

**IN THE SUPREME COURT STATE OF NEVADA**

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

Appellants,

vs.

MGM GRAND HOTEL, LLC; DAVID  
COPPERFIELD aka DAVID S. KOTKIN;  
BACKSTAGE EMPLOYMENT AND  
REFERRAL, INC.; DAVID  
COPPERFIELD'S DISAPPEARING, INC.;  
TEAM CONSTRUCTION  
MANAGEMENT, INC.; and BEACHERS  
LV, LLC,

Respondents.

) Supreme Court No. 76422

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

Electronically Filed

Jun 13 2019 01:42 p.m.

Elizabeth A. Brown

Clerk of Supreme Court

**JOINT APPENDIX - VOLUME 8**

**BRIAN K. HARRIS, ESQ.**

Nevada Bar No. 7737

**HEATHER E. HARRIS, ESQ.**

Nevada Bar No. 7666

**CHRISTIAN N. GRIFFIN, ESQ.**

Nevada Bar No. 10601

**HARRIS & HARRIS**

2029 Alta Drive

Las Vegas, NV 89106

Telephone: 702.880.4529

Facsimile: 702.880.4528

[Bharris@harrislawyers.net](mailto:Bharris@harrislawyers.net)

**MORELLI LAW FIRM, PLLC**

777 Third Avenue, 31<sup>st</sup> Floor

New York, New York 10017

212.751.9800 - Telephone

*Attorneys for Appellants*

### ALPHABETICAL JOINT APPENDIX INDEX

TITLE	DATE	FILER / PREPARER	PAGE NO.	VOLUME NO.
01.19.17 Transcript of Proceedings - Motions	01.19.17	Martha Szramek, Court Recorder	JA 000239 - JA 000346	2
09.18.17 Transcript of Proceedings - Plaintiffs' Omnibus Motion in Limine; Defendants' Motion in Limine; Team Construction Management, Inc., and Beacher's LV LLC's Joinder to Fourth Supplement to Defendant Backstage Employment & Referral, Inc.'s Designation of Expert Witnesses & Documents	09.18.17	Jennifer Gerold, Court Recorder	JA 000352 - JA 000390	2
03.29.18 - Transcript of Proceedings Re: Pretrial Conference	03.29.18	Jennifer Gerald, Court Recorder	JA 000391 - JA 000424	2
04.03.18 - Reporter's Transcript of Jury Trial	04.03.18	Kristy L. Clark, RPR	JA 000425 - JA 000568	2-3
04.11.18 - Reporter's Transcript of Jury Trial	04.11.18	Kristy L. Clark, RPR	JA 000574 - JA 000714	3
04.13.18 - Reporter's Transcript of Jury Trial	04.13.18	Kristy L. Clark, RPR	JA 000715 - JA 000892	3-4
04.17.18 - Reporter's Transcript of Jury Trial	04.17.18	Kristy L. Clark, RPR	JA 000893 - JA 001167	4-5
04.18.18 - Reporter's Transcript of Jury Trial	04.18.18	Kristy L. Clark, RPR	JA 001168 - JA 001415	5-6
04.24.18 - Reporter's Transcript of Jury Trial	04.24.18	Kristy L. Clark, RPR	JA 001416 - JA 001585	6-7
04.25.18 - Reporter's Transcript of Jury Trial	04.25.18	Kristy L. Clark, RPR	JA 001933 - JA 002269	9-10
04.26.18 - Reporter's Transcript of Jury Trial	04.26.18	Kristy L. Clark, RPR	JA 002270 - JA 002514	10-11

04.27.18 - Reporter's Transcript of Jury Trial	04.27.18	Kristy L. Clark, RPR	JA 002515 - JA 002904	11-13
04.30.18 - Reporter's Transcript of Jury Trial	04.30.18	Kristy L. Clark, RPR	JA 002905 - JA 003016	13
05.01.18 - Reporter's Transcript of Jury Trial	05.01.18	Kristy L. Clark, RPR	JA 003017 - JA 003282	13-14
05.02.18 - Reporter's Transcript of Jury Trial	05.02.18	Kristy L. Clark, RPR	JA 003283 - JA 003596	14-16
05.03.18 - Reporter's Transcript of Jury Trial	05.03.18	Kristy L. Clark, RPR	JA 003597 - JA 003846	16-17
05.04.18 - Reporter's Transcript of Jury Trial	05.04.18	Kristy L. Clark, RPR	JA 003847 - JA 004002	17
05.08.18 - Reporter's Transcript of Jury Trial	05.08.18	Kristy L. Clark, RPR	JA 004071 - JA 004402	18-19
05.09.18 - Reporter's Transcript of Jury Trial	05.09.18	Kristy L. Clark, RPR	JA 004435 - JA 004720	19-20
05.10.18 - Reporter's Transcript of Jury Trial	05.10.18	Kristy L. Clark, RPR	JA 004723 - JA 004988	20-21
05.11.18 - Reporter's Transcript of Jury Trial	05.11.18	Kristy L. Clark, RPR	JA 005005 - JA 005157	21-22
05.22.18 - Reporter's Transcript of Jury Trial	05.22.18	Kristy L. Clark, RPR	JA 005158 - JA 005232	22
05.23.18 - Reporter's Transcript of Jury Trial	05.23.18	Kristy L. Clark, RPR	JA 005233 - JA 005401	22-23
05.24.18 - Reporter's Transcript of Jury Trial	05.24.18	Kristy L. Clark, RPR	JA 005440 - JA 005613	23-24
05.25.18 - Reporter's Transcript of Jury Trial	05.25.18	Kristy L. Clark, RPR	JA 005614 - JA 005806	24-25
05.29.18 - Reporter's Transcript of Jury Trial	05.29.18	Kristy L. Clark, RPR	JA 005807 - JA 005919	25

08.23.18 - Recorder's Transcript of Hearing re: Plaintiffs' Motion for Judgment As A Matter of Law or, In The Alternative, for New Trial	08.23.18	Jennifer Gerold, Court Recorder	JA 006497 - JA006552	28
Backstage Employment and Referral, Inc.'s Brief Regarding New and Previously Undisclosed Witnesses	04.25.18	Weinberg Wheeler Hudgins Gunn & Dial	JA 001874 - JA 001932	8-9
Backstage Employment and Referral, Inc.'s Motion to Bifurcate Trial (Filed Under Seal)	12.16.16	Weinberg Wheeler Hudgins Gunn & Dial	JA 000151 - JA 000158	1
Backstage Employment & Referral, Inc.'s Opposition to Plaintiffs' Motion for Judgment as a Matter of Law, or, Alternatively for a New Trial	08.10.18	Weinberg Wheeler Hudgins Gunn & Dial	JA 006353 - JA 006381	27
Backstage Employment and Referral, Inc.'s Response to Plaintiffs' Motion for Certification of Judgment on Order Shortening Time	04.08.19	Weinberg Wheeler Hudgins Gunn & Dial	JA 006614 - JA 006616	28
Backstage Employment & Referral, Inc.'s Reply in Support of Motion to Bifurcate Trial	01.11.17	Weinberg Wheeler Hudgins Gunn & Dial	JA 000177 - JA 000234	1
Beacher's LV, LLC's Answer to MGM Grand Hotel's Third Party Complaint	04.05.16	Morris Sullivan Lemkul & Pitegoff	JA 000078 - JA 000092	1
Beacher's LV, LLC's Amended Answer to MGM Grand Hotel's Third-Party Complaint; Counterclaim by Beacher's LV, LLC; Third Party Complaint by Beacher's LV, LLC	10.07.16	Morris Sullivan Lemkul & Pitegoff	JA 000128 - JA 000150	1
Beacher's Motion for Leave to File an Amended Answer to Third Party Plaintiff MGM Grand's Complaint; Counterclaim by Beacher's LV, LLC; Third Party Complaint by Beacher's LV, LLC	07.29.16	Morris Sullivan Lemkul & Pitegoff	JA 000093 - JA 000127	1
Case Appeal Statement	07.11.18	Harris & Harris	JA 006271 - JA 006294	27

Complaint and Demand for Jury Trial	08.06.14	Eglet Law Firm	JA 00001 - JA 00011	1
Court Minute Order Regarding Motion for Certification	04.25.19	Judge Mark Denton	JA 006623	28
Court Minutes - Defendant Backstage Employment and Referral, Inc.'s Motion to Bifurcate Trial	02.02.17	Judge Mark Denton	JA 000347	2
David Copperfield's Disappearing, Inc., David Copperfield aka David Kotkin and MGM Grand Hotel, LLC's Answer to Plaintiff's Complaint	10.27.14	Selman Breitman	JA 000029 - JA 000038	1
David Copperfield's Disappearing, Inc., David Copperfield and MGM Grand Hotel, LLC's Brief Regarding Undisclosed Witnesses	04.25.18	Selman Breitman	JA 001835 - JA 001873	8
David Copperfield's Disappearing, Inc., David Copperfield aka David Kotkin and MGM Grand Hotel, LLC's Amended Answer to Plaintiffs' Complaint and Cross Claim Against Team Construction Management, Inc.	02.01.16	Selman Breitman	JA 000060 - JA 000071	1
David Copperfield's Disappearing, Inc., David Copperfield aka David S. Kotkin, and MGM Grand Hotel, LLC's Joinder to Co-Defendants' Motions in Limine and Motion to Bifurcate Trial	12.28.16	Selman Breitman	JA 000159 - JA 000161	1
David Copperfield's Disappearing, Inc., David Copperfield and MGM Grand Hotel, LLC's Response to Plaintiffs' Motion for Certification of Judgment on Order Shortening Time	04.10.19	Selman Breitman	JA 006617 - JA 006619	28

Decision Regarding Motion for Judgment as a Matter of Law	09.17.18	Judge Mark Denton	JA 006553 - JA 006559	28
Gavin and Mihn-Hahn Cox's Appendix in Support of Emergency Petition for Writ of Mandamus Under NRAP 27(E)	05.07.18	Harris & Harris	JA 004009 - JA 004067	17-18
Jury Instructions	05.23.18	Judge Mark Denton	JA 005402 - JA 005439	23
MGM Grand Hotel, LLC's Motion for Leave to File a Third Party Complaint	12.01.15	Selman Breitman	JA 000039 - JA 000057	1
MGM Grand Hotel, LLC, David Copperfield and David Copperfield's Disappearing, Inc.'s Trial Brief to Preclude Plaintiffs from Calling Improper Rebuttal Witnesses	05.10.18 Selman Breitman	JA 004989 - JA 005004		21
MGM Grand Hotel, LLC, David Copperfield aka David Kotkin and David Copperfield's Disappearing, Inc.'s Opposition to Plaintiffs' Motion for Judgment As A Matter of Law, or, Alternatively for New Trial	08.10.18	Selman Breitman	JA 006382 - JA 006466	27-28
Notice In Lieu of Remittitur	06.04.18	Supreme Court	JA 005924	25
Notice of Appeal (Supreme Court File-Stamp)	07.19.18	Harris & Harris	JA 006295 - JA 006326	27
Notice of Entry of Order Denying Plaintiffs' Motion for Judgment as a Matter of Law, or, Alternatively, for a New Trial	10.23.18	Resnick & Louis	JA 006562 - JA 006566	28
Notice of Filing Emergency Petition for Writ of Mandamus	05.07.18	Harris & Harris	JA 004003 - JA 004006	17
Notice of Hearing on Plaintiffs' Motion for Certification	03.29.19	EJDC - Department 13	JA 006612 - JA 006613	28
Notice of Transfer to Court of Appeals	05.07.18	Supreme Court	JA 004007 - JA 004008	17

NRAP 27(E) Certificate	05.09.18	Selman Breitman  Weinberg Wheeler Hudgins Gunn & Dial  Resnick & Louis	JA 004427 - JA 004434	19
Order Denying Petition for Writ of Mandamus	05.07.18	Supreme Court	JA 004068 - JA 004070	18
Order Denying Plaintiffs' Motion for Judgment as a Matter of Law, or, Alternatively, for a New Trial	10.22.18	Resnick & Louis	JA 006560 - JA 006561	28
Order Denying Rehearing	05.10.18	Supreme Court	JA 004721 JA 004722	20
Order Granting Defendant Backstage Employment and Referral, Inc.'s Motion to Bifurcate Trial	02.27.17	Weinberg Wheeler Hudgins Gunn & Dial	JA 000348 - JA 000351	2
Order Granting Defendants David Copperfield, David Copperfield's Disappearing, Inc. And MGM Grand Hotel, LLC's Motion for Leave to Amend Their Answer to File Cross Claim	01.28.16	Selman Breitman	JA 000058 - JA 000059	1
Order Granting Motion to Extend Time (Supreme Court)	03.28.19	Supreme Court	JA 006597 - JA 006598	28
Order on Plaintiffs' Motion for Certification of Judgment	05.08.19	Morelli Law Firm	JA 006624 - JA 006626	28
Plaintiff's Amended Case Appeal Statement	11.26.18	Harris & Harris	JA 006577 - JA 006585	28
Plaintiffs' Amended Notice of Appeal	11.26.18	Harris & Harris	JA 006567 - JA 006576	28
Plaintiffs' Motion for Certification of Judgment On Order Shortening Time	03.28.19	Harris & Harris	JA 006599 - JA 006611	28

Plaintiffs' Motion for Judgment As a Matter of Law, or, Alternatively, for a New Trial	07.05.18	Harris & Harris	JA 005925 - JA 006259	25-27
Plaintiffs' Notice of Appeal (EJDC File-Stamped)	07.11.18	Harris & Harris	JA 006260 - JA 006270	28
Plaintiffs' Opposition to Defendant Backstage Employment and Referral, Inc.'s Motion to Bifurcate Trial	01.05.17	Harris & Harris	JA 000166 - JA 000176	1
Plaintiffs' Reply in Support of Motion for Judgment as a Matter of Law, Or, Alternatively for a New Trial	08.20.18	Harris & Harris	JA 006467 - JA 006496	28
Plaintiffs' Trial Brief to Exclude Cumulative Expert Testimony on Defendants' Proposed Expert Witnesses John E. Baker and Nicholas Yang	04.11.18	Harris & Harris	JA 000569 - JA 000573	3
Plaintiff's Trial Brief to Permit Testimony of Newly Discovered Fact Witnesses	04.25.18	Harris & Harris	JA 001586 - JA 001834	7-8
Real Parties in Interest Emergency Petition for Rehearing of Order Denying Petition for Writ of Mandamus Under NRAP 27(E), Immediate Action is Necessary as the Trial is Already in Progress	05.09.18	Selman Breitman  Weinberg Wheeler Hudgins Gunn & Dial  Resnick & Louis	JA 004403 - JA 004426	19
Request for Transcript of Proceedings	12.21.18	Morelli Law Firm	JA 006586 - JA 006589	28
Stipulation	03.08.19	Morelli Law Firm	JA 006595 - JA 006596	28
Summons - Backstage Employment and Referral, Inc. w/Affidavit of Service	09.02.14	Eglet Law Firm	JA 000021 - JA 000024	1
Summons - David Copperfield's Disappearing, Inc. w/Affidavit of Service	08.14.14	Eglet Law Firm	JA 000012- JA 000014	1

Summons - David Copperfield aka David S. Kotkin w/Affidavit of Service	09.14.14	Eglet Law Firm	JA 000025 - JA 000028	1
Summons - MGM Grand Hotel, LLC w/Affidavit of Service	08.14.14	Eglet Law Firm	JA 000015- JA 000017	1
Summons - Team Construction Management, Inc. w/Affidavit of Service	08.14.14	Eglet Law Firm	JA 000018 - JA 000020	1
Supplemental Request for Transcript of Proceedings	01.15.19	Morelli Law Firm	JA 006590 - JA 006594	28
Team Construction Management, Inc.'s Answer to Cross Claimants David Copperfield's Disappearing, Inc., David Copperfield aka David Kotkin and MGM Grand Hotel, LLC's Cross Claim	03.22.16	Resnick & Louis	JA 000072 - JA 000077	1
Team Construction Management, Inc., and Beachers LV, LLC's Joinder to Defendants David Copperfield's Disappearing, Inc, David Copperfield and MGM Grand Hotel, LLC's Response to Plaintiffs' Motion to Certification of Judgment on Order Shortening Time	04.15.19	Resnick & Louis	JA 006620 - JA 006622	28
Defendant Team Construction Management, Inc. And Beachers LV, LLC's Joinder to Backstage Employment and Referral's Motion to Bifurcate Trial	12.29.16	Resnick & Louis	JA 000162 - JA 000165	1
Team Construction Management, Inc. And Beachers LV, LLC's Joinder to Backstage Employment & Referral's Reply in Support of the Motion to Bifurcate Trial	01.18.17	Resnick & Louis	JA 000235 - JA 000238	1
Defendants Team Construction Management, Inc. And Beacher LV's Opposition to Plaintiffs' Motion for Judgment as a Matter of Law, or, Alternatively for a New Trial	07.20.18	Resnick & Louis	JA 006327 - JA 006352	27

Verdict (Phase 1)	05.29.18	Court	JA 005920 - JA 005923	25

1 COX's First Set of Requests for Production of Documents as follows:  
2

3 **PRELIMINARY STATEMENT**

4 Responding party has not completed its investigation of discovery in this matter.  
5 Responding party expressly reserves the right to amend any and all of the following responses at  
6 any time in the future, including in arbitration or trial. Responding party also reserves the right to  
7 offer any subsequently discovered information, evidence and/or matter at any time in the future.  
8

9 **GENERAL OBJECTIONS**

10 1. Responding party objects to each and every one of the demands to the extent that  
11 they may be construed as seeking the disclosure of information protected by the attorney-client  
12 privilege and/or which constitutes the work product of its attorneys and/or their representatives  
13 and will not produce information protected by such privileges.

14 2. Responding party objects to each and every one of the demands on the grounds that  
15 they are unlimited in time so as to render each demand overly broad, burdensome and oppressive.

16 3. Responding party objects to each and every one of the demands on the grounds that  
17 they seek irrelevant information unlikely to lead to the discovery of admissible evidence.

18 4. These responses are made solely for the purpose of this action. Each response is  
19 subject to all objections as to competence, relevance, materiality, propriety and admissibility, and  
20 any and all other objections and grounds which would require the exclusion of any document  
21 contained herein if the request were asked of, or any statements contained therein were made by a  
22 witness present and testifying at court, all of which objections and grounds are reserved and may  
23 be interposed at the time of trial.

24 The above Preliminary Statement and General Objections shall apply to each and every  
25 response given herein, and shall be incorporated by reference as though fully set forth in all of the  
26 responses to the demands.  
27  
28

**RESPONSES**

**REQUEST FOR PRODUCTION NO. 1:**

Please produce a copy of all incident reports, security reports, or your staff/crew reports and investigations that you have or have access to related to any incidents, accidents or injuries sustained or allegedly sustained by any participants in any of the Co-Defendants' magic shows in the last seven (7) years to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the phrase "any incidents, accidents or injuries sustained or allegedly sustained by any participants." This request seeks information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving objection, the Gavin Cox incident is the only reported incident, accident or injury sustained by any participant in any of the Co-Defendants' magic shows. See Incident File Full Report (Exhibit B) and Guest Accident or Illness Report (Exhibit C) attached to Defendants' Early Case Conference Initial List of Witnesses and Documents.

**REQUEST FOR PRODUCTION NO. 2:**

Please produce copies of all surveillance video or CCTV footage from every angle recorded of the walkway and outside of the premises where Plaintiff GAVIN COX fell on November 12, 2013, including 5 days prior to the subject incident, and the 24 hours following the subject incident.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as phrased. This request seeks information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving objection, see surveillance video before, during and after the subject incident, attached to Defendants' Fourth Supplemental Early Case Conference Initial List of Witnesses and Documents.

1 **REQUEST FOR PRODUCTION NO. 3:**

2 Please produce all statements, whether written, oral, transcribed or reduced to memoranda,  
3 pertaining to any information provided by any individual having knowledge of any facts relating  
4 to the subject incident.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

6 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
7 overly broad as to the phrase "all statements, whether written, oral, transcribed or reduced to  
8 memoranda, pertaining to any information." This Request could cover literally anything. This  
9 Request may seek information protected by the attorney-client privilege and attorney work product  
10 doctrine. This request seeks information that is not relevant to this matter, unreasonably intrusive  
11 and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without  
12 waiving objection, see Incident File Full Report (Exhibit B) and Guest Accident or Illness Report  
13 (Exhibit C) attached to Defendants' Early Case Conference Initial List of Witnesses and  
14 Documents. See also Defendants' Early Case Conference Initial List of Witnesses and Documents  
15 and all supplements.

16 **REQUEST FOR PRODUCTION NO. 4:**

17 Please produce a complete copy, including the declaration sheet, of each policy of  
18 insurance, including each umbrella or excess policy, held by you on the date of the subject  
19 incident, that covered you, your agents, servants, employees and representatives, at the time of the  
20 subject incident.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

22 See insurance policy attached to Defendants First Supplemental Early Case Conference  
23 List of Witnesses and Documents.

24 **REQUEST FOR PRODUCTION NO. 5:**

25 Please produce, separately and in their entirety, all insurance claims files in connection  
26 with the subject incident.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

28 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and

1 overly broad as to the phrased. This Request may seek information protected by the attorney-  
2 client privilege and attorney work product doctrine. This request seeks information that is not  
3 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
4 calculated to lead to admissible evidence. Without waiving objection, see MGM Grand's Risk  
5 Management claims file attached as Exhibit A.

6 **REQUEST FOR PRODUCTION NO. 6:**

7 If you, your agents, employees and/or representatives have prepared or received any  
8 written statements regarding the subject incident, please produce a copy of all written statements,  
9 and any documentation that relate to these statements.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

11 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
12 overly broad as to the phrased. This Request may seek information protected by the attorney-  
13 client privilege and attorney work product doctrine. This request seeks information that is not  
14 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
15 calculated to lead to admissible evidence. Without waiving objection, see MGM Grand's Risk  
16 Management claims file attached as Exhibit A.

17 **REQUEST FOR PRODUCTION NO. 7:**

18 Please produce color laser copies of all pictures, photographs, drawings, diagrams,  
19 measurements, or other written descriptions of the subject incident and/or the scene of the subject  
20 incident, or of graphic depictions in any form regarding the subject incident or the locations of  
21 persons and/or instrumentalities involved, made either before, after, or at the time of the event in  
22 question.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

24 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
25 overly broad as to the phrased. This Request may seek information protected by the attorney-  
26 client privilege and attorney work product doctrine. This request seeks information that is not  
27 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
28 calculated to lead to admissible evidence. Without waiving objection, see Defendants' Early Case

1 Conference Initial List of Witnesses and Documents and all supplements.

2 **REQUEST FOR PRODUCTION NO. 8:**

3 If you, your attorneys, or their insurance companies have settled or compromised any  
4 claim resulting from or arising out of the subject incident, please produce all documents that were  
5 produced or utilized in the course of achieving any settlement or compromise.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

7 None.

8 **REQUEST FOR PRODUCTION NO. 9:**

9 Please produce a complete copy of the pre-litigation adjusting/investigative file concerning  
10 the subject incident. This will include the following items: Index Bureau information; log notes  
11 regarding conversations with any named Defendant or any witnesses; any actual witness  
12 statements; any summaries of witness statements; any tapes of witness statements; any diagrams,  
13 scene photographs, surveillance videos, and all other documents concerning the incident scene.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

15 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
16 overly broad as to the phrased. This Request may seek information protected by the attorney-  
17 client privilege and attorney work product doctrine. This request seeks information that is not  
18 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
19 calculated to lead to admissible evidence. Without waiving objection, see MGM Grand's Risk  
20 Management claims file attached as Exhibit A.

21 **REQUEST FOR PRODUCTION NO. 10:**

22 If Defendant, its agents, servants, or employees conducted any inspections of the subject  
23 premises where Plaintiff GAVIN COX was injured at any time *prior* to the subject incident, please  
24 produce any and all documentation relative to any such inspections, including any and all  
25 inspection logs.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

27 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
28 overly broad as to the phrases "any inspections of the subject premises" and "any time *prior* to the

1 subject incident." This Request may seek information protected by the attorney-client privilege  
2 and attorney work product doctrine. This request seeks information that is not relevant to this  
3 matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to  
4 admissible evidence. Without waiving objection, Defendant has no documents responsive to this  
5 request.

6 **REQUEST FOR PRODUCTION NO. 11:**

7 If Defendant, its agents, servants, or employees conducted any inspections of the subject  
8 premises where Plaintiff GAVIN COX was injured at any time *after* the subject incident, please  
9 produce any and all documentation relative to any such inspections, including any and all  
10 inspection logs.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

12 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
13 overly broad as to the phrases "any inspections of the subject premises" and "any time *after* to the  
14 subject incident." This Request may seek information protected by the attorney-client privilege  
15 and attorney work product doctrine. This request seeks information that is not relevant to this  
16 matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to  
17 admissible evidence. Without waiving objection, see Incident File Full Report (Exhibit B) and  
18 Guest Accident or Illness Report (Exhibit C) attached to Defendants' Early Case Conference  
19 Initial List of Witnesses and Documents as well as MGM Grand's Risk Management claims file  
20 attached as Exhibit A.

21 **REQUEST FOR PRODUCTION NO. 12:**

22 Please produce copies of the manual, or policies and procedures and checklists for  
23 cleaning, inspecting and/or maintaining the subject premises that were in effect when Plaintiff  
24 GAVIN COX fell on November 12, 2013.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

26 Objection, Defendant objects to this interrogatory to the extent that it is vague, ambiguous  
27 and overly broad. See MGM Grand Security Department Handbook, attached as Exhibit B,  
28 Engineering and Technical Services Manual attached as Exhibit C, Horticulture Manual, attached

1 as Exhibit D, EVS Manual attached as Exhibit E, and Contractor Property Guidelines, attached as  
2 Exhibit F.

3 **REQUEST FOR PRODUCTION NO. 13:**

4 Please produce copies of all sweep logs, charts, and daily inspection sheets of the subject  
5 area where Plaintiff GAVIN COX fell on November 12, 2013, which documents the maintenance,  
6 cleaning, and area inspections performed for the entire day of the subject incident.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

8 Defendant has no documents responsive to this request.

9 **REQUEST FOR PRODUCTION NO. 14:**

10 Please produce exemplar copies of all forms, checklists, and directions used at the time of  
11 the subject incident for inspections of the subject area where Plaintiff GAVIN COX fell on  
12 November 12, 2013.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

14 Defendant has no documents responsive to this request.

15 **REQUEST FOR PRODUCTION NO. 15:**

16 If Defendant took any corrective measures, changes, or modifications following the  
17 subject incident, please produce all documents that describe such measures taken.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

19 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
20 overly broad as to the phrases "any corrective measures, changes, or modifications." This Request  
21 may seek information protected by the attorney-client privilege and attorney work product  
22 doctrine. This request may call for subsequent remedial measures which are inadmissible under  
23 NRS 48.095. This request seeks information that is not relevant to this matter, unreasonably  
24 intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence.  
25 Without waiving objection, none; however, the general area outside the theatre has undergone  
26 several renovations since the date of the subject incident.

27 **REQUEST FOR PRODUCTION NO. 16:**

28 Please produce copies of all documents that reveal all employees of the Defendant that

1 were working in the area where Plaintiff GAVIN COX fell, including each employees' last-known  
2 address and telephone numbers, for the one week period prior to the subject incident.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

4 Security Officer Dennis Funes-Navas, c/o Selman Breitman LLP, 3993 Howard Hughes  
5 Pkwy., Suite 200, Las Vegas, Nevada 89169. See Incident File Full Report (Exhibit B) attached  
6 to Defendants' Early Case Conference Initial List of Witnesses and Documents and MGM Grand's  
7 Risk Management claims file attached as Exhibit A.

8 **REQUEST FOR PRODUCTION NO. 17:**

9 Please produce a complete copy of the construction work schedule for the project of the  
10 general area where Plaintiff GAVIN COX fell on November 12, 2013

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

12 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
13 overly broad as to the phrase "construction work schedule for the project of the general area."  
14 This request seeks information that is not relevant to this matter, unreasonably intrusive and overly  
15 burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving  
16 objection, defendant has no documents responsive to this request.

17 **REQUEST FOR PRODUCTION NO. 18:**

18 Please produce a copy of any safety manuals, policies and procedures, in relation to the  
19 walkway and outside area where Plaintiff GAVIN COX fell on the date of the subject incident.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

21 Objection, Defendant objects to this interrogatory to the extent that it is vague, ambiguous  
22 and overly broad. See MGM Grand Security Department Handbook, attached as Exhibit B,  
23 Engineering and Technical Services Manual attached as Exhibit C, Horticulture Manual, attached  
24 as Exhibit D, EVS Manual attached as Exhibit E, and Contractor Property Guidelines, attached as  
25 Exhibit F.

26 **REQUEST FOR PRODUCTION NO. 19:**

27 Please produce copies of any contracts or written agreements between the Defendant in  
28 relation to the maintenance and cleaning of the subject walkway and outside area where Plaintiff

1 GAVIN COX fell on November 12, 2013.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

3 Defendant has no documents responsive to this request.

4 **REQUEST FOR PRODUCTION NO. 20:**

5 Please produce a copy of all internal memorandum, reports or other documents prepared by  
6 you or anyone acting on your behalf concerning problems experienced with the condition of  
7 construction dust and debris of the walkway and outside area of the subject premises where  
8 Plaintiff GAVIN COX fell on November 12, 2013, including any attempts by you to identify  
9 alleged problems and all efforts by you to solve problems including and notes or recordings of  
10 meetings, telephone calls or correspondence for the time period of January 1, 2013 to the present  
11 date.

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

13 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous,  
14 overly broad and assumes facts as to the phrase "problems experienced with the condition of  
15 construction dust and debris of the walkway and outside area of the subject premises." This  
16 Request may seek information protected by the attorney-client privilege and attorney work product  
17 doctrine. This request may call for subsequent remedial measures which are inadmissible under  
18 NRS 48.095. This request seeks information that is not relevant to this matter, unreasonably  
19 intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence.  
20 Without waiving objection, defendant has no documents responsive to this request.

21 **REQUEST FOR PRODUCTION NO. 21:**

22 Please produce all investigative, observation and surveillance reports, photographs,  
23 videotapes, or digital images that have been produced by any individual, company or entity that  
24 has investigated, photographed, videotaped, digitally imaged, observed or conducted any  
25 surveillance of Plaintiff, GAVIN COX, on behalf of or at the request or instruction of you, your  
26 insurance company, your attorneys, or their agents.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

28 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous, and

1 overly broad as phrased. This Request may seek information protected by the attorney-client  
2 privilege and attorney work product doctrine. Without waiving objection, none, other than  
3 surveillance footage recorded the date of the incident previously disclosed and attached to  
4 Defendants' Fourth Supplemental Early Case Conference Initial List of Witnesses and  
5 Documents.

6 **REQUEST FOR PRODUCTION NO. 22:**

7 Please provide a copy of all plans, drawings, or diagrams which reveal the actual pathway  
8 that all participants of the "Lucky 13 Illusion" were instructed to follow on the date of the subject  
9 incident.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

11 Defendant has no documents responsive to this request.

12 **REQUEST FOR PRODUCTION NO. 23:**

13 Please produce a copy of Defendant's written policy or procedure of any kind concerning  
14 the inspection and removal of debris and foreign substances from the places of ingress or egress  
15 and pathways guarding against slip and fall incidents on the subject premises on or before  
16 November 12, 2013.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

18 See MGM Grand Security Department Handbook, attached as Exhibit B, Engineering and  
19 Technical Services Manual attached as Exhibit C, Horticulture Manual, attached as Exhibit D,  
20 EVS Manual attached as Exhibit E, and Contractor Property Guidelines, attached as Exhibit F.

21 **REQUEST FOR PRODUCTION NO. 24:**

22 Please produce a copy of Defendant's written policy or procedure of any kind concerning  
23 the inspection and removal of debris and foreign substances from places of ingress or egress and  
24 pathways guarding against slip and fall incidents on the subject premises after November 12,  
25 2013.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

27 See MGM Grand Security Department Handbook, attached as Exhibit B, Engineering and  
28 Technical Services Manual attached as Exhibit C, Horticulture Manual, attached as Exhibit D,

1 EVS Manual attached as Exhibit E, and Contractor Property Guidelines, attached as Exhibit F.

2 **REQUEST FOR PRODUCTION NO. 25:**

3 Please produce copies of all maintenance records, cleaning records and repair and work  
4 service records regarding the general area of the location where Plaintiff GAVIN COX fell on  
5 November 12, 2013 during the time period of 30 days prior to the subject incident and 30 days  
6 after the subject incident.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

8 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
9 overly broad as to the phrases "all maintenance records, cleaning records and repair and work  
10 service records regarding the general area of the location where Plaintiff GAVIN COX fell." This  
11 Request may seek information protected by the attorney-client privilege and attorney work product  
12 doctrine. This request may call for subsequent remedial measures which are inadmissible under  
13 NRS 48.095. This request seeks information that is not relevant to this matter, unreasonably  
14 intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence.  
15 Without waiving objection, defendant has no documents responsive to this request.

16 **REQUEST FOR PRODUCTION NO. 26:**

17 Please produce a copy of any contract between this Defendant and any other named  
18 Defendant, concerning ownership, management, or control of the use of the subject premises that  
19 was in effect on November 12, 2013.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

21 Objection, this Request requests information that may contain confidential, proprietary, or  
22 trade secret information and is subject to a Confidentiality Agreement. Without waiving  
23 objection, see Hollywood Theatre Four-Wall License Agreement, attached as Exhibit G.

24 **REQUEST FOR PRODUCTION NO. 27:**

25 Please produce a copy of the Lease Agreement between the Defendants that was in effect  
26 at the time of the subject incident.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

28 Defendant has no documents responsive to this request.

1 **REQUEST FOR PRODUCTION NO. 28:**

2 Please produce copies of any warning signs in the vicinity where Plaintiff GAVIN COX  
3 fell on November 12, 2013 that existed on the subject premises on the date of the subject incident.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

5 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
6 overly broad as to the phrase "any warning signs in the vicinity." This request seeks information  
7 that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not  
8 reasonably calculated to lead to admissible evidence. Without waiving objection, defendant has  
9 no documents responsive to this request.

10 **REQUEST FOR PRODUCTION NO. 29:**

11 Please produce copies of any warning signs in the vicinity where Plaintiff GAVIN COX  
12 fell on November 12, 2013 that now exists on the subject premises.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

14 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
15 overly broad as to the phrase "any warning signs in the vicinity." This request may call for  
16 subsequent remedial measures which are inadmissible under NRS 48.095. This request seeks  
17 information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and  
18 is not reasonably calculated to lead to admissible evidence. Without waiving objection, defendant  
19 has no documents responsive to this request.

20 **REQUEST FOR PRODUCTION NO. 30:**

21 With respect to each person the Defendant expects to call as an expert witness at the trial  
22 of this action, please produce the entire working file, including any and all reports, notes and other  
23 documentation, relative to the subject incident as is in the possession of each such expert.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

25 Objection, defendant objects to this Request as it requests information which is subject to  
26 expert disclosure prior to the deadline for such disclosure as set forth in NRCP 16.1(a)(2).  
27 Defendant will supplement this Response at the appropriate time. Without waiving objections,  
28 defendant has not retained any expert witness specifically for trial nor has it made any

determination as to potential expert witnesses it may call as an expert witness at trial.

**REQUEST FOR PRODUCTION NO. 31:**

Please produce copies of all documents identified in your Answers to Plaintiff GAVIN COX's First Set of Interrogatories.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

See Defendants' Early Case Conference Initial List of Witnesses and Documents and all supplements.

DATED: April 10, 2015

SELMAN BREITMAN LLP

By: /s/ Eric O. Freeman

ERIC O. FREEMAN  
NEVADA BAR NO. 6648  
3993 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169-0961  
Telephone: 702.228.7717  
Facsimile: 702.228.8824  
Attorneys for Defendant DAVID  
COPPERFIELD'S DISAPPEARING, INC.,  
DAVID COPPERFIELD aka DAVID KOTKIN,  
and MGM GRAND HOTEL, LLC.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:

☐ BY MAIL: N.R.C.P. 5(b), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada; or

☐ BY FAX: E.D.C.R. 7.26(a), I served via facsimile; or

☐ BY MAIL AND FAX: N.R.C.P. 5(b) and E.D.C.R. 7.26(a), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada, and served via facsimile; or

☒ BY E-MAIL/ELECTRONIC SERVICE: N.R.C.P. 5(b)(2)(D) and addressee(s) having consented to electronic service, I served via e-mail or other electronic means to the e-mail address(es) of the addressee(s).

a true and correct copy of the above and foregoing DEFENDANT MGM GRAND HOTEL, LLC'S RESPONSES TO PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS, this 10 day of April 2015, addressed as follows:

Tracy A. Eglet, Esq.  
Paul A. Shpirt, Esq.  
EGLET LAW GROUP  
400 South 7<sup>th</sup> Street, Box 1, Suite 400  
Las Vegas, NV 89101

Attorneys for Plaintiff

Howard J. Russell, Esq.  
WEINBERG WHEELER HUUDGINS GUNN  
& DIAL  
6385 South Rainbow Blvd., Suite 400  
Las Vegas, NV 89118

Attorneys for Backstage Employment and Referral, Inc.

Shannon G. Splaine, Esq.  
LINCOLN GUSTAFSON & CERCOS, LLP  
3960 Howard Hughes Pkwy, Suite 200  
Las Vegas, NV 89169

Attorneys for Team Construction Management, Inc.

  
CRYSTAL MARTIN  
An Employee of Selman Breitman LLP



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 06***

JA001688

Selman Breitman LLP  
ATTORNEYS AT LAW

1 **DISC**  
2 ERIC O. FREEMAN  
3 NEVADA BAR NO. 6648  
4 SELMAN BREITMAN LLP  
5 3993 Howard Hughes Parkway, Suite 200  
6 Las Vegas, NV 89169-0961  
7 Telephone: 702.228.7717  
8 Facsimile: 702.228.8824  
9 Email: efreeman@selmanbreitman.com

10  
11 Attorneys for Defendant DAVID  
12 COPPERFIELD'S DISAPPEARING, INC.,  
13 DAVID COPPERFIELD aka DAVID  
14 KOTKIN, and MGM GRAND HOTEL, LLC.

15  
16  
17 DISTRICT COURT  
18 CLARK COUNTY, NEVADA

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

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

21 Plaintiff,

22 v.

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

Defendants.

**DEFENDANT DAVID COPPERFIELD'S DISAPPEARING, INC.'S RESPONSES TO**  
**PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR PRODUCTION OF**  
**DOCUMENTS**

TO: Plaintiff GAVIN COX and his counsel of record:

Defendant DAVID COPPERFIELD'S DISAPPEARING, INC., by and through its attorney

1 of record, Eric O. Freeman, of the law firm of SELMAN BREITMAN LLP, hereby responds to  
2 plaintiff GAVIN COX's First Set of Requests for Production of Documents as follows:

3  
4 **PRELIMINARY STATEMENT**

5 Responding party has not completed its investigation of discovery in this matter.  
6 Responding party expressly reserves the right to amend any and all of the following responses at  
7 any time in the future, including in arbitration or trial. Responding party also reserves the right to  
8 offer any subsequently discovered information, evidence and/or matter at any time in the future.  
9

10 **GENERAL OBJECTIONS**

11 1. Responding party objects to each and every one of the demands to the extent that  
12 they may be construed as seeking the disclosure of information protected by the attorney-client  
13 privilege and/or which constitutes the work product of its attorneys and/or their representatives  
14 and will not produce information protected by such privileges.

15 2. Responding party objects to each and every one of the demands on the grounds that  
16 they are unlimited in time so as to render each demand overly broad, burdensome and oppressive.

17 3. Responding party objects to each and every one of the demands on the grounds that  
18 they seek irrelevant information unlikely to lead to the discovery of admissible evidence.

19 4. These responses are made solely for the purpose of this action. Each response is  
20 subject to all objections as to competence, relevance, materiality, propriety and admissibility, and  
21 any and all other objections and grounds which would require the exclusion of any document  
22 contained herein if the request were asked of, or any statements contained therein were made by a  
23 witness present and testifying at court, all of which objections and grounds are reserved and may  
24 be interposed at the time of trial.

25 The above Preliminary Statement and General Objections shall apply to each and every  
26 response given herein, and shall be incorporated by reference as though fully set forth in all of the  
27 responses to the demands.  
28

**RESPONSES**

**REQUEST FOR PRODUCTION NO. 1:**

Please produce a copy of all incident reports, security reports, or your staff/crew reports and investigations that you have or have access to related to any incidents, accidents or injuries sustained or allegedly sustained by any participants in any of your shows in the last seven (7) years to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the phrase "any incidents, accidents or injuries sustained or allegedly sustained by any participants." This request seeks information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving objection, see Incident File Full Report (Exhibit B) and Guest Accident or Illness Report (Exhibit C) attached to Defendants' Early Case Conference Initial List of Witnesses and Documents.

**REQUEST FOR PRODUCTION NO. 2:**

Please produce a video of the entire show that Plaintiff, GAVIN COX, attended and participated in. Note: This Request is specific to any footage, recording or video of the specific show that you have or have access to, that Mr. Cox attended, not a generic video.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Objection, Defendant objects to this Request to the extent that it is overly broad and seeks information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving objection, an investigation into available video footage of the show Gavin Cox attended is being performed. Any video of the show to be produced will only be done upon entry of an Errata to the Confidentiality Agreement and Stipulated Protective Order.

**REQUEST FOR PRODUCTION NO. 3:**

If you do not have access to the video of the subject show that Plaintiff, GAVIN COX,

1 attended, please produce a video recording of the entire show that had a "Lucky 13 Illusion" from  
2 any date, that represents the show that Mr. Cox attended.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

4 Objection, Defendant objects to this Request to the extent that it is overly broad and seeks  
5 information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and  
6 is not reasonably calculated to lead to admissible evidence. Without waiving objection, an  
7 investigation into available video footage of the show Gavin Cox attended is being performed.  
8 Any video of the show to be produced will only be done upon entry of an Errata to the  
9 Confidentiality Agreement and Stipulated Protective Order.

10 **REQUEST FOR PRODUCTION NO. 4:**

11 Please produce the entire video of the last show that you performed at the MGM Grand  
12 Hotel and Casino, in Las Vegas, Nevada, which included the "Lucky 13 Illusion."

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

14 Objection, Defendant objects to this Request to the extent that it is overly broad and seeks  
15 information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and  
16 is not reasonably calculated to lead to admissible evidence.

17 **REQUEST FOR PRODUCTION NO. 5:**

18 Please produce all statements, whether written, oral, transcribed or reduced to memoranda,  
19 pertaining to any information provided by any individual having knowledge of any facts relating  
20 to the subject incident.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

22 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
23 overly broad as to the phrase "all statements, whether written, oral, transcribed or reduced to  
24 memoranda, pertaining to any information." This Request could cover literally anything. This  
25 Request may seek information protected by the attorney-client privilege and attorney work product  
26 doctrine. This request seeks information that is not relevant to this matter, unreasonably intrusive  
27 and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without  
28

1 waiving objection, see Incident File Full Report (Exhibit B) and Guest Accident or Illness Report  
2 (Exhibit C) attached to Defendants' Early Case Conference Initial List of Witnesses and  
3 Documents. See also Defendants' Early Case Conference Initial List of Witnesses and Documents  
4 and all supplements.

5 **REQUEST FOR PRODUCTION NO. 6:**

6 Please produce a complete copy, including the declaration sheet, of each policy of  
7 insurance, including each umbrella or excess policy, held by you on the date of the subject  
8 incident, that covered you, your agents, servants, employees and representatives, at the time of the  
9 subject incident.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

11 See policy and declarations for insurance coverage attached as Exhibit A.

12 **REQUEST FOR PRODUCTION NO. 7:**

13 Please produce, separately and in their entirety, all insurance claims files in connection  
14 with the subject incident.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

16 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
17 overly broad as to the phrased. This Request may seek information protected by the attorney-  
18 client privilege and attorney work product doctrine. This request seeks information that is not  
19 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
20 calculated to lead to admissible evidence. Without waiving objection, see insurance claims file  
21 attached as Exhibit B.

22 **REQUEST FOR PRODUCTION NO. 8:**

23 If you, your agents, employees and/or representatives have prepared or received any  
24 written statements regarding the subject incident, please produce a copy of all written statements,  
25 and any documentation that relate to these statements.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

27 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
28

1 overly broad as to the phrased. This Request may seek information protected by the attorney-  
2 client privilege and attorney work product doctrine. This request seeks information that is not  
3 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
4 calculated to lead to admissible evidence. Without waiving objection, none, see Response to  
5 Request for Production no. 5.

6 **REQUEST FOR PRODUCTION NO. 9:**

7 Please produce color laser copies of all pictures, photographs, drawings, diagrams,  
8 measurements, or other written descriptions of the subject incident and/or the scene of the subject  
9 incident, or of graphic depictions in any form regarding the subject incident or the locations of  
10 persons and/or instrumentalities involved, made either before, after, or at the time of the event in  
11 question.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

13 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
14 overly broad as to the phrased. This Request may seek information protected by the attorney-  
15 client privilege and attorney work product doctrine. This request seeks information that is not  
16 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
17 calculated to lead to admissible evidence. Without waiving objection, see Thirteen Show  
18 Techniques, Thirteen Checklist, 13 Preset, and Thirteen Seating Diagrams to be produced upon  
19 entry of an Errata to the Confidentiality Agreement and Stipulated Protective Order. See also,  
20 photographs previously produced in Defendants' Early Case Conference Initial List of Witnesses  
21 and Documents and all supplements.

22 **REQUEST FOR PRODUCTION NO. 10:**

23 If you, your attorneys, or their insurance companies have settled or compromised any  
24 claim resulting from or arising out of the subject incident, please produce all documents that were  
25 produced or utilized in the course of achieving any settlement or compromise.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

27 None.  
28

**REQUEST FOR PRODUCTION NO. 11:**

Please produce a complete copy of the pre-litigation adjusting/investigative file concerning the subject incident. This will include the following items: Index Bureau information; log notes regarding conversations with any named Defendant or any witnesses; any actual witness statements; any summaries of witness statements; any tapes of witness statements; any diagrams, scene photographs, surveillance videos, and all other documents concerning the incident scene.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the phrased. This Request may seek information protected by the attorney-client privilege and attorney work product doctrine. This request seeks information that is not relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving objection, see insurance claims file attached as Exhibit B.

**REQUEST FOR PRODUCTION NO. 12:**

If Defendant, its agents, servants, or employees conducted any inspections of the subject premises where Plaintiff GAVIN COX was injured at any time *prior* to the subject incident, please produce any and all documentation relative to any such inspections, including any and all inspection logs.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the phrases "any inspections of the subject premises" and "any time *prior* to the subject incident." Without waiving objection, none.

**REQUEST FOR PRODUCTION NO. 13:**

If Defendant, its agents, servants, or employees conducted any inspections of the subject premises where Plaintiff GAVIN COX was injured at any time *after* the subject incident, please produce any and all documentation relative to any such inspections, including any and all inspection logs.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

2 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
3 overly broad as to the phrases "any inspections of the subject premises" and "any time *after* to the  
4 subject incident." This Request may seek information protected by the attorney-client privilege  
5 and attorney work product doctrine. This request seeks information that is not relevant to this  
6 matter, unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to  
7 admissible evidence. Without waiving objection, none.

8 **REQUEST FOR PRODUCTION NO. 14:**

9 Please produce copies of the manual, or policies and procedures and checklists for  
10 cleaning, inspecting and/or maintaining the subject premises that were in effect when Plaintiff  
11 GAVIN COX fell on November 12, 2013.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

13 See Thirteen Show Techniques, Thirteen Checklist, 13 Preset, and Thirteen Seating  
14 Diagrams to be produced upon entry of an Errata to the Confidentiality Agreement and Stipulated  
15 Protective Order.

16 **REQUEST FOR PRODUCTION NO. 15:**

17 Please produce copies of all sweep logs, charts, and daily inspection sheets of the subject  
18 area where Plaintiff GAVIN COX fell on November 12, 2013, which documents the maintenance,  
19 cleaning, and area inspections performed for the entire day of the subject incident.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

21 See Show Notes from the 7:00 p.m. show on November 12, 2013, Thirteen Show  
22 Techniques, Thirteen Checklist, 13 Preset, and Thirteen Seating Diagrams to be produced upon  
23 entry of an Errata to the Confidentiality Agreement and Stipulated Protective Order.

24 **REQUEST FOR PRODUCTION NO. 16:**

25 Please produce exemplar copies of all forms, checklists, and directions used at the time of  
26 the subject incident for inspections of the subject area where Plaintiff GAVIN COX fell on  
27 November 12, 2013.

28

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

2 See Thirteen Show Techniques, Thirteen Checklist, 13 Preset, and Thirteen Seating  
3 Diagrams to be produced upon entry of an Errata to the Confidentiality Agreement and Stipulated  
4 Protective Order.

5 **REQUEST FOR PRODUCTION NO. 17:**

6 If Defendant took any corrective measures, changes, or modifications following the subject  
7 incident, please produce all documents that describe such measures taken.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

9 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
10 overly broad as to the phrases "any corrective measures, changes, or modifications." This Request  
11 assumes facts and assumes a condition or defect existed. This Request may seek information  
12 protected by the attorney-client privilege and attorney work product doctrine. This request may  
13 call for subsequent remedial measures which are inadmissible under NRS 48.095. This request  
14 seeks information that is not relevant to this matter, unreasonably intrusive and overly  
15 burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving  
16 objection, none.

17 **REQUEST FOR PRODUCTION NO. 18:**

18 If Defendant, its agents, servants, or employees spoke at any time prior to being served  
19 with a lawsuit relative to this matter, with any insurance adjusters, agents, management personnel,  
20 or investigators and any such conversations were tape recorded, video-taped or memorialized in  
21 writing, please produce any and all documentation relative to each such conversation.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

23 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
24 overly broad as to the phrased. This Request may seek information protected by the attorney-  
25 client privilege and attorney work product doctrine. This request seeks information that is not  
26 relevant to this matter, unreasonably intrusive and overly burdensome, and is not reasonably  
27 calculated to lead to admissible evidence. Without waiving objection, none.

1 **REQUEST FOR PRODUCTION NO. 19:**

2 Please produce copies of all documents that reveal all employees of the Defendant that  
3 were working in the area where Plaintiff GAVIN FOX (sic) fell, including each employees' last-  
4 known address and telephone numbers, for the one week period prior to the subject incident.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

6 Defendant has no documents responsive to this request.

7 **REQUEST FOR PRODUCTION NO. 20:**

8 Please produce a copy of any safety manuals, policies and procedures, in relation to the  
9 walkway and outside area where Plaintiff GAVIN COX fell on the date of the subject incident.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

11 See Thirteen Show Techniques, Thirteen Checklist, 13 Preset, and Thirteen Seating  
12 Diagrams to be produced upon entry of an Errata to the Confidentiality Agreement and Stipulated  
13 Protective Order.

14 **REQUEST FOR PRODUCTION NO. 21:**

15 Please produce copies of any contracts or written agreements between the Defendant in  
16 relation to the maintenance and cleaning of the subject walkway and outside area where Plaintiff  
17 GAVIN COX fell on November 12, 2013.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

19 None.

20 **REQUEST FOR PRODUCTION NO. 22:**

21 Please produce copies of all surveillance videos from every angle recorded of the walkway  
22 and outside area of the premises where Plaintiff GAVIN COX fell on November 12, 2013,  
23 including 5 days prior to the subject incident, and the 24 hours following the subject incident.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

25 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
26 overly broad as phrased. This request seeks information that is not relevant to this matter,  
27 unreasonably intrusive and overly burdensome, and is not reasonably calculated to lead to  
28

1 admissible evidence. Without waiving objection, see surveillance video before, during and after  
2 the subject incident, attached to Defendants' Fourth Supplemental Early Case Conference Initial  
3 List of Witnesses and Documents.

4 **REQUEST FOR PRODUCTION NO. 23:**

5 Please produce a copy of all internal memorandum, reports or other documents prepared by  
6 you or anyone acting on your behalf concerning problems experienced with the condition of  
7 construction dust and debris of the walkway and outside area of the subject premises where  
8 Plaintiff GAVIN COX fell on November 12, 2013, including any attempts by you to identify  
9 alleged problems and all efforts by you to solve problems including and notes or recordings of  
10 meetings, telephone calls or correspondence for the time period of January 1, 2013 to the present  
11 date.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

13 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous,  
14 overly broad and assumes facts as to the phrase "problems experienced with the condition of  
15 construction dust and debris of the walkway and outside area of the subject premises." This  
16 Request assumes facts and assumes a condition or defect existed. This Request may seek  
17 information protected by the attorney-client privilege and attorney work product doctrine. This  
18 request may call for subsequent remedial measures which are inadmissible under NRS 48.095.  
19 This request seeks information that is not relevant to this matter, unreasonably intrusive and overly  
20 burdensome, and is not reasonably calculated to lead to admissible evidence. Without waiving  
21 objection, none.

22 **REQUEST FOR PRODUCTION NO. 24:**

23 Please produce all investigative, observation and surveillance reports, photographs,  
24 videotapes, or digital images that have been produced by any individual, company or entity that  
25 has investigated, photographed, videotaped, digitally imaged, observed or conducted any  
26 surveillance of Plaintiff, GAVIN COX, on behalf of or at the request or instruction of you, your  
27 insurance company, your attorneys, or their agents.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

2 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous, and  
3 overly broad as phrased. This Request may seek information protected by the attorney-client  
4 privilege and attorney work product doctrine. Without waiving objection, none, other than  
5 surveillance footage recorded the date of the incident previously disclosed and attached to  
6 Defendants' Fourth Supplemental Early Case Conference Initial List of Witnesses and  
7 Documents.

8 **REQUEST FOR PRODUCTION NO. 25:**

9 Please provide a copy of all plans, drawings, or diagrams which reveal the actual pathway  
10 that all participants of the "Lucky 13 Illusion" were instructed to follow on the date of the subject  
11 incident.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

13 None.

14 **REQUEST FOR PRODUCTION NO. 26:**

15 Please provide any document which states the name, address, and job title of any employee  
16 of this Defendant who had direct contact with Plaintiff GAVIN COX on November 12, 2013  
17 before the subject incident.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

19 Defendant has no documents responsive to this request.

20 **REQUEST FOR PRODUCTION NO. 27:**

21 Please produce a copy of Defendant's written policy or procedure of any kind concerning  
22 the inspection and removal of debris and foreign substances from the places of ingress or egress  
23 and pathways guarding against slip and fall incidents on the subject premises on or before  
24 November 12, 2013.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

26 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous,  
27 overly broad and assumes facts as to the phrase "the inspection and removal of debris and foreign  
28

1 substances from the places of ingress or egress and pathways guarding against slip and fall  
2 incidents on the subject premises." This Request assumes facts and assumes a condition or defect  
3 existed. Without waiving objection, see Thirteen Show Techniques, Thirteen Checklist, 13 Preset,  
4 and Thirteen Seating Diagrams to be produced upon entry of an Errata to the Confidentiality  
5 Agreement and Stipulated Protective Order.

6 **REQUEST FOR PRODUCTION NO. 28:**

7 Please produce a copy of Defendant's written policy or procedure of any kind concerning  
8 the inspection and removal of debris and foreign substances from places of ingress or egress and  
9 pathways guarding against slip and fall incidents on the subject premises after November 12,  
10 2013.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

12 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous,  
13 overly broad and assumes facts as to the phrase "the inspection and removal of debris and foreign  
14 substances from the places of ingress or egress and pathways guarding against slip and fall  
15 incidents on the subject premises." This Request assumes facts and assumes a condition or defect  
16 existed. Without waiving objection, see Thirteen Show Techniques, Thirteen Checklist, 13 Preset,  
17 and Thirteen Seating Diagrams to be produced upon entry of an Errata to the Confidentiality  
18 Agreement and Stipulated Protective Order.

19 **REQUEST FOR PRODUCTION NO. 29:**

20 Please produce copies of all maintenance records, cleaning records and repair and work  
21 service records regarding the general area of the location where Plaintiff GAVIN COX fell on  
22 November 12, 2013 during the time period of 30 days prior to the subject incident and 30 days  
23 after the subject incident.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

25 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
26 overly broad as to the phrases "all maintenance records, cleaning records and repair and work  
27 service records regarding the general area of the location where Plaintiff GAVIN COX fell."  
28

1 Without waiving objection, none.

2 **REQUEST FOR PRODUCTION NO. 30:**

3 Please produce a copy of any contract between this Defendant and any other named  
4 Defendant, concerning ownership, management, or control of the use of the subject premises that  
5 was in effect on November 12, 2013.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

7 Objection, this Request requests information that may contain confidential, proprietary, or  
8 trade secret information and is subject to a Confidentiality Agreement. Without waiving  
9 objection, see Hollywood Theatre Four-Wall License Agreement, attached as Exhibit C.

10 **REQUEST FOR PRODUCTION NO. 31:**

11 Please produce a copy of Defendant's Operating Agreement in effect at the time of the  
12 subject incident.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

14 Defendant has no documents responsive to this request.

15 **REQUEST FOR PRODUCTION NO. 32:**

16 Please produce a copy of the Lease Agreement between the Defendants that was in effect  
17 at the time of the subject incident.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

19 Defendant has no documents responsive to this request.

20 **REQUEST FOR PRODUCTION NO. 33:**

21 Please produce a copy of the full staffing schedule for this Defendant on the date of the  
22 Plaintiff GAVIN COX's incident on November 12, 2013.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

24 Defendant has no documents responsive to this request.

25 **REQUEST FOR PRODUCTION NO. 34:**

26 Please produce copies of any warning signs in the vicinity where Plaintiff GAVIN COX  
27 fell on November 12, 2013 that existed on the subject premises on the date of the subject incident.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

2 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
3 overly broad as to the phrase "any warning signs in the vicinity." This Request assumes facts and  
4 assumes a condition or defect existed. Without waiving objection, none.

5 **REQUEST FOR PRODUCTION NO. 35:**

6 Please produce copies of any warning signs in the vicinity where Plaintiff GAVIN COX  
7 fell on November 12, 2013 that now exists on the subject premises.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

9 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
10 overly broad as to the phrase "any warning signs in the vicinity." This Request assumes facts and  
11 assumes a condition or defect existed. Without waiving objection, none.

12 **REQUEST FOR PRODUCTION NO. 36:**

13 With respect to each person the Defendant expects to call as an expert witness at the trial  
14 of this action, please produce the entire working file, including any and all reports, notes and other  
15 documentation, relative to the subject incident as is in the possession of each such expert.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

17 Objection, defendant objects to this Request as it requests information which is subject to  
18 expert disclosure prior to the deadline for such disclosure as set forth in NRCP 16.1(a)(2).  
19 Defendant will supplement this Response at the appropriate time. Without waiving objections,  
20 defendant has not retained any expert witness specifically for trial nor has it made any  
21 determination as to potential expert witnesses it may call as an expert witness at trial.

22 **REQUEST FOR PRODUCTION NO. 37:**

23 Please produce copies of all documents identified in your Answers to Plaintiff GAVIN  
24 COX's First Set of Interrogatories.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

26 See Defendants' Early Case Conference Initial List of Witnesses and Documents and all  
27 supplements.

1  
2 Discovery is continuing and defendant reserves the right to supplement these responses  
3 accordingly. Any supplemental information will be provided to plaintiffs pursuant to Rule 26(e)  
4 of the Nevada Rules of Civil Procedure.

5  
6 DATED: April 10, 2015

SELMAN BREITMAN LLP

7  
8 By: /s/ Eric O. Freeman

9 ERIC O. FREEMAN  
10 NEVADA BAR NO. 6648  
11 3993 Howard Hughes Parkway, Suite 200  
12 Las Vegas, NV 89169-0961  
13 Telephone: 702.228.7717  
14 Facsimile: 702.228.8824  
15 Attorneys for Defendant DAVID  
16 COPPERFIELD'S DISAPPEARING, INC.,  
17 DAVID COPPERFIELD aka DAVID KOTKIN,  
18 and MGM GRAND HOTEL, LLC.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:

- ☐ **BY MAIL:** N.R.C.P. 5(b), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada; or
- ☐ **BY FAX:** E.D.C.R. 7.26(a), I served via facsimile; or
- ☐ **BY MAIL AND FAX:** N.R.C.P. 5(b) and E.D.C.R. 7.26(a), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada, and served via facsimile; or
- ☒ **BY E-MAIL/ELECTRONIC SERVICE:** N.R.C.P. 5(b)(2)(D) and addressee(s) having consented to electronic service, I served via e-mail or other electronic means to the e-mail address(es) of the addressee(s).

a true and correct copy of the above and foregoing **DEFENDANT DAVID COPPERFIELD'S DISAPPEARING, INC.'S RESPONSES TO PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**, this 10 day of April 2015, addressed as follows:

Tracy A. Eglet, Esq.  
Paul A. Shpirt, Esq.  
EGLET LAW GROUP  
400 South 7<sup>th</sup> Street, Box 1, Suite 400  
Las Vegas, NV 89101

Attorneys for Plaintiff

Howard J. Russell, Esq.  
WEINBERG WHEELER HUUDGINS GUNN  
& DIAL  
6385 South Rainbow Blvd., Suite 400  
Las Vegas, NV 89118

Attorneys for Backstage Employment and Referral, Inc.

Shannon G. Splaine, Esq.  
LINCOLN GUSTAFSON & CERCOS, LLP  
3960 Howard Hughes Pkwy, Suite 200  
Las Vegas, NV 89169

Attorneys for Team Construction Management, Inc.

  
CRYSTAL MARTIN  
An Employee of Selman Breitman LLP

PLTFS' PROPOSED EXHIBIT  
NO. 62.000017



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 07***

JA001706

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838

1 RSPN

Howard J. Russell, Esq.

2 Nevada Bar No. 8879

[hrussell@wwhgd.com](mailto:hrussell@wwhgd.com)

3 Timothy A. Mott, Esq.

Nevada Bar No. 12828

4 [tmott@wwhgd.com](mailto:tmott@wwhgd.com)

WEINBERG, WHEELER, HUDGINS,

5 GUNN & DIAL, LLC

6385 S. Rainbow Blvd., Suite 400

6 Las Vegas, Nevada 89118

Telephone: (702) 938-3838

7 Facsimile: (702) 938-3864

8 *Attorneys for Defendant*

*Backstage Employment and Referral, Inc.*

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 GAVIN COX and MINH-HAHN COX, Husband  
and Wife,

13 Plaintiffs,

14 v.

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

20 Defendants.

Case No.: A-14-705164-C

Dept. No.: XIII

DEFENDANT BACKSTAGE  
EMPLOYMENT AND REFERRAL,  
INC.'S RESPONSES TO PLAINTIFF  
GAVIN COX'S FIRST SET OF  
REQUESTS FOR ADMISSION

22 Defendant BACKSTAGE EMPLOYMENT AND REFERRAL, INC. ("Backstage  
23 Employment"), by and through its attorneys of record, the law firm of WEINBERG, WHEELER,  
24 HUDGINS, GUNN & DIAL, LLC, hereby responds to Plaintiff Gavin Cox's First Set of Requests for  
25 Admission as follows:

26 **GENERAL OBJECTIONS**

27 Backstage Employment objects to Plaintiff's Requests to the extent he seeks admissions  
28 related to issues which are irrelevant to this litigation and not reasonably calculated to lead to the

1 discovery of admissible evidence. Backstage Employment further objects to the extent responding  
2 to Plaintiff's Requests would result in a waiver of the attorney-client or work-product privileges.  
3 Backstage Employment further objects to the extent the Requests ask for admissions not within  
4 Backstage Employment's knowledge and not discernible through a reasonable investigation.

5 **RESPONSES TO FIRST SET OF REQUESTS FOR ADMISSION**

6 **REQUEST NO. 1:**

7 Admit that you designed the "Lucky 13 Illusion" that is the subject of the instant  
8 Complaint.

9 **RESPONSE:**

10 Backstage Employment objects to this Request as vague, ambiguous, and overly broad as to  
11 the term "designed". Subject to and without waiving said objections, Backstage Employment  
12 admits that it assisted in the design of the "Lucky 13 Illusion."

14 **REQUEST NO. 2:**

15 Admit that Plaintiff, GAVIN COX, was randomly selected to participate in the subject  
16 illusion.

17 **RESPONSE:**

18 Admit.

20 **REQUEST NO. 3:**

21 Admit that Plaintiff, GAVIN COX, was not given any pre-show instructions and was not  
22 pre-selected to participate in the show by you or the crew working for you at your direction.

23 **RESPONSE:**

24 Backstage Employment objects to this Request as vague as to the time of any referenced  
25 "pre-show instructions" and as it contains multiple requests for admissions. Subject to and without  
26 waiving said objections, Backstage Employment denies that Mr. Cox "was not given any pre-show  
27 instructions" as he received instructions prior to the subject illusion and admits that Mr. Cox "was  
28 not pre-selected to participate in the show by you or the crew working for you at your direction."

1 **REQUEST NO. 4:**

2 Admit that Plaintiff, GAVIN COX, was not told by you or by any of the show crew  
3 working at your direction that he would be selected to participate in an illusion.

4 **RESPONSE:**

5 Backstage Employment objects to this Request as vague as to the time of any referenced  
6 communications with Plaintiff and vague as to the term "selected". Subject to and without waiving  
7 said objection, it is admitted that prior to the commencement of the evening's performance  
8 Plaintiff was not informed he would be selected to participate in any illusion, since the selection  
9 process was random and done during the performance. To the extent Plaintiff refers to any  
10 communication with Plaintiff during the course of the performance and prior to the illusion, this  
11 Request is denied, as Plaintiff was given the option to participate in the illusion after the random  
12 selection process, and was asked of any reasons he could not or did not wish to participate.

13  
14 **REQUEST NO. 5:**

15 Admit that when you select participants for your "Lucky 13 Illusion", you do not pre-  
16 screen them for any reason.

17 **RESPONSE:**

18 Backstage Employment objects to this Request as vague in the use of the term "pre-screen"  
19 and vague as the timing of the "pre-screen". Subject to and without waiving said objections, deny.  
20 Plaintiff was given the option to participate in the illusion after the random selection process, and  
21 was asked of any reasons he could not or did not wish to participate, including health reasons.

22  
23 **REQUEST NO. 6:**

24 Admit that you do not ask whether the randomly selected participants for your "Lucky 13  
25 Illusion" are fit, able, or willing to run or walk briskly as a part of your illusion.

26 **RESPONSE:**

27 Deny.

28 ///

1 **REQUEST NO. 7:**

2 Admit that you do not examine the outside area where participants are expected to run,  
3 while participating in your "Lucky 13 Illusion", daily, before each show, for safety, debris, dust or  
4 accessibility.

5 **RESPONSE:**

6 Deny.  
7

8 **REQUEST NO. 8:**

9 Admit that you and/or your team designed the "Lucky 13 Illusion" that is the subject of the  
10 instant Complaint.

11 **RESPONSE:**

12 Backstage Employment admits that it assisted in the design of the "Lucky 13 Illusion."  
13

14 **REQUEST NO. 9:**

15 Admit that while performing the "Lucky 13 Illusion" at the MGM, Las Vegas location, you  
16 and/or your crew designed the pathway that participants would have to follow from the stage back  
17 to the auditorium.

18 **RESPONSE:**

19 Backstage Employment objects to this Request as vague in the use of the terms "designed"  
20 and "pathway". Subject to and without waiving said objection, Backstage Employment admits that  
21 it assisted in choosing the pathway for the "Lucky 13 Illusion."  
22

23 **REQUEST NO. 10:**

24 Admit that while performing the "Lucky 13 Illusion" at the MGM, Las Vegas location, you  
25 and/or your crew did not change, alter, or modify the pathway that participants would have to  
26 follow from the stage back to the auditorium.

27 **RESPONSE:**

28 Admit.

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838

1 **REQUEST NO. 11:**

2 Admit that you were aware of participant(s) in the "Lucky 13 Illusion" tripping, slipping,  
3 and/or falling before Plaintiff, GAVIN COX, sustained his fall.

4 **RESPONSE:**

5 Deny.

6  
7 **REQUEST NO. 12:**

8 Admit that you had been sued before for injuries sustained by participant(s) in your  
9 illusions.

10 **RESPONSE:**

11 Deny.

12  
13 **REQUEST NO. 13:**

14 Admit that you were made aware of Plaintiff GAVIN COX's fall and injuries prior to the  
15 subject litigation.

16 **RESPONSE:**

17 Backstage Employment admits that it was aware that Mr. Cox fell and potentially injured  
18 his shoulder after completion of the "Lucky 13 Illusion". Backstage Employment denies having  
19 any knowledge prior to the subject litigation pertaining to any injuries beyond Mr. Cox's potential  
20 shoulder injury.

21  
22 **REQUEST NO. 14:**

23 Admit that you did not change the participants' pathway in the "Luck 13 Illusion" after you  
24 learned of Plaintiff GAVIN COX's fall and injuries.

25 **RESPONSE:**

26 Backstage Employment objects to this Request as seeking information which is irrelevant  
27 and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and  
28 without waiving said objections, admit.

1 **REQUEST NO. 15:**

2 Admit that at the time of the subject incident, while participating in the "Lucky 13  
3 Illusion", GAVIN COX was following your instructions regarding where to go.

4 **RESPONSE:**

5 Backstage Employment objects to this Request as vague in the use of the term  
6 "instructions" and the time frame referenced. Backstage Employment further objects to any  
7 inquiry into whether Plaintiff "was following your instructions regarding where to go" as  
8 Backstage Employment is without sufficient knowledge or information necessary to determine  
9 Plaintiff's intent or state of mind. Subject to and without waiving said objections, there were times  
10 during the illusion where no Backstage Employment employee was able to see Plaintiff, and no  
11 Backstage Employment employee actually saw his fall. As such, Backstage Employment cannot  
12 admit or deny that Plaintiff followed instructions throughout his participation. It is admitted that  
13 Plaintiff appeared to be following the path from the stage and back into the theatre as instructed.  
14

15 **REQUEST NO. 16:**

16 Admit that at the time of the subject incident, while participating in the "Lucky 13  
17 Illusion", GAVIN COX was following your instructions regarding how fast to go.

18 **RESPONSE:**

19 Backstage Employment objects to this Request as being vague and ambiguous. Backstage  
20 Employment further objects to any inquiry into whether Plaintiff "was following your instructions  
21 regarding how fast to go" as Backstage Employment is without sufficient knowledge or  
22 information necessary to determine Plaintiff's intent or state of mind. Subject to and without  
23 waiving said objections, there were times during the illusion where no Backstage Employment  
24 employee was able to see Plaintiff, and no Backstage Employment employee actually saw his fall.  
25 As such, Backstage Employment cannot admit or deny that Plaintiff followed instructions  
26 throughout his participation.

27 ///

28 ///

1 **REQUEST NO. 17:**

2 Admit that at the time of the subject incident, while participating in the "Lucky 13  
3 Illusion", you provided the illumination of the pathway that you expected GAVIN COX to follow.

4 **RESPONSE:**

5 Backstage Employment admits that it provided some of "the illumination of the pathway  
6 that it expected [Mr. Cox] to follow." Plaintiff, along with all of the other participants, was also  
7 provided flashlights to illuminate the pathway. Co-Defendant MGM Grand Hotel, LLC also  
8 assisted in providing "illumination of the pathway."

10 **REQUEST NO. 18:**

11 Admit that at the time of the subject incident, while participating in the "Lucky 13  
12 Illusion", you instructed GAVIN COX to run.

13 **RESPONSE:**

14 Deny.

16 **REQUEST NO. 19:**

17 Admit that at the time of the subject incident, immediately prior to having people  
18 participate in the "Lucky 13 Illusion", you did not check the outside area to make sure that it was  
19 free of debris, dust and other hazards.

20 **RESPONSE:**

21 Backstage Employment objects to this Request as being vague as to the time referenced by  
22 "immediately prior". Subject to and without waiving said objection, deny.

24 **REQUEST NO. 20:**

25 That at the time of the subject incident, immediately prior to having people participate in  
26 the "Lucky 13 Illusion", you did not check the outside area to make sure that it was safe.

27 **RESPONSE:**

28 Backstage Employment objects to this Request as being vague as to the time referenced by

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838

1 "immediately prior". Subject to and without waiving said objection, deny.


2  
3 REQUEST NO. 21:

4 Admit that you had a duty to make regular inspections of the outside area prior to people  
5 participating in the "Lucky 13 Illusion" to make sure it was free and clear of hazardous conditions.

6 RESPONSE:

7 Backstage Employment objects to this Request as it calls for a legal conclusion. Backstage  
8 Employment further objects to this Request as it prematurely requests information which is subject  
9 to expert disclosure prior to the deadline for such disclosure as set forth in NRCP 16.1(a)(2).  
10 Subject to and without waiving said objections, deny.

11  
12 DATED this 10<sup>th</sup> day of April, 2015.

13  
14   
15 \_\_\_\_\_  
16 Howard J. Russell, Esq.  
17 Timothy A. Mott, Esq.  
18 WEINBERG, WHEELER, HUDGINS,  
19 GUNN & DIAL, LLC  
20 6385 S. Rainbow Blvd., Suite 400  
21 Las Vegas, NV 89118

22 *Attorneys for Defendant*  
23 *Backstage Employment and Referral, Inc.*  
24  
25  
26  
27  
28

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838

**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of April, 2015, a true and correct copy of the foregoing **DEFENDANT BACKSTAGE EMPLOYMENT AND REFERRAL, INC.'S RESPONSES TO PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR ADMISSION** was electronically filed / served on counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

<p>Tracy A. Eglet, Esq. Paul A. Shpirt, Esq. EGLET LAW GROUP 400 S. 7<sup>th</sup> St., Suite 400 Las Vegas, NV 89101 <a href="mailto:teglet@egletlaw.com">teglet@egletlaw.com</a> <a href="mailto:pshpirt@egletlaw.com">pshpirt@egletlaw.com</a></p> <p><i>Attorneys for Plaintiffs</i></p>	<p>Eric O. Freeman, Esq. SELMAN BREITMAN, LLP 3993 Howard Hughes Pkwy., Suite 200 Las Vegas, NV 89169 <a href="mailto:efreeman@selmanbreitman.com">efreeman@selmanbreitman.com</a></p> <p><i>Attorney for Defendants David Copperfield's Disappearing, Inc., David Copperfield aka David S. Kotkin and MGM Grand Hotel, LLC</i></p>
<p>Shannon G. Splaine, Esq. LINCOLN, GUSTAFSON, &amp; CERCOS, LLP 3960 Howard Hughes Pkwy., Suite 200 Las Vegas, NV 89169 <a href="mailto:ssplaine@lgclawoffice.com">ssplaine@lgclawoffice.com</a></p> <p><i>Attorney for Defendant Team Construction Management, Inc.</i></p>	<p>Brian K. Terry, Esq. THORNDAL, ARMSTRONG, DELK, BALKENBUSH &amp; EISINGER 1100 E. Bridger Ave. Las Vegas, NV 89101 <a href="mailto:BKT@thorndal.com">BKT@thorndal.com</a></p> <p><i>Attorney for Defendant Backstage Employment and Referral, Inc.</i></p>



An Employee of WEINBERG, WHEELER,  
HUDGINS, GUNN & DIAL, LLC



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 08***

JA001716

Selman Breitman LLP  
ATTORNEYS AT LAW

1 **DISC**  
2 ERIC O. FREEMAN  
3 NEVADA BAR NO. 6648  
4 SELMAN BREITMAN LLP  
5 3993 Howard Hughes Parkway, Suite 200  
6 Las Vegas, NV 89169-0961  
7 Telephone: 702.228.7717  
8 Facsimile: 702.228.8824  
9 Email: cfreeman@selmanbreitman.com

10  
11 Attorneys for Defendant DAVID  
12 COPPERFIELD'S DISAPPEARING, INC.,  
13 DAVID COPPERFIELD aka DAVID  
14 KOTKIN, and MGM GRAND HOTEL, LLC.

15  
16  
17 DISTRICT COURT  
18 CLARK COUNTY, NEVADA

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

21 Plaintiff,

22 v.

23 MGM GRAND HOTEL, LLC; DAVID  
24 COPPERFIELD aka DAVID S. KOTKIN;  
25 BACKSTAGE EMPLOYMENT AND  
26 REFERRAL, INC.; DAVID COPPERFIELD'S  
27 DISAPPEARING, INC.; TEAM  
28 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

**DEFENDANT DAVID COPPERFIELD'S DISAPPEARING, INC.'S RESPONSES TO**  
**PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR ADMISSION**

TO: Plaintiff GAVIN COX and his counsel of record:

Defendant DAVID COPPERFIELD'S DISAPPEARING, INC., by and through its attorney  
of record, Eric O. Freeman, of the law firm of SELMAN BREITMAN LLP, hereby responds to

1 plaintiff GAVIN COX's First Set of Requests for Admission as follows:

2  
3 **PRELIMINARY STATEMENT**

4 Responding party has not completed its investigation of discovery in this matter.  
5 Responding party expressly reserves the right to amend any and all of the following responses at  
6 any time in the future, including in arbitration or trial. Responding party also reserves the right to  
7 offer any subsequently discovered information, evidence and/or matter at any time in the future.

8  
9 **GENERAL OBJECTIONS**

10 1. Responding party objects to each and every one of the demands to the extent that  
11 they may be construed as seeking the disclosure of information protected by the attorney-client  
12 privilege and/or which constitutes the work product of its attorneys and/or their representatives  
13 and will not produce information protected by such privileges.

14 2. Responding party objects to each and every one of the demands on the grounds that  
15 they are unlimited in time so as to render each demand overly broad, burdensome and oppressive.

16 3. Responding party objects to each and every one of the demands on the grounds that  
17 they seek irrelevant information unlikely to lead to the discovery of admissible evidence.

18 4. These responses are made solely for the purpose of this action. Each response is  
19 subject to all objections as to competence, relevance, materiality, propriety and admissibility, and  
20 any and all other objections and grounds which would require the exclusion of any document  
21 contained herein if the request were asked of, or any statements contained therein were made by a  
22 witness present and testifying at court, all of which objections and grounds are reserved and may  
23 be interposed at the time of trial.

24 The above Preliminary Statement and General Objections shall apply to each and every  
25 response given herein, and shall be incorporated by reference as though fully set forth in all of the  
26 responses to the demands.  
27  
28

**RESPONSES**

**REQUEST FOR ADMISSION NO. 1:**

Admit that you designed the "Lucky 13 Illusion" that is the subject of the instant Complaint.

**RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the term "designed." Without waiving objection, deny; however, admit to the extent that defendant set up the "Lucky 13 illusion" at the subject theatre.

**REQUEST FOR ADMISSION NO. 2:**

Admit that Plaintiff, GAVIN COX, was randomly selected to participate in the subject illusion.

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

Admit.

**REQUEST FOR ADMISSION NO. 3:**

Admit that Plaintiff, GAVIN COX, was not given any pre-show instructions and was not pre-selected to participate in the show by you or the crew working for you at your direction.

**RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

Objection, Defendant objects to this Request to the extent that it is compound, vague, ambiguous and overly broad as to time and as to the phrase "pre-show instructions." Without waiving objection, deny; however, admit to the extent that plaintiff was not pre-selected to participate in the show and was not given instructions prior to the start of the show.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Plaintiff, GAVIN COX, was not told by you or by any of the show crew members working at your direction that he would be selected to participate in an illusion.

**RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to time and as to the phrases "show crew members" and "selected to participate in

1 an illusion." Without waiving objection, deny; however, admit to the extent that plaintiff was not  
2 told that he would be selected to participate in an illusion prior to the start of the show.

3 **REQUEST FOR ADMISSION NO. 5:**

4 Admit that when you select participants for your "Lucky 13 Illusion", you do not pre-  
5 screen them for any reason.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

7 Objection, Defendant objects to this Request to the extent that it is compound, vague,  
8 ambiguous and overly broad as to time and as to the phrases "when you select participants" and  
9 the term "pre-screen." Without waiving objection, deny; however, admit to the extent that  
10 participants for the "Lucky 13 Illusion" are not pre-screened prior to being randomly selected.

11 **REQUEST FOR ADMISSION NO. 6:**

12 Admit that you do not ask whether the randomly selected participants for your "Lucky 13  
13 Illusion" are fit, able, or willing to run or walk briskly as a part of your illusion.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

15 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
16 overly broad as to the phrase "fit, able, or willing to run or walk briskly." Without waiving  
17 objection, deny.

18 **REQUEST FOR ADMISSION NO. 7:**

19 Admit that you do not examine the outside area where participants are expected to run,  
20 while participating in your "Lucky 13 Illusion" daily, before each show, for safety debris, dust or  
21 accessibility.

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

23 Objection, Defendant objects to this Request to the extent that it is compound and assumes  
24 facts with the use of the phrase "expected to run." Without waiving objection, deny.

25 **REQUEST FOR ADMISSION NO. 8:**

26 Admit that you and/or your team designed the "Lucky 13 Illusion" that is the subject of the  
27 instant Complaint.  
28

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

2 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
3 overly broad as to the phrase "your team" and the term "designed." Without waiving objection,  
4 deny; however, admit to the extent that defendant set up the "Lucky 13 illusion" at the subject  
5 theatre.

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

7 Admit that while performing the "Lucky 13 Illusion" at the MGM, Las Vegas location, you  
8 and/or your crew designed the pathway that participants would have to follow from the stage back  
9 to the auditorium.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

11 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
12 overly broad as to the term "designed" and the phrases "your crew" and "the pathway." Without  
13 waiving objection, deny; however, admit to the extent that defendant selected the pathway the  
14 "Lucky 13 Illusion" participants would use.

15 **REQUEST FOR ADMISSION NO. 10:**

16 Admit that while performing the "Lucky 13 Illusion" at the MGM, Las Vegas location, you  
17 and/or your crew did not change, alter, or modify the pathway that participants would have to  
18 follow from the stage back to the auditorium.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

20 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
21 overly broad as to the phrases "your crew" and "did not change, alter, or modify the pathway."  
22 The request assumes facts and assumes a condition or defect existed. Without waiving objection,  
23 admit.

24 **REQUEST FOR ADMISSION NO. 11:**

25 Admit that you were aware of other participant(s) in the "Lucky 13 Illusion" tripping,  
26 slipping, and/or falling before Plaintiff, GAVIN COX, sustained his fall.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

2 Deny.

3 **REQUEST FOR ADMISSION NO. 12:**

4 Admit that you had been sued before for injuries sustained by participant(s) in your  
5 illusions.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

7 Deny.

8 **REQUEST FOR ADMISSION NO. 13:**

9 Admit that you were made aware of Plaintiff, GAVIN COX's fall and injuries prior to the  
10 subject litigation.

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

12 Objection, Defendant objects to this interrogatory to the extent that it is vague, ambiguous  
13 and overly broad as to the phrase "made aware of Plaintiff, GAVIN COX's fall and injuries."  
14 Without waiving objection, admit to the extent that plaintiff was seen holding his arm after the  
15 show and he requested assistance.

16 **REQUEST FOR ADMISSION NO. 14:**

17 Admit that you did not change the participants' pathway in the "Lucky 13 Illusion" after  
18 you learned of Plaintiff GAVIN COX's fall and injuries.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

20 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
21 overly broad as to the phrase "did not change the participants' pathway." The request assumes  
22 facts and assumes a condition or defect existed. Without waiving objection, admit.

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

24 Admit that at the time of the subject accident, while participating in the "Lucky 13  
25 Illusion", GAVIN COX was following your instructions regarding where to go.

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

27 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
28

1 overly broad as to the phrase "following your instructions." Without waiving objection, admit to  
2 the extent that plaintiff was following the pathway for the "Lucky 13 Illusion" but as to "following  
3 instructions" defendant is without sufficient knowledge or information necessary to form a belief  
4 as to the truth or falsity of such an admission as defendant does not know plaintiff's intent or state  
5 of mind.

6 **REQUEST FOR ADMISSION NO. 16:**

7 Admit that at the time of the subject incident, while participating in the "Lucky 13  
8 Illusion", GAVIN COX was following your instructions regarding how fast to go.

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

10 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
11 overly broad as to the phrase "following your instructions." Without waiving objection, defendant  
12 is without sufficient knowledge or information necessary to form a belief as to the truth or falsity  
13 of such an admission as defendant does not know plaintiff's intent or state of mind.

14 **REQUEST FOR ADMISSION NO. 17:**

15 Admit that at the time of the subject incident, while participating in the "Lucky 13  
16 Illusion", you provided the illumination of the pathway that you expected GAVIN COX to follow.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

18 Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and  
19 overly broad as to the phrase "you provided the illumination of the pathway." Without waiving  
20 objection, admit to the extent that defendant provided additional lighting to the pathway in  
21 addition to the light that was already present.

22 **REQUEST FOR ADMISSION NO. 18:**

23 Admit that at the time of the subject incident, while participating in the "Lucky 13  
24 Illusion", you instructed GAVIN COX to run.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

26 Deny.  
27  
28

1 **REQUEST FOR ADMISSION NO. 19:**

2 Admit that at the time of the subject incident, immediately prior having people participate  
3 in the "Lucky 13 Illusion", you did not check the outside area to make sure that it was free of  
4 debris, dust and other hazards.

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

6 Deny.

7 **REQUEST FOR ADMISSION NO. 20:**

8 Admit that at the time of the subject incident, immediately prior to having people  
9 participate in the "Lucky 13 Illusion", you did not check the outside area to make sure that it was  
10 safe.

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

12 Deny.

13 **REQUEST FOR ADMISSION NO. 21:**

14 Admit that you had a duty to make regular inspections of the outside area prior to people  
15 participating in the "Lucky 13 Illusion" to make sure it was free and clear of hazardous conditions.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

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

Objection, Defendant objects to this Request to the extent that it is vague, ambiguous and overly broad as to the phrase "you had a duty." This request asks for legal conclusions. This request assumes facts and assumes a condition or defect existed. Without waiving objection, deny; however, admit to the extent that defendant made multiple inspections of the outside area prior to people participating in the "Lucky 13 Illusion" to make sure it was "free and clear of hazardous conditions."

DATED: April 10, 2015

SELMAN BREITMAN LLP

By: /s/ Eric O. Freeman

ERIC O. FREEMAN  
NEVADA BAR NO. 6648  
3993 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169-0961  
Telephone: 702.228.7717  
Facsimile: 702.228.8824  
Attorneys for Defendant DAVID  
COPPERFIELD'S DISAPPEARING, INC.,  
DAVID COPPERFIELD aka DAVID KOTKIN,  
and MGM GRAND HOTEL, LLC.

CERTIFICATE OF SERVICE

- I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:
- ☐ BY MAIL: N.R.C.P. 5(b), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada; or
- ☐ BY FAX: E.D.C.R. 7.26(a), I served via facsimile; or
- ☐ BY MAIL AND FAX: N.R.C.P. 5(b) and E.D.C.R. 7.26(a), I deposited for first class United States mailing, postage prepaid, at Las Vegas, Nevada, and served via facsimile; or
- ☒ BY E-MAIL/ELECTRONIC SERVICE: N.R.C.P. 5(b)(2)(D) and addressee(s) having consented to electronic service, I served via e-mail or other electronic means to the e-mail address(es) of the addressee(s).

a true and correct copy of the above and foregoing **DEFENDANT DAVID COPPERFIELD'S DISAPPEARING, INC.'S RESPONSES TO PLAINTIFF GAVIN COX'S FIRST SET OF REQUESTS FOR ADMISSION**, this 10 day of April 2015, addressed as follows:

Tracy A. Eglet, Esq.  
Paul A. Shpirt, Esq.  
EGLET LAW GROUP  
400 South 7<sup>th</sup> Street, Box 1, Suite 400  
Las Vegas, NV 89101

Attorneys for Plaintiff

Howard J. Russell, Esq.  
WEINBERG WHEELER HUUDGINS GUNN  
& DIAL  
6385 South Rainbow Blvd., Suite 400  
Las Vegas, NV 89118

Attorneys for Backstage Employment and Referral, Inc.

Shannon G. Splaine, Esq.  
LINCOLN GUSTAFSON & CERCOS, LLP  
3960 Howard Hughes Pkwy, Suite 200  
Las Vegas, NV 89169

Attorneys for Team Construction Management, Inc.

  
CRYSTAL MARTIN  
An Employee of Selman Breitman LLP



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 09***

JA001727

1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3			
4	GAVIN COX and MINH-HAHN COX,	)	
5	Husband and Wife,	)	
6	Plaintiffs,	)	
7	vs.	)	
8	MGM GRAND HOTEL, LLC; DAVID	)	CASE NO.:
9	COPPERFIELD aka DAVID S. KOTKIN;	)	A-14-705164-C
10	BACKSTAGE EMPLOYMENT AND REFERRAL,	)	
11	INC.; DAVID COPPERFIELD'S	)	
12	DISAPPEARING, INC.; TEAM	)	
13	CONSTRUCTION MANAGEMENT, INC.;	)	
14	DOES 1 through 20; DOE EMPLOYEES	)	
15	1 through 20; and ROE	)	
16	CORPORATIONS 1 through 20;	)	
17	Defendants.	)	
18	<hr/>		
19			
20			
21	CONFIDENTIAL TRANSCRIPT		
22			
23	VIDEOTAPED DEPOSITION OF DAVID COPPERFIELD		
24	LAS VEGAS, NEVADA		
25	WEDNESDAY, NOVEMBER 11, 2015		
26			
27	REPORTED BY: KAREN L. JONES, CCR NO. 694, CSR 9464		
28	JOB NO.: 273680		

JA001728

1 DEPOSITION OF DAVID COPPERFIELD, taken at  
2 Litigation Services & Technologies, located at 3770  
3 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada,  
4 on Wednesday, November 11, 2015, at 9:55 a.m.,  
5 before Karen L. Jones, Certified Court Reporter, in  
6 and for the State of Nevada.

7  
8 APPEARANCES:

9 For the Plaintiffs:

10 HARRIS & HARRIS  
11 BY: BRIAN K. HARRIS, ESQ.  
12 2029 Alta Drive  
13 Las Vegas, Nevada 89106  
14 702-880-4529  
15 bharris@harrislawyers.net

16 For David Copperfield's Disappearing, Inc., David  
17 Copperfield and MGM Grand Hotel, LLC:

18 SELMAN BREITMAN, LLP  
19 BY: ELAINE FRESCH, ESQ.  
20 3993 Howard Hughes Parkway, Suite 200  
21 Las Vegas, Nevada 89169  
22 702-228-7717

23 For Backstage Employment & Referral, Inc.:

24 WEINBERG WHEELER HUDGINS GUNN & DIAL, LLC  
25 BY: HOWARD J. RUSSELL, ESQ.  
6385 South Rainbow Boulevard, Suite 400  
Las Vegas, Nevada 89118  
702-938-3838  
hrussell@wwhgd.com

1 APPEARANCES (continued):

2 For Team Construction:

3 LINCOLN, GUSTAFSON & CERCOS  
4 BY: SHANNON SPLAINE, ESQ  
3960 Howard Hughes Parkway, Suite 200  
5 Las Vegas, Nevada 89169  
702-257-1997

6

7 Also Present: Terrell Holloway, Videographer

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE WITNESS: Well, I wasn't  
2 interpreting it that way. It was the fact that  
3 we've had an incident-free illusion done with, I  
4 think hundreds of thousands of people. Over a  
5 hundred thousand people have done that illusion with  
6 no incident, so.

7 BY MR. HARRIS:

8 Q. So, getting back to my question that it  
9 was a protocol that you had established that they  
10 would be given a new flashlight if their flashlight  
11 didn't work?

12 A. I don't recall. I don't recall the  
13 exact flashlight protocol from over 16 years ago,  
14 you know. It was maintained and updated by  
15 Backstage employees, based on what they see every  
16 day dealing with real people and free of any  
17 incident.

18 Q. As you sit here, though, right now you  
19 have no idea whether or not Mr. Cox's flashlight was  
20 working on the night of the incident, correct?

21 A. I don't know.

22 Q. Do you know of anybody that may or may  
23 not know whether or not it was working?

24 A. I don't know.

25 Q. Who's responsible for replacing the

CERTIFICATE OF REPORTER

STATE OF NEVADA )  
 )SS:  
 COUNTY OF CLARK )

I, Karen L. Jones, a duly commissioned and  
 licensed Court Reporter, Clark County, State of  
 Nevada, do hereby certify: That I reported the  
 taking of the deposition of the witness, DAVID  
 COPPERFIELD, commencing on Wednesday, November 11,  
 2015, at 9:55 a.m.

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

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

IN WITNESS HEREOF, I have hereunto set my  
 hand, in my office, in the County of Clark, State of  
 Nevada, this 2nd day of December, 2015.

*Karen L. Jones*  
 KAREN L. JONES, CCR NO. 694



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 10***

JA001733



**Harris & Harris Injury Lawyers**

Published by © Kevin Richards [9] · November 23, 2015 ·

We represent someone who was seriously injured while participating in the "13 Illusion" by David Copperfield.

If you have been a participant or employee of this show, our client needs your help. Please call us at (702) 384-1414 or visit our website: <http://hhtriallawyers.com/copperfield-13-illusion/>



### David Copperfield 13 Illusion

Have you participated in this illusion at the MGM Grand in Las Vegas? We want to hear from you. Please share your information below. We will call you. At Harris & Harris Lawyers, it is our goal to provide every client not only with...

[HHTRIALLAWYERS.COM](http://HHTRIALLAWYERS.COM)

 22,771 people reached

Boost Again



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 11***

JA001735

1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3			
4	GAVIN COX and MINH-HAHN COX,	)	
5	Husband and Wife,	)	
6	Plaintiffs,	)	
7	vs.	)	Case A-14-705164-C
8		)	Dept. XIII
9	MGM GRAND HOTEL, LLC; DAVID	)	
10	COPPERFIELD aka DAVID S. KOTKIN;	)	
11	BACKSTAGE EMPLOYMENT AND REFERRAL,	)	
12	INC.; TEAM CONSTRUCTION MANAGEMENT,	)	
13	INC.; DOES 1 through 20; DOE	)	
14	EMPLOYEES 1 through 20; and ROE	)	
15	CORPORATIONS 1 through 20,	)	
16	Defendants.	)	

17 DEPOSITION OF CHRIS KENNER

18 Taken at the Law Offices of

19 Harris & Harris

20 2029 Alta Drive

21 Las Vegas, Nevada 89106

22

23 On Tuesday, January 26, 2016

24 At 12:38 p.m.

25 Job no. 285409

26

27 Reported by: Leah D. Armendariz, CCR No. 921

1 A P P E A R A N C E S

2 For the Plaintiff, Gavin Cox and Minh-Hahn Cox:

3 Brian K. Harris, ESQ.  
4 Harris & Harris  
5 2029 Alta Drive  
6 Las Vegas, Nevada 89106  
7 bharris@harrislawyers.net

8 For the Defendant, Team Construction Management, Inc.:

9 James M. Barrington, ESQ.  
10 Lincoln, Gustafson & Cercos  
11 3960 Howard Hughes Parkway, Suite 200  
12 Las Vegas, Nevada 89169  
13 jlbarrington@lgclawoffice.com

14 For the Defendant, Backstage Employment and Referral,  
15 Inc.

16 Howard J. Russell, ESQ.  
17 Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
18 6385 South Rainbow Boulevard, Suite 400  
19 Las Vegas, Nevada 89118  
20 hrussell@wwhgd.com

21 For the Defendant, David Copperfield's Disappearing,  
22 Inc.:

23 Elaine K. Fresch, ESQ.  
24 Selman Breitman, LLP  
25 3993 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
efresch@selmanbreitman.com

1 BY MR. HARRIS:

2 Q. Yeah.

3 A. Nothing.

4 Q. When were you made aware?

5 A. What I mean by nothing is, I mean, obviously I  
6 heard it. It happened.

7 Q. When did you hear that it happened?

8 A. I got -- I don't know the time frame from when  
9 it happened to when I heard about it, but I heard about  
10 it through who was David's business manager at the time,  
11 Bob Burrell. He said, Hey, do you know this, what  
12 happened here?

13 Q. Are you aware of any individual witnessing  
14 Mr. Cox's fall?

15 A. No.

16 Q. Have you had any conversations with anyone  
17 other than your attorney -- with any employee, person,  
18 friend -- if they have any information as to how Mr. Cox  
19 fell?

20 A. No.

21 Q. Are you aware of any other individuals that  
22 have been injured while participating in the Thirteen  
23 Illusion other than allegedly Mr. Cox?

24 MS. FRESCH: Objection. Calls for  
25 speculation -- no, excuse me. I strike that.

1           Objection as to form.

2           MR. RUSSELL: Foundation.

3           THE WITNESS: No.

4 BY MR. HARRIS:

5           Q.   Are you aware of any other individuals that  
6 have been injured while they were participating in the  
7 David Copperfield Show at the MGM?

8           MS. FRESCH: Objection as to form and lacks  
9 foundation.

10          MR. RUSSELL: Join.

11          THE WITNESS: An audience member injured? Not  
12 that I recall.

13 BY MR. HARRIS:

14          Q.   Are you --

15          A.   Not that I recall.

16          Q.   Does it refresh your recollection of someone  
17 that may have been injured when they were attempting to  
18 catch one of the balls that were thrown out into the  
19 audience?

20          A.   That's -- they didn't participate in the  
21 trick, yes.

22          Q.   They were injured -- but the trick, and  
23 correct me if I'm wrong, but the ball is thrown out, and  
24 the one that catches the ball is the one that gets to  
25 participate in the trick?

REPORTER'S CERTIFICATE

1  
2 STATE OF NEVADA )  
3 ) SS  
4 COUNTY OF CLARK )

5 I, Leah Armendariz, Certified Court Reporter,  
6 do hereby certify:

7 That I reported the taking of the deposition  
8 of Chris Kenner, commencing on Tuesday, January 26,  
9 2016, at 12:38 p.m.

10 That prior to being examined, the witness was  
11 by me duly sworn to testify to the truth.

12 That I thereafter transcribed my shorthand  
13 notes, and the typewritten transcript of said deposition  
14 is a complete, true, and accurate transcription of said  
15 shorthand notes.

16 That a request has been made to review the  
17 transcript.

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

23 Dated this 3rd day of February, 2016.

*Leah D. Armendariz*

24 Leah Armendariz, RPR, CCR No. 921

25



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 12***

JA001741

1 DISTRICT COURT  
2 CLARK COUNTY, NEVADA  
3  
4 GAVIN COX and MINH-HAHN COX, )  
Husband and Wife, )  
5 )  
Plaintiffs, ) Case No.  
6 ) A-14-705164-C  
vs. ) Dept. No.  
7 ) XIII  
MGM GRAND HOTEL, LLC; DAVID )  
8 COPPERFIELD aka DAVID S. )  
KOTKIN; BACKSTAGE EMPLOYMENT )  
9 AND REFERRAL, INC.; DAVID )  
COPPERFIELD'S DISAPPEARING, )  
10 INC.; TEAM CONSTRUCTION )  
MANAGEMENT, INC.; DOES 1 )  
11 through 20; DOE EMPLOYEES 1 )  
through 20; and ROE )  
12 CORPORATIONS 1 through 20, )  
 )  
13 Defendants. )  
14 \_\_\_\_\_ )  
15  
16  
17 DEPOSITION OF MARK HABERSACK  
18 LAS VEGAS, NEVADA  
19 THURSDAY, JANUARY 7, 2016  
20  
21  
22  
23  
24 REPORTED BY: HOLLY LARSEN, CCR NO. 680, CA CSR 12170  
LS&T JOB NO.: 279685  
25

1 DEPOSITION OF MARK HABERSACK, taken at  
2 2029 Alta Drive, Las Vegas, Nevada, on Thursday,  
3 January 7, 2016, at 11:05 a.m., before Holly Larsen,  
4 Certified Court Reporter, in and for the State of  
5 Nevada.

6  
7 APPEARANCES:

8 For the Plaintiffs:

9 HARRIS & HARRIS  
10 BY: BRIAN K. HARRIS, ESQ.  
BY: CHRISTIAN N. GRIFFIN, ESQ.  
2029 Alta Drive  
11 Las Vegas, Nevada 89106  
702.384.1414  
12 bharris@harrislawyers.net  
cgriffin@harrislawyers.net  
13

14 For MGM Grand Hotel, Inc.; David Copperfield's  
15 Disappearing, Inc.; and David Copperfield:

16 SELMAN BREITMAN, LLP  
17 BY: ERIC O. FREEMAN, ESQ.  
3993 Howard Hughes Parkway  
Suite 200  
18 Las Vegas, Nevada 89169  
702.228.7717  
19 efreeman@selmanlaw.com  
20

21 For Backstage Employment and Referral, Inc.:

22 WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, LLC  
23 BY: JEREMY ALBERTS, ESQ.  
6385 South Rainbow Boulevard  
Suite 400  
24 Las Vegas, Nevada 89118  
702.938.3838  
25 jalberts@wwhgd.com

1 APPEARANCES (continued):

2 For Team Construction Management, Inc.:

3 LINCOLN, GUSTAFSON & CERCOS, LLP  
4 BY: LEONCIO GIL, ESQ.  
3960 Howard Hughes Parkway  
Suite 200  
5 Las Vegas, Nevada 89169  
702.257.1997  
6 lgil@lgclawoffice.com

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 BY MR. HARRIS:

2 Q. That is your understanding, is that he  
3 stopped doing the 13 Illusion -- he was even telling  
4 me things during his deposition of what it was  
5 called -- that it was because he's got a new  
6 illusion and no other reason?

7 A. No other reason. He's got a new illusion.  
8 As any performer, you have to keep your show crisp  
9 and clean and new if you want people to come back.

10 MR. FREEMAN: Are you testifying as a  
11 magician now?

12 THE WITNESS: No. It's just common sense.  
13 You come to Vegas ten times, you're not going to  
14 want to see the same show ten times.

15 BY MR. HARRIS:

16 Q. You indicated that you're not aware of  
17 anyone else being injured while participating in the  
18 Illusion 13; correct?

19 A. My understanding is, when I did a search to  
20 check to see if there were any other incidents with  
21 anyone slipping and falling outside that theater in  
22 that travel path, I had no other incidents that were  
23 reported to the MGM of any other cases where someone  
24 has slipped and fallen out there.

25 Q. Did you do a much wider search than that?

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA )  
3 )SS  
4 COUNTY OF CLARK )

5 I, Holly Larsen, a duly commissioned and  
6 licensed Court Reporter, Clark County, State of  
7 Nevada, do hereby certify: That I reported the  
8 taking of the deposition of the witness, Mark  
9 Habersack, commencing on Thursday, January 7, 2016,  
10 at 11:05 a.m.

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

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

22 IN WITNESS WHEREOF, I have hereunto set my hand,  
23 in my office, in the County of Clark, State of  
24 Nevada, this 20th day of January, 2016.

25 

HOLLY LARSEN, CCR NO. 680



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 13***

JA001747

1

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

5

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

6

Plaintiffs,

7

vs.

No. A-14-705164-C

8

9 MGM GRAND HOTEL, LLC; DAVID  
10 COPPERFIELD aka DAVID S. KOTKIN;  
11 BACKSTAGE EMPLOYMENT AND REFERRAL,  
12 INC.; DAVID COPPERFIELD'S  
13 DISAPPEARING, INC.; TEAM  
14 CONSTRUCTION MANAGEMENT, INC.; DOES 1  
15 through 20; DOE EMPLOYEES 1 through  
16 20; and ROE CORPORATIONS 1 through  
17 20,

13

Defendants.

14

15

16

CONFIDENTIAL TRANSCRIPT - SUBJECT TO CONFIDENTIALITY  
AGREEMENT

17

18

DEPOSITION OF RYAN CARVALLO

19

February 3, 2016

20

10:24 a.m.

21

2029 Alta Drive

22

Las Vegas, Nevada

23

24

Reported by: Linda Horton Sprague, CCR 466

25

Job No. 15680

## 1 APPEARANCES:

2

## 3 For the Plaintiffs:

4

Brian K. Harris, Esq.  
Harris & Harris  
2029 Alta Drive  
Las Vegas, Nevada 89106  
(702) 384-1414  
bharris@harrislawyers.net

7

8

9 For David Copperfield and David Copperfield's  
10 Disappearing, Inc.:

11

Eric O. Freeman, Esq.  
Selman Breitman, LLP  
3993 Howard Hughes Parkway  
Suite 200  
Las Vegas, Nevada 89169  
(702) 228-7717  
efreeman@selmanlaw.com

12

13

14

15

16

## 17 For Backstage Employment and Referral, Inc.:

18

Howard J. Russell, Esq.  
Weinberg, Wheeler, Hudgins, Gunn  
and Dial, LLC  
6385 South Rainbow Boulevard  
Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838  
hrussell@wwhgd.com

19

20

21

22

23

24

25

1 Q. But this is something, as far as you know,  
2 that you would have been provided from Backstage or --

3 A. Correct.

4 Q. Other than the incident that we're here for  
5 today, are you aware of any other incidents where  
6 somebody has been injured while either being selected  
7 to be a participant for the illusion or participating  
8 in the illusion itself?

9 A. Huh-uh.

10 Q. Is that a "no"?

11 A. Correct. It's a no. Sorry.

12 Q. For example, Mr. Kenner -- his deposition  
13 was taken recently. And he talked about, in the past  
14 five years, he recalls a lady who was trying to catch  
15 a ball had fell over a chair and was injured. I  
16 believe she -- I believe she broke her collarbone or  
17 something. But it doesn't matter. The injury doesn't  
18 matter.

19 A. Yeah.

20 Q. Do you have any recollection of that  
21 occurring?

22 A. No.

23 MR. HARRIS: Why don't we take about a  
24 two-minute break. But I think I'm about done.

25 (Recess from 11:46 a.m. to 11:47 a.m.)

## 1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA )  
3 ) SS:  
4 COUNTY OF CLARK )

5 I, Linda Horton Sprague, a Certified Court  
6 Reporter, licensed by the State of Nevada, do hereby  
7 certify:

8 That I reported the deposition of RYAN CARVALLO,  
9 on Wednesday, February 3, 2016 at 10:24 a.m.;

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

13 That I thereafter transcribed my said stenographic  
14 notes into typewriting and that the typewritten  
15 transcript is a complete, true, and accurate record of  
16 testimony provided by the witness at said time to the  
17 best of my ability;

18 I further certify (1) that I am not a relative,  
19 employee, or independent contractor of counsel, or of  
20 any of the parties involved in the proceeding; nor a  
21 person financially interested in the proceeding; nor do  
22 I have any other relationship that may reasonably cause  
23 my impartiality to be questioned; and (2) that  
24 transcript review pursuant to NRCP (30)(e) was  
25 requested.

26 IN WITNESS WHEREOF, I have set my hand in my  
27 office in the County of Clark, State of Nevada, this  
28 9th day of February, 2016.

29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

Linda Horton Sprague, C.C.R. No. 466



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 14***

JA001752

  
CLERK OF THE COURT

PTD  
BRIAN K. HARRIS, ESQ.  
Nevada Bar No. 7737  
HEATHER E. HARRIS, ESQ.  
Nevada Bar No. 7666  
HARRIS & HARRIS  
2029 Alta Drive  
Las Vegas, Nevada 89106  
702.880.4529 - Telephone  
702.880.4528 - Facsimile  
[bharris@harrislawyers.net](mailto:bharris@harrislawyers.net)  
- and -  
BENEDICT P. MORELLI, ESQ.  
New York Bar No. BM6597  
ADAM E. DEUTSCH, ESQ.  
New York Bar No. AD8836  
MORELLI LAW FIRM PLLC  
777 Third Avenue, 31<sup>st</sup> Floor  
New York, New York 10017  
212.751.9800 - Telephone  
212.751.0096 - Facsimile  
[bmorelli@morellilaw.com](mailto:bmorelli@morellilaw.com)  
[adeutsch@morellilaw.com](mailto:adeutsch@morellilaw.com)  
*Attorneys for Plaintiffs*

DISTRICT COURT

CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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.

**AND RELATED CROSS-CLAIMS &  
THIRD PARTY CLAIMS**

**PLAINTIFFS' PRETRIAL DISCLOSURES**

**HARRIS & HARRIS**  
**INJURY LAWYERS**

JA001753

1 Plaintiffs GAVIN COX and MINH-HAHN COX, by and through their attorneys,  
2 BRIAN K. HARRIS, ESQ., HEATHER E. HARRIS, ESQ. and CHRISTIAN N.  
3 GRIFFIN, ESQ., of the law firm of HARRIS & HARRIS and ADAM E. DEUTSCH, ESQ.  
4 of MORELLI LAW FIRM, PLLC, hereby files hereby discloses their trial documents and  
5 witnesses, objects to depositions, and objects to Defendants' documents, pursuant to NRCP  
6 16.1(3), as follows:

7 **A. PLAINTIFFS' WITNESSES PURSUANT TO NRCP 16.1(a)(3)(A)**

8 Plaintiffs' List of Witnesses pursuant to this disclosure is attached hereto as *Exhibit 1*.  
9 Plaintiff reserves the right to amend his List of Witnesses up to, and during, trial of this matter.

10 **B. DESIGNATION OF THOSE WITNESSES WHOSE TESTIMONY IS**  
11 **EXPECTED TO BE PRESENT, HAVE BEEN SUBPOENAED FOR TRIAL, AND**  
12 **THOSE THE PARTY MAY CALL IF THE NEED ARISE**

13 Plaintiffs reserve the right to use any and all deposition transcripts at trial of this matter,  
14 including, but not necessarily limited to:

- 15 1. Deposition of Matthew James Ashley, M.D., J.D., with any and all exhibits;
- 16 2. Deposition of Thomas Ayres, Ph.D., with any and all exhibits;
- 17 3. Deposition of Matthew Ryan Carvallo with any and all exhibits;
- 18 4. Deposition of David Copperfield with any and all exhibits;
- 19 5. Deposition of Cameron Cox with any and all exhibits;
- 20 6. Deposition of Gavin Cox with any and all exhibits;
- 21 7. Deposition of Minh-Hahn Cox with any and all exhibits;
- 22 8. Deposition of Oliver Cox with any and all exhibits;
- 23 9. Deposition of Shane Engle with any and all exhibits;
- 24 10. Deposition of Enrico Fazzini, DO, M.D. with any and all exhibits;
- 25 11. Deposition of Dennis Fumes-Navas with any and all exhibits;
- 26 12. Deposition of Mark Habersack with any and all exhibits;
- 27 13. Deposition of Kevin Janson with any and all exhibits;

14. Deposition of Stuart Kaplan, M.D. with any and all exhibits;
15. Deposition of Chris Kenner with any and all exhibits;
16. Deposition of Arthur P. Kowell, M.D. with any and all exhibits;
17. Deposition of Keith M. Lewis, M.D. with any and all exhibits;
18. Deposition of James Loong, Ph.D. with any and all exhibits;
19. Deposition of Aury Nagy, M.D. with any and all exhibits;
20. Deposition of David Oliveri, M.D. with any and all exhibits;
21. Deposition of Lars H. Reinhart, M.D. with any and all exhibits;
22. Deposition of Ira Spector, M.S., C.R.C. with any and all exhibits;
23. Deposition of Pomai Weall with any and all exhibits.

Pursuant to Plaintiffs' Omnibus Motion in Limine in this matter, Plaintiffs object to the following portions of the deposition transcripts in this matter:

Plaintiffs further reserve the right to object to portions of deposition testimony of those deponents named above, and those disclosed by Defendants, at the time of trial in this matter, consistent with this Court's rulings on the Parties' Motions in Limine.

....

....

....

....

....

....

....

....

....

....

....

1 **C. PLAINTIFFS' EXHIBITS PURSUANT TO NRCP 16.1(a)(3)(B)**

2 Plaintiffs' List of Documents and Other Exhibits to this Disclosure are attached hereto  
3 as *Exhibit 2*. Plaintiffs reserve the right to amend their List of Documents and Other Exhibits  
4 up to, and during, trial of this matter.

5 DATED this 5 day of January, 2017.

6 HARRIS & HARRIS

7  
8 By: 

9 BRIAN K. HARRIS, ESQ.

10 Nevada Bar No. 7737

11 HEATHER E. HARRIS, ESQ.

12 Nevada Bar No. 7666

13 CHRISTIAN N. GRIFFIN, ESQ.

14 Nevada Bar No. 10601

15 2029 Alta Drive

16 Las Vegas, Nevada 89106

17 702.880.4529 - Telephone

18 702.880.4528 - Facsimile

19 Attorneys for Plaintiffs  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 5 day of January, 2017, I served a true and correct copy of the foregoing **PLAINTIFFS' PRETRIAL DISCLOSURES** addressed to the following counsel of record at the following address(es):

— **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

— **VIA FACSIMILE:** by causing a true copy thereof to be telecopied to the number indicated on the service list below.

X **VIA ELECTRONIC: FILE ONLY / FILE AND SERVE / SERVICE ONLY** by causing a true copy thereof to be electronically submitted through WIZNET, the Eighth Judicial District Court efilng program.

— **VIA PERSONAL DELIVERY:** by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

Howard J. Russell, Esq.

Timothy A. Mott, Esq.

**WEINBERG WHEELER HUDGINS GUNN & DIAL, LLC**

6385 S. Rainbow Boulevard, Suite 400

Las Vegas, Nevada 89118

702.938.3838 - Telephone

702.938.3864 - Facsimile

*Attorneys for Defendant BACKSTAGE EMPLOYMENT & REFERRAL, INC.*

Eric O. Freeman, Esq.

**SELMAN BREITMAN, LLP**

3993 Howard Hughes Parkway, Suite 200

Las Vegas, Nevada 89169

702.228.7717 - Telephone

702.228.8824 - Facsimile

*Attorneys for Defendant DAVID COPPERFIELD'S  
DISAPPEARING, INC. / DAVID COPPERFIELD, aka  
DAVID A. KOTKIN and MGM GRAND HOTEL, LLC*

....

....

....

....

....

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Lena M. Louis, Esq.  
Gary W. Call, Esq.  
**RESNICK & LOUIS, P.C.**  
5940 S. Rainbow Boulevard  
Las Vegas, Nevada 89118  
702.997.3800 - Telephone / Facsimile  
*Attorneys for Defendant TEAM CONSTRUCTION MANAGEMENT, INC.  
and for Third-Party Defendant BEACHER'S LV, LLC*

Benedict P. Morelli, Esq.  
Adam E. Deutsch, Esq.  
**MORELLI LAW FIRM PLLC**  
777 Third Avenue, 31st Floor  
New York, NY 10017  
212.751.9800 - Telephone  
212.751.0046 - Facsimile  
*Attorneys for Plaintiffs*

  
HARRIS & HARRIS Employee

**PLAINTIFFS' PRETRIAL DISCLOSURES  
EXHIBIT 1**

**PLAINTIFFS' WITNESSES PURSUANT TO NRCP 16.1(a)(3)(A)**

1. **GAVIN COX**  
c/o **HARRIS & HARRIS**  
2029 Alta Drive  
Las Vegas, Nevada 89106

**GAVIN COX** is a Plaintiff. He is expected to testify regarding the facts and circumstances surrounding this matter including the injuries sustained as a result of this incident.

2. **MINH-HAHN-COX**  
c/o **HARRIS & HARRIS**  
2029 Alta Drive  
Las Vegas, Nevada 89106

**MINH-HAHN-COX** is a Plaintiff. She is expected to testify regarding the facts and circumstances surrounding this matter including the injuries sustained by her husband, Plaintiff

**GAVIN COX**, as a result of this incident.

3. **MGM GRAND HOTEL, LLC**  
**PERSON(S) MOST KNOWLEDGEABLE**  
c/o **SELMAN BREITMAN, LLP**  
3980 Howard Hughes Parkway, Suite 400  
Las Vegas, Nevada 89169

**MGM GRAND HOTEL, LLC PERSON(S) MOST KNOWLEDGEABLE** is a Defendant and is expected to testify regarding the facts and circumstances surrounding this incident.

4. **DAVID S. COPPERFIELD**  
**AKA DAVID S. KOTKIN**  
c/o **SELMAN BREITMAN, LLP**  
3980 Howard Hughes Parkway, Suite 400  
Las Vegas, Nevada 89169

....

1           **DAVID S. COPPERFIELD**, aka **DAVID S. KOTKIN** is a Defendant and is expected  
2 to testify regarding the facts and circumstances surrounding this incident.

3           5.   **BACKSTAGE EMPLOYMENT & REFERRAL, INC.**  
4               **JAY HARMAS, STAGE MANAGER**  
5               **RYAN CARVALHO, ASSISTANT STAGE MANAGER/STAGE HAND**  
6               **STACY DEROSA,**  
7               **EXECUTIVE ASSISTANT TO DAVID COPPERFIELD**  
8               **CHRIS KENNER, PRODUCER**  
9               **PERSON(S) MOST KNOWLEDGEABLE**  
              c/o **WEINBERG WHEELER HUDGINS GUNN & DIAL, LLC**  
              6385 S. Rainbow Boulevard, Suite 400  
              Las Vegas, Nevada 89118

10           **BACKSTAGE EMPLOYMENT & REFERRAL, INC. / JAY HARMAN / RYAN**  
11           **CARVALHO / STACY DEROSA / CHRIS KENNER / PERSON(S) MOST**  
12           **KNOWLEDGEABLE** is a Defendant and is expected to testify regarding the facts and  
13           circumstances surrounding this incident.

14           6.   **DAVID COPPERFIELD'S DISAPPEARING, INC.**  
15               **PERSON(S) MOST KNOWLEDGEABLE**  
16               c/o **SELMAN BREITMAN, LLP**  
17               3980 Howard Hughes Parkway, Suite 400  
18               Las Vegas, Nevada 891269

19           **DAVID COPPERFIELD'S DISAPPEARING, INC. PERSON(S) MOST**  
20           **KNOWLEDGEABLE** is a Defendant and is expected to testify regarding the facts and  
21           circumstances surrounding this incident.

22           7.   **TEAM CONSTRUCTION MANAGEMENT, INC.**  
23               **PERSON(S) MOST KNOWLEDGEABLE**  
24               c/o **RESNICK & LOUIS, P.C.**  
25               5940 S. Rainbow Boulevard  
26               Las Vegas, Nevada 89118

27           ....

1           **TEAM CONSTRUCTION MANAGEMENT, INC. PERSON(S) MOST**  
2 **KNOWLEDGEABLE** is a Defendant and is expected to testify regarding the facts and  
3 circumstances surrounding this incident.

4           8.   **SECURITY OFFICER KEVIN JANSON**  
5               **PERSON(S) MOST KNOWLEDGEABLE**  
6               c/o MGM GRAND HOTEL, LLC  
7               3700 Las Vegas Boulevard So.  
8               Las Vegas, Nevada 89109  
9               702.891.1111

10           **SECURITY OFFICER KEVIN JANSON / PERSON(S) MOST**  
11 **KNOWLEDGEABLE MGM GRAND HOTEL, LLC** is a witness and is expected to testify  
12 regarding the facts, circumstances and investigation surrounding this incident.

13           9.   **SECURITY OFFICER DENNIS FUNES-NAVAS**  
14               **SECURITY OFFICER KEVIN JANSON**  
15               **PERSON(S) MOST KNOWLEDGEABLE**  
16               c/o MGM GRAND HOTEL, LLC  
17               3700 Las Vegas Boulevard So.  
18               Las Vegas, Nevada 89109  
19               702.891.1111

20           **SECURITY OFFICER DENNIS FUNES-NAVAS / SECURITY OFFICER KEVIN**  
21 **JANSON / PERSON(S) MOST KNOWLEDGEABLE MGM GRAND HOTEL, LLC** is a  
22 witness and is expected to testify regarding the facts, circumstances and investigation surrounding  
23 this incident.  
24  
25  
26  
27  
28

10. MICHELLE McCULLOUGH  
STEPHANIE BREWER  
BELINDA BRISSETT-MATHIAS  
PERSON(S) MOST KNOWLEDGEABLE  
c/o MGM GRAND HOTEL, LLC  
RISK MANAGEMENT DEPARTMENT  
3700 Las Vegas Boulevard So.  
Las Vegas, Nevada 89109  
702.891.1111

MICHELLE McCULLOUGH/STEPHANIE BREWER/BELINDA BRISSETT-  
MATHIAS / PERSON(S) MOST KNOWLEDGEABLE MGM GRAND HOTEL, LLC  
RISK MANAGEMENT DEPARTMENT is a witness and is expected to testify regarding the  
facts, circumstances and investigation surrounding this incident.

11. DISCOUNT DUMPSTERS  
aka WESTERN ELITE  
PERSON(S) MOST KNOWLEDGEABLE  
2745 Nellis Boulevard  
Las Vegas, Nevada 89115  
702.440.4242

DISCOUNT DUMPSTERS, AKA WESTERN ELITE PERSON(S) MOST  
KNOWLEDGEABLE is a witness and is expected to testify regarding the facts, circumstances  
and investigation surrounding this incident.

12. AMERICAN MEDICAL RESPONSE  
ALEXANDER ANDERSON, EMT  
JOSEPH STONE, EMT  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
P. O. Box 3429  
Modesto, California 95353  
800.913.9106

AMERICAN MEDICAL RESPONSE / ALEXANDER ANDERSON, EMT /  
JOSEPH STONE, EMT / PERSON(S) MOST KNOWLEDGEABLE / CUSTODIAN(S) OF

1 **RECORD** is/are expected to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from  
2 the incident as well as Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of  
3 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
4 the medical and billing records associated with Plaintiff **GAVIN COX**'s care and treatment.  
5

6 Additionally, **AMERICAN MEDICAL RESPONSE / ALEXANDER ANDERSON,**  
7 **EMT / JOSEPH STONE, EMT / PERSON(S) MOST KNOWLEDGEABLE /**  
8 **CUSTODIAN(S) OF RECORD** is/are expected to testify as a non-retained expert pursuant to  
9 **NRS §50.275 and NRS §50.285** and is expected to testify as to the necessity and reasonableness  
10 of treatment afforded to Plaintiff **GAVIN COX**, including but not limited to their diagnosis,  
11 treatment, assessment, causation, and prognosis of Plaintiff **GAVIN COX**'s injuries sustained  
12 as a result of the incident that is the subject of this litigation, as well as offer testimony in  
13 rebuttal.  
14

15  
16 13. **DESERT SPRINGS HOSPITAL**  
17 **JAMES RAMSEIER, M.D.**  
18 **MARY MAGRUDER, M.D.**  
19 **SHERRY BLAND, R.N.**  
20 **TREATING PHYSICIANS / TREATING NURSES**  
21 **PERSON(S) MOST KNOWLEDGEABLE**  
22 **CUSTODIAN(S) OF RECORDS**  
23 **2075 E. Flamingo Road**  
24 **Las Vegas, Nevada 89119**  
25 **702.733.8800**

26 **DESERT SPRINGS HOSPITAL / JAMES RAMSEIER, M.D. / MARY**  
27 **MAGRUDER, M.D. / SHERRY BLAND, R.N. / TREATING PHYSICIANS / TREATING**  
28 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
is/are expected to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident

1 as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
2 rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
3 and billing records associated with Plaintiff GAVIN COX's care and treatment.

4 Additionally, DESERT SPRINGS HOSPITAL / JAMES RAMSEIER, M.D. / MARY  
5 MAGRUDER, M.D. / SHERRY BLAND, R.N. / TREATING PHYSICIANS / TREATING  
6 NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS  
7 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
8 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
9 GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and  
10 prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the  
11 subject of this litigation, as well as offer testimony in rebuttal.

14 14. SHADOW EMERGENCY PHYSICIANS  
15 TREATING PHYSICIANS / TREATING NURSES  
16 PERSON(S) MOST KNOWLEDGEABLE  
17 CUSTODIAN(S) OF RECORDS  
18 1000 River Road, Suite 100  
19 Las Vegas, Nevada 89119  
20 702.733.8800

21 SHADOW EMERGENCY PHYSICIANS / TREATING PHYSICIANS / TREATING  
22 NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS  
23 is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident  
24 as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
25 rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
26 and billing records associated with Plaintiff GAVIN COX's care and treatment.

27 ....

1           Additionally, **SHADOW EMERGENCY PHYSICIANS/TREATING PHYSICIANS**  
2 **/TREATING NURSES/PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
3 **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
4 §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
5 to Plaintiff **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment,  
6 causation, and prognosis of Plaintiff **GAVIN COX's** injuries sustained as a result of the incident  
7 that is the subject of this litigation, as well as offer testimony in rebuttal.  
8

9           15.   **DESERT RADIOLOGY SOLUTIONS**  
10           **PERSON(S) MOST KNOWLEDGEABLE**  
11           **CUSTODIAN(S) OF RECORDS**  
12           P. O. Box 1645  
13           Indianapolis, Indiana 46206

14           **DESERT RADIOLOGY SOLUTIONS PERSON(S) MOST KNOWLEDGEABLE**  
15 **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX's**  
16 injuries resulting from the incident as well as Plaintiff **GAVIN COX's** treatment, diagnosis,  
17 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
18 as to the authenticity of the medical and billing records associated with Plaintiff **GAVIN COX's**  
19 care and treatment.  
20

21           Additionally, **DESERT RADIOLOGY SOLUTIONS PERSON(S) MOST**  
22 **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-  
23 retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
24 necessity and reasonableness of treatment afforded to Plaintiff **GAVIN COX**, including but not  
25 limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff **GAVIN**  
26 **COX's** injuries sustained as a result of the incident that is the subject of this litigation, as well  
27  
28

as offer testimony in rebuttal.

16. **CENTENNIAL PAIN RELIEF NETWORK**  
**MARK CIRELLA, M.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
4454 N. Decatur Boulevard  
Las Vegas, Nevada 89130  
702.839.1203

**CENTENNIAL PAIN RELIEF NETWORK / MARK CIRELLA, M.D. / TREATING**  
**PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX's**  
injuries resulting from the incident as well as Plaintiff **GAVIN COX's** treatment, diagnosis,  
prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
as to the authenticity of the medical and billing records associated with Plaintiff **GAVIN COX's**  
care and treatment.

Additionally, **CENTENNIAL PAIN RELIEF NETWORK / MARK CIRELLA, M.D.**  
**/ TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
**KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-  
retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
necessity and reasonableness of treatment afforded to Plaintiff **GAVIN COX**, including but not  
limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff **GAVIN**  
**COX's** injuries sustained as a result of the incident that is the subject of this litigation, as well  
as offer testimony in rebuttal.

....

17. LAS VEGAS RADIOLOGY  
JEFFREY MARKHAM, M.D.  
DOUGLAS WHITE, M.D.  
LAWRENCE BOGLE, M.D.  
JAMES BALODIMAS, M.D.  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
P.O. Box 401180  
Las Vegas, Nevada 89140  
702.254.5004

LAS VEGAS RADIOLOGY / JEFFREY MARKHAM, M.D. / DOUGLAS WHITE, M.D. / LAWRENCE BOGLE, M.D. / JAMES BALODIMAS, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, LAS VEGAS RADIOLOGY / JEFFREY MARKHAM, M.D. / DOUGLAS WHITE, M.D. / LAWRENCE BOGLE, M.D. / JAMES BALODIMAS, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN

1 COX's injuries sustained as a result of the incident that is the subject of this litigation, as well  
2 as offer testimony in rebuttal.

3 18. NEVADA BRAIN & SPINE  
4 AURY NAGY, M.D.  
5 TREATING PHYSICIANS / TREATING NURSES  
6 PERSON(S) MOST KNOWLEDGEABLE  
7 CUSTODIAN(S) OF RECORDS  
8 10161 Park Run Drive, Suite 150  
9 Las Vegas, Nevada 89145  
10 702.901.4233

11 NEVADA BRAIN & SPINE / AURY NAGY, M.D. / TREATING PHYSICIANS /  
12 TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
13 RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
14 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
15 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
16 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

17 Additionally, NEVADA BRAIN & SPINE / AURY NAGY, M.D. / TREATING  
18 PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE  
19 CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant  
20 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
21 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
22 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
23 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
24 in rebuttal.  
25

26 ....

19. **PROFESSIONAL SPORTS ORTHOPAEDIC ASSOCIATION**  
**JAMES R. DETTLING, M.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
801 S. Rancho Drive, Suite F-2  
Las Vegas, Nevada 89106  
702.877.6781

**PROFESSIONAL SPORTS ORTHOPAEDIC ASSOCIATION / JAMES R.**  
**DETTLING, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S)**  
**MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify  
regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff  
GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The  
Custodian of Records is expected to testify as to the authenticity of the medical and billing  
records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, **PROFESSIONAL SPORTS ORTHOPAEDIC ASSOCIATION /**  
**JAMES R. DETTLING, M.D. / TREATING PHYSICIANS / TREATING NURSES /**  
**PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected  
to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX,  
including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of  
Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this  
litigation, as well as offer testimony in rebuttal.

....

....

20. **DESERT RADIOLOGISTS**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
2020 Palomino Lane, Suite 100  
Las Vegas, Nevada 89106  
702.384.5210

**DESERT RADIOLOGISTS / TREATING PHYSICIANS / TREATING NURSES /**  
**PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as  
Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered.  
The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
records associated with Plaintiff **GAVIN COX**'s care and treatment.

Additionally, **DESERT RADIOLOGISTS / TREATING PHYSICIANS / TREATING**  
**NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
**GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
prognosis of Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the  
subject of this litigation, as well as offer testimony in rebuttal.

21. **INTEGRATED PAIN SPECIALISTS**  
**MARJORIE BELSKY, M.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
9333 W. Sunset Blvd., Suite A  
Las Vegas, Nevada 89148  
702.968.6259

1           **INTEGRATED PAIN SPECIALISTS / MARJORIE BELSKY, M.D. / TREATING**  
2           **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
3           **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's  
4           injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis,  
5           prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
6           as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's  
7           care and treatment.  
8

9           Additionally, **INTEGRATED PAIN SPECIALISTS / MARJORIE BELSKY, M.D. /**  
10           **TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
11           **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-  
12           retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
13           necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not  
14           limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN  
15           COX's injuries sustained as a result of the incident that is the subject of this litigation, as well  
16           as offer testimony in rebuttal.  
17  
18

19           22.   **DESERT INSTITUTE OF SPINE CARE**  
20                **ANDREW CASH, M.D.**  
21                **MICHAEL HORAN, M.D., PH.D.**  
22                **A.J. TURPIN, PA-C**  
23                **TREATING PHYSICIANS / TREATING NURSES**  
24                **PERSON(S) MOST KNOWLEDGEABLE**  
25                **CUSTODIAN(S) OF RECORDS**  
26                9339 W. Sunset Road, Suite 100  
27                Las Vegas, Nevada 89148  
28                702.630.3472

.....

1           **DESERT INSTITUTE OF SPINE CARE / ANDREW CASH, M.D. /MICHAEL**  
2           **HORAN, M.D., PH.D. / A.J. TURPIN, PA-C /TREATING PHYSICIANS /TREATING**  
3           **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
4           is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident  
5           as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
6           rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
7           and billing records associated with Plaintiff GAVIN COX's care and treatment.  
8

9           Additionally, **DESERT INSTITUTE OF SPINE CARE / ANDREW CASH, M.D./**  
10           **MICHAEL HORAN, M.D., PH.D. / A.J. TURPIN, PA-C / TREATING PHYSICIANS/**  
11           **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
12           **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
13           §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
14           to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
15           causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
16           that is the subject of this litigation, as well as offer testimony in rebuttal.  
17  
18

19           23.       **SURGERY CENTER OF SOUTHERN NEVADA**  
20                   **MARJORIE BELSKY, M.D.**  
21                   **MARIO TARQUINO, M.D.**  
22                   **TREATING PHYSICIANS / TREATING NURSES**  
23                   **PERSON(S) MOST KNOWLEDGEABLE**  
24                   **CUSTODIAN(S) OF RECORDS**  
25                   10195 W. Twain Avenue  
26                   Las Vegas, Nevada 89147  
27                   702.868.2796  
28

**SURGERY CENTER OF SOUTHERN NEVADA / MARJORIE BELSKY,**  
              **M.D./MARIO TARQUINO, M.D. /TREATING PHYSICIANS /TREATING NURSES/**

1 **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
2 to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as  
3 Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered.  
4 The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
5 records associated with Plaintiff **GAVIN COX**'s care and treatment.  
6

7 Additionally, **SURGERY CENTER OF SOUTHERN NEVADA / MARJORIE**  
8 **BELSKY, M.D./MARIO TARQUINO, M.D. / TREATING PHYSICIANS / TREATING**  
9 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
10 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
11 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
12 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
13 prognosis of Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the  
14 subject of this litigation, as well as offer testimony in rebuttal.  
15

16  
17 24. **MARIO TARQUINO, M.D.**  
18 **PERSON(S) MOST KNOWLEDGEABLE**  
19 **CUSTODIAN(S) OF RECORDS**  
20 3111 S. Maryland Parkway, Suite 200  
Las Vegas, Nevada 89109  
702.256.3637

21 **MARIO TARQUINO, M.D. / PERSON(S) MOST KNOWLEDGEABLE**  
22 **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX**'s  
23 injuries resulting from the incident as well as Plaintiff **GAVIN COX**'s treatment, diagnosis,  
24 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
25 as to the authenticity of the medical and billing records associated with Plaintiff **GAVIN COX**'s  
26  
27  
28

1 care and treatment.

2 Additionally, **MARIO TARQUINO, M.D. / TREATING PHYSICIANS / TREATING**  
3 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
4 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
5 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
6 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
7 prognosis of Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the  
8 subject of this litigation, as well as offer testimony in rebuttal.  
9

10  
11 25. **THE SPINE SURGERY LONDON**  
12 **PETER HAMLYN, M.D., FRCS**  
13 **TREATING PHYSICIANS / TREATING NURSES**  
14 **PERSON(S) MOST KNOWLEDGEABLE**  
15 **CUSTODIAN(S) OF RECORDS**  
16 30 Devonshire Street  
17 London, United Kingdom  
18 WIG 6PU  
19 020 7935 3721

20 **THE SPINE SURGERY LONDON / PETER HAMLYN, M.D., FRCS / TREATING**  
21 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
22 **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX**'s  
23 injuries resulting from the incident as well as Plaintiff **GAVIN COX**'s treatment, diagnosis,  
24 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
25 as to the authenticity of the medical and billing records associated with Plaintiff **GAVIN COX**'s  
26 care and treatment.

27 Additionally, **THE SPINE SURGERY LONDON / PETER HAMLYN, M.D., FRCS /**  
28 **TREATING PHYSICIANS / TREATING PHYSICIANS / TREATING NURSES /**

PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

26. KENT PAIN CLINIC  
RAJU BHADRESHA, MBCHB, FRCA  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
Mill in the Mint  
Mill Lane  
Harbledown  
Canterbury, Kent, United Kingdom  
CT2 8NF  
01 227 279134

KENT PAIN CLINIC / RAJU BHADRESHA, MBCHB, FRCA / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, KENT PAIN CLINIC / RAJU BHADRESHA, MBCHB, FRCA / TREATING PHYSICIANS / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and

1 NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment  
2 afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment,  
3 assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result  
4 of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.  
5

6 27. **ST. SAVIOURS HOSPITAL**  
7 **CHRISTOPHER BROOK, M.D., FRCSK**  
8 **TREATING PHYSICIANS / TREATING NURSES**  
9 **PERSON(S) MOST KNOWLEDGEABLE**  
10 **CUSTODIAN(S) OF RECORDS**  
11 73 Seabrook Road  
12 Hythe, Kent, United Kingdom  
13 CT21 5AW  
14 01 303 265581  
15

16 **ST. SAVIOURS HOSPITAL / CHRISTOPHER BROOK, M.D., FRCSK /**  
17 **TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
18 **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding  
19 Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's  
20 treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records  
21 is expected to testify as to the authenticity of the medical and billing records associated with  
22 Plaintiff GAVIN COX's care and treatment.  
23

24 Additionally, **ST. SAVIOURS HOSPITAL / CHRISTOPHER BROOK, M.D.,**  
25 **FRCSK / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
26 **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-  
27 retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
28 necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not  
limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN

COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

28. LAKE MEAD RADIOLOGISTS / UPRIGHT MRI / KEITH LEWIS, M.D.  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
6460 Medical Center St., Suite 150  
Las Vegas, Nevada 89148  
702.868.2781

LAKE MEAD RADIOLOGISTS / UPRIGHT MRI / KEITH LEWIS, M.D. /  
TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding  
Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's  
treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records  
is expected to testify as to the authenticity of the medical and billing records associated with  
Plaintiff GAVIN COX's care and treatment.

Additionally, LAKE MEAD RADIOLOGISTS / UPRIGHT MRI / KEITH LEWIS,  
M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-  
retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not  
limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN  
COX's injuries sustained as a result of the incident that is the subject of this litigation, as well  
as offer testimony in rebuttal.

29. **BERNARD ONG, M.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
8551 W. Lake Mead Blvd., Suite 251  
Las Vegas, Nevada 89128  
702.796.7979

**BERNARD ONG, M.D. / TREATING PHYSICIANS / TREATING NURSES /**  
**PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as  
Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered.  
The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
records associated with Plaintiff **GAVIN COX**'s care and treatment.

Additionally, **BERNARD ONG, M.D. / TREATING PHYSICIANS / TREATING**  
**NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
**GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
prognosis of Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the  
subject of this litigation, as well as offer testimony in rebuttal.

....

....

....

....

....

1           30.   **VALLEY VIEW SURGICAL**  
2               **BERNARD ONG, M.D.**  
3               **STEPHEN YAKAITIS, M.D.**  
4               **SHANNON SEBBY-LEWIS, CST**  
5               **TREATING PHYSICIANS / TREATING NURSES**  
6               **PERSON(S) MOST KNOWLEDGEABLE**  
7               **CUSTODIAN(S) OF RECORDS**  
8               871 W. Sahara Avenue  
9               Las Vegas, Nevada 89117  
10              702.672.8325

11           **VALLEY VIEW SURGICAL / BERNARD ONG, M.D. / STEPHEN YAKAITIS,**  
12           **M.D. / SHANNON SEBBY-LEWIS, CST / TREATING PHYSICIANS / TREATING**  
13           **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
14           is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident  
15           as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
16           rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
17           and billing records associated with Plaintiff GAVIN COX's care and treatment.

18           Additionally, **VALLEY VIEW SURGICAL / BERNARD ONG, M.D. / STEPHEN**  
19           **YAKAITIS, M.D. / SHANNON SEBBY-LEWIS, CST / TREATING PHYSICIANS /**  
20           **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
21           **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
22           §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
23           to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
24           causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
25           that is the subject of this litigation, as well as offer testimony in rebuttal.

26           ....

**JUAN MARTINEZ-MORENO, M.D. / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff **GAVIN COX**'s care and treatment.

32. CENTENNIAL MEDICAL IMAGING  
KEITH LEWIS, M.D.  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
7610 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
702.942.1749

• • • •

**CENTENNIAL MEDICAL IMAGING / KEITH LEWIS, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, **CENTENNIAL MEDICAL IMAGING / KEITH LEWIS, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

33. **JAMES LOONG, PH.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
4571 W. 10520 North  
Highland, UT 84003  
801.763.8030

....

....

1           **JAMES LOONG, PH.D. / TREATING PHYSICIANS / TREATING NURSES /**  
2 **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
3 to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as  
4 Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered.  
5 The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
6 records associated with Plaintiff **GAVIN COX**'s care and treatment.  
7

8           Additionally, **JAMES LOONG, PH.D. / TREATING PHYSICIANS / TREATING**  
9 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
10 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
11 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
12 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
13 prognosis of Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the  
14 subject of this litigation, as well as offer testimony in rebuttal.  
15

16           34.   **PARTELL PHARMACY**  
17               **PERSON(S) MOST KNOWLEDGEABLE**  
18               **CUSTODIAN(S) OF RECORDS**  
19               5835 South Eastern Avenue, #101  
20               Las Vegas, Nevada 89119  
21               702.791.3800

22           **PARTELL PHARMACY PERSON(S) MOST KNOWLEDGEABLE**  
23 **CUSTODIAN(S) OF RECORDS** is / are expected to testify regarding the Plaintiff **GAVIN**  
24 **COX**'s injuries resulting from the incident as well as Plaintiff **GAVIN COX**'s treatment,  
25 diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected  
26 to testify as to the authenticity of the medical and billing records associated with Plaintiff  
27  
28

1 GAVIN COX's care and treatment.

2 Additionally, PARTELL SPECIALTY PHARMACY PERSON(S) MOST  
3 KNOWLEDGEABLE is / are expected to testify as a non-retained expert pursuant to NRS  
4 §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of  
5 treatment afforded to Plaintiff GAVIN COX and to offer testimony in rebuttal.  
6

7 35. STUART KAPLAN, M.D.  
8 WESTERN REGIONAL CENTER FOR BRAIN & SPINE  
9 TREATING PHYSICIANS / TREATING NURSES  
10 PERSON(S) MOST KNOWLEDGEABLE  
11 CUSTODIAN(S) OF RECORDS  
12 2471 Professional Court  
13 Las Vegas, Nevada 89128  
14 702.737.1948

15 STUART KAPLAN, M.D. / WESTERN REGIONAL CENTER FOR BRAIN &  
16 SPINE / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
17 KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding  
18 Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's  
19 treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records  
20 is expected to testify as to the authenticity of the medical and billing records associated with  
21 Plaintiff GAVIN COX's care and treatment.

22 Additionally, STUART KAPLAN, M.D. / WESTERN REGIONAL CENTER FOR  
23 BRAIN & SPINE / TREATING PHYSICIANS / TREATING NURSES / PERSON(S)  
24 MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as  
25 a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as  
26 to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including  
27  
28

1 but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff  
2 **GAVIN COX's** injuries sustained as a result of the incident that is the subject of this litigation,  
3 as well as offer testimony in rebuttal.

4 36. **ENRICO FAZZINI, D.O.**  
5 **TREATING PHYSICIANS / TREATING NURSES**  
6 **PERSON(S) MOST KNOWLEDGEABLE**  
7 **CUSTODIAN(S) OF RECORDS**  
8 826 E. Charleston Blvd.  
9 Las Vegas, Nevada 89104  
10 516.371.2225

11 **ENRICO FAZZINI, D.O. / TREATING PHYSICIANS / TREATING NURSES /**  
12 **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
13 to testify regarding Plaintiff **GAVIN COX's** injuries resulting from the incident as well as  
14 Plaintiff **GAVIN COX's** treatment, diagnosis, prognosis and the cost of the services rendered.  
15 The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
16 records associated with Plaintiff **GAVIN COX's** care and treatment.

17 Additionally, **ENRICO FAZZINI, D.O. / TREATING PHYSICIANS / TREATING**  
18 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
19 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
20 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
21 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
22 prognosis of Plaintiff **GAVIN COX's** injuries sustained as a result of the incident that is the  
23 subject of this litigation, as well as offer testimony in rebuttal.  
24  
25  
26  
27  
28

37. VALLEY HOSPITAL  
STUART KAPLAN, M.D.  
CLIFFORD FRIESEN, M.D.  
RICK YEH, M.D.  
MORRIS SCHANER, M.D.  
MAUREEN MCCORMACK, M.D.  
CHRISTOPHER JOHNSON, M.D.  
RYAN SIMONS, PA-C  
ERICKA UBISCO-HOLDRIDGE, R.N.  
JOEFER MILANES, M.D.  
SUSAN DOLL, R.N.  
JUANCHO TRINIDAD, R.N.  
LEI ROMERO, R.N.  
PAULA WILLIAMS, R.N.  
JOHN PANG, R.N.  
ZERFERINA PADILLA, R.N.  
SUSAN OCEULUS, R.N.  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
620 Shadow Lane  
Las Vegas, Nevada 89106  
702.388.4580

VALLEY HOSPITAL / STUART KAPLAN, M.D. / CLIFFORD FRIESEN, M.D. /  
RICK YEH, M.D. / MORRIS SCHANER, M.D. / MAUREEN MCCORMACK, M.D. /  
CHRISTOPHER JOHNSON, M.D. / RYAN SIMONS, PA-C / ERICKA UBISCO-  
HOLDRIDGE, R.N. / JOEFER MILANES, M.D. / SUSAN DOLL, R.N. / JUANCHO  
TRINIDAD, R.N. / LEI ROMERO, R.N. / PAULA WILLIAMS, R.N. / JOHN PANG, R.N.  
/ ZERFERINA PADILLA, R.N. / SUSAN OCEULUS, R.N. / TREATING PHYSICIANS /  
TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
the services rendered. The Custodian of Records is expected to testify as to the authenticity of

the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, VALLEY HOSPITAL / STUART KAPLAN, M.D. / CLIFFORD FRIESEN, M.D./ RICK YEH, M.D. / MORRIS SCHANER, M.D. / MAUREEN MCCORMACK, M.D. / CHRISTOPHER JOHNSON, M.D. / RYAN SIMONS, PA-C/ ERICKA UBISCO-HOLDRIDGE, R.N./ JOE FER MILANES, M.D./ SUSAN DOLL, R.N. / JUANCHO TRINIDAD, R.N./ LEI ROMERO, R.N. / PAULA WILLIAMS, R.N./ JOHN PANG, R.N. / ZERFERINA PADILLA, R.N. / SUSAN OCEULUS, R.N./ TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

38. NEUROMONITORING ASSOCIATES  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
P. O. Box 459  
Princeton, LA 71067

NEUROMONITORING ASSOCIATES/TREATING PHYSICIANS/TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services

1 rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
2 and billing records associated with Plaintiff GAVIN COX's care and treatment.

3 Additionally, **NEUROMONITORING ASSOCIATES / TREATING PHYSICIANS /**  
4 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
5 **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
6 §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
7 to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
8 causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
9 that is the subject of this litigation, as well as offer testimony in rebuttal.  
10

11  
12 39. **MONITORING ASSOCIATES**  
13 **TREATING PHYSICIANS / TREATING NURSES**  
14 **PERSON(S) MOST KNOWLEDGEABLE**  
15 **CUSTODIAN(S) OF RECORDS**  
16 P. O. Box 459  
17 Princeton, LA 71067

18 **MONITORING ASSOCIATES / TREATING PHYSICIANS / TREATING NURSES**  
19 **/ PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are  
20 expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well  
21 as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
22 rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
23 and billing records associated with Plaintiff GAVIN COX's care and treatment.

24 Additionally, **MONITORING ASSOCIATES / TREATING PHYSICIANS /**  
25 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
26 **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
27  
28

§50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

40. **SURGICAL ANESTHESIA  
CLIFFORD FRIESEN, M.D.  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
P.O. Box 848788  
Los Angeles, CA 90084  
888.879.7313**

**SURGICAL ANESTHESIA / CLIFFORD FRIESEN, M.D. / TREATING  
PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, **SURGICAL ANESTHESIA / CLIFFORD FRIESEN, M.D. /  
TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well

as offer testimony in rebuttal.

41. **SPRING VALLEY HOSPITAL  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS**  
5400 S. Rainbow Blvd.  
Las Vegas, Nevada 89118  
702.853.3000

**SPRING VALLEY HOSPITAL / TREATING PHYSICIANS / TREATING NURSES  
/ PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are  
expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well  
as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, **SPRING VALLEY HOSPITAL / TREATING PHYSICIANS /  
TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
§50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
that is the subject of this litigation, as well as offer testimony in rebuttal.

....

....

....

....

42. **EBI, LLC**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
399 Jefferson Road  
Parispany, NJ 07054  
800.526.2579

**EBI, LLC / TREATING PHYSICIANS / TREATING NURSES / PERSON(S)**  
**MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify  
regarding Plaintiff **GAVIN COX**'s injuries resulting from the incident as well as Plaintiff  
**GAVIN COX**'s treatment, diagnosis, prognosis and the cost of the services rendered. The  
Custodian of Records is expected to testify as to the authenticity of the medical and billing  
records associated with Plaintiff **GAVIN COX**'s care and treatment.

Additionally, **EBI, LLC / TREATING PHYSICIANS / TREATING NURSES /**  
**PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected  
to testify as to the necessity and reasonableness of treatment afforded to Plaintiff **GAVIN COX**,  
including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of  
Plaintiff **GAVIN COX**'s injuries sustained as a result of the incident that is the subject of this  
litigation, as well as offer testimony in rebuttal.

....

....

....

....

....

43. **BRIAN LEMPER, D.O.**  
**LEMPER PAIN CENTER**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
5950 S. Durango Drive  
Las Vegas, Nevada 89113  
702.562.3039

**LEMPER PAIN CENTER / BRIAN LEMPER, D.O. / TREATING PHYSICIANS**  
**/ TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
**RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, **LEMPER PAIN CENTER / BRIAN LEMPER, D.O. / TREATING**  
**PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
in rebuttal.

....

....

....

1           44.   **CLARK COUNTY FIRE DEPARTMENT**  
2               **JEFFREY RUSHTON, EMT**  
3               **JOSHUA HIMMELRICK, EMT**  
4               **TREATING PHYSICIANS / TREATING NURSES**  
5               **PERSON(S) MOST KNOWLEDGEABLE**  
6               **CUSTODIAN(S) OF RECORDS**  
              575 E. Flamingo Road  
              Las Vegas, Nevada 89119  
              702.455.7311

7           **CLARK COUNTY FIRE DEPARTMENT / JEFFREY RUSHTON, EMT / JOSHUA**  
8           **HIMMELRICK, EMT / TREATING PHYSICIANS / TREATING NURSES / PERSON(S)**  
9           **MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify  
10          regarding Plaintiff **GAVIN COX's** injuries resulting from the incident as well as Plaintiff  
11          **GAVIN COX's** treatment, diagnosis, prognosis and the cost of the services rendered. The  
12          Custodian of Records is expected to testify as to the authenticity of the medical and billing  
13          records associated with Plaintiff **GAVIN COX's** care and treatment.

14          Additionally, **CLARK COUNTY FIRE DEPARTMENT / JEFFREY RUSHTON,**  
15          **EMT / JOSHUA HIMMELRICK, EMT / TREATING PHYSICIANS / TREATING**  
16          **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
17          is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
18          is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
19          **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
20          prognosis of Plaintiff **GAVIN COX's** injuries sustained as a result of the incident that is the  
21          subject of this litigation, as well as offer testimony in rebuttal.  
22  
23  
24  
25

26          ....

27          ....

**BAKERSFIELD MEMORIAL HOSPITAL / TREATING PHYSICIANS /  
TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

46. **JUAN J. BERMEJO, PH.D.**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
 2201 Mount Vernon Ave. Suite 109  
 Bakersfield, CA 93306  
 661.871.8006

1           **JUAN J. BERMEJO, PH.D. / TREATING PHYSICIANS / TREATING NURSES /**  
2           **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
3           to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as  
4           Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered.  
5           The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
6           records associated with Plaintiff GAVIN COX's care and treatment.

7  
8           Additionally, **JUAN J. BERMEJO, PH.D. / TREATING PHYSICIANS / TREATING**  
9           **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
10          is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
11          is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
12          **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
13          prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the  
14          subject of this litigation, as well as offer testimony in rebuttal.

15  
16  
17          47.   **CENTENNIAL MEDICAL GROUP**  
18               **NELSON MADRILEJO, M.D.**  
19               **TREATING PHYSICIANS / TREATING NURSES**  
20               **PERSON(S) MOST KNOWLEDGEABLE**  
21               **CUSTODIAN(S) OF RECORDS**  
22               1801 16<sup>TH</sup> Street, Suite A  
23               Bakersfield, CA 93301  
24               661.326.8989

25           **CENTENNIAL MEDICAL GROUP / NELSON MADRILEJO, M.D. / TREATING**  
26           **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
27           **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's  
28           injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis,

1 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
2 as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's  
3 care and treatment.

4 Additionally, CENTENNIAL MEDICAL GROUP / NELSON MADRILEJO, M.D. /  
5 TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
6 KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-  
7 retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
8 necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not  
9 limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN  
10 COX's injuries sustained as a result of the incident that is the subject of this litigation, as well  
11 as offer testimony in rebuttal.  
12

13  
14 48. CENTRE FOR NEURO SKILLS  
15 MATTHEW ASHLEY, M.D.  
16 JOHN EDWARDS, M.D.  
17 STEPHEN NEWBROUGH, M.D.  
18 RICHARD HELVIE, M.D.  
19 SHAWN FRANK, MSW  
20 CHRIS PERSEL, M.A.  
21 MICHAEL RANEY, B.A.  
22 TREATING PHYSICIANS / TREATING NURSES  
23 PERSON(S) MOST KNOWLEDGEABLE  
24 CUSTODIAN(S) OF RECORDS  
25 2658 Mt. Vernon  
26 Bakersfield, CA 93306  
27 661.872.3408  
28

29 CENTRE FOR NEURO SKILLS / MATTHEW ASHLEY, M.D. / JOHN  
30 EDWARDS, M.D. / STEPHEN NEWBROUGH, M.D. / RICHARD HELVIE, M.D. /  
31 SHAWN FRANK, MSW / CHRIS PERSEL, M.A. / MICHAEL RANEY, B.A. / TREATING

1 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
2 **CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's  
3 injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis,  
4 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
5 as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's  
6 care and treatment.  
7

8 Additionally, **CENTRE FOR NEURO SKILLS / MATTHEW ASHLEY, M.D. /**  
9 **JOHN EDWARDS, M.D. / STEPHEN NEWBROUGH, M.D. / RICHARD HELVIE, M.D. /**  
10 **SHAWN FRANK, MSW / CHRIS PERSEL, M.A. / MICHAEL RANEY, B.A. / TREATING**  
11 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
12 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
13 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
14 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
15 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
16 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
17 in rebuttal.  
18  
19

20  
21 49. **JACKSON PHYSICAL THERAPY**  
22 **TREATING PHYSICIANS / TREATING NURSES**  
23 **PERSON(S) MOST KNOWLEDGEABLE**  
24 **CUSTODIAN(S) OF RECORDS**  
25 4765 S. Durango Drive, Suite 106  
26 Las Vegas, Nevada 89147  
27 702.898.7633  
28

**JACKSON PHYSICAL THERAPY / TREATING PHYSICIANS / TREATING**  
**NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**

1 is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident  
2 as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
3 rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
4 and billing records associated with Plaintiff GAVIN COX's care and treatment.  
5

6 Additionally, JACKSON PHYSICAL THERAPY / TREATING PHYSICIANS /  
7 TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
8 RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
9 §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
10 to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
11 causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
12 that is the subject of this litigation, as well as offer testimony in rebuttal.  
13

14 50. KERN RADIOLOGY MEDICAL GROUP  
15 TREATING PHYSICIANS / TREATING NURSES  
16 PERSON(S) MOST KNOWLEDGEABLE  
17 CUSTODIAN(S) OF RECORDS  
18 2301 Bahamas Drive  
19 Bakersfield, CA 93309  
20 661.334.8037

21 KERN RADIOLOGY MEDICAL GROUP / TREATING PHYSICIANS /  
22 TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
23 RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
24 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
25 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
26 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.  
27

28 ....

1           Additionally, **KERN RADIOLOGY MEDICAL GROUP / TREATING**  
2 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
3 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
4 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
5 reasonableness of treatment afforded to Plaintiff **GAVIN COX**, including but not limited to their  
6 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff **GAVIN COX**'s injuries  
7 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
8 in rebuttal.  
9

10  
11           51.   **AARON NECK & BACK**  
12               **NEEL KHURANA, D.C.**  
13               **TREATING PHYSICIANS / TREATING NURSES**  
14               **PERSON(S) MOST KNOWLEDGEABLE**  
15               **CUSTODIAN(S) OF RECORDS**  
16               1204 S. Eastern Avenue  
17               Las Vegas, Nevada 89105  
18               702.658.7246

19           **AARON NECK & BACK / NEEL KHURANA, D.C. / TREATING PHYSICIANS /**  
20 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
21 **RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX**'s injuries resulting from  
22 the incident as well as Plaintiff **GAVIN COX**'s treatment, diagnosis, prognosis and the cost of  
23 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
24 the medical and billing records associated with Plaintiff **GAVIN COX**'s care and treatment.

25           Additionally, **AARON NECK & BACK / NEEL KHURANA, D.C. / TREATING**  
26 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
27 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
28

1 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
2 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
3 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
4 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
5 in rebuttal.  
6

7 52. **LABORATORY CORPORATION OF AMERICA**  
8 **TREATING PHYSICIANS / TREATING NURSES**  
9 **PERSON(S) MOST KNOWLEDGEABLE**  
10 **CUSTODIAN(S) OF RECORDS**  
11 P.O. Box 2270  
Burlington, NV 27216  
800.222.7566

12 **LABORATORY CORPORATION OF AMERICA / TREATING PHYSICIANS/**  
13 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
14 **RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
15 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
16 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
17 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.  
18

19 Additionally, **LABORATORY CORPORATION OF AMERICA / TREATING**  
20 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
21 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
22 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
23 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
24 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
25 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
26  
27  
28

1 in rebuttal.

2 53. **NEURO VISION REHAB**  
3 **CARL GARBUS, M.D.**  
4 **TREATING PHYSICIANS / TREATING NURSES**  
5 **PERSON(S) MOST KNOWLEDGEABLE**  
6 **CUSTODIAN(S) OF RECORDS**  
7 28514 Constellation Road  
8 Valencia, CA 91355  
9 661.775.1440

10 **NEURO VISION REHAB / CARL GARBUS, M.D. / TREATING PHYSICIANS /**  
11 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
12 **RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
13 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
14 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
15 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

16 Additionally, **NEURO VISION REHAB / CARL GARBUS, M.D. / TREATING**  
17 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
18 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
19 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
20 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
21 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
22 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
23 in rebuttal.  
24

25 ....

**PHYSICIAN'S AUTOMATED LABORATORY / TREATING PHYSICIANS /  
TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
RECORDS** is/are expected to testify regarding Plaintiff **GAVIN COX's** injuries resulting from  
the incident as well as Plaintiff **GAVIN COX's** treatment, diagnosis, prognosis and the cost of  
the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
the medical and billing records associated with Plaintiff **GAVIN COX's** care and treatment.

4 5 6 7  
 8 9 10 11  
 12 13 14 15  
 16 17 18 19

1 55. **QUALITY HOME HEALTH**  
2 **EUGENIO RIZZA, P.T.**  
3 **BARAQUEL LAGASCA, R.N.**  
4 **TREATING PHYSICIANS / TREATING NURSES**  
5 **PERSON(S) MOST KNOWLEDGEABLE**  
6 **CUSTODIAN(S) OF RECORDS**  
7 1614 E. Flamingo Road, #13  
8 Las Vegas, Nevada 89119  
9 702.369.8145

10 **QUALITY HOME HEALTH / EUGENIO RIZZA, P.T. / BARAQUEL LAGASCA,**  
11 **R.N. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
12 **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding  
13 Plaintiff **GAVIN COX's** injuries resulting from the incident as well as Plaintiff **GAVIN COX's**  
14 treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records  
15 is expected to testify as to the authenticity of the medical and billing records associated with  
16 Plaintiff **GAVIN COX's** care and treatment.

17 Additionally, **QUALITY HOME HEALTH / EUGENIO RIZZA, P.T. / BARAQUEL**  
18 **LAGASCA, R.N. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S)**  
19 **MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify as  
20 a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as  
21 to the necessity and reasonableness of treatment afforded to Plaintiff **GAVIN COX**, including  
22 but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff  
23 **GAVIN COX's** injuries sustained as a result of the incident that is the subject of this litigation,  
24 as well as offer testimony in rebuttal.

25 ....

26 ....

1           56.    **SAN JOAQUIN VALLEY PULMONARY MEDICAL GROUP**  
2                   **MUSHTAQ AHMED, M.D.**  
3                   **TREATING PHYSICIANS / TREATING NURSES**  
4                   **PERSON(S) MOST KNOWLEDGEABLE**  
5                   **CUSTODIAN(S) OF RECORDS**  
              3551 Q Street, Suite 100  
              Bakersfield, CA 93301  
              661.327.3747

6                   **SAN JOAQUIN VALLEY PULMONARY MEDICAL GROUP / MUSHTAQ**  
7                   **AHMED, M.D. / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST**  
8                   **KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected to testify regarding  
9                   Plaintiff **GAVIN COX's** injuries resulting from the incident as well as Plaintiff **GAVIN COX's**  
10                  treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records  
11                  is expected to testify as to the authenticity of the medical and billing records associated with  
12                  Plaintiff **GAVIN COX's** care and treatment.

13                   Additionally, **SAN JOAQUIN VALLEY PULMONARY MEDICAL GROUP /**  
14                   **MUSHTAQ AHMED, M.D. / TREATING PHYSICIANS / TREATING NURSES /**  
15                   **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
16                   to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected  
17                   to testify as to the necessity and reasonableness of treatment afforded to Plaintiff **GAVIN COX,**  
18                   including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of  
19                   Plaintiff **GAVIN COX's** injuries sustained as a result of the incident that is the subject of this  
20                   litigation, as well as offer testimony in rebuttal.

21                   ....

22                   ....

1           57.   **STEPHEN NEWBROUGH, M.D.**  
2               **TREATING PHYSICIANS / TREATING NURSES**  
3               **PERSON(S) MOST KNOWLEDGEABLE**  
4               **CUSTODIAN(S) OF RECORDS**  
5               5210 Ashe Road  
6               Bakersfield, CA 93313  
7               661.872.3408

8               **STEPHEN NEWBROUGH, M.D. / TREATING PHYSICIANS / TREATING**  
9               **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
10              is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident  
11              as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services  
12              rendered. The Custodian of Records is expected to testify as to the authenticity of the medical  
13              and billing records associated with Plaintiff GAVIN COX's care and treatment.

14              Additionally, **STEPHEN NEWBROUGH, M.D./ TREATING PHYSICIANS /**  
15              **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
16              **RECORDS** is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS  
17              §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded  
18              to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,  
19              causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident  
20              that is the subject of this litigation, as well as offer testimony in rebuttal.

21  
22           58.   **PINNACLE EMERGENCY PHYSICIANS OF BAKERSFIELD**  
23               **TREATING PHYSICIANS / TREATING NURSES**  
24               **PERSON(S) MOST KNOWLEDGEABLE**  
25               **CUSTODIAN(S) OF RECORDS**  
26               P.O. Box 661972  
27               Arcadia, CA 91066  
28               855.522.7902

....

PINNACLE EMERGENCY PHYSICIANS OF BAKERSFIELD / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected to testify as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

Additionally, PINNACLE EMERGENCY PHYSICIANS OF BAKERSFIELD / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

59. GOVIND KOKA, M.D.  
PRIMARY CARE CONSULTANTS  
TREATING PHYSICIANS / TREATING NURSES  
PERSON(S) MOST KNOWLEDGEABLE  
CUSTODIAN(S) OF RECORDS  
9975 S. Eastern Avenue  
Las Vegas, Nevada 89123

GOVIND KOKA, M.D. / PRIMARY CARE CONSULTANTS / TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's

1 injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment, diagnosis,  
2 prognosis and the cost of the services rendered. The Custodian of Records is expected to testify  
3 as to the authenticity of the medical and billing records associated with Plaintiff GAVIN COX's  
4 care and treatment.

5  
6 Additionally, GOVIND KOKA, M.D. / PRIMARY CARE CONSULTANTS /  
7 TREATING PHYSICIANS / TREATING NURSES / PERSON(S) MOST  
8 KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-  
9 retained expert pursuant to NRS §50.275 and NRS §50.285 and is expected to testify as to the  
10 necessity and reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not  
11 limited to their diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN  
12 COX's injuries sustained as a result of the incident that is the subject of this litigation, as well  
13 as offer testimony in rebuttal.  
14

15  
16 60. DAVID J. OLIVERI, M.D.  
17 TREATING PHYSICIANS / TREATING NURSES  
18 PERSON(S) MOST KNOWLEDGEABLE  
19 CUSTODIAN(S) OF RECORDS  
851 S. Rampart Boulevard, Suite 115  
Las Vegas, Nevada 89145

20 DAVID J. OLIVERI, M.D. / TREATING PHYSICIANS / TREATING NURSES /  
21 PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS is/are expected  
22 to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident as well as  
23 Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services rendered.  
24 The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
25 records associated with Plaintiff GAVIN COX's care and treatment.  
26  
27  
28

1           Additionally, **DAVID J. OLIVERI, M.D. / TREATING PHYSICIANS / TREATING**  
2 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
3 *is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and*  
4 *is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff*  
5 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
6 prognosis of Plaintiff **GAVIN COX's** injuries sustained as a result of the incident that is the  
7 subject of this litigation, as well as offer testimony in rebuttal.  
8

9           61.   **NEVADA IMAGING CENTERS**  
10           **TREATING PHYSICIANS / TREATING NURSES**  
11           **PERSON(S) MOST KNOWLEDGEABLE**  
12           **CUSTODIAN(S) OF RECORDS**  
13           5495 S. Rainbow Boulevard, Suite 203  
14           Las Vegas, Nevada 89118

15           **NEVADA IMAGING CENTERS / TREATING PHYSICIANS / TREATING**  
16 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
17 *is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from the incident*  
18 *as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of the services*  
19 *rendered. The Custodian of Records is expected to testify as to the authenticity of the medical*  
20 *and billing records associated with Plaintiff GAVIN COX's care and treatment.*

21           Additionally, **NEVADA IMAGING CENTERS / TREATING PHYSICIANS /**  
22 **TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**  
23 **RECORDS** *is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS*  
24 *§50.285 and is expected to testify as to the necessity and reasonableness of treatment afforded*  
25 *to Plaintiff GAVIN COX, including but not limited to their diagnosis, treatment, assessment,*  
26  
27  
28

causation, and prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident

that is the subject of this litigation, as well as offer testimony in rebuttal.

62. **MERCY PLAZA PHARMACY**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
2336 Eye Street  
Bakersfield, California 93301

**MERCY PLAZA PHARMACY PERSON(S) MOST KNOWLEDGEABLE**

**CUSTODIAN(S) OF RECORDS** is / are expected to testify regarding the Plaintiff GAVIN

COX's injuries resulting from the incident as well as Plaintiff GAVIN COX's treatment,

diagnosis, prognosis and the cost of the services rendered. The Custodian of Records is expected

to testify as to the authenticity of the medical and billing records associated with Plaintiff

GAVIN COX's care and treatment.

Additionally, **MERCY PLAZA PHARMACY PERSON(S) MOST**

**KNOWLEDGEABLE** is / are expected to testify as a non-retained expert pursuant to NRS

§50.275 and NRS §50.285 and is expected to testify as to the necessity and reasonableness of

treatment afforded to Plaintiff GAVIN COX and to offer testimony in rebuttal.

63 **DESERT CARDIOLOGY & VASCULAR CENTER**  
**TREATING PHYSICIANS / TREATING NURSES**  
**PERSON(S) MOST KNOWLEDGEABLE**  
**CUSTODIAN(S) OF RECORDS**  
2847 St. Rose Parkway, Suite 100  
Las Vegas, Nevada 89052

**DESERT CARDIOLOGY & VASCULAR CENTER / TREATING PHYSICIANS**

**/ TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF**

**RECORDS** is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from

1 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
2 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
3 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

4 Additionally, DESERT CARDIOLOGY & VASCULAR CENTER / TREATING  
5 PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE  
6 CUSTODIAN(S) OF RECORDS is/are expected to testify as a non-retained expert pursuant  
7 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
8 reasonableness of treatment afforded to Plaintiff GAVIN COX, including but not limited to their  
9 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff GAVIN COX's injuries  
10 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
11 in rebuttal.  
12

13  
14 64. SAMER NAKHLE, M.D.  
15 PALM MEDICAL GROUP  
16 TREATING PHYSICIANS / TREATING NURSES  
17 PERSON(S) MOST KNOWLEDGEABLE  
18 CUSTODIAN(S) OF RECORDS  
19 9280 W. Sunset Road, Suite 306  
20 Las Vegas, Nevada 89148

21 SAMER NAKHLE, M.D. / PALM MEDICAL GROUP / TREATING PHYSICIANS  
22 / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF  
23 RECORDS is/are expected to testify regarding Plaintiff GAVIN COX's injuries resulting from  
24 the incident as well as Plaintiff GAVIN COX's treatment, diagnosis, prognosis and the cost of  
25 the services rendered. The Custodian of Records is expected to testify as to the authenticity of  
26 the medical and billing records associated with Plaintiff GAVIN COX's care and treatment.

27 Additionally, SAMER NAKHLE, M.D. / PALM MEDICAL GROUP / TREATING  
28

1 **PHYSICIANS / TREATING NURSES / PERSON(S) MOST KNOWLEDGEABLE**  
2 **CUSTODIAN(S) OF RECORDS** is/are expected to testify as a non-retained expert pursuant  
3 to NRS §50.275 and NRS §50.285 and is expected to testify as to the necessity and  
4 reasonableness of treatment afforded to Plaintiff **GAVIN COX**, including but not limited to their  
5 diagnosis, treatment, assessment, causation, and prognosis of Plaintiff **GAVIN COX's** injuries  
6 sustained as a result of the incident that is the subject of this litigation, as well as offer testimony  
7 in rebuttal.  
8

9  
10 65. **QUEST DIAGNOSTICS**  
11 **TREATING PHYSICIANS / TREATING NURSES**  
12 **PERSON(S) MOST KNOWLEDGEABLE**  
13 **CUSTODIAN(S) OF RECORDS**  
14 4230 Burnham Avenue  
15 Las Vegas, Nevada 89119

16 **QUEST DIAGNOSTICS / TREATING PHYSICIANS / TREATING NURSES /**  
17 **PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS** is/are expected  
18 to testify regarding Plaintiff **GAVIN COX's** injuries resulting from the incident as well as  
19 Plaintiff **GAVIN COX's** treatment, diagnosis, prognosis and the cost of the services rendered.  
20 The Custodian of Records is expected to testify as to the authenticity of the medical and billing  
21 records associated with Plaintiff **GAVIN COX's** care and treatment.

22 Additionally, **QUEST DIAGNOSTICS / TREATING PHYSICIANS / TREATING**  
23 **NURSES / PERSON(S) MOST KNOWLEDGEABLE CUSTODIAN(S) OF RECORDS**  
24 is/are expected to testify as a non-retained expert pursuant to NRS §50.275 and NRS §50.285 and  
25 is expected to testify as to the necessity and reasonableness of treatment afforded to Plaintiff  
26 **GAVIN COX**, including but not limited to their diagnosis, treatment, assessment, causation, and  
27  
28

prognosis of Plaintiff GAVIN COX's injuries sustained as a result of the incident that is the subject of this litigation, as well as offer testimony in rebuttal.

66. SHANE ENGLE  
ADDRESS UNKNOWN

SHANE ENGLE is a fact witness and is expected to testify regarding the facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

67. SETH DUFFY  
ADDRESS UNKNOWN

SETH DUFFY is a fact witness and is expected to testify regarding the facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

68. CHRISTOPHER OBERLE  
ADDRESS UNKNOWN

CHRISTOPHER OBERLE is a fact witness and is expected to testify regarding the facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

69. DANIEL BERRO  
ADDRESS UNKNOWN

DANIEL BERRO is a fact witness and is expected to testify regarding the facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

70. ROBERT SMITH  
ADDRESS UNKNOWN

ROBERT SMITH is a fact witness and is expected to testify regarding the facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

....

....

1           71.    **ZACHARY ENGLAND**  
2                    **ADDRESS UNKNOWN**

3           **ZACHARY ENGLAND** is a fact witness and is expected to testify regarding the facts  
4 and circumstances surrounding this incident, as well as the 13 Illusion performance.

5           72.    **JAROSLAW JASTRZEBSKI**  
6                    **ADDRESS UNKNOWN**

7           **JAROSLAW JASTRZEBSKI** is a fact witness and is expected to testify regarding the  
8 facts and circumstances surrounding this incident, as well as the 13 Illusion performance.

9           73.    **OLIVER COX**  
10                   Flat 4A  
11                   Chepstow Hall  
12                   31-39 Earls Court Square  
13                   London  
14                   SW5 9 DB

15           **OLIVER COX** is the Plaintiffs' son and is expected to testify as a fact witness regarding  
16 their lives before and after the accident and damages sustained thereby.

17           74.    **ANN MARIE GIBSON**  
18                   8351 Charlton Valley Court  
19                   Las Vegas, Nevada 89123

20           **ANN MARIE GIBSON** is a fact witness and is expected to testify regarding the facts  
21 and circumstances surrounding this incident.

22           ....

23           ....

24           ....

25           ....

26           ....

27           ....

1           75.   **DAVID MORSE & ASSOCIATES**  
2                   **PERSON(S) MOST KNOWLEDGEABLE**  
3                   330 N. Brand Boulevard  
4                   Glendale, California 91203

5           **DAVID MORSE & ASSOCIATES PERSON(S) MOST KNOWLEDGEABLE** is a  
6           witness and is expected to testify regarding facts and circumstances surrounding this incident, as  
7           well as the claim processed on behalf of David Copperfield's Disappearing, Inc. for this  
8           incident.

9           76.   **CAMERON COX**  
10                   Flat 4A  
11                   Chepstow Hall  
12                   31-39 Earls Court Square  
13                   London  
14                   SW5 9 DB

15           **CAMERON COX** is the Plaintiffs' son and is expected to testify as a fact witness  
16           regarding their lives before and after the accident and damages sustained thereby

17           Plaintiffs may call the Custodians of Records of all treating physicians to testify as to the  
18           completeness and accuracy of the records, medical records and bills generated in the normal  
19           course of business.

20           Plaintiffs reserve the right to call any witness named by Defendants. Plaintiffs reserve  
21           the right to call any witness as may be necessary for the purpose of impeachment. Plaintiffs  
22           reserve the right to call any witness who has verified any parties discovery responses. Plaintiffs  
23           may call any and all witnesses called in rebuttal to testimony given by Defendants' witnesses.  
24           Plaintiffs reserve the right to object to any of Defendants' witnesses at the time of trial.

**PLAINTIFFS' PRETRIAL DISCLOSURES  
EXHIBIT 2**

**PLAINTIFFS' EXHIBITS PURSUANT TO NRCP 16.1(a)(3)(B)**

1. Complaint filed August 6, 2014;
2. Medical and Billing records for **AMERICAN MEDICAL RESPONSE** for service date 11.12.13 in the amount of \$1014.47;
3. Medical and Billing records from **DESERT SPRINGS HOSPITAL** for service date 11.12.13 in the amount of \$6188.00;
4. Medical and Billing records from **SHADOW EMERGENCY PHYSICIANS** for service date 11.12.13 in the amount of \$2747.00;
5. Medical and Billing records from **DESERT RADIOLOGY SOLUTIONS** for service dates 11.12.13 through 05.14.14 in the amount of \$437.00;
6. Medical and Billing records from **CENTENNIAL PAIN RELIEF NETWORK** for service date 11.13.13 in the amount of \$675.00;
7. Medical and Billing records from **LAS VEGAS RADIOLOGY** for service dates 11.14.13 through 11.05.15 in the amount of \$23950.00;
8. Medical and Billing records from **NEVADA BRAIN & SPINE** for service date 11.19.13 in the amount of \$1500.00;
9. Medical and Billing records from **PROFESSIONAL SPORTS ORTHOPAEDIC ASSOCIATION / JAMES DETTLING, M.D.** for service dates 11.21.13 through 01.20.14 in the amount of \$200.00;
10. Medical and Billing records from **INTEGRATED PAIN SPECIALISTS/MARJORIE E. BELSKY, M.D.** for service dates 11.25.13 through 04.07.14 in the amount of \$19171.00;
11. Medical and Billing records from **DESERT INSTITUTE OF SPINE CARE / ANDREW M. CASH, M.D.** for service dates 11.25.13 through 03.25.14 in the amount of \$2400.00;
12. Prescription billing from **RAXO DRUGS** for service dates 11.26.13 through 07.06.15 in the amount of \$875.04;

....

13. Medical and Billing records from **MARIO TARQUINO, M.D.** for service dates 11.27.13 through 03.12.14 in the amount of \$3600.00;
14. Medical and Billing records from **SURGERY CENTER OF SOUTHERN NEVADA** for service dates 11.27.13 through 03.12.14 in the amount of \$26916.00;
15. Medical records from **THE SPINE SURGERY LONDON** for service date 12.13.13;
16. Medical and Billing records from **RAJU BHADRESHA, M.D.** for service date 01.23.14 in the amount of \$1720.00;
17. Medical records from **CHRISTOPHER BROOKS, M.D.** for service date 02.19.14;
18. Medical and Billing records from **LAKE MEAD RADIOLOGY** for service date 02.25.14 in the amount of \$1650.00;
19. Medical and Billing records from **BERNARD ONG, M.D.** for service dates 02.26.14 through 09.15.14 in the amount of \$24032.00;
20. Medical and Billing records from **VALLEY VIEW SURGICAL CENTER** for service date 03.06.14 in the amount of \$47482.00;
21. Medical and Billing records from **JUAN MARTINEZ-MORENO, M.D.** for service date 03.10.14 in the amount of \$9763.96;
22. Medical and Billing records from **CENTENNIAL MEDICAL IMAGING** for service date 03.27.14 in the amount of \$23490.00;
23. Medical and Billing records from **JAMES LOONG, Ph.D.** for service dates 03.22.14 through 08.16.15 in the amount of \$30400.00;
24. Prescription logs from **PARTELL SPECIALTY PHARMACY** for service dates 05.06.14 through 12.19.16 in the amount of \$60511.22;
25. Medical and Billing records from **WESTERN REGIONAL CENTER FOR BRAIN & SPINE / STUART KAPLAN, M.D.** for service dates 05.07.14 through 11.13.15 in the amount of \$74375.00;
26. Medical and Billing records from **ENRICO FAZZINI, M.D.** for service dates 05.15.14 through 11.20.14 in the amount of \$2070.00;
27. Medical and Billing records from **SPRING VALLEY HOSPITAL** for service dates 05.17.14 in the amount of \$125886.99;

28. Medical and Billing records from **SURGICAL ANESTHESIA SERVICES, LLP** for service dates 05.17.14 through 07.21.14 in the amount of \$8250.00;
29. Medical and Billing records from **NEUROMONITORING ASSOCIATES** for service dates 05.17.14 through 07.21.14 in the amount of \$12146.60;
30. Medical and Billing records from **MONITORING ASSOCIATES** for service dates 05.17.14 through 07.21.14 in the amount of 9757.20;
31. Billing records from **EBI** for service date 05.30.14 in the amount of \$5890.00;
32. Medical and Billing records from **LEMPER PAIN CENTER** for service dates 06.23.14 through 07.08.14 in the amount of \$1705.00;
33. Medical and Billing records from **VALLEY HOSPITAL MEDICAL CENTER** for service dates 07.21.14 through 07.29.14 in the amount of \$242310.05;
34. Medical and Billing records from **QUALITY HOME HEALTH, INC.** for service dates 07.30.14 through 09.23.16 in the amount of \$101700.00;
35. Medical and Billing records from **CENTRE FOR NEURO SKILLS - BAKERSFIELD** for service dates 02.18.15 through 05.17.15 in the amount of \$325463.43;
36. Medical and Billing records from **PHYSICIANS AUTOMATED LABORATORY, INC.** for service dates 02.20.15 through 04.30.15 in the amount of \$1397.00;
37. Medical and Billing records from **SOUTH VALLEY PATHOLOGY ASSOCIATES** for service date 03.15.15 in the amount of \$331.50;
38. Medical and Billing records from **BAKERSFIELD MEMORIAL HOSPITAL** for service dates 03.15.15 through 04.17.15 in the amount of \$9256.08;
39. Medical and Billing records from **PINNACLE EMERGENCY PHYSICIANS OF BAKERSFIELD** for service date 03.15.15 in the amount of \$638.00;
40. Medical records from **STEPHEN NEWBROUGH, M.D.** for service date 03.23.15;
41. Medical record from **MATTHEW J. ASHLEY, M.D., J.D.** for service dates 04.1.15 through 04.27.15;
42. Medical and Billing records from **CENTENNIAL MEDICAL GROUP / NELSON GUEVARA MADRILEJO, M.D.** for service dates 04.15.15 through 04.22.15 in the amount of \$789.09;

- 1 43. Medical and Billing records from **SAN JOAQUIN VALLEY PULMONARY**
- 2 **MEDICAL GROUP** for service dates 05.02.15 through 05.11.15 in the amount of
- 3 \$1098.00;
- 4 44. Medical and Billing records **GOVIND KOKA, M .D. / PRIMARY CARE**
- 5 **CONSULTANTS** for service dates 08.12.15 through 12.02.16 in the amount of
- 6 \$26403.71;
- 7 45. Medical and billing records from **DAVID J. OLIVERI, M.D.** for service date 08.20.15
- 8 in the amount of \$5900.00;
- 9 46. Medical records from **NEVADA IMAGING CENTERS** for service date 07.21.15;
- 10 47. Prescription log from **MERCY PLAZA PHARMACY** for service dates 03.02.15
- 11 through 05.14.15 in the amount of \$2359.83;
- 12 48. Medical and Billing records from **SAMER NAKHLE, M.D. / PALM MEDICAL**
- 13 **GROUP** for service dates 09.04.15 through 10.18.16 in the amount of \$534.34;
- 14 49. Medical and Billing records from **QUEST DIAGNOSTICS** for service date 09.10.15
- 15 in the amount of \$1289.37;
- 16 50. Medical and billing records from **KERN RADIOLOGY MEDICAL GROUP** for
- 17 service date 03.15.15 in the amount of \$63.00;
- 18 51. Medical and Billing records from **NEURO VISIONS REHABILITATION**
- 19 **INSTITUTE** for service dates 04.15.15 through 04.29.15 in the amount of \$1570.00;
- 20 52. Prescription log from **HENDERSON SCRIPTS 2-U** for service dates 06.13.16 through
- 21 12.02.16 in the amount of \$3180.00;
- 22 53. Medical records from **CHRISTOPHER BROOKS, FRCS** for service date 02.19.14;
- 23 54. Medical records from **KENT PAIN CLINIC** for service date 01.23.14;
- 24 55. MGM Incident Report;
- 25 56. Burrow House Web Information;
- 26 57. Two (2) Photos of ticket to the David Copperfield Show dated 11.12.13;
- 27 58. Six (6) Color Phonographs of incident site and Plaintiff Gavin Cox in the emergency
- 28 department;

- 1 59. One (1) Video taken by Plaintiff Gavin Cox of the outside of the MGM Grant (provided  
2 on CD);
- 3 60. Medical and Billing records from **BUPA ST. SAVIOUR'S HOSPITAL HYTHE/**  
4 **RAJU C. BHADRESHA** for service dates 01.23.14 through 02.20.14 in the amount of  
5 \$1720.00;
- 6 61. Eighth Judicial District Court Case No. A-566585, entitled *Hyo Hun v. David*  
7 *Copperfield's Disappearing, Inc., et al.* Complaint, filed July 1, 2008;
- 8 62. David Morse & Associates Documents Provided under Subpoena Duces Tecum, dated  
9 August 3, 2016, regarding file no. DLV-0004090;
- 10 63. Team Construction Management Toolbox Talk Documents, Safety Manual and other  
11 documents provided by Team Construction Management in discovery.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiffs may offer at trial, certain Exhibits for demonstrative purposes, including, but not limited to, the following:

1. Demonstrative exhibits depicting procedures and other diagnostic tests Plaintiff has undergone and will undergo in the future.

2. Actual diagnostic studies and computer digitized diagnostic studies;

3. Diagrams, drawings, pictures, photos, film, video, DVD and CD ROM of various parts of the human body, diagnostic testing and procedures;

4. Power point images/drawings/diagrams/animation/story boards depicting the facts and circumstances of the subject incident, the parties involved, the location of the subject incident and what occurred in the subject accident;

5. Pictures of Plaintiff prior and subsequent to the subject incident;

6. Medical treatment time line;

7. Photographs of Plaintiff's Witnesses;

8. Story boards and computer digitized power point images;

9. Blow-ups/transparencies/digitized images of medical records, medical bills, photographs and other exhibits;

10. Diagrams/story board/computer re-enactment of the subject incident;

11. Diagrams of various parts of the human body related to Plaintiff's injuries;

12. Photographs of various parts of the human body related to Plaintiff's injuries;

13. Models of the human body related to Plaintiff's injuries;

14. Medical Billing Summary(ies).

Plaintiffs may use any and all writings, published works, journals, treatises, medical texts, affidavits, films, drawings, graphs, charts, photographs, reports, computer tapes, computer discs, and other data compilations and other medical reference materials which Plaintiffs and/or

1 Plaintiffs' experts use in support of Plaintiffs' allegations.

2 Deposition transcripts will be used as needed for rebuttal or impeachment. Deposition  
3 transcripts may also be used for direct examination if the witness is unavailable at the time of  
4 trial.

5 Plaintiffs may also use the parties' responses to discovery and exhibits to motions,  
6 oppositions and replies as necessary.  
7

8 Plaintiffs reserve the right to use any and all other exhibits produced, as well as those  
9 attached to motions, oppositions and replies, needed for rebuttal or impeachment.

10 Plaintiffs may offer documents in which Plaintiffs' and Defendant's experts have reviewed  
11 and formed an opinion based on each document, including but not limited to reports, pleadings,  
12 correspondence, notes, as well as medical records and billing.  
13

14 Plaintiffs reserve the right to object to Defendant's Pre-Trial Disclosures once received  
15 and to object to the admission of Defendant's exhibits and/or proposed witnesses at time of trial.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 15***

JA001821

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

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

22

Third-Party Defendants. )

23

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

FRIDAY, APRIL 13, 2018

1 APPEARANCES:

2 For the Plaintiff:

3 MORELLI LAW FIRM  
4 BY: BENEDICT P. MORELLI, ESQ.  
5 BY: ADAM E. DEUTSCH, ESQ.  
6 BY: PERRY FALICK, ESQ.  
7 777 Third Avenue  
8 31st Floor  
9 New York, New York 10017  
10 (212) 751-9800  
11 bmorelli@morellilaw.com  
12 adeutsch@morellilaw.com

9 For the Defendant Team Construction Management, Inc.  
10 and Beacher's LV, LLC:

11 RESNICK & LOUIS, P.C.  
12 BY: ROGER STRASSBURG, ESQ.  
13 BY: GARY CALL, ESQ.  
14 5940 South Rainbow Boulevard  
15 Las Vegas, Nevada 89118  
16 (702) 997-3800  
17 gcall@rlattorneys.com

15 For the Defendants MGM Grand Hotel:

16 SELMAN BREITMAN, LLP  
17 BY: JERRY C. POPOVICH, ESQ.  
18 BY: SUSAN FILlichio, ESQ.  
19 BY: GIL GLANCZ, ESQ.  
20 6 Hutton Centre Drive  
21 Suite 1100  
22 Santa Ana, California 92707  
23 (714) 647-9700  
24 jpopovich@selmanlaw.com

21 - AND -

22 SELMAN BREITMAN, LLP  
23 BY: ERIC O. FREEMAN, ESQ.  
24 3993 Howard Hughes Parkway  
25 Suite 200  
Las Vegas, Nevada 89169  
(702) 228-7717  
efreeman@selmanbreitman.com

1 APPEARANCES (CONTINUED) :

2 For the Defendant Backstage Employment and Referral,  
3 Inc.:

4 WEINBERG, WHEELER, HUDGINS, GUNN & DIAL  
5 BY: D. LEE ROBERTS, JR., ESQ.  
6 BY: HOWARD RUSSELL, ESQ.  
7 6385 South Rainbow Boulevard  
8 Suite 400  
9 Las Vegas, Nevada 89118  
10 (702) 938-3838  
11 lroberts@wwhgd.com

12 For the Defendants David Copperfield's Disappearing,  
13 Inc. and David Copperfield aka David S. Kotkin:

14 SELMAN BREITMAN, LLP  
15 BY: ELAINE K. FRESCH, ESQ.  
16 11766 Wilshire Boulevard  
17 Sixth Floor  
18 Los Angeles, California 90025-6538  
19 (310) 445-0800  
20 efreschlaw.com

21 \* \* \* \* \*

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.



PLAINTIFFS' TRIAL BRIEF TO PERMIT TESTIMONY OF NEWLY DISCOVERED FACT WITNESSES

***EXHIBIT 16***

JA001829

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

TUESDAY, APRIL 17, 2018

24

25

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

1 APPEARANCES:

2 For the Plaintiff:

3 MORELLI LAW FIRM  
4 BY: BENEDICT P. MORELLI, ESQ.  
5 BY: ADAM E. DEUTSCH, ESQ.  
6 BY: PERRY FALLICK, ESQ.  
7 777 Third Avenue  
8 31st Floor  
9 New York, New York 10017  
10 (212) 751-9800  
11 bmorelli@morellilaw.com  
12 adeutsch@morellilaw.com

9 For the Defendant Team Construction Management, Inc.  
10 and Beacher's LV, LLC:

11 RESNICK & LOUIS, P.C.  
12 BY: ROGER STRASSBURG, ESQ.  
13 BY: GARY CALL, ESQ.  
14 5940 South Rainbow Boulevard  
15 Las Vegas, Nevada 89118  
16 (702) 997-3800  
17 gcall@rlattorneys.com

15 For the Defendants MGM Grand Hotel:

16 SELMAN BREITMAN, LLP  
17 BY: JERRY C. POPOVICH, ESQ.  
18 6 Hutton Centre Drive  
19 Suite 1100  
20 Santa Ana, California 92707  
21 (714) 647-9700  
22 jpopovich@selmanlaw.com

20 - AND -

21 SELMAN BREITMAN, LLP  
22 BY: ERIC O. FREEMAN, ESQ.  
23 3993 Howard Hughes Parkway  
24 Suite 200  
25 Las Vegas, Nevada 89169  
(702) 228-7717  
efreeman@selmanbreitman.com

1 APPEARANCES (CONTINUED):

2 For the Defendant Backstage Employment and Referral,  
3 Inc.:

4 WEINBERG, WHEELER, HUDGINS, GUNN & DIAL  
5 BY: D. LEE ROBERTS, JR., ESQ.  
6 BY: HOWARD RUSSELL, ESQ.  
7 6385 South Rainbow Boulevard  
8 Suite 400  
9 Las Vegas, Nevada 89118  
10 (702) 938-3838  
11 lroberts@wwhgd.com

12 For the Defendants David Copperfield's Disappearing,  
13 Inc. and David Copperfield aka David S. Kotkin:

14 SELMAN BREITMAN, LLP  
15 BY: ELAINE K. FRESCH, ESQ.  
16 11766 Wilshire Boulevard  
17 Sixth Floor  
18 Los Angeles, California 90025-6538  
19 (310) 445-0800  
20 efreschlaw.com

21 \* \* \* \* \*

1 dangerous is because they could get hurt; correct?

2 A. Yes.

3 Q. Okay. So you would agree with me that there

4 are times that people can fall and not get hurt?

5 A. Sure.

6 Q. Right? And we could call that, let's say, in

7 the accident category. Okay?

8 Fair enough?

9 A. Okay.

10 Q. You had an accident, but, thank God, you were

11 okay.

12 And there are times when someone can fall and

13 they do get hurt. And that's not okay; correct?

14 A. Yeah. You don't want anyone to get hurt.

15 Q. Right. So, now, there's been a lot of talk

16 about how safe this trick is. Now, I want to try to

17 understand this whole thing about 20 years and

18 50,000 -- 49 -- you know, I was listening, and I heard

19 100,000, 96,000, then it went down to 50,000. I don't

20 know how all of that happened.

21 But the point of that is that it's safe. Is

22 that -- is that the point of the numbers? Is the point

23 of the numbers that it shows that the illusion is safe?

24 Yes or no.

25 A. Yes.

1 particular night -- you were there that day? I think  
2 we spoke earlier about that; right?

3 A. Yes. Yes.

4 Q. Okay. And you -- is it -- is it your  
5 opinion -- well, not your opinion. Withdraw --  
6 withdraw that question.

7 Are you stating that, other than Mr. Cox,  
8 who's in the courtroom today, no one has ever fallen  
9 and gotten injured before from this illusion? Is that  
10 your statement? Yes or no.

11 A. Yes.

12 Q. Okay. And you're basing --

13 A. From this runaround? From the -- from  
14 this -- being a participant in the illusion?

15 Q. Yeah, it has to be this particular illusion.

16 A. Yes.

17 Q. Yeah.

18 A. Sorry. I just wanted to make sure I was  
19 clarifying --

20 Q. No, I should have made that clear. No, no,  
21 just from --

22 A. A participant in this illusion has ever  
23 fallen?

24 Q. In this illusion, yes.

25 A. Correct.



TB  
ELAINE K. FRESCH  
NEVADA BAR NO. 9263  
ERIC O. FREEMAN  
NEVADA BAR NO. 6648  
JERRY C. POPOVICH [PRO HAC]  
CALIFORNIA BAR NO. 138636  
SELMAN BREITMAN LLP  
3993 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169-0961  
Telephone: 702.228.7717  
Facsimile: 702.228.8824  
Email: efresch@selmanlaw.com  
Email: efreeman@selmanlaw.com  
Email: jpopovich@selmanlaw.com

Attorneys for Defendant DAVID  
COPPERFIELD'S DISAPPEARING, INC.,  
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

**DEFENDANTS DAVID COPPERFIELD'S  
DISAPPEARING, INC., DAVID  
COPPERFIELD, AND MGM GRAND  
HOTEL, LLC'S TRIAL BRIEF  
REGARDING UNDISCLOSED  
WITNESSES**

AND RELATED CROSS-ACTIONS

**DEFENDANTS DAVID COPPERFIELD'S DISAPPEARING, INC., DAVID  
COPPERFIELD, AND MGM GRAND HOTEL, LLC'S TRIAL BRIEF REGARDING  
UNDISCLOSED WITNESSES**

Defendants MGM GRAND HOTEL, LLC, DAVID COPPERFIELD aka DAVID S. KOTKIN, and DAVID COPPERFIELD'S DISAPPEARING, INC., by and through their attorneys of record, Selman Breitman LLP, hereby submit their Trial Brief regarding undisclosed witnesses. This Trial Brief is also supported by the affidavits of Jerry C. Popovich and Eric O. Freeman attached.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTS**

This case involves an incident that occurred on November 12, 2013 at the David Copperfield Show at the MGM Grand Hotel. Plaintiffs are husband and wife Gavin Cox and Minh-Hanh Cox (hereinafter collectively referred to as "Plaintiffs"). Plaintiff Gavin Cox claims he was injured while participating in an illusion as an audience member. Plaintiffs claim that Mr. Cox was injured while participating in the "Thirteen" illusion when he was allegedly hurried with no guidance or instruction through a dark area that was under construction. Plaintiffs claim the area was a construction area that was covered with cement dust and debris which caused Mr. Cox to slip and fall. Defendants have denied these allegations and continue to do so. Defendants dispute liability, causation and damages claimed by Plaintiffs.

Plaintiffs recently disclosed that they intend to call three potential witnesses, Patricia Esack ("ESACK"), Amy Lawrence ("LAWRENCE") and Elizabeth Rice ("RICE") who were not previously disclosed by Plaintiffs during discovery or even before trial began in this matter on April 3, 2018. On April 18, 2018, Plaintiffs informed the Court and the parties for the first time that potential witnesses had contacted their office with respect to the "Thirteen" illusion. At that time, this Court ordered Plaintiffs to make a proper disclosure of the witnesses and **provide all information, documentation or materials that they obtained related to these witnesses by 5:00 p.m. on April 20, 2018.**

Plaintiffs provided their actual disclosure of these specific witnesses for the first time to

1 Defendants on April 20, 2018 by providing Defendants with the witness names and phone  
2 numbers. See affidavits and supporting exhibits. The only information regarding these potential  
3 witnesses provided by Plaintiffs was their names and phone numbers. Defendants immediately  
4 requested that Plaintiffs provide them with the witnesses' respective addresses in order to allow  
5 Defendants an opportunity to contact them and to begin their investigation. In response, Plaintiffs'  
6 counsel informed Defendants that they did not have the witnesses current addresses. Interestingly,  
7 Plaintiffs' counsel previously informed Defendants' counsel that they would perform their due  
8 diligence in evaluating the witnesses. Plaintiffs disclosure consisted of the names and a very  
9 limited explanation of the anticipated testimony of each of the newly identified witnesses.  
10 Specifically, the email set forth the following scope of testimony:

- 11 • Patricia Esack – Her testimony is anticipated to involve her personal experience as  
12 a participant in the 13 illusion.
- 13 • Amy Lawrence – Her testimony is anticipated to involve her personal experience as  
14 a participant in the 13 illusion.
- 15 • Elizabeth Rice – Her testimony is anticipated to involve her personal experience  
16 working as a stagehand for the David Copperfield show on the 13 illusion.

17 Plaintiffs provided some documents which were repeatedly provided to them by the  
18 witnesses including a photograph of the Copperfield Crew T-shirt from RICE, photographs of  
19 alleged injuries from ESACK and a Facebook post and the global email sent to audience members  
20 from Mr. Copperfield from LAWRENCE. Later Plaintiffs' counsel provided phone numbers. It is  
21 also known that Plaintiffs' counsel received additional documents from these witnesses; however,  
22 they have never made any document disclosure. Defendants have been able to obtain some of the  
23 documents but they are concerned about what has been withheld.

24 To date, Plaintiffs have not disclosed the full extent of the documentation and materials  
25 that they have received from these witnesses despite being ordered by this Court, nor have they  
26 disclosed whether they intend to call these new witnesses in their case-in-chief or simply as  
27 rebuttal witnesses in an attempt to rebut or impeach the prior trial testimony of the Defendants'  
28

1 witnesses. The standard for both is quite different.

2 **II. DISCOVERY**

3 Regardless, NRCP 16.1(a)(1) requires the parties without awaiting a discovery request to  
4 disclose the name, address and telephone number of each individual possessing discoverable  
5 information, as well as the subjects of the information each witness possesses. NRCP 26(e)  
6 requires the parties to supplement those disclosures to correct the disclosure or response to include  
7 information thereafter acquired ... if the party learns that in some material respect the information  
8 disclosed is incomplete or incorrect and if the additional or corrective information has not  
9 otherwise been made known to the other parties during the discovery process or in writing.  
10 Additionally, unless otherwise specified by the court, all designations of witnesses who may  
11 testify at trial must be made at least 30 days before trial. NRCP 16.1(a)(3).

12 Moreover, pursuant to EDCR 2.67, the Pretrial Memorandum must include "A list of the  
13 witnesses (including experts), and the address of each witness which each party intends to call.  
14 Failure to list a witness, **including impeachment witnesses**, may result in the court's precluding  
15 the party from calling that witness." (Emphasis added). Plaintiffs' counsel previously agreed to  
16 provide all information by the close of business on April 20, 2018 as order by this court, but to  
17 date, Plaintiffs' counsel has still not done so. None of the newly identified witnesses were  
18 identified or disclosed in the mandatory pre-trial discovery pursuant to NRCP 16.1, the Pre-Trial  
19 Memorandum or on Plaintiffs' witness list.

20 A party, like the Plaintiffs in this case, who fail to **disclose** information required by Rule  
21 16.1, without substantial justification, is not permitted to use the undisclosed evidence at  
22 trial. Nev. R. Civ. P. 37(c)(1); Nev. R. Civ. P. 16.1(e)(3)(B) (where a party fails to reasonably  
23 comply with Rule 16.1, the Court shall prohibit "the use of any **witness**, document or tangible  
24 thing which should have been **disclosed**"); *Hansen v. Universal Health Servs. of Nev., Inc.*, 115  
25 Nev. 24, 29, 974 P.2d 1158, 1161 (1999) (holding that "the district court did not abuse its  
26 discretion in refusing to allow [a party's] untimely-designated experts to testify"); *Murphy v.*  
27 *FDIC*, 106 Nev. 26, 29-30, 787 P.2d 370, 372 (1990) (finding that district court did not abuse its  
28

discretion to exclude expert witness where party failed “to adhere to applicable discovery rules”) *disapproved of on other grounds by McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC*, 121 Nev. 812, 820, 123 P.3d 748, 753 (2005); *Turner v. Richards*, 2010 WL 4616139 \*1, slip op. (Nev. 2010) (holding “the district court did not abuse its discretion by excluding documentary evidence that was not provided to respondents during discovery”); *Freemon v. Fischer*, 2009 WL 1490776 \*4-6, slip op. (Nev. 2009) (holding it was within the district court’s discretion to grant motion in limine to exclude expert report which was produced after close of discovery).

Undisclosed information is *automatically excluded* unless the non-disclosure was substantially justified. *See* Fed. R. Civ. P. 37(c)(1);<sup>1</sup> *Ortiz-Lopez v. Sociedad Espanola de Auxilio Mutuo y Beneficiencia de Puerto Rico*, 248 F.3d 29, 34-35 (1st Cir. 2001) (quoting Fed. R. Civ. P. 26, Advisory Committee Notes, which state “Revised Rule 37(c)(1) [is to] provide incentive for full disclosure” and finding “the automatic sanctions pursuant to Rule 37(c)(1) “puts teeth in the rule”); *Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001) (holding district court is given particularly wide latitude and discretion to issue sanctions under Rule 37(c)(1) and finding exclusion is an appropriate remedy for failing to fulfill the required disclosure requirements of Rule 26(a)).

The burden is on the party seeking to introduce the evidence to prove that the failure was substantially justified or harmless. *Yeti by Molly Ltd.*, 259 F.3d at 1107 (quoting *Wilson v. Bradlees of New England, Inc.*, 250 F.3d 10, 21 (1st Cir. 2001)). Failure to meet this burden will result in exclusion of the evidence even if the party seeking exclusion did not articulate how it was prejudiced by the failure to satisfy the requirements of FRCP 26. *Torres v. City of Los Angeles*, 548 F.3d 1197, 1213 (9th Cir. 2008).

The failure to disclose a witness is “substantially justified” if the proponent’s position has a reasonable basis in law and fact that “could satisfy a reasonable person that parties could differ as

<sup>1</sup> Nev. R. Civ. P. 37, Drafter’s Note 2004 Amendment, (“Subdivision (c) is amended to conform to the 1993 and 2000 amendments to the federal rule. New paragraph (1) sets forth sanctions for failing to make disclosures required by Rules 16.1 and 26(e)(1).”).

1 to whether the party was required to" disclose the witness. *Nguyen v. IBP, Inc.*, 162 F.R.D. 675,  
2 680 (D. Kan. 1995); cf. *Kenney v. United States*, 458 F.3d 1025, 1032 (9th Cir. 2006) (applying  
3 same definition of term in context of attorney fee award provision of Tax Code). For example, a  
4 failure to disclose would be substantially justified if the issue that the witness's evidence related to  
5 was not thought to be relevant at the time of the initial disclosure and there had not been sufficient  
6 time to supplement the disclosure. See, e.g., *Friends of Santa Fe County v. Lac Minerals, Inc.*, 892  
7 F. Supp. 1333, 1351 (D.N.M. 1995). On the other hand, **the failure will not be substantially**  
8 **justified if the only reason for not disclosing the identity of the witness was insufficient time**  
9 **in light of the burdens of discovery**, see *Zhang v. American Gem Seafoods, Inc.*, 339 F.3d 1020,  
10 1028 (9th Cir. 2003), or the belief that disclosure was unnecessary because the opposing party  
11 already knew of the witness and his or her proposed testimony, *Chapple v. Alabama*, 174 F.R.D.  
12 698, 701 (M.D. Ala. 1997). Moreover, **where the evidence is crucial to the case and likely to be**  
13 **contested, the failure to disclose cannot be substantially justified**. *Musser v. Gentiva Health*  
14 *Servs.*, 356 F.3d 751, 759 (7th Cir. 2004).

15 Here there is absolutely no substantial justification for Plaintiffs' failure to disclose these  
16 witnesses. Plaintiffs only justification for not disclosing these witnesses earlier is that the  
17 witnesses only recently reached out to Plaintiffs' counsel following the media coverage of this  
18 matter. However, it is clear that Plaintiffs never even made any attempts to locate any potential  
19 witnesses who may have information of participating in the "Thirteen" illusion or any former  
20 employees of any of the defendants that may have been involved in the subject illusion. RICE is a  
21 former employee who worked with the David Copperfield show many years ago. Plaintiffs had  
22 every opportunity to inquire into any former employees of any of the defendants who may have  
23 been involved over the years in the "Thirteen" illusion during the discovery process in this matter.  
24 Plaintiffs never sought this information, and instead only requested information on employees who  
25 had been working the actual day when Mr. Cox was injured or had been working within the week  
26 prior to the accident. RICE was neither. Plaintiffs' lack of diligence in seeking information on  
27 prior employees prevents them from trying to call RICE as a witness now. With respect to the  
28

1 other two witnesses, ESACK and LAWRENCE, Plaintiffs had ample time to locate any potential  
2 witnesses who may have also been injured while participating in the "Thirteen" illusion. In fact  
3 since the outset and throughout this litigation, Plaintiffs' counsel sought out and spoke to various  
4 media outlets in an attempt to sensationalize both Plaintiffs' claims and the "Thirteen" illusion,  
5 many times in violation of the Confidentiality Agreement and Protective Order. Plaintiffs' counsel  
6 never attempted to locate or indicated that they were seeking other potential witnesses that may  
7 have been hurt during the subject illusion to come forward. This would have been very simple to  
8 do since they were already speaking with the media and moreover would have not violated the  
9 Confidentiality Agreement and Protective Order. As such, Plaintiffs failure to disclose cannot be  
10 substantially justified.

11 Similarly, Plaintiffs cannot claim that their failure to disclose was a harmless error.  
12 Plaintiffs simply did not attempt discovery to locate these witnesses during the discovery process.  
13 The prejudice to the Defendants caused by this failure is manifest - for it completely eviscerated  
14 any opportunity for defense counsel to depose any of these witnesses prior to trial. The deposition  
15 process, of course, is designed to provide fairness to the process and eliminate trial by "ambush."  
16 See, e.g., *Mays v. District Court*, 105 Nev. 60, 768 P.2d 877 (1989); see also *Firststar Bank v.*  
17 *Peirce*, 714 N.E.2d 116 (Ill. Ct. App. 1999).

18 Equally important, the deposition provides an opportunity to develop a meaningful cross-  
19 examination. Cross-examination of an adverse witness is an inviolate right, basic to our judicial  
20 system and essential to a fair trial. *Alford v. United States*, 282 U.S. 687, 691, 51 S.Ct. 218, 219  
21 (1931). The substantial prejudice caused by such a failure to disclose constitutes grounds for  
22 ordering a new trial. *American Serv. Ins. Co. v. Olszewski*, 756 N.E.2d 250 (Ill. Ct. App. 2001)  
23 (ordering new trial where failure to disclose witness deprived other party of opportunity to  
24 schedule a deposition, prepare for cross-examination, or arrange for a rebuttal witness).

25 With the trial in this matter having already commenced on April 3, 2018, Defendants have  
26 no ability to interview or depose these witnesses, seek additional discovery related to the issues on  
27 which these witnesses would testify, identify-rebuttal witnesses, depose rebuttal witnesses and  
28

1 seek documents and other rebuttal evidence all while participating in trial. Moreover, there is  
2 insufficient time available before these witnesses are expected to be called for counsel to schedule  
3 and take depositions and conduct discovery that may conceivably be outside the State of Nevada.  
4 The inability to depose these witnesses and to seek additional discovery in relation to any  
5 proposed testimony by these witnesses, unfairly prejudices Defendants. Further the blatant failure  
6 to comply with NRCP 16.1 with regard to the mandated identifying information of these three  
7 witnesses places Defendants at an enormous disadvantage. Despite Defendants continually  
8 efforts, they have only been able to reach ESACK at this point. See Affidavits from Jerry  
9 Popovich and Eric Freeman attached. It is clear that the last minute disclosure of these witnesses  
10 prevents Defendants from deposing these witnesses and seeking additional discovery, including  
11 discovery for rebuttal and impeachment purposes, and from fully preparing for trial.

12 Plaintiffs' failure to timely and sufficiently identify these witnesses has eviscerated any  
13 opportunity to conduct an adequate cross-examination. Under such circumstances prohibiting  
14 Plaintiffs from using, as evidence at trial these witnesses or information not disclosed is the  
15 appropriate remedy as Plaintiffs cannot show there was substantial justification for the failure to  
16 disclose or unless such failure is harmless. *Pizarro-Ortega v. Cervantes-Lopez*, 2017, 396 P.3d  
17 783.

18 **III. NOT RELEVANT AND NO PROBATIVE VALUE**

19 Regardless of the fact that these witnesses must be precluded as a result of Plaintiffs'  
20 failure to timely and sufficiently identify these witnesses; their anticipated testimony for Plaintiffs'  
21 case-in-chief does not meet the threshold requirement of relevance. Irrelevant evidence is  
22 inadmissible, per se under Nevada Law. NRS § 48.025(2). "Relevant evidence" is defined as  
23 follows:

24  
25 Evidence having a tendency to make the existence of any fact that is of  
26 consequence to the determination of the action more or less probable than it would  
be without the evidence.

27 NRS § 48.015  
28

1 Furthermore, NRS § 48.035 provides:

2 Although relevant, evidence is not admissible if its probative value is substantially  
3 outweighed by the danger of unfair prejudice, or confusion of the issues or of  
4 misleading the jury

5 It is a fundamental tenet of both our criminal and civil justice systems that irrelevant  
6 evidence is inadmissible at trial for any purpose. *Flanagan v. State*, 109 Nev. 50, 58, 846 P.2d  
7 1053 (1993).

8 Under Nevada law, the admissibility of evidence must be determined outside the presence  
9 of the jury in order to prevent the jury from any exposure or suggestions from or regarding the  
10 inadmissible evidence or the decisions of this Court. NRS § 47.080.

11 Plaintiffs are calling ESACK and LAWRENCE to testify regarding the facts and  
12 circumstances surrounding their own alleged individual accidents and injuries while participating  
13 as audience members in the "Thirteen" illusion. It is unknown why RICE would be called and at  
14 present Plaintiffs did not inform the Court they have any intent to call RICE. These witnesses  
15 have absolutely no knowledge with respect to Gavin Cox accident. The proposed testimony of  
16 these witnesses that have different physical characteristics to Gavin Cox regarding each of the  
17 individuals' own alleged injuries, which occurred on different days and years, at different  
18 locations, have no relevance to the instant case.

19 Plaintiffs' claim has always centered on Mr. Cox slipping in construction dust – a claim  
20 from which they have never relented. As such, any testimony to be offered from these witnesses  
21 lacks probative value. None of the witnesses could offer any relevant testimony on the condition  
22 of the MGM premises on the evening in question, the pace at which Mr. Cox's group moved  
23 through the illusion, or the facts of his accident. In the case of ESACK she participated in the  
24 illusion when it was a traveling production in 2002 at the Paramount Theater in Seattle,  
25 Washington. ESSACK's claimed injury occurred at a different venue, with a different route for  
26 participants and under circumstances that cannot be linked to Mr. Cox's accident.

27 A showing of substantial similarity is required when a plaintiff attempts to introduce  
28 evidence of other accidents as direct proof of negligence, a design defect, or notice of the

1 defect.” *White v. Ford Motor Co.*, 312 F.3d 998, 1009 (9th Cir. 2002) (quoting *Cooper v.*  
2 *Firestone Tire and Rubber Co.*, 945 F.2d 1103, 1105 (9th Cir. 1991)); *see also Andrews v. Harley*  
3 *Davidson, Inc.*, 106 Nev. 533, 538, 796 P.2d 1092, 1096 (1990) (“Whether the jury may be  
4 allowed to draw an inference as to the defectiveness of a product from prior failures depends on  
5 whether the factors which produced the prior failures were substantially similar to the factors  
6 which produced the present failure.”).

7 “The admissibility of prior accident reports must be evaluated carefully due to their  
8 inflammatory nature and possible misinterpretation by the jury. To minimize the possibility of  
9 unfair prejudice to the defendant, a showing of ‘substantial similarity’ is required.” *Schwartz v.*  
10 *New Castle Corp.*, 1997 WL 753346, at \*2 (9th Cir. Nov. 26, 1997) (unpublished disposition  
11 addressing admissibility of prior incidents for slip and fall at Excalibur Hotel (citing *Cooper*, 945  
12 F.2d at 1105)). “The lack of any similarity between the prior act and the crime charged greatly  
13 undermines the relevance and admissibility of the evidence.” *Cipriano v. State*, 111 Nev. 534,  
14 542, 894 P.2d 347 (1995); *overruled on other grounds, State v. Sixth Judicial Dist. Court*, 964 P.  
15 2d 48, 114 Nev. 739 (1998).

16 In the “slip and fall” case involving a foreign substance upon a surface, if evidence is  
17 available to establish or permit reasonable inference that its presence was the result of conduct by  
18 agents or employees of defendant, liability may be found upon ordinary agency principles,  
19 respondeat superior is applicable, and notice is imputed to defendant, but if presence of foreign  
20 substance was due to acts of persons other than agents or employees of defendant, liability may be  
21 found only on proof that defendant had either actual or constructive notice thereof, and when  
22 positive evidence is not available to explain presence of such foreign substance, trier of fact is  
23 called upon to draw such reasonable inferences as are permitted from evidence offered in this  
24 regard. *Eldorado Club, Inc. v. Graff*, 78 Nev. 507, 377 P.2d 174 (1962). In the “slip and fall” case  
25 involving a foreign substance upon the surface, the admissibility of evidence of prior accidents, to  
26 show notice or knowledge of danger causing the accident, is generally confined to situations  
27 where there are conditions of permanency. *Id.* In the “slip and fall” case, evidence of prior  
28

1 accidents is usually excluded where it relates to a temporary condition which might or might not  
2 exist from one day to the other unless there is proper showing that conditions surrounding prior  
3 occurrences have continued and persisted. *Id.*

4 In *Eldorado Club, Inc.*, the plaintiff, a business invitee, was maneuvering a hand truck  
5 carrying two 100-pound sacks of potatoes down an inclined ramp leading from an alley to the  
6 Eldorado Club Inc.'s receiving room. *Id.* at 175. During this task, the plaintiff stepped on a lettuce  
7 leaf on the ramp which caused him to slip and fall. The plaintiff sued Eldorado Club, Inc. for  
8 personal injuries sustained, claiming negligence. *Id.* at 508-09, 377 P.2d at 175. At trial, the court  
9 admitted evidence that on two separate occasions another individual had slipped and fallen on the  
10 same ramp because of a "smear or wet spot" or a "lettuce leaf or some green leafy vegetable" was  
11 left on the ramp. *Id.*

12 The Nevada Supreme Court held that this was error. It stated:

13 Surely, the existence of a wet spot and a lettuce leaf on the ramp on separate  
14 occasions in November of 1958 and the consequent slips and falls could not  
15 serve to notify the defendant of the presence of the lettuce leaf in question which  
16 caused Graff to slip and fall on January 3, 1959 ... We hold, therefore, that  
17 where a slip and fall is caused by the temporary presence of debris or foreign  
18 substance on a surface, which is not shown to be continuing, it is error to receive  
19 "notice evidence" of the type here involved for the purpose of establishing the  
20 defendant's duty.

21 *Id.* at 510-11, 377 P.2d at 176.

22 Thus, when a dangerous condition is temporary or transitory in nature, as we have in the  
23 instant action, evidence of previous accidents is generally not admissible because "[i]t would be  
24 grossly unfair to demand immediate awareness of new peril." See *Id.*; see also *Lologo v. Wal-*  
25 *Mart Stores, Inc.*, No. 2:13-cv-1493-GMN-PAL, 2016 WL 4084035, at \*9 (D. Nev. July 29, 2016)  
26 (Navarro, C.J.) (granting Wal-Mart's request to exclude all evidence of other slip-and-fall  
27 incidents or reports of incidents involving the temporary presence of debris or a foreign substance  
28 at the Wal-Mart store and noting that "the majority of evidence of other falls, incidents, or reports  
of incidents is irrelevant....").

As Mr. Kenner explained on the stand, the illusion evolves with time, and these witnesses'

1 testimony would be more confusing and misleading than probative, as it tells nothing of how the  
2 illusion proceeded in November, 2013. The anticipated testimony of these witnesses are simply  
3 too remote in time, without any relation to Plaintiffs' criticisms of the route at the MGM or the  
4 alleged presence of construction dust on the night of Mr. Cox's accident. It is irrelevant and the  
5 testimony should not be allowed.

6 Even if the Court determines that the anticipated testimony as to the simple fact that there  
7 may have been a limited number of incidents where other people may have had an accident while  
8 participating in the "Thirteen" illusion has some probative value, it is only marginable. The slight  
9 probative value of this testimony is vastly outweighed by the prejudice and confusion of issues  
10 that would result. "[W]here evidence is marginally relevant and could inject collateral issues  
11 which would divert the jury from the real issues in the case, exclusion is proper." *Hansen v.*  
12 *Universal Health Serv.*, 115 Nev. 25, 27, 974 P.2d 1158, 1160 (1999). Accordingly, a trial court  
13 should exclude relevant evidence when its probative value is substantially outweighed by the  
14 dangers of unfair prejudice, confusion of the issues, or misleading of the jury. NRS 48.035; *Jeep*  
15 *Corp. v. Murray*, 101 Nev. 640, 646, 708 P.2d 297, 301 (1985); *Las Vegas Sun, Inc. v. Franklin*,  
16 74 Nev. 282, 295-96, 329 P.2d 867, 874 (1958) (A trial judge has power to exercise control over  
17 the extent to which cumulative evidence is admitted).

18 The testimony of the witnesses has not yet been fully vetted. The nature of their respective  
19 injury or how their accident occurred, and whether they reported the injury to any of the  
20 defendants has not been disclosed.

21 **IV. THE ANTICIPATED TESTIMONY DOES NOT CONSTITUTE REBUTTAL**  
22 **EVIDENCE**

23 With respect to the possibility that Plaintiffs seek to introduce the testimony of these  
24 witnesses simply for rebuttal purposes in an attempt to rebut or impeach the prior trial testimony  
25 of the Defendants' witnesses before Defendants have an opportunity to present their case-in-chief,  
26 it is simply not proper at this time. The Nevada Supreme Court has long held that rebuttal  
27 evidence is evidence that "tends to contradict new matters raised by the adverse party." *Andrews v.*  
28

1 *Harley Davidson, Inc.*, 106 Nev. 533, 539, 769 P.2d 1092, 1096 (1990) (emphasis in original)  
2 (citing *Morrison v. Air California*, 101 Nev. 233, 235-36, 699 P.2d 600, 605 (1985)). When a  
3 party attempts to introduce "rebuttal" evidence that does not meet the definition of rebuttal  
4 evidence, then the trial court should exclude it. *Id.* (holding that "the court correctly excluded" a  
5 "rebuttal" witness whose testimony did not address any new matters, but matters that were known,  
6 anticipated, and expected.) If the issue was or could have been known, anticipated, or expected,  
7 then the evidence is not proper rebuttal evidence and must be excluded. See, e.g., *Id.*, Andrews,  
8 103 Nev. at 539

9 Rebuttal evidence explains, contradicts, or disproves evidence introduced by a defendant in  
10 his case-in-chief. *Morrison v. Air California*, 101 Nev. 233, 235-36, 699 P.2d 600, 602 (1985).  
11 The test for determining what constitutes rebuttal evidence is whether the evidence offered tends  
12 to contradict new matters raised by the adverse party. *Id.* Here, Defendants have not even begun  
13 their case-chief nor have any of the Defendants' witnesses who have testified to date have raised  
14 any new matters that may be contradicted. Defendants anticipate that Plaintiffs' sole reason for  
15 calling these individuals as rebuttal witnesses is so that they can provide testimony that there were  
16 allegedly prior accidents or injuries to audience members who participated in the "Thirteen"  
17 illusion over the past twenty years. However, the Defendants' witnesses have only testified that to  
18 their knowledge no other injuries have resulted from audience members participating in the  
19 subject illusion. Their respective testimony does not claim that no other accidents have ever  
20 occurred with an audience member who participated in the "Thirteen" illusion over the past twenty  
21 years. They simply testified that they have no knowledge of any incidents. In fact, Mr. Kenner  
22 specifically testified that he has personal knowledge that a person or people have fallen in the past  
23 while participating in this specific illusion. He also testified that he may not have been told of  
24 prior injuries if they were not serious injuries. See trial transcript page 201:20-206:6.

25 Since Defendants have only testified that they are not personally aware of any accidents  
26 that resulted in serious injuries there is nothing for these proposed witnesses to rebut. Therefore,  
27 the anticipated testimony of these proposed witnesses does not constitute rebuttal evidence. As a  
28

1 result, this court should exclude these proposed witnesses at this time.

2 **V. CONCLUSION**

3 Plaintiffs never attempted this type of discovery or witness identification during the  
4 discovery period. Plaintiff went to the media and posted on social media but did not attempt to  
5 discover additional witnesses. Plaintiffs were merely looking to sensationalize the case. At this  
6 point Plaintiffs' late discovery attempts are untimely and prejudicial. Plaintiffs have not even  
7 identified any specifics as to the anticipated areas of testimony expected. Plaintiffs have even  
8 obtained documents and failed to disclose. The anticipated testimony does not constitute rebuttal  
9 evidence and there is no relevance.  
10

11 DATED: April 25, 2018

SELMAN BREITMAN LLP

14 By: /s/ Eric O. Freeman

15 ELAINE K. FRESCH  
16 NEVADA BAR NO. 9263  
17 ERIC O. FREEMAN  
18 NEVADA BAR NO. 6648  
19 JERRY C. POPOVICH [PRO HAC]  
20 CALIFORNIA BAR NO. 138636  
21 3993 Howard Hughes Parkway, Suite 200  
22 Las Vegas, NV 89169-0961  
23 Telephone: 702.228.7717  
24 Facsimile: 702.228.8824  
25 Attorneys for Defendant DAVID  
26 COPPERFIELD'S DISAPPEARING, INC.,  
27 DAVID COPPERFIELD aka DAVID KOTKIN,  
28 and MGM GRAND HOTEL, LLC.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Selman Breitman LLP and, pursuant to:

☒ **BY E-MAIL/ELECTRONIC SERVICE:** N.R.C.P. 5(b), I caused the foregoing document to be served upon the persons designated by the parties in the E-Service master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

a true and correct copy of the above and foregoing **DEFENDANTS DAVID COPPERFIELD'S DISAPPEARING, INC., DAVID COPPERFIELD, AND MGM GRAND HOTEL, LLC'S TRIAL BRIEF REGARDING UNDISCLOSED WITNESSES**, this 25 day of April 2018, addressed as follows:

  
CRYSTAL MARTIN  
An Employee of Selman Breitman LLP

**AFFIDAVIT OF JERRY C. POPOVICH IN SUPPORT OF DEFENDANT MGM GRAND  
HOTEL, LLC, DAVID COPPERFIELD AND DAVID COPPERFIELD'S  
DISAPPEARING, INC.'S TRIAL BRIEF ON UNDISCLOSED WITNESSES**

STATE OF NEVADA            )  
COUNTY OF CLARK        ) ss:

JERRY C. POPOVICH, being first duly sworn, deposes and states as follows:

1. The undersigned is an attorney licensed to practice law in the State of California and is admitted in Nevada by way of Pro Hac Vice. I am a partner in the law firm of SELMAN BREITMAN LLP, the attorneys retained to represent Defendants MGM GRAND HOTEL, LLC, DAVID COPPERFIELD aka DAVID S. KOTKIN, and DAVID COPPERFIELD'S DISAPPEARING, INC., in the above-captioned matter.

2. On Wednesday, April 18, 2018, counsel for Plaintiffs informed Judge Denton and defense counsel that they had been contacted by several people claiming they had information or knowledge regarding the Thirteen illusion and prior injuries. They promised to perform a due diligence investigation into these witnesses and provide the court and defense counsel with a proper disclosure by Friday, April 20, 2018.

3. On Friday, April 20, 2018, counsel for Plaintiffs emailed three names with one sentence as to each persons anticipated testimony. Also provided were a couple of attachments of proposed proof of their involvement as a participant in the illusion or work as a stagehand. (See email attached as Exhibit A)

4. After defense counsel requested addresses and phone numbers, Plaintiffs' counsel provided a phone number for each of the three proposed witnesses. (See email attached as Exhibit B)

5. Defense counsel again requested physical addresses and inquired as to how they expected to call these people as witnesses without addresses. Plaintiffs' counsel responded by telling defense counsel to call the witnesses and ask them for their information. Plaintiffs' counsel has not supplied any further information regarding the proposed witnesses. Furthermore,

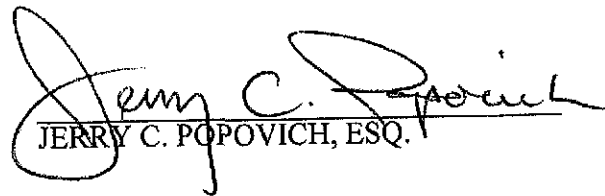
1 Plaintiffs' counsel has not disclosed any additional information or documents received from these  
2 witnesses. (See email chain attached as Exhibit C)

3 6. On Saturday, April 21, 2018, at 4:45 p.m. PDT, I attempted to contact Amy  
4 Lawrence at the telephone number provided by Plaintiffs' counsel. I left a message stating who I  
5 was, why I was calling, I requested return contact, and provided my telephone number and email  
6 address.

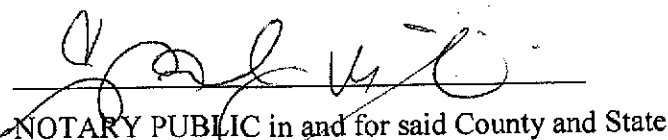
7 7. After receiving no response from Ms. Lawrence, on Monday, April 23, 2018, at  
8 1:35 p.m. PDT, I again attempted to contact Amy Lawrence by placing another call to the  
9 telephone number provided by Plaintiffs' counsel. Once again, I left a message, repeating the  
10 details, and again provided my telephone number and email address.

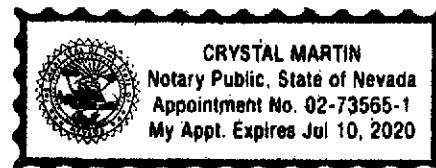
11 8. To date, I have not received any response from Ms. Lawrence; however, she has  
12 continued contact with Plaintiffs' counsel as Plaintiffs' counsel has stated that she coordinated  
13 travel and testimony plans with them and is currently in Las Vegas planning to testify. Also, at the  
14 bench on April 24, 2018, Mr. Deutsch stated that he knew that I had tried to contact Ms.  
15 Lawrence, which could only have come from Ms. Lawrence.

16 Further, Affiant sayeth naught.

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
JERRY C. POPOVICH, ESQ.

21 SUBSCRIBED AND SWORN to before  
22 me this 25 day of April, 2018.

23  
24  
25  
26  
27  
28  
  
NOTARY PUBLIC in and for said County and State



# **EXHIBIT A**

JA001852

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 12:57 PM  
**To:** Roger Strassburg; gcall@rlattorneys.com; Russell, Howard; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Elaine K. Fresch  
**Cc:** Perry Fallick; 'Brian Harris'; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; 'Peggy Fromhart'  
**Subject:** COX v. MGM Plaintiff's Supplemental Witness Disclosure  
**Attachments:** Amy Lawrence\_Copperfield Email\_6.18.13.pdf; Photos taken Thursday 11.doc; Rice Crew Tshirt.jpg; Amy Lawrence\_Facebook Post.jpg  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Counsel,

As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed over the last two days. It is our intention to call these women next week.

1. Patricia Esack— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
2. Amy Lawrence— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
3. Elizabeth Rice— Her testimony is anticipated to involve her personal experience working as a stagehand for the David Copperfield show on the 13 illusion.

We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield are from Ms. Lawrence.

Be guided accordingly,  
Adam

MORELLI LAW FIRM, PLLC  
777 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
p.212-751-9800  
f.212-751-0046

## **EXHIBIT B**

**JA001854**

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 1:29 PM  
**To:** Russell, Howard; Roger Strassburg; gcall@rlattorneys.com; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Elaine K. Fresch  
**Cc:** Perry Fallick; 'Brian Harris'; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; 'Peggy Fromhart'  
**Subject:** RE: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Patricia Esack – 203-770-7686  
Amy Lawrence -269-207-7552  
Elizabeth Rice – 512-773-3641

**From:** Russell, Howard <HRussell@wwhgd.com>  
**Sent:** Friday, April 20, 2018 4:24 PM  
**To:** Adam Deutsch <ADeutsch@morellilaw.com>; Roger Strassburg <rstrassburg@rlattorneys.com>; gcall@rlattorneys.com; Roberts, Lee <LRoberts@wwhgd.com>; jpopovich@selmanlaw.com; Eric O. Freeman <efreeman@selmanlaw.com>; efresch@selmanlaw.com  
**Cc:** Perry Fallick <PFallick@morellilaw.com>; 'Brian Harris' <BHarris@harrislawyers.net>; Heather Harris <HHarris@harrislawyers.net>; Christian Griffin (CGriffin@harrislawyers.net) <CGriffin@harrislawyers.net>; Benedict P. Morelli <BMorelli@morellilaw.com>; 'Peggy Fromhart' <PFromhart@harrislawyers.net>  
**Subject:** Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Maybe I missed it, but please provide addresss and phone numbers for each.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone

[cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]

Howard J. Russell, Attorney

Weinberg Wheeler Hudgins Gunn & Dial

6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118

[www.wwhgd.com](http://www.wwhgd.com)<<http://www.wwhgd.com>> | vCard<<http://www.wwhgd.com/vcard-54.vcf>>

----- Original message -----

From: Adam Deutsch <[ADeutsch@morellilaw.com](mailto:ADeutsch@morellilaw.com)>

Date: 4/20/18 12:57 PM (GMT-08:00)

To: Roger Strassburg <[rstrassburg@rlattorneys.com](mailto:rstrassburg@rlattorneys.com)>, [gcall@rlattorneys.com](mailto:gcall@rlattorneys.com), "Russell, Howard" <[HRussell@wwhgd.com](mailto:HRussell@wwhgd.com)>, "Roberts, Lee" <[LRoberts@wwhgd.com](mailto:LRoberts@wwhgd.com)>, [jpopovich@selmanlaw.com](mailto:jpopovich@selmanlaw.com), "Eric O. Freeman" <[efreeman@selmanlaw.com](mailto:efreeman@selmanlaw.com)>, [efresch@selmanlaw.com](mailto:efresch@selmanlaw.com)

Cc: Perry Fallick <[PFallick@morellilaw.com](mailto:PFallick@morellilaw.com)>, 'Brian Harris' <[BHarris@harrislawyers.net](mailto:BHarris@harrislawyers.net)>, Heather Harris <[HHarris@harrislawyers.net](mailto:HHarris@harrislawyers.net)>, "Christian Griffin ([CGriffin@harrislawyers.net](mailto:CGriffin@harrislawyers.net))" <[CGriffin@harrislawyers.net](mailto:CGriffin@harrislawyers.net)>, "Benedict P. Morelli" <[BMorelli@morellilaw.com](mailto:BMorelli@morellilaw.com)>, 'Peggy Fromhart' <[PFromhart@harrislawyers.net](mailto:PFromhart@harrislawyers.net)>  
Subject: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Counsel,

As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed over the last two days. It is our intention to call these women next week.

1. Patricia Esack— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
2. Amy Lawrence— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
3. Elizabeth Rice— Her testimony is anticipated to involve her personal experience working as a stagehand for the David Copperfield show on the 13 illusion.

We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield are from Ms. Lawrence.

Be guided accordingly,  
Adam

MORELLI LAW FIRM, PLLC  
777 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
p.212-751-9800  
f.212-751-0046

The information contained in this message may contain privileged client confidential information. If you have received this message in error, please delete it and any copies immediately.

# **EXHIBIT C**

JA001857

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 1:46 PM  
**To:** Elaine K. Fresch  
**Cc:** Russell, Howard; Roger Strassburg; gcall@rlattorneys.com; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Perry Fallick; Brian Harris; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; Peggy Fromhart  
**Subject:** Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Call them ask for their info. Why do I need addresses to call someone as witness? As long as I have the address to the Courthouse.

Morelli Law Firm PLLC  
777 Third Avenue  
New York, New York 1007  
p. 212-751-9800  
f. 212-751-0046

Sent from my iPhone

> On Apr 20, 2018, at 4:42 PM, Elaine K. Fresch <EFresch@selmanlaw.com> wrote:

>

> How are you calling them as witnesses-if you have no addresses.

>

> Sent from my iPhone. Please excuse any typos.

>

>> On Apr 20, 2018, at 1:36 PM, Adam Deutsch <ADeutsch@morellilaw.com> wrote:

>>

>> I don't have addresses.

>>

>> Morelli Law Firm PLLC

>> 777 Third Avenue

>> New York, New York 1007

>> p. 212-751-9800

>> f. 212-751-0046

>>

>> Sent from my iPhone

>>

>> On Apr 20, 2018, at 4:32 PM, Russell, Howard <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>> wrote:

>>

>> Do you not have physical addresses?

>>

>>

>>

>> Sent from my Verizon, Samsung Galaxy smartphone

>>

>>

>>

>>

>> [cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]  
>>  
>>  
>>  
>> Howard J. Russell, Attorney  
>>  
>>  
>> Weinberg Wheeler Hudgins Gunn & Dial  
>>  
>>  
>> 6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118  
>>  
>>  
>> D: 702.938.3810 | F: 702.938.3864  
>>  
>>  
>> www.wwhgd.com<http://www.wwhgd.com><http://www.wwhgd.com> | vCard<http://www.wwhgd.com/vcard-54.vcf>  
>>  
>>  
>>  
>> ----- Original message -----  
>> From: Adam Deutsch <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com>>  
>> Date: 4/20/18 1:29 PM (GMT-08:00)  
>> To: "Russell, Howard" <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>>, Roger Strassburg  
<rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com>>,  
gcall@rlattorneys.com,<mailto:gcall@rlattorneys.com>, "Roberts, Lee"  
<LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com>>,  
jpopovich@selmanlaw.com,<mailto:jpopovich@selmanlaw.com>, "Eric O. Freeman"  
<efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com>>,  
efresch@selmanlaw.com<mailto:efresch@selmanlaw.com>  
>> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com>>, 'Brian Harris'  
<BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net>>, Heather Harris  
<HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net>>, "Christian Griffin  
(CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>)"  
<CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>>, "Benedict P. Morelli"  
<BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com>>, 'Peggy Fromhart'  
<PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net>>  
>> Subject: RE: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
>>  
>> Patricia Esack - 203-770-7686  
>> Amy Lawrence -269-207-7552  
>> Elizabeth Rice - 512-773-3641  
>>  
>> From: Russell, Howard <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>>  
>> Sent: Friday, April 20, 2018 4:24 PM  
>> To: Adam Deutsch <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com>>, Roger Strassburg  
<rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com>>,  
gcall@rlattorneys.com<mailto:gcall@rlattorneys.com>; Roberts, Lee  
<LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com>>;  
jpopovich@selmanlaw.com<mailto:jpopovich@selmanlaw.com>; Eric O. Freeman

<efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com>>;  
 efresch@selmanlaw.com<mailto:efresch@selmanlaw.com>  
 >> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com>>; 'Brian Harris'  
 <BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net>>; Heather Harris  
 <HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net>>; Christian Griffin  
 (CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>)  
 <CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>>; Benedict P. Morelli  
 <BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com>>; 'Peggy Fromhart'  
 <PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net>>  
 >> Subject: Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
 >>  
 >>  
 >>  
 >> Maybe I missed it, but please provide addresss and phone numbers for each.  
 >>  
 >> Thank you.  
 >>  
 >>  
 >>  
 >> Sent from my Verizon, Samsung Galaxy smartphone  
 >>  
 >>  
 >>  
 >>  
 >> [cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]  
 >>  
 >>  
 >>  
 >> Howard J. Russell, Attorney  
 >>  
 >>  
 >> Weinberg Wheeler Hudgins Gunn & Dial  
 >>  
 >>  
 >> 6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118  
 >>  
 >>  
 >> D: 702.938.3810 | F: 702.938.3864  
 >>  
 >>  
 >>  
 www.wwhgd.com<http://www.wwhgd.com><http://www.wwhgd.com>><http://www.wwhgd.com<http://www.wwhgd.com>> | vCard<http://www.wwhgd.com\vcard-54.vcf<http://www.wwhgd.com\vcard-54.vcf>>  
 >>  
 >>  
 >>  
 >> ----- Original message -----  
 >> From: Adam Deutsch  
 <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com><mailto:ADeutsch@morellilaw.com>>  
 >> Date: 4/20/18 12:57 PM (GMT-08:00)  
 >> To: Roger Strassburg  
 <rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com><mailto:rstrassburg@rlattorneys.com>>,

gcall@rlattorneys.com<mailto:gcall@rlattorneys.com>,<mailto:gcall@rlattorneys.com>,"Russell, Howard"  
 <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com><mailto:HRussell@wwhgd.com>>,"Roberts, Lee"  
 <LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com><mailto:LRoberts@wwhgd.com>>,  
 jpopovich@selmanlaw.com<mailto:jpopovich@selmanlaw.com>,<mailto:jpopovich@selmanlaw.com>,"Eric O.  
 Freeman" <efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com><mailto:efreeman@selmanlaw.com>>,  
 efresch@selmanlaw.com<mailto:efresch@selmanlaw.com><mailto:efresch@selmanlaw.com>>  
 >> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com><mailto:PFallick@morellilaw.com>>,  
 'Brian Harris' <BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net><mailto:BHarris@harrislawyers.net>>,  
 Heather Harris <HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net><mailto:HHarris@harrislawyers.net>>,  
 "Christian Griffin (CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net><mailto:CGriffin@harrislawyers.net>)"  
 <CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net><mailto:CGriffin@harrislawyers.net>>,"Benedict P.  
 Morelli" <BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com><mailto:BMorelli@morellilaw.com>>,"Peggy  
 Fromhart"  
 <PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net><mailto:PFromhart@harrislawyers.net>>  
 >> Subject: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
 >>  
 >> Counsel,  
 >> As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed  
 over the last two days. It is our intention to call these women next week.  
 >>  
 >>  
 >> 1. Patricia Esack- Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.  
 >> 2. Amy Lawrence- Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.  
 >> 3. Elizabeth Rice- Her testimony is anticipated to involve her personal experience working as a stagehand for the  
 David Copperfield show on the 13 illusion.  
 >>  
 >> We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is  
 from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield  
 are from Ms. Lawrence.  
 >>  
 >> Be guided accordingly,  
 >> Adam  
 >>  
 >> MORELLI LAW FIRM, PLLC  
 >> 777 THIRD AVENUE  
 >> NEW YORK, NEW YORK 10017  
 >> p.212-751-9800  
 >> f.212-751-0046  
 >>  
 >>  
 >> The information contained in this message may contain privileged client confidential information. If you have  
 received this message in error, please delete it and any copies immediately.  
 >

**AFFIDAVIT OF ERIC O. FREEMAN IN SUPPORT OF DEFENDANT MGM GRAND  
HOTEL, LLC, DAVID COPPERFIELD AND DAVID COPPERFIELD'S  
DISAPPEARING, INC.'S TRIAL BRIEF ON UNDISCLOSED WITNESSES**

STATE OF NEVADA            )  
                                      ) ss:  
COUNTY OF CLARK         )

ERIC O. FREEMAN, being first duly sworn, deposes and states as follows:

1. The undersigned is an attorney licensed to practice law in the State of Nevada and is employed as an attorney at the law firm of SELMAN BREITMAN LLP, the attorneys retained to represent Defendants MGM GRAND HOTEL, LLC, DAVID COPPERFIELD aka DAVID S. KOTKIN, and DAVID COPPERFIELD'S DISAPPEARING, INC., in the above-captioned matter.

2. On Wednesday, April 18, 2018, counsel for Plaintiffs informed Judge Denton and defense counsel that they had been contacted by several people claiming they had information or knowledge regarding the Thirteen illusion and prior injuries. They promised to perform a due diligence investigation into these witnesses and provide the court and defense counsel with a proper disclosure by Friday, April 20, 2018.

3. On Friday, April 20, 2018, counsel for Plaintiffs emailed three names with one sentence as to each persons anticipated testimony. Also provided were a couple of attachments of proposed proof of their involvement as a participant in the illusion or work as a stagehand. (See email attached as Exhibit A).

4. After defense counsel requested addresses and phone numbers, Plaintiffs' counsel provided a phone number for each of the three proposed witnesses. (See email attached as Exhibit B).

5. Defense counsel again requested physical addresses and inquired as to how they expected to call these people as witnesses without addresses. Plaintiffs' counsel responded by telling defense counsel to call the witnesses and ask them for their information. Plaintiffs' counsel has not supplied any further information regarding the proposed witnesses. Furthermore, Plaintiffs' counsel has not disclosed any additional information or documents received from these

1 witnesses. (See email chain attached as Exhibit C).

2 6. On Sunday afternoon, April 22, 2018, I was able to get in contact with Patricia  
3 Esack by telephone. Ms. Esack agreed to speak with me and she told me that she had been in  
4 contact with Plaintiffs' counsel, she had provided Plaintiffs' counsel with some documents and her  
5 prior attorney had also provided Plaintiffs' counsel additional documents.

6 7. As of Wednesday morning, April 25, 2018, Plaintiffs' counsel has never produced  
7 any documents provided by Ms. Esack. While Defense counsel has attempted to obtain these  
8 documents on their own, defendants do not know if they have received everything provided to  
9 Plaintiffs' counsel.

10 Further, Affiant sayeth naught.

11  
12  
13

ERIC O. FREEMAN, ESQ.

14  
15 SUBSCRIBED AND SWORN to before  
me this 25 day of April, 2018.



16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

# **EXHIBIT A**

JA001864

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 12:57 PM  
**To:** Roger Strassburg; gcall@rlattorneys.com; Russell, Howard; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Elaine K. Fresch  
**Cc:** Perry Fallick; 'Brian Harris'; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; 'Peggy Fromhart'  
**Subject:** COX v. MGM Plaintiff's Supplemental Witness Disclosure  
**Attachments:** Amy Lawrence\_Copperfield Email\_6.18.13.pdf; Photos taken Thursday 11.doc; Rice Crew Tshirt.jpg; Amy Lawrence\_Facebook Post.jpg  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Counsel,

As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed over the last two days. It is our intention to call these women next week.

1. Patricia Esack— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
2. Amy Lawrence— Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
3. Elizabeth Rice— Her testimony is anticipated to involve her personal experience working as a stagehand for the David Copperfield show on the 13 illusion.

We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield are from Ms. Lawrence.

Be guided accordingly,  
Adam

MORELLI LAW FIRM, PLLC  
777 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
p.212-751-9800  
f.212-751-0046

## **EXHIBIT B**

JA001866

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 1:29 PM  
**To:** Russell, Howard; Roger Strassburg; gcall@rlattorneys.com; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Elaine K. Fresch  
**Cc:** Perry Fallick; 'Brian Harris'; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; 'Peggy Fromhart'  
**Subject:** RE: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Patricia Esack – 203-770-7686  
Amy Lawrence -269-207-7552  
Elizabeth Rice – 512-773-3641

**From:** Russell, Howard <HRussell@wwhgd.com>  
**Sent:** Friday, April 20, 2018 4:24 PM  
**To:** Adam Deutsch <ADeutsch@morellilaw.com>; Roger Strassburg <rstrassburg@rlattorneys.com>; gcall@rlattorneys.com; Roberts, Lee <LRoberts@wwhgd.com>; jpopovich@selmanlaw.com; Eric O. Freeman <efreeman@selmanlaw.com>; efresch@selmanlaw.com  
**Cc:** Perry Fallick <PFallick@morellilaw.com>; 'Brian Harris' <BHarris@harrislawyers.net>; Heather Harris <HHarris@harrislawyers.net>; Christian Griffin (CGriffin@harrislawyers.net) <CGriffin@harrislawyers.net>; Benedict P. Morelli <BMorelli@morellilaw.com>; 'Peggy Fromhart' <PFromhart@harrislawyers.net>  
**Subject:** Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Maybe I missed it, but please provide addresss and phone numbers for each.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone

[cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]

Howard J. Russell, Attorney

Weinberg Wheeler Hudgins Gunn & Dial

6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118

[www.wwhgd.com](http://www.wwhgd.com)<<http://www.wwhgd.com>> | vCard<<http://www.wwhgd.com/vcard-54.vcf>>

----- Original message -----

From: Adam Deutsch <[ADeutsch@morellilaw.com](mailto:ADeutsch@morellilaw.com)>

Date: 4/20/18 12:57 PM (GMT-08:00)

To: Roger Strassburg <[rstrassburg@rlattorneys.com](mailto:rstrassburg@rlattorneys.com)>, [gcall@rlattorneys.com](mailto:gcall@rlattorneys.com), "Russell, Howard" <[HRussell@wwhgd.com](mailto:HRussell@wwhgd.com)>, "Roberts, Lee" <[LRoberts@wwhgd.com](mailto:LRoberts@wwhgd.com)>, [jpopovich@selmanlaw.com](mailto:jpopovich@selmanlaw.com), "Eric O. Freeman" <[efreeman@selmanlaw.com](mailto:efreeman@selmanlaw.com)>, [efresch@selmanlaw.com](mailto:efresch@selmanlaw.com)

Cc: Perry Fallick <[PFallick@morellilaw.com](mailto:PFallick@morellilaw.com)>, 'Brian Harris' <[BHarris@harrislawyers.net](mailto:BHarris@harrislawyers.net)>, Heather Harris <[HHarris@harrislawyers.net](mailto:HHarris@harrislawyers.net)>, "Christian Griffin" <[CGriffin@harrislawyers.net](mailto:CGriffin@harrislawyers.net)>" <[CGriffin@harrislawyers.net](mailto:CGriffin@harrislawyers.net)>, "Benedict P. Morelli" <[BMorelli@morellilaw.com](mailto:BMorelli@morellilaw.com)>, 'Peggy Fromhart' <[PFromhart@harrislawyers.net](mailto:PFromhart@harrislawyers.net)>

Subject: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Counsel,

As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed over the last two days. It is our intention to call these women next week.

1. Patricia Esack– Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
2. Amy Lawrence– Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.
3. Elizabeth Rice– Her testimony is anticipated to involve her personal experience working as a stagehand for the David Copperfield show on the 13 illusion.

We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield are from Ms. Lawrence.

Be guided accordingly,  
Adam

MORELLI LAW FIRM, PLLC  
777 THIRD AVENUE  
NEW YORK, NEW YORK 10017  
p.212-751-9800  
f.212-751-0046

The information contained in this message may contain privileged client confidential information. If you have received this message in error, please delete it and any copies immediately.

# **EXHIBIT C**

JA001869

**Eric O. Freeman**

---

**From:** Adam Deutsch <ADeutsch@morellilaw.com>  
**Sent:** Friday, April 20, 2018 1:46 PM  
**To:** Elaine K. Fresch  
**Cc:** Russell, Howard; Roger Strassburg; gcall@rlattorneys.com; Roberts, Lee; Jerry C. Popovich; Eric O. Freeman; Perry Fallick; Brian Harris; Heather Harris; Christian Griffin (CGriffin@harrislawyers.net); Benedict P. Morelli; Peggy Fromhart  
**Subject:** Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure

Call them ask for their info. Why do I need addresses to call someone as witness? As long as I have the address to the Courthouse.

Morelli Law Firm PLLC  
777 Third Avenue  
New York, New York 1007  
p. 212-751-9800  
f. 212-751-0046

Sent from my iPhone

> On Apr 20, 2018, at 4:42 PM, Elaine K. Fresch <EFresch@selmanlaw.com> wrote:

>

> How are you calling them as witnesses-if you have no addresses.

>

> Sent from my iPhone. Please excuse any typos.

>

>> On Apr 20, 2018, at 1:36 PM, Adam Deutsch <ADeutsch@morellilaw.com> wrote:

>>

>> I don't have addresses.

>>

>> Morelli Law Firm PLLC

>> 777 Third Avenue

>> New York, New York 1007

>> p. 212-751-9800

>> f. 212-751-0046

>>

>> Sent from my iPhone

>>

>> On Apr 20, 2018, at 4:32 PM, Russell, Howard <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>> wrote:

>>

>> Do you not have physical addresses?

>>

>>

>>

>> Sent from my Verizon, Samsung Galaxy smartphone

>>

>>

>>

>>

>> [cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]  
>>  
>>  
>>  
>> Howard J. Russell, Attorney  
>>  
>>  
>> Weinberg Wheeler Hudgins Gunn & Dial  
>>  
>>  
>> 6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118  
>>  
>>  
>> D: 702.938.3810 | F: 702.938.3864  
>>  
>>  
>> www.wwhgd.com<http://www.wwhgd.com><http://www.wwhgd.com> | vCard<http://www.wwhgd.com/vcard-54.vcf>  
>>  
>>  
>>  
>> ----- Original message -----  
>> From: Adam Deutsch <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com>>  
>> Date: 4/20/18 1:29 PM (GMT-08:00)  
>> To: "Russell, Howard" <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>>, Roger Strassburg  
<rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com>>, gcall@rlattorneys.com,<mailto:gcall@rlattorneys.com>,"Roberts, Lee" <LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com>>, jpopovich@selmanlaw.com,<mailto:jpopovich@selmanlaw.com>,"Eric O. Freeman" <efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com>>, efresch@selmanlaw.com<mailto:efresch@selmanlaw.com>  
>> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com>>, 'Brian Harris' <BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net>>, Heather Harris <HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net>>, "Christian Griffin (CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>)" <CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>>, "Benedict P. Morelli" <BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com>>, 'Peggy Fromhart' <PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net>>  
>> Subject: RE: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
>>  
>> Patricia Esack - 203-770-7686  
>> Amy Lawrence - 269-207-7552  
>> Elizabeth Rice - 512-773-3641  
>>  
>> From: Russell, Howard <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com>>  
>> Sent: Friday, April 20, 2018 4:24 PM  
>> To: Adam Deutsch <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com>>; Roger Strassburg <rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com>>; gcall@rlattorneys.com<mailto:gcall@rlattorneys.com>; Roberts, Lee <LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com>>; jpopovich@selmanlaw.com<mailto:jpopovich@selmanlaw.com>; Eric O. Freeman

<efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com>>;  
 efresch@selmanlaw.com<mailto:efresch@selmanlaw.com>  
 >> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com>>; 'Brian Harris'  
 <BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net>>; Heather Harris  
 <HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net>>; Christian Griffin  
 (CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>)  
 <CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net>>; Benedict P. Morelli  
 <BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com>>; 'Peggy Fromhart'  
 <PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net>>  
 >> Subject: Re: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
 >>  
 >>  
 >>  
 >> Maybe I missed it, but please provide addresss and phone numbers for each.  
 >>  
 >> Thank you.  
 >>  
 >>  
 >>  
 >> Sent from my Verizon, Samsung Galaxy smartphone  
 >>  
 >>  
 >>  
 >> [cid:LOGO\_ab89ebf0-bbc1-4cd6-98a7-7a9b4e554067.png]  
 >>  
 >>  
 >>  
 >> Howard J. Russell, Attorney  
 >>  
 >>  
 >> Weinberg Wheeler Hudgins Gunn & Dial  
 >>  
 >>  
 >> 6385 South Rainbow Blvd. | Suite 400 | Las Vegas, NV 89118  
 >>  
 >>  
 >> D: 702.938.3810 | F: 702.938.3864  
 >>  
 >>  
 >>  
 www.wwhgd.com<http://www.wwhgd.com><http://www.wwhgd.com>><http://www.wwhgd.com<http://www.wwhgd.com>> | vCard<http://www.wwhgd.com/vcard-54.vcf<http://www.wwhgd.com/vcard-54.vcf>>  
 >>  
 >>  
 >>  
 >> ----- Original message -----  
 >> From: Adam Deutsch  
 <ADeutsch@morellilaw.com<mailto:ADeutsch@morellilaw.com><mailto:ADeutsch@morellilaw.com>>  
 >> Date: 4/20/18 12:57 PM (GMT-08:00)  
 >> To: Roger Strassburg  
 <rstrassburg@rlattorneys.com<mailto:rstrassburg@rlattorneys.com><mailto:rstrassburg@rlattorneys.com>>,

gcall@rlattorneys.com<mailto:gcall@rlattorneys.com>,<mailto:gcall@rlattorneys.com>,"Russell, Howard"  
 <HRussell@wwhgd.com<mailto:HRussell@wwhgd.com><mailto:HRussell@wwhgd.com>>,"Roberts, Lee"  
 <LRoberts@wwhgd.com<mailto:LRoberts@wwhgd.com><mailto:LRoberts@wwhgd.com>>,  
 jpopovich@selmanlaw.com<mailto:jpopovich@selmanlaw.com>,<mailto:jpopovich@selmanlaw.com>,"Eric O.  
 Freeman" <efreeman@selmanlaw.com<mailto:efreeman@selmanlaw.com><mailto:efreeman@selmanlaw.com>>,  
 efresch@selmanlaw.com<mailto:efresch@selmanlaw.com><mailto:efresch@selmanlaw.com>>  
 >> Cc: Perry Fallick <PFallick@morellilaw.com<mailto:PFallick@morellilaw.com><mailto:PFallick@morellilaw.com>>,  
 'Brian Harris' <BHarris@harrislawyers.net<mailto:BHarris@harrislawyers.net><mailto:BHarris@harrislawyers.net>>,  
 Heather Harris <HHarris@harrislawyers.net<mailto:HHarris@harrislawyers.net><mailto:HHarris@harrislawyers.net>>,  
 "Christian Griffin (CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net><mailto:CGriffin@harrislawyers.net>)"  
 <CGriffin@harrislawyers.net<mailto:CGriffin@harrislawyers.net><mailto:CGriffin@harrislawyers.net>>,"Benedict P.  
 Morelli" <BMorelli@morellilaw.com<mailto:BMorelli@morellilaw.com><mailto:BMorelli@morellilaw.com>>,"Peggy  
 Fromhart"  
 <PFromhart@harrislawyers.net<mailto:PFromhart@harrislawyers.net><mailto:PFromhart@harrislawyers.net>>  
 >> Subject: COX v. MGM Plaintiff's Supplemental Witness Disclosure  
 >>  
 >> Counsel,  
 >> As discussed and in good faith, please find the names and areas of testimony of our additional witnesses as discussed  
 over the last two days. It is our intention to call these women next week.  
 >>  
 >>  
 >> 1. Patricia Esack- Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.  
 >> 2. Amy Lawrence- Her testimony is anticipated to involve her personal experience as a participant in the 13 illusion.  
 >> 3. Elizabeth Rice- Her testimony is anticipated to involve her personal experience working as a stagehand for the  
 David Copperfield show on the 13 illusion.  
 >>  
 >> We are including documents provided to us by each of the above. The photograph of the Copperfield Crew T-shirt is  
 from Ms. Rice. The photographs of injuries are from Ms. Esack. And the Facebook post and email from Mr. Copperfield  
 are from Ms. Lawrence.  
 >>  
 >> Be guided accordingly,  
 >> Adam  
 >>  
 >> MORELLI LAW FIRM, PLLC  
 >> 777 THIRD AVENUE  
 >> NEW YORK, NEW YORK 10017  
 >> p.212-751-9800  
 >> f.212-751-0046  
 >>  
 >>  
 >> The information contained in this message may contain privileged client confidential information. If you have  
 received this message in error, please delete it and any copies immediately.  
 >



1 **TB**  
2 D. Lee Roberts, Jr., Esq.  
3 Nevada Bar No. 8877  
4 [lroberts@wwhgd.com](mailto:lroberts@wwhgd.com)  
5 Howard J. Russell, Esq.  
6 Nevada Bar No. 8879  
7 [hrussell@wwhgd.com](mailto:hrussell@wwhgd.com)  
8 **WEINBERG, WHEELER, HUDGINS,**  
9 **GUNN & DIAL, LLC**  
10 6385 S. Rainbow Blvd., Suite 400  
11 Las Vegas, Nevada 89118  
12 Telephone: (702) 938-3838  
13 Facsimile: (702) 938-3864

14 *Attorneys for Defendant*  
15 *Backstage Employment and Referral, Inc.*

16 **DISTRICT COURT**  
17 **CLARK COUNTY, NEVADA**

18 GAVIN COX and MINH-HAHN COX,  
19 Husband and Wife,

20 Plaintiffs,

21 v.

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

Defendants.

MGM GRAND HOTEL, LLC,

Third-Party Plaintiff,

v.

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

Third-Party Defendants.

Case No.: A-14-705164-C

Dept. No.: XIII

**BACKSTAGE EMPLOYMENT AND  
REFERRAL, INC.'S TRIAL BRIEF  
REGARDING NEW AND  
PREVIOUSLY UNDISCLOSED  
WITNESSES**

1 Defendant **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** (“Backstage”), by  
2 and through its attorneys of record, the law firm of WEINBERG, WHEELER, HUDGINS, GUNN & DIAL,  
3 LLC, hereby submits this Trial Brief Regarding New and Previously Undisclosed Witnesses.

4 Plaintiffs intend to call three previously undisclosed witnesses at trial. Plaintiffs’ counsel  
5 contends these witnesses contacted their office in response to the widespread publicity of this trial.  
6 For the reasons set forth below, Plaintiffs should be precluded from calling any of these witnesses.

7 Pursuant to EDCR 2.67, the Pretrial Memorandum must include “A list of the witnesses  
8 (including experts), and the address of each witness which each party intends to call. Failure to  
9 list a witness, including impeachment witnesses, may result in the court’s precluding the party  
10 from calling that witness.” (Emphasis added). None of the newly identified witnesses were  
11 identified in the Pre-Trial Memorandum or on Plaintiffs’ witness list. In addition, despite the  
12 requirements of EDCR 2.67, and despite expressly agreeing to provide address information by the  
13 close of business on April 20, 2018, Plaintiffs’ counsel has still not provided address information  
14 for these witnesses. A simple and straightforward application of the Nevada Rules of Civil  
15 Procedure and the local rules of this court requires the exclusion of new, surprise witnesses not  
16 disclosed in accordance with the rules.

17 **I. PLAINTIFFS CANNOT USE THESE WITNESSES TO IMPEACH**  
18 **BACKSTAGE**

19 The new witnesses are not “rebuttal” witnesses. Plaintiffs cannot use the testimony of these  
20 new witnesses to impeach Backstage. Plaintiffs’ counsel has consistently argued that the lack of  
21 prior accidents is a “defense” to the action. This is a misnomer. Backstage only raised the issue of  
22 prior injuries at the MGM, over the course of the ten years prior to Mr. Cox’s fall, to point out that  
23 Plaintiffs cannot meet their burden and in response to Plaintiffs’ expressed intention in opening  
24 statements to put on evidence of prior falls. *See* Trans. of April 13, 2018, at 139.

25 The “lack of prior accidents” is not an affirmative defense for which Backstage bears any  
26 burden of proof; rather, it is Plaintiffs’ burden to prove that Backstage had notice that the manner  
27 of performing the illusion was dangerous. If Plaintiffs wish to use prior accidents to establish  
28 some prior notice to Backstage of hazards of the Illusion, it is Plaintiffs’ burden as part of their

1 *prima facie* case to do so. By pointing out that Plaintiffs will be able to show no evidence of prior  
2 falls at the MGM, Backstage was simply pointing out that Plaintiffs will not be able to meet their  
3 burden by showing past, substantially similar accidents.

4 Plaintiffs have tried to characterize this new testimony as rebuttal evidence in order to  
5 justify their failure to disclose them prior to trial. First, if that were true, Plaintiffs would need to  
6 wait until the defense rests its case, which it has not done. But more importantly, the test for  
7 determining what constitutes rebuttal evidence is "whether the evidence offered tends to contradict  
8 new matters raised by the adverse party." *Andrews v. Harley Davidson, Inc.*, 106 Nev. 533, 539  
9 (1990). It was Plaintiffs who in fact raised the issue of prior accidents as part of their case in chief  
10 to challenge the sufficiency of the investigation into Mr. Cox's accident. In opening, before any  
11 defendant said anything, Mr. Morelli stated:

12 Now, I'll ask the questions of if something's not reported or if something's not  
13 written down, does that mean it didn't happen? Is -- does that mean that you can  
14 now say 100,000 people have participated and no one's ever been injured because  
15 you don't take down the information and you don't investigate and you don't ask  
16 questions of witnesses and you don't ask questions of the participants, therefore it  
17 didn't happen? So you so it anecdotally? I'm going to ask those questions. I'm  
18 good at it.

19 Trans. of April 13, 2018, at 55.

20 Mr. Morelli informed the jury that Plaintiffs would prove the fact of prior falls to establish  
21 negligence on Backstage's part:

22 Now, after the screening is done and the people are chosen -- chosen --  
23 oftentimes, the people who started don't finish. They don't finish. **And we're**  
24 **going to prove to you**, for various reasons. It's too hard, they're out of breath,  
25 they lose shoes, **they fall**, they stumble into one another, and they don't finish.

26 So we submit to you that, not knowing what they have to do, they can't make a  
27 decision as to whether to say yes. **So we're going to show you that, no matter**  
28 **what the defendants tell you now, people have fallen before.**

29 Trans. of April 13, 2018, at 47-48. Mr. Morelli clearly understood it was his burden of proof, and  
30 indeed it was his intent, to establish that prior falls had occurred. One wonders how he could have  
31 been so confident, given the fact he had not disclosed one his pretrial witness list a single witness  
32 (other than Mr. Cox) who claimed to have fallen, or witnessed a fall, before this trial started.  
33 Nevertheless, the evidence Plaintiffs now wish to present is evidence they should have to present in

1 their case in chief, and cannot now couch the evidence as “rebuttal” evidence to anything  
2 Backstage or other defendants have stated.

3 **II. THE NEW WITNESSES HAVE NO RELEVANT EVIDENCE TO OFFER**

4 Substantively, the new witnesses either have no directly relevant information to offer, or  
5 could have been discovered by Plaintiffs long ago. Each will be addressed in turn:

6 **1) Patricia Esack**

7 Ms. Esack was allegedly involved in the 13 Illusion when it was a traveling production. It  
8 is Backstage’s understanding that Ms. Esack was allegedly injured in 2002 at the Paramount  
9 Theater in Seattle, Washington. *See* Settlement Demand, Exhibit “A”. The description of the  
10 illusion as performed in Seattle differs in several respects from what the evidence in this case is  
11 regarding the Illusion as performed at the MGM. For example, Ms. Esack’s attorney referenced  
12 going up stairs, and then an unexpected step down; this is not consistent with the route at the MGM  
13 and indeed Mr. Cox does not claim injury from traversing stairs. Second, the only reference to the  
14 people involved in the illusion in Seattle are Mr. Copperfield’s “assistants”, which could just as  
15 easily been local Seattle stagehands as opposed to any Backstage employees. Finally, it is  
16 unknown at this point whether she reported this incident to anyone employed by Backstage.

17 *Her testimony would be significantly more prejudicial than probative. Her claimed*  
18 *injury occurred at a different venue, with a different route for participants, involving different*  
19 *employees, under circumstances that cannot be linked to Mr. Cox’s accident.*

20 “A showing of substantial similarity is required when a plaintiff attempts to introduce  
21 evidence of other accidents as direct proof of negligence, a design defect, or notice of the defect.”  
22 *White v. Ford Motor Co.*, 312 F.3d 998, 1009 (9th Cir. 2002) (quoting *Cooper v. Firestone Tire*  
23 *and Rubber Co.*, 945 F.2d 1103, 1105 (9th Cir. 1991)); *see also Andrews v. Harley Davidson, Inc.*,  
24 106 Nev. 533, 538, 796 P.2d 1092, 1096 (1990) (“Whether the jury may be allowed to draw an  
25 inference as to the defectiveness of a product from prior failures depends on whether the factors  
26 which produced the prior failures were substantially similar to the factors which produced the  
27 present failure.”).

28 “The admissibility of prior accident reports must be evaluated carefully due to their

1 inflammatory nature and possible misinterpretation by the jury. To minimize the possibility of  
2 unfair prejudice to the defendant, a showing of 'substantial similarity' is required." *Schwartz v.*  
3 *New Castle Corp.*, 1997 WL 753346, at \*2 (9th Cir. Nov. 26, 1997) (unpublished disposition  
4 addressing admissibility of prior incidents for slip and fall at Excalibur Hotel (citing *Cooper*, 945  
5 F.2d at 1105)). "The lack of any similarity between the prior act and the crime charged greatly  
6 undermines the relevance and admissibility of the evidence." *Cipriano v. State*, 111 Nev. 534,  
7 542, 894 P.2d 347 (1995); *overruled on other grounds*, *State v. Sixth Judicial Dist. Court*, 964 P.  
8 2d 48, 114 Nev. 739 (1998).

9 Ms. Esack's accident is simply too remote in time and too distinct in circumstances,  
10 without any relation to Plaintiffs' criticisms of the route at the MGM or the alleged presence of  
11 construction dust on the night of Mr. Cox's accident. It is irrelevant and her testimony should not  
12 be allowed. NRS 48.035.

13 Finally, Plaintiffs cannot show that they exercised due diligence to obtain this information  
14 earlier. To date, Backstage has found no evidence that it was ever made aware of Ms. Esack's  
15 incident<sup>1</sup>, but the question before the Court should be whether any effort was made previously to at  
16 least start that search.

17 Plaintiffs had, and in fact did, ask about prior incidents Backstage was aware of. In  
18 Plaintiff Gavin Cox's Interrogatories to Backstage, served in 2015, request was made for incidents  
19 which occurred for the prior 7 years (essentially back to 2008). *See* Gavin Cox's Interrogatories to  
20 Backstage, served February 12, 2015, attached hereto as Exhibit B. Even if Backstage had even  
21 been aware of Ms. Esack's incident, it would not have fallen within that scope. Plaintiffs also  
22 noticed Backstage's NRCP 30(b)(6) witness to testify to incidents going back to November 12,  
23 2008. *See* Second Amended Notice of NRCP 30(b)(6) Witness for Backstage Employment and  
24 Referral, Inc., served January 14, 2016, at Topic #16, attached hereto as Exhibit C. Again, Ms.  
25 Esack's claim would not have fallen within that scope.

26 Even if Ms. Esack's accident, which occurred 12 years before Mr. Cox's, at a different  
27

28 <sup>1</sup> Indeed, the only evidence revealed to date is that communications were made only to  
DCDI.

1 venue, under wholly different circumstances, was remotely relevant, Plaintiffs still never requested  
2 documents that would have covered that time frame. Whether Backstage was actually on notice of  
3 Ms. Esack's claim, which is not conceded, the point is that no inquiry was made that would have  
4 even triggered a search for this information.

5 **2) Elizabeth Rice**

6 Ms. Rice is a former employee who worked with the David Copperfield show several years  
7 prior to Mr. Cox's accident. She was not employed in 2013, and not on the night in question.  
8 During discovery, Plaintiffs had every opportunity to inquire into any former employees of any the  
9 defendants who may have been involved over the years in the 13 Illusion. Plaintiffs never asked  
10 for this information, and only requested information on employees who were involved in Mr.  
11 Cox's illusion or on site within a week prior. Ms. Rice was neither. Plaintiffs' lack of diligence in  
12 seeking information on prior employees prevents them from trying to call Ms. Rice as a witness  
13 now.

14 Further, Plaintiffs' claim has always centered on Mr. Cox slipping in construction dust – a  
15 claim from which they have never relented. That being so, any testimony to be offered from Ms.  
16 Rice wholly lacks probative value. Ms. Rice could offer no relevant testimony on the condition of  
17 the MGM premises on the evening in question, the pace at which Mr. Cox's group moved through  
18 the Illusion, or the facts of his accident. Even looking at the broader issue of falls under substantial  
19 circumstances, there has been no proffer that this witness has knowledge of admissible falls under  
20 similar circumstances. See NRS 48.035.

21 **3) Amy Lawrence**

22 The scope of Ms. Lawrence's testimony is unknown, but all Plaintiffs have revealed is that  
23 she suffered an injury participating in the 13 Illusion in 2013. The nature of that injury, how her  
24 accident occurred, and whether she reported the injury to any of the defendants have not been  
25 disclosed.

26 The need to establish substantial similarity means that this information should have been  
27 disclosed to the court as part of Plaintiffs request to add witnesses, and the inquiry should stop  
28 here. If substantial similarity is contended, Defendants must be given an opportunity to depose

1 Ms. Lawrence (which is difficult given Plaintiffs' counsel's failure to provide her address) to test  
2 her knowledge and avoid unfair surprise. This will lead to a mini-trial of Ms. Lawrence's claim,  
3 and further delays in a trial Plaintiffs' counsel claimed would be tried expeditiously.

4 Nevertheless, to Backstage's present knowledge, no such claim was submitted or reported  
5 to it by this or any other witness. But there is a significant irony here: Plaintiffs' counsel, after  
6 learning of one of the new witnesses said "I am not shocked, but I am writing to advise that  
7 minutes ago we received yet another call from a former participant in the 13 illusion who may have  
8 information relevant to this matter." See Email from Adam Deutsch, Esq., April 19, 2018, attached  
9 hereto as Exhibit D. Plaintiffs' counsel recognizes that trial publicity (some in violation of the  
10 rules) had the very effect they aimed for: the potential of bringing potential witnesses to the  
11 forefront.

12 This case has been set and re-set for trial on numerous occasions. Plaintiffs' counsel has  
13 not been shy about reaching out to the press, and in fact Plaintiffs themselves were interviewed by  
14 in 2016 about this. See Articles, attached hereto as Exhibit E. As the Court has seen, it does not  
15 take much for the media to take a new item about a celebrity and make it a top story, yet Plaintiffs  
16 must contend that only now people have come forward. This is specious – If Mr. Morelli's  
17 interviews on national news programs, and cameras in the courthouse has triggered witnesses to  
18 come forward, then Plaintiffs could possibly have found other witnesses earlier on by engaging in  
19 such tactics during discovery.

20 **III. ANY TESTIMONY FROM THESE WITNESSES COULD LEAD TO A**  
21 **LENGTHY PARADE OF WITNESSES TO REBUT PLAINTIFFS' NEW**  
22 **EVIDENCE**

23 Just as Plaintiffs' counsel has allegedly been contacted by new witnesses, in fact there is  
24 significantly more positive feedback on social media about the Illusion and past participants'  
25 experiences finding the illusions safe. This new information also appears to be a response to the  
26 trial publicity. Backstage is in the process of trying to obtain contact information for individuals  
27 who are sharing their stories on social media, and if indeed Plaintiffs start to bring in witnesses to  
28 discuss their experiences, Backstage would be entitled to do the same.

///

1           **IV. ANY TESTIMONY FROM UNDISCLOSED WITNESSES SHOULD LEAD**  
2           **TO A MISTRIAL**

3           While the Court should at least allow a continuance to conduct depositions and thoroughly  
4 vet this new evidence, that is not be enough to avoid prejudice to defendants. Based on the  
5 evidence counsel reasonably and honestly thought would be adduced at trial in reliance on  
6 discovery disclosures, certain representations were made during opening statements. At this point,  
7 it is wholly unclear whether these new witnesses could offer testimony to contradict those  
8 statements, and discovery will at least be necessary. But if that discovery reveals only an  
9 unintentional misstatement of the expected evidence – it will result in trial by ambush and the  
10 prejudice may simply be too great to allow defendants a fair trial.

11           A “request for a mistrial may be granted for any number of reasons where some prejudice  
12 occurs that prevents the defendant from receiving a fair trial.” *Bubak v. State*, 2017 WL 570931,  
13 Docket No. 69096, February 08, 2017 (unpublished decision) (*quoting Rudin v. State*, 120 Nev.  
14 121, 144, 86 P.3d 572, 587 (2004)). While a mistrial may be a last resort, there are circumstances  
15 where new evidence is so prejudicial that a mistrial is the only option. *Cf. Bubak*. Even a  
16 continuance here to conduct discovery from these witnesses could prove insufficient to lessen the  
17 prejudice to the various defendants here, and a mistrial would plainly be within the Court’s  
18 discretion.

19           **V. PREVENTING UNFAIR SURPRISE AND PREJUDICE TO DEFENDANTS**  
20           **OUTWEIGHS CONCERNS ABOUT THE TRUTH SEEKING FUNCTION**  
21           **OF TRIAL.**

22           In “Formal Legal Truth and Substantive Truth in Judicial Fact-Finding – Their Justified  
23 Divergence in Some Particular Cases” (1999). Cornell Law Faculty Publications. Paper 1186,<sup>2</sup> the  
24 author reconciles the truth seeking function of the court with other policy considerations. It must  
25 be readily acknowledged that witnesses and evidence are excluded from trial on a daily basis.  
26 “[T]rial court procedures and the rules of evidence, though generally directed at substantive  
27 truth, are also designed to serve other ends that actually come into play in a particular case”. As  
28

---

<sup>2</sup> <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2388&context=facpub>.

1 more specifically explained later in the article:

2 Evidence may be kept from the fact-finder because of the time constraints  
3 operating within an adjudicative process, and because of the importance of  
4 finality. Fact finding must take place in definite time periods, and such  
5 processes cannot go on forever. Yet their conduct may not, for a variety of  
6 reasons, coincide with a time when most of the testimony of witnesses and  
7 other evidence likely to be nearest the truth is readily available. In these terms,  
8 a trial may occur "too late" or "too soon". And when it is held, it will be  
9 necessary to get it over within a discrete time period. Disputes must be settled,  
10 and settled with finality. The law includes many doctrines which, in part,  
11 reflect such time factors.

12 Considerations of justice and fairness, and discouraging mischief and surprise in future cases,  
13 outweigh any concerns that exclusion of these surprise witnesses will impede the search for the  
14 truth.

### 15 CONCLUSION

16 For the reasons stated herein, Backstage requests that the newly and previously undisclosed  
17 witnesses be excluded from testifying.

18 DATED this 25<sup>th</sup> day of April, 2018.

19 /s/ D. Lee Roberts, Jr.

20 D. Lee Roberts, Jr., Esq.

21 Howard J. Russell, Esq.

22 WEINBERG, WHEELER, HUDGINS,

23 GUNN & DIAL, LLC

24 6385 S. Rainbow Blvd., Suite 400

25 Las Vegas, NV 89118

26 *Attorneys for Defendant*

27 *Backstage Employment and Referral, Inc.*

Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
(702) 938-3838

## CERTIFICATE OF SERVICE

I hereby certify that on the 25<sup>th</sup> day of April, 2018, a true and correct copy of the foregoing  
**BACKSTAGE EMPLOYMENT AND REFERRAL, INC.'S TRIAL BRIEF REGARDING  
NEW AND PREVIOUSLY UNDISCLOSED WITNESSES** was electronically filed / served on  
counsel through the Court's electronic service system pursuant to Administrative Order 14-2 and  
N.E.F.C.R. 9, via the electronic mail addresses noted below, unless service by another method is  
stated or noted:

<p>Brian K. Harris, Esq. Christian N. Griffin, Esq. HARRIS &amp; HARRIS 2029 Alta Dr. Las Vegas, NV 89106 <a href="mailto:bharris@harrislawyers.net">bharris@harrislawyers.net</a></p> <p><i>Attorneys for Plaintiffs</i></p>	<p>Eric O. Freeman, Esq. SELMAN BREITMAN, LLP 3993 Howard Hughes Pkwy., Suite 200 Las Vegas, NV 89169 <a href="mailto:efreeman@selmanbreitman.com">efreeman@selmanbreitman.com</a></p> <p><i>Attorney for Defendants David Copperfield's Disappearing, Inc., David Copperfield aka David S. Kotkin and MGM Grand Hotel, LLC</i></p>
<p>Benedict P. Morelli, Esq. Adam E. Deutsch, Esq. MORELLI LAW FIRM PLLC 777 Third Ave., 31<sup>st</sup> Floor New York, NY 10017 <a href="mailto:bmorelli@morellilaw.com">bmorelli@morellilaw.com</a> <a href="mailto:adeutsch@morellilaw.com">adeutsch@morellilaw.com</a></p> <p><i>Attorneys for Plaintiffs</i></p>	<p>Jerry C. Popovich, Esq. SELMAN BREITMAN, LLP 6 Hutton Centre Dr., Suite 1100 Santa Ana, CA 92707 <a href="mailto:jpopovich@selmanlaw.com">jpopovich@selmanlaw.com</a></p> <p><i>Attorney for Defendants David Copperfield's Disappearing, Inc., David Copperfield aka David S. Kotkin and MGM Grand Hotel, LLC</i></p>
<p>Gary Call, Esq. Melissa L. Alessi, Esq. RESNICK &amp; LOUIS, P.C. 5940 S. Rainbow Blvd. Las Vegas, NV 89118 (702) 997-3800 Office (702) 997-3800 Fax <a href="mailto:gcall@rlattorneys.com">gcall@rlattorneys.com</a> <a href="mailto:malessi@rlattorneys.com">malessi@rlattorneys.com</a></p> <p><i>Attorneys for Defendants Team Construction Management, Inc. and Beacher's LV, LLC</i></p>	<p>Michael V. Infuso, Esq. Keith W. Barlow, Esq. Sean B. Kirby, Esq. GREENE INFUSO, LLP 3030 S. Jones Blvd., Suite 101 Las Vegas, NV 89146 <a href="mailto:minfuso@greeneinfusolaw.com">minfuso@greeneinfusolaw.com</a> <a href="mailto:kbarlow@greeneinfusolaw.com">kbarlow@greeneinfusolaw.com</a> <a href="mailto:skirby@greeneinfusolaw.com">skirby@greeneinfusolaw.com</a></p> <p><i>Attorneys for MGM Grand Hotel, LLC</i></p>

/s/ Rose C. Macalma  
An Employee of WEINBERG, WHEELER,  
HUDGINS, GUNN & DIAL, LLC

# **EXHIBIT A**

# **EXHIBIT A**

JA001884

CHARLES E. CLARK, MBA\*  
JOHN D. CLARK, CPCU

**CLARK & CLARK, PLLC**  
ATTORNEYS AT LAW

TELEPHONE (425) 427-1356  
FAX (425) 427-2443

6415 E LAKE SAMMAMISH PARKWAY SE, SUITE 203  
ISSAQUAH, WA 98029

\* Also Licensed in California

June 7, 2004

Chubb Group  
Attn: Kay A. Burdine  
Senior Litigation Examiner  
601 Union Street, Suite 3800  
Seattle, WA 98101-2337

**FOR SETTLEMENT PURPOSES ONLY**  
**NOT TO BE USED IN VIOLATION OF ER 408**

<b>Re:</b>	<b>Our Client:</b>	<b>Patricia Esack</b>
	<b>Your Insured:</b>	<b>David Copperfield's Disappearing Inc.</b>
	<b>Your Policy #:</b>	<b>7951-68-38</b>
	<b>Your Claim #:</b>	<b>047502063595</b>
	<b>Date of Loss:</b>	<b>November 17, 2002</b>

Dear Ms. Burdine:

As you know, we represent Patricia Esack for injuries suffered at David Copperfield's show on November 17, 2002. We are writing this letter in an attempt to present all supporting documentation for her claim, with a view toward an amicable and expeditious settlement that will avoid the necessity of costly litigation. This letter and its contents are submitted for settlement purposes only and may not be utilized in any subsequent judicial or quasi-judicial proceeding.

We are enclosing the following documents to support Patricia Esack's claims for special and general damages:

1. Copy of Show Tickets
2. Press Release
3. Billing Record – American Medical Response
4. Medical Records – Harborview Medical Center
5. Billing Records – Harborview Medical Center
6. Billing Records – UW Physicians

JA001885

7. Medical and Billing Records – Interlake Medical Center
8. Medical and Billing Records – Bellevue Physical Therapy
9. Medical Records –Highline Hand Therapy
10. Medical Expense Summary
11. Out of Pocket Expenses
12. Loss of Income Documentation
13. Photos of Patricia Esack

Healthcare reports are being provided for the sole purpose of expediting settlement, and the provision thereof is not intended, nor shall it be deemed, as a waiver, express or implied, of the patient-physician privilege.

#### **FACTS OF THE ACCIDENT**

At the time of this incident Patricia Esack was a 39-year-old woman working at Microsoft as a programming manager. She has no prior injury claims and no prior wrist fractures.

On November 17, 2002, Ms. Esack went to the 4:00 p.m. David Copperfield show at the Paramount Theatre in Seattle, King County, Washington. (See Ticket Stubs, **Exhibit 1.**) This was a special occasion because Ms. Esack took her 80-year-old mother to the show as a surprise. Ms. Esack was selected from the audience to be a volunteer for one of David Copperfield's illusions.

Ms. Esack was selected to participate in David Copperfield's "Thirteen" illusion, which is described as follows:

*One of Copperfield's most heavily-requested creations, thirteen audience members chose entirely at random vanish, leaving friends and family wondering whether to applaud or put their loved ones' faces on milk cartons. Their fears are allayed as the thirteen reappear, instantly, in the most surprising of places.*

(See Press Release, **Exhibit 2.**)

Ms. Esack was escorted onto the stage and instructed where to stand. She was handed a flashlight. However, the flashlight was used for the illusion and was taken from her before she exited the stage.

A curtain went across the volunteers to hide them from the audience, and Ms. Esack and the other volunteers were instructed to exit the stage. Her position among the other volunteers placed her at the front of the line when they exited the stage for the illusion. David Copperfield's assistants were yelling at the volunteers to move fast. Some of the assistants were yelling "run, run, run." Ms. Esack and the other volunteers were following the demands of the assistants, as they ran through dimly lit and dark areas of the theater. The assistants also handed Ms. Esack something to carry, which she held in her right arm and assumed it was needed for the illusion.

As Ms. Esack was following commands she quickly went up a dangerous and dark stairwell, and at the top of stairwell was an unexpected step down. She fell down hard and landed on her left arm. She tried to get back up and fell back down. Ms. Esack was wearing high heel boots that evening. She was not informed that her participation in the illusion would require her run in high heels in a dark theater with twelve other volunteers running behind her.

Ms. Esack had to remain outside the theater and was eventually transferred to Harborview Medical Center by one of two ambulances that arrived. At this time a very large crowd had gathered outside the theater. David Copperfield ended his show following this incident, and no one informed Ms. Esack's mother about her daughter's injuries or that she had to be taken to the hospital. Physicians at Harborview tried to set the fracture in her arm and were unsuccessful. She was diagnosed with a left Barton-type fracture and had to undergo a surgery consisting of open reduction internal fixation and a volar plate.

### **LIABILITY**

The issue of negligence should not be in dispute in this case. Negligent conduct consists of (1) the existence of a duty owed to the complaining party; (2) a breach thereof; and (3) a resulting injury. *LaPlante v. State*, 85 Wn.2d 154, 159, 531 P.2d 299 (1975). All three of these elements are present in Ms. Esack's case.

Washington follows the Restatement (Second), Torts § 332 (1965), which defines an "invitee" as follows:

- (1) An invitee is either a public invitee or a business visitor.
- (2) A public invitee is a person who is invited to enter or remain on land as a member of the public for a purpose for which the land is held open to the public.
- (3) A business visitor is a person who is invited to enter or remain on land for a purpose directly or indirectly connected with business dealings with the possessor of the land.

Chubb Group  
Attn: Kay A. Burdine  
June 7, 2004  
Page 4

See *McKinnon v. Washington Federal Sav. & Loan Assoc.*, 68 Wn.2d 644, 650, 414 P.2d 773 (1966). Ms. Esack was a business invitee who was at the show for the pecuniary benefit of the Seattle Theatre Group and David Copperfield.

With regard to the duty owed to invitees, Washington follows the Restatement (Second) of Torts § 342, which provides:

A possessor of land is subject to liability for physical harm caused to licensees by a condition on the land if, but only if,

(a) the possessor knows or has reason to know of the condition and should realize that it involves an unreasonable risk of harm to such licensees, and should expect that they will not discover or realize the danger, and

(b) he fails to exercise reasonable care to make the condition safe, or to warn the licensees of the condition and the risk involved, and

(c) the licensees do not know or have reason to know of the condition and the risk involved.

See *Memel v. Reimer*, 85 Wn.2d 685, 689, 537 P.2d 517 (1975). It was clearly an unreasonable risk to select a volunteer wearing high heels, give her something to hold in her hands, and yell at her to run quickly across dimly lit steps without giving her any warnings. The conditions were not safe and absolutely no warnings were given to Ms. Esack. Ms. Esack had no knowledge of the dangerous condition that caused her to fall, and she could not be expected to discover the condition since she was being yelled at to hurry by Mr. Copperfield's assistants.

Landowners owe invitees an affirmative duty to discover dangerous conditions. *Egede-Nissen v. Crystal Mountain, Inc.*, 93 Wn.2d 127, 132, 606 P.2d 1214 (1980). It was negligent to place Ms. Esack in the situation that caused her injury. Also, it is well established that, on the question of foreseeability, the pertinent inquiry is not whether the actual harm sustained by Ms. Esack was of a particular kind which was expectable, but whether the actual harm fell within a *general field of danger* which should have been anticipated. See *Fleming v. Seattle*, 45 Wn.2d 477, 275 P.2d 904 (1954); *McLeod v. Grant Cy. School Dist.*, 42 Wn.2d 316, 255 P.2d 360 (1953); *Berglund v. Spokane Cy.*, 4 Wn.2d 309, 103 P.2d 355 (1940). Mr. Copperfield should have anticipated that the conduct he was demanding from Ms. Esack was dangerous.

We should also note that Mr. Copperfield's assistants were not particularly helpful to Ms. Esack after her fall. It was the theater manager that helped her and went back into the theater to try to find her mother and explain what happened. David Copperfield never did speak with Ms. Esack or personally check on her, and no one on his staff checked on her at the hospital.

JA001888

## **TREATMENT HISTORY**

### **American Medical Response**

An ambulance arrived at Paramount Theatre and found Ms. Esack sitting outside on the sidewalk. Ms. Esack was transported to Harborview Medical Center. (*See* Billing Record, Exhibit 3.)

### **Harborview Medical Center/UW Physicians/John Sack, MD**

When Ms. Esack arrived at Harborview Medical Center, she was examined, her left wrist was described as "grossly deformed," and several x-rays were taken. The x-rays revealed a comminuted distal left radius fracture with volar dislocation of the carpus and an ulnar styloid fracture. She was diagnosed with a reverse Barton's fracture of volar distal radius with volar dislocation of the carpus.

Physicians tried to set Ms. Esack's wrist fracture and were unsuccessful. The attempt at setting the fracture was a very painful procedure. On November 18, 2002, Ms. Esack underwent surgery for reduction of her fracture. The surgery was performed at Harborview by John Sack, MD, who works out of UW Medical Center. Dr. Sack's surgery procedure required a general anesthetic, a four-inch incision to her wrist, and the attachment of a distal radial plate held together with screws to hold the fracture together. A cast was then applied to her wrist. She was released from the hospital on November 19, 2002 and was not able to return to work.

She followed up with Dr. Sack on December 2, 2002 and was found to have only minimal wrist flexion and extension. She was put in a short arm cast and told to wear it for three to four weeks. Three weeks later Ms. Esack returned to Dr. Sack with complaints of pain and difficulty sleeping due to pain. She was placed in a new short arm cast and instructed to wear it an additional three weeks.

On January 13, 2003, she returned for an exam, and she was given a removable wrist splint and was instructed on daily light wrist exercises. When she returned on February 24, 2003, she was still experiencing swelling and significant shooting pain in her wrist. She was referred for physical therapy and was told to use ice and Ibuprofen as needed. On May 5, 2003 she was still wearing a brace and experiencing wrist pain, and Dr. Sack recommended that she continue her therapy on her own. He also noted that she still had a decreased range of motion and decreased strength in her left hand.

On August 11, 2003, x-rays showed that her fracture had healed. However, she still had continued wrist pain and limitations in pronation and supination. She was told to continue stretching and exercise activities and follow-up again in six months. Dr. Sack last examined Ms. Esack on February 2, 2004, and he noted that she did have full range of motion, full pronation and supination, and full flexion and extension. However, Ms. Esack was still experiencing wrist pain after activities where she uses her left hand. Her left forearm circumference was a quarter

inch less than her right arm. Dr. Sack stated that she probably is suffering from joint capsule pain, and she would have to "learn to live with this discomfort as it is." (See Harborview Medical Records, **Exhibit 4**, Harborview Billing Records, **Exhibit 5**, and UW Physicians Billing Records, **Exhibit 6**.)

#### **Interlake Medical Center/Theresa Girolami, MD**

Ms. Esack also followed-up with her primary treating physician, Theresa Girolami, MD at Interlake Medical Center. Dr. Girolami first treated Ms. Esack for this injury on November 25, 2002, at which time Dr. Girolami changed Ms. Esack's pain medication due to adverse reactions.

Ms. Esack treated with Dr. Girolami several more times, and the medical records confirm that Ms. Esack was experiencing wrist pain throughout her recovery. By March 17, 2003, Ms. Esack was icing her wrist six times a day to reduce her pain. Dr. Girolami's April 21, 2003 record shows that Ms. Esack had been sleeping poorly since the fracture occurred in November of 2002. When Dr. Girolami examined Ms. Esack on October 20, 2003, a decreased range of motion and flexion was still noted. (See Medical Records and Billings, **Exhibit 7**.)

#### **Bellevue Physical Therapy**

On the referral from Dr. Sack, Bellevue Physical Therapy provided several modalities of treatment for Ms. Esack's wrist from February 28, 2003 through May 8, 2003. A March 7, 2003 progress report notes that Ms. Esack was having considerable daily pain and often waking up at night. By May of 2003, Ms. Esack was still experiencing significant wrist pain and swelling, and Dr. Sack discontinued the treatment. (See Medical Records and Billings, **Exhibit 8**.)

#### **Highline Hand Therapy**

On April 22, 2004, Ms. Esack underwent a thorough six and a half hour physical capacities evaluation at Highline Hand Therapy. The evaluation was conducted by Elizabeth Spencer Steffa, OTR/L, CHT. The details of the meticulous exam are outlined in great detail in the 23-page evaluation report.

The report reveals that Ms. Esack had decreased ability to touch her thumb to her middle finger on her left hand, and her wrist supination, flexion, and extension was significantly less in her left hand. In addition, the strength in her left hand was measurably lower than her right hand. Her left grip average was 38.7 pounds, which is 37.9% below the mean of 62.3 pounds. Ms. Esack also scored low on her left hand in several tests that measure dexterity skills. The report also states that Ms. Esack's wrist pain noticeably increased as the evaluation continued. (See Physical Capacities Evaluation, **Exhibit 9**.)

**SPECIAL DAMAGES**

Ms. Esack incurred approximately **\$18,837.17** in medical expenses. (See Medical Expense Summary, **Exhibit 10**.) She also incurred approximately **\$519.64** in out of pocket expenses related to this incident. (See Out of Pocket Expenses, **Exhibit 11**.)

Ms. Esack also missed work due to her injuries and treatment. She missed the following time from work:

<i>Date</i>	<i>Hours</i>	<i>Lost Income</i>
11/18/02	8	\$326.38
11/19/02	8	\$326.38
11/20/02	8	\$326.38
11/21/02	8	\$326.38
11/22/02	8	\$326.38
12/02/02	8	\$326.38
12/03/02	8	\$326.38
12/06/02	4	\$163.19
12/10/02	4	\$163.19
12/11/02	8	\$326.38
12/12/02	8	\$326.38
12/13/02	8	\$326.38
12/18/02	8	\$326.38
12/20/02	8	\$326.38
12/23/02	8	\$326.38
12/26/02	8	\$326.38
12/27/02	8	\$326.38
12/30/02	8	\$326.38
01/13/02	4	\$163.19
02/26/03	8	\$326.38
02/27/03	8	\$326.38
02/28/03	8	\$326.38
06/09/03	4	\$163.19
<b>TOTAL</b>		<b>\$6,853.98</b>

(See Loss of Income Documentation, **Exhibit 12**.) Thus, her total economic special damages are as follows:

Medical Expenses	\$18,837.17
Out of Pocket Expenses	\$519.64
Lost Income	\$6,853.98
<b>TOTAL</b>	<b>\$26,210.79</b>

### DISCUSSION

Ms. Esack has suffered a variety of problems following this incident. Her personal life, work life, and health have been adversely affected by her injury, and she is still dealing with her wrist pain. The first week of December in 2002, Ms. Esack had to cancel a ski trip in Whistler, British Columbia. A week later she had to cancel a trip to Florida due to her pain. In February of 2003, she had to cancel another trip for a major presentation for Microsoft because she was in too much pain. Also, there was going to be press at her presentation, and she wanted to avoid a public story about her being injured by David Copperfield.

For several months following the injury Ms. Esack was taking the prescription pain killer Oxycodone. The result was that this drug would make her tired and knock her out. This also made her work more difficult.

For over six months following the injury she had difficulty sleeping, which is noted throughout the medical record. Ms. Esack would wake up several times during the night due to pain. She would then need to ice her wrist for thirty to fort-five minutes before trying to return to sleep.

The injury also interfered with several of Ms. Esack's hobbies. Due to the long recovery and significant wrist pain, she was unable to ski following the incident until February 29, 2004. Ms. Esack was also an avid golfer, and she is still unable to swing a golf club without experiencing wrist pain. Ms. Esack has also not returned to bicycling, which she enjoyed prior to this injury. Ms. Esack has had to hire a company to do her lawn mowing and heavy gardening. She is now only able to do light gardening for about one hour at a time; otherwise, the pain is too great.

One of the greatest impacts on Ms. Esack's life from the injury has been her inability to enjoy activities such as belly dancing and yoga. Several belly dancing moves have become too painful to do for more than five or ten minutes. For example, she cannot play the Zills (finger cymbals) or perform wrist circles, which greatly impacts her ability to continue this endeavor. Prior to the injury she was taking three or four dance classes each week. To this date, she has only been able to take one class per week due to the resulting pain. Her yoga requires many moves where her body weight is supported on her wrists, and these moves are no longer possible. This includes even simple moves such as the downward facing dog. She has been required to dramatically adjust her yoga practice.

Ms. Esack's work at Microsoft was also made much more difficult due to her injury. The primary problem at her work has been wrist pain. Until about July of 2003, any amount of typing would cause serious wrist pain. Her job requires typing and computer use, and she must go to numerous meetings and take notes on a laptop computer, which requires carrying and typing on the laptop. She had to come up with ways to carry everything without using her left wrist.

Chubb Group  
Attn: Kay A. Burdine  
June 7, 2004  
Page 9

Microsoft recognized that she could not perform her job as usual with her injury. In January of 2003, Microsoft performed a workplace assessment to improve her work environment. This included Microsoft having to purchase a voice recognition system and train Ms. Esack to use the system. Microsoft also had to purchase a tablet laptop for Ms. Esack that allowed her to handwrite on the computer with her right hand and avoid typing with both hands. Without these adjustments, she would not have been able to perform her job for several more months after her return to work. Ms. Esack still has to use the tablet computer on a regular basis, and she still has to apply ice to her wrist at work to reduce the pain.

Another difficulty for Ms. Esack is that the surgically installed metal hardware in her wrist is permanent. For example, this metal hardware causes great difficulty for her when she goes through the airport for a flight. In addition to problems at the airport metal detector, she now must always undergo a full body scan for security purposes, which makes flying much more inconvenient for her. Also, when she flies, changes in cabin pressure greatly increase her wrist pain. On a flight in February of 2003, the pain was so severe that she passed out, and she had to fly back home instead of continuing on her planned trip.

Ms. Esack is also self-conscious of disfiguring four-inch scar on her left wrist. It is clear that this injury has caused considerable pain to Ms. Esack, and she still suffers from the pain. This injury could have been avoided if Mr. Copperfield's trick was carried out with a focus on the safety of the volunteers.

### CONCLUSION

Based on the foregoing, and keeping in mind that Ms. Esack still experiences pain from the effects of this injury and that she has reduced abilities in her left hand, we believe the sum of **\$156,210.79** represents a fair settlement of this claim. This settlement figure is based on the following damages:

Medical Expenses	\$18,837.17
Out of Pocket Expenses	\$519.64
Lost Income	\$6,853.98
General Damages	\$130,000.00
<b>TOTAL</b>	<b>\$156,210.79</b>

We truly hope that litigation does not become necessary and look forward to hearing from you.

Sincerely,

CLARK & CLARK, PLLC



John D. Clark

JA001893

*Chubb Group*  
*Attn: Kay A. Burdine*  
*June 7, 2004*  
*Page 10*

**Enclosures**

cc:    1) Client  
         2) Gallagher Bassett Services, Inc.  
         3) Seattle Theatre Group

JA001894

# **EXHIBIT B**

# **EXHIBIT B**

1 **TRACY A. EGLET, ESQ.**  
2 Nevada Bar No.: 6419  
3 **PAUL A. SHPIRT, ESQ.**  
4 Nevada Bar No.: 10441  
5 **EGLET LAW GROUP**  
6 400 South 7<sup>th</sup> Street, Suite 400  
7 Las Vegas, Nevada 89101  
8 Ph.: (702) 450-5400  
9 Fax: (702) 450-5451  
10 E-Mail: [eservice@egletlaw.com](mailto:eservice@egletlaw.com)  
11 *Attorneys for Plaintiffs*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 GAVIN COX and MINH-HAHN COX, Husband  
11 and Wife,

12 Plaintiff,

13 vs.

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

22 Defendants.

CASE NO. A-14-705164-C  
DEPT. NO. XIII

**PLAINTIFF GAVIN COX'S FIRST  
SET OF INTERROGATORIES TO  
THE DEFENDANT BACKSTAGE  
EMPLOYMENT AND REFERRAL,  
INC.**

23 Plaintiff, GAVIN COX, by and through his attorneys, TRACY A. EGLET, ESQ., and  
24 PAUL A. SHPIRT, ESQ., of the law firm of EGLET LAW GROUP, and pursuant to the  
25 provisions of Rule 33 of the Nevada Rules of Civil Procedure, hereby requests that the  
26 Defendant, BACKSTAGE EMPLOYMENT AND REFERRAL, INC., answer within thirty  
27  
28





1 (30) days and under oath, the following PLAINTIFF GAVIN COX'S FIRST SET OF  
2 INTERROGATORIES, as follows:

3 **DEFINITIONS & INSTRUCTIONS**

4 The following definitions apply to these Interrogatories and are expressly incorporated  
5 therein.

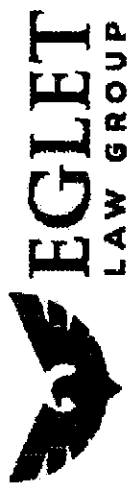
6  
7 1. The term "Subject Incident" shall be used to designate the accident, injury, or  
8 occurrence on November 12, 2013, that is the subject matter of the Plaintiffs' Complaint in the  
9 above captioned case.

10  
11 2. The term "You", "Your", "Defendant", shall be used to designate  
12 BACKSTAGE EMPLOYMENT AND REFERRAL, INC., and includes your agents, your  
13 employees, your insurance investigators, and anyone else acting on your behalf.

14  
15 3. The term "Lucky 13 Illusion" shall be used to designate the illusion that  
16 Plaintiff Gavin Cox participated in that is the subject of the instant Complaint. It is understood  
17 and accepted that this may not be the official name of the subject illusion and/or that various  
18 parties use various names for this illusion. However, it is further understood that when Plaintiff  
19 refers to "Lucky 13", regardless of any other trade and common names, it will refer to the  
20 subject illusion in which Plaintiff participated and as a result of which he fell and sustained  
21 injuries.

22  
23 4. The term "MGM Grand Hotel and Casino" or "MGM" shall be used to  
24 designate the venue where Plaintiff, GAVIN COX, attended and participate in the subject show  
25 and illusion, whether that is the official trade name of the venue or not.

26  
27 5. The term "Identify" means:  
28



1 a) When used in connection with a person, the person's full name, present  
2 or last known address, and, when referring to a natural person, the present or last known  
3 place of employment. Once a person has been identified in accordance with this  
4 subparagraph, only the name of that person need be listed in response to subsequent  
5 discovery requesting identification of that person.  
6

7 b) When used in connection with a document, the type of document, the  
8 general subject matter of the document, its physical description, date, author,  
9 addressee(s), and recipients(s), its current location, and identification of the current  
10 custodian.  
11

12 c) When used in connection with an oral communication, the nature of that  
13 communication, the parties to it, the date, place, and substance of that communication  
14 and the identification of any document concerning it.  
15

16 6. The connectives "and" and "or" shall be construed either disjunctively or  
17 conjunctively as necessary to bring within the scope of the discovery request all responses that  
18 might otherwise be construed to be outside of its scope.

19 7. The term "concerning" shall mean relating to, referring to, describing,  
20 evidencing, or constituting.  
21

22 These Interrogatories are continuing in nature. Should Defendant become aware of any  
23 information in addition to, or different than that stated in answers to the following  
24 Interrogatories, Defendant shall provide such information through supplemental answers.

25 **INTERROGATORY NO. 1:** Please state, with specificity, how you designed the pathway for  
26 participants in the "Lucky 13 Illusion" while performing this illusion at the MGM Grand Hotel  
27 and Casino in Las Vegas, Nevada.  
28



1 **INTERROGATORY NO. 2:** Please state what you were told about the subject incident  
2 involving Plaintiff, GAVIN COX, including the specific date, time, and person that informed  
3 you of the subject incident.

4  
5 **INTERROGATORY NO. 3:** Please state any and all investigations that you performed into  
6 how the subject incident occurred.

7 **INTERROGATORY NO. 4:** Please state any and all actions that you took, including any  
8 further direction that you gave to your staff, to specifically preclude this type of accident from  
9 occurring again.

10  
11 **INTERROGATORY NO. 5:** Please state what follow-up, if any, you or your crew did at your  
12 direction, had with Plaintiff GAVIN COX after you learned that he was injured during his  
13 participation in the "Lucky 13 Illusion".

14 **INTERROGATORY NO. 6:** Please state all other accidents, incidents, or injuries that you are  
15 aware of that occurred to or sustained by any participants in any of your shows in the last seven  
16 (7) years, including, but not limited the names of the injured persons, the types of injuries, how  
17 they were injured, and the approximate date of each such injury.

18  
19 **INTERROGATORY NO. 7:** Please identify all persons who witnessed the subject incident.  
20 If they are employees of your company, please state: (a) Whether they are currently employed  
21 by you; (b) Their present employment position with you; and (c) Their employment position  
22 with you at the time of the occurrence.

23  
24 **INTERROGATORY NO. 8:** Please identify all participants of the subject "Lucky 13  
25 Illusion" who was at the scene of the subject incident immediately before, at the time of, or  
26 immediately subsequent to the occurrence.

27  
28



1 **INTERROGATORY NO. 9:** Please identify all supervisory personnel whom you employed at  
2 the subject premises, specifically any supervisory personnel or management, employed or in  
3 charge of overseeing the operation of the "Lucky 13 Illusion" at the time of the subject  
4 incident, and state: (a) Whether they are currently employed by you; (b) Their present  
5 employment position with you; (c) Their employment position with you at the time of the  
6 occurrence; and (d) A description of their employment task(s) on the date of the occurrence.

8 **INTERROGATORY NO. 10:** Please identify all personnel whom you employed at the  
9 subject premises, specifically anyone employed in the day to day operation of the cleaning and  
10 maintenance of the subject area where Plaintiff GAVIN COX fell and was injured at the time  
11 and location of the subject incident, and state: (a) Whether they are currently employed by you;  
12 (b) Their present employment position with you; (c) Their employment position with you at the  
13 time of the occurrence.

15 **INTERROGATORY NO. 11:** At the time and location where Plaintiff GAVIN COX fell and  
16 was injured, do you contend that any person or entity other than you and your employees,  
17 servants, and agents was responsible for the cleaning and maintenance of the subject premises  
18 where Plaintiff alleges he was injured? If so, please state each and every fact which you base  
19 your contention and identify each and every writing that supports this contention.

21 **INTERROGATORY NO. 12:** Please state whether or not the subject area where Plaintiff,  
22 GAVIN COX, was injured was equipped with a video surveillance camera and, if so, whose  
23 responsibility it was on the date of the subject incident to monitor the surveillance camera and  
24 whether there are still tapes from the date of the incident, including the week both before and  
25 after the subject incident.



1 **INTERROGATORY NO. 13:** Please describe the lighting of the subject area where Plaintiff,  
2 GAVIN COX, fell and was injured on November 12, 2013, by setting forth the specific type  
3 and brand name of lighting fixture, the amount of wattage, voltage, and lumens per fixture, and  
4 whether the lighting fixture was controlled manually or on a timer on the date of the subject  
5 incident.  
6

7 **INTERROGATORY NO. 14:** Please identify all verbal or written instructions, warnings, and  
8 notices given to the Plaintiff, GAVIN COX, specifically, and/or to other participants prior to  
9 his involvement in the "Lucky 13 Illusion".  
10

11 **INTERROGATORY NO. 15:** Please state whether there were any barriers, markings, or any  
12 other warning signs at or near the area where Plaintiff GAVIN COX fell and was injured. If so,  
13 please describe exactly what each barrier, markings or warnings were; the exact dimensions of  
14 each warning; and the exact location of each warning.  
15

16 **INTERROGATORY NO. 16:** If you contend that Plaintiff, GAVIN COX, was comparative  
17 and/or contributory negligent, please set forth specifically upon what conduct, acts, or  
18 omissions of Plaintiff you base your contention. If you contend that any other party, person  
19 and/or entity is responsible for the Plaintiff's injuries, damages and/or losses, then fully and  
20 specifically describe upon what conduct, acts or omissions of such party, person and/or entity  
21 you base your contention.  
22

23 **INTERROGATORY NO. 17:** At the time of the subject incident or immediately thereafter,  
24 did you or your agents, servants, workers and/or employees have any conversations with or  
25 make any statements to any of the parties or witnesses, or did any of them make any statements  
26 to you or in your presence. If so, state the substance of any such conversations or statements  
27 and identify in whose presence it occurred.  
28



1 **INTERROGATORY NO. 18:** Identify the date and time in which you were first notified of  
2 the fact that the subject area where Plaintiff, GAVIN COX, fell and was injured on November  
3 12, 2013, was under construction and contained construction receptacles, and identify the  
4 manner by which you became aware of this information.  
5

6 **INTERROGATORY NO. 19:** Please identify the Person Most Knowledgeable regarding the  
7 maintenance, cleaning and safety planning of the subject premises where Plaintiff GAVIN  
8 COX fell and was injured.  
9

10 **INTERROGATORY NO. 20:** Please state whether or not you entered into a contract with any  
11 individual or business entity for property management, construction, repair, alteration, debris  
12 removal, and/or maintenance at the subject premises and the site of the subject incident  
13 described in the Complaint. If so, please state the name of all such employees and/or business  
14 entities, the date on which you entered into the contract, the duration of the work performed,  
15 and the nature and purpose of the work performed there.  
16

17 **INTERROGATORY NO. 21:** Please identify all manuals, rules, regulations, directives, or the  
18 like that were in place on the date of the subject incident regarding the maintenance and  
19 inspection of the subject premises, including, but not limited to, (a) the procedure for removing  
20 debris and foreign substances from the subject area where Plaintiff GAVIN COX fell and was  
21 injured; (b) the procedure for removing debris and foreign substances from places of ingress or  
22 egress on the subject premises; and (c) the procedure for dumping or depositing the removed  
23 debris and foreign substances from the subject area where Plaintiff GAVIN COX fell and was  
24 injured at the subject premises.  
25

26 **INTERROGATORY NO. 22:** Please identify all manuals, rules, regulations, directives, or the  
27 like that were in place on the date of the subject incident regarding safety precautions and/or  
28



1 risk management at the subject premises, including, but not limited to, (a) the procedure for  
2 removing debris and foreign substances from the subject area where Plaintiff GAVIN COX fell  
3 and was injured; (b) the procedure for removing debris and foreign substances from places of  
4 ingress or egress on the subject premises; and (c) the procedure for dumping or depositing the  
5 removed debris and foreign substances from the subject area where Plaintiff GAVIN COX fell  
6 and was injured at the subject premises.

8 **INTERROGATORY NO. 23:** Please state whether or not any type of additional lighting was  
9 provided in the subject area where Plaintiff GAVIN COX fell and was injured on the subject  
10 premises during the evening hours on the date of the subject incident that would help  
11 participants in the magic show and/or the general public who were present on the subject  
12 premises to see that accumulations of construction debris and foreign substances were present  
13 at the subject premises? If so, please provide the type of lighting and the name of the individual  
14 and business entity contracted to provide such additional lighting.

17 **INTERROGATORY NO. 24:** Please state your understanding as to how the subject incident  
18 happened, including your knowledge of how the accumulation of the construction debris had  
19 collected in the area in which Plaintiff GAVIN COX alleges to have fallen on November 12,  
20 2013.

22 **INTERROGATORY NO. 25:** Please set forth the last date and time which reveals the last  
23 sweep, examination or inspection made by any employee, agent, or servant of the subject area  
24 where Plaintiff GAVIN COX fell and was injured immediately prior to the subject incident.

25 **INTERROGATORY NO. 26:** If there were any safety inspections made to the physical site of  
26 the subject premises where Plaintiff GAVIN COX fell and was injured prior to the subject  
27 incident, please state the name, address, telephone number, and job title, of the person making  
28



1 such inspection, and whether any instructions were given as a result of the last inspection to fix  
2 or alter anything in the area of the subject premises where Plaintiff GAVIN COX was injured,  
3 and, if so, set forth a description of the instructions, and the name of each person to whom such  
4 instructions were given.  
5

6 **INTERROGATORY NO. 27:** Please identify in detail any changes that have been made by  
7 you, or anyone on your behalf, as to the physical site of the subject area where Plaintiff  
8 GAVIN COX fell and was injured since the occurrence in question.  
9

10 DATED this 12<sup>th</sup> day of February, 2015.

11 **EGLET LAW GROUP**

12  
13 /s/ Paul A. Shpirt  
14 TRACY A. EGLET, ESQ.  
15 Nevada Bar No. 6419  
16 PAUL A. SHPIRT, ESQ.  
17 Nevada Bar No. 10441  
18 400 South 7<sup>th</sup> Street, Box 1, Ste. 400  
19 Las Vegas, Nevada 89101  
20 Attorneys for Plaintiffs  
21  
22  
23  
24  
25  
26  
27  
28



**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET LAW GROUP, and that on February 12, 2015, I caused the foregoing document entitled **PLAINTIFF GAVIN COX'S FIRST SET OF INTERROGATORIES TO THE DEFENDANT BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**, to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

Howard J. Russell, Esq.  
**WEINBERG WHEELER HUDGINS GUNN & DIAL**  
6385 South Rainbow Boulevard, #400  
Las Vegas, NV 89118  
*Attorney for Defendant Backstage Employment and Referral, Inc.*

Eric O. Freeman, Esq.  
**SELMAN BREITMAN, LLP**  
3993 Howard Hughes Parkway, Suite 200  
Las Vegas, Nevada 89169  
*Attorneys for Defendant David Copperfield's Disappearing, Inc. and MGM Grand Hotel, LLC*

Shannon G. Splaine, Esq.  
**LINCOLN, GUSTAFSON & CERCOS, LLP**  
3960 Howard Hughes Parkway, Suite 200  
Las Vegas, NV 89169  
*Attorney for Team Construction Management, Inc.*

/s/ Donna Davenport  
An Employee of Eglet Law Group

# **EXHIBIT C**

# **EXHIBIT C**

JA001906

  
CLERK OF THE COURT

1 **ANTD**  
2 **BRIAN K. HARRIS, ESQ.**  
Nevada Bar No. 7737  
3 **CHRISTIAN N. GRIFFIN, ESQ.**  
Nevada Bar No. 10601  
4 **HARRIS & HARRIS**  
2029 Alta Drive  
Las Vegas, Nevada 89106  
5 702.880.4529 - Telephone  
702.880.4528 - Facsimile  
6 [bharris@harrislawyers.net](mailto:bharris@harrislawyers.net)  
*Attorneys for Plaintiffs*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 GAVIN COX and MINIE-HAHN COX,  
11 Husband and Wife,

12 *Plaintiffs,*

13 vs.

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

19 *Defendants.*

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

Date: January 26, 2016  
Time: 2:00 p.m.  
*Location Change Only*

20  
21 **SECOND AMENDED NOTICE OF TAKING 30(b)(6) DEPOSITION**  
22 **OF PERSON(S) MOST**  
**KNOWLEDGEABLE BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**

23 TO: Defendants MGM GRAND HOTEL, LLC, DAVID COPPERFIELD, aka DAVID  
S. KOTKIN; and  
24 TO: Eric O. Freeman, Esq., SELMAN BREITMAN, LLP, 3993 Howard Hughes Parkway,  
25 Suite 200, Las Vegas, Nevada 89169, their attorneys;  
26 TO: Defendant BACKSTAGE EMPLOYMENT AND REFERRAL, INC.; and  
27 TO: Howard J. Russell, Esq. / Timothy A. Mott, Esq., WEINBERG WHEELER  
28 HUDGINS GUNN & DIAL, LLC, 6385 S. Rainbow Boulevard, Suite 400, Las Vegas,  
Nevada 89118, its attorneys;

JA001907

**HARRIS & HARRIS**  
INJURY LAWYERS

1 TO: Defendant **TEAM CONSTRUCTION MANAGEMENT, INC.**; and

2 TO: Shannon G. Splaine, Esq., **LINCOLN GUSTAFSON & CERCOS, LLC.**, 3960  
Howard Hughes Parkway, Suite 200, Las Vegas, Nevada 89169, its attorneys:

3 **YOU AND EACH OF YOU** will please take notice that on **TUESDAY, JANUARY**  
4 **26, 2016**, at the hour of **2:00 P.M.**, Plaintiffs, through their counsel, will take the deposition  
5 of the **PERSON(S) MOST KNOWLEDGEABLE - BACKSTAGE EMPLOYMENT AND**  
6 **REFERRAL, INC.**, at the offices of **HARRIS & HARRIS LAWYERS, 2029 ALTA**  
7 **DRIVE, LAS VEGAS, NEVADA 89106**, before a notary public or some other officer  
8 authorized by law to administer oaths in the following areas:

9 items on which examination is sought.

10  
11 1. **PLEASE TAKE NOTICE** that the oral deposition of **BACKSTAGE**  
12 **EMPLOYMENT AND REFERRAL, INC.** (hereinafter "**BACKSTAGE EMPLOYMENT**  
13 **AND REFERRAL, INC.**") will be taken through the person or persons designated by  
14 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** to testify concerning matters  
15 shown on the attached list of items on which examination is sought. You are notified that the  
16 party giving this notice wishes to examine the witness or witnesses so designated by  
17 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** on the matters shown on the  
18 attached list of items on which examination is sought.

19 2. **ITEMS TO BE BROUGHT TO THE DEPOSITION**. You are further  
20 notified that the person or persons designated by **BACKSTAGE EMPLOYMENT AND**  
21 **REFERRAL, INC.** are to bring with them the items in the attached list of items to be provided  
22 to Plaintiffs at least five (5) days prior to the scheduled deposition.

23 3. **TIME AND PLACE**. The deposition will be taken at the offices of **HARRIS**  
24 **& HARRIS LAWYERS, 2029 ALTA DRIVE, LAS VEGAS, NEVADA 89106**, on  
25 **TUESDAY, JANUARY 26, 2016**, at the hour of **2:00 P.M.** The deposition will continue  
26 thereafter, until completed.  
27  
28

1           4.     **YOUR DESIGNATION OF PERSONS.** Pursuant to NRCP 30(b)(6)  
2     **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** is hereby notified to designate  
3     the person or persons to testify on behalf of the deponent organization. **BACKSTAGE**  
4     **EMPLOYMENT AND REFERRAL, INC.** is further notified that the witness or witnesses  
5     so designated by them must be prepared to testify to matters known or reasonably available to  
6     **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** The designation should be  
7     served on the undersigned deposing attorney on a reasonable date before the date of the  
8     deposition. If **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** so desires,  
9     **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** may designate the separate  
10    matters on which each person designated by **BACKSTAGE EMPLOYMENT AND**  
11    **REFERRAL, INC.** will testify. To expedite the questioning of witnesses by their separate  
12    subject matters, the designation:

13           (A)    should be by name and job title or other description and specify the separate  
14    matters on which each will testify; and

15           (B)    should be served on the undersigned deposing attorney on a reasonable date  
16    before the date of the deposition.

17           5.     **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.,** not individuals,  
18    being deposed. Pursuant to the provision of NRCP 30(b)(6) the rules of civil procedure,  
19    **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** is on notice that it is  
20    **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** being deposed, not individual  
21    officers, employees or agents of **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**  
22    Therefore, **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** has a duty to prepare  
23    their designated witness or witnesses to testify on not only the information personally known  
24    by their designated witness, but also on all the information known by **BACKSTAGE**  
25    **EMPLOYMENT AND REFERRAL, INC.** through its officers, employees, and agents. The  
26    designated witness should be able to answer with reasonable particularity, everything  
27  
28

1 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** knows on the matters on which  
2 examination is sought, unlimited by how little the designed witness or other individual officer,  
3 employees, and agents personally know.

4 6. Duty mandated by rules. Pursuant to NRCP 30(b)(6) **BACKSTAGE**  
5 **EMPLOYMENT AND REFERRAL, INC.** is on notice that **BACKSTAGE**  
6 **EMPLOYMENT AND REFERRAL, INC.** must search for, and inform itself, of all matters  
7 known or reasonably available, and who at **BACKSTAGE EMPLOYMENT AND**  
8 **REFERRAL, INC.** has the information. If no one single person has the information requested,  
9 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** must produce at the deposition  
10 the number of witnesses needed to testify on all the matters requested in the list of items on  
11 which examination is sought.

12 **LIST OF ITEMS THE ORGANIZATION IS TO BRING TO ITS DEPOSITION**

13 **NOTICE:** in this list, "incident" or "incident area", refers to Plaintiff, Gavin Cox's fall as  
14 described in Plaintiffs' Complaint in this matter, and/or the area in which Mr. Cox fell and/or  
15 was otherwise injured on or about November 12, 2013, "theater" refers to the area in which the  
16 David Copperfield show was performing the 13 Illusion on or about November 12, 2013,  
17 "route" refers to the route taken by participants in the 13 Illusion performed as part of the  
18 David Copperfield show on November 12, 2013, and "David Copperfield Show" refers to the  
19 David Copperfield's performance of illusions at the MGM. .  
20

21 The following list does not require attorney/client privileged matter to be produced,  
22 does not seek duplicative production of documents already provided to Plaintiffs as part of the  
23 instant litigation. Any item excluded based on either exclusion should be understood to include  
24 the phrase "except as previously produced" or "except for attorney/client privileged  
25 documents."  
26

27 . . . .

28 . . . .

**BACKSTAGE EMPLOYMENT AND REFERRAL, INC., IS REQUIRED TO BRING  
TO THE DEPOSITION:**

1. Any documents, electronically stored information (ESI) or tangible items created by or on behalf of **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** as a result of the incident, and documents known to **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** that were created by or on behalf of **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**, or any of the witnesses, in which any witness describes any events the witness observed regarding the incident, incident area, theater or route in the 24 hours before or in the 24 hours after the incident. This includes, among other things, any incident reports, notes, or other memoranda made by the witness or by others as well as documents referencing the subject incident. This shall include documents created in the 24 hour period before the incident and after the incident which describe or discuss the incident, incident area as well as description of or theories regarding the cause of the incident.

2. Any documents, ESI or tangible items created by, or in the possession of either **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** or any of the witnesses being offered for this deposition of **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** which either the witness being deposed or **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** believes might useful to refresh the memory of the Rule 30(b)(6) designee(s) being deposed on the date of this deposition. This shall include documents related to the incident, the incident area, theater and/or route including but not limited to, employees, agents or contractors working during the incident, and who were selected/assigned to assist in the 13 Illusion on 12, 2013.

3. Any documents describing the duties of employees, agents or contractors designated to assist in the performance of the 13 Illusion as it was performed on November 12, 2013, including, but not limited to, instructions given to each employee, agent or contractor and those instructions provided by said employee, agent or contractor to audience participants

1 including, but not limited to the participants obligations, the route to be taken and procedures  
2 to be followed in completing the illusion.

3 4. All logs or daily reports or other reports produced in the ordinary course of  
4 business/performance which show actions taken by **BACKSTAGE EMPLOYMENT AND**  
5 **REFERRAL, INC.**'s employees, agents or contractors, including, but not limited to, recording  
6 of hours worked and duties performed during the 13 Illusion on 12, 2013.

7 5. All maintenance and/or security manuals of **BACKSTAGE EMPLOYMENT**  
8 **AND REFERRAL, INC.**, regarding the duties and obligations of Backstage personnel working  
9 with, or performing in, the David Copperfield Show for the period from 12, 2008 to present.

10 6. All safety materials or instructions given or shown to the Plaintiff by  
11 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**, employees, agents or contractors  
12 on 12, 2013.

13 7. All daily logs and reports created as a result of the incident by personnel of  
14 **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** on the site or physically  
15 conducting repair, cleaning or maintenance in the incident area for the 48 hours before the day  
16 of the incident, and the 48 hours after the incident, which were created as a result of the  
17 incident.

18 8. All non-privileged e-mails, which contain references to the incident, incident  
19 area, theater or route, or actions of persons involved in the incident and which are:  
20

21 (A) to or from the witnesses being deposed on the date of this deposition, as  
22 designated witnesses for this deposition.

23 (B) to or from those of **BACKSTAGE EMPLOYMENT AND**  
24 **REFERRAL, INC.**'s officers, employees, agents or contractors or who were in general  
25 proximity to the incident area at the time of the incident, or the supervisor of such persons.

26 ....

27 ....