

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

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Clerk of Supreme Court

JOINT APPENDIX - VOLUME 9

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9. All documents evidencing and/or describing the relationship, contractual or non-contractual between **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** and **DAVID COPPERFIELD aka DAVID S. KOTKIN, DAVID COPPERFIELD'S DISAPPEARING, INC., MGM GRAND HOTEL, LLC, and TEAM CONSTRUCTION MANAGEMENT, INC.**

10. All documents evidencing the duties and responsibilities of each entity based on the contractual or non-contractual relationship set forth in documents to be produced in response to request number twelve (9) above.

11. All documents identifying employees, agents or contractors on duty at the David Copperfield Show for the period from November 12, 2008 to the present.

12. Any and all documents reflecting a contractual agreement between **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** and **DAVID COPPERFIELD'S DISAPPEARING, INC.** in force on November 12, 2013.

LIST OF TOPICS ON WHICH EXAMINATION IS SOUGHT

NOTICE: in this list, "incident" or "incident area", refers to Plaintiff, Gavin Cox's fall as described in Plaintiffs' Complaint in this matter, and/or the area in which Mr. Cox fell and/or was otherwise injured on or about November 12, 2013, "theater" refers to the area in which the David Copperfield show was performing the 13 Illusion on or about November 12, 2013, "route" refers to the route taken by participants in the 13 Illusion performed as part of the David Copperfield show on November 12, 2013, and "David Copperfield Show" refers to the David Copperfield's performance of illusions at the MGM.

EXAMINATION WILL BE SOUGHT ON THE FOLLOWING SUBJECTS

1. The specific organization of Defendant **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** with respect to responsibility for inspecting, reviewing and/or approving working conditions at locations for which **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** provides labor including, but not limited to, responsibility for regular

1 visits and/or inspections of particular work sites and review and approval of specific tasks to
2 be performed by said labor.

3 2. Defendant **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**'s
4 understanding of the incident and injury at issue in this litigation. *NOTE: Plaintiff is not*
5 *seeking to obtain scientific or medical opinions, rather is simply trying to learn of*
6 *Defendant's understanding of basic facts pursuant to: United States EEOC v. Cuesars*
7 *Entm'l, Inc., 237 F.R.D. 428 (D. Nev. 2006); Taylor v. Shaw, 2007 U.S. Dist. LEXIS 16305*
8 *(D. Nev. Mar. 5, 2007); Great Am. Ins. Co. of N.Y. v. Vegas Constr. Co., 251 F.R.D. 534 (D.*
9 *Nev. 2008).*

10 3. Identity of the witnesses known to Defendant, **BACKSTAGE**
11 **EMPLOYMENT AND REFERRAL, INC.**, to the incident, injury, and events involved, and
12 what they know, as currently known by Defendant **BACKSTAGE EMPLOYMENT AND**
13 **REFERRAL, INC.**.

14 4. Identities including:

15 (A) Identity of those persons who were present in, or in proximity to the
16 incident area at the time the incident occurred:

17 (B) Identity of those persons (directed by Defendant **BACKSTAGE**
18 **EMPLOYMENT AND REFERRAL, INC.**) who either investigated the incident or recorded
19 or observed items in the incident area;

20 (C) Identity of those persons who participated, before or after the incident,
21 in maintaining and/or inspecting the incident area and/or route, employed by, or under contract
22 with, Defendant **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**.

23 (D) Identity of those persons who are supervisors of any of the persons
24 discovered in the inquiries listed above.
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1 5. The identity, jobs, titles, and supervisors of all **BACKSTAGE**
2 **EMPLOYMENT AND REFERRAL, INC.**'s officers, employees, and agents who were
3 scheduled to be working or actually working in proximity to the incident area in the 24 hours
4 before or 24 hours after the subject incident.

5 6. In regard to the persons identified in items 4 and 5 above:

6 (A) What each person observed, if known, on that date concerning the
7 persons, location, conditions, items, objects, or events of the incident at issue;

8 (B) What each of them did on that date in regard to the incident at issue;

9 (C) What they said or reported concerning the persons, premises, conditions,
10 items, objects, or events of the incident in regard to the incident at issue; and

11 (D) What each reported about the injuries of Plaintiff, in regard to the
12 incident at issue.

13 7. The incident and its causes, including **BACKSTAGE EMPLOYMENT AND**
14 **REFERRAL, INC.**'s position on what caused the incident, and the facts supporting that
15 position. *NOTE: Plaintiffs are not seeking to obtain scientific or medical opinions, rather*
16 *is simply trying to learn of Defendant's understanding of basic facts pursuant to: United*
17 *States EEOC v. Caesars Entm't, Inc., 237 F.R.D. 428 (D. Nev. 2006); Taylor v. Shaw, 2007*
18 *U.S. Dist. LEXIS 16305 (D. Nev. Mar. 5, 2007); Great Am. Ins. Co. of N.Y. v. Vegas Constr.*
19 *Co., 251 F.R.D. 534 (D. Nev. 2008).*
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21 8. **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**'s position on what
22 Plaintiffs did carelessly or wrongfully that contributed to cause the injuries that Plaintiffs
23 received, and the facts supporting that position, as set forth in Defendant's Answer and any
24 Amendments thereto. *NOTE: Plaintiffs are not seeking to obtain scientific or medical*
25 *opinions, rather is simply trying to learn of Defendant's understanding of basic facts*
26 *pursuant to: United States EEOC v. Caesars Entm't, Inc., 237 F.R.D. 428 (D. Nev. 2006);*
27 *Taylor v. Shaw, 2007 U.S. Dist. LEXIS 16305 (D. Nev. Mar. 5, 2007); Great Am. Ins. Co. of*
28

1 N.Y. v. Vegas Constr. Co., 251 F.R.D. 534 (D. Nev. 2008).

2 9. Instructions and warnings given to Plaintiff by **BACKSTAGE**
3 **EMPLOYMENT AND REFERRAL, INC.** regarding participation in the 13 Illusion on 12,
4 2013, including, but not limited to, any written instructions or directions provided.

5 10. Conversations and statements by, or to, Plaintiff regarding Plaintiffs'
6 participation in the 13 Illusion on 12, 2013.

7 11. Discussion regarding written documents provided to **BACKSTAGE**
8 **EMPLOYMENT AND REFERRAL, INC.**, with regard to participation in, and completion
9 of the 13 Illusion in the period from 12, 2008 to present.

10 12. Defendant **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**'s
11 relationship with and duties to other Defendants including, but not limited to, **DAVID**
12 **COPPERFIELD** aka **DAVID S. KOTKIN**, **BACKSTAGE EMPLOYMENT AND**
13 **REFERRAL, INC.**; **DAVID COPPERFIELD'S DISAPPEARING, INC.** or **TEAM**
14 **CONSTRUCTION MANAGEMENT, INC.**

15 13. Responsibilities of Defendant **BACKSTAGE EMPLOYMENT AND**
16 **REFERRAL, INC.**'s employees, agents or contractors in conducting and/or assisting in
17 illusions performed as part of the David Copperfield Show including, but not limited to,
18 inspection of, and navigation through the route of the 13 Illusion.

19 14. Responsibilities of Defendant **BACKSTAGE EMPLOYMENT AND**
20 **REFERRAL, INC.**'s employees and agents in approving the design, lighting, location and/or
21 route used by participants of the David Copperfield Show including, but not limited to,
22 inspection of proposed design, lighting and timing of use of the route and provision of
23 employees for participation in, or assistance with, an illusion.

24 15. Responsibilities of Defendant **BACKSTAGE EMPLOYMENT AND**
25 **REFERRAL, INC.**'s employees and agents in inventing, conceptualizing or otherwise creating
26 illusions used as part of David Copperfield Show for the period of 12, 2008 to present.
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1 16. **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.**'s system, rules
2 and regulations for the reporting of incidents or collection of data regarding incidents on the
3 premises, and the identity of all other incidents involving injuries to participants in the David
4 Copperfield Show, whether by employee, contractor, or audience participant, in the period from
5 November 12, 2008, to the present date.

6 17. Explanations of all documents requested to be brought to the deposition. This
7 will include not only the content, but also the evidentiary foundation for the document,
8 including the method of its creation or acquisition, the name of the person who created or
9 recorded it, its method of storage or modification or possible modification, whether the
10 document is authentic and trustworthy, and, if claimed not authentic or not trustworthy, the
11 facts upon which **BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** makes that
12 claim.

13 18. General Corporate structure of **BACKSTAGE EMPLOYMENT AND**
14 **REFERRAL, INC.** , including, but not limited to, the identities of those individuals
15 empowered to approve is approve, deny or alter any proposed contract for labor or
16 employment with any entity.

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19. Factual information and sources of such facts, and information supporting Defendant's affirmative defenses as set forth and reflected in Defendant's Answer and Amendments thereto. *NOTE: Plaintiff is not seeking to obtain scientific or medical opinions, rather is simply trying to learn of Defendant's understanding of basic facts pursuant to: United States EEOC v. Cuesars Entm't, Inc., 237 F.R.D. 428 (D. Nev. 2006); Taylor v. Shaw, 2007 U.S. Dist. LEXIS 16305 (D. Nev. Mar. 5, 2007); Great Am. Ins. Co. of N.Y. v. Vegas Constr. Co., 251 F.R.D. 534 (D. Nev. 2008).*

DATED this 14th day of January, 2016.

HARRIS & HARRIS

By: /s/ BRIAN K. HARRIS
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of January, 2016, I served a true and correct copy of the foregoing **SECOND AMENDED NOTICE OF TAKING 30(b)(6) DEPOSITION - PERSON(S) MOST KNOWLEDGEABLE BACKSTAGE EMPLOYMENT AND REFERRAL, INC.** 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.

☒ **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

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DISAPPEARING, INC. / DAVID COPPERFIELD, aka
DAVID A. KOTKIN and MGM GRAND HOTEL, LLC*

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Attorneys for Defendant **TEAM CONSTRUCTION MANAGEMENT, INC.**



HARRIS & HARRIS Employee

EXHIBIT D

EXHIBIT D

Russell, Howard

From: Adam Deutsch <ADeutsch@morellilaw.com>
Sent: Thursday, April 19, 2018 5:15 PM
To: Roger Strassburg
Cc: Russell, Howard; Perry Fallick; Jerry C. Popovich; Benedict P. Morelli; Elaine K. Fresch; Eric O. Freeman; Roberts, Lee; Gary Call; Bonney, Audra R.; BHarris@harrislawyers.net; HHarris@harrislawyers.net; CGriffin@harrislawyers.net; PFromhart@harrislawyers.net
Subject: Re: Cox v. MGM Grand Hotel

I am not shocked, but I am writing to advise that minutes ago we received yet another call from a former participant in the 13 illusion who may have information relevant to this matter. We are conducting our due diligence and will provide information to everyone per the judges order.

Adam

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 19, 2018, at 5:37 PM, Roger Strassburg <rstrassburg@rlattorneys.com> wrote:

>

> Thank you for the disclosure.

> Are you in a position yet to disclose your scheduled order of proof?

>

> Roger Strassburg

> Partner

> Resnick & Louis, P.C.

> Admitted in: AZ, NM, NV, OH, UT

> 602.456.6776

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

> From: Adam Deutsch [mailto:ADeutsch@morellilaw.com]

> Sent: Thursday, April 19, 2018 1:15 PM

> To: Russell, Howard <HRussell@wwhgd.com>

> Cc: Perry Fallick <PFallick@morellilaw.com>; Jerry C. Popovich <JPopovich@selmanlaw.com>; Benedict P. Morelli <BMorelli@morellilaw.com>; Elaine K. Fresch <EFresch@selmanlaw.com>; Eric O. Freeman <efreeman@selmanlaw.com>; Roberts, Lee <LRoberts@wwhgd.com>; Gary Call <gcall@rlattorneys.com>; Roger Strassburg <rstrassburg@rlattorneys.com>; Bonney, Audra R. <ABonney@wwhgd.com>; BHarris@harrislawyers.net; HHarris@harrislawyers.net; CGriffin@harrislawyers.net; PFromhart@harrislawyers.net

> Subject: Re: Cox v. MGM Grand Hotel

>

> All,

> Please be advised that earlier today we were contacted by another potential witness. This new witness is a former participant in the 13 illusion at the MGM grand. We are in the process of assessing her claims with the same due diligence discussed yesterday. We will disclose information relevant to this witness by the deadline set by the judge for the other witness.

> Adam

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> 777 Third Avenue

> New York, New York 1007

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> f. 212-751-0046

>

> Sent from my iPhone

>

JA001923

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Abracadabacle! Ever wondered how David Copperfield does it? Stooge who claims he was left brain-damaged in bungled vanishing trick reveals magician's secret techniques in sensational three-year legal battle

- London-born chef Gavin Cox, 56, was called on stage by David Copperfield
- But he fell backstage after taking part in an illusion with inflatable balls
- Mr Cox said he was left permanently brain damaged as a result
- Copperfield's lawyers denied Mr Cox's allegations and say the illusion has been safely performed for 15 years involving 100,000 participants

By CAROLINE GRAHAM AND PAUL CAHALAN

PUBLISHED: 17:49 BST, 4 June 2016 | UPDATED: 04:33 BST, 5 June 2016

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It should have been the magical highlight of a holiday of a lifetime.

Having flown to Las Vegas with his wife to celebrate his birthday, Gavin Cox was excited to get the hottest ticket in town, to see David Copperfield at the MGM Hotel and Casino.

Mr Cox and his wife Minh were braced for an evening of dazzling entertainment from the world's most famous magician, whose tricks are a closely guarded secret and have brought him a vast fortune and an enviable A-list lifestyle.

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PICTURE EXCLUSIVE:
Come fly with me!
Taylor Swift whisks Tom Hiddleston off on her private jet after romping around Rhode Island
Rebound romance?



"Taylor recognises the pressure Kim must be under": Team Swift throws shade at Kardashian's claims singer lied about Kanye West song feud



"It's all good, she's doing her thing": Calvin Harris shakes off Taylor Swift 'cheating' rumors as he breaks his silence on shock Tom Hiddleston romance



Has he REALLY fallen for the most calculating woman in pop? Taylor Swift is 'dating' Tom Hiddleston. But then she always seems to beg the man of the moment...



EXCLUSIVE: Police swarm Jules Weinstein's home as she accuses husband of 'threatening' her after catching him 'cheating with her friend'



EXCLUSIVE: More trouble for Housewives star Jules Weinstein as she is slapped with a lien for 'refusing to pay \$25,000 in Manhattan condo fees'



Throwback Thursday: Khloe Kardashian shares never-seen-before snaps of her and sister Kourtney as topless mermaids
Fishy photo shoot



Showing the strain:
Amber Heard looks





David Copperfield performs a trick involving inflatable balls to the crowd but few realise the audience participants have to run through a darkened secret passage and it was here where Mr Cox fell

Then the night got even better, as Mr Cox was invited to be one of the volunteers to join Copperfield on stage and take part in his act.

But from that moment followed a series of events that London-born Mr Cox claims have 'wrecked' his life and have placed him at legal loggerheads with Copperfield.

The extraordinary case has dragged on for almost three years and led to the magician's techniques being revealed in unprecedented detail.

Mr Cox, 55, had been picked from the audience to take part in an illusion in which 13 fans 'vanish' from inside a suspended cage on stage – only to 'miraculously' reappear moments later at the back of the theatre.



Gavin Cox in hospital after his fall. Gavin fell and injured himself seriously at the MGM Grand after volunteering in a David Copperfield show

But according to Mr Cox, a chef who once cooked for the Queen Mother, the stunt went horribly wrong after he slipped and fell in a poorly lit area, leaving him permanently brain-damaged.

It is his sensational court documents in a claim for millions of dollars against the magician and the hotel which shed light on the smoke and mirrors world of a modern-day Houdini.

The claim states: 'During the trick plaintiff [Mr Cox] was injured when he was hurried with no guidance or interaction through a dark area under construction with cement dust and debris, causing him to slip and fall.'

In an exclusive interview with The Mail on Sunday last night, Mr Cox said: 'Seeing David Copperfield was the highlight of a dream trip to celebrate my 53rd birthday. Instead it turned into a nightmare. My health has been wrecked, and I've lost my business and my life savings.'

Mr Cox and his wife are seeking punitive damages from Copperfield and MGM for alleged negligence. The magician and the hotel vehemently deny the claims, saying the injuries were caused by 'pre-existing and/or unrelated medical conditions'.

worryingly thin as she drops 20 pounds during bitter divorce battle with Johnny Depp
Face was gaunt

PICTURE EXCLUSIVE: Hot in Hawaii! Julia Roberts, 48, shows off her legs during romantic beach vacation with husband Danny Moder in white bikini bottoms

Nothing to see here! Jennifer Aniston highlights her flat stomach in a tight top and trousers... after denying pregnancy claims

'My angel!' Paris Jackson shares Instagram snap of herself passionately kissing boyfriend Michael Snoddy. Began dating this year

Pitiful New mom Coco Austin puts cleavage and generous backside on display in skimpy bathing suit as she soaks up sun in Arizona. She's not shy

Brandi Glanville opens up about Yolanda Hadid's RHOBH exit... and calls former co-stars 'a bunch of 58-year-old women about nothing'

Model in training! Haili Kium's daughter Leni, 12, wears hooded boots as she joins her mother and siblings on New York outing. Fashion runs in family

Javier Muñoz will replace Lin-Manuel Miranda in Broadway's Hamilton starting in July. Creator revealed he is leaving his Tony Award-winning smash

EXCLUSIVE: 'There was no monogamy in the Kennedy clan.' Ethel knew Bobby was a cheater who counted Kim Novak AND Jackie Kennedy as lovers

Kim Kardashian reveals she went through CJ Simpson's Louis Vuitton bag during murder investigation and is a huge fan of recent series

Ashaun Kutcher visits his Beverly Hills office... after confirming wife Milla Kunis is pregnant with their second child. Day after the couple shared their baby news

Hanging tight! Nick Jonas and Demi Lovato are all smiles as they stop by the Late Show to promote their Future Now tour. Friends for many years

Thought Clint was cool? Ask his daughter! Dirty Harry star reveals children thought he was a 'big dork' despite his iconic status

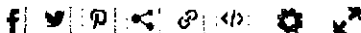




David Copperfield with his wife, designer Chloe Gosselin at an event in New York. Copperfield is one of the biggest names in magic

David Copperfield and wife Chloe Gosselin attend event in New York

0:00 / 0:36



Today Mr Cox is forced to wear an oxygen 'lung' at night because he stops breathing, and he spent three months in a Californian brain trauma centre. The couple claim they have been forced to live in the US for nearly three years as the case drags on.

Hollywood royalty

'I understand being an outsider': Taylor Swift reveals she can relate to her O.T.B. character as she shows off her natural beauty for *Diva* magazine



'You can't get better than the original': Kristen Wigg appears tens while defending *Ghostbusters* reboot in face of criticism Controversial remake



'They used to put me in the dryer a lot': Liam Hemsworth recalls the 'traumatic' moments of being the younger brother of famous siblings Chris and Luke



Black on top! Kendra Wilkinson dons dark ensemble as she parties the night away at Hollywood hot spot Stripped it back at Warwick nightclub



'My sweetie': Katie Holmes shares photo of Suri joining her on set of *The Kennedys*... and the 19-year-old even has her own director's chair Mother and daughter



Busted! Scott Disick jokes 'of course' after he's caught grabbing his crotch while talking to Khloe Kardashian in Kylie Jenner's Snapchat video



Jacqui Ainsley puts on a very leggy display in super short cream mini dress as she enjoys an arty date night with husband Guy Ritchie at Tate Modern party



'Don't get smashed!' Pierce Brosnan's son Dylan shows off bandaged hand after smashing it 'in a car door' Shared his woe



EXCLUSIVE: OJ Simpson WILL take a paternity test for Khloe Kardashian - IF she agrees to visit him in prison, says guard who claims she begged OJ



Giddy Kate Moss joins '80s icon Chrissie Hynde on-stage for an energetic duet after cosying up to boyfriend Count Nikolai at charity event



Pearly queen! Jazmin Walle shimmers in sparkly cleavage enhancing dress as she joins Charlie Sheen at condom launch Looked sensational



She's ready for her close-up, Mr. Cooper! Lady Gaga 'in talks to play leading lady in *A Star Is Born*' for director Bradley Impressed the execs



Working it! Jennifer Lopez kicks off filming



Their lifestyle could not be more different from Copperfield's, whose talents have earned him a \$550 million fortune, including palatial homes in Nevada and California, and a string of 11 private islands in the Bahamas known as Copperfield Bay.

The magician, born plain David Kotkin in New Jersey, was once engaged to supermodel Claudia Schiffer and is now dating French model and designer Chloe Gosselin.

Meanwhile, home for the Coxes is a rented apartment in a suburb of Las Vegas.

'We are too broke to go out and Gavin's injuries prevent us from enjoying a normal life,' Mrs Cox said. 'Gavin once cooked for royalty but now he can't even bake a muffin because he has nerve damage in his hands and no sense of smell.'

Their nightmare began in November 2013 when Copperfield 'chose' Gavin to take part in the trick – called 13 – by hurling giant inflatable balls into the audience. Those who caught them were invited to the stage. 'I was in seventh heaven when I caught a ball,' Mr Cox said.

As he walked to the stage, the 6ft 4in chef said he was asked three questions by a Copperfield employee: Could he run? Was he a magician? Was he a member of the Press?

Once on stage, he and 12 others were seated in a suspended cage and given torches to hold. He recalled: 'A curtain comes down over the box and torch light shines out to give the impression we are still in there.'

But in reality 'all hell broke loose' once the curtain came down, according to Mr Cox. He said Copperfield's assistants hurried him down a secret passage, through a door and outside into the open air. He said: 'It was like a fire alarm went off. They were saying "Hurry! Run, run, run!"'

'It was total pandemonium. You don't know where you are going. It's dark. There are hands pushing you on your back. As I went around a corner, my feet slipped from underneath me and I hit the ground.' Mr Cox fell as he ran around the side of the theatre. His lawsuit claims Copperfield 'failed to prevent, inspect, maintain and warn of dangerous conditions' and claimed the magician and the hotel failed to 'devise a trick that would be safe for audience participants'.

Copperfield's lawyers deny this, saying 'multiple inspections' were made of the area.

Mr Cox blacked out after his fall but remembers the audience cheering at the end of the trick.

Afterwards Copperfield came to a side room to talk to the 13 and said he trusted they would not to reveal its secrets.

Mr Cox claims the magician was told, 'This guy is injured. He needs an ambulance', and that he told Copperfield he finished the trick despite the injuries as 'I didn't want to let you down'.

However, documents filed in Copperfield's defence insist Mr Cox asked for help only after the magician left the room.

An ambulance took Mr Cox to hospital where his right shoulder was found to be dislocated.

Two days later he filled out an accident report at MGM and hired a US personal injury lawyer.

"It was total pandemonium. You don't know where you are going. It's dark. There are hands pushing you on your back. As I went around a corner, my feet slipped from underneath me and I hit the ground"

Gavin Cox

for season two of *Shades of Blue* as it is revealed *Breaking Bad*'s Anna Gunn is joining the cast

Alexandra Ambrosio shows off signature boho chic style in knit brown dress and patterned scarf. Was spotted out in West Hollywood

Twitter goes into meltdown as Taylor Swift fans call for her to sing next James Bond theme after she is spotted kissing 007 hopeful Tom Hiddleston

Supermodel Naomi Campbell, 48, is disco ready in sparkly blue mini dress as she joins her famous friends at charity bash. Brought the glamour

'The baby needed help': Rod Hot Chili Peppers' Anthony Kiedis reveals he helped save a child's life while filming James Corden's *Carpool Karaoke*

BAZ BAMIGBOYE: Colin casts off in seafaring saga: Oscar winner finds his sea legs in drama about disgraced round-the-world yachtsman

Back to TV: ER vet George Clooney signs deal to produce small-screen shows starting with drug company drama *America's Most Admired Lawbreaker*

'I've been wanting to change my hair for a while!': Kendall Jenner reveals it was Chrissy Turlington's '90s job that inspired her to chop her locks

'Keep it in your trousers, son': Wise words from Rod Stewart's dad in Ted Kessler's moving *My Old Man: Tales of Our Fathers*

'Get out of my moment!': Kendall Jenner claps back at Stephanie Seymour after she branded Kendall and Gigi Hadid not real supermodels

Topless Kim Kardashian sets juices racing as she gets steamy between the sheets in sultry image from stunning *OG* shoot. Raunchy poses

'Come next time and I'll show you': Ruby Rose responds to California DJ Josh Billings who suggested she 'faked' her acts. Skills questioned

Hard-earned figure! Julianne Hough displays taut tummy in bright crop top from her own athletic line as she leaves L.A. gym





Gavin Cox and wife Minh at their lawyer's office in Las Vegas. Gavin fell and injured himself seriously at the MGM Grand after volunteering in a David Copperfield show

His wife said: 'We stayed in the US for three weeks because Gavin's injuries meant he couldn't fly.' Once back in Britain, Mr Cox said he began to suffer chronic pain, headaches and confusion. A scan would later show lesions on his brain.

But Mrs Cox said NHS waiting lists were 'too long and he needed immediate treatment'.

So the couple returned to Vegas in February 2014. Their travel insurer refused to pay for ongoing treatment, but they were seen under a 'medical lien' - doctors agreed to treat Mr Cox and receive payment only when the lawsuit is settled.

Mr Cox's career had once included years as a chef at London's Buck's Club, where he cooked for the Queen Mother, Margaret Thatcher and Dracula actor Christopher Lee, and running a guesthouse in Broadstairs, Kent.

But he has been unable to work since the accident.

Having had multiple operations on his back and neck, he has been diagnosed with permanent brain damage and a form of Parkinson's.

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His wife said: 'The force of the fall shook up his brain. His shoulder took the brunt. A doctor said if he'd hit his head his neck would have snapped and he'd be dead.'

Their 11-year-old son Harry has remained in the UK, cared for by the couple's oldest son Oliver, 25. The Coxes were forced to sell their guesthouse for £515,000 at the end of 2014 and having been living off their savings.

A recent date for mediation was pushed back after the magician's lawyers said they needed to travel to the UK to question Mr Cox's sons and British doctors under oath.

Copperfield's legal team claim Mr Cox could have received the care he needed in the UK, saying: 'The claim that they were forced to seek treatment in Las Vegas and are now trapped here is not true.'

A trial date for the case has been set for January 2017.

Co-star cuties Lea Michele and new boyfriend Robert Buckley share their on-set moments together on social media
Former Glee star



Her love is strong! Toni Spelling flexes her biceps during TV appearance to show off tattoo celebrating 10 years of marriage to Dean McDermott



From Jessica Alba's sturdy carry-on suitcase to Chrissy Teigen's chic weekend bag, FEMAIL reveals all the luggage you need to travel like an A-Lister



Tom Hiddleston gushes over 'charming' Taylor Swift in recent interview... as picture emerges of couple together WEEKS ago
Did it all start then?



'Can we talk about those staged photos?' Taylor Swift's tryst with Tom Hiddleston labelled 'completely fake' as the internet erupts with memes



Makeup free Jessica Gomes sports ripped jeans and favourite bomber jacket as she steps out in sold out \$995 kangaroo fur Gucci loafers once again



To Joey, With Love: Rory Peck celebrates wedding anniversary by releasing trailer for documentary about the last two years of wife's life and birth of daughter



The Best Dressed Lady! The Queen arrives at Royal Ascot looking elegant in orange and blue while Eugenie and Beatrice are a perfect match in navy



That's amore! Kris Jenner looks elegant in white as she and Corey Gamble pile on the PDA during romantic Italian getaway
Were with a bodyguard



What happens when Jennifer Aniston's make-up artist works with Amy Schumer? The comedian debuts a softer look for Vogue - here's how to copy it...



Scott Disick takes a jab at Kourtney Kardashian's fling with Justin Bieber during family game night
Made Joe during a trip to Vail, Colorado



Tammin Sunkist flaunts her trim pins in hot pink playsuit at Pretty Little Liars event before wearing the same outfit to swanky Hollywood party



What's hot on your head, Beatrice? Princess swaps her usual fussy fascinators

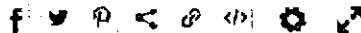


Last night Copperfield's lawyers said: 'This illusion has been performed for more than 15 years and with more than 100,000 participants. The history of the show speaks for itself. We deny all allegations. Unfortunately we cannot comment further due to ongoing litigation.'

David Copperfield's privately owned island (related)



0:00 / 3:07



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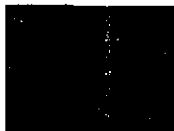


35 Celebrities That Support Donald Trump (Number Six Will Surprise You A Lot)
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Graphic bodycam video shows MMA fighter's paralysis

for a straw boater and curly updo - but falls a little flat in style stakes



Family fun in the sun! Goldie Hawn attends Maui film festival with son Wyatt Russell and his beautiful bikini-clad girlfriend Meredith Hagner



She's getting naughty! Kim Kardashian launches line of wrapping paper with butt kingjis and phone cases with Send Nudes hearts on them



Lil Wayne insists back-to-back seizures were not result of drinking aizzup cocktail but rather due to running out of epilepsy medication



Sporty chic! Sofia Richie stands out in over sized sweatshirt and lace-up heels for night out at The Nice Guy. She's the 17-year-old daughter of Lionel Richie



'Something's wrong with me.' Bethenny Frankel reveals she been bleeding 'all over' her car and house as she's seen doubled over in pain on RHONY



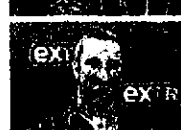
Nice crown, Queen Bey! Beyonce wears a floral headpiece on whimsical garden photo shoot. Also sported a summery off-the-shoulder crop top



Paris Hilton goes for an edgy look in bondage-inspired shirt and studded motorcycle jacket while out in Milan. Was heading to an appointment



Zolinski Embattled. Saved By The Bell star Dustin Diamond owes almost \$34,000 in back taxes. 'Has ignored warning letters asking him to pay'



Joan Rivers' red carpet gowns, neckties, and Judith Leiber bags hit the auction block as daughter Melissa says 'her things should be loved'



It's Royal Spice! Dame Judi is back as Queen Victoria in new film about monarch's friendship with young Indian. Colonial drama



Vanessa Redgrave and Ralph Fiennes play mother and son in new West End production of Richard III as they star on stage together for the first time



What a coincidence! A smiling Julianne Moore bumps into Michael J Fox in New York as she spends day with mini me daughter Liv. At Bar Pitti in NYC



Man says he's exposing David Copperfield illusion in slip-and-fall lawsuit | Las Vegas Review-Journal

RJ: www.reviewjournal.com/opinion/columns-blogs/doug-elfman/man-says-he-s-exposing-david-copperfield-illusion-slip-and-fall

By DOUG ELFMAN LAS VEGAS REVIEW-JOURNAL

A London chef who once cooked for the queen of England is exposing a big David Copperfield illusion, while suing the MGM Grand and its star.

Copperfield has a vanishing-crowd routine called "Lucky #13," according to legal papers obtained by the R.J. The illusion goes like this.

Thirteen audience volunteers are invited to sit in a cage onstage, they're given lights to hold, covered by a curtain, the curtain drops to reveal they're not there anymore, then they reappear in the back of the theater.

How do they do that?

Gavin Cox, who has been suing Copperfield for years over a slip-and-fall, is now claiming to reveal the answer this week, the same week Copperfield is getting press as a co-producer of "Now You See Me 2," which opens Friday. (Chris Lawrence writes about Copperfield's role in making the movie in his column on Page 1D.)

In 2013, tourist Cox, 55, and a dozen others voluntarily walked onstage to be part of the trick. The following is what Cox told London's Daily Mail.

- After he signed up, Cox was asked by an assistant if he could run, if he was a magician, and if he was a member of the press.
- Once the curtain obscured the cage of volunteers, different illusion lights began shining out from the box to pretend the volunteers were still there with their lights.
- However, once the cage was covered by that curtain, stage assistants rushed the volunteers through dark, secret passageways and around the side of the theater, then entered the back of the theater, standing there with torches, to the crowd's applause.

Ta-dah? That's the big to-do?

Cox says while he was hustling through dark and dusty construction passageways, there were hands on his back, he slipped and fell at a ramp, he got up and finished the trick so as not to disappoint Copperfield, and Copperfield asked him and the others not to reveal the secrets of running and stuff.

But Cox was taken by ambulance to a hospital with a dislocated shoulder.

When Cox and wife Mihn returned to Britain, he had chronic pain, headaches and confusion, and a scan showed a lesion on his brain, his lawsuit contends.

The couple moved to Vegas in 2014 to see doctors here under a medical lien, as Cox, thus jobless and already down \$400,000 in medical care, underwent operations on his neck and back, while battling permanent brain damage, they say.

Meanwhile, the couple's 25-year-old son remains in the UK caring for their 11-year-old son.

Copperfield and the MGM Grand "vehemently deny the claims," and "deny all allegations," blaming Cox's medical problems on "pre-existing and/or unrelated medical conditions," the Daily Mail reported.

I left messages for attorneys for Cox, Copperfield and the MGM Grand on Wednesday. No replies by deadline.

VEGAS AND THE FILM FEST

Speaking of "magic," Rio headliners Penn & Teller "proudly do tricks," not magic, Penn Jillette wrote in a Parade magazine interview he just did in May with Jesse Eisenberg, who stars in "Now You See Me 2."

Penn & Teller are presenting their own wacky movie, "Director's Cut," at the end of Thursday night's Las Vegas Film Festival in the Palms hotel.

The festival runs through Sunday, as you probably know from reading Chris Lawrence in the R.J.

Jillette will present Thursday's screening of Penn & Teller's crowd-funded comedy-horror film. It stars Jillette as a stalker who buys a crowd-funded horror movie, edits himself into the film, and may kidnap someone. How's that for a meta movie?

ATTN: PARENTS OF AUTISTIC kids

Blue Man Group is bringing back last year's special show for autistic children and their families this Sunday afternoon.

The Luxor stage show will cut back on its light and sound levels (and makes earplugs available) to provide a calmer environment in the theater and in the lobby.

Last year, 858 people took in the autistic-friendly show.

Tickets cost \$36, and the net income will go to the Grant a Gift Autism Foundation.

There will be "quiet zones" in the lobby, with bean bags, and crayon pages.

Doug Elfman can be reached at delfman@reviewjournal.com. He blogs at reviewjournal.com/elfman. On Twitter: @VegasAnonymous



1 CASE NO. A705164

2 DEPT. NO. 13

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5

DISTRICT COURT

6

CLARK COUNTY, NEVADA

7

* * * * *

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

9

Plaintiffs,

10

vs.

11

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,

17

Defendants.

18

MGM GRAND HOTEL, LLC.,

19

Third-Party Plaintiff,

20

vs.

21

22 BEACHER'S LV, LLC, and DOES 1
23 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

WEDNESDAY, APRIL 25, 2018

1 APPEARANCES:

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I N D E X

Witness:	Direct:	Cross:	Redirect:	Recross:
Ryan Carvahlo	33	108, 146 146, 165 171	188	
Patricia Anne Esack	210	228, 255 317, 318		

E X H I B I T S

Number:	Marked:	Admitted:	Joint:
415		71	
84-22		173	

1 LAS VEGAS, NEVADA, WEDNESDAY, APRIL 25, 2018;

2 9:27 A.M.

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

5 * * * * *

6
7 (The following proceedings were held
8 outside the presence of the jury.)

9 THE MARSHAL: All rise. District
10 Department 13 is now in session, the Honorable Mark
11 Denton presiding.

12 THE COURT: Good morning. Please be seated.
13 We are resuming in Cox v. MGM Grand Hotel, LLC. We're
14 outside the presence of the jury. Please state
15 appearances of counsel, identify parties and party
16 representatives who are present.

17 MR. MORELLI: Benedict P. Morelli for the
18 plaintiff, Gavin and Minh Cox, who are in the
19 courtroom.

20 MR. DEUTSCH: Good morning, Your Honor. Adam
21 Deutsch, also for the plaintiff.

22 MR. FALLICK: Good morning, Your Honor.
23 Perry Fallick for the plaintiff.

24 MR. POPOVICH: Good morning. Jerry Popovich
25 for defendant MGM Grand Hotels with counsel Mike

1 Infuso.

2 MS. FRESCH: Good morning, Your Honor.

3 Elaine Fresch for David Copperfield, David Copperfield
4 Disappearing, Inc. And with me is my associate Eric
5 Freeman.

6 MR. ROBERTS: Good morning, Your Honor. Lee
7 Roberts for Backstage.

8 MR. RUSSELL: Good morning, Your Honor.
9 Howard Russell for Backstage.

10 MR. STRASSBURG: May it please the Court,
11 Roger Strassburg, assisted by my partner Gary Call, for
12 Team Construction Management.

13 THE COURT: All right. As I indicated, we're
14 outside the presence of the jury. I'll take up now the
15 matter pertaining to three witnesses previously
16 undisclosed but who apparently contacted plaintiffs'
17 counsel while this trial has been in progress and
18 plaintiff is now seeking permission to call these
19 witnesses in this trial. All right?

20 I have read the briefs. I know what your
21 respective positions are. I have a couple of
22 questions. And then we can -- I'll ascertain what the
23 facts are pertaining to these particular witnesses.

24 I understand that the first witness named was
25 involved in something that took place in Seattle, I

1 think, in 2002.

2 MR. DEUTSCH: Correct, Your Honor.

3 THE COURT: Okay. As far as I'm concerned,
4 that's just way too remote. It's not even in the
5 same --

6 MR. DEUTSCH: Your Honor, if I may respond.
7 If the defendants had opened on "this had never
8 happened at the MGM Grand," then maybe Your Honor's
9 ruling would fit with the facts of this case.

10 THE COURT: All right.

11 MR. DEUTSCH: But the defendants didn't open
12 on that. The defendants did math and testified from
13 all of their witnesses that this has never happened
14 anywhere, not just at the MGM Grand, but anywhere.
15 They talked about how the trick was developed in 1998.
16 They talked about the fact that they've been doing it
17 since 1998. They've talked about how no one has gotten
18 hurt since 1998.

19 And the math that Ms. Fresch did during her
20 opening statements started with the 96,000, which
21 represented the number of people who have done this
22 trick forever, not just here. So they opened the door
23 completely to this issue of it's never happened, ever.

24 So for us to now -- the jury to have heard
25 testimony that this has never happened before -- no one

1 has ever fallen, no one has ever gotten injured --
2 anywhere they have ever done the trick and we now have
3 evidence to show that is just patently false, it's
4 false.

5 And not only, Your Honor, did they know that
6 she fell, but the testimony from Ms. Esack will be that
7 Mr. Copperfield called her personally to apologize,
8 there was a claim brought by an attorney, and the case
9 was settled by David Copperfield Disappearing, Inc.,
10 for which we have the releases for.

11 And Ms. Esack is prepared to testify that
12 Mr. Copperfield spoke to her afterwards, while she was
13 being loaded into the ambulance because she shattered
14 her wrist in multiple places and had to be taken to a
15 Tier 1 trauma center, and that, within a day or two
16 after that, Mr. Copperfield went onto Good morning
17 America and said, "Nobody's ever been injured during
18 any of my tricks."

19 And then the day after that, Mr. Copperfield
20 called her home. Ms. Esack's mother picked up the
21 phone and hung up on Mr. Copperfield because she was so
22 angry that he lied on Good Morning America about the
23 fact that nobody had ever been injured in his trick.

24 So the defendants in this case opened the
25 door, Your Honor, to the fact that nobody has ever

1 gotten hurt, ever. That makes the entire trick, from
2 its inception in 1998, relevant. And if the jury were
3 to go back to the jury room to deliberate with an
4 understanding that nobody has ever been hurt from the
5 beginning of this trick to now, they would be going to
6 the jury room without all of the relevant information
7 in this case.

8 And as Your Honor made very clear at the
9 beginning yesterday, and the supreme court has felt,
10 the goal in this is to have the jury decide this case
11 on the merits and to find the truth. And they have now
12 proffered a defense that, we have been able to prove or
13 will be able to prove with Ms. Esack, is patently
14 untrue. And, therefore, to prevent us from calling
15 Ms. Esack, in light of their position in opening
16 statements, would be extremely prejudicial to us.

17 THE COURT: In light of the position on
18 opening statements, what about in light of evidence
19 that's been adduced?

20 MR. DEUTSCH: Mr. Copperfield --

21 THE COURT: Opening statements are not
22 evidence.

23 MR. DEUTSCH: Understood. Mr. Copperfield
24 testified that nobody has ever gotten hurt, ever. And
25 Mr. Copperfield testified to three different things, as

1 did Mr. Kenner. And I'll give Your Honor the cites in
2 a second. But Mr. Kenner testified nobody in the
3 history of the trick has ever fallen. Mr. Kenner
4 testified that nobody in the history of the trick has
5 ever fallen and got injured. Likewise, Mr. Copperfield
6 testified that nobody in the history of the trick has
7 fallen and in the history of the trick nobody has
8 gotten injured.

9 Those very specific questions were asked on
10 pages 99 and 101, which is Exhibit 15 to our brief, is
11 one of them. The other one is on Chris Kenner's
12 testimony, on page 198, which is Exhibit 16 to our
13 brief.

14 So all of the witnesses in this case that
15 have testified thus far have made clear to this jury
16 that nobody in the history of this trick -- nobody has
17 at any point said just the MGM Grand. Never. That
18 wasn't their position at the beginning of the case. It
19 wasn't the witnesses' position in this case. Nobody
20 has limited it to just MGM Grand. Ever. And now we're
21 hamstrung by it. Now we're --

22 THE COURT: I have to take each of these
23 people individually, so let me hear a response.

24 MR. POPOVICH: Well, Ms. Esack is easy for
25 MGM, Your Honor. No relevance to us at all.

1 THE COURT: Okay.

2 MR. MORELLI: That's true.

3 THE COURT: What about David Copperfield?

4 MS. FRESCH: First of all, I agree with Your
5 Honor, respectfully, that this is so remote --

6 THE COURT: Yeah, but counsel has pointed out
7 some very interesting things.

8 MS. FRESCH: Well, the testimony -- well,
9 first of all, if the plaintiffs had done their proper
10 disclosure as you requested that they do -- or ordered
11 them to do last Friday, because they're saying things
12 that I've never heard about. So it's really
13 interesting. So I feel like, once again, I'm
14 sandbagged here in terms of my argument.

15 THE COURT: Let me ask a question. Let me
16 interrupt you. Is Ms. Esack the one that has to go
17 back today?

18 MR. DEUTSCH: Yes, she is, Your Honor.

19 THE COURT: Why does she have to go back?

20 MR. DEUTSCH: For work. She has an afternoon
21 flight this evening. And just with respect to that,
22 our requirements for disclosure are to --

23 THE COURT: I understand. Just respond to my
24 question. You'll have a chance to respond.

25 MR. DEUTSCH: I understand. I apologize.

1 Yes, she is the one that's going back this
2 afternoon at, like, 4:00.

3 THE COURT: When does she have to go back to
4 work?

5 MR. DEUTSCH: Because she's here voluntary --

6 THE COURT: When? When does she --

7 MR. DEUTSCH: When. Oh, she's prepared to
8 fly out today at 4:30 and go to work tomorrow. I mean,
9 she is here, you know, voluntarily, obviously, and --

10 THE COURT: Right. So this thing comes up
11 before the Court last week on Wednesday, or whatever it
12 was. I ordered the disclosure to be made by Friday.
13 And then, all of a sudden, this witness has to testify
14 first thing --

15 MR. DEUTSCH: Well, Your Honor, we're working
16 around the schedules of the defendant -- I mean, of the
17 defendants. Excuse me. We're working around the
18 schedules of -- these are nonparty witness who are here
19 100 percent on their own volition outside the subpoena
20 power of this state, you know. So it's really,
21 obviously, as Your Honor has made clear during the
22 different witnesses that we have had --

23 THE COURT: So that's the one person who is
24 going to leave today; right?

25 MR. DEUTSCH: The other one is scheduled to

1 leave tomorrow morning, I believe. Tomorrow at noon.

2 THE COURT: That's --

3 MR. DEUTSCH: Ms. Lawrence.

4 THE COURT: Ms. Lawrence. Right. Okay.

5 MR. DEUTSCH: And Ms. Rice, we were still

6 trying to work -- she was on vacation in Florida with

7 her family, I believe, until Wednesday, and we were

8 going to try to work out a time for her to come

9 afterwards. But -- but so I won't respond to her

10 questions -- her comments yet, if those are the only

11 questions you have, at this point.

12 THE COURT: Well, I did have one dealing with

13 the first one now.

14 MR. DEUTSCH: Yeah, yeah, yeah. Go back.

15 MS. FRESCH: Your Honor, first of all, the

16 testimony in this trial versus my opening statement,

17 which apparently is now seems to be testimony, is that

18 Mr. Copperfield and Mr. Kenner stated they are unaware,

19 they have no knowledge, of other injuries. That is a

20 true statement. And I'd like to point out to you that

21 we did get --

22 THE COURT: Wait a second. Counsel just

23 referred to something about a phone conversation?

24 MS. FRESCH: Well, Your Honor, if I could

25 address that.

1 THE COURT: Go ahead.

2 MS. FRESCH: We did obtain from Ms. Esack's
3 former attorney a demand letter he sent to an insurance
4 carrier, not to my client, and he states,
5 quote/unquote, "David Copperfield never did speak with
6 Ms. Esack or personally check on her and no one on his
7 staff checked on her at the hospital."

8 THE COURT: Okay.

9 MS. FRESCH: This lawyer wrote a letter and
10 claimed -- and as my client has said, he was shown
11 those documents yesterday. That did not refresh his
12 recollection. They are not signed by him. They're a
13 unilateral release. The other letter has nothing to
14 do -- it's at an address that's not even a proper
15 address. So he had no information. He testified --
16 and we go with the trial testimony that the jury has
17 heard.

18 And I find it compelling that -- I know
19 they're saying that this witness is going to claim that
20 Mr. Copperfield said something, but I find it
21 interesting, back at the time of the event, the
22 attorney affirmatively stated -- and you would think
23 the attorney, when writing a letter to seek money and
24 do all this, would point out stuff, instead of saying
25 so affirmatively, "Mr. Copperfield never spoke to my

1 client, never checked on her, and no one from his
2 staff" -- which presumably would be Backstage.

3 So it's too remote. We don't have any
4 information of how she fell. There is no testimony.
5 Counsel is wrong, and I find it very suspect, and I
6 do -- Your Honor, as you just pointed out, I just find
7 it all suspect that this witness rushes in -- you did
8 not say that these people could testify, but they rush
9 her in so to sandbag us today that we -- we would have
10 to --

11 MR. DEUTSCH: Sandbag.

12 MS. FRESCH: -- somehow just have her testify
13 with something that happened in 2002, in a totally
14 different theater, up in Washington state. It's -- and
15 they didn't disclose all of this. This, I got myself.
16 This was not disclosed to us. Counsel should have
17 brought all this to me or to everyone in this case.

18 THE COURT: Thank you. Let me ask you a
19 question.

20 If these witnesses hadn't come up here, what
21 was your next witness to be called? Who? Who, I mean?

22 MR. DEUTSCH: One -- some of the Backstage
23 employees.

24 THE COURT: Okay. And you're prepared to
25 call them?

1 MR. DEUTSCH: We are prepared to call them.

2 MR. RUSSELL: One of whom also flew in from
3 out of town, Your Honor. And he's here. He's probably
4 sitting outside right now.

5 THE COURT: Seems to me with respect to
6 Ms. -- what is it?

7 MS. FRESCH: Esack.

8 MR. DEUTSCH: Esack.

9 THE COURT: Seems to me I have a couple of
10 alternatives. One would be that, while we're in
11 session in trial, a deposition could be taken of
12 Ms. Esack by associate counsel or whatever, somebody
13 who's involved in the case. That goes for everybody.
14 I think most of you have more than one here. Somebody
15 could be involved in that. Or we could do what we did
16 with the doctor a couple weeks ago and have the -- I
17 just don't want -- you know, I'm concerned about the
18 jury here.

19 MR. DEUTSCH: Your Honor, may -- if I may.
20 Ms. Fresch just used the word "sandbag." And if anyone
21 has been sandbagged here --

22 THE COURT: I don't want to waste time
23 talking about sandbagging. What I want to do is I want
24 to figure out what we're going to do about this case.

25 MR. DEUTSCH: Your Honor, there's absolutely

1 no harm or prejudice to anybody. They have had these
2 witnesses' numbers, just phone numbers, and have
3 spoken --

4 THE COURT: Let's do the depo. We'll do the
5 depo with --

6 MR. DEUTSCH: May I make one more point, Your
7 Honor?

8 THE COURT: Okay.

9 MR. DEUTSCH: May I just make one more point?

10 Ms. Esack informed us that Mr. Freeman spoke
11 to her over the weekend and that Mr. Freeman asked her
12 what happened and said that he was shocked that his
13 client had not told him -- her about this accident.

14 So the fact that -- the fact that they knew
15 or should have known of this -- Mr. Copperfield --

16 THE COURT: Mr. Freeman is not Mr. Roberts.

17 MR. DEUTSCH: He's the one sitting down
18 there.

19 THE COURT: And he's not Mr. Popovich.

20 MR. DEUTSCH: He's not. He's one of their
21 lawyers.

22 THE COURT: Right.

23 MR. DEUTSCH: But, Your Honor, we don't see
24 how, at that point, when the defendants clearly knew of
25 this, they had a release from -- Mr. Copperfield.

1 THE COURT: Okay. Take the deposition this
2 afternoon, and I'll consider allowing her to testify
3 tomorrow morning.

4 MR. ROBERTS: May I be heard briefly, Your
5 Honor?

6 THE COURT: Are we in session?

7 THE CLERK: Yes. The calendar needs to be
8 verified.

9 THE COURT: Go ahead.

10 MR. ROBERTS: First of all --

11 THE CLERK: We have only eight --

12 MR. ROBERTS: -- plaintiffs keep referring to
13 defendants with a broad brush.

14 Page 139 of the opening statement
15 transcripts, you'll see that the only thing Backstage
16 represented to the jury was that, in over ten years of
17 performing this illusion at the MGM, no one was hurt.

18 THE COURT: That's -- okay.

19 MR. ROBERTS: No mention was made of other
20 theaters and other shows.

21 THE COURT: That's Backstage.

22 MR. ROBERTS: That's Backstage, correct.

23 MR. DEUTSCH: Except Mr. Kenner is the
24 Backstage employee. He testified forever.

25 MR. ROBERTS: And he did, Your Honor. And I

1 never elicited a single thing about a show other than
2 at the MGM, and I never elicited anything about other
3 people not being hurt.

4 THE COURT: Okay.

5 MR. ROBERTS: The cited testimony was
6 elicited by Mr. Morelli and --

7 MR. DEUTSCH: Your Honor.

8 THE COURT: -- regarding Ms. Esack.

9 MR. DEUTSCH: Your Honor, may we --

10 MR. ROBERTS: Thank you, Your Honor. But the
11 other thing the Court is leaving out is the exercise of
12 reasonable diligence to discover this witness. They
13 selectively excerpt and leave out portions of their
14 interrogatory. Exhibit B to our brief shows their
15 interrogatory --

16 THE COURT: Going back to 2000 --

17 MR. ROBERTS: -- and is limited to the last
18 seven years.

19 THE COURT: Right. I understand.

20 MR. DEUTSCH: But the notice to admit went
21 back forever.

22 THE COURT: All right.

23 MR. DEUTSCH: So as did the questions at the
24 deposition.

25 THE COURT: Okay. Let's -- so you've got to

1 take the depo.

2 MR. DEUTSCH: The witnesses are -- we're okay
3 with doing the video deposition, like we did for
4 Dr. Ashley. But what we would request instead, if Your
5 Honor would be open to it, is the witnesses are here.
6 They're outside the courtroom. We would make an offer
7 of proof with respect to them right now. We can ask
8 them five or six questions, and I think everyone would
9 be confident to what they're going to say. There's no
10 surprise here.

11 THE COURT: I have seen -- I've been told
12 that, you know, or things similar to that in this case,
13 and that's not the way it's happened. Scheduling in
14 this case has been -- it's probably been the most
15 difficult I have seen in almost 20 years. Okay? I've
16 been told it's going to take this much time, and it
17 ends up taking three times.

18 MR. DEUTSCH: We understand, Your Honor.

19 THE COURT: Okay. So we'll do the depo.

20 Now, let's talk about the Backstage employee.
21 What I'm interested in knowing there is what discovery
22 was propounded that would have been expected,
23 reasonably expected, to elicit the identity of this
24 particular person. I think it's --

25 MR. DEUTSCH: Ms. Rice.

1 THE COURT: Rice.

2 MR. DEUTSCH: Well, it's all the same thing,
3 Your Honor. It's -- it's -- although a little
4 different. The -- the fact is, is that Ms. Rice, I
5 think more so than the other witnesses, is really a
6 rebuttal witness, more so than the other two. I think
7 the other two should be permitted to be put on in a
8 case in chief. I think that the discovery was
9 propounded as to that.

10 I think that Rule 16, though, does require
11 defendants to disclose any witness that has relevant
12 information to this case. And knowing that their
13 defense was going to be that nobody ever got hurt ever
14 in the history of this trick, I think that they would
15 have had an obligation -- Ms. Rice, in fact, tells us
16 that -- you know, as we told the Court, when these
17 people contacted us last week, we didn't just accept
18 what they had to say for face value. We made sure that
19 they had information to prove to us that they were
20 legitimate and that their claims were legitimate, what
21 they told us.

22 Ms. Rice provided us with a number of
23 information, including being able to tell us
24 specifically names of multiple Backstage employees who
25 were working with her at the time and who she knew was

1 aware of the person getting injured, including she knew
2 Chris Kenner and named him personally without us
3 mentioning his name whatsoever, said that Chris Kenner
4 was there and was aware of this incident.

5 She mentioned Rene Nadeau, who is still an
6 employee of Backstage to this day, was there at the
7 time and knew about this incident. She mentioned, I
8 think, Homer Liwag was an employee at the time who knew
9 about this incident of the person getting injured on
10 the runaround and who is still an employee today.

11 So Rule 16 -- Rule 16 requires them to
12 provide us with information of any witness who has
13 relevant information to this lawsuit. And, clearly,
14 information with respect to -- to notice and prior
15 incidents like this could not be more relevant,
16 especially if that's the defense they're putting on and
17 they never propounded that information on us.

18 But, with that being said, I think that
19 Ms. Rice is more -- more sort of a rebuttal witness in
20 light of the testimony that's come out today or
21 during -- not today, but during the trial so far --
22 that nobody has ever gotten hurt, that the people don't
23 run, that the people aren't supposed to run, that we
24 tell them not to run, that it's a brisk walk.

25 Ms. Rice tells us that that's absolutely not

1 the case, that the people are screamed at to run.
2 They're yelled at to continue faster, faster, faster
3 and that she knows that all of those people I just
4 mentioned were there the night that someone fell and
5 got injured and she's prepared to testify about that in
6 direct impeachment and in rebuttal of the testimony
7 thus far at trial.

8 MS. FRESCH: Your Honor, I don't even
9 understand because Ms. -- I don't know what Ms. Rice
10 knows. When Mr. Deutsch was talking about an incident
11 that she -- I don't know what he's talking about.
12 He -- they did not disclose -- first of all, yesterday
13 he said he had two witnesses, Esack and Lawrence. He
14 did not say that he also was going to call Ms. Rice at
15 any time. I construed that to mean they had elected,
16 as of yesterday, that they were not going to call --
17 they were only wanting to call Lawrence and Esack.

18 So her 16.1, if they were going to
19 potentially in this case call more witnesses, new
20 witnesses or whatever, they had a duty and obligation
21 to inform Your Honor, as well as all parties, that they
22 were potentially going to call three more witnesses.

23 Yesterday, counsel continually talked about
24 two. He never even mentioned Ms. Rice. Now he's
25 saying Ms. Rice, as a former employee of Backstage, has

1 information about, quote/unquote, an incident. I don't
2 know what incident he's talking about. I don't know
3 what day. I don't know what year.

4 THE COURT: Mr. Roberts, you represent
5 Backstage.

6 MR. RUSSELL: On the employees, Your Honor,
7 the request was for -- I'm trying to pull up the
8 request for production. The request was for the people
9 working there that evening and for one week prior.
10 That's what was requested in discovery. We answered
11 that. We gave them a list of the 32 people. You've
12 seen that list.

13 THE COURT: Counsel's saying that there's an
14 obligation to --

15 MR. RUSSELL: Well, under 16.1, he's right
16 that we have an obligation to produce relevant
17 information. I don't have any reason to believe that
18 Ms. Rice has relevant information, and I can tell you
19 that Ms. Rice didn't work there at least prior to the
20 night.

21 THE COURT: Here's how we'll deal with
22 Ms. Rice. Let's see if she does. I'll put her on the
23 back burner. You used the term "rebuttal,"
24 Mr. Deutsch.

25 MR. DEUTSCH: Yes.

1 THE COURT: Okay. So depo can be taken of
2 Ms. Rice in the meantime. Okay? Plaintiffs are not
3 going to call Ms. Rice in plaintiffs' case in chief.

4 MR. DEUTSCH: If -- if Your Honor is
5 saying --

6 THE COURT: What we'll see is whether or
7 not -- at the time the defense case closes, whether
8 there's a basis for a rebuttal.

9 MR. RUSSELL: Well, I'm concerned about the
10 16.1 argument, Your Honor, because that would put an
11 obligation on every defendant to -- to list every
12 employee that's ever worked for them. I mean,
13 that's -- it can't be that broad. She wasn't there
14 that night.

15 MR. DEUTSCH: And we're not suggesting that
16 it be that broad.

17 THE COURT: So I'm not going to permit the
18 plaintiff to call Ms. Rice unless the defendants have
19 an opportunity to depose. And then -- even then, I'm
20 not saying just because her deposition is taken she'll
21 be allowed to testify, but I will permit the defendants
22 to -- to take the deposition of Ms. Rice before she is
23 proffered as a witness. Okay? So you all have to work
24 that out. And I'll expect you to use your best efforts
25 and good faith to do so.

1 MR. DEUTSCH: Yes.

2 THE COURT: Now, the last one is Ms.

3 Lawrence; right?

4 MR. DEUTSCH: Correct.

5 THE COURT: When did the incident take place?

6 MR. DEUTSCH: June of 2013, Your Honor, at

7 the MGM.

8 THE COURT: Okay. So a few months before?

9 MR. DEUTSCH: Correct.

10 THE COURT: Okay.

11 MR. DEUTSCH: At the MGM Grand in the same

12 exact location that Mr. Cox fell.

13 THE COURT: Okay.

14 MR. MORELLI: A little bit relevant.

15 THE COURT: Because I think one of the

16 contentions made by the defendants here is that they

17 don't know anything about what's being contended

18 about --

19 MR. POPOVICH: What we were -- what we were

20 provided about Ms. Lawrence was a -- I think it's a

21 Facebook screenshot that she said something about

22 "skinned the heck out of my knees at a Copperfield

23 show," something like that. And we have gone back and

24 looked for Ms. Lawrence's name since this has been

25 provided on Friday. And we have zero incident report

1 from Ms. Lawrence. That's all we can say. That's all
2 we know.

3 THE COURT: Okay. Well, here's what we'll
4 do. We'll take the deposition of Ms. Lawrence as well.
5 And we'll continue with the trial, though, with the
6 witnesses who we're going to call. Okay?

7 MR. DEUTSCH: So, Your Honor, my
8 understanding is --

9 THE COURT: The jury's going to be here.

10 MR. DEUTSCH: I understand. So just so I'm
11 clear, Your Honor, we are going to put on the two
12 witnesses from Backstage this morning. As soon as
13 we're done with them, we're going to break for the day
14 and permit us to go do the depositions --

15 THE COURT: No, I'm not so sure about that
16 because my recollection is that you indicated that you
17 were going to be calling the plaintiffs.

18 MR. DEUTSCH: Not today, Your Honor. We
19 intended to fill up today with Team Construction's
20 witnesses, the two witnesses from Backstage, and, if
21 permitted, the two witnesses that flew out of town.
22 One is a seventh grade math teacher who's out of school
23 and has to go back.

24 THE COURT: Because I thought you said
25 that -- when I was asking about what you expected for

1 the schedule and everything, whom you were going to be
2 calling, and I thought you indicated --

3 MR. DEUTSCH: Thursday afternoon, we had
4 planned on calling the plaintiffs. And then Friday was
5 Mr. Habersack, Your Honor.

6 So -- so, you know, our biggest concern is --
7 is that these two women, out of the goodness of their
8 own hearts because they felt compelled to testify
9 because of the dishonest stuff that was put out by the
10 defense team in this case, thanks to Your Honor's
11 ruling that this court remains open, we never would
12 have gotten to the truth of this matter.

13 And what I find amazing is -- Your Honor, is
14 that the defendants have not made one argument with
15 respect to any one of these witnesses on the merits of
16 what they have to say, not one argument that what they
17 have to say is not relevant. Their arguments are --

18 MR. POPOVICH: Because we don't know.

19 MR. ROBERTS: We don't know what they have to
20 say, Your Honor. That's the whole point.

21 THE COURT: We're going to do is we're going
22 to break now. We'll resume when the jury's here, and
23 you'll call your --

24 MR. DEUTSCH: And can we do the definition --
25 the depositions this afternoon, Your Honor?

1 THE COURT: Yes, that's what I --

2 MR. DEUTSCH: Okay. Great. And can we do
3 them here in court the same way we did Dr. Ashley?

4 THE COURT: So, in other words, you want
5 to -- remember, I said there were two alternatives, one
6 was the depos and the other one was the similar thing.

7 MR. DEUTSCH: Trial deposition. We would
8 like to do the trial deposition way so that way the
9 jury sees that Your Honor is here. We don't have to
10 spend the time doing objections and cutting and
11 pasting. The witness will be in the witness box when
12 they testify, which we think is --

13 THE COURT: I'll learn what they have to say
14 too.

15 MR. DEUTSCH: And you'll learn what they have
16 to say as well.

17 MR. MORELLI: This afternoon.

18 MR. DEUTSCH: And my guess, Your Honor, is
19 that the direct examination will be -- and I know we've
20 said this with a lot of witnesses -- and you just
21 commented on this -- but my guess is their direct
22 examination is going to be 20 minutes to a half hour.

23 THE COURT: That makes sense. So -- but, I
24 mean, I'm not sure how long these other witnesses are
25 going to take.

1 MR. DEUTSCH: I anticipate that -- is
2 Mr. Carvalho here, Howard?
3 MR. RUSSELL: He's here.
4 MR. DEUTSCH: If we start Mr. Carvalho at
5 10:00 and Pomai Weall, who works across the street, my
6 hope is that we could get done with both of them by
7 lunchtime, if not maybe --
8 THE COURT: And, for the record as well,
9 these proceedings this afternoon pertaining to the
10 depositions --
11 MR. DEUTSCH: Will be closed.
12 THE COURT: -- will be closed.
13 MR. DEUTSCH: No problem, Your Honor.
14 MS. FRESCH: Your Honor, may I request that
15 documents that they have received from these witnesses,
16 obviously, because we -- we have not received documents
17 from these witnesses -- Ms. Lawrence refused to even
18 speak to us -- that they be produced immediately so we
19 have that?
20 THE COURT: So ordered.
21 MR. DEUTSCH: We already did, Your Honor.
22 THE COURT: So ordered.
23 MR. DEUTSCH: Your Honor, we already did.
24 When we sent them the e-mail, I sent them everything
25 that we had. And then the only thing I didn't have at

1 the time was the stuff from John Clark, the lawyer.
2 And I didn't need to send it to them because I was told
3 by Mr. Clark that they got it directly from them.

4 THE COURT: Confer with counsel, and you're
5 ordered to provide anything that she hasn't seen.

6 MS. FRESCH: I want to verify we got the same
7 information.

8 THE COURT: Okay. Very well. Thank you.

9 MR. RUSSELL: Your Honor, should I -- so
10 Ms. Weall should be here at 11:00 or after lunch? I
11 mean, I don't know how long he's going to go with
12 Mr. Carvalho.

13 MR. ROBERTS: And we have a witness that flew
14 in, Your Honor, and is flying back out tonight at their
15 request before that.

16 MR. DEUTSCH: Your Honor, we could do
17 Mr. Carvalho. Ms. Weall works across the street. We
18 can fit her in at any time. But my concern, though,
19 would be to get people who are flying out of the way --
20 that have to go back out of the way.

21 So my request would be we do Mr. Carvalho.
22 If we still have an hour or so before lunch, then we'll
23 get Ms. Weall on the stand. If Carvalho goes until
24 lunch, then my request would be we just do the
25 depositions because one of the witnesses that are here

1 has a 4:30 flight and so --

2 THE COURT: Okay. So ordered.

3 MR. DEUTSCH: Thank you, Your Honor.

4 THE COURT: Thanks.

5 THE MARSHAL: All rise.

6 (Discussion was held off the record.)

7 THE MARSHAL: All rise.

8 (The following proceedings were held in

9 the presence of the jury.)

10 THE COURT: You may be seated.

11 Do counsel stipulate that the jury is now

12 present?

13 MR. POPOVICH: Yes, Your Honor. So

14 stipulated.

15 MR. CALL: So stipulated.

16 MS. FRESCH: So stipulated.

17 MR. RUSSELL: So stipulated.

18 THE COURT: Good morning, ladies and

19 gentlemen.

20 IN UNISON: Good morning.

21 THE COURT: We're back in session with the

22 jury. We've had some things outside the presence.

23 Previously -- counsel have previously stated their

24 appearances.

25 At this time, plaintiffs may call their next

1 witness, keeping in mind that Mr. Copperfield is still
2 on the stand, so to speak, but his testimony has to be
3 interrupted because of his availability. So plaintiffs
4 will call their next witness.

5 MR. DEUTSCH: At this time, we call Ryan
6 Carvalho.

7 THE MARSHAL: Make your way up the stairs,
8 remain standing, raise your right hand, face the clerk.

9 THE CLERK: You do solemnly swear the
10 testimony you're about to give in this action shall be
11 the truth, the whole truth, and nothing but the truth,
12 so help you God.

13 THE WITNESS: I do.

14 THE CLERK: Please state your name and spell
15 it for the record, please.

16 THE WITNESS: Ryan Carvalho, R-y-a-n,
17 C-a-r-v-a-l-h-o.

18 MR. DEUTSCH: May I, Your Honor?

19 THE COURT: Yes.

20 MR. DEUTSCH: Good morning, everybody.

21 IN UNISON: Good morning.

22 DIRECT EXAMINATION

23 BY MR. DEUTSCH:

24 Q. Good morning, Mr. Carvalho.

25 We've never met before, Mr. Carvalho, have

1 we?

2 A. No.

3 Q. My name is Adam Deutsch. I'm one of the
4 attorneys for the Coxes in this case. I'm going to ask
5 you some questions. Please do me a favor and just keep
6 your voice up as loud so everybody can hear everything
7 you have to say. Okay?

8 A. Okay.

9 Q. If you don't understand any of my questions,
10 let me know; I'll be happy to rephrase. Fair enough?

11 A. Yep.

12 Q. Okay. Relative to this case, you were
13 employed by Backstage; is that correct?

14 A. Correct.

15 Q. And when did you start working at Backstage?

16 A. I would say, you know, I'm not positive on
17 days, but ...

18 Q. Approximate.

19 A. Let me do some math. 2012.

20 Q. Okay.

21 A. Yeah.

22 Q. And you worked there for about three or four
23 years; is that right?

24 A. Three and a half years.

25 Q. And that period included November of 2013; is

1 that right?

2 A. Correct.

3 Q. And while working at Backstage, as I
4 understand it, you had sort of some different
5 responsibilities at different times. Is that true?

6 A. Correct.

7 Q. Okay. And -- and some of those
8 responsibilities involved the Thirteen Illusion that
9 we're talking about in this case; true?

10 A. Yes.

11 Q. And you worked on the Thirteen Illusion for
12 the entire three and a half years that you were there.
13 Is that true?

14 A. No.

15 Q. Okay. For how long did you work on the
16 Thirteen Illusion for?

17 A. I would say at least a good year.

18 Q. Okay. And that included the -- November of
19 2013; correct?

20 A. Correct.

21 Q. And during the time that you were there --
22 that you were at the David Copperfield show that entire
23 time, the Thirteen Illusion didn't change at all? It
24 was the same the whole time. Is that true?

25 A. As far as I know, yes.

1 Q. And with respect to the Thirteen Illusion,
2 you had sort of two different responsibilities that you
3 did in that illusion at different times; is that right?
4 A. I -- I wouldn't say so.
5 Q. Okay. Well, initially, your -- the job that
6 you were sort of assigned to in the Thirteen was to be
7 one of the people that were up on stage and putting
8 witnesses into the chairs to the side of the prop?
9 That was your job initially; is that right?
10 A. No. No, no.
11 Q. Okay. Well, let me see if you remember being
12 asked this -- this question and being -- well, before I
13 do this, let me ask you this: What -- at some point in
14 time you were involved in the runaround; is that right?
15 A. Correct.
16 Q. Okay. And, at another point in time, you
17 were doing what I had stated before, which was putting
18 witnesses to the side; is that right?
19 A. So that wasn't my responsibility, but I did
20 help in that.
21 Q. Okay. Well, let me read you from your
22 deposition testimony and -- and see if you remember
23 being asked this question. You did take --
24 MR. RUSSELL: Objection. Improper
25 impeachment. He hasn't said he doesn't remember.

1 MR. DEUTSCH: That's not a -- it's an
2 inconsistency; it's not a remember thing.

3 THE COURT: Okay. Go ahead.

4 MR. RUSSELL: Please cite the page and line.

5 MR. DEUTSCH: Sure. 17, line 13.

6 MR. RUSSELL: Okay.

7 MR. POPOVICH: No objection.

8 MS. FRESCH: Okay.

9 BY MR. DEUTSCH:

10 Q. Let me read this to you. You did take a
11 deposition in this case? You were deposed at one
12 point?

13 A. Yes.

14 Q. And that was back in 2016, I think? February
15 of 2016?

16 A. I don't remember. Sure.

17 Q. Okay. And at the deposition, just like here
18 this morning, you took an oath to tell the truth;
19 correct?

20 A. Yes.

21 Q. And do you remember being asked this question
22 and giving this answer:

23 "QUESTION: So pretty much -- and we'll
24 get into it, of course -- but pretty much the
25 entire time that you've been involved in the

1 production of the Thirteen Illusion, you've
2 pretty much done the same thing each time?

3 "ANSWER: Correct. I'm sorry. I had two
4 roles in the illusion, the two different roles.

5 "QUESTION: And what are those two roles?

6 "ANSWER: The first one, I used to -- so
7 the way the prop sits on either side there are
8 chairs. And people sit on those chairs. And
9 they're counted as witnesses, you know. So
10 they kind of -- they kind of surround the prop
11 eventually, you know, to show there's nothing
12 around -- you know there's nothing around the
13 prop.

14 "And, originally, my responsibility
15 was to take those people that are sitting in
16 the chairs and kind of walk them upstage as the
17 prop is rising, and go, "Look. Cool. There's
18 nothing." And then walk them back downstage
19 after David walked off and we applause them.

20 "And then we had a guy leave, and I
21 took over his responsibilities of doing, like,
22 the runaround that you know about how that
23 works."

24 Okay? So --

25 A. I know what you're talking about now. Okay.

1 Q. So -- so your first job there involved the
2 witnesses in the chairs --

3 A. Yes.

4 Q. -- correct?

5 A. Yes.

6 Q. And then your second job after that was doing
7 the runaround?

8 A. Correct, that two separate -- at two separate
9 times. It was never the chairs and then -- like, in
10 the same show, I wouldn't do the chairs and then --

11 Q. I understand that. So -- so for -- for
12 the -- initially, when you were assigned to the
13 Thirteen, you were doing the witness chairs --

14 A. Correct.

15 Q. -- and there was someone else doing the
16 runaround; correct?

17 A. Correct.

18 Q. And then the person doing the runaround left
19 and they moved you into that position?

20 A. Right, right.

21 Q. And my understanding was that the -- or our
22 understanding from the testimony that we've already
23 heard in this case is that there was a reason why
24 people were taken and put in those witness chairs. Is
25 that your understanding as well? There was a reason;

1 correct?

2 A. Yes.

3 Q. And the reason was -- is that those were
4 people that you and the crew and Mr. Copperfield didn't
5 want doing the runaround; true?

6 A. Partly. We also needed to fill those chairs
7 to -- to have people. So ...

8 Q. Okay. Well, let me ask you if you remember
9 being asked this question and giving this answer.

10 MR. RUSSELL: Page and line, please.

11 MR. DEUTSCH: I'm getting to it. Page 20,
12 line 18.

13 MR. RUSSELL: To?

14 MR. DEUTSCH: 21/4.

15 BY MR. DEUTSCH:

16 Q. Okay.

17 "QUESTION: All right. You mentioned that
18 prior to taking over the position of moving the
19 people around, you were -- I'll get it wrong --
20 but you were sitting in the chairs to kind of
21 block. Explain that to me again.

22 "ANSWER: So as people are coming up on
23 stage, we'll seat some people, like old people
24 or, you know, if we don't want them running.
25 Obviously -- well, it doesn't matter their

1 role, but their role is to just, like, at the
2 beginning, they sit on the sides of the prop,
3 David does his thing with the 13 or however
4 many people."

5 Do you recall being asked that question and
6 giving that answer?

7 A. I don't remember.

8 Q. Okay. But it's fair for me to say that one
9 of the reasons, at least, that you put people in those
10 chairs is because those are people you don't want doing
11 the running; true?

12 A. Correct.

13 Q. And you don't want them doing the running for
14 a number of different reasons. Is that fair?

15 A. Yeah.

16 Q. Okay. One of the reasons that you mentioned
17 in your deposition was that you didn't want someone
18 doing the running if they were too old; true?

19 A. The runaround?

20 Q. Yeah.

21 A. Yeah.

22 Q. Okay. We know from some of the other
23 testimony that -- that if someone was pregnant, you
24 wouldn't want them doing the runaround. Is that true?

25 A. Right.

1 Q. Okay. If someone had a disability of some
2 kind, you wouldn't want them doing the runaround. Is
3 that true?

4 A. Correct.

5 Q. If someone wasn't wearing proper footwear,
6 you wouldn't want them doing the runaround?

7 A. Sometimes, yeah.

8 Q. Okay. And the reason that you wouldn't want
9 all of that group of people, and maybe others, to not
10 do the runaround is because there was a concern that
11 certain people may fall doing the runaround; true?

12 A. Are you talking about me or collectively?

13 Q. Well, I'm talking about what your
14 understanding was in terms of the reason why, those
15 people, you didn't want to do the running around --
16 runaround.

17 MR. POPOVICH: Objection. May lack
18 foundation -- does lack foundation.

19 THE COURT: Overruled.

20 THE WITNESS: So --

21 BY MR. DEUTSCH:

22 Q. Is that your understanding?

23 Is your understanding -- let me rephrase the
24 question.

25 THE COURT: Well, I'll -- you know, I'm going

1 to retract my ruling. I think you need to lay a
2 foundation as to how he arrived at his understanding.
3 MR. DEUTSCH: Sure.
4 BY MR. DEUTSCH:
5 Q. Well, you worked there for three years; true?
6 A. Right.
7 Q. You worked on this illusion for a year; true?
8 A. Uh-huh.
9 Q. Is that a yes?
10 A. Yes.
11 Q. You can't say uh-huh for her.
12 A. Got you. Sorry.
13 Q. You were taught the protocols of how the
14 thing worked; true?
15 A. I was trained by the guy before me.
16 Q. Okay. And that's the way it works at --
17 A. Right.
18 Q. -- at the show, is that when the guy leaves,
19 he trains the next person?
20 A. Correct.
21 Q. And what he trained you on was the protocols
22 for how to do what you needed to do; correct?
23 A. Correct.
24 Q. And, based on that, you formulated an
25 understanding of why you were doing these certain

1 things in order to do them properly. Is that fair?

2 A. Yeah.

3 Q. So now let me ask you if it was your

4 understanding that the reason that there was a group of

5 people that you didn't want doing the runaround -- and

6 when I use the term "you," I'm referring to the whole

7 show.

8 A. Got it.

9 Q. The reason that the show didn't want certain

10 people doing the runaround is because the show was

11 concerned that certain people could fall. True or

12 false.

13 A. I would say false.

14 Q. Okay.

15 A. When -- when I --

16 Q. You answered my question.

17 A. Okay.

18 Q. Now, one of the roles at some point that you

19 had in -- when you were -- before you started doing the

20 runaround, when you were still on stage, one of your

21 roles was visually doing some of the assessing of these

22 people; is that right?

23 A. I took that upon myself to do that.

24 Q. Okay.

25 A. I'm sorry. When I was doing the chairs, no.

1 Q. Okay. So it was when you were doing the
2 runaround portion?

3 A. Correct, correct.

4 Q. So before you actually started to run around
5 with the witnesses in the back, you were on stage while
6 they were coming up on stage; is that right?

7 A. I think so.

8 Q. Okay. And you -- as you said, you took it
9 on. You did some assessing of these people; correct?

10 A. When I was doing the runaround track;
11 correct.

12 Q. Okay. Well, let me see if I understand you.
13 Did you wait until they were actually running to do
14 this assessment or did you make the assessment before
15 they started running?

16 A. So which role am I in right now? Am I doing
17 the chairs or am I doing --

18 Q. Well --

19 A. -- my responsibilities?

20 Q. Sure. In either of the two roles that you
21 had, whether it was when you were doing the runaround
22 or when you were doing the chairs, there was a point
23 when you were doing some sort of assessment of people;
24 is that true?

25 A. Correct.

1 Q. Okay. And which one was it? Was that during
2 the runaround or when you were doing the chairs?
3 A. It was when I was in the runaround role.
4 Q. Okay. But it was before, obviously, the
5 actual runaround?
6 A. Correct.
7 Q. And that was on stage?
8 A. Correct.
9 Q. And you would assess them to see if they were
10 going to be a problem or not; is that fair?
11 A. Yeah.
12 Q. Okay. And, for example, you wouldn't want to
13 deal with a woman in a tight skirt and heels; true?
14 A. True.
15 Q. Okay. And -- and when you say that you were
16 assessing to see if they're going to be a problem, the
17 problem was that you were concerned they were going to
18 be able to complete the runaround; is that right?
19 A. In a way, yes.
20 Q. Okay. Were you concerned that the problem
21 that these people may have was that they might fall
22 doing the runaround? Was that a concern of yours?
23 A. Not really.
24 Q. Were you concerned that they were nice people
25 or not nice people?

1 A. I wouldn't say nice. Drunk people were my
2 biggest concern.

3 Q. What concerned you about drunk people?

4 A. Just that they'd be hard to manage or there's
5 potential for them to -- say they're on stage and they
6 start pulling on curtains and pulling on ropes, like
7 you --

8 Q. Is it only drunk people that you were
9 concerned about?

10 A. No.

11 Q. Okay. You were concerned about women in high
12 heels and skirts as well; correct?

13 A. Definitely.

14 Q. Okay. So were you concerned that women in
15 high heels and skirts would start pulling on -- on
16 things on stage or --

17 A. No.

18 Q. -- did you have a different reason to be
19 concerned about them?

20 A. Different reason.

21 Q. Okay. And was the reason that maybe it's not
22 so easy to run in high heels and skirts?

23 A. Even in a tight skirt, it's hard for them to
24 take big steps.

25 Q. Okay. And if you're running in high heels

1 and a skirt, you could potentially fall; correct?

2 A. I'm sure. But we never ran, so ...

3 Q. Well, we'll get to that in a second. Now,
4 just to be clear, you agree that this movement of the
5 people from the front to the back was called the
6 runaround; true?

7 A. Correct.

8 Q. You called it that in your deposition;
9 correct?

10 A. Right.

11 Q. Okay. And you called it here already today
12 in court; correct?

13 A. Yes.

14 Q. And prior to the -- the runaround, there's
15 some questions that are asked of people as they come up
16 on stage; is that right?

17 A. Correct.

18 Q. Okay. And we've gone through those a little
19 bit. And, as I understand it, you weren't really
20 involved personally in asking those questions. Is that
21 true?

22 A. That's true.

23 Q. And while -- and despite the fact that you
24 were involved in the trick for, like, a year --
25 withdrawn.

1 And is it fair to say that you don't know the
2 exact questions that were asked?

3 A. At the time I -- I did not.

4 Q. You've learned them since?

5 A. Yes.

6 Q. How did you learn them since?

7 A. Just from this case.

8 Q. Okay. From speaking with some of the
9 attorneys?

10 A. Yeah.

11 Q. Is that Mr. Russell?

12 A. I don't remember.

13 Q. Okay. Did you meet with anyone in
14 preparation for your testimony today?

15 A. Today, no.

16 Q. Did you meet with anyone in preparation for
17 your testimony at any point in time?

18 A. I -- I had meetings.

19 Q. How many meetings have you had?

20 A. From what date? I think --

21 Q. Forever.

22 A. Two, I think I would say.

23 Q. Two meetings.

24 A. Yeah.

25 Q. How long?

1 A. What do you mean?

2 Q. How long were the meetings?

3 A. Half hour.

4 Q. Were they in person or were they over the
5 phone?

6 A. In person.

7 Q. Okay. What did you guys talk about?

8 MR. RUSSELL: Objection. Privilege.

9 MR. DEUTSCH: My understanding --

10 THE COURT: We have to establish with whom
11 the meeting was.

12 MR. DEUTSCH: I was -- I was -- he was being
13 produced as a nonparty, hence the improper impeachment.

14 Can we approach for a second, Your Honor, and
15 I can move on if I'm wrong, but I thought ...

16 (A discussion was held at the bench,
17 not reported.)

18 MR. DEUTSCH: I will withdraw the question,
19 Your Honor.

20 BY MR. DEUTSCH:

21 Q. So let's go back to the questions.

22 Is it fair of me to say that, despite the
23 fact that you were working on this trick for a year,
24 that the reason that you don't know the specific
25 questions that were asked is because the whole process

1 of asking questions goes like that really quickly?
2 Isn't it true?

3 A. No.

4 Q. Well, let me ask you if you remember being
5 asked this question and giving this answer.

6 MR. RUSSELL: Your Honor, he can show him the
7 deposition and ask if it refreshes his recollection.

8 MR. DEUTSCH: It's impeachment, Your Honor.

9 THE COURT: All right. Go ahead.

10 MR. RUSSELL: What page, Mr. Deutsch?

11 MR. DEUTSCH: Page 24, line -- I'm going to
12 start at 13, and it's going to go on to line 7 of 25.

13 MR. RUSSELL: Okay.

14 MR. DEUTSCH:

15 "QUESTION: And in addition to the -- some
16 of the questions I asked you, do you have a
17 recollection of other questions he asks his
18 potential participants in the illusion?

19 "ANSWER: That Spencer asks?

20 "QUESTION: Yes.

21 "ANSWER: No, I didn't really know what
22 his script was.

23 "QUESTION: Okay. Even though you've been
24 involved in it so many times --

25 "ANSWER: Right.

1 "QUESTION: -- you didn't pay attention to
2 what he was asking?

3 "ANSWER: Right, because it's so fast.
4 I'm doing the one thing and he's at center
5 stage. I'm at the end of the stage, you know.
6 I'm right there next to David, and I'm
7 listening to David as well. He says, 'Sit the
8 person.'

9 "'All right. Have a seat,' where I have to
10 send them across where they go to Spencer."

11 BY MR. DEUTSCH:

12 Q. So would you agree with me that the whole
13 process of asking questions happens fast?

14 A. No.

15 Q. Now, despite the fact that you don't know the
16 exact questions, you are familiar with the fact that
17 the people are asked if they can run; is that right?

18 A. Correct.

19 Q. Now, so on the night of the accident, you
20 were one of the people that was involved in the
21 runaround; correct?

22 A. Correct.

23 Q. And you were actually the person that was in
24 charge of leading the front of the herd as they went
25 around; is that true?

1 A. Yes.

2 Q. And sort of your responsibility at that point
3 was once the participants -- someone else -- withdrawn.

4 Another stagehand would actually go into the
5 prop and get the people out; is that true?

6 A. Correct.

7 Q. And you would be waiting at the bottom of the
8 dragon, which was the piece that comes up. And the
9 jury's already seen pictures of that --

10 A. Yes.

11 Q. -- with the stairs. You would be waiting at
12 the bottom of that to take the first person and start
13 the runaround?

14 A. Yes.

15 Q. And the first person that comes out is
16 usually a woman; is that right?

17 A. Yes.

18 Q. That's just because of the way the people are
19 situated inside the prop?

20 A. Correct.

21 Q. And at that point, you actually physically
22 take that woman by the hand and start the runaround; is
23 that true?

24 A. Yes.

25 Q. And at that point, when you first start, when

1 they first exit the dragon, you agree that those
2 people, the people that are inside the prop, have no
3 idea where they're going; is that true?

4 MR. RUSSELL: Objection. Foundation.

5 MS. FRESCH: Speculation.

6 THE COURT: Sustained.

7 BY MR. DEUTSCH:

8 Q. Well, at that point do you know, from working
9 on the illusion for a year, if, at the point the people
10 are sitting in the prop, anyone has told them where to
11 go?

12 THE WITNESS: I don't think so. I don't
13 think they do.

14 BY MR. DEUTSCH:

15 Q. And at the point when you meet that woman,
16 when they get down the stairs and they are exiting the
17 prop, at that point they also don't know where they're
18 going; true?

19 A. Correct.

20 Q. And even once you start the runaround and
21 you're on your way through the route, the people still
22 at that point don't know where they're going; true?

23 MR. RUSSELL: Objection. Foundation.

24 THE COURT: Sustained.

25 /////

1 BY MR. DEUTSCH:

2 Q. Well, would you agree with me that they've
3 never been told what they're supposed to be doing? Do
4 you agree with that?

5 A. Yeah, I would agree. Like I said, I don't
6 have a lot of conversation with the participants
7 beforehand, so -- or any, really.

8 Q. And you're not aware of anyone else who has
9 any conversations with them either; true?

10 MS. FRESCH: Objection. Calls for
11 speculation.

12 MR. RUSSELL: Join.

13 THE COURT: He asked for his awareness. I'll
14 allow it.

15 THE WITNESS: No.

16 BY MR. DEUTSCH:

17 Q. That's not true or you don't know?

18 A. I don't know.

19 Q. Well, let me ask you if you remember being
20 asked this question and giving this answer.

21 On page 39, line 14.

22 "QUESTION: And you agree, because they
23 don't have any at this point, they still have
24 not received any direction about what it is
25 they're supposed to be doing or where they're

1 going?

2 "ANSWER: Correct."

3 Do you remember being asked that question and

4 giving that answer?

5 A. I don't remember, man.

6 Q. Do you agree that that's the fact, though?

7 A. As far as I knew, nobody was told the route

8 or even what's going to happen, so ...

9 Q. Now, as you are running around, you had --

10 you were holding a flashlight; is that right?

11 A. Correct.

12 MR. DEUTSCH: Can I borrow the --

13 MR. STRASSBURG: The spot? Sure.

14 MR. DEUTSCH: I'm not going to shine it in

15 your eyes.

16 MR. STRASSBURG: You get the truth that way.

17 MR. MORELLI: You didn't.

18 BY MR. DEUTSCH:

19 Q. Is this the kind of flashlight --

20 MS. FRESCH: Objection, Your Honor. I would

21 like to move to strike counsel's last response.

22 THE COURT: Which counsel?

23 MS. FRESCH: Mr. Morelli's comment.

24 MR. STRASSBURG: I will withdraw my remark,

25 Judge.

1 MS. FRESCH: No, Your Honor, I would like
2 to --

3 THE COURT: Motion is granted. Jury to
4 disregard.

5 BY MR. DEUTSCH:

6 Q. Okay. This is the kind of flashlight that
7 you were holding?

8 A. Looks like it.

9 Q. And, as I understand it, the reason that you
10 understand you were using that flashlight was so you
11 could light the way and see where you're going as
12 you're going. Is that right?

13 A. No. That's a light that I hand to the woman
14 that -- whose hand I'm holding.

15 Q. So there's -- there's two reasons that you
16 would have the flashlight. One is to light the way,
17 and one is because it's part of the trick at the end?

18 A. No. I would say the sole reason is to give
19 it to her. But I have it, so why not use it?

20 Q. So your testimony is that you do, in fact,
21 use it?

22 A. Yes.

23 Q. And is the reason that you felt, whether
24 someone told you that was the protocol or not, you felt
25 that it was a good idea to use it because you felt that

1 it would help light up the way as you were going?

2 MR. RUSSELL: Objection. Misstates
3 testimony.

4 THE COURT: If it does, he can say so.

5 BY MR. DEUTSCH:

6 Q. That's what I thought you had just said.

7 A. In a sense, yeah.

8 Q. Well, let me ask -- I'll hold off.
9 And did you do that every night? Did you
10 light it up every night?

11 A. Yes.

12 Q. Okay. I'm going to show you what's --
13 Exhibit 402 in evidence and take a look. And this
14 is -- have you ever seen this video?

15 A. I don't think so.

16 Q. Okay. So I'll tell you that this is admitted
17 in evidence and all parties agree that this is a -- a
18 video clip from surveillance -- surveillance footage
19 from the night of this accident.

20 A. Okay.

21 Q. Okay? And by looking at just that first
22 screen, can you identify what -- what you're -- what
23 you're looking at? Do you recognize what you're seeing
24 there?

25 A. Yeah.

1 Q. Okay. And am I right that that is sort of
2 looking down into where the doors are where you enter
3 back into the casino? Is that right?

4 A. Correct.

5 Q. Okay. And I want to just play this for you
6 for a second.

7 (Whereupon video deposition was played.)

8 MR. DEUTSCH: Stop.

9 BY MR. DEUTSCH:

10 Q. Now, the first person on that path, this guy
11 right here, holding that -- that flashlight that I was
12 just holding, that would be you; correct?

13 A. Correct.

14 Q. Okay. And in this video, your flashlight is
15 not on; correct?

16 A. Correct.

17 Q. Okay. So I guess you don't do it every
18 night. True?

19 A. I do do it every night, but I don't need it
20 out there.

21 Q. Okay. So you turn it on inside?

22 A. It's from the dragon till we get into the --
23 till we get into light.

24 Q. Okay. So let me see if I understand your
25 testimony.

1 A. The hallways.

2 Q. So your testimony is that the darker part of
3 this runaround where you would need the flashlight is
4 when they first come out of the dragon? Is that -- is
5 that what I understand you to say?

6 A. Yeah.

7 Q. Okay. And then, when you get outside, it's
8 your testimony that you then turn it off because you
9 don't need it anymore?

10 A. Yeah.

11 Q. So you have it on for the darker part of the
12 run and not for the outside portion?

13 A. So the --

14 Q. I withdraw that question.

15 A. Okay.

16 Q. Bad question.

17 Now -- we'll get back to that in a second,
18 but as I understand the way you did things at the time
19 when you were leading the woman, like in this video, is
20 that you would tell the woman whose hand you were
21 holding -- sort of before you got to the next turn or
22 intersection, you would give that woman sort of a
23 heads-up, you know, we're going -- in a second, we're
24 going to make a right, in a second we're going to make
25 a left. Is that right?

1 A. Yes.

2 Q. Okay. And there was some testimony yesterday
3 by Mr. Copperfield, I think, that that was sort of like
4 a GPS; right? Like in a thousand feet, you're going to
5 make a right. Sort of like that; right?

6 A. Exactly.

7 Q. And you did that because you recognize that,
8 in order for someone to know where they're going to
9 sort of make a safe turn, that having a little bit of a
10 notice of where they're going is helpful to them; true?
11 Is that why you did it?

12 A. It made the path easier for us.

13 Q. Okay. It made the path easier for the woman.
14 I mean, you knew the path; correct?

15 A. Correct.

16 Q. You had done it dozens or hundreds of times?

17 A. Right.

18 Q. So when you say it made the path easier, what
19 you're referring to is it made the path easier for the
20 people who didn't know where they were going?

21 A. Correct.

22 Q. Okay. And that's why you said it to that
23 woman whose hand you were holding; correct?

24 A. Correct.

25 Q. But -- and you were -- you were concerned

1 that the people might turn the wrong way; is that true?
2 A. No.
3 Q. Okay. Well, let me see if you recall being
4 asked this question and giving this answer. Starting
5 on line -- page 42, line 10.
6 "Okay. So continue."
7 "Question." Sorry. "Question."
8 MR. POPOVICH: Your Honor, can we have an end
9 point and a chance to look at this first?
10 MR. DEUTSCH: Sorry, sorry. It's going to
11 end on line -- page 43, line 4.
12 MR. RUSSELL: Same objection. Improper use
13 of -- witness should be allowed to refresh the
14 recollection before --
15 MR. DEUTSCH: It's not a refreshing
16 recollection; it's a direct --
17 THE COURT: Okay. Go ahead.
18 MR. DEUTSCH: Thank you.
19 "QUESTION: So continue. So that you're
20 in front; you're leading the lady?
21 "ANSWER: Uh-huh.
22 "QUESTION: Let's -- where do they go from
23 here?
24 "ANSWER: So I have one person, whether it
25 be -- it's usually a lady. And I also have

1 this spot that's, like, not a super flashlight
2 but like a spotlight. And I'm using that. I
3 usually light her way, like, "Right over here.
4 We're going to turn left over here." And I've
5 learned to make it a point to tell this person,
6 you know, before we're going to make the turn,
7 even before we make the -- that we're going to
8 turn left. Okay. Now we're going to turn
9 right, you know, like a good two seconds before
10 we do it.

11 "QUESTION: Why is that you decided to do
12 that?

13 "ANSWER: It's because it's easier than,
14 like, stopping, you know. Maybe they want to
15 turn this way and then they have to stop and
16 turn the other way."

17 BY MR. DEUTSCH:

18 Q. Do you remember being asked that question and
19 giving that answer?

20 A. I don't remember that, but it makes sense.

21 Q. So having read that, though, is one of the
22 reasons that you give this woman up front a little bit
23 of a heads-up of which way she's going to turn is
24 because you don't want her turning the wrong way?

25 A. At the beginning of the run, yes.

1 Q. Okay. Well, does that change as she
2 continues? I mean every time she reaches an
3 intersection, she doesn't know which way she's going to
4 go, so you tell her ahead of time so she doesn't go the
5 wrong way. That's what you said; right?

6 A. Well, the first few turns, she could easily
7 want to go left into one of our offices or go straight
8 up the stairs to our dressing rooms. So it's the first
9 few turns before we get outside that --

10 Q. Okay. So --

11 A. -- they're instructed.

12 Q. -- let's explore that for a second. So it's
13 your testimony, then, that -- that the -- the -- the
14 part before you go outside, at that point, that's where
15 it's easier for someone to go the wrong direction, and
16 that's why you tell them in advance; is that right?

17 A. Correct.

18 Q. And, you know, based on you saying that you
19 could go the wrong way, would you agree with me that
20 the runaround that the participants have to do in the
21 Thirteen Illusion is confusing? Would you agree with
22 that?

23 A. No, because I'm leading them.

24 Q. Okay. Well, let me see if you remember being
25 asked this question. It's the very next question from

1 the one that I just read before, on page 43, line 5.

2 MS. FRESCH: Your Honor, there was an
3 objection to that question in the deposition.

4 THE COURT: Well, when he poses -- read the
5 question and then hold off so I can hear the objection.

6 MR. DEUTSCH:

7 "QUESTION: So, I mean, is it -- for lack
8 of a better term, it can be confusing, so
9 you're giving them some advanced warning?"

10 MS. FRESCH: The objection by two counsel was
11 to the form.

12 THE COURT: Overruled.

13 BY MR. DEUTSCH:

14 Q. So let me read the question again so we're
15 clear.

16 "QUESTION: So, I mean, is it -- for lack
17 of a better term, it can be confusing, so
18 you're giving them some advanced warning?"

19 Answer from you, the witness, "Yeah, I'm
20 going to say it's confusing, but, like, seeing them
21 come out of the prop, you know, they are just -- they
22 don't know what's going on. So they need some
23 direction. 'All right. Left. Left up here.' You
24 know, instead of 'Left now.' You know, it's -- you're
25 not going to tell your buddy to 'Oh, this is -- the

1 next turn is right' when you're in the left lane. You
2 know, you're going to give him fair warning."

3 You remember being asked that question and
4 giving that answer?

5 A. No, I don't remember that. But ...

6 Q. Now, those advanced warnings that you're
7 giving because it's confusing, you give to that first
8 lady; correct?

9 A. Correct.

10 Q. But you don't yell those advanced warnings
11 back to the people that are further back in the pack;
12 correct?

13 A. Correct.

14 Q. You only give them to that woman; correct?

15 A. Yes.

16 Q. So that woman may get some benefit in terms
17 of you helping her out with her confusion, but people
18 that are further back in line wouldn't get that
19 benefit; true?

20 A. I think they would get that benefit because
21 they're following the person in front of them.

22 Q. Okay. But they wouldn't get that benefit
23 from you directly saying something to them; true?

24 A. True.

25 Q. And the fact is that these -- during this

1 runaround, the people aren't staying, like, right
2 within, like, a couple of feet of each other; in fact,
3 they tend to fan out. Is that -- is that true?

4 A. I'm not sure.

5 Q. Well, you don't know because you're in the
6 front and you can't see what's going on behind you;
7 true?

8 A. Correct.

9 Q. So you don't know how far behind someone may
10 be than someone else; true?

11 A. At certain points, yes.

12 Q. Okay. Well -- and if you don't know how far,
13 then you're not sure if someone in front of someone
14 might have already made a turn already and, therefore,
15 when the person is looking forward, they don't know
16 which way they're supposed to go. Is that true?

17 A. Will you say that again. Sorry.

18 Q. Sure. So if the people, in fact, do -- well,
19 let me ask you this question before I get there.

20 After you come in through these doors and you
21 go into the casino, at that point you stop for a second
22 before you enter the kitchen?

23 A. Correct.

24 Q. And there's a purpose for stopping; is that
25 right?

1 A. Yes.

2 Q. And the purpose is because, during the
3 runaround, the group has, in fact, fanned out?

4 A. Yeah, that's one of the reasons.

5 Q. Okay. So you need to stop for a second so
6 the group that has now spread out can come back
7 together; true?

8 A. True.

9 Q. So, therefore, your advanced warnings that
10 you give this woman in the front that are done for the
11 purposes of aiding in confusion don't help anybody but
12 her; true?

13 MR. RUSSELL: Objection. Misstates
14 testimony. Argumentative.

15 MS. FRESCH: Join.

16 THE COURT: If it does, he can say so.

17 BY MR. DEUTSCH:

18 Q. True or false?

19 A. One more time, please.

20 Q. The advanced warnings that you felt were
21 necessary to give this first woman to avoid the
22 confusion, as you described this runaround, nobody else
23 gets the benefit of that; true?

24 A. No. I feel the people behind, seeing where
25 we are going, get the benefit.

1 Q. Okay. So if someone was right behind her,
2 they might get the benefit. But how about someone who
3 gets fanned out and there's a big space between them
4 and the person in front of them? They wouldn't get the
5 benefit, would they?

6 MR. RUSSELL: Objection. Speculation.

7 THE COURT: Overruled.

8 THE WITNESS: In that tight area, no, because
9 everybody's -- everybody's close in -- in that --
10 before we get outside, everybody's close.

11 BY MR. DEUTSCH:

12 Q. Well, the place that you stopped to let
13 everyone regroup is right inside these doors; correct?

14 A. Right.

15 Q. So, therefore, the reason you do it at that
16 point is because right outside these doors is when
17 people get the most spread out; correct?

18 A. I'd say so.

19 Q. Now, we've heard testimony from other
20 witnesses that, during the runaround, there are some
21 MGM employees -- stagehands -- that stand along the
22 route. Is that your understanding?

23 A. Yes.

24 Q. Okay. And those stagehands have some
25 flashlights; is that right?

1 A. Correct.

2 Q. And, in your experience, generally speaking,
3 other than just standing there with the flashlights,
4 generally, those stagehands don't give any
5 instructions; true?

6 A. I think some of them do.

7 Q. Okay. Well, let me ask you if you remember
8 being asked this question and giving this answer on
9 page 53, line -- let me just do one thing real quick.

10 MR. DEUTSCH: I'm going to show this, if
11 anyone has any objection, from his deposition just so
12 we can make clear what the question refers to.

13 MR. POPOVICH: No objection.

14 MR. DEUTSCH: Any objection?

15 MR. RUSSELL: No, that's fine.

16 MR. DEUTSCH: It's Exhibit 415. I guess I
17 will move it into evidence, Your Honor, at this time,
18 D415.

19 BY MR. DEUTSCH:

20 Q. So, Mr. Carvalho, I want to show you --

21 THE COURT: You're offering no -- any
22 objection?

23 MR. DEUTSCH: I thought there was no
24 objections.

25 MR. POPOVICH: No objection.

1 MR. RUSSELL: No objection.

2 THE COURT: It's admitted.

3 (Whereupon, Defendant's Exhibit 415 was
4 admitted into evidence.)

5 BY MR. DEUTSCH:

6 Q. Mr. Carvalho, I want to show you this
7 diagram. Do you recognize it?

8 A. Yes.

9 Q. Okay. And that's a diagram that you drew at
10 the time of your deposition; is that right?

11 A. Yes.

12 Q. Okay. And there are two sort of -- there's
13 two Xs here: one right here -- right? -- and one right
14 there. Right there; correct?

15 A. Yes.

16 Q. And as I understand it, that represents what
17 we were just talking about, the MGM stagehands were
18 standing there with the flashlight; correct?

19 A. Correct.

20 Q. Okay. And you put a little number next to
21 this one right here as number two. You see that?

22 A. Yes.

23 Q. Okay. So now let me ask you if you remember
24 being asked this question and giving this answer.

25 MR. RUSSELL: And I'm going to object as --

1 well, can we approach?

2 (A discussion was held at the bench,
3 not reported.)

4 BY MR. DEUTSCH:

5 Q. Okay. So, Mr. Carvalho, let me ask you this
6 question just -- if I wasn't clear -- I thought I was,
7 but if I wasn't.

8 Right now I'm talking about number two. Do
9 you -- here, that guy in number two, generally do you
10 hear him giving any instructions, generally?

11 A. It really depends on the person who's doing
12 that, who's in that role.

13 Q. Okay. So some of them do and some of them
14 don't?

15 A. Yeah.

16 Q. Okay. Well, let me see if you remember being
17 asked this question and giving this answer.

18 MS. FRESCH: Could you repeat the lines,
19 Mr. Deutsch.

20 MR. DEUTSCH: Yeah. 53, line 25, going on to
21 the next page.

22 MS. FRESCH: To what end?

23 MR. DEUTSCH: Just the end of that answer, 4.

24 "QUESTION: Is number two giving any type
25 of instruction to any of the participants in

1 the show?

2 "ANSWER: I would say no, unless a
3 person -- a participant was to keep going --
4 you know, keep going straight and not make the
5 turn."

6 BY MR. DEUTSCH:

7 Q. Do you remember being asked that question and
8 giving that answer?

9 A. I don't remember, but ...

10 Q. Okay. So let me ask you this question, then:
11 So, generally, that person doesn't say anything; true?

12 A. Sure.

13 Q. That's what you testified about; right?

14 A. Yeah.

15 Q. But sometimes they might say something; true?

16 A. Yeah.

17 Q. And the times that you identify when you
18 recall the guy standing at number two saying something
19 is if a participant, instead of making that right turn
20 like they're supposed to, continued to go straight that
21 way; right?

22 A. Right.

23 Q. Okay. And, obviously, because you gave that
24 as an example of something that the guy at number two
25 said, that's something that -- that's happened before,

1 someone's continued to go straight and not made the
2 turn; right?

3 A. They attempted to, yes.

4 Q. Yeah. And that's because they don't know
5 where they're going; right?

6 MR. RUSSELL: Objection. Foundation.

7 MS. FRESCH: Speculation.

8 THE COURT: Sustained.

9 BY MR. DEUTSCH:

10 Q. Well, the reason that they would go
11 straight -- withdrawn.

12 They were supposed to make a right; true?

13 A. Correct.

14 Q. The reason they didn't make a right and they
15 continued to go straight is because they didn't know
16 they were supposed to make a right --

17 MR. RUSSELL: Objection. Speculation.

18 BY MR. DEUTSCH:

19 Q. -- true?

20 THE COURT: Sustained.

21 BY MR. DEUTSCH:

22 Q. Do you think that the reason the person
23 continued to run straight instead of making a right was
24 because they wanted to get out of the craziness that
25 was going on in the illusion and they just didn't want

1 to participate anymore?

2 MR. RUSSELL: Same objection. And
3 argumentative.

4 MS. FRESCH: Join.

5 THE COURT: Sustained.

6 BY MR. DEUTSCH:

7 Q. Why do you think the person would continue to
8 go straight instead of making the right?

9 MR. RUSSELL: Same objection.

10 THE COURT: I'll allow that.

11 THE WITNESS: Because they fell back from the
12 group ahead of them.

13 BY MR. DEUTSCH:

14 Q. Okay. And if you fell back from the group
15 ahead of you, you wouldn't know where the people in
16 front of you were going; true?

17 A. That makes sense.

18 Q. Okay. And then if you didn't know where the
19 people in front of you were going, you wouldn't know
20 you were supposed to make a right there and you might
21 try to continue on straight; right?

22 A. Probably, yeah.

23 Q. Okay. And then, at that point, someone would
24 have to chime in, like the guy standing at number two,
25 and say, "Hey, you're going in the wrong direction";

1 right?

2 A. Sure.

3 Q. Now, other than hearing the guy standing at
4 number two saying -- telling someone who's trying to
5 run straight that they're going in the wrong direction,
6 you -- you also heard them say something else at times;
7 is that right?

8 A. Sure.

9 Q. Okay. And -- and what you heard was that, as
10 the participants were running around the corner, you
11 heard them say "Watch your step"; true?

12 A. Yeah.

13 Q. Okay. And the reason that you heard
14 occasionally the guy standing at number two telling
15 these people doing the runaround to watch your step is
16 because, right when you come around that corner, the --
17 the ground doesn't stay flat anymore; true?

18 MR. RUSSELL: Objection. Foundation.

19 THE COURT: Somebody say something.

20 MR. DEUTSCH: Foundation objection.

21 THE COURT: Okay.

22 MR. RUSSELL: Apologize, Your Honor.

23 THE COURT: Sustained.

24 BY MR. DEUTSCH:

25 Q. Well, you ran that illusion how many times --

1 or you -- you did the runaround how many times?

2 Hundreds?

3 A. Lots, yeah.

4 Q. So you -- you would know what the ground --
5 what -- whether the ground was level or not during that
6 whole path; true?

7 A. Yes.

8 Q. Right. And you know personally, with
9 personal knowledge, that right when you come around
10 that corner, the ground doesn't stay level, that
11 there's an incline there; right?

12 A. Right, there's a soft curb.

13 Q. Okay. And -- well, it's actually an incline
14 that goes up into those doors because that's where
15 trucks pull up; correct?

16 MS. FRESCH: Objection. Lacks foundation.

17 MR. DEUTSCH: He either knows or he doesn't
18 know, Your Honor.

19 THE COURT: Overruled.

20 Go ahead.

21 THE WITNESS: What part is that?

22 BY MR. DEUTSCH:

23 Q. When you go into those doors --

24 A. Uh-huh.

25 Q. -- to go back into the casino, that area

1 where there's this incline on the ground, the reason
2 there's the incline there is because it's used as a
3 driveway for the trucks to pull up to get the money out
4 of the cage. Do you know that? Do you know that?

5 MS. FRESCH: Objection.

6 THE WITNESS: No.

7 BY MR. DEUTSCH:

8 Q. Okay. Regardless of why it's there, you're
9 aware that there's some sort of elevation change as you
10 come around that corner; correct?

11 A. Correct.

12 Q. Okay. And the reason that you occasionally
13 hear the guy standing in that number two position
14 telling people to watch their step is because of that
15 incline --

16 MR. RUSSELL: Objection. Foundation.

17 MR. DEUTSCH: -- right?

18 THE COURT: Sustained.

19 BY MR. DEUTSCH:

20 Q. Well, do you know why they say "watch your
21 step"?

22 A. Yeah.

23 Q. Okay. And is it because they want to tell
24 people -- to warn people about that incline?

25 A. Yeah.

1 Q. Because if you didn't warn someone about the
2 incline, someone could trip on it or fall on it or slip
3 on it; true?

4 MR. RUSSELL: Speculation.

5 MS. FRESCH: Calls -- yeah. Join.

6 THE COURT: He can state his understanding.

7 THE WITNESS: I'm sorry?

8 THE COURT: You can state your understanding
9 of the reason.

10 THE WITNESS: Yeah.

11 BY MR. DEUTSCH:

12 Q. And they didn't say that -- you didn't hear
13 them say that "watch your step" every night; correct?

14 A. I don't remember. I don't think so.

15 Q. Okay. And you don't know whether or not --
16 on the night of November 12th, 2013, whether or not
17 that guy was warning people to watch your step; true?

18 A. Correct, I don't. I don't know.

19 Q. And other than the incline, they're also
20 warning people to watch your step because it's dark out
21 there; true?

22 MR. RUSSELL: Objection. Foundation.

23 THE COURT: Sustained.

24 BY MR. DEUTSCH:

25 Q. Well, did you ever say that the -- one of the

1 reasons that these people give the warning to watch
2 your step is because it's dark out there? Was that one
3 of the reasons you gave for why they said that?

4 A. I don't remember.

5 Q. Okay. Well, let me see if this refreshes
6 your recollection, page 55, line 5.

7 MR. POPOVICH: To 9?

8 MR. DEUTSCH: To 9.

9 MR. POPOVICH: No objection.

10 MR. DEUTSCH:

11 "QUESTION: Do you know why it is they're
12 saying, or do you have any idea why they would
13 be saying 'Watch your step?

14 "ANSWER: Because it's dark. It's usually
15 dark. You know?"

16 BY MR. DEUTSCH:

17 Q. Do you remember being asked that question and
18 giving that answer?

19 A. I don't remember being asked --

20 Q. Okay. Does that refresh your recollection
21 that it's dark out there and that's why the people tell
22 people to watch their step?

23 A. I would say the reason I said that was
24 because the shows happen at night, so it is nighttime.

25 Q. And at nighttime, it's dark?

1 A. Yeah.

2 Q. And someone would need to watch their step in
3 the dark because you could fall; true?

4 MS. FRESCH: Calls for speculation.

5 MR. RUSSELL: Objection.

6 THE COURT: Sustained.

7 BY MR. DEUTSCH:

8 Q. Well, do you know that? Do you know -- is
9 that your understanding of why this instruction of
10 "watch your step" is given to people because, if it's
11 dark out, you could fall? Is that your understanding?

12 A. To me, it's more about the turns that we
13 make.

14 Q. Well -- so "watch your step" doesn't have to
15 do with either tripping or slipping on anything; it has
16 to do with turns? Is that what you're saying to us?

17 A. It's not because of the dark; it's because --
18 because of some of the sharp turns that we make.

19 Q. Okay. So the turns are sharp. And, at your
20 deposition, you said it was because it was dark. So
21 now it's dark and sharp turns; true?

22 MR. RUSSELL: Objection. Misstates
23 testimony.

24 THE COURT: If it does, he can say so.

25 THE WITNESS: The turns -- some of the turns

1 are sharp with -- through the doorways, yeah.

2 BY MR. DEUTSCH:

3 Q. Okay. But we're not talking about inside
4 through the doorways now; we're talking about the guy
5 at number two, who's the guy standing at the
6 intersection where there's the incline and then it's
7 dark, which is what you described it as. And my
8 question to you is, is it your understanding that
9 the --

10 A. Well, I didn't know we were talking about at
11 this section.

12 Q. That's the section we're talking about, but
13 there's no going through doorways there, are there?

14 A. No, that turn is not sharp.

15 Q. But that's the turn where you're saying they
16 say "watch your step." So now I'm confused, because
17 you told us that the reason they said "watch your step"
18 was because -- not because of the dark, which is what
19 you said at your deposition, but because the turns are
20 sharp. But now you're saying that that turn is not
21 sharp, so I don't understand.

22 Is that turn sharp or not?

23 A. It is not.

24 Q. Okay. So the reason they give that "watch
25 your step" sometimes in that location is because of the

1 incline and the darkness; it has nothing to do with the
2 sharp turn?

3 A. I'd say the incline.

4 Q. So now the sharp turn thing is out?

5 A. Right.

6 Q. And the darkness that you said at your
7 deposition, you no longer agree with that?

8 A. It is nighttime.

9 Q. But when you were asked for the reason at
10 your deposition for why this warning was given, at your
11 deposition, the one reason you gave -- well, actually,
12 the two reasons you gave were the incline and the
13 darkness.

14 So now I'm asking you, if you don't think
15 those are reasons anymore, if something has changed
16 from 2016 till today.

17 MR. RUSSELL: He misstates the deposition
18 testimony, actually.

19 THE COURT: Overruled. He can say so if it
20 does.

21 THE WITNESS: Yeah, it's dark.

22 BY MR. DEUTSCH:

23 Q. And then that brings us back to my question,
24 which is, is it your understanding that the reason why
25 that person would occasionally give a warning about an

1 incline and the darkness is because someone could fall
2 when going through an area with an incline and darkness
3 without a warning, because they could fall?

4 MR. RUSSELL: Objection. Foundation.
5 Speculation.

6 THE COURT: Sustained.

7 MR. DEUTSCH: Just asking for his
8 understanding, Your Honor.

9 THE COURT: Re-pose the question.

10 BY MR. DEUTSCH:

11 Q. Sure. Is that your understanding why that
12 warning would occasionally be given, to prevent people
13 from falling? Is that your understanding?

14 MR. RUSSELL: Same objection.

15 THE COURT: Overruled.

16 THE WITNESS: That makes sense. But I -- I
17 never knew their responsibilities.

18 BY MR. DEUTSCH:

19 Q. Okay. Let's talk about November 12th, 2013,
20 for a second. There came a point that night where you
21 learned that someone had been -- excuse me -- injured
22 during the runaround; is that right?

23 A. Yes.

24 Q. And, as I understand it, you learned it from
25 another Backstage employee. Is that true?

1 A. Yes.

2 Q. Okay. And the Backstage employee that you
3 learned it from was Pomai Weall; is that right?

4 A. I don't -- I don't remember the night, but
5 apparently.

6 Q. Let me ask if you remember being asked this
7 question and giving this answer. Page 60, line 6 down
8 to 12.

9 "QUESTION: Real quickly, do you have any
10 recollection of who that lady was?

11 "ANSWER: Not 100 percent. But I think it
12 was -- it was -- the girls kind of stick to
13 their same tracks, but they do rotate. So I'm
14 pretty sure it was Pomai.

15 "QUESTION: It was Pomai?

16 "ANSWER: Yeah."

17 Did I refresh your recollection of who told
18 you?

19 A. No. I mean, I don't remember, man.

20 Q. Well, you're aware, right, that Pomai, on the
21 evening, while you were the person that was assigned to
22 be the person in the front of the group, Pomai was
23 assigned to be in the back of the group; is that right?

24 A. Right. I understand that now.

25 Q. Okay. Well, you knew that at the time as

1 well; right?

2 A. When it happened? I don't remember --

3 Q. Okay.

4 A. -- if I knew that.

5 Q. Okay. But you -- you personally didn't see

6 Mr. Cox fall; true?

7 A. True.

8 Q. And that was because you had already -- you

9 were already inside the casino at the time when he was

10 still coming around that corner and fell; true?

11 A. I'm not sure where I was, but I was in the

12 front of the pack, so ...

13 Q. And you had already gone inside the doors at

14 the time that he fell; is that right?

15 MR. RUSSELL: Objection. Foundation.

16 THE COURT: Sustained.

17 BY MR. DEUTSCH:

18 Q. Well, do you know if you had already gone

19 inside the doors when he fell?

20 A. I didn't see him fall, so I don't know.

21 Q. Well, if you were outside and he fell, do you

22 think you would have stopped and gone over to him?

23 A. Yeah, probably.

24 Q. Okay. And did you?

25 A. Did I what?

1 Q. Stop and go over to him when he fell?
2 A. I didn't see him.
3 Q. And the reason you didn't see him is because
4 you had already gone inside the doors?
5 A. I guess so.
6 Q. Now, after the runaround, the participants
7 are -- we know this already, but the participants are
8 brought into a room where they're given some speeches;
9 is that right?
10 A. Correct.
11 Q. And we've already talked at length about the
12 speeches, but you were one of the people who gave part
13 of that speech; correct?
14 A. Correct.
15 Q. You gave the first part of the speech;
16 correct?
17 A. Correct.
18 Q. And then Mr. Copperfield came in and he did
19 the second part of that speech; correct?
20 A. Right.
21 Q. And it was in that room when Pomai said to
22 you that Mr. Cox had fallen; true?
23 A. I believe so.
24 Q. And even before that, or maybe it was after
25 that -- I don't know; you tell us -- while you were

1 giving your speech, you looked at Mr. Cox and
2 recognized that something was wrong; true?

3 A. Yes.

4 Q. And as I understand it, from your
5 recollection, you asked him if he needed anything. Is
6 that right?

7 A. I believe so.

8 Q. Okay. And your recollection was that he said
9 he didn't need anything?

10 A. Correct.

11 Q. But despite him saying that, you still
12 recognized that something was wrong; true?

13 MR. POPOVICH: Objection. Vague as to point
14 in time.

15 THE COURT: Sustained.

16 BY MR. DEUTSCH:

17 Q. At the time you asked him if he needed
18 anything and he said no, your recollection, you still
19 recognized that there was something wrong --

20 MR. POPOVICH: Objection.

21 BY MR. DEUTSCH:

22 Q. -- despite his answer.

23 MR. POPOVICH: Sorry.

24 Vague as to which time he asked.

25 THE COURT: Sustained.

1 MR. DEUTSCH: At that moment that you asked
2 him. That's the time.

3 MR. POPOVICH: Well, you asked him three
4 times.

5 BY MR. DEUTSCH:

6 Q. Okay. Did you ask him more than once?

7 A. I believe so.

8 Q. Okay. Did he respond all three, or do you
9 not remember sitting here today?

10 A. Definitely responded twice.

11 Q. Okay. Regardless -- and after those
12 responses, despite whatever his response was, you still
13 recognized that something was wrong; true?

14 A. Yeah, something was off.

15 Q. And you asked someone to get him a chair;
16 true?

17 A. I believe so, yeah.

18 Q. And then Mr. Copperfield came in at that
19 point and gave -- started to give his portion of the
20 speech; correct?

21 A. Right.

22 Q. And when Mr. Copperfield is giving his speech
23 that night, he did something that was out of the
24 ordinary for him; true?

25 A. What do you mean?

1 Q. Well, he -- he, in fact, stopped midway
2 through his speech and -- because he saw what --
3 Mr. Cox and asked what happened; true?

4 A. Yeah. He saw him -- saw somebody sitting
5 down which is not -- not common.

6 Q. And you actually felt that it was really
7 unusual that Mr. Cox -- Mr. Copperfield would stop his
8 speech in the middle like that because it's something
9 that he doesn't ordinarily do.

10 A. I didn't think it was weird, but you are
11 right that it is not something that he doesn't usually
12 do.

13 Q. And at that point, when he stopped,
14 Mr. Copperfield asked, "What happened?" True?

15 A. I think that's what he said, yeah.

16 Q. And at that point I'm assuming you told him
17 what happened?

18 A. Right.

19 Q. Right?

20 A. Right.

21 Q. You told him that Mr. Cox had fallen;
22 correct?

23 A. Something along those lines.

24 Q. Okay. And that's something that you told him
25 personally? Or was it Pomai or both of you or

1 something else?

2 A. I'm not sure if Pomai did, but I was right
3 next to him, so yeah.

4 Q. So on November 12, 2013, while sitting in
5 that little room, David Copperfield was aware that
6 Mr. Cox had fallen while doing this illusion; true?

7 A. I don't know if --

8 Q. Because you told him.

9 A. I don't know if -- don't remember if I said
10 that somebody had fallen or that somebody got hurt.

11 Q. Okay. So --

12 A. So yeah.

13 Q. So let's take both of them. Either
14 Mr. Copperfield, on November 12th, 2013, knew that
15 someone had fallen -- true?

16 A. Yes.

17 Q. -- or he knew that someone had been injured
18 doing the Thirteen -- doing the illusion, the Thirteen;
19 true?

20 A. True.

21 Q. So if Mr. Copperfield came in here yesterday
22 and told the jury that he didn't know about anyone
23 falling or being injured until a year later, that
24 wouldn't be consistent with what you're telling us
25 today, would it?

1 MR. POPOVICH: Objection. That's compound.

2 THE COURT: Overruled.

3 THE WITNESS: I agree.

4 BY MR. DEUTSCH:

5 Q. And after you told Mr. Copperfield that
6 someone had either fallen or been injured, did
7 Mr. Copperfield ask you any questions about how the
8 person had either fallen or been injured?

9 A. I don't remember.

10 Q. Do you recall if Mr. Copperfield -- you
11 overheard Mr. Copperfield ask Pomai Weall any questions
12 about how this person had fallen or been injured?

13 A. I don't know.

14 Q. Okay. Did you hear Mr. Copperfield go up to
15 Mr. Cox and ask him any questions about why he fell or
16 had been injured?

17 A. I don't think so.

18 Q. Did Mr. Kenner ever -- you know who
19 Mr. Kenner is; true?

20 A. Yes.

21 Q. And he was the executive producer of the
22 show; correct?

23 A. Yes.

24 Q. He was basically like one of your bosses or
25 the boss of the whole show; correct?

1 A. Yes.

2 Q. Did you ever did you ever tell Mr. Kenner
3 that Mr. Cox -- that someone had fallen or been injured
4 while doing the runaround in the Thirteen?

5 A. No.

6 Q. Okay. Did Mr. Kenner ever come to you and
7 ask you any questions about the fact that someone had
8 fallen during the runaround and how it happened or why
9 it happened or anything like that?

10 A. Not at the time, no.

11 Q. Did he at some point later?

12 A. Yeah.

13 Q. Okay. How much later was that that he came
14 to you?

15 A. I'm not sure on the date, but I think when
16 the case started or whatever you want to call it.

17 Q. Was it days? weeks? months?

18 A. Had to have been months. I'm not sure.

19 Q. Months. Okay.

20 A. I'm not sure.

21 Q. And when he came to you, what did he say to
22 you? Did he say, "Hey, Ryan, you know, we heard
23 someone fell during the runaround. What do you know
24 about it?"

25 A. I don't remember.

1 Q. Now, after -- after you told Mr. Copperfield
2 in that room and he gave his speech, did
3 Mr. Copperfield then leave the room?

4 A. Yes.

5 Q. Okay. And at that point someone contacted
6 MGM security; is that right?

7 A. I believe so, yes.

8 Q. Okay. And that was your understanding of
9 what you were supposed to do if someone got injured?

10 A. Right.

11 Q. And did someone from MGM, a security guard or
12 someone, come to the little room or something else?

13 A. Yeah, it was in that same room.

14 Q. And did -- did -- when the MGM security
15 guards came there, did you have any discussions with
16 them?

17 A. No.

18 Q. Okay. So let me see if I understand you. An
19 MGM security guard came and -- because someone had
20 gotten injured and you didn't have any discussions with
21 them at all about what had happened?

22 A. No.

23 Q. Were they interested? Did they ask?

24 A. I don't think they asked, no.

25 Q. Do you know if those MGM security guards

1 asked Pomai any questions while you were there?

2 A. I don't know.

3 Q. Do you know if the MGM security guards asked

4 Mr. Copperfield anything about this?

5 A. I don't know.

6 Q. Now, other than Chris Kenner calling you

7 several months later or calling you or talking to you

8 about it, did you ever have any follow-up conversations

9 with Mr. Copperfield at any point in time?

10 A. No, I don't think so.

11 Q. Did you -- when Mr. Kenner asked you what you

12 knew, did you ever tell him what your understanding was

13 why Mr. Cox had fallen? Or did you not know?

14 A. I didn't know.

15 Q. Now, the night of this incident, you were

16 aware, were you not, that there was a construction

17 dumpster in the pathway of the runaround? Is that

18 right?

19 A. Yes.

20 Q. Now, prior to you doing the runaround, did

21 you -- do you take that route at any point prior

22 that -- you know, in the show?

23 A. No.

24 Q. Okay. So that was your first time going

25 through that night?

1 A. Correct.

2 Q. Do you -- do you have any type of, like,
3 earpiece or anything in during the show? Like, while
4 the show is going on, is there, like, walkie-talkies of
5 some sort?

6 A. We have earpieces that just receive.

7 Q. Just receive. Who do they receive from?

8 A. From David.

9 Q. Just -- just one last thing. We've talked a
10 lot about this runaround already, and earlier on in my
11 questioning of you, you said that, despite the fact
12 that it's called the runaround, that nobody ever runs;
13 true?

14 A. Correct.

15 Q. And at your deposition, you were asked a lot
16 of questions and you called it the runaround and talked
17 about the runaround a lot; correct?

18 A. I'm sure.

19 Q. Okay. And then at the end of -- of -- there
20 was an attorney that represented Mr. Cox at your
21 deposition. I think it was that guy in the corner,
22 Mr. Harris. Do you remember him?

23 A. No.

24 Q. Okay. Maybe he didn't have a beard at the
25 time. I think it's just for the Knights game. He's

1 growing one of those playoff beards.

2 After he asked you some questions,
3 Mr. Russell asked you some questions; is that right?

4 A. I'm sure.

5 Q. Yeah. He's the attorney that represents
6 Backstage, as you understand it; right?

7 A. Right.

8 Q. And when he was asking you questions, he
9 asked you to describe the pace that people take this
10 journey in; true?

11 A. I guess.

12 Q. And that was a yes or "I guess"?

13 A. I guess.

14 Q. Yes, yes. And the way you described it, when
15 Mr. Russell asked you the question, was -- how did you
16 describe it? Do you remember?

17 A. I don't.

18 Q. Did you describe it as a brisk walk?

19 A. I may have.

20 Q. Okay. Well, let me read it to you.

21 Question -- page 77. Question by

22 Mr. Russell. Line 5.

23 MR. RUSSELL: Is this to refresh the
24 recollection?

25 MR. DEUTSCH: Yeah.

1 MR. RUSSELL: Well --

2 MR. DEUTSCH: It's impeachment. He said --

3 MR. RUSSELL: Well, he just said --

4 MR. DEUTSCH: So then it's to refresh his

5 recollection. Are you objecting to your own question,

6 Howard?

7 MR. RUSSELL: No, I'm not objecting to the

8 question at all. Go ahead.

9 MR. DEUTSCH: If you're not objecting, then

10 what are you saying?

11 MR. RUSSELL: I'm objecting to you improperly

12 using the deposition, but go ahead.

13 THE COURT: Overruled.

14 BY MR. DEUTSCH:

15 Q. Mr. Russell's question, not mine or

16 Mr. Harris's:

17 "QUESTION: Just briefly, Ryan, we've used

18 the term 'runaround' today a lot. One question

19 that wasn't asked is when you're performing the

20 Thirteen Illusion, in the role of the person

21 who is leading a participant, can you describe

22 what 'run' means to you as far as how the

23 illusion is carried out?

24 "ANSWER: Yeah. It's not a run at all.

25 It's like a brisk walk, I would say. It's --

1 yeah, I've never ran. I've never ran it. I've
2 walked it before. And, yeah, it's -- I would
3 do very -- oh, man. It's like a really crappy
4 jog. You know, where somebody that was walking
5 next to me would be keeping in pace with me,
6 you know. Yeah, yeah, yeah. It's not a
7 runaround at all."

8 You remember being asked that question and
9 giving that answer?

10 A. Sounds like my answer.

11 Q. Okay. And one of the -- and one of the ways
12 you described it was a brisk walk; true?

13 A. Yep.

14 Q. And is "brisk walk" a term that you use
15 frequently?

16 A. Yeah.

17 Q. Would it surprise you in this case that
18 Mr. Carvalho -- Mr. Carvalho; that's you -- that
19 Ms. Pomai Weall, Chris Kenner, David Copperfield, and
20 you, four of you -- withdrawn.

21 There's a lot of different words out there to
22 describe the pace of a walk or a pace of a run or a
23 pace of a jog. You agree?

24 A. Sure.

25 Q. We've heard some. Mr. Popovich used the term

1 "trot." Okay? There's lots of different terms; right?

2 A. Okay.

3 Q. Do you find it to be coincidental that you,

4 Mr. Kenner, Ms. Weall, and Mr. Copperfield, of all the

5 words to describe the pace of this, that you all chose

6 "brisk walk"? Do you think that was just a

7 coincidence?

8 MR. POPOVICH: Objection. This is

9 argumentative.

10 MR. RUSSELL: Objection. Argumentative.

11 THE COURT: Sustained.

12 BY MR. DEUTSCH:

13 Q. Did you come up with "brisk walk," that pace,

14 on your own?

15 A. Yeah.

16 Q. Okay. Now, despite the fact that you

17 described it as a brisk walk, or a crappy jog, people

18 have actually gotten winded doing that brisk walk;

19 true?

20 A. I don't know.

21 Q. Let me ask you if you recall giving this

22 answer to this question on page 79, line 19. 78 --

23 sorry -- line 19. 78/19. It goes on to the next page,

24 79.

25 "QUESTION: And do you and Pomai try to

1 keep basically the same pace as you're
2 preceding the participants through the
3 illusion?

4 "ANSWER: I don't think that's our goal.
5 My goal is to lead, and she's just kind of
6 whoever -- like, she doesn't pass anyone.
7 She's making sure that everybody has moved on.
8 Like, whatever her pace is whatever their pace
9 is. We've had times before where somebody, you
10 know, couldn't finish, you know, like just got
11 winded or whatever. It was like an old guy, I
12 think.

13 And what she would do is she would
14 stay with him. She would give me the signal.
15 Like I said, in those double doors, those two
16 sets of doors, she would give me the signal
17 that I could move on as soon -- because as soon
18 as she gives me the signal, I can go. You
19 know, yeah."

20 Do you recall being asked that question and
21 giving that answer?

22 A. I don't remember, but sounds right.

23 Q. Does that refresh your recollection, that
24 there were times -- at least one time with an old guy
25 where somebody got winded doing the brisk walk?

1 A. Yes.

2 Q. How old was the guy? Do you remember?

3 A. No idea.

4 Q. Was he, like, Morelli's age?

5 A. We would have sat him.

6 Q. Back in the dumpster I go.

7 Do you remember how old he was?

8 A. If I were to guess, I'd say 60.

9 Q. That's not so old. You just got me in a lot

10 of trouble.

11 So at least in the case of that person,

12 Mr. Carvalho, someone made it through the screening

13 process but still wasn't able to finish the illusion;

14 true?

15 A. Yeah.

16 Q. Has that happened more than that one old guy?

17 A. Yes, but for other reasons.

18 Q. Okay. What other reasons?

19 A. Dropping a flashlight or just stopping or

20 whatever. I don't know.

21 Q. Well --

22 A. Just --

23 Q. You just told us that it's happened other

24 than the one guy who you remember, the old guy, who you

25 remember that stopped because he got winded and you

1 said that it's happened for other reasons, so -- and
2 now you're saying that you don't really remember the
3 other reasons; you just know that there were?

4 A. Yeah. Because, like I said, I wait for
5 Pomai's signal. So if she wants to give me the signal
6 and she has people with her, then I go. So there are
7 other things going on.

8 Q. I understand that. But you were -- you just
9 volunteered to me that people didn't finish the
10 illusion for other reasons. I didn't say that to you;
11 you volunteered that to me.

12 A. Okay.

13 Q. So now I just want to try to figure out what
14 the reasons are. One you gave us was because someone
15 dropped the flashlight.

16 Would dropping a flashlight be a reason to
17 not finish the illusion, or would the person just pick
18 up their flashlight and continue going?

19 A. Yeah.

20 Q. So that wouldn't really be another reason why
21 someone couldn't complete the illusion; true?

22 A. But that's not my call to make.

23 Q. Well, I understand that. But I'm asking
24 you -- I asked you a question, and the question I asked
25 you was if there were any other times that someone

1 stopped because they got winded. And you said to us,
2 "Not that I remember about getting winded, but that
3 there were other reasons why people didn't finish the
4 illusion."

5 Remember that?

6 A. Yeah.

7 Q. Okay. And then my next question to you was
8 "Tell us what those reasons were."

9 And you gave us two examples. The first
10 example you gave was that people didn't finish the
11 illusion because they dropped the flashlight. So
12 that's the one we're talking about now. Okay?

13 A. Okay.

14 Q. And my question to you is dropping a
15 flashlight wouldn't really be a reason why someone
16 would stop; they would pick up the flashlight and keep
17 going. Right?

18 A. Sure. Or -- or not. Like I said, I don't
19 know. It's -- it's not my call to -- to hold -- to
20 hold people back.

21 Q. Okay. So the second reason --

22 A. But I know it happens.

23 Q. Okay. Does it happen frequently?

24 A. No.

25 Q. Okay. Well, the second reason you gave us

1 was that people sometimes just stop in the middle, like
2 unexplained?

3 A. Yeah. I'm guessing. Yeah.

4 Q. Okay. Are there any other reasons other than
5 winded, dropping a flashlight, and just stopping
6 unexplained? Any other reasons that you know of that
7 people haven't finished the illusion?

8 A. No.

9 Q. How about falling?

10 A. The only person I know that's fallen has been
11 Mr. Cox.

12 Q. Were you working in June of 2013?

13 A. I think so.

14 Q. Did you work every night?

15 A. Yeah.

16 MR. DEUTSCH: I have nothing further. Thank
17 you, Mr. Carvalho.

18 THE COURT: Counsel approach.

19 (A discussion was held at the bench,
20 not reported.)

21 THE COURT: Ladies and gentlemen, we consider
22 this a good time to take a break. All right. But the
23 problem is, if we take a break and then resume, it
24 would be, like, ten to 12:00. So why don't we just
25 take lunch now and resume at 1:00 instead of 1:30 as we

1 usually do.

2 Would that cause a problem for anybody? Has
3 anybody made any plans based on what I've said about
4 usually resuming at 1:30?

5 Okay. So we'll take lunch, and during the
6 recess, you're admonished not to talk or converse among
7 yourselves or with anyone else, including, without
8 limitation, the lawyers, parties, and witnesses on any
9 subject connected with the trial or read, watch, or
10 listen to any report of or commentary on the trial or
11 any person connected with the trial by any medium of
12 information, including, without limitation, newspapers,
13 television, the internet, and radio, or to form or
14 express any opinion on any subject connected with the
15 trial until the case is finally submitted to you.

16 Be outside the courtroom just before 1:00.
17 Okay?

18 THE MARSHAL: All rise.

19 (Whereupon a luncheon recess was taken.)

20 THE MARSHAL: All rise. Come to order.
21 Department is again in session.

22 THE COURT: Good afternoon. Please be
23 seated. We're about to make a record outside the
24 presence of the jury. I understand there's a couple of
25 issues to be addressed.

1 MS. FRESCH: Your Honor, I had one issue.
2 May I approach the bench to show you? It was a view
3 from the trial this morning that my secretary --
4 (A discussion was held at the bench,
5 not reported.)
6 THE COURT: Okay. I would like to admonish
7 anybody with cameras -- okay? -- who -- granted a media
8 request, cameras are not ever to -- to be trained upon
9 the jury or any members of the jury. All right? And I
10 think that may have happened. And I just wanted to
11 admonish whoever's here with the camera to make sure
12 you don't get any jurors into any of the doc view or
13 pictures. Okay?
14 And, also, during bench conferences, members
15 of the press are not -- any -- any devices that are
16 permitting the hearing of what's the subject of --
17 occurring during a bench conference is not -- those
18 devices are to be turned off. I think I've said that a
19 couple of times. And it's very important that that
20 take place, because I've been told that some things are
21 still coming through during bench conferences. And
22 those are off the record from the standpoint of the --
23 of the press and other people in the courtroom or to
24 the counsel. All right?
25 So anything else you would like me to

1 clarify?

2 MR. MORELLI: I think we're good, Your Honor.

3 THE COURT: Okay. So are we ready for the

4 jury now?

5 MR. MORELLI: Ready.

6 THE MARSHAL: All rise.

7 (The following proceedings were held in

8 the presence of the jury.)

9 THE COURT: Good afternoon, ladies and

10 gentlemen. You may be seated.

11 Do counsel stipulate that the jury is now

12 present?

13 MR. MORELLI: The jury is present.

14 MR. POPOVICH: Yes, Your Honor.

15 MR. CALL: Yes, Your Honor.

16 THE COURT: All right. The witness has

17 retaken the stand. Plaintiffs having passed the

18 witness, Mr. Russell, you may cross-examine.

19 MR. RUSSELL: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. RUSSELL:

22 Q. Good afternoon, Mr. Carvalho.

23 A. Hi.

24 Q. Is today your first time ever testifying in

25 front of a jury?

1 A. Yes.

2 Q. I got the sense sitting here you might have
3 been a little nervous. Were you a little nervous this
4 morning?

5 A. Yeah.

6 Q. Take a deep breath for me now.
7 Where are you working presently?

8 A. I work for a Cirque du Soleil.

9 Q. What do you do for Cirque du Soleil
10 presently?

11 A. I am a carpenter with a touring show.

12 Q. So you're still in the entertainment
13 industry?

14 A. Yes.

15 Q. When you were working for Backstage and
16 assisting in the David Copperfield show, did you use
17 the term "show track" to describe your role?

18 A. Yes.

19 Q. Explain to the jury, what does a show track
20 mean in -- in your parlance?

21 A. So the show track -- a show track is made up
22 of -- made up of cues. So my show track, nobody else
23 did my show track. These were cues that I did from the
24 start of the show to the end of the show. That's --
25 each person had their own track.

1 Q. And how did you learn the specifics of your
2 show track?

3 A. By following the person who's training me.
4 Whether it's, like, somebody leaving or they're just
5 handing off a cue, they'll -- I'll follow them, then
6 they'll follow me, and then I have it.

7 Q. And so, as opposed to getting an employee
8 handbook, you do hands-on training. Is that fair to
9 say?

10 A. Correct.

11 Q. And do you remember who your predecessor was
12 as it related to the runaround portion of the Thirteen
13 Illusion?

14 A. Yes.

15 Q. What was -- what was that person's name?

16 A. Zack. I don't remember his last name.

17 Q. How long did you work with Zack to learn that
18 show track for the runaround portion of the Thirteen?

19 A. From the beginning to, like, me taking it
20 over?

21 Q. Yeah, from the time you first started working
22 with Zack to learn that show track until the time that
23 he handed it off to you officially.

24 A. I'd say a solid week of shows.

25 Q. And portions of that time, just verbal

1 communications between you and Zack as to what the
2 specifics were?

3 A. Yes.

4 Q. And then were there times that you actually
5 watched him do the job?

6 A. Yes. At the beginning, yeah.

7 Q. And then towards the end, did he watch you do
8 the job?

9 A. Yes.

10 Q. If you could, tell the jury a little bit
11 about what you did as the assistant stage manager.

12 A. As far as the assistant stage manager stuff
13 goes?

14 Q. Yeah, both assistant stage manager stuff and
15 then what you actually did as part of the illusions.

16 A. Did everything from coordinating rehearsals,
17 fixing props, helping train -- you know, scheduling
18 training for -- for other employees, and having a full
19 track of cues for the show.

20 Q. Now, as it related to the Thirteen Illusion,
21 was part of your job at some point in time to visually
22 assess the people as they were coming onto the stage?

23 A. It wasn't my responsibility, but I took it
24 upon myself to -- to do that.

25 Q. And that was the same part -- and that was

1 the same time frame as when you were also doing the
2 runaround; correct?

3 A. Yes.

4 Q. So for part of the illusion, you would be on
5 the stage, and then you would move to the back of the
6 stage to start the runaround. Is that accurate?

7 A. Correct.

8 Q. The jury has seen a few times -- and we won't
9 go through it again -- but they've seen a few times a
10 video of the illusion from the audience's perspective.
11 And, in the video, there's a person standing to
12 Mr. Copperfield's left. Would that have been where you
13 stood?

14 A. Yes.

15 Q. And so as the people come up on stage, what
16 are you doing?

17 A. I'm grabbing the beach balls from them and
18 throwing them backstage of the wing. Yeah, that was my
19 main -- my main purpose.

20 Q. And the visual assessment that you took it
21 upon yourself to do, you were doing that as they were
22 coming up the stairs?

23 A. Yeah.

24 Q. What sort of things were you looking for when
25 these people were walking up the stairs?

1 And let me ask you this first: We heard
2 testimony that, as the participants were walking up the
3 stairs, they actually had the balls in front of them,
4 there was no banister. Is that accurate?

5 A. Right.

6 Q. So as they're walking up the stairs with the
7 ball in their hand without a banister to steady them,
8 what are you looking for?

9 A. How well they get up the staircase, if they
10 need assistance getting up the staircase. How they --
11 how they are reacting to the fact that they're coming
12 up on stage and they're going to be on stage.

13 Q. What do you mean by that?

14 A. So sometimes we get -- it's usually, like,
15 guys in their 20s, you know, who are -- are really
16 excited to be on stage. Like I said earlier,
17 they're -- you know, they're -- they could be
18 problematic in, you know, grabbing -- touching props
19 or, you know, grabbing a string that they shouldn't be
20 grabbing or a curtain they shouldn't be grabbing.

21 So those guys, it's usually, as soon as they
22 get up, they're -- you know, they're -- they're
23 cheering to their buddies back in the audience kind of
24 thing. It's like, all right, yeah, you're sitting
25 down.

1 Q. And you mentioned -- you mentioned drunk
2 people before. What sort of signs of intoxication were
3 you looking for as the people were coming up the
4 stairs?

5 A. Noticeable, like -- like, you know, being --
6 like, stumbling around. But, usually, if it's -- if
7 they're overexcited, that's -- that was a big one for
8 me.

9 Q. Well, when Mr. Deutsch was asking you
10 questions, he started to say that you're doing a visual
11 assessment and your concern in doing the visual
12 assessment, in a way, was to avoid people having
13 problems completing the illusion. And you said, well,
14 yeah, in a way it was correct.

15 Explain to the jury if you can, what do you
16 mean? What concerns were you really looking for as far
17 as people not being able to complete the illusion?

18 A. Like I said with, you know, the younger guys,
19 it's -- if they can't stay in a line, if they're going
20 to try -- you know, there's people that want to try and
21 give away a secret or, you know, find -- find something
22 that they can mess up. It's -- the goal is to keep
23 everybody in order in a nice group. So anything that
24 might deter that, I don't want to deal with.

25 Q. Does -- the ability to complete the illusion

1 efficiently and to entertain the -- the audience, does
2 that go hand in hand with completing the illusion
3 safely?

4 MR. DEUTSCH: Objection. Leading.

5 MR. RUSSELL: Doesn't suggest an answer.

6 THE COURT: Sustained.

7 Just rephrase.

8 BY MR. RUSSELL:

9 Q. Okay. Is safety a factor that goes hand in
10 hand with completing the illusion efficiently and
11 effectively?

12 MR. DEUTSCH: Objection, Your Honor. Same
13 question.

14 MR. RUSSELL: I asked -- I wasn't suggesting
15 any answer, Your Honor.

16 MR. DEUTSCH: What are the factors?

17 THE COURT: Just rephrase.

18 MR. RUSSELL: All right.

19 BY MR. RUSSELL:

20 Q. In an effort to complete the illusion
21 efficiently and effectively, what things go into your
22 mind?

23 A. Say that one more time.

24 Q. Sure. In an effort to get the illusion
25 completed effectively and efficiently, what things go

1 into your mind?

2 MR. DEUTSCH: Objection. Foundation.

3 THE COURT: Overruled.

4 THE WITNESS: The -- if I have a group
5 that -- I will always try to have a group that seems
6 easy -- that will be able to follow directions easily.
7 They're not going to stray. If everybody -- if
8 everybody's together, then it's not going to be a
9 problem.

10 BY MR. RUSSELL:

11 Q. Is part of your job on the runaround guiding
12 the participants as they work their way through?

13 MR. DEUTSCH: Objection. Leading, Your
14 Honor.

15 THE COURT: I'll allow it.

16 THE WITNESS: To guide them? Yes.

17 BY MR. RUSSELL:

18 Q. If someone appears, coming up on the stage,
19 unsteady, would that pose a problem for you trying to
20 guide people?

21 A. If it seems like a problem that I can't
22 control, then yes.

23 Q. As part of your role in the runaround, are
24 you giving directions to the person that you're --
25 you're proceeding with backstage, the woman whose hand

1 you take?

2 A. Yes.

3 Q. If someone appears on the stage unruly, does
4 that pose a problem for you being able to efficiently
5 give directions?

6 A. Yes.

7 Q. And you mentioned this before. Is keeping
8 order part of your job in effectively running the
9 runaround?

10 A. Yes.

11 Q. If someone appears on stage, as you said,
12 overly excited, would that pose a problem for you to be
13 able to keep order for the participants?

14 A. Yes.

15 Q. Mr. Deutsch asked you if the concerns -- or
16 excuse me. He asked you if the visual assessments were
17 over a concern that people would fall. Did you ever
18 consider the runaround as putting anyone in danger of
19 falling and being injured?

20 MR. DEUTSCH: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: No.

23 BY MR. RUSSELL:

24 Q. I understand that doing the visual assessment
25 was something that you took upon yourself; however,

1 when you were doing that, did you have the ability, in
2 your role as part of the Thirteen Illusion, to remove
3 participants and have them be witnesses on the stage?

4 A. Yes, I would.

5 Q. Okay. Did you have discretion to make that
6 call without asking anyone else?

7 A. Yes.

8 Q. And could you do that -- if you saw someone
9 that you believed was not well suited for the illusion,
10 did you have to get permission from anyone to pull that
11 person out and have them be a witness on the stage?

12 A. No.

13 Q. When someone was sat as a witness, tell the
14 jury what -- tell the jury what the witnesses do.
15 They've heard that term a lot and they've seen the
16 video, but you were involved in the illusion.

17 What do the witnesses do on stage?

18 A. The witnesses sat on either side of the
19 platform. And they were there to show that there's no
20 mirrors or anything funny going on. That was their
21 main responsibility.

22 Q. Are the witnesses ever told how the illusion
23 itself is actually done?

24 A. No.

25 Q. So a person that has pulled out of the line

1 and sat on the stage as a witness, they can still be
2 part of the magic; right?

3 A. Yes.

4 Q. And, in a way, they're closer than you and I
5 are from the platform; correct?

6 A. Oh, yeah.

7 Q. So would you say they had maybe the best seat
8 in the house?

9 A. Yeah.

10 Q. So if -- if there was anyone in line that
11 appeared ill-suited for the runaround, they would end
12 up having the best seat in the house; right?

13 A. You could say that.

14 Q. As the participants are coming up onto the
15 stage, are you communicating with Mr. Copperfield as
16 well?

17 A. If I need to, but it's not a -- we're not
18 chatting.

19 Q. If you had any concerns about a particular
20 person, would you communicate those to Mr. Copperfield
21 if needed?

22 A. No. Our -- our communication is more other
23 notes. You know? But by the time I'm moving
24 somebody -- by the time I'm moving somebody, David is
25 already gone. It's, like, after the fact.

1 Q. The jury has seen the video of what
2 Mr. Copperfield called the walk-around, what happens
3 with the participants before they disappear. Are you
4 actually part of that process?

5 A. No.

6 Q. All right. Once the participants are on the
7 stage and now they've all passed you, what's your next
8 role in the illusion?

9 A. I head to the other side of the stage and I
10 help get flashlights ready, bring the headshots out,
11 kind of prep the -- the back room, the Thirteen room.

12 Q. The flashlights, are those flashlights that
13 will be handed to the participants during the
14 runaround?

15 A. Yes.

16 Q. Who hands those flashlights out?

17 A. The MGM employees.

18 Q. When you get the flashlights out that the MGM
19 employees will hand out, where do you -- where do you
20 get those flashlights from?

21 A. We kept them in a spot backstage, kind of
22 right near those doors.

23 Q. When you say "those doors," earlier we heard
24 your testimony about, after the illusion is over, you
25 gather the participants together, and -- and that's

1 sort of a Thirteen break-out room; right?

2 A. Yes.

3 Q. And we've seen -- we've seen pictures of
4 that. When you're back there, do you check to make
5 sure the back doors are -- are open before the illusion
6 starts?

7 A. Yes.

8 MR. DEUTSCH: Objection, Your Honor, to the
9 leading nature of all these questions.

10 THE COURT: Sustained.

11 BY MR. RUSSELL:

12 Q. When you go get the bin of flashlights for
13 the MGM employees to hand out, is part of your job to
14 see if the back doors are open in that hallway?

15 MR. DEUTSCH: Same objection, Your Honor.
16 What are your job responsibilities?

17 THE COURT: He can -- he can pose the
18 question -- frame the question, but it is leading.

19 Just rephrase. You don't have to use the
20 same language.

21 BY MR. RUSSELL:

22 Q. That's fine. You can answer Mr. Deutsch's
23 question if you'd like. What are your job
24 responsibilities, including putting the flashlights out
25 there? What else do you do back there?

1 A. So the doors you're talking about is -- is my
2 own thing, to make sure. It is -- it's the MGM
3 employees' responsibility to open those doors, and I
4 just do a check to make sure that they're done, because
5 we don't want to be coming through and those doors
6 aren't open yet. So ...

7 Q. We've heard some testimony about the dragon.
8 At what point -- do you help bring the dragon over to
9 the platform?

10 A. No.

11 Q. When do you arrive at the platform where the
12 participants are seated?

13 A. I follow behind the dragon as it's being
14 moved.

15 Q. Once the dragon is moved, what is your next
16 involvement with the participants? Tell the jury what
17 you do next once the illusion starts.

18 A. So as soon as the dragon is docked onto the
19 platform, I'm waiting for the first person to come down
20 the stairs of the dragon.

21 MR. RUSSELL: Audra, could you please put up
22 93-154, which is already in evidence.

23 BY MR. RUSSELL:

24 Q. Is that a picture of the dragon,
25 Mr. Carvalho?

1 A. Yes.

2 Q. So, if you could, could you please point out
3 to the jury where you stand before the first
4 participant comes out of the platform and onto the
5 dragon.

6 A. Along this rail right here (witness
7 indicating).

8 Q. And where do you put your -- your feet? Are
9 they flat on the floor?

10 A. I usually have a foot on the first step.

11 Q. And do you have a -- the flashlight that you
12 looked at earlier, do you have that in your hand at
13 this point?

14 A. Yeah.

15 Q. As the illusion starts, what do you do with
16 that flashlight?

17 A. I have it in my right hand. I'll reach up
18 into the stairwell, and I'll be shining the light on my
19 hand so the girl knows to take my hand.

20 Q. Do you say anything to the woman coming down
21 the dragon?

22 A. No, I believe the -- the assistants are
23 saying to take -- to take my hand.

24 Q. Along the steps of the dragon, there's sort
25 of white-colored tape. Do you know what that is?

1 A. Yes. So these are -- I think these are just
2 white, and then these strips are glow tape.

3 Q. As the participants are coming out of the
4 dragon, is there any light coming from the stage area
5 over the dragon?

6 A. Maybe some leak -- some light leak, but there
7 are no lights, like, directed over us.

8 Q. There is some ambient light?

9 A. Yeah.

10 Q. So you take the person's hand. Now, when do
11 you -- what do you do next after you take that first
12 person's hand?

13 A. We start making our way through. So as soon
14 as they -- they hit the ground, we start moving.

15 Q. As you lead that first person, what do you
16 say to her?

17 A. I think I usually start with, like, a "Hey,
18 how's it going?" You know?

19 Q. You befriend her?

20 A. And then kind of let them know, you know,
21 what turns are coming up, what's -- what's our move.

22 Q. Do you tell her to watch her step as she's
23 coming down the stairs?

24 MR. DEUTSCH: Objection. Leading.

25 THE COURT: Sustained.

1 BY MR. RUSSELL:

2 Q. Do you say anything about the steps?

3 A. No.

4 Q. Do you ask the person you are --

5 MR. DEUTSCH: Objection, Your Honor.

6 Leading.

7 MR. RUSSELL: The question is, "Do you ask

8 them to run?" It's a yes-or-no question. It's --

9 THE COURT: I'll allow it. I'll allow it.

10 BY MR. RUSSELL:

11 Q. Do you ask the person you're with to run?

12 A. No.

13 Q. Are there -- talking with Mr. Deutsch a

14 little bit about people along the pathway. Best of

15 your knowledge, who are the people along the pathway as

16 you're proceeding?

17 A. Most of them are the MGM employees. There's

18 one or two of the Backstage employees that are holding

19 the dragon and -- and have their lights out.

20 Q. I think, during Mr. Deutsch's questioning,

21 you talked a little bit about the MGM person who's

22 outside. Do you remember that discussion you had with

23 him?

24 A. The number two person?

25 Q. The number two person.

1 A. Yeah.

2 Q. Okay. And I think you said that, from your
3 perspective, the only time you would hear that person
4 say anything to the participants is if somebody fell
5 back. Did I hear you correctly?

6 A. Yeah.

7 Q. Okay. From your perspective, if somebody
8 fell back from the crowd, would that mean that they
9 were running?

10 MR. DEUTSCH: Objection. Foundation. Calls
11 for speculation.

12 THE COURT: He can answer what it means to
13 him.

14 THE WITNESS: Say it one more time.

15 BY MR. RUSSELL:

16 Q. Sure. If the MGM person in the No. 2 spot
17 had to tell people which way to go because someone fell
18 back, that person that fell back, would they reasonably
19 have been running?

20 MR. DEUTSCH: Objection, your Honor.
21 Anything's possible.

22 THE COURT: Sustained. I will sustain it.
23 Just rephrase.

24 BY MR. RUSSELL:

25 Q. From your perspective -- I'm not asking you

1 to speculate --

2 A. Okay.

3 Q. You were asked lots of questions to speculate
4 about what the person holding the light was thinking
5 when he told them which way to go. Would a possibility
6 be, if they fell back, they weren't running?

7 A. Yeah.

8 Q. Okay. You also were asked a lot of
9 questions -- you can have a seat, Ryan. Thank you.

10 You were asked a lot of questions about what
11 the MGM people say. And you were shown parts of your
12 deposition.

13 MR. RUSSELL: Audra, could you bring up pages
14 54 and 55 of the deposition.

15 MR. DEUTSCH: Objection, Your Honor.
16 Improper impeachment, and he --

17 MR. RUSSELL: It's not impeachment. It's
18 prior consistent statement.

19 MR. DEUTSCH: It's his own witness, Your
20 Honor.

21 MR. RUSSELL: Mr. Deutsch put in the issue.

22 MR. DEUTSCH: May we approach, Your Honor?

23 THE COURT: Overruled. Go ahead.

24 MR. DEUTSCH: Thank you.

25 Please put up 54 and 55.

1 BY MR. RUSSELL:

2 Q. Ryan, can you see that on the stage -- or
3 excuse me -- on the screen?

4 MR. DEUTSCH: What page?

5 MR. RUSSELL: 54 and 55.

6 Okay. Audra, if you can pull up the bottom
7 of number -- of page 54 and 55. This is 53 and 54.
8 That's why I was confused. So I guess on the scan, it
9 would be 55 and 56. There's probably the cover page.

10 Thank you. Appreciate that.

11 MR. DEUTSCH: Where are we?

12 BY MR. RUSSELL:

13 Q. Now we are at 54, line 6. Okay. If you
14 could follow along, Mr. Carvalho. You were asked,
15 starting at line 9, does the -- well, I'm going to ask
16 the questions and you just give me the answers, please.

17 A. Okay.

18 Q. All right.

19 "QUESTION: Does the MGM stagehand at any
20 time -- you may have said this already, but
21 they're not giving any type of instruction or
22 any type of warning or anything. They're just
23 pointing a flashlight, as far as you know."

24 What was your answer?

25 A. I said, "I've heard people, like, you know,

1 'Watch your step,' come around the corner, you know,
2 just kind of heads-up kinds of things.

3 Q. "Do you know whether or not any type of
4 instruction was given to the participants on -- in the
5 show on 11/12/13?"

6 A. I don't know.

7 Q. And your answer was? Your answer was "No."

8 A. Oh, yeah. "No." Sorry.

9 Q. Okay. Now, if you will look on page 55,
10 line 2, the question started, "So it would be this
11 individual that we marked as No. 2."

12 And your answer was what?

13 A. "It would be all of them along the --"

14 Q. And were you able to finish your thought
15 there?

16 A. Looks like not.

17 Q. Okay. And the next question was "Do you know
18 why it is they're saying or do you have any idea why
19 they would be saying 'watch your step'?"

20 And what's your answer?

21 A. "Because it's dark." It's usually dark, you
22 know.

23 Q. So when you're talking about it being dark,
24 you've testified earlier there were parts of the
25 runaround that are darker than others; is that right?

1 MR. DEUTSCH: Objection. Leading.
2 THE COURT: Overruled.
3 THE WITNESS: Yes.
4 BY MR. RUSSELL:
5 Q. The part -- would you consider the outdoor
6 part of the runaround to be dark?
7 A. No.
8 Q. And then, at the bottom of the page 55 on
9 line 19, you say, "So we're clear on that, watch" --
10 this is the question. "So you're clear on that, 'Watch
11 your step.' You've heard watch-your-step warnings to
12 individuals in the area where the X is marked."
13 Now, do you remember you were shown the
14 diagram and you were pointing out the Xs?
15 A. Right.
16 Q. So when counsel asked you to talk about where
17 the X is marked, what was your answer?
18 A. "Right."
19 Q. And it continues?
20 A. Oh. "It kind of at every turn, you know,
21 it's something 'careful,' you know."
22 Q. So your deposition testimony was actually
23 talking about hearing "watch your step" at every turn
24 along the way; is that right?
25 A. Yes.

1 Q. That's what you said today as well, isn't it?

2 A. Yes.

3 Q. We started to talk a little bit about the
4 flashlights. Tell me how the audience participants
5 are. How do they get the flashlights along the
6 illusion?

7 A. So the -- the MGM employees that are standing
8 along the route will grab, you know, a handful of
9 flashlights from the bin that we bring out, and just as
10 people are coming by, they're handed flashlights.

11 Q. What is the purpose of the flashlights, to
12 your understanding?

13 A. They're -- so in the -- David, on stage, is
14 handing -- handing a bucket of flashlights in to the
15 people in the prop.

16 Q. I don't want you to go any further. I don't
17 want you to talk about what happens inside the prop
18 once the participants are out. So you don't want to
19 talk about that.

20 So I understand he hands -- at the beginning
21 he hands lights inside to the prop.

22 A. Right.

23 Q. Now go to where the audience members are out
24 of the prop.

25 A. It's to show that these participants have

1 those lights.

2 Q. Okay. Since the -- well, we've heard about,
3 at the end of the illusion, the participants appear at
4 the back of the auditorium; is that correct?

5 A. Yes.

6 Q. Okay. Do they turn the lights on when
7 they're in the back of the auditorium?

8 A. Yes.

9 Q. So is part of getting the Thirteen Illusion
10 set up -- strike that.

11 Is there anything in place as part of the
12 Thirteen Illusion to make sure that the flashlights
13 will be operable for the illusion?

14 A. Yes.

15 Q. Okay. What -- how is that done?

16 A. That's done before the show and -- before the
17 show starts and before -- well, actually, the MGM --
18 the MGM employees, as they grab them, they'll usually
19 check them. We always had extra flashlights in there
20 just in case, you know, we had some duds.

21 Q. The flashlights that are handed out by the
22 MGM employees, are they all handed out while the
23 participants are still inside the building?

24 A. Yes. There may have been a person that had
25 flashlights that was outside, but it's usually those

1 first couple turns.

2 Q. To the best of your knowledge, by the time
3 the participants are outside, they have their
4 flashlights?

5 A. Yes.

6 Q. Okay. Do they actually need the flashlights
7 for lighting, again, from your perspective?

8 A. I would say no.

9 Q. Are you in a position that you have to tell
10 the participants to turn off their flashlights?

11 A. Yes.

12 Q. At what point in time?

13 A. I would tell them as we stop in the double
14 doors, on our way back into the MGM.

15 Q. And once you go into the MGM, there's just
16 hallway lighting or casino lighting; correct?

17 A. Yes.

18 Q. You were asked some questions about your
19 definition of run and whether it's a brisk walk or a
20 crappy jog.

21 Do you remember that?

22 A. Yes.

23 Q. Does the pace of the illusion change as the
24 illusion proceeds?

25 A. What do you mean?

1 Q. Well, let me ask it this way: Can the pace
2 that the people move at change at different points in
3 the runaround?

4 A. I still don't know what you mean.

5 Q. Is there much space to run backstage?

6 A. No.

7 Q. Given the length of the hallways, as you
8 proceed Backstage, have you seen times where people
9 could actually get up to a run?

10 A. I don't know. I'm usually just with the girl
11 in the front.

12 Q. If someone was running -- since you're in the
13 front with the girl, if someone was running, would
14 they -- again, your perspective -- would they catch up
15 to you?

16 MR. DEUTSCH: Objection, Your Honor. Calls
17 for speculation. He just says he doesn't know.

18 THE COURT: Well, let's see if he does.
19 Overruled.

20 THE WITNESS: They would never get past me if
21 somebody was coming up close.

22 BY MR. RUSSELL:

23 Q. How would you describe what you're doing with
24 the lead participant as you walk with her?

25 MR. DEUTSCH: Objection, Your Honor.

1 Misstates the testimony.

2 THE COURT: If it does --

3 MR. DEUTSCH: Brisk walk.

4 BY MR. RUSSELL:

5 Q. When he briskly walks with the lead.

6 A. So besides telling her what turns are coming

7 up, it's -- it's mainly just chatting, just "Where you

8 from?" whatever. I don't have anything important to

9 say until we're in the -- through those double doors

10 back in the MGM.

11 Q. You were asked earlier some questions about

12 whether the turns through the backstage area were

13 confusing. I would like to show you -- this is an

14 exhibit that Mr. Kenner and Mr. Copperfield used. I

15 think Mr. Copperfield used; Mr. Kenner did.

16 To the best of your recollection, the -- the

17 orange and green dots here, here, here, and here on

18 this diagram, are those people, during the Thirteen --

19 are those spots that people are standing during the

20 Thirteen Illusion?

21 MR. DEUTSCH: Objection, Your Honor.

22 Leading.

23 THE COURT: Sustained.

24 BY MR. RUSSELL:

25 Q. Do you recognize -- strike that.

1 Do you recall where along the route people
2 would stand, MGM stagehands would stand?

3 A. Where the green and orange dots are.

4 Q. Okay. As the participants walk through
5 backstage, as they are approaching the turn, tell me
6 what they will see as they approach each turn.

7 A. So this person right here is pointing them
8 that way, because going this way would be the office
9 and, going straight through, this person would be going
10 upstairs to our dressing rooms.

11 This person would be pushing them this way
12 because there are doors here that could lead them back
13 into the theater.

14 Q. And you said -- you said pushing. Have you
15 ever seen anybody ever touch a participant to push
16 them?

17 A. No. No.

18 Q. Guiding them? Is that a better word?

19 A. Yeah. It's mainly just like a (witness
20 indicating).

21 Q. So as the -- as the participants are
22 proceeding backstage, are there people there guiding
23 them along the way?

24 A. Yes.

25 Q. And have you ever heard of a participant in

1 the Thirteen Illusion not being able to follow the
2 directions from the MGM stagehands?

3 A. Not being able to? No.

4 Q. Okay. You mentioned earlier that -- you can
5 have a seat. Thank you, Ryan.

6 You mentioned earlier that, when you get to
7 the double doors, you're -- you're waiting for a
8 signal.

9 Tell the jury what you mean by you're waiting
10 for a signal.

11 A. So I'm waiting for the assistant that is in
12 the back of the train to give me the signal that we can
13 continue. That means that everybody has caught back up
14 together. And so once she gives me that signal, then
15 we can proceed through the kitchen.

16 Q. And does that signal necessarily mean that
17 all the participants are going to complete the
18 illusion?

19 A. No.

20 Q. Are there times that she would signal you
21 because there were people staying behind?

22 A. Yes.

23 Q. If people had to be stopped along the route,
24 from your perspective in doing this illusion, did that
25 ruin the illusion?

1 A. No.

2 Q. How many times along the runaround do you
3 stop and regather the participants?

4 MR. DEUTSCH: Objection, Your Honor.
5 Foundation.

6 THE COURT: Sustained.

7 BY MR. RUSSELL:

8 Q. Are there times along the runaround -- we've
9 already talk about the double doors. Besides the
10 double doors, is there another time along the runaround
11 that you stop to regather the participants?

12 A. Yes.

13 Q. When does that happen?

14 A. Once we've made it through the kitchen and we
15 are about to enter the -- the house again, the
16 auditorium.

17 Q. What is your cue to have the participants
18 leave the kitchen and go back out to the auditorium and
19 wave to the crowd?

20 A. It's a music cue. It's like an explosion
21 sound.

22 Q. In your years of working on the Thirteen
23 Illusion and being part of the runaround, did you ever
24 consider the route to be dangerous?

25 MR. DEUTSCH: Objection, Your Honor.

1 THE COURT: Overruled.

2 THE WITNESS: No.

3 BY MR. RUSSELL:

4 Q. You personally are part of the runaround.
5 You're doing the same route that the audience
6 participants are doing; correct?

7 A. Yes.

8 Q. If the route contained obstacles along the
9 way, could you have been similarly exposed to those
10 same obstacles?

11 MR. DEUTSCH: Objection.

12 THE COURT: Overruled.

13 THE WITNESS: Yes.

14 BY MR. RUSSELL:

15 Q. If the -- if the runaround was done in total
16 darkness, could you have been dealing with that same
17 condition when you were part of it?

18 A. Like pitch black?

19 Q. Yeah.

20 A. Yeah.

21 Q. If audience participants were erratic during
22 the runaround, could that have been problematic for
23 you?

24 MR. DEUTSCH: Objection.

25 THE COURT: Overruled.

1 THE WITNESS: Erratic like?
2 BY MR. RUSSELL:
3 Q. Confused, chaotic.
4 A. Yeah.
5 Q. And, again, I am only asking about your
6 perspective from what you did in the illusion.
7 Would you consider carrying out the illusion
8 to be orderly or rushed?
9 A. Definitely not rushed. It's orderly, yeah.
10 Q. Would you consider carrying out the illusion
11 to be calm or chaotic?
12 A. Calm.
13 Q. And would you consider the way you carried
14 out this illusion to be controlled or pandemonium?
15 A. Controlled.
16 Q. After the illusion is completed, the
17 participants go to the what I call -- I've called the
18 breakout room, but that hallway where they gather;
19 right?
20 A. Yes.
21 Q. And that's where you give your speech?
22 A. Yes.
23 Q. Have you ever, in all the times you did the
24 illusion, said during your speech that the people were
25 running around like crazy with -- looking, you know,

1 with fear in their eyes?

2 MR. DEUTSCH: Crazy looks on their faces.

3 MR. RUSSELL: Thank you very much. I
4 appreciate that, Mr. Morelli -- Mr. Deutsch.

5 THE WITNESS: No.

6 BY MR. RUSSELL:

7 Q. Have you ever said the words, "This is not
8 you running around with crazy looks on your faces,
9 running for your lives with crazy looks on your face?"

10 A. No.

11 Q. You were shown during your deposition -- we
12 didn't talk about it today -- it was a sheet that was a
13 speech.

14 You remember looking at that?

15 A. The -- yeah, the Thirteen speech.

16 Q. Besides your deposition, how many times had
17 you ever read that speech? And I mean read the actual
18 piece of paper.

19 A. Maybe once.

20 Q. When you did the speech at the back of the
21 illusion or at the end of the illusion, where did you
22 learn that speech from?

23 A. From Zack.

24 Q. Did Zack ever tell you, "Hey, tell the
25 participants that they're running for their lives with

1 crazy looks on their faces"?

2 A. No.

3 MR. RUSSELL: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes.

6 MR. RUSSELL: Look at page 63.

7 BY MR. RUSSELL:

8 Q. Mr. Carvalho, you were asked by Mr. Deutsch
9 some of the questions --

10 This is on page 63. I'm sorry, Adam.

11 You were asked during some of Mr. Deutsch's
12 questions about conversations you had with Mr. Cox and
13 Mr. Copperfield on the night of Mr. Cox's accident.

14 Do you remember that?

15 A. Him asking me the questions?

16 Q. Yeah. You remember Mr. Deutsch asking?

17 A. Yes.

18 Q. If you'll look at page 63 and tell me, if you
19 look at lines 4 -- 63, lines 4 through 12. Read those
20 lines and tell me, does that refresh your recollection
21 as to whether or not Mr. Copperfield asked Mr. Cox if
22 he was okay.

23 MR. DEUTSCH: Objection, Your Honor.

24 THE COURT: What you can do is you can show
25 it to him and then take it away.

1 MR. DEUTSCH: Your Honor, respectfully, he
2 didn't say that he didn't remember anything in the
3 first place.

4 THE COURT: I agree.

5 MR. DEUTSCH: But now he's given it to him to
6 read, so --

7 THE COURT: And the prior testimony wasn't
8 from a deposition; right?

9 MR. RUSSELL: Correct.

10 THE COURT: So I think you need to take that
11 away --

12 MR. RUSSELL: I'll take it away from him.

13 THE COURT: -- and establish that he doesn't
14 have a recollection.

15 MR. DEUTSCH: He's here testifying live.

16 BY MR. RUSSELL:

17 Q. Do you recall, as we sit here today, whether
18 or not Mr. Copperfield asked Mr. Cox if he was okay?

19 A. Yeah, he definitely -- well, he definitely
20 noticed Mr. Cox and, you know, stopped his speech and
21 was like -- you know, asked him, whatever, like, you
22 know, what happened or -- and I chimed in.

23 Q. And your deposition, that was over two years
24 ago; right?

25 A. I think so, yeah.

1 Q. And this accident was over four and a half
2 years ago?

3 MR. DEUTSCH: Objection. Is he impeaching
4 his own witness?

5 MR. RUSSELL: I'm asking.

6 THE COURT: Just asking him when the accident
7 happened. Overruled.

8 BY MR. RUSSELL:

9 Q. So as we sit here today four and a half years
10 later, do you -- can you recall one way or another what
11 this specific conversation was between Mr. Copperfield
12 and Mr. Cox?

13 A. I don't remember.

14 MR. RUSSELL: That's all I have,
15 Mr. Carvalho. Oh, maybe I have one more. I apologize.

16 MR. MORELLI: Howard, you dropped a paper.

17 MR. RUSSELL: I did. Thank you, Mr. Morelli.
18 Your Honor, may we approach?

19 THE COURT: Sure.

20 (A discussion was held at the bench,
21 not reported.)

22 BY MR. RUSSELL:

23 Q. Mr. Carvalho, now if you'll read -- take a
24 look at page 63.

25 THE COURT: Don't read it out loud.

1 BY MR. RUSSELL:

2 Q. Don't read it out loud. Just take a look at
3 it. Tell me when you're done. Read lines 9 through 12
4 or 9 through 14, I believe. Tell me when you're done.

5 A. (Witness reviewing document.)

6 I'm done.

7 Q. Okay. Now, does that refresh your
8 recollection as to whether Mr. Cox and -- excuse me --
9 whether Mr. Copperfield asked if Mr. Cox was okay on
10 the night of Mr. Cox's accident?

11 A. So I don't know.

12 MR. RUSSELL: Okay. Okay. Thank you.

13 MR. ROBERTS: Hey -- sorry.

14 MR. RUSSELL: Your Honor, under 51.125, I'd
15 like to have the witness read the testimony as a
16 recorded recollection, which he's now said he doesn't
17 remember.

18 MR. DEUTSCH: Objection, Your Honor.
19 Deposition does not apply to that. It's meant for
20 something contemporaneous, as I said up at the bench.

21 THE COURT: Approach, please.

22 MR. RUSSELL: Nothing in there about
23 contemporaneous.

24 (A discussion was held at the bench,
25 not reported.)

1 MR. MORELLI: Adam, let him do it.

2 MR. RUSSELL: Your Honor, no further
3 questions.

4 THE COURT: All right.

5 All right. Mr. Popovich?

6 MR. POPOVICH: Yes.

7 CROSS-EXAMINATION

8 BY MR. POPOVICH:

9 Q. Mr. Carvalho, I am Jerry Popovich,
10 representing MGM Grand Hotel. Okay? And I do have
11 some questions.

12 First off, were you in the military?

13 A. Yes.

14 Q. What branch?

15 A. Air Force.

16 Q. How long?

17 A. Did six and a half active duty, and I did a
18 little over three in the Air National Guard.

19 Q. Did you have basic training?

20 A. Yes.

21 Q. Is it like the TV shows, with drill sergeants
22 up in your face training you guys?

23 A. Yes.

24 Q. Screaming at you?

25 A. Yes.

1 Q. In all your time working with the Thirteen
2 Illusions, did you ever see any stagehands up in faces
3 of participants of the Thirteen Illusion like a drill
4 sergeant, screaming, "Run, run, run"?
5 A. Not at all.
6 Q. How about, "Move, move, move"?
7 A. No.
8 Q. Didn't happen?
9 A. No.
10 Q. So now that everybody is awake, I have some
11 questions.
12 Are stagehands to do what they are trained to
13 do for an illusion?
14 A. I'm sorry. Say that one more time.
15 Q. Sure. With regard to stagehands on a
16 particular illusion, they're trained to do a particular
17 task?
18 A. Yes.
19 Q. I think you call them "cues"?
20 A. Cues, yeah.
21 Q. Okay. And you're supposed to do your cue?
22 A. Yes.
23 Q. Each stagehand; right?
24 A. Yes.
25 Q. And when all the cues are done in the proper

1 order and timing, the illusion comes off, at least
2 that's the plan?

3 A. Right, right.

4 Q. So when we're talking about stagehands, if
5 they're -- if they miss a cue, either timing-wise or
6 fail to do what they're supposed to do, does that end
7 up in notes?

8 A. Yes.

9 Q. Notes go out at the end of each show?

10 A. Yes.

11 Q. Or at least each night?

12 A. Correct.

13 Q. The participants -- excuse me.

14 The stagehands -- and I'm pointing to this
15 board with the orange and green dots. The stagehands
16 that are at those dot locations that you've already
17 described, essentially are they supposed to be in one
18 spot as the participants are moving past?

19 A. I can't --

20 Q. Just from what you observed?

21 A. Yeah, I mean, it's -- there's not "this is
22 the piece of asphalt that you stand on"; it's -- it's
23 an area.

24 Q. Well, I get that, but when -- on a particular
25 night, wherever they're positioned, when you go past,

1 are they going with you?

2 A. No.

3 Q. They're in that general area?

4 A. Correct.

5 Q. Doing their cue --

6 A. Yes.

7 Q. -- or their task?

8 A. Yes.

9 Q. Now, when you were up on the stand at one

10 point a few minutes ago, I -- it seemed like you were

11 gesturing as far as what the people in the green and

12 orange spots were doing. And I wanted to understand

13 what that meant.

14 Were you gesturing?

15 A. Yes.

16 Q. And -- and -- and it kind of seemed like a

17 back-and-forth motion. What did that mean?

18 A. Like -- like marshaling an airplane, I guess.

19 You know, showing this is -- this is the way you're

20 going, this way.

21 Q. Is that gesture with a lit flashlight?

22 A. Yes.

23 Q. So participants -- when you are approaching

24 these people, you're seeing the stationary stagehands

25 going back and forth with their lights indicating the

1 direction of the route?

2 A. Yes.

3 Q. You've already talked at length about whether
4 those people are saying anything or not.

5 My question is there were some questions
6 early on in Mr. Deutsch's questioning about sometimes
7 you heard them saying something; sometimes not. Is
8 that fair?

9 A. Yes.

10 Q. When you go by and move on, they're still --
11 do you guys call it a "train," the group?

12 A. Yeah, the train.

13 Q. Is that -- I mean, is that a -- really a term
14 you guys would use?

15 A. They're -- I would use "train." I don't
16 think we had, like, an actual, like, term for -- you
17 know.

18 Q. But you called it a train?

19 A. Yes.

20 Q. So let's call it train.

21 A. Okay.

22 Q. So you've got this train coming behind you;
23 correct?

24 A. Uh-huh.

25 Q. Is that a yes?

1 A. Yes.

2 Q. We just have to take it down. No problem.

3 A. Sorry.

4 Q. And so once you've gone past one of these

5 stationary people, at some point, you're going to be

6 out of earshot, but you have no idea what would be said

7 or not said to participants in the train farther back.

8 Fair?

9 A. Yeah. Yes.

10 Q. They -- there could be things said to them

11 that you don't hear; correct?

12 A. Yes.

13 Q. Or could have been things that you heard that

14 maybe people later didn't hear? You just don't know?

15 A. Right.

16 Q. All right. On the night when you found out

17 about Mr. Cox, I guess that was in the -- whatever we

18 call that -- that breakout room afterwards?

19 A. The Thirteen room.

20 Q. The Thirteen room. Thank you.

21 So when you found out about Mr. Cox in the

22 Thirteen room, I want to -- if you can, go back with

23 me. Were there any of the stationary stagehands on the

24 route indicated with the orange and green dots that

25 were missing that night? Somebody was not at their

1 post?

2 A. I don't know.

3 Q. Just can't remember?

4 A. Can't remember.

5 Q. To your knowledge, that night, was there

6 anybody not doing what they were supposed to be doing

7 with the flashlights in gesturing as you've indicated?

8 A. I can't remember.

9 Q. Nothing sticks out in your memory that there

10 was something wrong with those -- those stationed

11 people?

12 MR. DEUTSCH: Objection. Asked and answered.

13 THE COURT: Overruled.

14 THE WITNESS: No. I mean, the whole

15 illusion, to me, went fine.

16 BY MR. POPOVICH:

17 Q. Until -- until --

18 A. Until the --

19 Q. -- you heard something about Mr. Cox?

20 A. Correct.

21 Q. You're waiting for participant number one,

22 usually female, to come out of the dragon, left hand

23 extended; correct?

24 A. Yes.

25 Q. You take the hand of the person. And as soon

1 as that person's down on -- at floor level with you,
2 you begin?

3 A. Correct.

4 Q. Are there other stationary people by that
5 place where you're leaving to assist any other
6 participants as they come out?

7 A. To -- to assist? I'm not sure. I don't
8 think so.

9 But there are people there lighting -- you
10 know, like at the corners of the dragon with
11 flashlights, same thing with the lights, marshaling.

12 Q. Would that be consistent with the right-sided
13 orange dot under the word "stage" on that diagram, kind
14 of -- if you would consider the stage sign essentially
15 where the dragon is?

16 A. Yes. And then also at the ends -- at the
17 ends of the dragon curtains, there's -- there's a
18 person there on each side. And on -- on -- that was
19 fun. And along this curtain on this side there's a
20 rib -- a pole right there. And there's a person
21 usually on that pole that had their flashlight out as
22 well.

23 Q. Kind of in the area where that left upper
24 orange dot is?

25 A. Yeah, you could say that.

1 Q. Where the green --
2 MR. POPOVICH: May I approach, Your Honor?
3 THE COURT: Yes.
4 MR. POPOVICH: Thank you.
5 BY MR. POPOVICH:
6 Q. Where these green dotted lines start, is that
7 a hallway area yet?
8 A. No, that's still backstage.
9 Q. All right. The lower orange dot to the right
10 closest to you, is that the entrance of a building
11 hallway?
12 A. So it's almost like there would be a set of
13 doors right here that mark the stage from the hallway.
14 So I would say it would be about here. And this
15 person -- behind this person is a staircase going up.
16 And then there's this short hallway, and then
17 the Thirteen room right here.
18 Q. And by -- okay. So between those two lower
19 orange dots, that hallway there, how long is that
20 hallway? I mean, you can use the distance from me to
21 you and I can move. Just tell me closer, farther.
22 MR. POPOVICH: Can he step down, Your Honor,
23 to help demonstrate this?
24 THE COURT: Yes.
25 MR. POPOVICH: Thank you.

1 THE WITNESS: Maybe like this from the turn
2 to -- it's probably a bit shorter. It's probably like
3 this (witness indicating).
4 BY MR. POPOVICH:
5 Q. Okay. And so what we're demonstrating right
6 now, this distance is from the right lower orange dot
7 to the left lower orange dot?
8 A. I would say from -- from here, from this part
9 of it to here (witness indicating).
10 Q. Okay. So then the -- you would lead the
11 first participant and make a left turn towards the
12 outside; correct?
13 A. Yes.
14 Q. And there's another hallway to the exit door.
15 A. Right, the Thirteen room.
16 Q. Okay. And, again, can we demonstrate how far
17 that hallway is from the left turn to going outside.
18 A. Yeah. So if you were at the doors --
19 Q. Right.
20 A. You're at the doors, be about here (witness
21 indicating).
22 Q. All right.
23 A. I'd say.
24 Q. All right. I thank you. That helps. And
25 you can have a seat.

1 Have you had a situation where the woman
2 whose hand you are holding tries to go faster than you?

3 A. Yes.

4 Q. What happens in that scenario?

5 A. Just kind of pull back and I'd tell her to
6 slow down.

7 Q. You don't speed up to match her speed?

8 A. Huh-uh.

9 Q. Is that a no?

10 A. No. Sorry.

11 Q. Thank you.

12 When the participants are leaving the dragon
13 and are backstage, is there -- is there movement of the
14 participants faster than a brisk walk in that backstage
15 area?

16 A. I don't know.

17 Q. Have you -- do you recall seeing --

18 MR. DEUTSCH: Objection. Let him answer.

19 THE COURT: Overruled.

20 BY MR. POPOVICH:

21 Q. Do you recall seeing movement faster than a
22 brisk walk in that backstage area? And I understand
23 you may not have seen the people that are last getting
24 out of the dragon.

25 A. Right. Yeah, I'm -- I'm -- that whole first

1 part, I'm just talking to the girl. I'm focused on
2 her. So ...

3 Q. In the hallways, the couple hallways that we
4 just talked about that, as you've demonstrated, seem
5 fairly short, is there -- have you seen participants
6 moving faster than a brisk walk in general?

7 MR. DEUTSCH: Objection. Asked and answered
8 for the third time. He said he didn't know.

9 THE COURT: Overruled.

10 THE WITNESS: One more time. Sorry.

11 BY MR. POPOVICH:

12 Q. Sure. In those two hallways we just
13 demonstrated the length of, short runs -- wrong term --
14 short distances, have you seen people move faster --
15 participants move faster than a brisk walk in those two
16 hallways?

17 A. Can't say -- I have never seen that.

18 Q. Once the participants get outside, little
19 more room to go faster if the participants want to?

20 A. I could imagine, yeah.

21 Q. Do you tend to try to keep a normal -- not a
22 normal -- a certain pace when you're leading it because
23 you've done it a number of times and you try to do
24 something consistent?

25 A. Yes.

1 Q. And that's the speed you've talked about,
2 either the brisk walk or a crappy jog, something like
3 that?

4 A. Correct.

5 Q. From your testimony I had some confusion
6 about which set of doors were being discussed at
7 certain times.

8 Going back into the building --

9 A. Uh-huh.

10 Q. -- there are doors from the outside into the
11 building; true?

12 A. Yes.

13 Q. Is there then a distance to another set of
14 doors?

15 A. Yes.

16 Q. Those second set of doors they then enter, if
17 you were to go through them, you're on the carpeted
18 casino at that point?

19 A. Correct.

20 Q. What I had confusion on was when do you do
21 your gather? The first set of doors from outside in or
22 from the second set of doors where you're in that --
23 whatever we call it -- that -- that open area into the
24 casino?

25 A. It's -- it's through the first set of doors

1 once -- once we pass through this -- this first set of
2 doors right here. So there's this big area right there
3 that we -- that we stop.

4 Q. Okay. So when you go through the first set
5 of doors from outside into the building, that's where
6 you do your gather, in that open area?

7 A. Correct.

8 Q. Wait for the high sign from the person -- the
9 stagehand at the back?

10 A. Uh-huh. Yes.

11 Q. And that's when you then head into the casino
12 and head towards the kitchen?

13 A. Yes.

14 Q. When -- after you've done your gather, at
15 what pace do you take that next segment through that
16 open area and into the casino?

17 A. It's -- it's a quick walk, because the
18 kitchen is tight, so you really have no room
19 to -- to -- to pick up speed. It's turn after turn.

20 Q. About how many turns in the kitchen?

21 A. There's a right turn, then there's a U-turn.
22 I think there was a quick right and then a left, and
23 then we're at the doors.

24 Q. And there you're waiting for your music cue?

25 A. Yes.

1 Q. All right. That's my questions for the
2 get-around -- runaround, whatever we're going to call
3 it. Why do you call a runaround a runaround if you're
4 not running?

5 A. That's what they called it.

6 Q. Okay.

7 A. Yeah.

8 Q. I want to now go to the front end of the
9 illusion, when the participants have caught the plastic
10 ball.

11 A. Okay.

12 Q. Are there stagehands before the steps that go
13 up to the stage?

14 A. There are assistants, personal assistants,
15 David's assistants.

16 Q. Do they have a script of talking to these
17 participants?

18 A. Yes.

19 Q. Did you ever do what they did?

20 A. No.

21 Q. So you don't know what they were trained to
22 do?

23 A. Correct.

24 Q. Don't know what questions they were trained
25 to ask?

1 A. I don't know 100 percent, no.

2 Q. Had you heard things about what they were
3 asking the participants?

4 A. Yes.

5 Q. Is one of the things something to do about
6 running?

7 A. I don't think so.

8 Q. Okay. So once the participants are up on the
9 stage, for those people who are not moved off to the
10 witness chairs to the sides, was there someone named
11 Spencer doing something with the people that, so far,
12 were going to participate in the disappearance?

13 A. Yes.

14 Q. Did you sometimes, when you were on stage,
15 overhear what Spencer was asking of the participants?

16 A. Yes.

17 Q. Was one of his questions to the participants
18 "Can you run?"

19 A. Yes.

20 Q. My last set of questions deals with after the
21 illusion in the Thirteen room or area. At that point,
22 you're informed that Mr. Cox had what?

23 A. That -- I forget what exactly was said, but
24 that he either fell or he got hurt.

25 Q. At that point, as soon as you found that out,

1 did you talk to Mr. Cox?

2 A. Yes. I asked him if he was okay.

3 Q. And his response was?

4 A. That he was fine.

5 Q. You then began your presentation to the

6 participants?

7 A. I believe I started to.

8 Q. Did you ask Mr. Cox again at that point

9 somewhere in your talk about how he was doing?

10 A. Yes.

11 Q. At that second time, what did he say?

12 A. I think I asked him if -- like, if he was

13 sure he was all right. And he said he was.

14 Q. At that point, though, despite him saying

15 that, did you have him get a chair or did you get

16 somebody to get a chair?

17 A. Yes.

18 Q. Mr. Copperfield comes in, correct, after --

19 A. Yes.

20 Q. -- after you've done your talk?

21 A. Yes.

22 Q. Mr. Copperfield, at some point, asks Mr. Cox

23 how he was doing?

24 A. I think it was more of a "What happened?"

25 You know.

1 Q. And you told Mr. Copperfield that Mr. Cox had
2 tripped?

3 A. Tripped or got hurt or -- I'm not sure
4 what -- what verbiage I used.

5 Q. Okay.

6 MR. POPOVICH: Your Honor, can I approach the
7 witness in an attempt to refresh his recollection with
8 his deposition testimony, page 62, lines 18 to 24?

9 THE COURT: Yes.

10 BY MR. POPOVICH:

11 Q. So there's all kinds of marks on this, but
12 focus on the part between the two red brackets here.
13 Just read it to yourself.

14 MR. DEUTSCH: What line?

15 MR. POPOVICH: Lines 18 to 24.

16 BY MR. POPOVICH:

17 Q. Tell me when you're done reading.

18 A. Done.

19 Q. Does that refresh your recollection about
20 what happened in that scenario?

21 A. Not a hundred percent.

22 Q. Not a hundred percent. What percentage are
23 we at?

24 A. Like, I know there was conversation, but,
25 like, yes, David did stop his speech and ask what was

1 going on.

2 Q. You said something to him; you don't remember
3 what.

4 A. I -- I -- I -- I informed David of -- you
5 know, like, oh -- like -- like I said, I don't remember
6 if I said he got hurt or if he fell or if he tripped,
7 but it was something along those lines, that something
8 had happened.

9 Q. Did Mr. Copperfield then inquire of Mr. Cox
10 about how he was doing?

11 A. I don't remember.

12 Q. Was the first time Mr. Cox told you that he
13 might need assistance after Copperfield had finished
14 his talk and left?

15 A. David was definitely gone. And I want to say
16 that I was -- I had finished my -- my speech as well.

17 Q. Basically, the end of those presentations is
18 the first time Mr. Cox indicated that he felt like he
19 might need assistance?

20 A. Yes.

21 Q. All right. So, as you already testified to,
22 you contacted MGM security, which is what you're
23 supposed to do?

24 A. Yes.

25 Q. We're now at the point in time where the show

1 is over?

2 A. Yes.

3 Q. When the show's over for a first show of the
4 evening, do you have stuff you need to do?

5 A. Yes.

6 Q. Did you stay with Mr. Cox after you contacted
7 MGM security?

8 A. No.

9 Q. So when security came, were you present to
10 observe what they did?

11 A. No.

12 Q. Thank you, Mr. Carvalho.

13 MR. POPOVICH: Thank you, Your Honor.

14 THE COURT: Ms. Fresch?

15 CROSS-EXAMINATION

16 BY MS. FRESCH:

17 Q. Good afternoon, Mr. Carvalho. I'm Elaine
18 Fresch, and I represent David Copperfield and David
19 Copperfield Disappearing, Inc.

20 How you doing?

21 A. Doing all right.

22 Q. Okay. All right. I just have a few brief
23 questions, actually.

24 I just wanted to -- to clarify so I
25 understood. You -- you indicated, when the first

1 person leaves the prop, you -- you take their hand --
2 A. Yes.
3 Q. -- right?
4 All right. And then as you proceed on the
5 route, from the time of the prop until -- let's just
6 say till -- through the first set of double doors where
7 you gather people, so that -- that whole part of the
8 route --
9 MS. FRESCH: Actually, so just may I
10 approach, Your Honor? Sorry.
11 THE COURT: Go ahead.
12 BY MS. FRESCH:
13 Q. All right. So looking at our diagram and
14 imagining -- imagine the dragon is here. So you start
15 the route, going here, here, here, here, here, and
16 through those first set of double doors.
17 Are you holding the hand the whole time,
18 pretty much?
19 A. Yes.
20 Q. Okay.
21 A. Yes.
22 Q. And what's the purpose of holding the hand
23 that entire time, basically?
24 A. Well, usually it's a woman and she's wearing
25 heels. So I want to keep her with me. It's also so

1 they don't get away from me, they don't, you know, pull
2 away from me and try to -- try to, I guess, run past me
3 to -- to keep my -- to keep my pace.

4 Q. Okay. And is your goal -- as you're leading
5 the group, do you have any goals about what your pace
6 is going to be from the point of the dragon -- I'm
7 sorry, Your Honor, is that -- from the dragon to the
8 double doors? What's the goal of your pace during that
9 whole time?

10 A. I don't know. I just -- I've -- since I've
11 done it for so long, I just figured out what pace works
12 where I have -- you know, we can stop, we can
13 congregate, I can talk to them and give them the next
14 set of instructions and then finish the illusion.
15 It's -- yeah.

16 Q. And I'm sorry. I didn't -- I didn't -- I
17 might have cut you off there by accident a little.

18 When you say gather and do next instructions,
19 when are you talking about?

20 A. Once we're inside the -- back at the MGM.

21 Q. Okay. Is your -- is your pace from the
22 dragon to the double-door gathering spot, is that
23 consistently about the same pace?

24 A. Yes.

25 Q. Okay. Is there slowness around the different

1 corners?

2 A. Yeah. Yeah.

3 Q. And with respect to -- and I know this is a
4 long time ago, November 12, 2013. Do you have any
5 recollection of anyone passing you on your route that
6 night?

7 A. No.

8 Q. Okay. Is that something in your mind that
9 would stick out?

10 A. Yes.

11 MS. FRESCH: Okay. Ms. Bonney, could we see
12 the video of 402? Yes. Thank you.

13 May I approach again?

14 THE COURT: Go ahead.

15 MS. FRESCH: I need more caffeine.

16 (Whereupon video deposition was played.)

17 BY MS. FRESCH:

18 Q. Okay. Now, Mr. Carvalho, that -- you saw a
19 little clip of that earlier. That's the video from the
20 night of November 12th, 2013.

21 Had you seen that video prior to today
22 really?

23 A. No.

24 Q. Okay. And you identified yourself --
25 Could we just start, Ms. Bonney, the

1 beginning, and I'll tell you where to stop.

2 (Whereupon video deposition was played.)

3 MS. FRESCH: Okay. Stop. All right.

4 May I approach again?

5 THE COURT: Yes.

6 MS. FRESCH: You're waiting on me.

7 MR. POPOVICH: Your Honor, can we note that

8 it stopped at 20:35:12.

9 MS. FRESCH: Thank you, Mr. Popovich.

10 THE COURT: Record will so reflect.

11 BY MS. FRESCH:

12 Q. Okay. Down in this corner, if you will, the

13 left-hand corner, is that -- it appears to be a

14 spotlight.

15 Does that look like a spotlight to you?

16 A. Yes.

17 Q. Okay. And from your observation, would that

18 be where one of the stagehands stands, approximately?

19 A. Yes.

20 Q. All right. And you're the individual -- I

21 believe you earlier identified yourself on the

22 right-hand side about to go in the double doors?

23 A. Correct.

24 Q. All right. And you're holding the hand of

25 the woman -- or I think it's a woman -- woman or

1 individual. A person.

2 A. Yes.

3 Q. All right. And then the next person --

4 there's another person right behind the individual

5 whose hand you're holding; correct?

6 A. Yes.

7 Q. All right. And is that kind of typical, the

8 spacing of people along the route?

9 MR. DEUTSCH: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: Yes.

12 BY MS. FRESCH:

13 Q. Okay. All right. And your pace, as depicted

14 on this video, is that a similar pace that you take on

15 a nightly basis?

16 A. Yes.

17 Q. Okay. As you are heading towards those

18 double doors?

19 A. Correct.

20 Q. Okay. And then through those double doors,

21 that's when you stop and gather the -- the folks?

22 A. Correct.

23 Q. Okay. And do you recognize which set of

24 doors you went in that particular night?

25 A. I can't, no.

1 Q. Okay. Yeah. It's a grainy video, yes.
2 That's okay.

3 Would -- what we just watched, is that kind
4 of how you describe what -- you used the word, as an
5 adjective, "crappy jog."

6 Do you recall that?

7 A. Yes.

8 Q. Is that a kind of a depiction of the crappy
9 jog?

10 A. Yes.

11 MS. FRESCH: I don't think I have any
12 further, Your Honor.

13 THE COURT: All right.

14 Mr. Call.
15

16 CROSS-EXAMINATION

17 BY MR. CALL:

18 Q. Good afternoon, Mr. Carvalho. My name is
19 Gary Call. I represent Team Construction, and I have a
20 few questions to ask you as soon as I can get my
21 computer running here.

22 MR. DEUTSCH: Gary, you want me to put it up
23 for you and make it much easier and quicker?

24 MR. CALL: No. I got it all set. Thank you,
25 though. At least I think I got it all set. There we

1 go.

2 MR. DEUTSCH: That's the sloppy cycle.

3 MR. CALL: Yeah. That's the Tour De France.

4 One of my favorite races.

5 Okay. I'm going to bring up what has been

6 submitted as Plaintiffs' Exhibit 84. Has that been

7 entered into plaintiffs' evidence?

8 MR. DEUTSCH: Hold on. I don't know.

9 MR. CALL: It's page 25.

10 THE COURT: Clerk says it's in evidence.

11 MR. CALL: It's in evidence?

12 MR. DEUTSCH: Not all of them.

13 MR. FREEMAN: Which number, Gary?

14 MR. CALL: 25.

15 THE CLERK: Only page 16 and 14 are in.

16 THE COURT: Only pages 16 and 14 are in.

17 MR. RUSSELL: 25, Gary.

18 MR. CALL: I've got Plaintiffs' Exhibit 84.

19 I've got page 25. It shows the two doors.

20 MR. DEUTSCH: No. 25 is this one. 25 is

21 this one.

22 MR. POPOVICH: It's 84/22.

23 MR. CALL: 22?

24 MR. POPOVICH: I think that has been

25 admitted.

1 THE COURT: It's not in evidence.
2 THE CLERK: 16 and 14 only.
3 MR. POPOVICH: No objection.
4 MR. CALL: Very good.
5 THE COURT: Any objection from anybody?
6 MR. DEUTSCH: No. As long as we make clear,
7 Your Honor, that this was taken, like we did with the
8 other ones, this is not from the night of the accident.
9 This was taken, I think, in September --
10 MR. POPOVICH: Ten months later.
11 MR. MORELLI: September 14th.
12 THE COURT: It's admitted with that
13 understanding.
14 (Whereupon, Plaintiffs' Exhibit 84-22
15 was admitted into evidence.)
16 MR. CALL: Now, getting it up on the screen,
17 that's my -- there it is.
18 BY MR. CALL:
19 Q. Mr. Carvalho, I've put up what is Plaintiffs'
20 Exhibit 84.
21 Do you recognize that photograph or that
22 scene?
23 A. Yes.
24 Q. Okay. Can you tell the jury what that scene
25 is?

1 A. That is -- the doors on the right are where
2 we exit the theater, and the open door on the left is
3 door to the room where we enter back to the MGM.

4 Q. Okay. So the date of the loss, they entered
5 on the door onto the left in this picture?

6 A. Correct.

7 Q. Okay. And just -- this was not taken on the
8 date that Mr. Cox had his fall. You understand that?

9 A. Yes.

10 Q. Okay. And you were testifying earlier today
11 that, I think, when you -- right before your runaround,
12 as you call it, that you make sure both doors are open?

13 A. Correct.

14 Q. Do you recall that testimony?

15 A. Yes.

16 Q. Okay. Do you recall -- well, what -- is
17 it -- was it your custom and practice to make sure the
18 door that was on the right side, was that open?

19 A. Our exit doors?

20 Q. The exit doors.

21 A. Correct.

22 Q. Would you make sure that the entrance door
23 was open also?

24 A. No.

25 Q. So you just go to the door that was the exit,

1 make sure that was open before the actual illusion took
2 place?

3 A. Correct.

4 Q. Okay. Who made sure that the other door was
5 open?

6 A. It was MGM security.

7 Q. Okay. I'm going to show you another -- same
8 photo, if I can get it up.

9 MR. DEUTSCH: Gary.

10 MR. CALL: Yeah.

11 MR. DEUTSCH: I thought we had -- you had
12 said you weren't going to do this.

13 MR. CALL: Do what?

14 MR. DEUTSCH: This file.

15 MR. CALL: It's the same photo, but it's --

16 MR. DEUTSCH: Got you.

17 BY MR. CALL:

18 Q. Okay. This is the same photo, but it
19 showed -- I put a red line in there. Is that
20 substantially the route that y'all took on the show?

21 A. Correct.

22 Q. The illusion?

23 Okay. And would you agree with me that where
24 the gentlemen are standing onto the left, that's about
25 where the dumpster was located?

1 A. Yeah.

2 Q. Okay. Yet prior to my getting up here,

3 Ms. Fresch showed you the video. Do you recall that?

4 A. Yes.

5 Q. Okay. And the video showed you running,

6 leading the group through the entrance door here;

7 correct?

8 A. Yes.

9 Q. Okay. And did anything impede your ability

10 to run or walk through or jog through or whatever you

11 want to call it at that time?

12 A. No, there was nothing in the way.

13 Q. Okay. There was no debris that was on the

14 ground?

15 A. Correct.

16 Q. Okay. There was no pieces of plywood on the

17 ground, to your recollection? Okay. Was there running

18 puffs of dust as you guys ran through?

19 A. I don't know.

20 Q. You don't remember?

21 A. No, I don't remember.

22 Q. Okay. And there was anything -- any debris

23 whatsoever that you recall at all?

24 A. No.

25 Q. Okay. So if there was any -- well, let me

1 back up.

2 You understand the allegation against my
3 client is that there was dust on the ground that may
4 have caused this fall?

5 MR. DEUTSCH: Objection, Your Honor.
6 Foundation.

7 THE COURT: Sustained.

8 BY MR. CALL:

9 Q. Okay. Do you have an understanding of what
10 the reason my client is involved in this litigation?

11 A. Yes.

12 Q. Okay. And what's your understanding?

13 A. That there was construction dust on the
14 ground and pieces of wood and stuff laying around.

15 Q. Okay. But you didn't see any pieces of wood,
16 did you?

17 A. No.

18 Q. You didn't complain to anybody about dust on
19 the ground, did you?

20 A. No.

21 Q. Okay. And you ran through once that day --
22 isn't that correct? -- with that runaround on the date
23 of the loss?

24 A. Yes. That was the first show.

25 Q. Okay. And you had -- what was it? -- about

1 13 people that ran with you?

2 A. I don't remember.

3 Q. On the average, how many people usually ran

4 the illusion?

5 A. It would be, like, ten.

6 Q. About ten?

7 A. Yeah.

8 Q. So more likely, it was ten people that ran

9 through with you on the date of the loss; isn't that

10 correct?

11 A. Yes.

12 Q. Okay. And when I say "the date of the loss,"

13 that's when Mr. Cox fell. You understand that;

14 correct?

15 A. Correct.

16 Q. All right. How long was it before or after

17 the first illusion that the second illusion ran?

18 A. What was that time stamp? Do you remember?

19 It's -- second show would have started at 9:30, and

20 that would have been the final illusion. So hour 20,

21 hour 30 maybe.

22 Q. So about an hour and 30 minutes later --

23 A. Plus our setup time between shows, which

24 would have been 30, 40 minutes maybe.

25 Q. Okay. So an hour 30, another 30. About two

1 hours?

2 A. That's a safe amount.

3 Q. Little over two hours?

4 A. Yeah.

5 Q. Would that be correct?

6 A. Yes.

7 Q. So in a little over two hours, you had a

8 second illusion, another Thirteen Illusion, that ran

9 through that exact area; correct?

10 A. Correct.

11 Q. Okay. And no one complained about dust or

12 debris at that time; isn't that correct?

13 A. Yeah. I don't remember.

14 Q. You didn't complain about dust?

15 A. I didn't complain about it.

16 Q. Did you hear Mr. Copperfield complaining

17 about it?

18 A. No.

19 Q. In fact, Mr. Copperfield, before the second

20 Thirteen Illusion, he actually ran through the area

21 again during the second show; isn't that correct?

22 MR. DEUTSCH: Objection. Foundation.

23 THE COURT: Sustained.

24 BY MR. CALL:

25 Q. Okay. Do you know that if Mr. Copperfield

1 ran through that area before the second Thirteen
2 Illusion?

3 A. Yes.

4 Q. Okay. Did Mr. Copperfield, like my colleague
5 yesterday, say -- get on the phone and say, "Whoa.
6 Hey, we've got to stop this. There's dust on the
7 ground or there's debris"? Do you remember him saying
8 that?

9 A. I've never heard him say that.

10 Q. How many times a week do you go ahead and --
11 when you are conducting the show, how many times is
12 that illusion performed?

13 A. 15 times a week.

14 Q. Okay. So during the week that this occurred,
15 that illusion took place 15 times; correct?

16 A. Correct.

17 Q. Okay. And no one complained about any dust
18 on the ground; isn't that correct?

19 A. Correct.

20 Q. Okay. In fact, you knew the dumpster was
21 there, prior to you running through, on the date
22 Mr. Cox fell; isn't that correct?

23 A. Yes.

24 Q. Okay. And it had been there a while; isn't
25 that correct?

1 A. I believe so.

2 Q. All right. And, to your knowledge, no one
3 was complaining about dust or debris during that time
4 period?

5 A. Correct.

6 Q. Okay. In fact, isn't it true that
7 Copperfield's show at that time was from about
8 October 27th to about November 14th, 2013?

9 A. What do you mean, the show was?

10 Q. It -- David Copperfield performs at the MGM
11 set -- set time periods; correct?

12 A. Yeah, correct.

13 Q. Okay. And didn't his show run, during that
14 time period, from October 27th or thereabouts to about
15 November 14th?

16 A. I don't remember, but I'm sure it would be
17 like -- we would do anywhere from a six-week to
18 ten-week run of shows consistently, you know, every
19 day.

20 Q. Okay. And I think Mr. Popovich or Ms. Fresch
21 were discussing the route that was taken.

22 The doors on the left-hand side, do you see
23 those?

24 A. Yes.

25 Q. Okay. When you enter those doors, there's

1 a -- I think it's -- I would call it a foyer, in other
2 words, another room before the other doors.

3 A. Correct.

4 Q. Okay. So these are the doors you enter. You
5 enter that space between those doors and another set of
6 doors; isn't that correct?

7 A. Correct.

8 Q. All right. What is the floor made out of?
9 Do you have a recollection of that?

10 A. Concrete.

11 Q. Okay.

12 A. I think.

13 Q. And once you get into that room, I think you
14 gather your people that were in the runaround with you;
15 isn't that correct?

16 A. Yes.

17 Q. Okay. And about how long does that take?

18 A. Oh, man. Anywhere from 8 to 13, 14 seconds,
19 I would say.

20 Q. Okay. And then do you gather more toward the
21 entrance or do you go toward the other doors and you
22 gather?

23 A. It's more towards the other doors.

24 Q. Okay.

25 A. The second set of doors.

1 Q. And then once you enter into the second set
2 of doors -- or once you gather, you enter into the
3 casino; isn't that correct?

4 A. Correct.

5 Q. And you usually enter in toward the doors to
6 the right; isn't that correct?

7 A. Yes.

8 Q. And that's -- we don't have that, but it's
9 the second set of doors, the doors mostly to the right?

10 A. Correct. Because they're right next to the
11 kitchen.

12 Q. Okay. Because you want to go into the doors,
13 through the doors, into the casino, and then make a
14 quick right into the kitchen; isn't that correct?

15 A. Yes.

16 Q. All right. And when you do that, you have to
17 walk across carpet; isn't that correct?

18 A. Yes.

19 Q. Okay. And then you enter the kitchen, which
20 is then linoleum or whatever it is; isn't that right?

21 A. Yes.

22 Q. All right. So when you're going through the
23 casino, if you had been tracking dust through the
24 casino, somebody would have said something to you;
25 isn't that correct?

1 MR. DEUTSCH: Objection. Calls for
2 speculation.
3 THE COURT: Sustained.
4 BY MR. CALL:
5 Q. Okay. You would have noticed that you were
6 tracking dust through the casino; isn't that correct?
7 A. I'm not sure.
8 Q. You're not sure, if your feet would have
9 actually been tracking dust through the casino, if you
10 could see it?
11 A. We are on the carpet for just a couple of
12 steps, so, you know, it's -- yeah.
13 Q. It's a couple of steps for 13 people; right?
14 A. Correct.
15 Q. Okay. And you're telling me that you
16 wouldn't have noticed if there was dust on the floor if
17 you had tracked it through?
18 A. I wasn't looking down.
19 Q. Okay.
20 A. That's yeah.
21 Q. All right. Had any -- would you receive
22 complaints from MGM if there had been dust or dirt
23 tracked through the casino?
24 MR. DEUTSCH: Objection. Foundation.
25 THE COURT: Sustained.

1 BY MR. CALL:

2 Q. Do you know who would have received

3 complaints from MGM if anything had taken place as far

4 as dirt or debris coming into the casino from a David

5 Copperfield show?

6 A. We probably would have.

7 Q. And when you say "we," who's we?

8 A. Somebody would have called Chris Kenner and

9 let him know.

10 Q. And if someone had called Chris Kenner, would

11 Chris get on the phone and say "What's going on?" to

12 you?

13 A. No, I don't think he would. I think he would

14 just have somebody clean it, if we had to clean it. I

15 don't know. I don't know what he would do.

16 Q. Had you ever been asked to clean anything on

17 the carpet?

18 A. No.

19 Q. Okay. What kind of clothes do you wear for

20 the -- the act, Mr. Carvalho?

21 A. All black.

22 Q. All black. What kind of shoes?

23 A. We had these Palladium brand boots.

24 Q. And what are those? I'm not familiar with

25 those.

1 A. They -- they're canvas boots. They look like
2 military-style boots, but they're not. They're just a
3 canvas material.

4 Q. Okay. Are they also black?

5 A. Yes.

6 Q. Okay. And do you have an understanding of
7 the reason you wear all black?

8 A. Yes.

9 Q. And what is that understanding?

10 A. So we can hide in the shadows on stage.

11 Q. Okay. And after your first -- the first act,
12 do you change your clothes, or do you wear the same
13 clothes for the second act?

14 A. It's the same.

15 Q. The same. And what color is the stage for
16 the David Copperfield show?

17 A. Black.

18 Q. Okay. And do you have an understanding of
19 the reason that it's black?

20 A. Because it eats light.

21 Q. Okay. And if that stage got dirty, what
22 would Mr. Copperfield do? Do you have any
23 understanding of that?

24 A. We'd clean it. We'd sweep it.

25 Q. Okay. Isn't it true that David Copperfield

1 makes sure that dust is not on that stage because it
2 would show?

3 A. Yes.

4 Q. Okay. And so you have to keep that 'clean;
5 isn't that correct, sir?

6 A. Yes.

7 Q. Okay. And if there was dust in your
8 runaround, it would get on your clothes and it would
9 show also; isn't that correct?

10 A. Probably.

11 Q. Okay. I have no further questions. Thank
12 you.

13 THE COURT: Does anybody need a break?

14 MR. DEUTSCH: May we approach for one second?

15 JUROR NO. 8: We'll take a break while you
16 approach.

17 (A discussion was held at the bench,
18 not reported.)

19 THE COURT: Okay. The question I posed is
20 whether anybody needs a break. And I saw some hands go
21 up. Let me see if what I'm about to say will change
22 that. Okay?

23 After this witness -- and we don't expect
24 this witness to take that much longer -- as far as the
25 jury is concerned, we're going to adjourn for the day.

1 Counsel and the Court are going to remain. We have
2 some things we have to take up outside your presence.
3 All right? And you'll be coming back tomorrow at 1:30.
4 So, in other words, we're going to adjourn early today
5 with the jury.

6 Now, that being said, do you still need a
7 break or do you think you can hold on for maybe another
8 20 minutes or so, 15, 20 minutes?

9 Is that about what you're thinking, Counsel?

10 MR. DEUTSCH: Yeah.

11 THE COURT: Would that work?

12 MR. DEUTSCH: Now I'm really on the clock,
13 though.

14 THE COURT: Okay.

15 MR. MORELLI: Trust me, Judge. He's going to
16 be not more than 20 minutes.

17 THE COURT: All right.

18 REDIRECT EXAMINATION

19 BY MR. DEUTSCH:

20 Q. Mr. Carvalho, I'm going to go quickly. So if
21 I go too quickly, just stop me.

22 Kristy, if I go too quickly, just stop me.

23 And I'm going to jump around a little bit.

24 Okay?

25 We had spoken about the warning from the MGM

1 employees about "watch your step." You recall?

2 A. Yes.

3 Q. Okay. And when I had spoken to you, I had
4 asked you about -- we were just talking about the guy
5 at number two, that number two position in your
6 diagram; correct?

7 A. Yes.

8 Q. Okay. And you gave this testimony about that
9 this morning on page 79:

10 "QUESTION: Well, do you know why they say
11 'Watch your step'?

12 "ANSWER: Yeah.

13 "QUESTION: Okay. It is because they want
14 to tell people -- to warn people about that
15 incline?

16 "ANSWER: Yeah.

17 "QUESTION: Because if you didn't warn
18 someone about the incline, someone could trip
19 on it or fall on it or slip on it; true?

20 "ANSWER: Yeah."

21 Now, those questions were just about -- as I
22 understand it from Mr. Russell's questions, about the
23 guy at number two; correct?

24 A. Yes.

25 Q. Okay. But Mr. Russell said that the MGM

1 people at those other spaces would occasionally also
2 say "watch your step" as well; correct?

3 A. Yes.

4 Q. What hazards were they warning people about
5 at the other locations?

6 A. There wasn't really any hazards. It's --
7 it's mainly to keep everybody together, to keep
8 everybody safe, so they're not -- they're not, you
9 know, wanting to, like, run up -- you know, run up
10 and -- like, to get in front of me or anything, you
11 know. It's -- it's just -- it's a general, like --

12 Q. So instead of saying "don't run up" or "stay
13 together," they said "watch your step"? That doesn't
14 seem to make sense, does it?

15 MR. RUSSELL: Objection. Foundation.

16 MS. FRESCH: Argumentative.

17 THE COURT: Sustained.

18 BY MR. DEUTSCH:

19 Q. Well, if what they were telling people was to
20 tell them that they should stay together, wouldn't you
21 think that they would say "stay together" instead of
22 "watch your step"?

23 MS. FRESCH: Objection. Speculation.

24 THE COURT: I'll allow him to state what his
25 perception would be.

1 THE WITNESS: It would be -- to me, it would
2 be to get them to think, like, okay, let me -- instead
3 of being overexcited about what's going on -- like,
4 "Oh, my God, I'm in a magic trick," like, "Okay. Let
5 me watch where I'm going."

6 BY MR. DEUTSCH:

7 Q. But you told us that it was, like, calm and
8 mellow and collected. What does anyone have to be
9 warned about getting too excited for?

10 A. Because they're in a magic trick with David
11 Copperfield. Of course they're going to be excited.

12 Q. So maybe, like, perspective has something to
13 do with it. When Mr. Russell was asking you about if
14 it was calm or chaotic, perspective has something to do
15 with it; correct? Maybe what you thought was calm,
16 because you had been doing it hundreds and hundreds of
17 times, to someone who had no idea what to expect when
18 they came out of the dragon, it might have seemed
19 chaotic; true?

20 MR. POPOVICH: Objection. Speculation.

21 THE COURT: He can state his understanding of
22 the scenario.

23 THE WITNESS: I can see what you're saying.

24 BY MR. DEUTSCH:

25 Q. Now, I just want to show you this -- this

1 board really quickly. Now, this -- this diagram, if
2 you know -- or you probably don't -- but this diagram
3 was made by Ms. Fresch and Mr. Freeman. Okay? And
4 they proffered these green lines to sort of show the
5 route. Okay?

6 And you agree with me that this -- there's
7 other things that are going on here other than these
8 green lines; correct? For example, you mentioned that
9 there's offices here; correct?

10 A. Yes.

11 Q. And there's staircases here; correct?

12 A. Yes.

13 Q. And there's other doorways here; correct?

14 A. Yes.

15 Q. And, in fact, there are even other hallways
16 that are not depicted on here?

17 A. No, that's basically it.

18 Q. Okay. But with respect to the staircase and
19 the doorways and the thing, there's options for people
20 to go in other directions than is depicted on these
21 green lines; correct?

22 A. Yes.

23 Q. So this is -- it's kind of misleading in
24 terms of the directness of that route; correct?

25 A. Well, I mean, the green is the route that we

1 take.

2 Q. Right. But the green doesn't represent the
3 options that the people have?

4 A. Right.

5 Q. Who sets the pace of the thing? You as the
6 person leading or someone else?

7 A. It's me.

8 Q. And you mentioned that -- that there's times
9 when -- when the woman, who's usually in heels, I think
10 you said, who you're holding on to, they sometimes run
11 past you or try to run past you and you have to pull
12 them back?

13 A. It's happened a couple of times where they --
14 they try to beat my pace, and I'll -- I'll have to kind
15 of hold them.

16 Q. Okay. So, in those instances, it wasn't
17 really very slow and controlled either.

18 A. No, I'm always in control.

19 MR. DEUTSCH: Can I have one of those
20 binders? What is it?

21 MR. FALLICK: 403.

22 MR. DEUTSCH: 403. Exhibit 403.

23 MR. MORELLI: Do you want it up?

24 MR. DEUTSCH: No, I'm just going to show him
25 the photo.

1 May I publish this, Your Honor, to the jury?
2 It's already been admitted.
3 THE COURT: Yes.
4 MR. POPOVICH: 403 what?
5 MR. DEUTSCH: 403.
6 THE CLERK: 403, page?
7 MR. DEUTSCH: These aren't Bates-stamped.
8 I have it here.
9 THE CLERK: But they're already stipulated
10 to.
11 MR. POPOVICH: Yeah, I see that.
12 MS. FRESCH: We're just trying to figure
13 which one.
14 MR. DEUTSCH: It's 403-8.
15 Thank you.
16 BY MR. DEUTSCH:
17 Q. I want to show you what's been marked --
18 May I approach, Your Honor?
19 -- as Defendant -- Exhibit 403. Take a look
20 at that. Do you recognize what's depicted in that
21 photo?
22 A. Yes.
23 Q. That photo is taken looking out from the
24 doors towards the Tropicana, towards the route that the
25 runaround goes through; correct?

1 A. Correct.

2 Q. And you see the dumpster on the right-hand
3 side?

4 A. Yes.

5 Q. Okay. And I want to tell you that -- that
6 it's been agreed that that photo was taken on the
7 evening of the accident, November 12th, 2013.

8 A. Okay.

9 Q. And that would have been the route that you
10 would have gone through; correct?

11 A. Yes.

12 Q. Okay. You see any dust on the floor in that
13 photograph?

14 MS. FRESCH: Objection. Calls for
15 speculation. Lacks foundation.

16 MR. CALL: I'll join.

17 THE COURT: He can state what he sees.

18 THE WITNESS: I don't see dust.

19 BY MR. DEUTSCH:

20 Q. Okay.

21 Now, despite the fact that Mr. Cox -- you
22 didn't seem to recall exactly what was said in the back
23 room, but despite whatever -- he said that he was fine,
24 an ambulance was actually called for him; correct?

25 A. Yeah, I learned that later.

1 Q. Okay. So -- so let me just see if I
2 understand. You knew something had happened to him.
3 You said that he looked rough.
4 That was your word; correct?
5 A. Yes.
6 Q. Okay. And you didn't bother to see what
7 happened? But you didn't -- when later did you learn?
8 A. As I was making my way back up the hallway --
9 Q. Okay.
10 A. -- and saw that the paramedics or whoever
11 were there.
12 Q. You usually call ambulances for people that
13 are fine?
14 A. Never called an ambulance.
15 Q. You think MGM calls the ambulance for people
16 that are fine?
17 A. Probably not.
18 MS. FRESCH: Objection. Calls for
19 speculation.
20 THE COURT: Sustained.
21 BY MR. DEUTSCH:
22 Q. Did -- now, you had mentioned to
23 Mr. Popovich's questions that at the time -- at that
24 point in time, Mr. Copperfield had already left the
25 room, I think you said.

1 A. Correct.

2 Q. Okay. Did you follow up with him later that
3 day to say, "Hey, you know" -- what do you call him?
4 David Copperfield? Magic Dave?

5 A. David.

6 Q. David. Okay.

7 Did you say, "Hey, David, you know that guy
8 that we were talking about last night in the room who
9 you asked if he was okay, they had to call an ambulance
10 for him"? Did you tell him that?

11 A. I don't think so.

12 Q. Okay. Was it -- was it ordinary or not
13 ordinary that an ambulance would be called for someone
14 at the show?

15 A. Not ordinary.

16 Q. So -- so if it was unusual, why wouldn't that
17 be something that you would have mentioned to David --
18 Mr. Copperfield?

19 A. He was being taken care of.

20 Q. You didn't think it was important for
21 Mr. Copperfield to know that someone had been taken
22 away in an ambulance from his show?

23 A. I didn't think that, no.

24 Q. Okay.

25 A. I don't -- I don't know that he was taken

1 away in the ambulance --

2 Q. Okay.

3 A. -- but --

4 Q. Did you think it was important for

5 Mr. Copperfield to know that someone had --

6 Mr. Copperfield -- let me ask you. You mentioned the
7 dressing rooms.

8 This happened during the early show; correct?

9 A. Yes.

10 Q. And Mr. Copperfield still had a show later
11 that evening?

12 A. Yes.

13 Q. Okay. So he would have still been around
14 during that period of time between the two shows?

15 A. Correct.

16 Q. So he didn't go very far. Does he usually
17 just go right upstairs to his dressing room?

18 MS. FRESCH: Objection. Calls for
19 speculation. Lacks foundation.

20 THE COURT: Sustained.

21 BY MR. DEUTSCH:

22 Q. Do you know where he goes between those two?

23 A. Any number of places.

24 Q. Okay. But he was back at the theater within
25 an hour or so, if not less?

1 A. By 9:30, yes.

2 MR. DEUTSCH: Nothing further, Judge.

3 THE COURT: All right.

4 Do you have anything Mr. Russell?

5

6 RE CROSS-EXAMINATION

7 BY MR. RUSSELL:

8 Q. Mr. Carvalho, you were shown earlier the
9 video of Mr. Cox's accident.

10 Please pause right there, Audra.

11 From your perspective -- from your
12 perspective and the number of times you've been out
13 there, the lighting conditions as we see them on this
14 picture, are those darker than, lighter than, or the
15 same as the actual lighting conditions when you go
16 through that area?

17 MR. DEUTSCH: Objection, Your Honor. Outside
18 the scope of the redirect.

19 THE COURT: Overruled.

20 THE WITNESS: It seems a lot darker than what
21 it's like.

22 BY MR. RUSSELL:

23 Q. During the breakout sessions with the
24 participants after the runaround, has anyone ever
25 complained to you that they perceived the way the

1 runaround was done to be chaotic?

2 A. No.

3 Q. So would you know whether or not any
4 participant has ever perceived it to be chaotic?

5 A. No.

6 MR. RUSSELL: Thank you, Mr. Carvalho.

7 MR. POPOVICH: No further questions.

8 THE COURT: Ms. Fresch?

9 MS. FRESCH: No questions.

10 MR. CALL: Just one question, Mr. Carvalho.

11

12 RECROSS-EXAMINATION

13 BY MR. CALL:

14 Q. You never took orders from Team on how to do
15 anything; isn't that correct? From Team Construction.

16 A. Correct.

17 Q. All right.

18 No further questions. Thank you.

19 THE COURT: All right. Very well. We'll
20 adjourn now with the jury, Counsel.

21 MR. POPOVICH: We have a question.

22 MR. RUSSELL: We have a question.

23 THE COURT: Oh, I'm sorry. Okay.

24 (A discussion was held at the bench,
25 not reported.)

1 THE COURT: All right. Ladies and gentlemen,
2 what I will be doing now is posing some questions to
3 the witness -- questions that I've received from some
4 jurors. And I'll pose them to the -- to the witness.
5 The witness will then give whatever answer he's got.
6 And then I'll ask counsel to -- I'll permit counsel to
7 follow up on each question. Okay?

8 So we said it was going to be 15 to 25
9 minutes; right? So this --

10 MR. DEUTSCH: Now it's on them.

11 THE COURT: This will draw it out.

12 MR. DEUTSCH: I was only 16 minutes.

13 MR. MORELLI: Now we want a break.

14 THE COURT: This may draw it out a bit
15 longer. Is that okay? Anybody have?

16 JUROR NO. 8: If it gets bad, I'll raise my
17 hand.

18 THE COURT: What's that? Did somebody say
19 something?

20 JUROR NO. 12: No, we're okay. We're good.

21 THE COURT: All right. First question.

22 In regards to distance, how far is the point
23 of reappearance from the Thirteen room?

24 THE WITNESS: I would say 120 meters maybe.

25 THE COURT: Okay.

1 Counsel?
2 MR. DEUTSCH: I have no follow-up for that.
3 MR. MORELLI: What's that in feet?
4 MR. DEUTSCH: 380 feet.
5 MR. MORELLI: We have to know.
6 MR. POPOVICH: No question.
7 MS. FRESCH: No question.
8 MR. RUSSELL: No.
9 MR. CALL: None.
10 THE COURT: Okay. That will be the next
11 court exhibit in order.
12 Okay. The next question, sir.
13 Did Mr. Gavin Cox request an ambulance?
14 THE WITNESS: Not to me.
15 THE COURT: Okay. Any follow-up?
16 MR. DEUTSCH: None.
17 MR. POPOVICH: None.
18 MR. CALL: None.
19 MS. FRESCH: No.
20 THE COURT: Okay. Next court exhibit in
21 order.
22 Okay. Do you know who stayed with Mr. Cox
23 when he left in the ambulance besides MGM security?
24 THE WITNESS: No.
25 THE COURT: Any follow-up?

1 MR. DEUTSCH: No.
2 MR. POPOVICH: No.
3 MS. FRESCH: No.
4 MR. RUSSELL: No.
5 MR. CALL: No.
6 THE COURT: All right.
7 Next question is did you see any dust on
8 Mr. Cox's clothes or shoes or shirt after the runaround
9 when meeting in the breakout room?
10 THE WITNESS: You know, I don't recall
11 anything.
12 THE COURT: Any follow-up?
13 MR. DEUTSCH: Yes, Your Honor.
14 THE COURT: This would be next court exhibit
15 in order.
16 MR. DEUTSCH: Can I see Exhibit 83?
17 THE CLERK: Exhibit 83?
18 MR. DEUTSCH: Yeah, the hard copy, page 1 and
19 then page 2.
20 REDIRECT EXAMINATION
21 BY MR. DEUTSCH:
22 Q. I'm going to show you what's been marked as
23 an exhibit already, as Plaintiffs' Proposed
24 Exhibit 83-1 and 83-2. Take a look at this.
25 A. (Witness reviewing document.)

1 Q. Now, that photograph, it appears that -- that
2 Mr. Cox is still strapped to the gurney, I guess.

3 A. Yep.

4 MR. RUSSELL: Objection. Foundation.

5 MR. CALL: I'll join.

6 THE COURT: Sustained.

7 BY MR. DEUTSCH:

8 Q. Well, can you tell by looking at the picture
9 what those black straps are?

10 A. Looks like a stretcher -- like --

11 Q. Stretcher.

12 A. Yeah, whatever you call it.

13 Q. And he's still strapped on there in that
14 photograph?

15 MR. RUSSELL: Same objection.

16 MR. CALL: Yeah. Objection. Foundation.

17 THE COURT: Sustained.

18 BY MR. DEUTSCH:

19 Q. Well, can you tell me what that looks like
20 where he's sitting in that photograph?

21 MR. CALL: Same objection, Your Honor.

22 MS. FRESCH: Joined.

23 THE COURT: Sustained.

24 BY MR. DEUTSCH:

25 Q. Okay. Can you -- does that photograph

1 refresh your recollection in any way as to whether
2 there was any dust on Mr. Cox after the illusion since
3 you said you didn't remember?

4 A. No.

5 Q. Okay.

6 May I publish this to the jury, Your Honor?
7 It's already in evidence.

8 MR. RUSSELL: For what purpose?

9 MR. FREEMAN: For what purpose?

10 MR. CALL: They've already seen it.

11 MR. DEUTSCH: It's already in evidence. I'm
12 entitled to show --

13 MS. FRESCH: The witness was not --

14 THE COURT: No, no.

15 MR. DEUTSCH: I could have put --

16 THE COURT: It has to be in the context of
17 the question posed to the witness.

18 MR. DEUTSCH: I could have put it up on the
19 screen, Your Honor. It's in evidence already.

20 THE COURT: I know it is, but it's in the
21 context of the question that's posed.

22 MR. DEUTSCH: Okay. They showed it in their
23 opening statement, Your Honor.

24 THE COURT: I know. Are you going to
25 establish that he saw him in that condition?

1 MR. DEUTSCH: Well, that's what I'm trying to
2 establish.

3 THE COURT: Okay. Well, you can ask him the
4 question, but you don't show the picture to the jury.

5 BY MR. DEUTSCH:

6 Q. Did you see Mr. Cox at any point in time when
7 he was put onto the gurney? Onto the stretcher?

8 A. I do remember he was sitting on it. I don't
9 recall if he was strapped down or -- or what the deal
10 was.

11 Q. Do you recall what he was wearing?

12 A. No.

13 Q. So you don't have one -- recollection one way
14 or another whether there was dust on him or not; is
15 that fair?

16 A. Correct.

17 MR. DEUTSCH: Okay. I have nothing further,
18 Your Honor.

19 THE COURT: Do you want to return those?

20 MR. DEUTSCH: Yes. I almost walked away with
21 the other one.

22 THE COURT: Any follow-up?

23 MS. FRESCH: No, Your Honor.

24 MR. RUSSELL: No, Your Honor.

25 May the witness be released, Your Honor?

1 THE COURT: All right. Then that will
2 conclude -- that concludes for the day with the jury,
3 but counsel will remain for many things we still have
4 to do this afternoon outside the presence of the jury.

5 So we'll adjourn with the jury until tomorrow
6 at 1:30.

7 You're admonished in the meantime, ladies and
8 gentlemen, not to converse among yourselves or with
9 anyone else including, without limitation, the lawyers,
10 parties, and witnesses on any subject connected with
11 the trial or read, watch, or listen to any report of or
12 commentary on the trial or any person connected with
13 the trial by any medium of information, including,
14 without limitation, newspapers, television, the
15 internet, and radio, or to form or express any opinion
16 on any subject connected with the trial until the case
17 is finally submitted to you.

18 Once again, you're directed to return to the
19 outside of the courtroom just to the south there of the
20 entrance tomorrow, Thursday, April 26th, 2018, no later
21 than 1:20 p.m. so we can resume at 1:30 p.m. or as
22 close thereto as we possibly can.

23 Thank you very much. Have a nice afternoon
24 and night. See you tomorrow, ladies and gentlemen.

25 Counsel remain, please.

1 (The following proceedings were held
2 outside the presence of the jury.).
3 THE COURT: Okay. You can stand down now.
4 THE WITNESS: Thanks.
5 THE COURT: All right. You may be seated.
6 I'm told by the court clerk that we need to publish
7 deposition here. Is that --
8 MR. DEUTSCH: Yes.
9 THE COURT: Correct. Okay. So it's
10 published. All right?
11 Now, it's going to take you some time to set
12 up.
13 MR. DEUTSCH: I think he said about 15
14 minutes to get everything set up.
15 THE COURT: And the proceedings this
16 afternoon will be closed to the public. It's -- this
17 is a deposition, basically, depositions for
18 perpetuation of testimony and/or discovery as well.
19 So, in any event, how much time do you think
20 it's going to take before we can resume on that -- on
21 those things?
22 MR. DEUTSCH: We'll see. As quickly as he
23 needs to set up.
24 THE COURT: I will be in chambers. And when
25 you're all set up, Bob will tell me.

1 MR. DEUTSCH: Thank you.

2 MR. CALL: Thank you, Your Honor.

3 (Whereupon a short recess was taken.)

4 THE MARSHAL: All rise. Department is again
5 in session.

6 THE COURT: You may be seated. Record will
7 reflect that we're in session outside the presence of
8 the jury. State appearances, I believe, are to be
9 noted. We will note that Mr. Strassburg is not
10 present.

11 MR. DEUTSCH: Has been gone all afternoon.

12 THE COURT: Wasn't here for the --

13 MR. DEUTSCH: No, he was not.

14 THE COURT: -- earlier portion this afternoon
15 as well.

16 But beyond that, Counsel, ready to go?

17 MR. DEUTSCH: We are ready to go, Your Honor.

18 THE COURT: Okay.

19 MR. DEUTSCH: I guess we should -- we're just
20 going to do the same thing we did last time. We're
21 just going to start the tape and then swear in the
22 witness as if we were here in court.

23 MR. POPOVICH: I think we need to put on the
24 record that we do not require the videographer to do
25 the required preliminary read-in.

1 MR. DEUTSCH: We've stipulated to that, Your
2 Honor.

3 THE COURT: Okay. Very well. Is that clear
4 for the record?

5 MR. DEUTSCH: Yes.

6 THE CLERK: You do solemnly swear the
7 testimony you're about to give in this action shall be
8 the truth, the whole truth, and nothing but the truth,
9 so help you God.

10 THE WITNESS: I do.

11 THE CLERK: Please state your name and spell
12 it for the record, please.

13 THE WITNESS: Patricia Anne Esack.
14 P-a-t-r-i-c-i-a, A-n-n-e, E-s-a-c-k.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MR. DEUTSCH:

18 Q. Good afternoon, Ms. Esack.

19 A. Good afternoon.

20 Q. I'm going to ask you a couple of questions
21 this morning. If at any time you don't understand any
22 of my questions, please let me know and I'll be happy
23 to rephrase them. Okay?

24 A. I will.

25 Q. Okay. Can you tell us --

1 THE COURT: You mean afternoon; correct?

2 MR. DEUTSCH: Did I say morning? When you're
3 having fun, time flies, Judge.

4 BY MR. DEUTSCH:

5 Q. Good afternoon, Ms. Esack. Can you tell
6 us -- you're here in Las Vegas in a courtroom. Can you
7 tell us what -- what brought you here?

8 A. I was sitting home Thursday night and a
9 friend of mine, Bobbie, called me, and she said that --
10 asked me if I'd been watching television, and I -- the
11 television news, and I said, "Not really."

12 And she said that there was a lawsuit being
13 brought against Mr. Copperfield because someone had
14 been injured in one of his illusions.

15 And I said, "You know, Bobbie, it's been --
16 it's been a while, and I'm kind of over that."

17 And she, "No, no. You really need to go and
18 google this particular situation."

19 So I did. And when I brought up the website,
20 the first thing I saw was a clip of Mr. Copperfield
21 saying that no one had been ever injured in this
22 particular illusion. And when I saw which illusion it
23 was, it was the same illusion that I had been injured
24 in. And I got angry.

25 Q. Okay. And can you tell us what you did at

1 that point?

2 A. At that point I looked to see which -- who
3 the lawyer who's representing it -- him, and -- and I
4 called your law firm and I said very simply that I had
5 been injured and I'd had my wrist broken. And if you
6 were interested, here was my name and number and you
7 could call me. And then I hung up.

8 Q. And when was that that you reached out to our
9 office?

10 A. That was about 8:00 o'clock Thursday night.

11 Q. This past Thursday night?

12 A. The past Thursday night.

13 Q. And what particular illusion or trick was it
14 that -- that you participated in?

15 A. It was the one with the cage. I believe they
16 refer to it as the Thirteen.

17 Q. Okay. And when was it that -- that you
18 participated in that illusion?

19 A. It was in 2002 in -- at the Paramount in
20 Seattle, Washington.

21 Q. Okay. And at the time, were you living
22 there?

23 A. Yes.

24 Q. Where do you live now?

25 A. I live in Connecticut, just outside of

1 Hartford.

2 Q. And can you tell us, what do you do in
3 Connecticut?

4 A. I work for a major engine manufacturing
5 company.

6 Q. Okay. And at the time that you were in
7 Seattle, were you living in Seattle?

8 A. Yes.

9 Q. And what were you doing out there?

10 A. I was working for Microsoft as a IT manager.

11 Q. Can you explain to us what happened when you
12 were in the illusion, from the beginning to the end?

13 A. I had brought my mother to the Paramount as a
14 surprise. She was 80. And I had gotten very good
15 seats. So I was in one of the -- not the front rows,
16 but one of the front rows after the break.

17 And I was one of the last people to catch one
18 of the balls. And I -- when I caught one of the balls,
19 I wasn't really sure what to do with it. So I just
20 sort of sat there for a little bit, and then one of his
21 crew came down and said, "No, no. You have to come up
22 on stage."

23 So they brought me up. One of the -- up onto
24 the stage, and they directly brought me to the corner
25 spot, the front corner spot. So it would have been in

1 the left front corner. So it put me in, I guess, the
2 key position. And he started making comments about me
3 being Mary Ann in Gilligan's Island and then handed me
4 a -- somebody -- I don't -- I don't remember if it was
5 him or somebody in his crew handed me a flashlight.

6 Q. Let me just stop you for a second.

7 At any point in time prior to you being put
8 into that -- the cage, I think you called it, were you
9 asked any questions or was there any discussions had
10 with any of the stagehands or people that were bringing
11 you up on stage?

12 A. No. That was it. That was directly it. I
13 mean, it was -- it was very fast. I was just literally
14 taken from the audience directly up and to the spot
15 where he started talking to me about being Mary Ann on
16 Gilligan's Island.

17 Q. And then at some point, you were put into a
18 chair inside the -- the cage or the prop?

19 A. Yeah, immediately.

20 Q. And what were you thinking when you were
21 sitting there?

22 A. I was there for a very short -- like, maybe
23 seconds. So I wasn't thinking -- I didn't get a chance
24 to think very much. I was -- as a matter of fact, I
25 was thinking what am I supposed to do with this

1 flashlight or this object?

2 Q. Okay. And what happened next?

3 A. Some -- the next thing I knew, somebody was
4 grabbing me by the back of my sweater and pulling me
5 out of the chair. And it was dark.

6 Q. Okay. And tell us what happened next.

7 A. I was --

8 Q. Did they say anything to you at that point in
9 time after they grabbed you by the sweater?

10 A. After they grabbed me by the sweater, they --
11 and turned me around, then they said "Run." And they
12 pulled the flashlight from me, and we -- we started
13 down this sort of -- I have no idea what it was. We
14 went -- we started -- we started down this -- this
15 situation of series of stairs, going up and down. And
16 every once in a while, they would hand me something --
17 it was completely dark, so they would hand me
18 something. I don't know if it was a flashlight -- they
19 were more flashlights or what they were. They were
20 boxes of something. And somebody had me by the
21 shoulders, from behind, and was just running -- yelling
22 "Run faster."

23 Q. Okay. And --

24 A. And then, like -- that was what happened
25 until we got to the stage door.

1 Q. Okay. Let me just stop you. Let's -- from
2 the time that you left the prop till you got to the
3 stage door, how would you describe the scene, sort of,
4 in terms of what was going on?

5 A. It was -- it was dark and it was confusing.

6 Q. Okay. Did they tell you at any point in time
7 before -- at any time before you started to run and
8 leave the prop, did they tell you what you were going
9 to have to do?

10 A. No. And I was -- and I was totally confused.
11 And I -- I mean, it was -- it was -- it was -- it was
12 really, really, really confusing because I was -- I was
13 always wondering, you know, especially with them
14 handing me things and taking them away all the time,
15 I'm like, am I going to drop these things? You know,
16 and people -- with all these people yelling at me, I
17 was also wondering how -- with all these people
18 yelling, how are they not hearing this out in the
19 audience? And it was just -- it was -- it was a very
20 bizarre and surreal kind of situation.

21 Q. Okay. So now you get to the stage door.
22 What happens next?

23 A. At the stage door they -- somebody opens the
24 stage door, we take one step, they're yelling "Faster,"
25 and we take one step out of the stage door, I slip, and

1 that was all they wrote. And I fell. At that point I
2 was down on the ground.

3 They who -- the -- the person who was behind
4 me decided that they needed to grab the object that had
5 been in my hand and get the people that were behind me
6 out. So they took those people around me. And when
7 they tried to grab the thing out of my hand, my arm was
8 so badly shattered that it caused an enormous amount of
9 pain trying to get that object out of my hand. But
10 they did grab that object out of my hand.

11 And then they proceeded to head down
12 toward -- down the -- down the -- the sidewalk towards
13 the front of the theater. I have no idea where they
14 went.

15 Q. So at the time that you did this runaround,
16 it required you to actually leave the theater and go
17 outside?

18 A. Yes.

19 Q. Okay. And what happened after that?

20 A. After that, someone finally decided it would
21 be a good idea to move me, and it was somebody from
22 the -- from the theater company, from the -- that --
23 from the -- he said he was one of the -- the -- not --
24 from the Paramount staff decided to move me so I was
25 leaning against the building. And they called two

1 ambulances.

2 Q. Okay. And then what happened?

3 A. And then David came out.

4 Q. Okay. When you say David, who --

5 A. Mr. Copperfield came out, and he talked to me
6 for a few minutes. And I don't remember what he said,
7 but I remember saying to him that I was hoping that I
8 hadn't messed up the illusion. And then the ambulances
9 took me directly to the trauma center for the
10 Northwest.

11 Q. Okay. So let me just see if I'm clear. Were
12 you still sitting outside the theater when
13 Mr. Copperfield came over to you?

14 A. Yes. I was right outside on the street.

15 Q. And was he there at the time that the
16 ambulances arrived? Do you know?

17 A. I -- honestly -- the ambulances were there.
18 I don't -- so I guess the answer -- the answer to that
19 question is I don't remember.

20 Q. You don't remember. Okay.

21 A. I don't know if -- was there when they
22 arrived, but they were there when he was there.

23 Q. And did you -- you were taken to the
24 hospital?

25 A. I was taken to the trauma center.

1 Q. The trauma center. And what -- was there a
2 diagnosis made in terms of your injury?

3 A. Yes.

4 Q. What was that?

5 A. I don't remember the fancy diagnosis. You'd
6 have to look on the nifty sheet.

7 Q. You could give us the --

8 A. My wrist was shattered, and I have a plate
9 and six screws in my wrist. They've -- it's --
10 essentially, I'm considered disabled.

11 Q. Okay. Is it -- is it -- do you still have
12 the plate and screws in your wrist now?

13 A. Yes. They can't be taken out.

14 Q. Okay. After --

15 A. The wrist would fall apart if I did.

16 Q. Okay. After that day of the show, did
17 Mr. Copperfield ever reach out to you at any point
18 after that?

19 A. Yes, he reached out --

20 Q. Can you tell us when that was.

21 A. He reached out the next day.

22 Q. Okay.

23 A. He called the next day.

24 Q. Where did he call?

25 A. He called my home.