

IN THE SUPREME COURT OF THE STATE OF NEVADA
SUPREME COURT CASE NO. 75609

DAVID COPPERFIELD'S DISAPPEARING, INC., DAVID COPPERFIELD, JR.,
DAVID KOTKIN, and MCMC GRAND HOTEL, LLC

Petitioners,

THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA,
CLARK COUNTY AND THE HONORABLE MAJOR, DENON

Respondents,

GAVIN AND MITCHELL HAHN COX

Real Parties In Interest,

From the Eighth Judicial District Court, Clark County, Nevada
Case No. A-14-705164-0

REAL PARTIES IN INTEREST (GAVIN COX AND MITCHELL HAHN COX) AS
APPENDIX IN SUPPORT OF ANSWER TO PETITIONERS' WRIT OF
MANDAMUS

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DOCUMENT DESCRIPTION	EXHIBIT
April 13, 2018 Transcript of Motions (Referenced Portions)	1
Order Regarding Defendants' Trial Brief Related to Closing Certain Proceedings From the Media and the General Public	2
April 13, 2018 Transcript of Jury Trial (Referenced Portions)	3
April 17, 2018 Transcript of Jury Trial (Referenced Portions)	4
April 18, 2018 Transcript of Jury Trial (Referenced Portions)	5
April 19, 2018 AP News Article	6



APRIL 13, 2018 TRANSCRIPT OF MOTIONS

"EXHIBIT 1"

1 CASE NO. A705164

2 DEPT. NO. 13

3 DOCKET U

4

5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 * * * * *

8 GAVIN COX and MINH-HAHN COX,)
husband and wife,)

9 Plaintiffs,)

10 vs.)

11 MGM GRAND HOTEL, LLC; DAVID)
12 COPPERFIELD aka DAVIS S.)
13 KOTKIN; BACKSTAGE EMPLOYMENT)
14 AND REFERRAL, INC.; DAVID)
15 COPPERFIELD'S DISAPPEARING,)
16 INC.; TEAM CONSTRUCTION)
MANAGEMENT, INC.; DOES 1)
through 20; DOE EMPLOYEES 1)
through 20; and ROE)
CORPORATIONS 1 through 20,)

17 Defendants.)

18 MGM GRAND HOTEL, LLC.,)

19 Third-Party Plaintiff,)

20 vs.)

21 BEACHER'S LV, LLC, and DOES 1)
22 through 20, inclusive,)

23 Third-Party Defendants.)

REPORTER'S TRANSCRIPT

OF

MOTIONS

BEFORE THE HONORABLE

MARK R. DENTON

DEPARTMENT XIII

FRIDAY, APRIL 13, 2018

24 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,

25 CA CSR #13529

ROUGH DRAFT TRANSCRIPT

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21 * * * * *

1 LAS VEGAS, NEVADA, FRIDAY, APRIL 13, 2018;

2 9:10 A.M.

3
4 P R O C E E D I N G S

5 * * * * *

6
7 THE MARSHAL: All rise. Eighth District
8 Court, Department 13, is now in session, the Honorable
9 Mark Denton presiding.

10 THE COURT: Good morning. Please be seated.

11 We're reconvening in -- outside the presence
12 of the jury in Gavin Cox, et al. v. MGM Grand Hotel,
13 LLC, et al. Please state appearances of counsel,
14 identify parties and party representatives who are
15 present today.

16 MR. MORELLI: Benedict T. Morelli for the
17 plaintiff Gavin and Minh Cox. And they are here in the
18 courtroom, Gavin Cox, Minh Cox, and their three sons.

19 MR. DEUTSCH: Good morning, Your Honor. Adam
20 Deutsch, also for the plaintiffs.

21 MR. FALLICK: Good morning, Your Honor.
22 Perry Fallick, also for the plaintiffs.

23 MR. POPOVICH: Good morning, Your Honor.
24 Jerry Popovich for defendant MGM Grand Hotel, with Mike
25 Infuso, Kelly Davis, Will Martin, and Mark Habersack.

1 MS. FRESCH: Good morning, Your Honor.
2 Elaine Fresch of Selman Breitman for David Copperfield,
3 David Copperfield Disappearing, Inc. Sitting next to
4 me is David Copperfield, my client, and -- excuse me --
5 Gil Glancz is also here today from my office, and Eric
6 Freeman.

7 THE COURT: Good morning.

8 MR. ROBERTS: Good morning, Your Honor. Lee
9 Roberts for Backstage. With us today is the president
10 of Backstage, Mr. Chris Kenner.

11 MR. RUSSELL: Good morning, Your Honor.
12 Howard Russell, also on behalf of Backstage.

13 MR. STRASSBURG: May it please the Court,
14 Roger Strassburg on behalf of Team Construction
15 Management. And I'm assisted ably by my partner, Gary
16 Call, who's also here.

17 MR. CALL: Thank you.

18 THE COURT: As I indicated, this is the time
19 for resumption of trial. I understand there's
20 something to be taken up before we proceed.

21 MS. FRESCH: Sorry.

22 MR. GLANCZ: Good morning, Your Honor. Gil
23 Glancz on behalf of David Copperfield and David
24 Copperfield Disappearing, Inc. I'm here to argue with
25 respect to our trial brief relating to closing certain

1 portions of the court proceedings from the media and
2 the general public. And I'll also be, if necessary,
3 arguing our motion to stay pending a writ, depending on
4 your decision.

5 First, Nevada law recognizes that courts
6 should protect trade secrets and other confidential
7 information by reasonable means by putting stuff under
8 seal and sometimes closing the proceedings. Here,
9 we're seeking to close the proceedings so that David
10 Copperfield's trademarked secrets won't get out.

11 His trademarked secrets are, obviously, his
12 illusions and different magic steps that go to his
13 things. He's worked his whole career, lifetime and
14 years, putting together these different illusions and
15 magic tricks for him to use, and he has secrets behind
16 it.

17 Plaintiffs have argued that everybody knows
18 these tricks, he's making someone appear and disappear,
19 but that's not entirely correct. He's -- there's a lot
20 more that goes on with the trick. And if everybody
21 knew how to do it, they would be doing it as well. And
22 no one else is.

23 One of the other things that plaintiffs
24 argued is that the plaintiffs themselves and all other
25 participating audience members in his trick also know

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1 how that trick was done because they're part of it.

2 But, again, that's only a small portion of
3 the illusion itself. They don't have an idea of what's
4 going on on stage and different things that David
5 Copperfield is doing to -- sleight of hands, moving
6 people, and how everything else works. And a lot goes
7 into these tricks. And Mr. Copperfield is going to
8 have to testify to all of these different aspects of
9 it -- of the trick, the methods, in order to defend
10 himself properly in this case.

11 Additionally, the magic trick in question,
12 the Thirteen, also is related to several of his other
13 tricks and illusions, one being the fan illusion, where
14 no other audience participants are even part of the
15 illusion at all. So no one has any idea how he does
16 it. The reason that illusion is relevant is because
17 Mr. Copperfield walks that same exact path that
18 plaintiffs walked when doing the Thirteen Illusion.

19 And it's -- it's clear that there are trade
20 secrets and they should be protected. It meets all the
21 standards. They've guarded the secret. No one else
22 knows the secret. They've taken all the steps that
23 they can to keep it protected. So it's clearly a trade
24 secret. If all of that is revealed to the general
25 public and to the media, then that trick is worthless.

1 Once the secret is revealed, you can't use that trick
2 anymore.

3 And because that illusion has the same
4 methods as other tricks of -- other tricks of David
5 Copperfield, then he would have to give up using all
6 those other illusions as well because people would
7 already know what it is. The value of a magic illusion
8 is the fact that no one knows how it's done.

9 Additionally, there's a growing trend to
10 afford magic illusions and tricks copyright protection.
11 We brought the case of Teller v. Dogge, where the court
12 found that dramatic works are protected and can be
13 copyright-protected. In this case, Mr. Copperfield
14 doesn't have a copyright on -- on his illusion, but the
15 case still stands that the court found whatever reason
16 it could to protect Teller's copyright protection in
17 that case.

18 And what -- there's plenty of ways that the
19 court could have said it's not valid because he didn't
20 file it in the proper time. They could have found that
21 it was abandoned. But the court went out of its way to
22 show that it's a copyrighted material and even said
23 that dramatic works as well as pantomimes are subject
24 to copyright protection.

25 Additionally, currently going through the

1 United States Congress House of Representatives is a
2 bill that's -- that they're passing, Congressional
3 Resolution 698, which is intended to preserve and
4 protect and promote magic in its form, specifically, to
5 treat it as a rare and valuable art form and national
6 treasure.

7 By putting it into that, if that bill goes
8 through, automatically, those become trade secrets and
9 they'll be -- they'll be protected the same way any
10 musical piece, movie, other artworks are protected.

11 We've -- we haven't even begun the trial
12 already, and there's been significant media coverage.
13 We have people in here today from the media taking
14 pictures of the courtroom. We've had lots of
15 interviews and things going on. And the advertisers
16 are now actually teasing that they're going to be
17 revealing how some of his illusions are performed.

18 That's not -- it's basically not fair to have
19 Mr. Copperfield have to divulge all of his trade
20 secrets related to this trick and others when there's
21 no reason for it. So we believe that eliminating
22 the -- by precluding media and general public to come
23 in during his testimony and several others where they
24 discuss the actual methods and design of the illusion
25 would -- would -- would protect Mr. Copperfield's trade

1 secrets.

2 MR. DEUTSCH: Thank you, Your Honor.

3 Your Honor, we submitted a brief on this
4 yesterday, I believe. It starts off with the
5 Constitution of the United States, Your Honor. The
6 First Amendment holds very clearly that legal
7 proceedings should be open to the public. The Supreme
8 Court of Nevada in the Del Papa case has said that.
9 There was another case, Suen v. Las Vegas Sands that
10 said very clearly that legal proceedings are public
11 affairs and should be open to the public for that
12 purpose.

13 The argument that this trick that is relevant
14 in this case, the Thirteen Illusion, is -- is a trade
15 secret or a secret of any kind is belied by the
16 position that Mr. Copperfield is taking in this case.
17 Yesterday in the discussion about opening statements,
18 Mr. Copperfield's attorneys provided the Court with
19 some photograph demonstrative exhibits that they wanted
20 to use to show how many people already know about how
21 this trick is done.

22 And they're taking the position that there's
23 over 100,000 people that already know how this trick is
24 done. Every single night this trick is done,
25 Mr. Copperfield selects 13 people, tells them how the

1 trick is done, shows them how the trick is done,
2 doesn't make them sign any type of nondisclosure
3 agreement of any kind. The world knows how this trick
4 is done.

5 Any discussion about any other tricks, as far
6 as we're concerned, Your Honor, have nothing to do with
7 this case. If the defendants choose to come in here
8 and disclose how other tricks are done, they do that at
9 their own peril. This case is about one trick, the
10 Thirteen, a trick that Mr. Copperfield claims he
11 doesn't do anymore, which means therefore that there's
12 no reason to protect the secret anymore; a trick that a
13 simple search of the internet already discloses how the
14 trick is done; a trick that 13 people every night for
15 all the years knew how it was done.

16 So there's nothing secret about the Thirteen
17 Illusion at this point. Anything having to do with
18 another trick, we don't even think it's relevant to the
19 case. And if they choose to use it, then they do so at
20 their own peril, Your Honor. I think that the public
21 has a right to know what's going on in this courtroom,
22 and I think there's no reason to preclude anyone from
23 being in here, including cameras.

24 Thank you, Your Honor.

25 Oh, can I just say one more thing? I

1 apologize.

2 There's no proof of any copyright here
3 either. They didn't put that in their initial papers.
4 There's no proof of a copyright anywhere, I don't
5 believe. And they raised it today for the first time.
6 So I don't think there's been any proof that anything
7 here is copyrighted.

8 THE COURT: Okay.

9 MR. GLANCZ: Your Honor, to that point, I
10 agree the tricks are not copyrighted. We've raised it
11 just as an example of magic illusions being able to
12 have that kind of protection, and that's what we're
13 seeking here.

14 The case that plaintiff just cited as far as
15 the openness of the proceedings to the media and
16 general public, none of those cases that he cited have
17 to deal with trademarked secrets. There's plenty of
18 cases -- and the supreme court here in Nevada has said
19 that they -- that closing proceedings may be weighed to
20 protect trade secrets such as this.

21 His secrets are what makes him the magician
22 he is today. And while the audience participants may
23 be able to share their limited experience with respect
24 to the small portion of the illusion, they would not be
25 able to provide any information to the majority of the

1 illusion.

2 There's a lot of stuff that goes on while the
3 audience participants are moving from one part of the
4 stage to another, a lot. That's where most of the
5 trick happens. Yes, the reveal is the -- the big
6 climax of the trick, but a lot of other things go on
7 during that time. And no one can testify to that.

8 Plaintiffs don't know the whole trick. The
9 only person that does is Mr. Copperfield sitting right
10 here next to us. So he should be able to be protected
11 and not have to give up that information.

12 Additionally -- sorry -- excuse me -- with
13 respect to the other trick, it goes without saying that
14 that has to be revealed. It's definitely relevant to
15 this case. When you have a person walking the same
16 path as the plaintiffs no more than ten minutes before,
17 it's going to be relevant. You have to discuss that.
18 If he's discussing every method that goes on with the
19 Thirteen Illusion, you're going to find out every
20 method that goes along with the other illusions as
21 well. And he should be protected from having to reveal
22 all that just to defend himself in this case.

23 THE COURT: But you're the one that brought
24 that out on this argument; right?

25 MR. GLANCZ: I am.

1 THE COURT: I didn't hear the plaintiffs
2 bring out the resemblance of another act.

3 MR. GLANCZ: That's true. I don't know. I
4 haven't been part of the whole discovery process of
5 what they know, but I'm assuming that it came through
6 in deposition testimony, and this is the first they
7 learned about it.

8 MR. DEUTSCH: It did not, Your Honor.

9 MS. FRESCH: Your Honor, may I insert?

10 Mr. Copperfield testified about that in his
11 deposition.

12 THE COURT: All right.

13 MS. FRESCH: It has been --

14 THE COURT: The fact is it hasn't been
15 brought out by the plaintiff --

16 MS. FRESCH: But, Your Honor --

17 THE COURT: -- as being similar.

18 MS. FRESCH: But for us to properly defend
19 Mr. Copperfield in this case and for him to properly
20 defend himself, what -- what Mr. Deutsch is suggesting
21 is that he has to choose between not bringing up
22 another illusion so that he does not reveal the secrets
23 behind how that illusion is performed, or he just
24 doesn't get to defend himself properly. That's not
25 fair. That's prejudicial to him. He has to be able to

1 bring up another illusion in order to properly --

2 THE COURT: And if that's the case, then
3 there may be reason to close the court at that time.
4 But that doesn't mean that everything having to do with
5 this illusion has to be closed.

6 MS. FRESCH: Well, obviously, our argument is
7 that this illusion should be the same closed proceeding
8 because not everyone knows the entire process of how
9 the Thirteen is developed and performed from step one
10 to the end when those audience members reappear. No
11 one knows that. Only Mr. Copperfield and the people of
12 Backstage and the other stagehands have any concept of
13 how that is done. That is secret.

14 Mr. Deutsch talks about things like, yeah,
15 there's 96,000 participants. True. But they only know
16 the part from when they leave the stage to where they
17 end up in the back. They don't know how the rest of
18 the illusion. For us to properly defend,
19 Mr. Copperfield needs to explain all of that. I need
20 to explain that in opening statements. How can I do
21 that if I'm going to run the risk that
22 Mr. Copperfield's illusions, the source of his entire
23 career, will be revealed and will be on the news
24 tonight?

25 It already was on "Good Morning America." It

1 was on all the local stations. This is, like, getting
2 more media coverage. It's going to be on the news
3 tonight. That's prejudicial to Mr. Copperfield in his
4 business. These are proprietary information. That's
5 why originally there was a confidential order that was
6 agreed to by plaintiffs and signed by -- signed by Your
7 Honor.

8 I'm sorry.

9 THE COURT: All right. Thank you.

10 MR. DEUTSCH: Your Honor, may I just make one
11 point?

12 THE COURT: All right. The defense will have
13 the last word on it. It's their motion.

14 MR. DEUTSCH: Yeah, I understand, Your Honor.

15 Two things. One, if -- if the relevance of
16 the -- the second trick --

17 THE COURT: Don't refer to --

18 MR. DEUTSCH: I'm not. If the relevance of
19 the second trick -- that's why I didn't name it, but
20 "the second trick" -- is just that -- that there's a
21 walking of the similar route, like counsel just said,
22 they could say that without revealing anything else
23 about that -- that illusion.

24 But the more concerning thing for us, Your
25 Honor, is that this case has been through discovery for

1 four years now. We've had interrogatories, we've had
2 multiple depositions of multiple witnesses, including
3 Mr. Copperfield, Mr. Kenner, other employees that are
4 involved in this illusion, the Thirteen Illusion.

5 And all of those witnesses were asked under
6 oath in multiple occasions, explain to us how the
7 illusion is done. Both Ms. Fresch and -- I'm sorry.

8 I don't know your name.

9 MR. GLANCZ: Mr. Glancz.

10 MR. DEUTSCH: -- Mr. Glancz just got up here
11 and say even the plaintiffs don't know how this entire
12 illusion is going to be done. And Ms. Fresch just said
13 that she's going to tell the jury how the entire
14 illusion is going to be done.

15 So we're sort of perplexed, Your Honor, how
16 we're supposed to start this trial and open when we're
17 now being told in front of everybody in this courtroom
18 that there has been discovery that's been withheld from
19 us in terms of all of the details of this illusion.
20 Mr. Copperfield was asked under oath, "Tell us how the
21 illusion was done."

22 It's now been clear that he didn't share all
23 that information with us. Mr. Kenner was asked that
24 question. It's clear that he didn't share all that
25 information with us.

1 So we now feel that we're being prejudiced by
2 starting a trial where the defendants have purposefully
3 withheld information from us.

4 THE COURT: Okay. Thank you.

5 Let me hear last from defense.

6 MR. GLANCZ: Your Honor, first point is if we
7 did say something to the effect that plaintiffs don't
8 know how the -- plaintiffs' counsel doesn't know how
9 the trick is done, that's -- I didn't mean to say that.
10 They didn't -- they've gotten all the information. But
11 it's also given under confidentiality and a protective
12 order. So they have that, but they can't disclose it
13 to anybody.

14 We want the same -- we want that to be -- to
15 be protected here in trial, where he shouldn't have to
16 make a choice between his future financial capacity in
17 being able to perform different magic tricks versus
18 trying to defend himself in a case.

19 And, currently, besides the one illusion that
20 we talked about, Mr. Copperfield just informed us
21 there's another illusion that is very similar to the --

22 THE COURT: Don't identify what it is,
23 please.

24 MR. GLANCZ: I'm not.

25 MR. DEUTSCH: Your Honor, I just want to know

1 if Ms. Fresch misspoke also.

2 MS. FRESCH: No, Your Honor. I can tell you
3 that, because I was at all those depositions, it -- it
4 depends on how plaintiff asked their questions and what
5 they asked. If they chose not to ask questions in
6 depositions to elaborate on every process of the
7 illusion, that's their problem. We get to talk about
8 that now because we're in trial.

9 THE COURT: All right. Thank you. I don't
10 consider -- yes?

11 MR. ROBERTS: Yes. Your Honor, Lee Roberts,
12 Backstage Employment and Referral.

13 As you know, Your Honor, my company employs
14 the stagehands. And I just wanted to -- to tell the
15 Court that we would support the request to close the
16 courtroom only during the limited portions of the
17 opening and the trial where the details of the illusion
18 are discussed.

19 The continued employment and the ability to
20 earn a living of the stagehands depends upon
21 Mr. Copperfield's success, which, in the case of a
22 magician, depends on the preservation of trade secrets.
23 When illusions are known, they lose their magic.

24 In Richmond Newspapers v. Virginia, 448 U.S.
25 555, page 600, note 5, Justice Stewart noted that "the

1 protection of trade secrets is one of the limited
2 circumstances that can justify the exclusion of the
3 public from a trial during very limited segments of the
4 trial."

5 And we're not asking to close the whole
6 trial, but we support a request to close very limited
7 portions of the trial, Your Honor.

8 Thank you.

9 MR. DEUTSCH: Your Honor, can I just make a
10 clarification after Mr. Roberts's comments?

11 Our understanding was that the only dispute
12 that we were having at this moment was whether or not
13 cameras would be allowed to roll and not an issue -- I
14 was pretty confident that Your Honor has already ruled
15 on two occasions very clearly that Your Honor was not
16 going to close the courtroom as to reporters and that
17 the only thing that was being discussed here was the
18 issue of whether cameras would be allowed --

19 THE COURT: No, I think the motion goes
20 beyond that.

21 MR. DEUTSCH: Okay.

22 THE COURT: So I -- I looked at it. Here's
23 what I understand the defendant to be seeking. This is
24 page 6 of the defendants' motion that was filed
25 April 10th.

1 It says, "Therefore, defendants request that
2 the Court close the proceedings for opening statements,
3 closing arguments, and parts of the argument and
4 testimony related to the defendant's trade secrets, and
5 specifically the Thirteen Illusion" -- and I'm not
6 going to go beyond that.

7 MS. FRESCH: Right.

8 THE COURT: Okay.

9 MS. FRESCH: Okay.

10 THE COURT: All right. Well, here's my -- my
11 ruling: I don't consider the -- the specific illusion
12 involved in this case to be -- to warrant closing the
13 courtroom. Okay? So opening statements, questioning
14 of witnesses, everything else, I'm not going to close
15 the courtroom or the cameras relative to that illusion.

16 But if you're going to get into something
17 else, approach the bench -- approach the bench -- and
18 let me know, because there may be reason to either --
19 either close the cameras or close the courtroom or
20 whatever. Okay? There are some things there that may
21 be protectable trade secrets that would warrant the
22 Court's consideration of closure of proceedings.

23 But I'm not going to close the proceedings
24 relative to the specific illusion that's involved here,
25 the Thirteen Illusion, because I think that's -- that's

1 been out for quite some time in terms of -- and what
2 we're talking about is -- is what happened in this
3 case. And I think that's certainly something that's
4 subject to open court proceedings. Okay?

5 So there's my ruling.

6 So I'm going to need an order to be
7 submitted. And I'm -- I want counsel to be on the same
8 page on it; if not, submit competing orders and then
9 I'll determine which one to sign.

10 MR. GLANCZ: That's fine, Your Honor. I'll
11 draft that order, and then I can pass it over to
12 plaintiffs' counsel for their approval.

13 In the meantime, I'd also like to do an oral
14 motion for stay pending the writ that we'll be filing
15 today.

16 THE COURT: Well, all we're doing today is
17 opening statements. So I'm not going to stay the
18 proceedings. We'll go on with opening statements. And
19 that gives you time if you're going to be seeking a
20 writ. You know, we're not going to be reconvening
21 until next Tuesday, so -- right?

22 MR. GLANCZ: Yes. Thank you, Your Honor.

23 THE COURT: All right. So we're ready for
24 the jury?

25 MR. MORELLI: Finally. Yes.

1 THE COURT: Okay. Let's have the jury
2 brought in. I stand, and I expect everybody else to do
3 so when the jury comes in.

4 (Thereupon, the proceedings
5 concluded at 9:32 a.m.)
6
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9 -oOo-

10
11 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
12 PROCEEDINGS.
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17 _____
KRISTY L. CLARK, CCR #708
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22/24	702 [3] 2/13 2/24 3/6	Angeles [1] 3/12
MR. POPOVICH: [1] 4/22	708 [2] 1/24 23/17	another [7] 10/9 11/18
MR. ROBERTS: [2] 5/7	714 [1] 2/19	13/4 14/2 14/22 15/1
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MR. RUSSELL: [1] 5/10	7717 [1] 2/24	any [11] 7/15 9/9 10/15
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ORDER REGARDING DEFENDANTS' TRIAL BRIEF RELATED TO CLOSING CERTAIN PROCEEDINGS FROM THE
MEDIA AND THE GENERAL PUBLIC

"EXHIBIT 2"

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DAVID COPPERFIELD aka DAVID
KOTKIN, and MGM GRAND HOTEL, LLC.

DISTRICT COURT**CLARK COUNTY, NEVADA**

GAVIN COX and MIHN-HAHN COX,
Husband and Wife,

Plaintiff,

v.

MGM GRAND HOTEL, LLC; DAVID
COPPERFIELD aka DAVID S. KOTKIN;
BACKSTAGE EMPLOYMENT AND
REFERRAL, INC.; DAVID COPPERFIELD'S
DISAPPEARING, INC.; TEAM
CONSTRUCTION MANAGEMENT, INC.;
DOES 1 through 20; DOE EMPLOYEES 1
through 20; and ROE CORPORATIONS 1
through 20,

Defendants.

Case No. A-14-705164-C
Dept.: XIII

**ORDER REGARDING DEFENDANTS'
TRIAL BRIEF RELATED TO CLOSING
CERTAIN PROCEEDINGS FROM THE
MEDIA AND THE GENERAL PUBLIC**

AND RELATED CROSS-ACTIONS

Selman Breitman LLP
ATTORNEYS AT LAW

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DISTRICT COURT DEPT. XIII

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**ORDER REGARDING DEFENDANTS' TRIAL BRIEF RELATED TO CLOSING
CERTAIN PROCEEDINGS FROM THE MEDIA AND THE GENERAL PUBLIC**

This matter having come on for hearing on April 13, 2018, before the Honorable Mark Denton in Department XIII of the above-entitled court, Elaine K. Fresch, Esq., Jerry C. Popovich, Esq., Gil Glancz, Esq. and Eric O. Freeman, Esq. of Selman Breitman LLP appearing on behalf of Defendants DAVID COPPERFIELD aka DAVIS S. KOTKIN, MGM GRAND HOTEL, LLC and DAVID COPPERFIELD'S DISAPPEARING, INC. ("DCDI") (hereinafter collectively referred to as ("Defendants")); Benedict Morelli, Esq., Adam E. Deutsch, Esq. and Perry Fallick, Esq. of Morelli Law Firm appearing on behalf of Plaintiffs GAVIN COX and MINH-HAHN COX; Howard J. Russell, Esq. and Lee Roberts, Esq. of Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC appearing on behalf of Defendants BACKSTAGE EMPLOYMENT & REFERRAL, INC.; and Gary Call, Esq. and Roger Strassburg, Esq. of Resnick & Louis, P.C. appearing on behalf of Defendants TEAM CONSTRUCTION MANAGEMENT, INC. and BEACHER'S LV, LLC. The Court, having reviewed all of the pleadings and papers on file herein and oral arguments made by counsel at the hearing, and good cause appearing therefor:

IT IS ORDERED, ADJUDICATED and DECREED the Defendants' request to close certain portions of this trial to the public and media as they relate to the "Thirteen" illusion is hereby DENIED.

IT IS FURTHER ORDERED, ADJUDICATED and DECREED that there may be reason to preclude electronic recording or close the courtroom during certain portions of the trial related to the Defendants' other illusions as there are some things there that may be protectable Trade Secrets that would warrant the Court's consideration of closure of proceedings and therefore must


1 be ruled upon separately as the situations arise throughout trial.

2 IT IS SO ORDERED this 17th day of April 2018.

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DISTRICT COURT JUDGE

Respectfully submitted by:
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ATTORNEYS AT LAW



APRIL 13, 2018 TRANSCRIPT OF JURY TRIAL

"EXHIBIT 3"

1 CASE NO. A705164

2 DEPT. NO. 13

3 DOCKET U

4

5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 * * * * *

8 GAVIN COX and MINH-HAHN COX,
9 husband and wife,

10 Plaintiffs,

11 vs.

12 MGM GRAND HOTEL, LLC; DAVID
13 COPPERFIELD aka DAVIS S.
14 KOTKIN; BACKSTAGE EMPLOYMENT
15 AND REFERRAL, INC.; DAVID
16 COPPERFIELD'S DISAPPEARING,
INC.; TEAM CONSTRUCTION
MANAGEMENT, INC.; DOES 1
through 20; DOE EMPLOYEES 1
through 20; and ROE
CORPORATIONS 1 through 20,

17 Defendants.

18 MGM GRAND HOTEL, LLC.,

19 Third-Party Plaintiff,

20 vs.

21 BEACHER'S LV, LLC, and DOES 1
22 through 20, inclusive,

23 Third-Party Defendants.

REPORTER'S TRANSCRIPT

OF

JURY TRIAL

BEFORE THE HONORABLE

MARK R. DENTON

DEPARTMENT XIII

FRIDAY, APRIL 13, 2018

24 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,
25

CA CSR #13529

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21 * * * * *

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1 MR. POPOVICH: Thank you, Your Honor.

2 (Whereupon a luncheon recess was taken.)

3 THE MARSHAL: All rise for the jury.

4 (The following proceedings were held in
5 the presence of the jury.)

6 THE MARSHAL: Department 13 is again in
7 session. Remain in order.

8 THE COURT: You may be seated. We're back on
9 the record. Do counsel stipulate that the jury is
10 present?

11 IN UNISON: Yes, Your Honor.

12 THE COURT: All right. Ms. Fresch, you may
13 proceed.

14 OPENING STATEMENT

15 MS. FRESCH: Thank you.

16 Okay. Good afternoon.

17 IN UNISON: Good afternoon.

18 MS. FRESCH: I'm Elaine Fresch. Hopefully,
19 you remember that. I represent David Copperfield and
20 David Copperfield Disappearing, Inc. I'd like to
21 introduce you to my client David Copperfield.

22 This is a very straightforward case. Mr. Cox
23 tripped and fell down. But to understand why this has
24 nothing to do with my clients David Copperfield
25 Disappearing, Inc., or Mr. Copperfield, that they did

1 not fail to do anything and they did not do anything to
2 cause the fall, we have to spend some time in this
3 trial discussing magic and how Mr. Copperfield develops
4 his illusions and how the show is produced.

5 First, a definition of magic. Magic is a
6 performing art in which audiences are entertained by
7 staged illusions, seemingly impossible feats using
8 natural means. The evidence will show that David
9 Copperfield has developed and performed incredible
10 illusions over the course of many, many years.
11 Performing each of these illusions is a form of art in
12 and of itself. One of those illusions is the illusions
13 that you're going to hear about throughout this entire
14 trial in this first phase, is the Thirteen Illusion.

15 Art takes time to create and to develop. The
16 evidence will show that the Thirteen Illusion was
17 developed -- we will show you evidence about the
18 pathway the audience participants took that was
19 determined and all the practice and all the rehearsing
20 that was done in order to have this illusion become not
21 just a illusion in Mr. Copperfield's show, but the
22 finale, the end, the big final illusion of the -- of --
23 of the show.

24 This is important. A lot of rehearsal and
25 practice goes into this. That same rehearsal, that

1 same practice, not only goes into the illusion on the
2 part that you see as an audience member that
3 Mr. Copperfield is doing but also for that same pathway
4 that the audience volunteers take to go from one point
5 to another.

6 Mr. Copperfield's shows, over all the course
7 of years, involves many, many illusions that involve
8 audience participation. Safety for the audience
9 participants is important for the show. It is
10 important for Mr. Copperfield and it is important for
11 the audience members. Safety for the audience is
12 important too because Mr. Copperfield's shows involve
13 certain illusions that, in fact, car over participants'
14 heads on the stage, a big box coming down just over the
15 seated audience.

16 All of this has to be practiced. All of this
17 has to be determined so that all of these illusions
18 throughout the show are done successfully and safely,
19 because, otherwise, there would be no show.

20 Mr. Copperfield would just not be performing all these
21 years if all of his illusions were not done in a safe
22 manner for participants as well as for the audience as
23 well as for the stagehands as well as for
24 Mr. Copperfield.

25 The evidence will show that the way this

1 illusion, the Thirteen, was performed on November 12th,
2 2013, by Mr. Copperfield, by Mr. Copperfield's company,
3 David Copperfield Disappearing, Inc., and the various
4 assistants and stagehands was the way it had been done
5 many, many times before Mr. Cox participated that
6 particular night.

7 Okay. So the Thirteen Illusion. As you have
8 heard, the Thirteen is an illusion where David
9 Copperfield makes up to 13 people disappear before the
10 audience's eyes and then they reappear in a completely
11 different place. We will present evidence on how this
12 illusion was developed by Mr. Copperfield.

13 You will also hear testimony about how Chris
14 Kenner as well as Homer Liwag also helped
15 Mr. Copperfield develop this illusion. Mr. Kenner is
16 here as well. He's the president of Backstage
17 Employment.

18 Developing this illusion many years ago was a
19 collaborative effort to work out each and every precise
20 detail to engage the audience while performing the
21 illusion to make people sitting in a platform on top of
22 the stage all of a sudden disappear and then reappear.
23 It took well over a year to develop this illusion
24 before it was ever performed in public.

25 In order to perform the Thirteen, it requires

1 a certain group of people. It requires Mr. Copperfield
2 on the stage. He is on the stage the whole time. It
3 requires a variety of stagehands to participate in
4 order to make this illusion work. It also requires
5 audience volunteers. And, of course, it requires the
6 audience. All of those people are involved in this
7 illusion.

8 And the audience and the volunteers are an
9 important part of any illusion for Mr. Copperfield.
10 Mr. Copperfield will testify, and he will discuss the
11 importance of the audience and the importance of the
12 volunteers. And the goal is to inspire all of those
13 people at -- for being in the show and from leaving the
14 show, that they are inspired to continue on and dream
15 and possibly maybe do magic themselves.

16 Doing this illusion, as all of the illusions
17 that Mr. Copperfield performs, requires teamwork. This
18 is important. Mr. Copperfield has performed the
19 Thirteen Illusion all over the world. We will present
20 evidence about how this illusion and the route, or the
21 pathway, that the volunteers take has been adapted to
22 many different venues all over the world. Not just
23 here at the MGM, but all over the world, this same
24 illusion has been performed, and it always involves
25 volunteers going from one point to the other in order

1 to reappear.

2 This illusion was first performed back in
3 1998. It has been the final act for Mr. Copperfield.
4 For over 15 years, it was the final act. In 2000,
5 David Copperfield Disappearing, Inc., entered into
6 agreement with the MGM Grand for David Copperfield
7 Disappearing, Inc., to perform the David Copperfield
8 show at the Hollywood Theater, which is now the David
9 Copperfield Theater.

10 Briefly, David Copperfield Disappearing,
11 Inc., is a closely held corporation. Mr. Copperfield
12 is the sole shareholder. Mr. Copperfield is also an
13 employee of David Copperfield Disappearing, Inc. David
14 Copperfield Disappearing, Inc., has an agreement with
15 the MGM to hold his shows at the MGM. David
16 Copperfield Disappearing, Inc., also has an agreement
17 with Backstage Employment wherein Backstage provides
18 the magician assistants as well as the stagehands for
19 the show. Mr. Kenner, as I've mentioned, is the
20 executive producer of the show and he is the president
21 of Backstage.

22 Mr. Copperfield has been performing the
23 Thirteen Illusion as part of the show at the MGM for --
24 he had performed it for 13 years prior to Mr. Cox
25 participating on the night of November 12th, 2013.

1 During the entire illusion, from the moment
2 that David Copperfield begins to talk about this
3 illusion to the -- throwing the balls to the volunteers
4 disappearing and then reappearing, David Copperfield is
5 always on stage.

6 David, for this -- Copperfield -- excuse
7 me -- for this illusion, does not accompany the
8 volunteers when they leave the platform and then
9 proceed along the route. Because Mr. Copperfield is
10 out on stage the entire time because he needs to make
11 the illusion work. He needs to make participants
12 disappear or there is no illusion. Mr. Copperfield,
13 then, is on the stage the whole time.

14 Skip that one.

15 Now, segue here for a moment and talk about
16 participants. So we will present evidence that, from
17 1998 to 2013, on average, there was 640 shows per year.
18 So I got to get my piece of paper out here for this
19 one.

20 Okay. So that's 15 shows per week times 640,
21 that's 9600. I believe that's big enough. Okay. An
22 average number of participants for the illusion at each
23 show is about 10. You've already heard sometimes it's
24 not 13, sometimes it could be six, sometimes it could
25 be eight. On average, the evidence will show it's

1 about 10 participants per show.

2 9600 times 10 -- I don't know why I have to
3 look at my paper for that -- is 96,000. 96,000 people
4 participated in this exact same illusion that Mr. Cox
5 participated in prior to Mr. Cox participating on
6 November 12th, 2013.

7 Now, to get a sense of 96,000 people, I
8 thought I would show --

9 JUROR: It's upside-down.

10 MS. FRESCH: Oops. Thank you. Hey, this is
11 not my skill set.

12 All right. This is a photograph of the
13 T-Mobile Arena. Trying to -- good karma here for
14 tonight. T-Mobile Arena holds approximately, for a
15 hockey game, 17,500 people for capacity. Here is that
16 photo of T-Mobile Arena during a hockey game.

17 96,000 people. Imagine this many people
18 times 5.

19 MR. DEUTSCH: Objection, Your Honor.
20 Argument.

21 THE COURT: Overruled.

22 MS. FRESCH: 5 T-Mobiles of people
23 participated in this illusion successfully before
24 Mr. Cox did.

25 Okay. Now let's focus on the MGM as a venue

1 for this show. Okay. Again, I have to use another
2 piece of paper.

3 Okay. All right. The evidence will show
4 that Mr. Copperfield, when he first began performing at
5 the MGM, he did shows 20 weeks of the year -- all
6 right -- on average, 15 shows per week for 20 weeks.

7 So that's 20 times 15, that equals 300 times.
8 And he performed 20 weeks for the first five years
9 while he was at the MGM. So that equals 1500.

10 Okay. Then, from 2005 to 2008,
11 Mr. Copperfield increased the number of weeks he
12 performed his show to 26 weeks per year, 15 shows per
13 week, basically, seven days a week. So do that math,
14 which is 26 weeks times 15 equals 390. Times four
15 years, that's 1560.

16 Okay. Now, from 2009 to 2013,
17 Mr. Copperfield didn't decrease, he actually increased
18 the number of weeks he performs his shows at the MGM to
19 42 weeks. Same thing, 15 shows per -- per week, seven
20 days a week. So that math, 42 times 15 is 630, times
21 4, that's 2,520.

22 All right. So you take all that numbers,
23 you've got 5580. You take the 5580 times the average
24 10 participants, and that comes out to -- again, I'm
25 not sure -- I'm looking at my paper -- 55,800

1 participants participated in that illusion successfully
2 prior to Mr. Cox. That's three T-Mobile Arenas at
3 capacity for a hockey game like there will be tonight.

4 That's how many people participated as a
5 volunteer for this illusion, the Thirteen Illusion,
6 prior to Mr. Cox that night successfully. There were
7 no prior injuries, the evidence will show, prior to
8 Mr. Cox tripping and falling that night.

9 All right. The reason why this illusion has
10 been so successful for all these participants and for
11 all the audience members who sat there and saw that
12 illusion was due to the practice, the preparation, and
13 the precision that this team of people that you will
14 meet over the course of this trial do in order to
15 ensure that this illusion is done successfully, is done
16 in a way for the audience to enjoy, in a way for the
17 volunteers to enjoy.

18 Now, you've heard also about the screening
19 process for the people who volunteer for this. It
20 seems simple, but it's actually pretty intricate,
21 really. Unbeknownst to any of the people who are going
22 to be volunteers, they're not even aware that they're
23 being screened when they grab a ball. They don't
24 realize that there is a screening process. And the
25 screening process is very important.

1 And that was developed by Mr. Copperfield and
2 by the -- the people at Backstage in order to ensure
3 that the people who are going to be -- to be the
4 volunteers, who actually do disappear, are people who
5 are capable of -- of completing the illusion. But
6 what's important is, if someone along that route, for
7 any reason, decides that they do not want to
8 participate any longer, they don't have to. It's okay.
9 It's not a bad thing if someone says, I decide I don't
10 want to do it.

11 You'll hear testimony that, for the majority
12 of people, that never happens. It does occasionally,
13 but that's okay.

14 There's a lot of flexibility that goes into
15 this illusion in terms of the audience volunteers. It
16 can change over time because each show is different.
17 There's a different group of people each time who are
18 going to be involved -- involved in -- excuse me --
19 involved in disappearing and reappearing. There is no
20 magic number to who and how many people need to
21 participate in any given show. It is all flexible
22 depending on who those volunteers are at that
23 particular show.

24 The flexibility of this illusion is one of
25 the most unique things about that illusion, is that

1 it -- it adapts to who volunteers that night, who grabs
2 the ball, who decides that they want to participate and
3 be up on the stage and possibly disappear that night.

4 Now, the screening process is done to see
5 are -- is someone there a little tipsy? Do they have
6 inappropriate shoes on? Are there stilettos? Are they
7 unable to maneuver the obstacle course that
8 Mr. Copperfield walks with them when he is on stage as
9 you will see in the video during the course of this
10 trial?

11 If any of the people have those signs, they
12 do not go into the platform; they go over to a side
13 chair. They're still participating; they're just not
14 the ones who, quote/unquote, disappear. And the reason
15 that that is done is that is a safety assessment before
16 the individuals who end up on the platform and who will
17 eventually disappear.

18 Mr. Copperfield actually begins his screening
19 process of the volunteers the moment that they take the
20 balls and approach the stage, as do the Backstage
21 assistants. When Mr. Copperfield begins talking about
22 the illusion, when he starts to set it up, he's on
23 stage. He's walking around. And he's basically giving
24 some information to the audience about, okay, here
25 comes the next illusion.

1 He starts telling everyone in the audience
2 what the criteria will be to be a volunteer. You need
3 to be in good health. Mr. Copperfield says this to all
4 the audience members, you need to be in good health.
5 You need to be able to speak English. Yes, of course
6 you need to be able to speak English, as the evidence
7 will show, because you do need to understand and follow
8 direction if you're going to be one of the people who
9 disappear. You need to be over 18 years old.

10 Now, while Mr. Copperfield is asking these
11 questions and while he's performing the illusion, he's
12 also entertaining his audience. And that includes
13 humor. That includes some jokes. Are you a lawyer?
14 Things like that. That's part of the show. That's
15 what he's there doing. He is an entertainer.

16 Mr. Copperfield -- and this is prior to
17 anyone grabbing a ball -- tells the audience that the
18 volunteers will hang in the air and be made to
19 disappear. 13 men and women will vanish. He tells
20 them that if they grab a ball, they may get bumps and
21 bruises. And, most importantly -- and this is before
22 they grab the ball -- he says, "If you don't want to
23 play, sit down."

24 It's a choice. It is a choice for each
25 person who decides to become an audience volunteer.

1 They don't have to. You're sitting in the audience.
2 You don't have to stand up and grab a ball. It's your
3 choice if you want to take on and be a participant in
4 the show.

5 And Mr. Copperfield says specifically -- you
6 will see it in the video that we will show you of an
7 exemplar show -- if you -- if you don't sit down, you
8 understand the risk. He says that to all the audience
9 members, again, before the balls are thrown out.
10 Before anyone has the opportunity to grab a ball, he
11 has given the audience criteria to make them decide, do
12 I want to be a potential participant? Do I want to
13 maybe be up on stage? Do I want to participate where I
14 might disappear?

15 There's a mystery, of course, about what are
16 you going to do if you disappear? Because we all know,
17 when we go to a magic show, the whole thing is we don't
18 know how the magic is performed. What would be the
19 point if you always knew what -- what was the illusion
20 and how the illusion was performed? It wouldn't be any
21 fun. The whole idea is the mystery.

22 So if someone chooses to participate in an
23 illusion, they can't know everything before they start
24 participating because that would take away and defeat
25 the whole point of the entertainment value of being a

1 volunteer and being the one who disappears.

2 All right. Now, there's further screening.

3 Mr. Copperfield has said all of this when he's up on
4 stage. Then the music starts to play, the balls go
5 bouncing into the audience, same kind of beach ball
6 effect as when you're at a sporting event and people
7 are bouncing the balls around.

8 As they approach -- the music stops, people
9 grab the balls. As they approach over to the stairs --
10 which will be the left stairs if you're facing the
11 stage -- Mr. Copperfield is standing near the stairs
12 that go up onto the stage. There are Backstage
13 assistants down at the bottom of those stairs. So as
14 each person goes with their ball up to them, the
15 Backstage people are right there. And they ask them
16 three important questions. Can they run? Are they
17 members of the press? And are they magicians?

18 Now, for the purposes of this trial, the key
19 question was "Can you run?" Does that mean anyone has
20 to run? No. The point of that question is can you
21 run. That is telling that volunteer, when they are
22 asked that question, "Can you run?" that you might need
23 to run, or maybe you don't, but we want to know that
24 you can run. Just like Mr. Copperfield has already
25 said, are you in good health? Two key questions: Are

1 you in good health? And can you run?

2 Average adult goes up, hears those questions,
3 thinks I need to be in good health, I need to be able
4 to potentially run. That is giving a clue. That is
5 giving a warning to them that they need to be in good
6 health and they need to be able to run. It's your
7 choice when you're asked those questions to continue to
8 participate or not.

9 Now, the screening process continues.
10 They've asked the questions. Then they go up the
11 stairs. Mr. Copperfield is at the top of the stage
12 looking down at each volunteer as they walk up those
13 stairs. What's the point? Because you're assessing
14 the person. How well do they walk up the stairs? Are
15 they a little uneven on their feet? Are they having
16 any problems?

17 The Backstage assistants are also watching
18 them as they walk up, again, part of the screening
19 process. And the screening process about going up the
20 stairs, just as with the questions, is about safety.
21 Because if someone doesn't answer the question and say
22 they can't run, then, you know what? It's no big deal.
23 They'll go up the stairs; they'll go and sit down.
24 They'll be on the side chairs. They'll be the person
25 who's at the back that is used to show that there's

1 nothing going on behind the platform during the
2 illusion.

3 So the evidence will show you that this
4 illusion could not have been performed successfully at
5 the MGM if it was unsafe for all of these audience
6 participants for all these years, for all 55,000 people
7 who participated in it. If it was unsafe, 55,000
8 people would not have participated in this
9 successfully.

10 Again, they're asked specific questions.
11 They are watched as they are walked upstairs. Now,
12 they get up on the stage. They are also viewed,
13 because Mr. Copperfield takes all of these volunteers,
14 and he walks around the platform. Now, he's doing this
15 to show them and show the audience about the platform.

16 But what an audience member does not really
17 see is that, walking around the platform, there's
18 cables, there's lights. These volunteers have to
19 maneuver around these cables and lights as
20 Mr. Copperfield is leading them around, looking behind
21 them. Backstage are looking at them too. That's part
22 of the assessment process.

23 Again, if someone is unable to manage to make
24 it around this big platform and back to the front of
25 the stage, again, they'll go to a side chair.

1 Now, final screening, they go -- platform,
2 you got to go up some stairs. Again, if it looks like
3 someone is physically not doing well to get up those
4 stairs, they're taken over and put on a chair. And
5 it's done very casually. The audience watching this
6 does not think anything about it that some people are
7 put over at chairs and some are put in the platform.
8 It's part of the illusion.

9 Now, as much as there's stairs getting up on
10 the stage, going into the platform, for the purposes of
11 what we are all here about, from the point of the
12 dragon, which you've heard about a little bit from
13 Mr. Morelli, which is how -- the apparatus that the
14 volunteers utilize in order to leave the platform to
15 start on the pathway -- from the point of the dragon,
16 getting out of the dragon, to the point of the doors by
17 the cage of the casino of the hotel, there are no
18 stairs. So the stairs are used as assessment, but,
19 technically, there really are no stairs on this route
20 for the purposes of what we are here today.

21 Again, there are no magic numbers about how
22 many people need to participate. There are diagrams
23 that the stagehands have that actually show the
24 platform setup because there is a specific seating
25 arrangement. And Mr. Copperfield will explain the

1 process of that seating arrangement, as will
2 Mr. Kenner, to -- if there's only 6, if there's only 8,
3 if there's 13, there's a precise seating order.

4 And they have all of those different
5 alternates available and ready to go depending on how
6 many people volunteer, how many people met and made it
7 through the screening process.

8 Now, another key point is that there is no
9 hurry or urgency to have these participants reappear.
10 Why? The evidence will establish that there are a
11 variety of alternate endings to the illusion, to no one
12 appearing, to some reappearing, to all reappearing.

13 Now, as I mentioned, there will be testimony
14 that the majority of people who participate in this
15 illusion, they do reappear. But there are times when
16 someone doesn't reappear or something happens. And
17 guess what? Just no one reappears.

18 The audience is watching Mr. Copperfield up
19 on stage. People disappear. If for some reason it --
20 it ends up no one reappears, it's okay. The illusion
21 has still been successful. They disappeared.

22 Again, going back to the flexibility, the
23 flexibility is so that, no matter what is going on with
24 the volunteers, there are different ways to end this
25 illusion so that there is no issue. If there is a

1 problem with a volunteer, if something occurs, odd
2 things happen, doesn't matter. Some people don't
3 reappear? It's okay.

4 There's -- this illusion is not a timed
5 event. And that's key because that goes with the no
6 hurry, no urgency. It's not a timed event.

7 In fact, as Mr. Popovich mentioned, the only
8 part that's really a key critical thing of timing is
9 actually for the part that Mr. Copperfield is doing
10 while he's on stage. He needs to do the illusion of
11 having them disappear. You can't have people reappear
12 too quickly because he has not had sufficient time to
13 interact with the audience about the people
14 disappearing.

15 So, in fact, there needs to be enough time
16 for Mr. Copperfield to be performing the illusion in
17 front of the audience members. That needs at least a
18 minute. And, on average, the evidence will show that
19 typically it's about a minute 20, a minute 40, a minute
20 and a half for the participants from the time that the
21 curtain goes down -- because that's when they start on
22 the route -- from the time the curtain goes down on the
23 platform to the time that they reappear when we're
24 talking about the venue at MGM.

25 Mr. Morelli mentioned how the music can loop.

1 Yes. Why is that important? Because, again, it's so
2 that, as people are going a little -- walking slower
3 that way as the participants, it's okay. The music
4 just loops. Mr. Copperfield is a great performer and
5 entertainer. He can handle being on stage. Doesn't
6 matter. Music keeps looping; he keeps entertaining the
7 audience. The audience is having fun. They don't
8 care. So what if it was actually 2 1/2 minutes?
9 Doesn't matter. The music can reloop and reloop and
10 reloop. No one's going to matter. And then the
11 audience reappears. Those volunteers reappear. Then
12 that's perfect. That's why the music can reloop. It's
13 because -- the whole point of this illusion is the
14 flexibility of it so that everyone is having a good
15 time.

16 Now, a minute doesn't seem like a long time,
17 in some respects. Minute, minute and a half, that
18 doesn't seem like a long time. However, as the
19 photograph that Mr. Popovich showed you of the outside
20 and -- oops -- of the nice diagram here, it's not a
21 really big distance. And that one photograph that
22 Mr. Popovich showed you shows like it's a pretty short
23 amount of feet, especially from the time that the
24 volunteers go out the 30 feet, to the approximate
25 43 feet, to go into the third door back into the hotel

1 by the cage. And there will be testimony as to why.

2 Because, again, everyone involved in
3 designing this illusion and developing it, and
4 developing this route at the MGM specifically, took
5 into consideration what made best sense for these
6 volunteers from the time that they leave the dragon, go
7 through the back of the theater, out the door, and that
8 it would make the best sense and the most direct
9 pathway for those people to go into the third set of
10 doors. Not the first, not the second, and not the
11 fourth.

12 So now that we're looking at the diagram, I
13 want to also point out a little -- again, I have to use
14 my little cheat sheet here with my bad memory.

15 So, as I said, there's -- the evidence will
16 show there's -- this is not a long route at all. It's
17 pretty quick in terms of the length. Now, there's a
18 lot of people in this route with the volunteers. You
19 can't quite see it with this diagram. But just imagine
20 for a moment, where the volunteers come out from the
21 dragon, there's a stagehand right there with a
22 flashlight. Because, yes, they're on the back of the
23 stage; the audience is out in front of the stage. So
24 it's not brightly lit because, otherwise, you couldn't
25 be doing this illusion. It's a stage.

1 So -- but for the volunteers who come out of
2 the dragon, there is a stagehand right there with a
3 flashlight and directing them. They're directed
4 towards here. Where it says "stage" right below here,
5 there's an individual, another stagehand, who's holding
6 back a curtain and telling them and guiding them where
7 they're going. Okay. So that's No. 2.

8 There's also an individual there, a third
9 individual in this same area right in the back of the
10 stage, with a flashlight, because, again, you're still
11 on the back of the stage, so it isn't brightly lit, of
12 course, because of the stage being backstage, needing
13 it to be dark so people can't see anyone leaving or
14 their -- or that would be like a buzz kill for this
15 illusion. So there's three people, so far, in this
16 little space right here guiding the volunteers on their
17 route. Okay. So then they've turned, they've been
18 guided down towards here.

19 No. 4, stagehand No. 4, now this person is
20 starting to hand out flashlights to them. Because this
21 is important in terms of when they reappear, they're
22 given a flashlight not to turn on, actually, not for
23 them to use to light their pathway, because that's not
24 necessary. This is for later on. But they get a
25 flashlight here.

1 There's also then another person here at this
2 corner, another stagehand. So we've got one, two,
3 three, four. We're at stagehand 5 at this point. Five
4 different people have been assisting the volunteers so
5 that they know where they're going. There's no
6 pandemonium; there's no chaos. People are just being
7 guided along the route.

8 All right. So then here we have five going
9 out the door. They walk outside of the door of the
10 theater. There is a person, stagehand, here, that
11 person to help guide them to go right because it's
12 asphalt. And like Mr. Popovich said, it's not
13 Tropicana Avenue. It's just a driveway for MGM's use.
14 That person has a spotlight this big (indicating), not
15 a flashlight. They have a spotlight. All right.
16 They're pointing the flashlight to provide the guide
17 for the people to be walking along. Just very simple.

18 Now, so we have got, one, two, three, four,
19 five. We're at No. 6. A mere 30 feet down this way,
20 as they're being led, there's another person, another
21 stagehand, right here at this corner. And this is
22 where that tree is. You saw the pictures that
23 Mr. Popovich showed you of the tree in the corner. All
24 right. There's another person here, and guess what?
25 He's holding the big spotlight too. So we've got two

1 people outside holding the big spotlights. So two big
2 spotlights, two people here. All right.

3 So one, two, three, four, five, six, seven
4 people. Seven people are guiding these volunteers.
5 Now, besides those seven, there are two backstage
6 people for the particular night that we have where
7 Mr. Cox was a volunteer. The person who was leading
8 the volunteers from the time they leave the dragon to
9 the time that they reenter the theater, the back of the
10 theater and reappear, Mr. Ryan Carvalho was leading
11 them that night.

12 You've got the volunteers, and you also have
13 another individual. Her name -- and she will testify
14 as well, Pomai Weall. She was leading. And it was in
15 the caboose, if you will, the end of it. So you have
16 got seven people in stationery positions, all lined up
17 to help these volunteers to go from over here and over
18 here.

19 Mr. Carvalho is leading them. Ms. Pomai
20 Weall -- and I think I'm mispronouncing her name
21 slightly -- she's at the end of it to ensure everyone
22 is going, no one's wondering off, no one's getting
23 lost. Not that you could because there's not that many
24 people, and there's these people with the spotlights.
25 But she's right there. They're going this way, the

1 direction towards the third door.

2 Now, where the X is, as we know, that's the
3 approximate location where Mr. Cox tripped and fell
4 down. But the pathway that they were taking was to go
5 through these doors, through the next set of doors, and
6 then back into the theater to reappear. So nine
7 people, nine people are helping, on average, 10, 13, 13
8 people. 9 people are actually helping them on this
9 route. That's 9 stagehands helping them. Not one, not
10 two, but 9.

11 And I'm not even including the fact that
12 there -- the security guard who opens up the door
13 initially to set light. So if you really talk about
14 that person and that individual and their role in this
15 pathway, that's ten people. All right. Let me see.
16 All right.

17 Now, on November 12th, 2013, the night that
18 Mr. Cox attended the show with his wife, the evidence
19 will show that Mr. Cox, as well as the other members of
20 the audience that night, was told that volunteers will
21 disappear, that the volunteers need to be in good
22 health.

23 Mr. Cox was asked if he could run when he was
24 at the bottom of the stairs to go on the stage.
25 Because he chose to grab a ball -- didn't have to grab

1 a ball; he chose to grab that ball. He was asked if he
2 could run, and he said, yes, he could. He told them he
3 was in good health and that he could run. All right.
4 I talk faster than I read.

5 Now, let's go back about the route that
6 night, as with all the nights, because same process,
7 same practice, same rehearsing, same precision. And as
8 Mr. Popovich has spoken about, a lot of different
9 people inspect this route prior to those volunteers for
10 the Thirteen Illusion. Now, what I find critical is
11 the fact --

12 MR. DEUTSCH: Objection, Your Honor.
13 Opinion.

14 MS. FRESCH: What --

15 THE COURT: Go ahead.

16 MS. FRESCH: What's -- as the evidence will
17 show you, what's critical is one of the individuals who
18 actually takes this route and inspects this route is
19 Mr. Copperfield. Mr. Copperfield, for a different
20 reason -- approximately ten minutes before Mr. Cox took
21 the same route, Mr. Copperfield takes that route.

22 Now, Mr. Copperfield is going from Point A to
23 B, true, for a reason. However, for the purposes of
24 why that's important for all of us in this trial is
25 that Mr. Copperfield, when he does that, he himself --

1 it's Mr. Copperfield performing; he's the magician,
2 he's taking that route, he's inspecting the route, he's
3 looking down, he's aware.

4 Mr. Copperfield is here. It's so critical
5 for him, for all of his audience members, for the
6 volunteers to have an enjoyable time. That's why
7 Mr. Copperfield is performing. That's why
8 Mr. Copperfield is doing how many shows for 42 weeks of
9 the year, seven days a week, fifteen shows a week. So
10 Mr. Copperfield, when he's walking that route, if he
11 saw debris, if he saw something out of the ordinary on
12 this route, he would be immediately alerting.

13 There was nothing on the route that night,
14 and you will see a video of Mr. Copperfield, at least
15 for a portion, of taking that same route. He is
16 inspecting that route himself. That's done, literally,
17 about ten minutes before the 13 volunteers take that
18 same route.

19 So on the night that Mr. Cox tripped and fell
20 on a flat surface of the concrete over here where the X
21 is, Mr. Copperfield had done that same route to go into
22 the same set of doors, or maybe a different door
23 because it's more important for the volunteers to go
24 through the third set of doors. But Mr. Copperfield
25 essentially walked, ten minutes before, right where

1 MR. DEUTSCH: Yes, Your Honor.

2 THE COURT: Okay. All things considered,
3 I'll deny the motion. We'll proceed accordingly.
4 Okay?

5 MR. RUSSELL: Thank you, Your Honor.

6 THE COURT: And -- and we'll resume Tuesday
7 at 9:00. See you then. Okay.

8 (Thereupon, the proceedings
9 concluded at 4:26 p.m.)

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14 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
15 PROCEEDINGS.

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KRISTY L. CLARK, CCR #708

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APRIL 17, 2018 TRANSCRIPT OF JURY TRIAL

"EXHIBIT 4"

1 CASE NO. A705164

2 DEPT. NO. 13

3 DOCKET U

4

5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

* * * * *

8 GAVIN COX and MINH-HAHN COX,
9 husband and wife,

10

Plaintiffs,

11

vs.

12

MGM GRAND HOTEL, LLC; DAVID
13 COPPERFIELD aka DAVIS S.
KOTKIN; BACKSTAGE EMPLOYMENT
14 AND REFERRAL, INC.; DAVID
COPPERFIELD'S DISAPPEARING,
15 INC.; TEAM CONSTRUCTION
MANAGEMENT, INC.; DOES 1
16 through 20; DOE EMPLOYEES 1
through 20; and ROE
CORPORATIONS 1 through 20,

17

Defendants.

18

MGM GRAND HOTEL, LLC.,

19

Third-Party Plaintiff,

20

vs.

21

BEACHER'S LV, LLC, and DOES 1
22 through 20, inclusive,

23

Third-Party Defendants.

24

25 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,
CA CSR #13529

REPORTER'S TRANSCRIPT

OF

JURY TRIAL

BEFORE THE HONORABLE

MARK R. DENTON

DEPARTMENT XIII

TUESDAY, APRIL 17, 2018

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21 * * * * *

I N D E X

Witness:	Direct:	Cross:	Redirect:	Recross:
Chris Kenner	16	238		

E X H I B I T S

Number:	Marked:	Admitted:	Joint:
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94		122	
93-153		135	
93-160		137	
93-168		142	
93-167		143	
93-170		148	
93-171		150	
93-173		154	
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90-64		180	
90-6		183	
93-159		267	
93-156		270	
93-151		271	

1 Q. Okay. The -- goes down, and one of the
2 Backstage employees appears. Is that true?

3 A. No.

4 Q. Okay. You tell me.

5 A. The back curtain is lifted up.

6 Q. Okay.

7 A. So it's not a chair. The chair is still
8 there. The back curtain is lifted up, and a person is
9 going to hold it. And then there's a hook, up high, so
10 they can hook the other half, which make a large
11 opening with the cloth.

12 Q. See, I wasn't --

13 A. I did -- I'm not sure how to answer these
14 questions.

15 Q. No, no. That's okay. You'll be able to tell
16 me the way you want to tell me. But my question was
17 does someone, a Backstage employee, appear in the prop
18 right before they exit?

19 A. Well, they're not magical, you know, bodies.

20 Q. I mean they come in. I mean, "appear"
21 meaning it's quick?

22 A. Yes.

23 Q. That's what I mean. And that person yells
24 "Stand up."

25 A. Correct.

1 Q. Okay. And they yell it because the music is
2 playing?

3 A. Correct.

4 Q. And it's, you know, it's noisy and
5 everything, and they're in this confined space. So he
6 yells "Stand up. Hurry. Come with me."

7 Does that sound right?

8 A. I don't know the exact words that he says.
9 It's probably -- at that moment he's not going to say
10 "Stand up. Hurry. Come with me" because a procedure
11 has to happen there. He has to -- you know, they're --
12 they're blocked by the chairs, so if he just said
13 "Stand up. Come with me," it wouldn't work.

14 Q. See, that's where the --

15 A. They'd be climbing over the chairs.

16 Q. So that's where he moves the chair?

17 A. Correct. He moves the top of the chair.

18 Q. Okay. And that creates the opening or the
19 exit?

20 A. Yes. Correct.

21 Q. Okay. So let's take it from there.

22 (Whereupon video was played.)

23 BY MR. MORELLI:

24 Q. So they've gone already?

25 A. They're leaving now. They're exiting right

1 now.

2 Q. Okay.

3 A. And that's one of our people.

4 Q. Okay.

5 A. They're gone.

6 Q. Okay. So they've already started the route?

7 A. Correct. They should be -- once these lights
8 come on, they are outside of the physical prop --

9 Q. Right.

10 A. -- once the group of lights comes on.

11 Q. Yes. Okay.

12 A. Yeah, because one light comes on first and
13 then the group. Correct.

14 (Whereupon video was played.)

15 BY MR. MORELLI:

16 Q. Now, during this time period, they're en
17 route, let's say. Right?

18 A. Correct.

19 Q. They're en route to appear in the back of the
20 theater?

21 A. Yes.

22 Q. Okay.

23 MR. DEUTSCH: That's the end.

24 MR. MORELLI: Okay. So that's the end.

25 /////

1 BY MR. MORELLI:

2 Q. Okay.

3 A. Okay.

4 MR. MORELLI: So we could turn it off.

5 We could put the lights on now, Your Honor.

6 BY MR. MORELLI:

7 Q. Now, am I correct, Mr. Kenner -- and we spoke
8 about this earlier, but now we're at a different point.
9 They've all left; they're en route?

10 A. Correct.

11 Q. And they don't know where they're going?

12 A. No.

13 Q. Okay. And, actually, at no time are they
14 told where they're going, what the route is, or what
15 they have to do in order to complete the illusion;
16 correct?

17 A. They're guided through the route.

18 Q. Well, my -- my question was, at no time are
19 they told what they have to do or where they're going
20 before they start this illusion?

21 A. Before they start, no. No, sir.

22 Q. Okay. And what you're saying is they're told
23 as they're running the route. Correct?

24 A. Correct.

25 Q. Okay. So let's -- yeah, give me that photo.

1 MR. DEUTSCH: This is Exhibit 93, Bates --

2 MR. MORELLI: We can see it with the lights
3 on. I think we can.

4 MR. DEUTSCH: Bates stamp 153.

5 BY MR. MORELLI:

6 Q. Okay. So Mr. Kenner --

7 THE COURT: For the record, this is in
8 evidence?

9 MR. DEUTSCH: I believe.

10 THE CLERK: I do not believe so, Judge.

11 MR. DEUTSCH: I thought we had all --

12 THE COURT: Take it off the screen until
13 we're --

14 THE CLERK: No, it has not been formally
15 admitted.

16 MR. DEUTSCH: Sorry. I thought we had when
17 we discussed --

18 MR. MORELLI: We're going to unsee it now.

19 MR. DEUTSCH: We had discussed it this
20 morning, and I thought we had all agreed, and I thought
21 it was in evidence. But we are going to move this
22 photograph, which is going to be Exhibit 93A, and it's
23 Bates page 153 of Exhibit 93.

24 MR. MORELLI: You are allowed to know anyway.

25 THE WITNESS: Okay.

1 MR. POPOVICH: Your Honor, just for ease,
2 because I think there's a number of these, can't we
3 call it 93-153?

4 MR. DEUTSCH: That makes it easier.

5 MR. MORELLI: Absolutely.

6 MR. POPOVICH: No objection.

7 MS. FRESCH: No objection.

8 MR. ROBERTS: No objection.

9 THE COURT: Admitted.

10 (Whereupon, Plaintiffs' Exhibit 93-153
11 was admitted into evidence.)

12 MR. MORELLI: It's just photos of different
13 places in the route. So let's bring up the first one.

14 BY MR. MORELLI:

15 Q. And, Mr. Kenner, why don't you tell us what
16 that's a photograph of?

17 A. It's a photograph of -- it's the -- what we
18 call the dragon. So that's what -- where you see the
19 black cloth if I could -- can I stand up?

20 MR. DEUTSCH: Can we give him a pointer,
21 Morelli?

22 MR. MORELLI: Well, let me try.

23 MR. DEUTSCH: No, Morelli. Here.

24 MR. MORELLI: You talking about this black
25 cord?

1 MR. DEUTSCH: Yeah.

2 THE WITNESS: That's the back center of the
3 prop. And then there's a little, it looks like,
4 hallway which is 10 feet. I'm sure you have
5 measurements.

6 BY MR. MORELLI:

7 Q. Yeah.

8 A. Then there's the steps down. So that's the
9 way -- oh, perfect. Okay. There we go.

10 MR. DEUTSCH: The laser won't work on a TV
11 screen, I was just told.

12 THE WITNESS: Darn it. I will try to not
13 point it at your eyes.

14 MR. DEUTSCH: I'm getting back in the
15 dumpster.

16 MR. MORELLI: Mr. Kenner can get up and point
17 to it.

18 BY MR. MORELLI:

19 Q. Mr. Kenner, come around. We're not afraid of
20 you. Why don't you show us what you were going to tell
21 us.

22 A. This is the back of the Thirteen prop, and
23 then this is a little hallway, covered at the top, they
24 would come through and then step down the stairs. That
25 would be the first exit out of the prop. That would be

1 part one of their journey.

2 Q. Okay. Thank you.

3 Now, after they come down those stairs and
4 exit the dragon, as you said, they then have to go into
5 the first hallway. Fair enough?

6 A. Yeah. They go down a little -- backstage,
7 like the edge of the backstage, you know, it's hard to
8 describe.

9 Q. Right.

10 A. I would call it up -- up stage left -- right,
11 stage right. Is that right?

12 MR. DEUTSCH: Your Honor, at this time we'd
13 like to move in Exhibit 93-160.

14 MR. POPOVICH: Of the ones from the marking?

15 MR. DEUTSCH: Yeah.

16 MR. POPOVICH: No objection.

17 MR. ROBERTS: No objection, Your Honor.

18 MS. FRESCH: No objection.

19 MR. MORELLI: It will be easier if we put it
20 up.

21 THE COURT: 93-160 is admitted.

22 MR. DEUTSCH: Thank you.

23 (Whereupon, Plaintiffs' Exhibit 93-160
24 was admitted into evidence.)

25 /////

1 BY MR. MORELLI:

2 Q. Okay. Can you see that, Mr. Kenner?

3 A. Yes, so --

4 Q. Why don't you tell us what that is.

5 This is where they go when they come down
6 from the --

7 A. Correct.

8 Q. -- the dragon?

9 A. I would say the dragon has a piece of cloth
10 on it that's 15 feet long, so they walk past that area
11 of the cloth, and it's very wide, very wide and open,
12 and then they come to this hallway. It's a little --
13 so that's -- that's -- from that area that I would be
14 talking about would be approximately right here, you
15 know, the black cloth.

16 Q. Right.

17 A. And then they would go down that, go down
18 there.

19 Q. Okay.

20 A. And there's a person right here.

21 Q. Right. And now they're -- they're told, are
22 they not, to make a right, make a left, go straight,
23 whatever they have to do?

24 A. Yes. It's essentially follow the leader.

25 Q. Well, you know, there -- there are times when

1 there's 13 people. Am I correct?

2 A. Yes.

3 Q. Right. So if the leader's in the front and
4 No. 13 --

5 A. That's not how follow the leader works.

6 Q. Huh?

7 A. You follow the leader. The next person
8 follows the next person, the next person follows the
9 next.

10 Q. I understand.

11 A. That's follow the leader. Each person
12 becomes the leader.

13 Q. I understand. Thank you.

14 The first person is the person who works for
15 you?

16 A. Yes, sir.

17 Q. Okay. And that person is, on the night of
18 this accident, the 12th of November, 2013, was
19 Mr. Carvalho?

20 A. Yeah.

21 Q. Okay. So he's the leader; correct?

22 A. That's him right there, actually.

23 Q. Right.

24 A. Handsome young guy.

25 Q. And, actually, he -- well, we're going to

1 meet him. Okay?

2 A. Cool.

3 Q. We're going to meet him. And he has a big
4 spotlight; correct?

5 A. Yes.

6 Q. He doesn't have a regular flashlight?

7 A. He has a big spotlight.

8 Q. He's got a big spotlight. And it's important
9 for him to have this big spotlight because he's leading
10 the way? Fair enough?

11 A. Yeah. Two reasons. That's one of them.

12 Q. One of them is he's leading the way?

13 A. Yes.

14 Q. And it's important for him to, along the
15 entire route, to have the flashlight on. Okay? Would
16 that be true?

17 A. I don't think it is, because what it's really
18 for -- what the flashlight is really for is to give to
19 her. So he's not sitting there going -- guiding the
20 route in front of him or behind him because he's going
21 forward.

22 Q. Let's call it the spotlight.

23 A. Okay.

24 Q. So we're going forward. And, now, that was
25 the second -- the second photograph is where they

1 encounter; is that correct?

2 A. Correct.

3 Q. Okay. Now, am I correct, sir, that this
4 route -- and we're going to go through the whole
5 route -- this route is all done in approximately a
6 minute?

7 A. Yeah, a minute, minute 15, minute 20, yeah.

8 Q. Yeah. And that's important; right?

9 A. Yeah.

10 Q. It's important -- my father would say time is
11 of the essence. Yes?

12 A. Yes.

13 Q. Okay. And so it's not true, is it, that
14 there's no rush, that somebody could just hang around
15 and take as long as they want, five minutes, ten
16 minutes? That's not true, is it?

17 A. No. Of course not.

18 Q. Of course not. It's ridiculous.

19 So the participants are now moving, running
20 as quickly as they can, to get to the final destination
21 that they don't know about. They don't know where
22 they're going. They don't know the final destination?

23 A. They're heading toward their final
24 destination.

25 Q. They're heading toward it. Okay.

1 MR. MORELLI: So could we have the next
2 photograph, Mr. Deutsch.

3 BY MR. MORELLI:

4 Q. And, Mr. Kenner, tell me if this is not the
5 sequence. Okay?

6 A. Of course. I'll tell you.

7 Q. Okay.

8 MR. DEUTSCH: Your Honor, this is -- we'd
9 like to move Exhibit 93, page 168, into evidence.

10 MR. POPOVICH: No objection.

11 MS. FRESCH: No objection.

12 MR. ROBERTS: No objection.

13 THE COURT: It's admitted.

14 (Whereupon, Plaintiffs' Exhibit 93-168
15 was admitted into evidence.)

16 BY MR. MORELLI:

17 Q. Okay. You could see it either place now.

18 A. Got it.

19 Q. Okay. And so in the sequence -- is this the
20 proper sequence that I'm -- that -- that we've been
21 looking at?

22 A. Correct. It's a weird angle to shoot it
23 from, but yes.

24 Q. This is all we have.

25 A. Okay. I can describe -- I can explain it

1 really easily, but I can just --

2 Q. So now -- so now the -- the participants are
3 running down this particular hall; right? And then,
4 when they get to the end of this particular hall, do
5 they make a right? a left? go straight? What do they
6 do?

7 A. A left.

8 Q. Okay. So let's -- let's bring up the next
9 photograph. They've already made a left now, and
10 they're -- we're in the next photograph.

11 Hello?

12 MR. DEUTSCH: This is Exhibit 93, 167, into
13 evidence, please.

14 MR. POPOVICH: No objection.

15 MS. FRESCH: No objection.

16 MR. ROBERTS: No objection.

17 THE COURT: Any objection from Team?

18 MR. STRASSBURG: Sorry, Judge?

19 THE COURT: No objection?

20 MR. STRASSBURG: No.

21 THE COURT: Everybody. We need to hear from
22 everybody.

23 MR. MORELLI: You see what I have to deal
24 with; right?

25 (Whereupon, Plaintiffs' Exhibit 93-167

1 was admitted into evidence.)

2 BY MR. MORELLI:

3 Q. Okay. Could we have the photograph now.

4 Okay. Here it is.

5 A. Okay. Just made their left.

6 Q. Okay. Now, this is -- and -- and, of course,
7 always tell me if I got it wrong.

8 This is hallway number three; right?

9 Which --

10 A. Yeah.

11 Q. I'm calling it hallway.

12 A. Yeah, yeah. The first one is really short,
13 but yeah.

14 Q. Hallway number three. And at the end of this
15 particular hallway -- I'm standing over here. At the
16 end of this particular hallway, they're now going
17 outside?

18 A. Correct.

19 Q. That's why it -- the doors are open and you
20 could sort of see outside?

21 A. Uh-huh.

22 Q. Correct?

23 Okay. So, now, when they -- when they exit
24 those doors, do they go straight, do they make a right,
25 or do they make a left?

1 A. They make a right.

2 Q. Okay. So now, as they're running along, the
3 person in the front, Mr. Carvalho, is he the one that's
4 yelling the instructions?

5 MR. POPOVICH: Objection. Compound.

6 THE COURT: Sustained.

7 BY MR. MORELLI:

8 Q. Is Mr. Carvalho the one who's yelling the
9 instructions as they're running, following him?

10 A. No.

11 Q. Okay. So are there people at the doors who
12 are going to be telling them which direction to go?

13 A. Correct. There's a person at each
14 intersection, guiding them so they don't get lost.

15 Q. Now, those people who are guiding them are
16 fixed. They're in -- they're in a certain position.

17 A. Correct.

18 Q. They're not running along; they're in a
19 certain position.

20 A. Correct.

21 Q. Okay. And those people are Backstage
22 employees or MGM Grand employees?

23 A. The people that are standing at these
24 spots --

25 Q. Yeah.

1 A. -- are MGM employees.

2 Q. Okay. And at those doors?

3 A. Right. They're still under our blanket of
4 stagehands, so --

5 Q. Right. They're still stagehands, but they're
6 MGM employees?

7 A. Correct.

8 Q. Okay. So now they -- they run down and they
9 get to the end, and they're told by one of the MGM
10 stagehands to make a right.

11 A. Yes, here. Correct.

12 Q. Over here.

13 And they're now outside. Okay? Now, could
14 you tell us, Mr. Kenner, what surface is this here?

15 A. Linoleum, I think.

16 Q. Okay. And one of the surfaces from before
17 was carpeting; correct?

18 A. I don't think there's any carpeting on the
19 walk, no.

20 Q. Okay.

21 A. I'm pretty sure there's no carpeting.

22 Q. As I said, we're just going to look just to
23 be clear.

24 A. Yeah. I walk it every day. I can't, like --
25 my brain shuts off on what I'm walking on.

1 MR. DEUTSCH: Which is -- which we thought
2 his questions were.

3 THE COURT: I take the questions on a
4 question-by-question basis.

5 MR. ROBERTS: I understand that, Your Honor.
6 I appreciate it. Thank you.

7 THE COURT: Okay. We are off the record.
8 (Thereupon, the proceedings
9 concluded at 5:03 p.m.)

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ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
PROCEEDINGS.

KRISTY L. CLARK, CCR #708



APRIL 18, 2018 TRANSCRIPT OF JURY TRIAL

"EXHIBIT 5"

1 CASE NO. A705164
2 DEPT. NO. 13
3 DOCKET U
4

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 * * * * *

8 GAVIN COX and MINH-HAHN COX,)
9 husband and wife,)
10 Plaintiffs,)
11 vs.)

12 MGM GRAND HOTEL, LLC; DAVID)
13 COPPERFIELD aka DAVIS S.)
14 KOTKIN; BACKSTAGE EMPLOYMENT)
15 AND REFERRAL, INC.; DAVID)
16 COPPERFIELD'S DISAPPEARING,)
17 INC.; TEAM CONSTRUCTION)
18 MANAGEMENT, INC.; DOES 1)
19 through 20; DOE EMPLOYEES 1)
20 through 20; and ROE)
21 CORPORATIONS 1 through 20,)
22 Defendants.)

23 MGM GRAND HOTEL, LLC.,)
24 Third-Party Plaintiff,)
25 vs.)
26 BEACHER'S LV, LLC, and DOES 1)
27 through 20, inclusive,)
28 Third-Party Defendants.)

REPORTER'S TRANSCRIPT
OF
JURY TRIAL
BEFORE THE HONORABLE
MARK R. DENTON
DEPARTMENT XIII
WEDNESDAY, APRIL 18, 2018

24 REPORTED BY: KRISTY L. CLARK, RPR, NV CCR #708,
25 CA CSR #13529

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I N D E X

Witness:	Direct:	Cross:	Redirect:	Recross:
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Chris Kenner		17, 65, 77 111, 197	114	
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David Copperfield	206			
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E X H I B I T S

Number:	Marked:	Admitted:	Joint:
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84-16		28	
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84-14		29	
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425		147	
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1 to, like, be sure that they'll be there at the right
2 time to open the doors and -- at first, we probably had
3 a person that would remind Dennis -- or whoever --
4 Dennis -- I'm saying Dennis, but the security guard in
5 time to open the door. Probably, the first day we did
6 it, you know. "Don't forget we need to open the doors
7 at -- when this trick starts."

8 Q. So were there any modifications or additions
9 to the safety protocols for this route for MGM versus
10 all the different venues you had done prior to
11 beginning with -- at the MGM in 2000?

12 A. You mean did we do it the same way?

13 Q. No, was anything added or evolved or changed
14 with respect to being at the MGM versus other venues in
15 terms of your safety protocols?

16 A. No. No.

17 Q. Okay. All right. Let's switch gears and go
18 to how often this illusion has been performed. Okay?
19 I believe you said it began approximately in 1998;
20 correct?

21 A. Yes.

22 Q. Okay. And, on average, how many shows does
23 the David Copperfield show perform per year?

24 A. Between 6 -- 600 and 660.

25 Q. Okay. And what's the average number of

1 participants, give or take, over the course of the
2 years from 1998 to 2013?

3 A. Participants in the Thirteen Illusion?

4 Q. Yes. I'm sorry.

5 A. That's -- it's over 100,000. I mean, the
6 amount of -- the entire amount?

7 Q. No, no, no. I was saying the average
8 number -- I'm sorry. My question wasn't clear enough.

9 The average number of participants per show
10 who participate in the illusion.

11 A. I would say 10 -- 10. We'll call it 10, 10,
12 11, 10. Make it easy add, easy math number, 10.

13 Q. And over the years, on average, how many
14 shows per week does David Copperfield perform his show?

15 A. 15.

16 Q. Okay. And that is seven days a week?

17 A. At the MGM, we're going to be seven days a
18 week. On the road, it's -- it varies.

19 Q. Right. Okay. So let's go from 2000 to 2013
20 when the show is being performed at seven days a week?

21 A. At the MGM, yes.

22 Q. Yes. I'm sorry. At the MGM.

23 A. At the MGM, it's always seven days a week.

24 The only time we would ever deviate from that is if --
25 the Mayweather fight, there's -- if there's an event

1 that the MGM would ask us. And we're happy to not be
2 there for a event because it's usually kind of -- kind
3 of a crazy thing and we don't get any real ticket
4 sales. So it's no problem for us.

5 Q. Okay. So seven days a week. How many shows
6 per night?

7 A. Two a night, three on Saturdays.

8 Q. Okay.

9 A. 15 a week.

10 Q. All right. And when you -- when you-all
11 first moved to the MGM in 2000, how many -- how many
12 weeks per year was the show being performed?

13 A. 20.

14 Q. Okay. And, at a certain point, did that --

15 A. At the MGM, 20 -- 20 weeks at the MGM; the
16 rest of the time on the road.

17 Q. Okay. I'm sorry. I cut you off by accident
18 there.

19 Okay. So -- and I'm just -- my questions are
20 now just about the MGM.

21 A. Okay.

22 Q. Okay?

23 So you started out in 2000 with 20 weeks per
24 year; correct?

25 A. Yeah.

1 Q. All right. At a certain point, was that
2 increased?

3 A. Yeah. 2005 to 2009, we were there about 26
4 weeks -- on average, 26 weeks a year.

5 Q. Okay. And then from 2009 up to 2013, or
6 through the majority of 2013, how many weeks per year
7 did David Copperfield perform the show?

8 A. 42 weeks a year.

9 Q. Okay. And same thing, 15 shows per week?

10 A. Yes.

11 Q. Okay. And have you looked at what the
12 average -- how many participants have been volunteers
13 in the Thirteen Illusion from 1998 to approximately
14 2013?

15 A. The entire amount? Yeah, have I done the
16 math? Yeah. I don't have my phone to, like, calculate
17 it again, but it's, like, over -- well over 100,000
18 people.

19 Q. And with respect to the MGM, do you know how
20 many from 2000 to 2013?

21 A. I think it was over 50,000 people.

22 Q. Okay. Oh, by the way, with respect to the
23 seven individuals -- the stagehands who are on the
24 route, at what point in time do they line up to their
25 stations on the route prior to the volunteers coming

1 A. Okay.

2 Q. Okay. Now, who -- so the -- this particular
3 script, in a moment I'm going to highlight a couple of
4 portions for you. Okay?

5 MR. DEUTSCH: Do you want it blown up? You
6 have to do it piece by piece.

7 MR. MORELLI: Yeah, just the first sentence.

8 BY MR. MORELLI:

9 Q. And that says what we're talking about;
10 correct?

11 A. Yes.

12 Q. Which is, "How fun was that? You had no idea
13 you were getting entertainment and exercise." And, for
14 some reason, that "and" is very big, to highlight that
15 they were getting exercise. Correct?

16 A. Yes.

17 Q. Okay. Now, do you know that also in the
18 script it talks about -- well, let's read it
19 specifically. We have a video of what you just did
20 from the audience's point of view. Now, what he's
21 talking about is that video that we saw yesterday --
22 right? -- with the balls bouncing?

23 A. Not that exact video.

24 Q. Not that exact one, but it's a video of --
25 from the audience's perspective?

1 A. Yes.

2 Q. Okay. On -- on whatever night it is. We
3 don't know what night was chosen.

4 A. Yes, I know exactly what night it is, the
5 night that it was filmed in 2011.

6 Q. Okay. But that -- it wasn't the night of
7 2013 is what -- is what I'm saying.

8 A. No, no.

9 Q. So it's not you, it's not tonight, it's not a
10 video of you all running for your lives with crazy
11 looks on your faces. Okay? That's what it says
12 specifically, is it not?

13 A. Yes.

14 Q. Okay. Now, also, just to -- it states at the
15 end, "Sorry we don't have popcorn or Gatorade for you."

16 Now, popcorn, I sort of understand, but he
17 didn't say water there. Did you write that?

18 A. No.

19 Q. Okay. Do you know who wrote that they were
20 talking about Gatorade?

21 A. No.

22 Q. Okay. And you would agree with me, would you
23 not, Mr. Kenner, that they give Gatorade to athletes
24 when they're really, really running around, working
25 hard? Would you agree with me on that?

1 regarding --

2 MS. FRESCH: Jury view.

3 THE COURT: -- the view. Okay? So I will
4 make it the next court exhibit in order so that it --
5 and then it will be accessible at the proper time.

6 THE CLERK: It's Court Exhibit No. 4.

7 THE COURT: Yeah.

8 THE MARSHAL: All rise.

9 THE COURT: Okay. Have a nice intervening
10 time, ladies and gentlemen.

11 IN UNISON: Thank you, Your Honor.

12 (Thereupon, the proceedings
13 concluded at 5:04 p.m.)
14

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18 ATTEST: FULL, TRUE, AND ACCURATE TRANSCRIPT OF
19 PROCEEDINGS.

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KRISTY L. CLARK, CCR #708



APRIL 19, 2018 AP NEWS ARTICLE

"EXHIBIT 6"

AP

AP Top News Sports Entertainment Explore ▼

Lawsuit leads to revelations about David Copperfield's act

By KEN RITTER
Yesterday



<https://www>

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LAS VEGAS (AP) — Jurors got a rare behind-the-scenes look at a David Copperfield disappearing act Tuesday during testimony in a negligence lawsuit involving a British man who claims he was badly hurt when he fell while participating in a 2013 Las Vegas show.

The magician's friend and executive producer, Chris Kenner, revealed to jurors the mystery behind a signature Copperfield illusion that appeared to make about a dozen audience members vanish together onstage.

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Practiced stagehands with flashlights hurried randomly chosen participants through dark curtains, down unfamiliar passageways, around corners, outdoors, indoors and through an MGM Grand resort kitchen in time to re-enter the back of the theater for their "reappearance" during the show finale, Kenner testified.

"Is that route an obstacle course?" asked Benedict Morelli, attorney for Gavin Cox, a resident of Kent, England, who claims lasting brain and bodily injuries from his fall have cost him more than \$400,000 in medical care.

No, said Kenner, whose company, Backstage Employment and Referral Inc., is also a defendant in the case.

Copperfield's lawyers lost pretrial bids to close proceedings to the public to avoid giving away performance secrets. MGM Grand Hotel attorney Jerry Popovich said Tuesday the illusion is no longer used to close the show.

028604528 Lawsuit leads to revelations about David Copperfield's act 11:44:57 04-20-2018 111 / 112

Morelli asked Kenner whether stagehands and Copperfield visually assessed the physical fitness and footwear of audience members randomly picked to participate in the trick dubbed "the runaround."

Magicians, media members and lawyers were disqualified to protect the secrecy of the trick that Kenner estimated Copperfield performed tens of thousands of times over 20 years.

"At no time are they told what they're going to do before they start this illusion," Morelli asked Kenner. "They're told as they're running the route, correct?"

Yes, Kenner replied.

Kenner declined to say it was dangerous to lead people along a dark and unknown route over changing floor surfaces of linoleum, cement, carpet, sidewalk and tile. The lawyer noted that before Cox fell, the group hustled through an alley coated with what Morelli called construction dust.

Popovich told the jury of eight women and four men last week that 10 minutes before Cox fell, Copperfield safely walked through that same area as part of another illusion that did not involve audience participation. The MGM Grand lawyer said Copperfield would have alerted stagehands if he noticed any problems along the way.

Cox and his wife, Minh-Hahn Cox, are seeking unspecified damages in the negligence lawsuit.

Copperfield could take the stand Wednesday.

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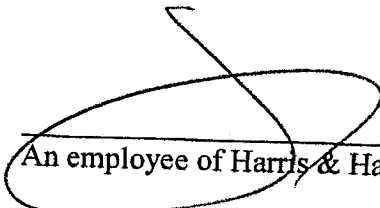
The undersigned certifies that on this 20TH day of April, 2018, service of the foregoing **REAL PARTIES IN INTEREST GAVIN COX AND MINH-HAHN COX'S APPENDIX IN SUPPORT OF ANSWER TO PETITIONERS' WRIT OF MANDAMUS** was served as follows:

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