the time that you worked security, did 12 you ever work in the Las Vegas area with the Air Force?</p> <p>13 A. No, sir, I did not.</p> <p>14 Q. Were you ever trained into the dangers of hot 15 asphalt and summer months at any of the training 16 facilities or Air Force bases that you worked at?</p> <p>17 A. No, sir, I was not, not while I was in the 18 Air Force.</p> <p>19 Q. How about when you went to work with Metro, 20 did you ever learn about the dangers of an individual 21 being placed on hot asphalt during the time that they 22 would be either cuffed or taken into control?</p> <p>23 A. Yes, sir, I did.</p> <p>24 Q. Where did you learn that or discuss that?</p> <p>25 A. It is taught in the academy, and it's also</p>

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<p style="text-align: right;">Page 10</p> <p>1 re-enforced during periodic train.</p> <p>2 Q. Do you know in what type of class it's taught?</p> <p>3 A. Custody and control, officer safety, and</p> <p>4 suspect control and safety.</p> <p>5 Q. What is taught, if you can recall? Are the</p> <p>6 dangers of burns taught or --</p> <p>7 A. Due to the -- the area of living in Las Vegas,</p> <p>8 due to the extreme heat, sometimes the pavement can</p> <p>9 exceed high temperatures. And once a suspect is</p> <p>10 brought into control should be immediately taken off</p> <p>11 the pavement if deemed suitable or able to do at that</p> <p>12 time.</p> <p>13 Q. Are you aware of any policy or procedures that</p> <p>14 were taught concerning what we've just discussed?</p> <p>15 A. I believe it may be in policy under</p> <p>16 handcuffing and restraint and the course continuum.</p> <p>17 Q. Prior to this incident of August 7, 2011, have</p> <p>18 you ever been involved in a situation where an</p> <p>19 individual is burned as a result of being placed on hot</p> <p>20 pavement?</p> <p>21 A. No, sir, not -- not me personally.</p> <p>22 Q. What do you mean by that?</p> <p>23 A. I have never witnessed it, and I have never</p> <p>24 been the officer that was involved in it.</p> <p>25 Q. Do you have any knowledge of other incidents</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. POTTER: This can be 2.</p> <p>2 (Exhibit 2 marked.)</p> <p>3 BY MR. POTTER:</p> <p>4 Q. This involves a lawsuit that was filed by a</p> <p>5 prominent attorney here in Las Vegas named Mr. Brent</p> <p>6 Bryson, and it involved a Jean Anne Hughes and an</p> <p>7 officer listed as Carlos Mendoza and Jim Monaco. I had</p> <p>8 asked you about Officer Monaco. Do you know an Officer</p> <p>9 Carlos Mendoza?</p> <p>10 A. No, sir, I do.</p> <p>11 Q. Were you ever under Jerry Keller when he was</p> <p>12 sheriff?</p> <p>13 A. Yes, I was.</p> <p>14 Q. All right. And this involves a circumstance</p> <p>15 where an individual received serious second degree and</p> <p>16 third degree burns, I believe is what's spelled out in</p> <p>17 it. Do you recall if you were ever trained and an</p> <p>18 issue dealing with a situation involving a Jean Anne</p> <p>19 Hughes?</p> <p>20 A. No, sir, I was not.</p> <p>21 Q. It took place at the Marker Down Lounge,</p> <p>22 June the 4th of 2000, so it would have been before you</p> <p>23 went through the academy; is that correct?</p> <p>24 A. I was still in the Air Force, sir.</p> <p>25 Q. When cases occur, do you have any knowledge of</p>
<p style="text-align: right;">Page 11</p> <p>1 that involved individuals being burned on pavement?</p> <p>2 A. I have heard of other cases through the</p> <p>3 Department where that has happened from redness to the</p> <p>4 skin, as far as I know.</p> <p>5 Q. As you sit here, do you have in your mind</p> <p>6 where and when you heard about the other burns?</p> <p>7 A. I believe it was when I just came out of the</p> <p>8 academy -- or no. I had been in field training, and it</p> <p>9 was starting to become summer, and the field training</p> <p>10 officer made sure -- reiterated that, that once the</p> <p>11 temperatures come -- come up, you need to be aware that</p> <p>12 you can't put a suspect down on the ground on hot</p> <p>13 pavement or unless it's entirely that you have to</p> <p>14 because of your safety and the suspect's safety where</p> <p>15 it has to be -- they have to be controlled and put on</p> <p>16 the ground.</p> <p>17 Q. Do you know an Officer Monaco?</p> <p>18 A. Excuse me?</p> <p>19 Q. Do you know an Officer Monaco?</p> <p>20 A. No, I don't.</p> <p>21 Q. There was a case when you would have been</p> <p>22 coming out of the academy training.</p> <p>23 MR. POTTER: If I can mark this as -- I will</p> <p>24 mark your notice as 1.</p> <p>25 (Exhibit 1 marked.)</p>	<p style="text-align: right;">Page 13</p> <p>1 whether they're used as training issues, similar to</p> <p>2 what would occur if there had been some type of</p> <p>3 breakdown in policy or practice? Do you recall during</p> <p>4 the time that you went through the academy whether, in</p> <p>5 fact, you were trained on specific fact patterns from a</p> <p>6 case?</p> <p>7 A. Usually, it's been provided during training in</p> <p>8 scenarios, but we're not aware of who the -- the victim</p> <p>9 was or who the officers were. Basically, it's</p> <p>10 something has happened, we learn from it, and then they</p> <p>11 train it to us so that won't happen again.</p> <p>12 Q. In this particular instance, do you have any</p> <p>13 recollection of specific fact patterns dealing with</p> <p>14 training -- I know you talked about the field training,</p> <p>15 but where they went over just putting an individual</p> <p>16 down on the asphalt?</p> <p>17 A. Yeah. Periodic training, when we have</p> <p>18 quarterly defense tactics and as it gets warmer from</p> <p>19 the fall to wintertime to when it gets spring, usually</p> <p>20 it's brought up in training, that be aware that the</p> <p>21 temperatures are coming up and you need to be cognizant</p> <p>22 of the suspect and the surroundings as far as asphalt</p> <p>23 and people in the area and that such.</p> <p>24 Q. Have you, yourself, ever trained that to other</p> <p>25 officers?</p>

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<p>Page 14</p> <p>1 A. No.</p> <p>2 Q. Have you ever served as a field training</p> <p>3 officer?</p> <p>4 A. No, I have not.</p> <p>5 Q. Were you ever on SWAT?</p> <p>6 A. No, sir.</p> <p>7 Q. Has most of your service been with traffic?</p> <p>8 A. I served five years on patrol in northeast and</p> <p>9 grave yards on the weekend, and then I aspired to do</p> <p>10 traffic. And then I went to traffic, and I have been</p> <p>11 there for the last seven years.</p> <p>12 Q. Now, in terms of your actual involvement</p> <p>13 throughout your course and career with the Department,</p> <p>14 have you ever been disciplined for any reason?</p> <p>15 A. No, I have not.</p> <p>16 Q. Have you ever been sued prior to this lawsuit?</p> <p>17 A. Not that I am aware of.</p> <p>18 Q. Have you ever had to testify in any type of</p> <p>19 Internal Affairs proceedings?</p> <p>20 A. Yes. As far as being a witness to a -- as far</p> <p>21 as discourtesy or alleged -- alleged someone taking</p> <p>22 money from a vehicle or something like that, but never</p> <p>23 as the subject.</p> <p>24 Q. Can you be any more explicit in what you are</p> <p>25 talking about?</p>	<p>Page 16</p> <p>1 scene when you arrived?</p> <p>2 A. I know there was several. I was consumed with</p> <p>3 my part of the event. I was in the intersection at</p> <p>4 Flamingo -- Winner Circle with a three-car accident at</p> <p>5 about 3:30 in the afternoon. At that time, it's pretty</p> <p>6 congested, so it's a dynamic scene for me, let alone to</p> <p>7 look outside as to what's going on. I knew there were</p> <p>8 other officers there, and they were taking care of the</p> <p>9 situation at that end. I was more concerned with my</p> <p>10 victims of the accident, getting the vehicles off the</p> <p>11 roadway and doing my investigation.</p> <p>12 Q. And was that an accident separate and distinct</p> <p>13 from the accident that was involved with Paulos?</p> <p>14 A. No. It's the same accident, sir.</p> <p>15 Q. And the individuals, if you can recall, who</p> <p>16 were the individuals that you were dealing with?</p> <p>17 A. I dealt with an Asian male. I can't recall</p> <p>18 his name at this time. I would have to look at my</p> <p>19 accident report. He was pretty distraught, and he was</p> <p>20 hit front to front, not a head-on collision, but</p> <p>21 angled. Also made contact with a gentleman in an</p> <p>22 Xterra who was the driver of the Xterra. He said he</p> <p>23 didn't see the accident, but he was involved after</p> <p>24 Ms. Paulos' car made contact with the vehicle. I was</p> <p>25 more concerned with doing my investigation with all the</p>
<p>Page 15</p> <p>1 A. For instance, a partner and I had a DUI. The</p> <p>2 girlfriend was the driver. She was arrested for DUI.</p> <p>3 The boyfriend was told to leave the scene and then</p> <p>4 later complained that we had taken \$400 out of his car,</p> <p>5 his -- and his medical marijuana that was also in the</p> <p>6 car.</p> <p>7 Q. How long ago was that?</p> <p>8 A. I'd say three -- at least three years ago,</p> <p>9 two, three years ago.</p> <p>10 Q. And they were not sustained?</p> <p>11 A. No.</p> <p>12 Q. Were you a suspect in that?</p> <p>13 A. No, sir, I was not.</p> <p>14 Q. Were you a person of interest?</p> <p>15 A. No, sir, I was not.</p> <p>16 Q. Let's just focus on the incident itself,</p> <p>17 taking you back to August the 7, 2011, do you recall</p> <p>18 what shift you were on?</p> <p>19 A. Swing shift, sir.</p> <p>20 Q. What would be the timeframe of swing shift?</p> <p>21 A. I believe at that time it was 2:00 to 12:00.</p> <p>22 Q. And do you recall receiving a call concerning</p> <p>23 an incident at the Palms?</p> <p>24 A. Yes, sir, I do.</p> <p>25 Q. And do you recall how many officers were on</p>	<p>Page 17</p> <p>1 traffic and trying to get control of my -- my -- my</p> <p>2 scene of what I was in control of.</p> <p>3 Q. All right. How did it come about that you</p> <p>4 took over the traffic investigation scene?</p> <p>5 A. I was called by Metro dispatch and was told to</p> <p>6 respond to that area for a three-car accident.</p> <p>7 Q. All right. And when you actually arrived at</p> <p>8 the scene, did anyone give you instructions on what to</p> <p>9 do?</p> <p>10 A. No, sir. I'm in charge of that scene. It's</p> <p>11 mine.</p> <p>12 Q. Based on the dispatch?</p> <p>13 A. Yes.</p> <p>14 Q. Did you have an occasion to see Officer Baca?</p> <p>15 A. I didn't see him until later in the</p> <p>16 investigation.</p> <p>17 Q. How did it come about that you saw him?</p> <p>18 A. He came over to me saying that he had a</p> <p>19 suspect, the suspect of the vehicle because it might</p> <p>20 have been a hit and run because the driver had left the</p> <p>21 scene. I then contacted him and the -- the driver of</p> <p>22 the vehicle was being placed on a gurney and put in the</p> <p>23 ambulance at the time.</p> <p>24 Q. All right. And in terms of the individual</p> <p>25 that was being placed on the gurney and the ambulance,</p>

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<p>Page 18</p> <p>1 do you know why the individual was being placed on the 2 gurney in the ambulance?</p> <p>3 A. Officer Baca expressed to me that she had 4 excited delirium. She was incoherent at times, 5 extremely violent, mood swings, profusely sweating. At 6 times, she would be way up -- way up high as far as her 7 actions and then all of a sudden she would shut down 8 and be totally quiet and complacent, like she didn't 9 even know what was going on around her.</p> <p>10 Q. Did you have occasion to talk with the 11 individual?</p> <p>12 A. Which individual, sir?</p> <p>13 Q. I mean the individual that was placed on the 14 gurney that he was talking about, the suspect?</p> <p>15 A. Yes. I attempted to do implied consent while 16 she was in the back of the ambulance. Because I 17 didn't -- due to the totality of the investigation and 18 my accident and her accident, I deemed that she was 19 under the influence of possible narcotic.</p> <p>20 Q. All right. And what is the possible narcotic?</p> <p>21 A. Possibly a stimulant. Because of the fact of 22 her highs and lows and being aggressive pretty much is 23 a tall tale sign for the use of a narcotic as far as a 24 stimulant.</p> <p>25 Q. All right. What about the interaction you had</p>	<p>Page 20</p> <p>1 A. Yes, I am.</p> <p>2 Q. Did you perform any type of horizontal gaze 3 and stigmas?</p> <p>4 A. No, I did not. Because the fact that she was 5 combative at the time, she was strapped to the gurney, 6 and it could have been possible that she had a head 7 injury during the accident, and it's against all 8 horizontal gaze and stigmas rules as far as the head 9 injury could affect the horizontal gaze and stigmas.</p> <p>10 Q. And then in terms of the excited delirium, did 11 you call for any critical incident trained officer to 12 make any determinations about the excited delirium?</p> <p>13 A. No, sir. She was already in custody when I 14 made contact with her.</p> <p>15 Q. Is there a policy or practice that prohibits 16 from calling for a critical incident, a trained officer 17 at that juncture?</p> <p>18 A. Well, it usually -- in the fact of excited 19 delirium, usually what we will do is we will set 20 up -- we will call for a CIT, call for medical. We 21 will set up a perimeter around that person to make sure 22 the scene is contained. And then we will set up a team 23 that goes in and tries to make contact with the CIT to 24 try to calm that person down, to get them into custody 25 and then get them into medical and get them transported</p>
<p>Page 19</p> <p>1 with her lead you to that conclusion?</p> <p>2 A. Can you reword that for me, please?</p> <p>3 Q. Yes. Are there specific facts that you can 4 articulate as to what led you to the suspicion that she 5 was under the influence of a stimulant?</p> <p>6 A. Through the driving patterns that I received 7 from the witnesses. That she crossed the median, made 8 the left turn causing the accident. Witnesses also 9 stated that she had left the scene, came back, and then 10 tried to attempt to take a vehicle from one of the 11 victims. And then also her erratic behavior, profuse 12 sweating, the fact that it's in the definition of 13 excited delirium. She was half dressed. She only had 14 a pair of underwear and T-shirt on. Rambling thoughts 15 that made no sense and all of a sudden just shut down 16 and be totally lucid. And that's -- gives me the 17 reason to believe that it was a possible stimulant.</p> <p>18 Q. Now have you been trained as a drug 19 recognition expert?</p> <p>20 A. No, not yet.</p> <p>21 Q. And what do you mean by "not yet?"</p> <p>22 A. I planned on taking the class. I'm trying to 23 get enrolled in the class.</p> <p>24 Q. Are you certified as a horizontal gaze and 25 stigmas?</p>	<p>Page 21</p> <p>1 to the hospital.</p> <p>2 Q. Are they transported to a psych unit, if you 3 know, or to an ER facility, if you know?</p> <p>4 A. Usually it's an ER facility, as far as I know.</p> <p>5 Q. And then do you also go to the ER facility?</p> <p>6 A. Not -- I have only experienced excited 7 delirium twice in my career.</p> <p>8 Q. All right. And what times were those?</p> <p>9 A. Once with a black male that was high on PCP. 10 When I was training and on my graveyard shift in the 11 northeast. I believe it was like in my fourth or 12 fifth -- fourth year being in the Department and then 13 at this time at Flamingo in front of the Palms.</p> <p>14 Q. All right. And in terms of the particular 15 situation with Ms. Paulos, did you have any 16 understanding that she had suffered severe burns at the 17 time of her detainment?</p> <p>18 A. No, sir, I did not.</p> <p>19 Q. Did anyone tell you that she was in pain or 20 complaining of injuries at any point in time?</p> <p>21 A. No, sir, she did not.</p> <p>22 Q. I know you said she didn't, but did anyone 23 tell you that she was in incredible pain?</p> <p>24 A. No, sir.</p> <p>25 Q. Did she appear to be crying at any point in</p>

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1 time?

2 A. She was crying and then she was happy and then
3 she was screaming, all -- she went the gamut of all
4 emotion.

5 Q. Have you ever been in a situation where you've
6 seen an individual who has suffered severe burns?

7 A. No, I have not.

8 Q. As you were dealing with her, did you observe
9 any severe burns?

10 A. No. At the time, she was restrained in the
11 ambulance gurney with a blanket on her. And then when
12 I proceeded to the hospital to do the citation and
13 contacted Officer Vacarro who did the blood draw, she
14 was wrapped in blankets and restrained inside the
15 gurney in the hospital.

16 Q. And pursuant to your testimony with excited
17 delirium, what type of treatment, if any, are you
18 supposed to engage in, if that's the proper term?

19 A. I don't understand your question, sir.

20 Q. Do you have an understanding of why blankets
21 were used or whether blankets were part of the
22 treatment for excited delirium?

23 A. No, I do not. I believe that they were
24 trying -- at the time at the hospital, they were trying
25 to keep her warm because it gets cold in there.

Page 23

1 Q. Okay.

2 A. That's just my opinion.

3 Q. Why don't we go through our next exhibit.
4 (Exhibit 3 marked.)

5 BY MR. POTTER:

6 Q. I'm going to hand you what's been marked for
7 identification purposes as Exhibit 3, the citation in
8 this matter. First of all, did you generate this
9 particular document.

10 A. Yes, sir, I did.

11 Q. Physically, how did you go about doing that?

12 A. I have an MC75 computer which allows me to
13 print out the ticket -- or to accomplish the form and
14 then print it on a printout.

15 Q. Is that done on your motorcycle?

16 A. Yes. It's portable. I can carry it in my
17 hand, but it's charged in my motorcycle.

18 Q. And the information that's contained, and this
19 is part of your investigation?

20 A. Yes, sir, it is.

21 Q. And the time that -- of the violation is
22 listed as 1515; is that correct?

23 A. Yes. We usually normally use the time of the
24 call is the time I received that call.

25 Q. And then the issuance date is at 1647. Do you

Page 24

1 recall if this was issued in the hospital?

2 A. Yes, it was.

3 Q. Do you remember what hospital you were at?

4 A. I believe it was UMC Trauma.

5 Q. The statements down about DUI, drugs or
6 alcohol, did you make any determination of whether the
7 individual was under the influence of alcohol?

8 A. No. I believe -- when I made contact with her
9 in the ambulance, I didn't smell any odor of alcohol on
10 her in any way. That's why I believe it was due to her
11 active aggression and the profuse sweating and
12 everything that it was probably chemically induced as
13 far as a stimulant. That's why it's DUI accident
14 drugs.

15 Q. Did you make any determination, either by
16 interview or otherwise, that drugs were present at the
17 scene?

18 A. They're -- I didn't -- according to the
19 impound report the vehicle, there was no drugs found,
20 there was no drugs found on Ms. Paulos at the time.

21 Q. At any of the interviews or conversations by
22 any of the officers, witnesses, did anybody say they
23 had seen drugs or --

24 A. No.

25 Q. Okay.

Page 25

1 A. It was my professional opinion that she was
2 under the influence.

3 Q. And that's based upon the erratic behavior
4 that you were talking about and the other factors you
5 mentioned?

6 A. Yes, sir, it is.

7 Q. And we've talked a little bit about swift mood
8 swings and the delirium. Any other facts that you are
9 aware of that would have led you to believe that she
10 was under the influence of drugs?

11 A. Basically what I have already explained.

12 Q. You said you talked about implied consent.

13 Did you have her make a choice of what she was going to
14 do?

15 A. Yes. I read the -- we -- at the time, it's
16 since change due to the law, that I read her implied
17 consent while she was in the ambulance. At that time,
18 she was quiet, and I read the implied consent from the
19 form. And at that time, she told me to go fuck myself.

20 Q. And --

21 A. And I have reclaimed that as a refusal, so I
22 had Officer Vacarro follow the ambulance to UMC Trauma
23 to do the blood draw.

24 Q. As an officer, you have been trained to deal
25 with individuals that swear --

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<p style="text-align: right;">Page 26</p> <p>1 A. Yes, sir.</p> <p>2 Q. -- is that correct?</p> <p>3 I mean, you go through the training and the</p> <p>4 academy as well as defensive training dealing with</p> <p>5 belligerent individuals?</p> <p>6 A. Yeah. I didn't take it personal.</p> <p>7 Q. Did you believe that by an individual swearing</p> <p>8 at a uniformed officer that that was indicative of</p> <p>9 somebody that was suffering from some type of mality?</p> <p>10 A. It's possible. But it also could be someone</p> <p>11 that was under the influence of drugs.</p> <p>12 Q. What are the other possibilities that it could</p> <p>13 be if it's not an individual that's under the influence</p> <p>14 of drugs?</p> <p>15 MR. ANDERSON: Objection. Form.</p> <p>16 Go ahead and answer.</p> <p>17 THE WITNESS: It could be -- it could be a</p> <p>18 number of things. People's up bringing, I mean --</p> <p>19 people's disdain for the police. It could be mental</p> <p>20 issues, it could be drug issues. That's normally what</p> <p>21 I experience.</p> <p>22 BY MR. POTTER:</p> <p>23 Q. All right. Have you ever been in a situation</p> <p>24 where you learned an individual suffered a head injury</p> <p>25 and was belligerent and swearing at the police because</p>	<p style="text-align: right;">Page 28</p> <p>1 A. No, not that I am aware of.</p> <p>2 Q. Do you know what posey restraints are? Have</p> <p>3 you ever heard of that term?</p> <p>4 A. No, sir.</p> <p>5 Q. And I take it because of the fact that she was</p> <p>6 on a gurney, she didn't have any field sobriety tests</p> <p>7 either?</p> <p>8 A. No. That was stipulated in my incident</p> <p>9 report. I could not perform the test due to her being</p> <p>10 combative and restrained. It was be an officer safety</p> <p>11 and suspect safety issue.</p> <p>12 Q. Do you recall whether there was any -- I may</p> <p>13 have asked you this -- any DMV hearing concerning this</p> <p>14 matter?</p> <p>15 A. No, not that I am aware of.</p> <p>16 Q. You were never called to testify?</p> <p>17 A. It's possible I could have been, but it's been</p> <p>18 so long I don't recall it.</p> <p>19 Q. Were you aware of the outcome of the blood</p> <p>20 draw?</p> <p>21 A. Yes. I received the lab report later. It</p> <p>22 said is came back zeros.</p> <p>23 Q. So in that instance, I mean, you didn't take</p> <p>24 any license at the scene; correct?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 27</p> <p>1 they suffered a head injury?</p> <p>2 A. Yes, I have, several times.</p> <p>3 Q. How would you then find out if the individual</p> <p>4 had had a head injury? Do you follow up on the</p> <p>5 treatment?</p> <p>6 A. I let the medical personnel figure that out</p> <p>7 once she has been transported to the hospital.</p> <p>8 Q. Now, did the paramedics have any conversations</p> <p>9 with you or did you have any conversations with them</p> <p>10 concerning her?</p> <p>11 A. No. It was a pretty dynamic scene, and they</p> <p>12 wanted to get her to the hospital as quick as possible</p> <p>13 because of her behavior.</p> <p>14 Q. Did they say anything more explicit other than</p> <p>15 the fact that they wanted to get her to the hospital</p> <p>16 very quickly because of her behavior?</p> <p>17 A. Correct. They said we have got to -- you</p> <p>18 know, Officer, are you done? We need to go. We want</p> <p>19 to get her to UMC because she's too combative for us,</p> <p>20 and she was restrained.</p> <p>21 Q. And when she is restrained, how is she</p> <p>22 restrained on the gurney?</p> <p>23 A. I believe paramedics have the canvas straps</p> <p>24 that they go -- that they place across her body.</p> <p>25 Q. All right. Is she in handcuffs at all?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. And you wouldn't have taken a temporary</p> <p>2 license or anything?</p> <p>3 A. No. No. Because I had no evidence proving</p> <p>4 that she was under the influence or had alcohol in her</p> <p>5 system or to possess her license to have it revoked</p> <p>6 through the DMV.</p> <p>7 Q. So unless she received some kind of</p> <p>8 notification, what, from the hospital or how would you</p> <p>9 get the report about --</p> <p>10 A. Usually we get it by -- if the suspect</p> <p>11 performs a breath test and they are over the .08, then</p> <p>12 I can possess their license. Normally we receive a</p> <p>13 notification from DMV to do a revocation sheet, send it</p> <p>14 back to them, and they set up the court date for the</p> <p>15 individual to appear, and then the judge will decide</p> <p>16 whether the driver's license is going to be revoked or</p> <p>17 not.</p> <p>18 Q. And on the blood draw type situations, if</p> <p>19 they're pulled in the emergency room, do you take a</p> <p>20 sample?</p> <p>21 A. After implied consent is done, we</p> <p>22 have -- normally the nurses at the hospital won't do</p> <p>23 it, so it's Quest. It's a company that does the</p> <p>24 phlebotomy. It's witnesses -- it was at this time</p> <p>25 witnessed by Officer Vacarro who did the blood draw for</p>

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1 me because I was still at the scene most of the time.
 2 And what they do is they witness that the needle goes
 3 into the individual's arm, it's drawn in the blood,
 4 then he places it in the box, seals it, and then he
 5 transports it to an evidence vault, the closest
 6 evidence vault. And I believe at this time, it was
 7 CCDC where the evidence vault is located to drop off
 8 blood draws.

9 Q. And then if, in fact, the blood is -- the
 10 sample is then tested independent of what would be done
 11 at UMC --

12 A. Yes.

13 Q. -- is that correct?

14 A. It's totally separate.

15 Q. And then if it's positive, you get notified
 16 by --

17 A. Through the -- the crime lab, from Metro's
 18 crime lab. I receive the report, a copy of the report
 19 stating what the -- what was inside the blood that
 20 would determine whether I would provide a revocation or
 21 not.

22 Q. Are you able to approximate how many like DUIs
 23 you have in the system going at any given time? I
 24 mean, does it average?

25 A. I -- lately I have been averaging at least six

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1 to eight DUIs a month.

2 Q. So depending on whether they're blood or
 3 breath, then you have to look out for those?

4 A. Normally, I just wait for the sheets to come
 5 to my mailbox, and then I then -- normally, our front
 6 office and traffic will attach those to a revocation
 7 form and give us a due date, and it's required that we
 8 fill it out and submit it before the due date so it
 9 moves forward in the system. Because I deal with
 10 alcohol, drugs, spice, all the other parameters of
 11 driving under the influence.

12 Q. I would ask you about spice, but it's not
 13 really related, just for learning.

14 A. It's nasty stuff.

15 MR. POTTER: Let's mark this as the next
 16 exhibit.

(Exhibit 4 marked.)

18 BY MR. POTTER:

19 Q. This is Exhibit No. 4. Is this your report?

20 A. Yes, sir, it is.

21 Q. And is this written contemporaneous to the
 22 incident or is it written at a later time?

23 A. It was written after I had cited Ms. Paulos.

24 Q. So is it written at the hospital, then?

25 A. It's actually written during all phases.

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1 Q. I'm going to compliment on your fine
 2 penmanship. It's always difficult -- I don't recall
 3 when they changed, but Metro used to type out these
 4 things, but now they're handwritten. It's always more
 5 of a challenge.

6 A. We still do. It's more going to be typed now
 7 because of the computers. But this was at the
 8 time -- and actually, that day was pretty hectic for
 9 motor officers, so I did it handwritten. It was
 10 quicker than jumping -- finding an area command to type
 11 it on the computer. I had accidents holding that I had
 12 to get to.

13 Q. And the determinations that are officer
 14 observations there about the engine not running and the
 15 vehicle is in drive, do you personally make those
 16 determinations?

17 A. Yes. I physically and visually check the
 18 vehicles -- all the vehicles on my scene.

19 Q. The information that she fought with the first
 20 responding officer, Officer Baca, do you recall if you
 21 received that information from Officer Baca?

22 A. Yes, I did.

23 Q. Do you recall if there was any other
 24 information that you had received from him?

25 A. He stated that he had the suspect for my VI

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1 driver, which would be the at-fault driver, and he
 2 explained to me that he had to take her into custody
 3 because she went for his gun.

4 Q. And is there a reason why that's not in here?

5 A. I thought that fighting with the officer was
 6 sufficient for the report. Because it's more concern
 7 with the impaired driving than it is the actual
 8 specifics of grabbing an officer's gun.

9 Q. Doesn't grabbing an officer's gun constitute a
 10 separate offense?

11 A. Yes, it does.

12 Q. What offense does that constitute?

13 A. It could be battery on a police officer, it
 14 could be a number of things, depending on what the
 15 criteria is.

16 Q. All right. And as the officer that's doing
 17 the cite, you didn't cite her for anything other than
 18 the DUI?

19 A. I believe I cited her for -- yeah. Just the
 20 DUI. I felt that was necessary instead of adding
 21 charges as far as the left turn at the intersection.

22 Q. And the DUI accident, over aggressive,
 23 physically fought with the officer on the scene. Once
 24 again, citation doesn't say anything about trying to
 25 grab a gun, does it?

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<p style="text-align: right;">Page 34</p> <p>1 A. No, it doesn't.</p> <p>2 Q. Would that information be passed along to some</p> <p>3 detective to make a determination if other charges are</p> <p>4 going to be filed?</p> <p>5 A. I believe if officer Baca submitted a use of</p> <p>6 force and did all the other required things when he's</p> <p>7 involved in that type of situation detectives would</p> <p>8 further investigate that.</p> <p>9 Q. So it would be up to Officer Baca?</p> <p>10 A. Yeah. It would have nothing to do to me. It</p> <p>11 didn't occur to me, so I didn't read that officer.</p> <p>12 Q. Did you ever read the use of force report by</p> <p>13 Officer Baca?</p> <p>14 A. No, sir, I did not.</p> <p>15 Q. Other than what we have discussed with reports</p> <p>16 you have in hand and citation, did you have any further</p> <p>17 follow up concerning this case?</p> <p>18 A. No. I -- my -- normally, my scene is the</p> <p>19 dynamic one of the accident itself.</p> <p>20 Q. All right. And was behind the wheel per</p> <p>21 witness -- once again, that's an element you have to</p> <p>22 show, is that the victim was operating the vehicle?</p> <p>23 A. Correct.</p> <p>24 Q. Any other information you received concerning</p> <p>25 the fact that Ms. Paulos was outside the vehicle?</p>	<p style="text-align: right;">Page 36</p> <p>1 because I had a brief -- able to see her before she was</p> <p>2 in the ambulance.</p> <p>3 Q. You --</p> <p>4 A. And I know she was barefoot.</p> <p>5 Q. And by "you are able to see her," was that</p> <p>6 before she had the blanket on her?</p> <p>7 A. Yeah. As it -- I was in the middle of the</p> <p>8 intersection when they were near the entrance of the</p> <p>9 Palms, and I could see them placing her on the gurney</p> <p>10 before they put the blanket on her and -- and strapped</p> <p>11 her down --</p> <p>12 Q. Okay.</p> <p>13 A. -- so she didn't hurt herself.</p> <p>14 Q. And then on LVMPD, the second half of the</p> <p>15 page, that's where you normally would do your field</p> <p>16 sobriety tests?</p> <p>17 A. Yes.</p> <p>18 Q. SFTs?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Same thing on 14, 15?</p> <p>21 A. Yes. Accept for the bottom of the page.</p> <p>22 That's where I wrote implied consent and noted it.</p> <p>23 Q. And refused?</p> <p>24 A. Correct.</p> <p>25 Q. And once you have a refusal, you have the</p>
<p style="text-align: right;">Page 35</p> <p>1 A. It would be all listed under that event</p> <p>2 number --</p> <p>3 Q. Okay.</p> <p>4 A. -- from all the witness statements that</p> <p>5 we -- that was taken from myself and other officers.</p> <p>6 Q. The last part of what we actually got marked</p> <p>7 as LVMPD 12, second page, talks about unable to get</p> <p>8 answers from driver. Once again, you didn't ask the</p> <p>9 standard questions because of her condition; is that</p> <p>10 fair?</p> <p>11 A. I attempted to ask the questions, but she</p> <p>12 refused to answer any of my questions.</p> <p>13 Q. Okay.</p> <p>14 A. She would ramble on totally outside of the</p> <p>15 scope of what we were talking about.</p> <p>16 Q. Same thing about the impaired driving report.</p> <p>17 You make note that asphalt is in the area; is that</p> <p>18 correct, parking lot?</p> <p>19 A. Yes.</p> <p>20 Q. I'm referring just for the record to page 13</p> <p>21 of the exhibit.</p> <p>22 A. It's page 3.</p> <p>23 Q. Testimony has been that she had on a swim suit</p> <p>24 and cover up. Do you have any knowledge of.</p> <p>25 A. No. I believed it was a shirt at the time</p>	<p style="text-align: right;">Page 37</p> <p>1 opportunity to then take a draw; is that correct?</p> <p>2 A. Yes, at the time. Now case law has changed</p> <p>3 where we are required to submit for a search warrant.</p> <p>4 Q. Just for the record, at this point in time,</p> <p>5 nobody was doing search warrants?</p> <p>6 A. No. It was not -- Supreme Court had not</p> <p>7 changed the ruling until just last year.</p> <p>8 Q. You were able to get it within the two-hour</p> <p>9 limit; is that correct?</p> <p>10 A. Yes, I was. That's why I had Officer Vacarro</p> <p>11 follow the ambulance and do the blood draw because my</p> <p>12 scene was going to take longer, and I was worried about</p> <p>13 the timeframe --</p> <p>14 Q. Right.</p> <p>15 A. -- to do both.</p> <p>16 Q. Today you testified that you were worried she</p> <p>17 was on stimulants. In the report you talk about</p> <p>18 depressants, mental prescribed meds. Do you recall as</p> <p>19 you sit here today whether it was stimulants or</p> <p>20 depressants?</p> <p>21 A. It could -- as far as -- because I am not a</p> <p>22 drug recognition officer, I have since learned the</p> <p>23 different signs, and I was trying to do a broad scope</p> <p>24 of what -- so I could get the lab to do -- to find what</p> <p>25 type of narcotics were in her system. I knew it was</p>

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<p style="text-align: right;">Page 38</p> <p>1 some type of -- I believe it was some type of narcotic, 2 but at that time, I hadn't been trained enough to know 3 the difference, as far as -- and since then, I have 4 learned what those difference are.</p> <p>5 Q. So you are testifying now as to what you have 6 had further training on since the incident?</p> <p>7 A. Correct.</p> <p>8 Q. What kind of stimulants were you thinking of 9 earlier in the deposition?</p> <p>10 A. Normally, people with mental issues, it would 11 be depressants to keep them low, keep them more level. 12 The stimulants, as far as cocaine and stuff like 13 that --</p> <p>14 Q. Illegal?</p> <p>15 A. -- methamphetamine, certain types of 16 prescribed medications.</p> <p>17 Q. What were the prescribes you were thinking of?</p> <p>18 A. I can't make -- remember the names. I have 19 kind of like a cheat sheet on my bike --</p> <p>20 Q. Right?</p> <p>21 A. -- to where I can look up what the stimulant 22 may be and their actions and what their -- the 23 different -- it's part of the DRE training that I 24 haven't received yet, but I use it kind of as a cheat 25 sheet to figure out what I am looking at so I can get a</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Like I said, I only go by a category of what I 2 see on my cheat sheet.</p> <p>3 MR. POTTER: This will be our next exhibit, 4 which I believe is Exhibit 5. 5 (Exhibit 5 marked.)</p> <p>6 BY MR. POTTER:</p> <p>7 Q. This is the lab report from Dana Russell.</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have you seen this before.</p> <p>10 A. Yes. This is the lab report that is sent to 11 my mailbox at traffic to notify me of the contents of 12 the driver's blood.</p> <p>13 Q. So even though you were looking for narcotics 14 or drugs, it was also checked for alcohol; is that 15 fair?</p> <p>16 A. Yes, sir, that is fair.</p> <p>17 Q. And Ms. Russell's report says that there 18 wasn't any alcohol in her system?</p> <p>19 A. Correct.</p> <p>20 Q. And then the second page deals with the 21 testing for narcotics for prescriptive drugs, negative 22 results. Did you receive a copy of this also?</p> <p>23 A. Yes, sir, I did.</p> <p>24 Q. So the first one comes out November the 29th 25 that's it's date stamped for distribution. You</p>
<p style="text-align: right;">Page 39</p> <p>1 DRE to come verify everything and make sure that's what 2 we're looking at.</p> <p>3 Q. At the time of the incident, what kind of 4 depressants were you thinking of?</p> <p>5 A. I'm not a medical doctor. I just go by the 6 basic things of what depressant do to help patients.</p> <p>7 Q. First of all, were the depressants that you 8 were thinking of at the time that of the incident when 9 you wrote this, did you believe them to be illegal 10 depressants?</p> <p>11 A. I didn't know if they were illegal or not. 12 They could be both.</p> <p>13 Q. Right.</p> <p>14 A. So I can't make that determination.</p> <p>15 Q. What type of illegal depressants are you aware 16 of, at least at this point in time?</p> <p>17 A. There's several, like heroin, that usually 18 comes to mind first.</p> <p>19 Q. Anything else?</p> <p>20 A. Not that I can recall right now.</p> <p>21 Q. Any understanding of depressants that would 22 have been prescribed?</p> <p>23 A. It's possible, but I don't know the names of 24 them.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 41</p> <p>1 received that?</p> <p>2 A. I believe I received them both at the same 3 time.</p> <p>4 Q. And the other one is about a month later on 5 December the 28th of 2011?</p> <p>6 A. Correct. So I probably received it sometime 7 in January.</p> <p>8 Q. In any event, you took no further action --</p> <p>9 A. No.</p> <p>10 Q. -- based upon that? Were you surprised by the 11 outcome or do you even recall the incidents when you 12 get them?</p> <p>13 A. Yeah. I -- I was a little bit surprised 14 that -- that she had no narcotics in her system by 15 the -- the reactions of what I was seeing on the scene.</p> <p>16 Q. Did you make any effort to find out why --</p> <p>17 A. That's when I -- that's when I found out the 18 results, I deemed that she was probably having a 19 mental -- a mental issue.</p> <p>20 Q. Was that ever discussed with you by any of 21 your supervisors, the fact that you cited somebody for 22 DUI when, in fact, they were suffering from a mental 23 issue?</p> <p>24 A. No. It was a good faith citation.</p> <p>25 Q. I understand. But in terms of determination,</p>

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<p style="text-align: right;">Page 42</p> <p>1 did you question yourself about whether there was some 2 further need to recognize whether an individual is 3 having a breakdown or something of that nature? 4 A. That's for medical personnel to decide. 5 Q. Okay. 6 A. I only go by what I have been taught and what 7 I have been trained to -- to look for, and that's the 8 same keys as far as narcotics. And, yes, it did kind 9 of surprise me that she didn't have any narcotics in 10 her system. 11 MR. POTTER: We will mark this as the next one 12 in order. 13 (Exhibit 6 marked.) 14 BY MR. POTTER: 15 Q. I am handing you what has been marked as 16 Exhibit 6. I will ask you to let me know when you have 17 had a chance to take a look at it. 18 A. (Witness complies.) 19 MR. ANDERSON: Do you want him to read the 20 whole thing? 21 BY MR. POTTER: 22 Q. No. I'm just trying to find out if you have 23 any recognition or have ever seen it before? 24 A. No, sir, I have not. 25 Q. It's a 1995 article sometimes called Maricopa</p>	<p style="text-align: right;">Page 44</p> <p>1 custody with cuffs, to get them up so they are not 2 laying on their chest in order to cause it. 3 Q. Okay. All right. And was that in the context 4 also with that IV -- 5 A. That's all in the same type training. When 6 they do LVNR, they go into the asphyxia thing. Because 7 sometimes that's during LVNR, and you get them into 8 cuffs on the ground, and you need to get them set up 9 and make sure they're breathing on their own. Because 10 if they're down too long due to weight -- 11 Q. Right. 12 A. Or due to health issues that they could 13 be -- have that caused. 14 Q. Were you here when the Lemen case occurred? 15 A. It doesn't ring a bell, sir. 16 Q. Felipe Lemen, it was a French man who died in 17 the jail? 18 A. I -- I believe I heard about it, but it's like 19 anyone else on the news. 20 Q. Yes. It was like in 2001? 21 A. Something like that, yes. 22 MR. POTTER: Let me just mark this. This is 23 the next exhibit. 24 (Exhibit 7 marked.) 25 \\\</p>
<p style="text-align: right;">Page 43</p> <p>1 County Study dealing with pavement temperature and 2 burns. It's also called sometimes The Streets of Fire 3 Study that was conducted. I'm just trying to find out 4 from you whether you have any recollection during the 5 time you went through the academy or thereafter whether 6 you ever heard about this study? 7 A. No, sir. It's basically trained that when the 8 pavement's hot, if possible, don't put people down on 9 the pavement. And if you do, get them up as quick as 10 you can -- 11 Q. Are you -- 12 A. -- when it's safe to do. 13 Q. Right. Are you also trained in positional 14 asphyxia during the timeframe in -- 15 A. I have been trained for LVNR. It's 16 like -- for that. 17 Q. Latter vascular -- 18 A. Yes. 19 Q. -- restraint? 20 A. Yes. 21 Q. Is that different in what you have been 22 trained -- or have you been trained in positional 23 asphyxia? 24 A. I have been told that it can happen, 25 but -- and to make sure that if the suspect is in</p>	<p style="text-align: right;">Page 45</p> <p>1 BY MR. POTTER: 2 Q. Here's another article that I have identified 3 by a Paul Harrison. He's a medical guy for the RJ. 4 It's a June 26, 2013 article. It's after the incident, 5 but I was trying to find out if you recall ever being 6 trained on this particular concern or incidence? 7 A. No, sir. 8 Q. Do you know a Dr. Dale Carrison that's 9 mentioned in the article? 10 A. Yeah. I believe I have seen him at UMC Trauma 11 before. 12 Q. He's an ex FBI agent that went to medical 13 school. Do you know that? 14 A. I didn't -- I wasn't aware of that. I just 15 know him in passing, as far as for coming in for motor 16 vehicle accidents, and if he happens to be there 17 sometimes. 18 Q. Okay. 19 A. He's usually too busy to talk to. 20 Q. White hair and white mustache? 21 A. Yes. Glasses, too. 22 Q. The next items are -- well, let me show you a 23 couple of them. 24 MR. POTTER: We will mark these as the next in 25 order.</p>

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<p>Page 46</p> <p>1 (Exhibit 8 marked.)</p> <p>2 BY MR. POTTER:</p> <p>3 Q. First picture is Ms. Paulos' facial shot. Do</p> <p>4 you recall if you have ever seen that before?</p> <p>5 A. No, sir.</p> <p>6 Q. It shows a burn on her face. Do you recall</p> <p>7 whether, in fact, you have ever seen that burn before?</p> <p>8 A. No, sir.</p> <p>9 Q. And this would have been at the time that</p> <p>10 she's brought in to the ER. Do you have any</p> <p>11 recollection of that?</p> <p>12 MR. ANDERSON: Objection. Form.</p> <p>13 THE WITNESS: No, sir, I do not.</p> <p>14 MR. POTTER: If we can mark this as the next</p> <p>15 in order.</p> <p>16 (Exhibit 9 marked.)</p> <p>17 BY MR. POTTER:</p> <p>18 Q. Next one is of the same individual. It shows</p> <p>19 a -- what we have referred to at least on the</p> <p>20 plaintiff's side is a swim cover up. Do you recall if</p> <p>21 that's what she was wearing at the time of the</p> <p>22 incident?</p> <p>23 A. It doesn't look familiar, sir.</p> <p>24 Q. It once again shows burns over -- I guess it's</p> <p>25 her left leg. Any recollection of seeing those types</p>	<p>Page 48</p> <p>1 never heard anything about that?</p> <p>2 A. No, sir.</p> <p>3 Q. When did you first hear about the lawsuit, if</p> <p>4 you can recall?</p> <p>5 A. When I was contacted by Mr. Anderson.</p> <p>6 Q. Were you ever actually served with the</p> <p>7 complaint?</p> <p>8 MR. ANDERSON: Did Metro give you a copy of</p> <p>9 it?</p> <p>10 THE WITNESS: I believe I came -- it's after I</p> <p>11 spoke with you, and the other attorney sat down with me</p> <p>12 with it.</p> <p>13 MR. ANDERSON: What attorney?</p> <p>14 THE WITNESS: The German lady.</p> <p>15 MR. ANDERSON: Oh, risk management?</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. ANDERSON: Okay. Did risk management</p> <p>18 provided you with a copy?</p> <p>19 THE WITNESS: Yeah. They gave me a copy</p> <p>20 and -- and we went through it -- went over it with me.</p> <p>21 BY MR. POTTER:</p> <p>22 Q. Do you remember when that was?</p> <p>23 A. I don't remember the last time -- the first</p> <p>24 time I saw him. Maybe two years ago.</p> <p>25 MR. ANDERSON: Right after you named him.</p>
<p>Page 47</p> <p>1 of burns?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever seen those types of burns on any</p> <p>4 human being?</p> <p>5 A. On a personal level, going to the burn unit</p> <p>6 and seeing kids to go say hello to them, but not during</p> <p>7 duty.</p> <p>8 Q. You do visitations to the burn unit?</p> <p>9 A. Yeah. I like to give my time and go see kids</p> <p>10 and drop off Christmas presents and stuff like that.</p> <p>11 Q. This picture would have been, I believe the</p> <p>12 testimony was, from the ER facility. Any recollection</p> <p>13 or knowledge that Ms. Paulos ended up in the Burn Unit?</p> <p>14 A. No.</p> <p>15 MR. ANDERSON: Objection. Foundation. Form.</p> <p>16 Go ahead and answer.</p> <p>17 THE WITNESS: No, sir.</p> <p>18 BY MR. POTTER:</p> <p>19 Q. Other than when you sat down here, you didn't</p> <p>20 have any knowledge that she had been in the Burn Unit?</p> <p>21 A. No, sir.</p> <p>22 Q. Are you aware of what medical treatment she</p> <p>23 went through?</p> <p>24 A. No, sir.</p> <p>25 Q. Or the grafting and things of that nature, you</p>	<p>Page 49</p> <p>1 Q. Oh, okay. All right.</p> <p>2 A. Just guessing.</p> <p>3 Q. So it would have been a German lady in risk</p> <p>4 management that first notified you of the case?</p> <p>5 A. I was notified by Mr. Anderson's office and</p> <p>6 then by e-mail. And then I was told to meet with him,</p> <p>7 and that's when they went over everything with me. And</p> <p>8 I was told to go see the risk manager, who was down the</p> <p>9 hall, and then she did all the explaining of the</p> <p>10 complaint and everything.</p> <p>11 Q. Okay. All right.</p> <p>12 A. It's been so long ago.</p> <p>13 Q. From reviewing your answers, you have never</p> <p>14 been disciplined for any reason concerning this matter;</p> <p>15 is that fair?</p> <p>16 A. No, sir.</p> <p>17 MR. POTTER: All right. I will pass the</p> <p>18 witness at this time.</p> <p>19 MR. DUNSMOOR: No questions.</p> <p>20 MR. ANDERSON: I have no questions.</p> <p>21 MR. POTTER: Good. You are free to go.</p> <p>22 THE WITNESS: All right. Thank you.</p> <p>23 (Thereupon, the deposition concluded at</p> <p>24 1:35 p.m.)</p> <p>25</p>

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1	CERTIFICATE OF DEPONENT				Page 50
2	PAGE	LINE	CHANGE	REASON	
3					
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15	I, OFFICER JEFFREY B. SWAN, deponent herein, do hereby				
16	certify and declare under the penalty of perjury the				
17	within and foregoing transcription to be my deposition				
18	in said action; that I have read, corrected and do				
19	hereby affix my signature to said deposition.				
20					
21					
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23					
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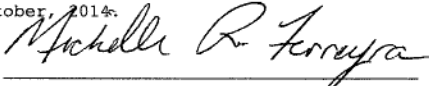
1	CERTIFICATE OF REPORTER				Page 51
2	STATE OF NEVADA)				
	COUNTY OF CLARK)				
3	I, Michelle R. Ferreyra, a Certified Court				
4	Reporter licensed by the State of Nevada, do hereby				
5	certify: That I reported the deposition of OFFICER				
6	JEFFREY B. SWAN, commencing on TUESDAY, SEPTEMBER 30,				
7	2014, at 12:35 p.m.				
8	That prior to being deposed, the witness was				
9	duly sworn by me to testify to the truth. That I				
10	thereafter transcribed my said stenographic notes into				
11	written form, and that the typewritten transcript is a				
12	complete, true and accurate transcription of my said				
13	stenographic notes, and that a request has been made to				
14	review the transcript.				
15	I further certify that I am not a relative,				
16	employee or independent contractor of counsel or of any				
17	of the parties involved in the proceeding, nor a person				
18	financially interested in the proceeding, nor do I have				
19	any other relationship that may reasonably cause my				
20	impartiality to be questioned.				
21	IN WITNESS WHEREOF, I have set my hand in my				
22	office in the County of Clark, State of Nevada, this				
23	14th day of October, 2014.				
24					
25	MICHELLE R. FERREYRA, CCR No. 676				

Exhibit I

ID# 1753089

A-B

<input type="checkbox"/> In the Municipal Court of <input checked="" type="checkbox"/> In the Justice Court of Clark County Court Case #		State of Nevada CLARK COUNTY Las Vegas Metropolitan Police Department		E10122728A Event #: 110807-2714	
<input type="checkbox"/> Traffic <input type="checkbox"/> Accident <input type="checkbox"/> Non-Traffic <input type="checkbox"/> School Zone <input type="checkbox"/> Parking <input type="checkbox"/> Meter # <input type="checkbox"/> Construction Zone		<input type="checkbox"/> Hazmat <input type="checkbox"/> S.T.E.P. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural		<input type="checkbox"/> Injuries <input type="checkbox"/> Crime Report <input type="checkbox"/> Officer's Report <input type="checkbox"/> Evidence Logged <input type="checkbox"/> Arrest	
Travel Direction: <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input checked="" type="checkbox"/> W		Beat Area: S1		Mile Marker:	
At Location: FLAMINGO RD AT PALMS WINNER WAY					
Violation Date: 08/07/2011 Time: 1515		Issue Date: 08/07/2011 Time: 1647			
<input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7		Had Been Drinking: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Test Type: <input type="checkbox"/> PBT <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> UA <input type="checkbox"/> Other Explain: <input type="checkbox"/> Drugs Suspected Results: %			
Defendant Type: <input checked="" type="checkbox"/> Driver <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other Explain:					
NAME (Last, First, Middle): PAULOS, CRISTINA Social Security #:					
Address: <input checked="" type="checkbox"/> Physical <input type="checkbox"/> Mailing 2988 VIA MERIDIANA		City: Henderson State: NV Zip: 89052 City: USA		DOB: 08/21/1979 Race: W Sex: F Height: 503 Weight: 150 Hair: BRO Eyes: BRO	
OLN/ID: 1701891084 <input type="checkbox"/> CDL State: NV Class: C Expiration: 08/21/2011		Restrictions: Endorsements:			
Vehicle has current proof of insurance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Expiration Date of Insurance Card: 09/27/2011					
THE FOLLOWING VEHICLE/MOTOR VEHICLE					
Commercial Vehicle <input type="checkbox"/> US DOT #:		VIN #: JT2AE08VXP0012074			
Vehicle License: 722UWF		Lic. State: NV Expiration: 12/08/2011 Year: 1993		Make: TOYT Model: COROLLA/DX Trgt: PSW Color: GREEN	
Reg. Owner: <input type="checkbox"/> Same		Address: 2988 VIA MERIDIANA, Henderson, NV 89052-3841			
THE FOLLOWING OFFENSE(S):					
Violation: DUI- ACCIDENT (Drugs or Alcohol)		1102			
Posted Speed:		Actual Speed:		Citad Speed:	
<input checked="" type="checkbox"/> NRS <input type="checkbox"/> CFR <input type="checkbox"/> County Code <input type="checkbox"/> Municipal Code		To Wt: NRS/County/City # NRS 484.318(CCO 1.98.010/LVO 10.02.010			
DRIVER OVER AGGRESSIVE, PHYSICALLY FOUGHT WITH OFFICER ON SCENE, SWIFT MOOD SWINGS AND DELIRIUM					
Violation:		Violation Code: Sex Count			
To Wt:		<input checked="" type="checkbox"/> NRS <input type="checkbox"/> CFR <input type="checkbox"/> County Code <input type="checkbox"/> Municipal Code			
NRS/County/City #		Violation Code:			
I hereby (or declare) that I have reasonable grounds/probable cause to believe and do believe that above named person committed the above offense(s) contrary to law.					
Officer/Complainant's PRINTED Name: SWAN		Officer/Complainant's Signature:		Pat: 7303 Bureau: TR32	
Las Vegas Municipal Court PCH 3250 200 Lewis Ave. Las Vegas, NV 89127 702-251-1073 1-800-251-8856		Las Vegas Justice Court 200 Lewis Ave. Las Vegas, NV 89125 702-671-3444 1-877-971-3103		Juvenile Justice 631 W. Pecos Rd. Las Vegas, NV 89101 702-455-5380	
Township: LAS VEGAS JUSTICE COURT		Justice Court: LAS VEGAS JUSTICE COURT		Priority: 702-671-3444	
You are hereby ordered to appear on 11/07/2011 Mon 07:30 AM.					
Defendant's Signature:		<input type="checkbox"/> Interpreter Needed? LANGUAGE:		<input checked="" type="checkbox"/> Court Mandatory Violation Code(s): See Court	

LVMPD-0001

Exhibit J



001278



001279

Exhibit K

001280

001280

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11
 12 Attorneys for Plaintiff,
 CRISTINA PAULOS

13 UNITED STATES DISTRICT COURT

14 DISTRICT OF NEVADA

15 CRISTINA PAULOS, an individual;

16 Plaintiff

17 v.

18 FCHI, 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**
 26 **METROPOLITAN POLICE DEPARTMENT'S INTERROGATORIES, SET TWO**

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

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

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

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:

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.
Justin Smerber, Esq.
Moran Law Firm
630 South Fourth Street
Las Vegas, NV 89101
Attorney for Defendant, FCHI

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

Exhibit L

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
 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

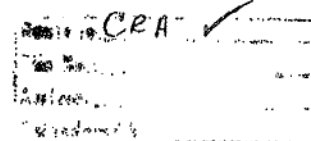
CASE NO.: 2:13-cv-01546-JCM-PAL

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.

24
 25 PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANTS OFFICER VON
 26 GOLDBERG, OFFICER SWAN AND OFFICER BACA'S FIRST SET OF
 27 INTERROGATORIES
 28



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

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

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

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

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 ///

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
13
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27
28

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 matters 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

Cristina Paulos

Signature

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 20th day of December, 2013.

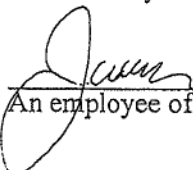

An employee of Blut Law Group, APC

Exhibit M

001295

001295



The easy way to raise money online.

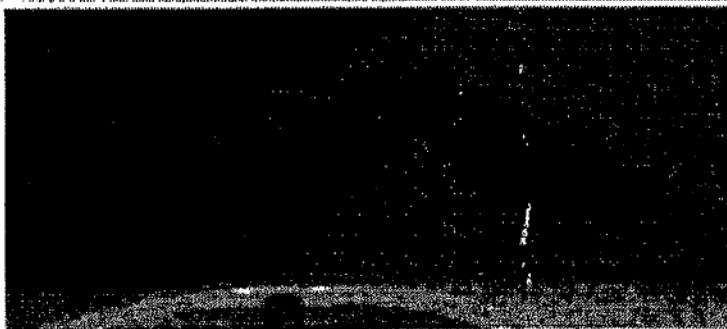
Search by name or location...

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

Like 57

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

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

6/14/2013

LVMPD 0024



GoFundMe is a way to raise money online. The first step is to raise money online. You can raise money online by selling your own products or services, or by asking for donations. You can also raise money online by selling your own products or services, or by asking for donations. You can also raise money online by selling your own products or services, or by asking for donations.

friend, amazing artist, and a survivor. Sign Up Donate



\$10.00

Jessica Hougen
5 months ago

I bought a piece of yours through Trifecta 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 swam in the same ponds. When you feel better, come make some prints with us at Open Air Printers.

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!!

1-10 of 22 donations (Next)

YOU CAN ALSO SEND FUNDS DIRECTLY TO ME BY USING PAYPAL AT cristina.paulos@gmail.com

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

Have Questions? Contact the organizer of this campaign now: Contact

Embed | NEW! Print a Sign

gofundme

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-rec-overly-and-more-garments/>

posted by Cristina Paulos 5 months ago

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

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

6/14/2013

LVMPD 0026

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

Page 4 of 4



more-garments/ I posted on my blog too. Thank
The easy way for anyone to help everyone!

Search by name or location...

Help

Sign Up

Donate

posted by Cristina Paulos 5 months ago

1 - 4 of 4 Comments

Bring your fundraising ideas to life with an online donation website from GoFundMe!



SIGN UP

Like (27k)

TOUR

Follow @gofundme

QUESTIONS

CONTACT

Getting Started

Take the Tour!
Fundraising Ideas
Common Questions
Sign Up Now >>

Yes, it really works!

Real Success Stories
GoFundMe Reviews & Press
View Live Examples
Ask Us a Question

Explore the Site

Online Fundraising Tools
Search & Donate Online
Online Donation Blog
Partners & Affiliates

Connect with Us!

Ask a Question
Media & Press Center
GoFundMe in the News
Become a Partner

© 2010-2013 GoFundMe

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

6/14/2013

LVMPD 0027



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

December | 2012 |

Page 2 of 7

(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

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

6/14/2013

LVMPD 0029

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

Posted in Uncategorized | Tagged burns, fundraising, keloid, wish list | Leave a reply

Silent Night

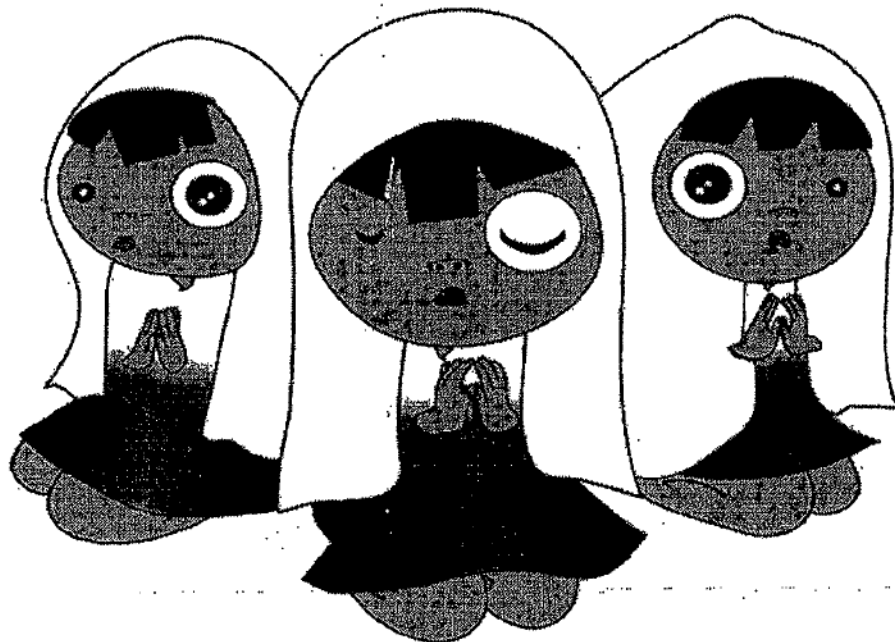
Posted on 12/12/2012 by cpaulos

reply

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

6/14/2013

LVMPD 0030



Silent Night, Happy Holidays

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

ARTIST'S FACEBOOK PAGE

Artwork of Cristina Paulos



Like

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

CRISTINAPAULOS.COM

**CRISTINA
PAULOS.COM**

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

6/14/2013

LVMPD 0031

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

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NOOK OF CURIOSITY

ALL NEW COMIXS for the web



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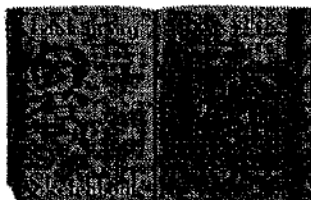
<http://natsukonook.wordpress.com/2012/12/>

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9

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Exhibit N

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 2 ECOFF BLUT, LLP
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 3 Las Vegas, NV 89101
 Telephone (702) 384-1050
 4 Facsimile (702) 384-8565

5 Attorneys for Plaintiff,
 CRISTINA PAULOS

RECEIVED
 JAN 22 2013
 MARQUIS & AURBACH

6
 7 DISTRICT COURT
 8 CLARK COUNTY, NEVADA
 9

10 CRISTINA PAULOS, an individual;

11 Plaintiff

12 v.

13 F.P. HOLDINGS, L.P., a limited partnership;
 LAS VEGAS METROPOLITAN POLICE
 14 DEPARTMENT, a government entity; DOES
 1 through 10;

15
 16 Defendants.
 17
 18

CASE NO.: A-12-666754-C
 DEPT. NO.: XXVI

19 **PLAINTIFF CRISTINA PAULOS' ANSWERS TO DEFENDANT LAS VEGAS**
 20 **METROPOLITAN POLICE DEPARTMENT'S REQUEST FOR ADMISSIONS, SET**
 21 **ONE**

22 **REQUEST NO. 1:**

23 Admit that on August 7, 2011, you were driving a 1993 Toyota Corolla with license plate
 24 NV 722 UWF.

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

26 Admit.

27 **REQUEST NO. 2:**

28 Admit that on August 7, 2011, at around 3:20p.m., you were driving the Toyota Corolla
 on Flamingo Road in front of the Palms Casino.

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

2 Admit.

3 **REQUEST NO. 3:**

4 Admit that at about 3:20 p.m., you ran a red light and struck another vehicle head-on on
5 Flamingo Road in front of the Palms Casino.

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

7 Admit that at about 3:20pm, I was involved in an accident and hit a car on Flamingo.

8 **REQUEST NO. 4:**

9 Admit that after being involved in the head-on collision with the vehicle, you turned left
10 into the Palms Casino.

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

12 Admit as I was turning left at the time, I hit a car on Flamingo.

13 **REQUEST NO. 5:**

14 Admit that you struck another vehicle head-on at the Palms Casino enter/exit.

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

16 Admit.

17 **REQUEST NO. 6:**

18 Admit that after the second accident, you entered the second vehicle and sat in the driver's seat.

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

20 Unable to admit or deny as I don't recall but admit a video reflects my entering a car.

21 **REQUEST NO. 7:**

22 Admit that when the owner of the second vehicle (Brian Larson), attempted to reach
23 across you and take his keys out of the ignition, you bit him.

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

25 Deny.

26 **REQUEST NO. 8:**

27 Admit that you then exited the second vehicle.
28