

IN THE SUPREME COURT FOR THE STATE OF NEVADA

* * * * *

JEFFREY D. SPENCER,

Appellant,

vs.

HELMUT KLEMENTI, EGON
KLEMENTI, ELFRIEDE
KLEMENTI, MARY ELLEN
KINION, ROWENA SHAW, and
PETER SHAW,

Respondents.

Case No. 77086

Consolidated with

Case No. 77711

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RESPONDENTS' JOINT APPENDIX
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<p style="text-align: right;">Page 102</p> <p>1 Q Did you bring them both to their house for dinner?</p> <p>2 A No.</p> <p>3 MR. MOORE: Objection. Asked and answered.</p> <p>4 You are now badgering this witness.</p> <p>5 MR. ROUTSIS: No, I'm not.</p> <p>6 MR. MOORE: Yes.</p> <p>7 MR. ROUTSIS: And I will explain why.</p> <p>8 MR. MOORE: Yes. Counsel. Counsel. Counsel.</p> <p>9 Please, Counsel.</p> <p>10 BY MR. ROUTSIS:</p> <p>11 Q Mr. Klementi --</p> <p>12 MR. MOORE: Counsel, take a breath. Take your own</p> <p>13 advice, breathe.</p> <p>14 Now let the attorney ask the questions, and please</p> <p>15 don't speak at the same time, so our court reporter can clearly</p> <p>16 say who is saying what.</p> <p>17 BY MR. ROUTSIS:</p> <p>18 Q Mr. Klementi, I understand that at some point you had</p> <p>19 two cameras that evening. That's what you are saying. I</p> <p>20 understand that.</p> <p>21 My question is, did you bring both of those cameras to</p> <p>22 Egon's house that evening?</p> <p>23 MR. MOORE: Same objection.</p> <p>24 Do you understand what he is asking?</p> <p>25 ///</p>	<p style="text-align: right;">Page 104</p> <p>1 A One on my belt maybe.</p> <p>2 Q Maybe or --</p> <p>3 A And one in my pocket or both in pockets, wherever I</p> <p>4 have space for these little cameras.</p> <p>5 Q So you have a specific memory of having one on your</p> <p>6 belt that evening?</p> <p>7 A No.</p> <p>8 Q Oh, you don't have a memory of that?</p> <p>9 MR. MOORE: Objection. Asked and answered.</p> <p>10 This witness has already testified. You are being</p> <p>11 argumentative, Counsel.</p> <p>12 MR. ROUTSIS: Actually I'm trying to get to the truth</p> <p>13 here, and I'm not getting a clear answer on a simple question</p> <p>14 which is concerning.</p> <p>15 MR. MOORE: Is that a question, Counsel, or are you</p> <p>16 seeking to debate? Or note the objection is valid?</p> <p>17 BY MR. ROUTSIS:</p> <p>18 Q I have already expressed myself to you.</p> <p>19 Again I'm concerned, Mr. Klementi. You seem to be</p> <p>20 struggling with a very simple question.</p> <p>21 MR. MOORE: Objection.</p> <p>22 MS. CAPERS: Objection. Mischaracterizes the</p> <p>23 testimony.</p> <p>24 MR. MOORE: Counsel, you are testifying. Counsel,</p> <p>25 you're being argumentative.</p>
<p style="text-align: right;">Page 103</p> <p>1 BY MR. ROUTSIS:</p> <p>2 Q Of course.</p> <p>3 A No. Because I had them with me all the time. I</p> <p>4 didn't bring them with me.</p> <p>5 MS. CAPERS: Just for the record, this is Tanika</p> <p>6 Capers. I'm going to object, as well, as asked and answered.</p> <p>7 It's a mischaracterization of the witness's testimony.</p> <p>8 BY MR. ROUTSIS:</p> <p>9 Q Well, again, and I appreciate that, Tanika.</p> <p>10 But it's a very simple question, and it hasn't been</p> <p>11 answered.</p> <p>12 The question again, and it's very important, is, did</p> <p>13 you bring two cameras to your brother's house for dinner on</p> <p>14 December 18th, 2012?</p> <p>15 Did you bring them over to his house that evening?</p> <p>16 A No.</p> <p>17 Q Said no. You did not?</p> <p>18 A I had them with me. I didn't bring them in to my</p> <p>19 brother's house.</p> <p>20 Q Okay. When you walked into your brother's house for</p> <p>21 dinner, did you have both cameras on you in your possession?</p> <p>22 A Yes.</p> <p>23 Q Where were they?</p> <p>24 A In my pockets.</p> <p>25 Q Which -- do you normally keep them in certain pockets?</p>	<p style="text-align: right;">Page 105</p> <p>1 MR. ROUTSIS: Okay. Okay.</p> <p>2 THE WITNESS: Counsel, please don't speak over other</p> <p>3 people.</p> <p>4 This is inappropriate for you to keep asking the same</p> <p>5 question of this witness until you get the words you want.</p> <p>6 The record is clear. You have asked the same line of</p> <p>7 questioning repeatedly.</p> <p>8 And I'm going to instruct this witness not to answer,</p> <p>9 and we can bring it to Judge Kosach's attention.</p> <p>10 BY MR. ROUTSIS:</p> <p>11 Q Thank you, Counsel.</p> <p>12 Mr. Klementi, this is very important.</p> <p>13 Why would you bring not one, but two cameras, to</p> <p>14 dinner that evening? Why would you bring two cameras?</p> <p>15 MR. MOORE: Objection. Asked and answered.</p> <p>16 The witness has already testified he usually brings</p> <p>17 cameras.</p> <p>18 BY MR. ROUTSIS:</p> <p>19 Q Okay. Okay.</p> <p>20 MR. MOORE: Any questions?</p> <p>21 BY MR. ROUTSIS:</p> <p>22 Q Mr. Klementi, so did you have any wine at dinner that</p> <p>23 evening? Do you recall?</p> <p>24 A Say it again, please.</p> <p>25 Q Any wine at dinner?</p>

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1 A No.

2 Q Okay. So after dinner ended, did you discuss with

3 Egon why you were going to go take pictures on his neighbor's,

4 near his neighbor's house?

5 MR. MOORE: Objection. Compound question.

6 He changed the verbiage.

7 Do you understand what question is being asked?

8 THE WITNESS: I did not discuss with my brother

9 anything about taking pictures.

10 BY MR. ROUTSIS:

11 Q Was it your understanding that Egon was going to be

12 outside his studio while you took pictures?

13 A No.

14 Q I'm going to ask that again.

15 MR. MOORE: Objection.

16 BY MR. ROUTSIS:

17 Q When you took pictures on Charles Avenue, on

18 December 18th, 2012 -- I'm going to rephrase the question.

19 Was Egon Klementi, your brother, your twin brother,

20 outside of his studio when you took pictures?

21 A I have no idea.

22 Q Did you see any flashes from his camera while you were

23 outside taking pictures?

24 MR. MOORE: Object as to form. Lack of foundation.

25 You can answer if you are able to. If you understand.

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1 THE WITNESS: Yes.

2 BY MR. ROUTSIS:

3 Q Yes.

4 A The flash Mr. Spencer saw most likely was from my

5 camera when I took the picture, Charles from the middle up, and

6 one I took from Egon's fence on the left.

7 Q Did you see a flash from some other camera during the

8 time you were out on the street?

9 A No.

10 Q Why were pictures taken on both cameras?

11 A I took them only on one.

12 Q Okay. Now why did you take pictures in that area that

13 night?

14 A Because Dr. Norman told us to take pictures to prove

15 the berms.

16 Q Now certainly you are a very -- taking pictures of a

17 berm that has no effect on Egon's driveway doesn't -- does that

18 make any sense to you?

19 MR. MOORE: Objection. Argumentative.

20 Is that a question, Counsel?

21 BY MR. ROUTSIS:

22 Q It is a question.

23 Why would you do that?

24 MR. MOORE: That's a question.

25 THE WITNESS: Because the berm was, if you look at the

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1 pictures, the berm was, he put a lot of snow and debris against

2 Egon's fence, and that's what Dr. Norman would have liked to

3 see.

4 BY MR. ROUTSIS:

5 Q Right.

6 But it did not effect the ability of your brother to

7 get in and out of his driveway.

8 MR. MOORE: Objection.

9 BY MR. ROUTSIS:

10 Q The berm has no effect on that, so why take the

11 picture?

12 MR. MOORE: Objection. Argumentative.

13 MR. ROUTSIS: I'll move ahead.

14 MR. MOORE: Thank you.

15 BY MR. ROUTSIS:

16 Q Now why, if your brother thought it was important, why

17 didn't you just let your brother take a picture?

18 A Because it was a stupid idea of me. And didn't come

19 from anywhere, from Elfie or Egon.

20 It was just my -- I don't know why I did it because it

21 didn't really concern me.

22 Q Did Egon ever express to you that evening that

23 Mr. Spencer is very sensitive to people taking pictures at night

24 of his property?

25 Did he express that to you?

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1 A No.

2 Q You were aware that -- weren't you made aware through

3 Egon, that the Spencers had called the police because of Egon

4 taking pictures of the Spencers?

5 MR. MOORE: Objection as to form. Lack of foundation.

6 BY MR. ROUTSIS:

7 Q Were you made aware of that by Egon?

8 MR. MOORE: Same objection.

9 THE WITNESS: No.

10 BY MR. ROUTSIS:

11 Q Okay. When you went out onto Charles Boulevard that

12 night with two cameras, correct?

13 Is that correct?

14 A Yes. One in the pocket and one in my hand.

15 Q And you took how many pictures?

16 A I took three pictures: Up the street, east, and then

17 the fence, and then another one on the fence, if I remember

18 right.

19 Q So you took one picture --

20 A Yeah.

21 Q -- up the street of Charles Avenue, right?

22 A Yeah.

23 Q Now you know at night that the Spencers are going to

24 see a flash, if you are taking a picture up the street, correct?

25 MR. MOORE: Objection. Argumentative. Speculation.

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1 Lack of foundation. Object as to form --
 2 BY MR. ROUTSIS:
 3 Q Did you believe --
 4 MR. MOORE: Counsel, can I please finish?
 5 MR. ROUTSIS: Please do.
 6 MR. MOORE: Object as to form.
 7 You can go ahead and answer, if you can.
 8 BY MR. ROUTSIS:
 9 Q You are aware that if you take a picture up the
 10 street, there's a greater possibility the Spencers are going to
 11 see the flash, correct?
 12 MR. MOORE: Objection. Speculation. Objection. Lack
 13 of foundation.
 14 BY MR. ROUTSIS:
 15 Q You understand that if you take a picture, that that
 16 is a probability, right?
 17 MR. MOORE: Objection.
 18 MR. ROUTSIS: The state of mind is critically
 19 important, Counsel. Please try to think ahead just a bit.
 20 BY MR. ROUTSIS:
 21 Q Did you believe that the Spencers --
 22 A No. I didn't believe anything.
 23 And I'm sorry I interrupted.
 24 Q Let me ask you this question. Why would you --
 25 MR. MOORE: Counsel, Counsel --

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1 BY MR. ROUTSIS:
 2 Q Why would you take a picture of a street? What's the
 3 purpose?
 4 MR. MOORE: Let's stop. Pause.
 5 Were you able to finish answering your question? Or
 6 do you remember -- do you remember what your answer was?
 7 THE WITNESS: No.
 8 MR. ROUTSIS: I'll rephrase it.
 9 MR. MOORE: Thank you.
 10 BY MR. ROUTSIS:
 11 Q Mr. Klementi, what was the purpose of taking a picture
 12 of Charles Avenue at nighttime? What was the purpose?
 13 MR. MOORE: Objection. Asked and answered.
 14 MR. ROUTSIS: It's never been asked, Counsel. You
 15 know that.
 16 Why are you making objections that you know are
 17 disingenuous? That's a violation, okay? That's an
 18 obstructionist.
 19 I have never asked that question, and you should know
 20 that.
 21 So take a breath. But think about what you are doing.
 22 MR. MOORE: You have a lot of -- Counsel --
 23 MR. ROUTSIS: Go ahead.
 24 MR. MOORE: Are you posing a question right now, or
 25 are you trying to make some sort of record?

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1 BY MR. ROUTSIS:
 2 Q Mr. Klementi, why would you take a picture of Charles
 3 Avenue?
 4 MR. MOORE: Same objection. Asked and answered.
 5 BY MR. ROUTSIS:
 6 Q Please answer the question.
 7 A Why not? Why not?
 8 I didn't think, I mean, I just, it was out of -- if
 9 Dr. Norman wouldn't have told us to take pictures, I never would
 10 have had the idea.
 11 Q That wasn't a picture of a berm. That was just a
 12 picture of a street, right?
 13 MR. MOORE: Objection. Argumentative.
 14 MR. ROUTSIS: You know, Counsel, it's very
 15 interesting. You are getting very dangerously close to being
 16 obstructionist, and I'll tell you why.
 17 When counsel asks a question that is clear, concise,
 18 and very relevant, and you continue to make objections, you are
 19 defeating the purpose of being an attorney and to try to get to
 20 the truth.
 21 If Dr. Shaw said to take pictures of a berm, and I'm
 22 asking him, why did you then take a picture of the street that
 23 has nothing to do with the berm, I think we're getting into a
 24 very interesting area.
 25 Why are you objecting to that? Don't you want to

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1 know?
 2 MR. MOORE: Counsel, it's very interesting that you
 3 want to argue with the objections. The point is this:
 4 The record will speak clearly for itself. I disagree
 5 with your characterization, which is a tendency we have observed
 6 in this case, which is why we're documenting this.
 7 Do you have a question that's pending?
 8 MR. ROUTSIS: Counsel, I just want to let you know for
 9 the record that I will be requesting sanctions.
 10 You are being obstructionist. And if you are going to
 11 object continually, and your purpose is simply to stop the
 12 relevant objections, that is almost an unethical act for an
 13 attorney to do.
 14 And you should consider your objections because they
 15 really are not making any sense.
 16 BY MR. ROUTSIS:
 17 Q I would ask the question again.
 18 Mr. Klementi, if you were told to take a picture of
 19 the berm, why would you take a picture of a street?
 20 MR. MOORE: Objection. Argumentative.
 21 MR. ROUTSIS: There's nothing argumentative about it.
 22 It's a simple question.
 23 MR. MOORE: I'm not asking for you to argue.
 24 I'm just having a record. Objection. Argumentative.
 25 If you can answer the question, go ahead.

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1 BY MR. ROUTSIS:
 2 Q Yeah.
 3 A I took three pictures.
 4 One I took up the street to see the left side with the
 5 berms, and also where Mr. Spencer turned around and left a berm
 6 on the street like -- like this. Okay?
 7 And then I took a picture from the fence on the left
 8 side. Twice.
 9 Q Mr. Klementi, do you recall that prior to the jury
 10 trial -- do you remember the trial where you testified, where
 11 Jeff Spencer was accused of criminal conduct?
 12 Do you remember that trial? Where you testified?
 13 A Yeah.
 14 Q Okay. And do you recall prior to that trial that my
 15 office issued a subpoena duces tecum for the cameras.
 16 Do you recall that?
 17 A Yes.
 18 Q And do you recall that we wanted to get all the
 19 pictures on both the cameras?
 20 MR. MOORE: Objection. Speculation as to what you
 21 wanted.
 22 Is the question, does he recall what was in the
 23 subpoena?
 24 BY MR. ROUTSIS:
 25 Q Do you recall that we issued a subpoena to get the

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1 pictures that were in both cameras?
 2 MR. MOORE: Objection. Asked and answered.
 3 I think he said yes, right?
 4 THE WITNESS: Yes.
 5 BY MR. ROUTSIS:
 6 Q Okay. And do you remember the response that we got
 7 from you and your brother was that there was something broken
 8 with the memory stick?
 9 A Not from my brother.
 10 MR. MOORE: Objection. Lack of foundation. Object as
 11 to form.
 12 BY MR. ROUTSIS:
 13 Q Was there a problem with getting all the pictures?
 14 A There was no problem. I got the pictures and gave
 15 them to you.
 16 And I also gave a flash drive. The memory card was
 17 broken, and I tried to get it fixed, but could not.
 18 Q And as a result --
 19 A But --
 20 Q Go ahead.
 21 A But I had all the pictures on Picasa stored, with the
 22 date and everything, except that the date was from Austria, part
 23 of the cameras.
 24 Q Now were pictures taken that evening after dinner on
 25 December 18th, 2012, were pictures taken on both cameras?

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1 MR. MOORE: Objection. Asked and answered.
 2 Go ahead.
 3 The record will speak.
 4 THE WITNESS: There was three pictures, including two
 5 pictures by mistake when I tried to put it on video.
 6 That was -- they were taken in one camera.
 7 The other camera, I don't know how Egon got it out of
 8 my pocket, or what, if I have it down here, the one -- he took
 9 the pictures, and I was lying on the ground.
 10 That's it. More, I can't tell you more because I
 11 was --
 12 BY MR. ROUTSIS:
 13 Q Okay. Now on the 18th at some point, you heard
 14 Jeffrey Spencer yelling to you?
 15 MR. MOORE: Objection. Foundation.
 16 BY MR. ROUTSIS:
 17 Q Let me rephrase.
 18 On December 18th, 2012, when you were out on Charles
 19 Avenue, did you hear any words from Jeffrey Spencer?
 20 A Yes, I heard --
 21 Q What?
 22 A -- him screaming.
 23 Q What did you hear him screaming?
 24 A I don't know exactly what he screamed about his truck.
 25 And I was not close to his truck.

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1 And I was trying to take the video going, and before I
 2 even -- it was so fast, I got a punch. I flew back on my back
 3 and laid on the ground and could not move.
 4 Q You heard -- didn't you hear Jeffrey Spencer ask you
 5 to identify who you are?
 6 MR. MOORE: Objection. Argumentative. Object as to
 7 form. And object as to lack of foundation.
 8 MR. ROUTSIS: Counsel, I want to file a request for
 9 sanctions at this point.
 10 The question I asked him for the record was,
 11 Mr. Klementi, did you hear Jeffrey Spencer ask you to identify
 12 yourself?
 13 Excuse me, Counsel. It is a clear, concise, relevant
 14 question.
 15 And Counsel is making objections that are illogical
 16 and irrational. He is consistently doing it to prevent the
 17 truth from coming out, and it's improper.
 18 And I'm going to request sanctions because you
 19 continually made objections that are obstructionist.
 20 And it's unfortunate because that's not what we should
 21 be doing. The record is made. I'm going to continue.
 22 MR. MOORE: Counsel, if you are characterizing this as
 23 a motion, I get to be heard. Wouldn't you agree?
 24 MR. ROUTSIS: Please.
 25 MR. MOORE: And this is a motion that is inappropriate

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1 at this point.
 2 You are, of course, welcome to make a motion that you
 3 think is appropriate in written motion practice.
 4 The other thing you should consider, Counsel, is that
 5 you have previously asked this witness whether or not he had
 6 heard something that was said by Mr. Spencer.
 7 This witness testified to it.
 8 Now that question subsumes what you were now trying to
 9 ask here.
 10 So the record will speak --
 11 MR. ROUTSIS: Subsumes? I don't even know what that
 12 means.
 13 MR. MOORE: I understand that you don't know what --
 14 MR. ROUTSIS: Subsumes? I'm sorry, Counsel. I'm just
 15 having a lot of problems with your logic. I really am.
 16 MR. MOORE: I understand you are having problems with
 17 logic, and what I am trying to do is make sure --
 18 MR. ROUTSIS: Oh, my.
 19 MR. MOORE: Can I speak without your speaking?
 20 MR. ROUTSIS: I don't know if you can.
 21 Are you asking me if you can speak? Not very well if
 22 you ask me to be honest.
 23 MR. MOORE: I'm not asking for permission.
 24 Permission would be "may I speak".
 25 When I say can I speak --

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1 MR. ROUTSIS: I wish you would ask me that.
 2 MR. MOORE: -- I'm asking whether or not it's possible
 3 for me to continue speaking without you interrupting.
 4 That's the question.
 5 MR. ROUTSIS: Okay. I'm ready to continue, Counsel.
 6 Are you done?
 7 MR. MOORE: No. I'm not.
 8 If you wish to make a motion, go ahead and do it in
 9 writing.
 10 BY MR. ROUTSIS:
 11 Q I just made an oral motion, and we will address it at
 12 some other time.
 13 And I would hope you would consider your objections.
 14 Mr. Klementi, on December 12, 2012 -- December 18th,
 15 2012, did you hear Jeff Spencer when you were out on Charles
 16 Avenue, ask you to identify yourself?
 17 MR. MOORE: Objection. Asked and answered.
 18 You can go ahead.
 19 THE WITNESS: I heard him screaming like a mad man.
 20 And when I was -- my head down and trying to find this
 21 button, he came so fast that I didn't even have a chance.
 22 And I flew back because he punched me in my left side,
 23 and I flew, and I couldn't -- couldn't move, in the middle of,
 24 in the middle of the street.
 25 ///

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1 BY MR. ROUTSIS:
 2 Q My question, do you remember Jeffrey Spencer asking
 3 you the question, to please identify who you are?
 4 MR. MOORE: Objection. Asked and answered.
 5 You keep repeating the same question again, not only
 6 this one, but others, Counsel.
 7 The record will stand, and there is a reason to
 8 interpose these objections because you are abusing the discovery
 9 process by repeatedly asking witnesses the same question again.
 10 BY MR. ROUTSIS:
 11 Q Mr. Klementi, did you have an opportunity to answer
 12 Mr. Spencer's question to identify yourself on January --
 13 December 18th, 2012?
 14 Did you have an opportunity to answer his question to
 15 identify yourself?
 16 MR. MOORE: Objection. Lack of foundation. Object as
 17 to form.
 18 BY MR. ROUTSIS:
 19 Q You can answer the question.
 20 MR. MOORE: The witness has not testified as to
 21 whether or not there was a question.
 22 You are saying there was one, but this witness has not
 23 said that.
 24 BY MR. ROUTSIS:
 25 Q Mr. Klementi -- it's very interesting, Counsel. You

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1 see the frustration?
 2 I have asked --
 3 MR. MOORE: I do.
 4 MR. ROUTSIS: -- the question, and you said it's been
 5 answered.
 6 I then ask another question. And you said, well,
 7 you're assuming facts not in evidence, because he never answered
 8 the question.
 9 It shows you the illogic of your conduct. It
 10 really -- Counsel, you really need to take a step back.
 11 You are not making any sense.
 12 BY MR. ROUTSIS:
 13 Q I'll ask you again, Mr. Klementi.
 14 When you were out on Charles Avenue on December 18th,
 15 2012, after having dinner with Egon Klementi, and you have
 16 testified to taking some pictures on Charles Avenue.
 17 Do you remember Jeffrey Spencer asking you to identify
 18 who it is out there?
 19 MR. MOORE: Objection. Asked and answered.
 20 BY MR. ROUTSIS:
 21 Q Do you remember that question?
 22 Yes or no?
 23 A He didn't ask me. He screamed down, what is -- what
 24 are you doing to my truck? But he didn't ask me.
 25 Q Okay. So you remember him asking you, what are you

HELMUT KLEMENTI - 04/14/2016

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1 doing to my truck?
 2 A Not me. He screamed it down --
 3 Q Who did you think -- okay.
 4 A -- a few words.
 5 I didn't move. I didn't -- didn't go back. I
 6 didn't -- I just took the pictures, and that's it.
 7 Q Okay. So you do recall hearing Mr. Spencer formulate
 8 a question of what are you doing to my truck?
 9 Is that what you remember?
 10 MR. MOORE: Objection. Asked and answered.
 11 You are rephrasing this witness's testimony here.
 12 That's inappropriate, Counsel, and you should not be doing that.
 13 BY MR. ROUTSIS:
 14 Q Mr. Klementi, could you please tell us what you recall
 15 Mr. Spencer asking you?
 16 MR. MOORE: Objection.
 17 THE WITNESS: Not me.
 18 MR. MOORE: Asked and answered.
 19 THE WITNESS: I don't know if he asked me, or he saw
 20 something on the monitor that somebody was with his truck.
 21 I was not close to his driveway. I was far away.
 22 BY MR. ROUTSIS:
 23 Q Okay. So maybe it wasn't to you.
 24 What did you hear him say?
 25 MR. MOORE: That's a question.

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1 THE WITNESS: I was working on my camera, and I --
 2 BY MR. ROUTSIS:
 3 Q You don't recall what he said?
 4 MR. MOORE: Let's stop. Let's stop.
 5 THE WITNESS: Okay.
 6 MR. MOORE: We're going to take a break now.
 7 THE WITNESS: Okay.
 8 MR. MOORE: Because you keep asking the same question
 9 again and again.
 10 We'll take a five-minute break.
 11 (A recess was taken)
 12 BY MR. ROUTSIS:
 13 Q Helmut, we're not going to be that much longer.
 14 A Thank you. Thank you.
 15 Q Yes.
 16 Okay. Are we ready? I think everybody is here.
 17 Helmut, let me continue. I hope not to be that much
 18 longer. I wanted to go back to May 27th of 2012.
 19 Do you remember the time period when the Spencers were
 20 building their fence on their property?
 21 Do you remember about that time period?
 22 A I remember vaguely.
 23 Q Do you remember driving your brother around when he
 24 was taking pictures of the fence?
 25 A No. I am not sure. If I was driving around?

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1 Q Did you drive your brother when he took pictures of
 2 the fence?
 3 A I don't. You know, if we have a camera, it's not
 4 always that we take pictures.
 5 Q I'm just asking on May 27th when the Spencers were
 6 building their fence, do you remember driving Egon while he was
 7 taking pictures of the fence?
 8 A I'm not sure.
 9 Q I'm sorry?
 10 A I'm not sure.
 11 Q I've always struggled with that.
 12 What does that mean? I'm not sure? You don't
 13 remember?
 14 A I don't remember.
 15 Q Okay. Do you have those two cameras on your person
 16 right now?
 17 A No.
 18 Q I thought you always carried them with you?
 19 A Yes. But not in a court case, I don't. I don't have
 20 the phone with me. And I don't have the cameras with me.
 21 Q Okay.
 22 A They are in the car.
 23 Q Okay.
 24 A But they are different ones because they don't last
 25 that long.

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1 Q Okay. So you don't always --
 2 A I mean, we tried -- I tried to save everything on
 3 memory, flash drives, memory cards.
 4 Q Okay. Moving ahead again to December 18th, 2012, you
 5 recall hearing Jeff yell some words prior to him coming out onto
 6 the street, correct?
 7 MR. MOORE: Objection. Asked and answered.
 8 BY MR. ROUTSIS:
 9 Q Do you recall that? Him saying some things?
 10 A I heard him screaming, but --
 11 Q Can you tell us to the best of your memory what he
 12 said?
 13 MR. MOORE: Objection. Asked and answered.
 14 One last time, tell him to the best of your memory
 15 what you heard.
 16 And, Counsel, that's the last time you are going to be
 17 able to ask that question in this proceeding here today.
 18 BY MR. ROUTSIS:
 19 Q Yeah, right.
 20 Go ahead.
 21 A What are you doing? Best thing would be if he screams
 22 it now, then you hear it.
 23 Q Tell me, what did he say?
 24 A What are you doing to my truck? What are you -- but
 25 I'm not close to his truck. I didn't walk away. I was working

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1 with my camera.
 2 And before I even could say anything, he punched me
 3 down.
 4 Q When you heard --
 5 A And then I don't know any more.
 6 Q Okay.
 7 A And until the policeman came and asked me questions.
 8 Q When you heard those words from Mr. Spencer, did he
 9 appear to be up on an upper balcony on his house?
 10 A Some kind of far away.
 11 Q Okay. So after the words to when he came out onto the
 12 street, was about what time period?
 13 A minute, two minutes?
 14 A No. No. No. It was maybe 1, 2, 3 seconds. I mean,
 15 I tried to work on my camera, punch, I flew.
 16 Q Did you answer Mr. Spencer?
 17 A No, because I didn't have a chance. I didn't know
 18 that he asked me. I mean --
 19 Q Was there anybody else --
 20 A -- because I was not close to his driveway.
 21 MR. MOORE: Counsel, can you just pause and let this
 22 witness finish answering the questions?
 23 BY MR. ROUTSIS:
 24 Q Egon, are you done?
 25 A Helmut. You said Egon. Helmut.

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1 Q Helmut. I'm sorry.
 2 Mr. Klementi, was there anybody else on the street
 3 that evening that he could have been talking to?
 4 MR. MOORE: Objection. Speculation.
 5 THE WITNESS: No.
 6 BY MR. ROUTSIS:
 7 Q Did you see anybody else on the street that evening
 8 that he could have been talking to?
 9 A No. And I'm glad nobody came, because otherwise I
 10 wouldn't be here. I would be dead.
 11 Because Mr. Spencer punched me so nice that I flew.
 12 Q Okay. At some point you and Mr. Spencer had some
 13 contact with each other that evening, correct?
 14 A Contact when he punched me in the rib.
 15 Q Well, that's what I'm going to ask you.
 16 How long after you heard Mr. Spencer yell some words
 17 to you that you didn't respond to, was it that he had contact
 18 with you?
 19 MR. MOORE: Objection. You are being argumentative.
 20 Object as to form.
 21 THE WITNESS: I told you. It was 2, 3 seconds. I
 22 don't know how fast he ran down. I mean, I don't know.
 23 BY MR. ROUTSIS:
 24 Q How could someone get from the second floor out of the
 25 house in two seconds?

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1 MR. MOORE: Objection. Argumentative. Speculation.
 2 Object as to form.
 3 BY MR. ROUTSIS:
 4 Q Okay. So at some point, Mr. Spencer and you had some
 5 type of physical confrontation, correct?
 6 MR. MOORE: Objection. Ambiguous. The way you are
 7 characterizing it is argumentative.
 8 MR. ROUTSIS: Wow. Again, for the record, I'm going
 9 to add this to my motion for sanctions.
 10 That to ask a man, at some point you and Mr. Spencer
 11 had a physical confrontation, could possibly be conceived as
 12 argumentative, is not possible logically, and it's a continuing
 13 plan from Counsel simply to prevent a proper, professional
 14 deposition from occurring.
 15 It's obstructionist, and even though he is couching it
 16 in soft-spoken words, it is -- he should be sanctioned for that.
 17 And I'll submit it on that.
 18 MR. MOORE: Objection.
 19 MR. ROUTSIS: Okay.
 20 MR. MOORE: This is not a proper format for a
 21 so-called motion.
 22 We all know that when someone makes a motion, that
 23 there is a fair opposition that can be articulated.
 24 We disagree with your characterization of your own
 25 questions.

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1 We disagree with your characterization as to what the
 2 purpose is for the objections.
 3 We do not know what makes you an omniscient person who
 4 knows what the purpose is of an objection.
 5 The record will stand on itself, and it's improper to
 6 make this kind of oral verbal motion.
 7 If you have a motion to make, Counsel, you certainly
 8 can make one in writing.
 9 MR. ROUTSIS: How does a motion stand on its own?
 10 How does that happen?
 11 BY MR. ROUTSIS:
 12 Q In any event, Mr. Klementi --
 13 MR. MOORE: Do you want me to answer the question?
 14 MR. ROUTSIS: Not really.
 15 MR. MOORE: Okay. Well, the record is clear on that.
 16 BY MR. ROUTSIS:
 17 Q Mr. Klementi, at some point Jeffrey Spencer and you
 18 had some type of physical confrontation, correct?
 19 MR. MOORE: Objection as to form.
 20 BY MR. ROUTSIS:
 21 Q Correct?
 22 A I didn't have -- I don't know what you call
 23 confrontation.
 24 I am standing there and doing nothing.
 25 Q Yes.

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1 A Am not moving. Just working with the camera -- with
 2 the camera, and here he comes flying down the street.
 3 Q That's what I'm asking. Tell me what happened?
 4 MR. MOORE: Objection. Asked and answered.
 5 THE WITNESS: I flew.
 6 MR. MOORE: He already told you what happened,
 7 Counsel.
 8 BY MR. ROUTSIS:
 9 Q Tell me what happened, Mr. Klementi?
 10 A Yeah. I came --
 11 MR. MOORE: You know what? I'm going to instruct you
 12 don't answer, don't answer that question.
 13 You have already testified as to what happened.
 14 Counsel, if you ask a specific question that elicits
 15 testimony that has not been provided, please go ahead and do so.
 16 BY MR. ROUTSIS:
 17 Q Tell me what happened.
 18 MR. MOORE: You are not going to answer that question.
 19 MR. ROUTSIS: Okay.
 20 MR. MOORE: Because of the way you are asking it.
 21 BY MR. ROUTSIS:
 22 Q Very good.
 23 Is it your testimony that Jeffrey Spencer punched you?
 24 A Yes. He punched me.
 25 Q With which hand?

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1 A I don't know if it he is left- or right-handed, but he
 2 punched me so hard that I couldn't move anymore.
 3 Q And is that what knocked you to the ground?
 4 A Say it again.
 5 Q Was it the punch that knocked you to the ground?
 6 A Yes.
 7 Q Where did the punch hit you?
 8 A Right here.
 9 Q In the ribs?
 10 A Yes.
 11 Q Okay. Now when you went to the ground, did
 12 Mr. Spencer speak to you?
 13 MR. MOORE: Objection. Lack of foundation.
 14 MR. ROUTSIS: What's the foundation we lack?
 15 MR. MOORE: Why don't you ask the question --
 16 MR. ROUTSIS: No. What is the foundation we're
 17 lacking? I'm curious.
 18 What foundation?
 19 MR. MOORE: You don't even know if he could hear
 20 something.
 21 This witness has already testified that he thought he
 22 lost consciousness.
 23 So I can suggest you can ask the question, did you
 24 hear Mr. Spencer say anything.
 25 ///

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1 BY MR. ROUTSIS:
 2 Q That's fair.
 3 Did you hear Mr. Spencer say anything?
 4 A No.
 5 Q So from the time he hit you, while you were on the
 6 ground, you don't ever remember hearing Mr. Spencer say anything
 7 to you?
 8 MR. MOORE: Same objection. Asked and answered.
 9 THE WITNESS: No.
 10 BY MR. ROUTSIS:
 11 Q At some point did Mr. Spencer leave you on the street?
 12 MR. MOORE: Objection. Foundation.
 13 BY MR. ROUTSIS:
 14 Q After he knocked you down?
 15 MR. MOORE: Same objection. Foundation.
 16 If you know.
 17 THE WITNESS: I called for help because I was lying
 18 there alone, and I had no idea how I get out off the street if
 19 some car comes, because he runs over me, and I could not move.
 20 BY MR. ROUTSIS:
 21 Q Okay. Do you recall seeing Mr. Spencer leave you and
 22 walk back towards his home?
 23 A No.
 24 Q Okay. Do you recall your brother coming out and
 25 talking to you?

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1 A I must have come to my -- the first thing was
 2 when Egon was out there, and the deputy was, Officer McKone was
 3 there talking to me.
 4 That's the first time I understood something.
 5 Q Okay. Did Egon or Elfie give you anything while you
 6 were laying on the ground that you remember?
 7 A Somebody gave me a pillow under my head, and I was
 8 glad that people were there.
 9 Q Okay.
 10 A And the police came and the ambulance.
 11 Q Did you give one of your two cameras or both of them
 12 to anybody prior to law enforcement --
 13 A I don't remember.
 14 Q Okay. You don't -- okay.
 15 Do you recall speaking to law enforcement when they
 16 arrived at the scene later?
 17 A Yes. They talked to me.
 18 Q Okay. Do you recall telling law enforcement that you
 19 thought you heard a gun?
 20 A Yes. I told them this because it sounded like a gun,
 21 a muffled gun, coming from the balcony.
 22 Q Did you tell law enforcement that there was some type
 23 of restraining order that Mr. Spencer had against him?
 24 A No, because my mind was absolute, gone.
 25 Q At some point did you provide the pictures you took

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1 from the camera to law enforcement?
 2 A They might have asked me -- the camera there, I might
 3 have in my hand, or whatever. Like I had my glasses on.
 4 Q Now you were taken to the hospital that evening,
 5 correct?
 6 A Yes.
 7 Q And you were released within how long?
 8 A I don't know.
 9 Q Hours, minutes?
 10 A Hours, but I don't remember.
 11 Q Okay. And do you recall if you were provided any type
 12 of pain medication?
 13 A I don't know.
 14 Q Isn't it true you were only provided aspirin?
 15 A I have no idea.
 16 Q Okay.
 17 A Aspirin?
 18 Q And isn't it true that they x-rayed your ribs that
 19 evening?
 20 A They did not x-ray me, not to my recollection.
 21 Q Okay. You don't recall when you were taken to the
 22 hospital that you had been given some type of CAT scan, or
 23 x-ray? You don't recall that?
 24 A I'm not familiar with these things.
 25 Q Okay. Did you complain when you were arrested of pain

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1 to your ribs?
 2 MR. MOORE: Objection.
 3 BY MR. ROUTSIS:
 4 Q I mean -- arrested? Strike that.
 5 Did you complain, when you went to the hospital, to
 6 pain in your rib area?
 7 A I'm sure.
 8 Q And you don't recall any x-rays being done?
 9 MR. MOORE: Objection. Asked and answered.
 10 BY MR. ROUTSIS:
 11 Q I think you went back to your doctor about ten days
 12 later; is that correct?
 13 MR. MOORE: Objection. Asked and answered.
 14 THE WITNESS: I'm sorry.
 15 MR. MOORE: It's on the record, Counsel.
 16 THE WITNESS: Yeah.
 17 BY MR. ROUTSIS:
 18 Q Thank you, Mr. Klementi.
 19 A I thank you, Mr. Routsis.
 20 Q You are welcome.
 21 MR. ZANIEL: Actually, I have just a couple follow-up
 22 questions. Let me know if this has been asked before.
 23 FURTHER EXAMINATION
 24 BY MR. ZANIEL:
 25 Q When you said, Mr. Klementi, that you felt a punch to

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1 the left side, you pointed at your ribs, I think?
 2 A Yeah.
 3 Q But for the record, I don't think we're going to know
 4 where you are pointing to.
 5 So it looks like the left side of your body?
 6 A Right here. And I can feel -- yeah.
 7 Q Okay. So when you say "right there", we're still not
 8 going to know.
 9 A That's left.
 10 Q Left side?
 11 A Yeah.
 12 Q If you know, because I know you are not a doctor, but
 13 if you know, was that the ribs that were broken?
 14 A Yes. Fractured, yes.
 15 Q I thought you were about to say something like, you
 16 can still feel something?
 17 A Yes. If I lie on this side, I wake up in the night
 18 sometime, sometime.
 19 Q You still feel pain?
 20 A Yeah.
 21 Q But if you rub them right now, can you notice a
 22 difference between your ribs now?
 23 A No.
 24 Q Okay. From the time you heard screaming from
 25 Mr. Spencer, until the time he punched you, did you move?

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1 A No, not to my recollection, because I was trying to
 2 adjust the camera --
 3 Q From pictures to video?
 4 A Yeah.
 5 Q I'm sorry. I cut you off.
 6 You were trying to adjust the camera?
 7 A Yeah.
 8 Q From picture to video?
 9 A Yeah.
 10 Q Okay. Did you ever adjust the camera to --
 11 A No.
 12 Q Did you ever get it to video?
 13 A No. I didn't get it.
 14 Q When you heard the screaming, were you facing towards
 15 the Spencer house, or towards your brother's house?
 16 A No. I was always right up on top from Charles,
 17 facing, you know.
 18 Q Facing --
 19 A Facing due west. Up Charles.
 20 Q Towards the Shaws' house?
 21 A Yeah.
 22 Q Okay.
 23 A Sorry.
 24 Q Was there any other contact other than the punch to
 25 the ribs?

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1 Was there --
 2 A I must have been out because, no, I don't think so.
 3 Q In other words, was there a punch and a push?
 4 A No. No. I flew.
 5 Q Just one punch?
 6 A One punch. And that's what I had in my mind.
 7 Q Okay. All right. Those are all the questions I have.
 8 Thank you.
 9 A Thank you very much.
 10 MR. PINTAR: I don't have any questions.
 11 MS. CAPERS: No. Pass the witness.
 12 (Proceedings concluded at 4:13 p.m.)
 13
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1 STATE OF NEVADA)
) ss.
 2 COUNTY OF WASHOE)
 3 I, DEBORAH MIDDLETON GRECO, a Certified Court Reporter
 4 in and for the State of Nevada, do hereby certify:
 5 That on Thursday, April 14, 2016, at the hour of
 6 1:14 p.m. of said day, at 151 Country Estates Circle, Reno,
 7 Nevada, personally appeared HELMUT KLEMENTI, who was duly sworn
 8 by me to testify the truth, the whole truth and nothing but the
 9 truth, and thereupon was deposed in the matter entitled herein;
 10 That I am not a relative, employee or independent
 11 contractor of counsel to any of the parties, or a relative,
 12 employee or independent contractor of the parties involved in
 13 the proceedings, or a person financially interested in the
 14 proceeding;
 15 That said deposition was taken in verbatim stenotype
 16 notes by me, a Certified Court Reporter, and thereafter
 17 transcribed into typewriting as herein appears;
 18 That the foregoing transcript, consisting of pages 1
 19 through 139, is a full, true and correct transcription of my
 20 stenotype notes of said deposition.

DATED: At Reno, Nevada, this 21st day of April, 2016.



DEBORAH MIDDLETON GRECO
 CCR #113, RDR, CRR

Page 140

ERRATA SHEET

2
 3
 4
 5 I declare under penalty of perjury that I have read the
 6 foregoing _____ pages of my testimony, taken
 7 on _____ (date) at
 8 _____ (city), _____ (state),
 9
 10 and that the same is a true record of the testimony given
 11 by me at the time and place herein
 12 above set forth, with the following exceptions:
 13

Page	Line	Should read:	Reason for Change:
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Page 141

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Date: _____

Signature of Witness

Name Typed or Printed

HELMUT KLEMENTI - 4/14/2016

Page 140

2 ERRATA SHEET

3

4

5 I declare under penalty of perjury that I have read the

6 Foregoing 139 pages of my testimony, taken7 on April 14, 2016 (date) at8 Reno (city), Nevada (state),

9

10 and that the same is a true record of the testimony given

11 by me at the time and place herein

12 above set forth, with the following exceptions:

13

14 Page Line Should read: Reason for Change:

15

16 30 20 2005 Date Correction

17

18 31 24 At Carson City Location Correction

19

20 72 19 1990 Date Correction

21

22 69 12 Aug. 11 Date Correction

23

24 88 5 yes ,I attended other KGID meetings Correction

25

HELMUT KLEMENTI - 4/14/2016

Page 141

1

ERRATA SHEET

2

Page Line Should read:

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89 12incorrect,see correction PG 88Correction

5

6

41 2yes,Dr,Wolfgang Kleiner,Prim.Phys.Correction

7

Hard,6971,AT

8

62 11May 25, 2013Date Correction

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17

18

Date: May/07/2016Helmut Klementi

Signature of Witness

19

Helmut Klementi

20

Name Typed or Printed

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22

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24

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EXHIBIT 3

EXHIBIT 3

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR THE COUNTY OF DOUGLAS

8

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9

HELMUT KLEMENTI,
10 Plaintiff,

Case No. 14-CV-0260

11

vs.

Dept. No. I

12

JEFFREY D. SPENCER,

13

Defendant.

AND RELATED COUNTERCLAIM.

14

15

VIDEO DEPOSITION OF

16

JEFFREY SPENCER

17

July 28, 2016

18

Reno, Nevada

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JOB NO. 314146

25

REPORTED BY: DEBORAH MIDDLETON GRECO, CCR #113, RDR, CRR

JEFFREY SPENCER - 07/28/2016

<p style="text-align: right;">Page 6</p> <p>1 Q Do you have a middle name?</p> <p>2 A Del.</p> <p>3 Q I'm sorry?</p> <p>4 A Del.</p> <p>5 Q Del?</p> <p>6 Okay. Have you ever had your deposition taken before,</p> <p>7 Mr. Spencer?</p> <p>8 A Not that I remember, no.</p> <p>9 Q I'm sorry?</p> <p>10 A No. Not that I remember.</p> <p>11 Q I'm sure you have met with your attorneys and talked</p> <p>12 to them about this process, but I'm going to go over some ground</p> <p>13 rules before we get started.</p> <p>14 This is a process, and I know you sat through some of</p> <p>15 these depositions, so it's a process that we have to go through.</p> <p>16 In order to make sure that the court reporter is able</p> <p>17 to have a clear record or make a clear record, it's important</p> <p>18 that you let me finish my question before you respond.</p> <p>19 And it's something that we might do in everyday</p> <p>20 conversation, but again, we want to preserve the record.</p> <p>21 Otherwise, it makes it difficult to read.</p> <p>22 If I remind you of that, I'm not picking on you. I</p> <p>23 just want to make sure we have a clear record.</p> <p>24 Do you understand?</p> <p>25 A Yes, sir.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Did you review the surveillance footage?</p> <p>2 A No.</p> <p>3 Q When was the last time you looked at that?</p> <p>4 A I can't remember.</p> <p>5 Q Been a while?</p> <p>6 A Yes.</p> <p>7 Q All right. Where do you presently live?</p> <p>8 A 321 Charles --</p> <p>9 Q How long --</p> <p>10 A Stateline.</p> <p>11 Q I did it that time.</p> <p>12 How long have you lived at that address?</p> <p>13 A 12 years approximately.</p> <p>14 Q And your wife Marilyn lives at that address with you?</p> <p>15 A Yes, sir.</p> <p>16 Q Has she lived at that address with you the entire 12</p> <p>17 years?</p> <p>18 A Yes, sir.</p> <p>19 Q Has anybody else lived at that address?</p> <p>20 A We had Marilyn's aunt living there for a while. I</p> <p>21 can't remember when that was.</p> <p>22 Q Was that before or after April of 2012?</p> <p>23 A Before.</p> <p>24 Q Okay. How long have you been married to Marilyn?</p> <p>25 A Thank heavens she is out of the room.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q Okay. And you might even -- more on that. Sometimes</p> <p>2 I even violate that rule.</p> <p>3 You might anticipate a question or an answer to a</p> <p>4 question that I'm asking before I finished it.</p> <p>5 Let me finish my question, even if you think you know</p> <p>6 the answer before you respond, okay?</p> <p>7 A Yes, sir.</p> <p>8 Q Also, in everyday conversation, we sometimes use hand</p> <p>9 gestures, uh-huhs, huh-uhs, head nods.</p> <p>10 We can't do that in this proceeding because the court</p> <p>11 reporter can't take down those gestures.</p> <p>12 Do you understand?</p> <p>13 A Yes.</p> <p>14 Q Any reason why you can't give accurate testimony here</p> <p>15 today?</p> <p>16 A No.</p> <p>17 Q Okay. What did you -- what documents did you review</p> <p>18 in preparing for today's deposition?</p> <p>19 A Trial transcripts.</p> <p>20 Q The criminal trial transcript?</p> <p>21 A Yeah. Police report.</p> <p>22 Q I'm sorry?</p> <p>23 A And a police report.</p> <p>24 Q Okay. Anything else?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 9</p> <p>1 Q We won't tell.</p> <p>2 A I think we got married in '98.</p> <p>3 Q Okay. Where did you live prior to the Charles Way</p> <p>4 address?</p> <p>5 A Homewood. Homewood, California. It's across the</p> <p>6 lake.</p> <p>7 Q Okay. In Tahoe?</p> <p>8 A Yeah.</p> <p>9 Q In the Tahoe area?</p> <p>10 How long did you live there?</p> <p>11 A We moved there right after we got married. About two</p> <p>12 weeks after we got married.</p> <p>13 Q Okay. So sometime in '98?</p> <p>14 A Yes.</p> <p>15 Q Or sometime around that time?</p> <p>16 A Yeah.</p> <p>17 Q Okay. Another thing, too, is I don't want you to</p> <p>18 guess today.</p> <p>19 But if you have an estimate or an approximation, I'm</p> <p>20 entitled to your best estimate or approximation.</p> <p>21 A Yes, sir.</p> <p>22 Q Okay. With respect to the Charles Way address, who</p> <p>23 are your immediate neighbors?</p> <p>24 A Could you define "immediate"?</p> <p>25 Q Well, who lives next door to you on -- I'm presuming</p>

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<p style="text-align: right;">Page 10</p> <p>1 you have neighbors on both sides of your house?</p> <p>2 A No.</p> <p>3 Q You don't?</p> <p>4 A No. There's a vacant lot next to my house.</p> <p>5 Q Okay. Well, that explains that.</p> <p>6 Explain the layout of your neighborhood to me.</p> <p>7 A Meadow and Juniper run parallel. Charles intersects</p> <p>8 both of them. Charles is approximately 250 feet long.</p> <p>9 Q Okay.</p> <p>10 A So it only has four lots on it.</p> <p>11 Q So you -- on one side of your house, you have an empty</p> <p>12 lot?</p> <p>13 A Yes, sir.</p> <p>14 Q What's on the other side of your house?</p> <p>15 A Street. Juniper.</p> <p>16 Q So you don't have any other properties, any of your</p> <p>17 neighbors have properties touching your property?</p> <p>18 A Behind me is a vacant foreclosed house. Diagonally</p> <p>19 from me, which would be two lots over on Meadow, is a rental</p> <p>20 house.</p> <p>21 Q Okay. Where does Helmut Klementi live in relation to</p> <p>22 your house?</p> <p>23 A Couple streets away.</p> <p>24 Q Okay. What about Egon and Elfie?</p> <p>25 A Diagonally across the street. Across the street, and</p>	<p style="text-align: right;">Page 12</p> <p>1 Q How far from your house approximately?</p> <p>2 A Across the street, basically. Charles goes into their</p> <p>3 driveway pretty much.</p> <p>4 Q When you moved into the neighborhood approximately 12</p> <p>5 years ago, were the Klementis, did the Klementis live in the</p> <p>6 neighborhood at the time?</p> <p>7 A I believe so.</p> <p>8 Q What about Miss Kinion?</p> <p>9 A I couldn't say.</p> <p>10 Q Okay. What about the Shaws?</p> <p>11 A You know, I really couldn't say.</p> <p>12 Q Okay. We'll get back into the neighbors and the</p> <p>13 neighborhood in a minute.</p> <p>14 But what do you -- are you presently employed?</p> <p>15 A Yes, sir.</p> <p>16 Q And who are you employed by?</p> <p>17 A I'm not going to say.</p> <p>18 Q Why not?</p> <p>19 A Because the Klementis have tried to have me fired from</p> <p>20 every job I have had up there. And she says that in one of the</p> <p>21 documents. So I don't want them contacting my employer.</p> <p>22 MR. BROWN: Counsel, I need to know this information.</p> <p>23 It's going to be public record.</p> <p>24 If he is claiming that he has been harmed in his</p> <p>25 reputation, it's certainly relevant.</p>
<p style="text-align: right;">Page 11</p> <p>1 they live across from the vacant lot.</p> <p>2 Q I have seen on the video, the surveillance video, that</p> <p>3 I believe is from your security cameras, looks like there is a</p> <p>4 deck on the second story of your house?</p> <p>5 A Yeah. I have a deck on the second story.</p> <p>6 Q And if you are standing on that deck and looking</p> <p>7 straight across, is there a house that you can see straight</p> <p>8 across?</p> <p>9 A Yes.</p> <p>10 Q And whose house is that?</p> <p>11 A Well, no, you can't.</p> <p>12 Are you referring to the front deck or rear deck?</p> <p>13 Q I don't know. I saw stairs. It's the surveillance</p> <p>14 video where you are coming back up the stairs. Your wife is on</p> <p>15 the phone.</p> <p>16 A Okay. There's a house directly across the street,</p> <p>17 yes.</p> <p>18 Q Okay. Whose house is that?</p> <p>19 A Diane -- I don't know her last name.</p> <p>20 Q Where does Mary Ellen Kinion live in relation to your</p> <p>21 house?</p> <p>22 A Around the corner, down Meadow. 400 feet down Meadow,</p> <p>23 couple houses down.</p> <p>24 Q What about Dr. Shaw and her husband?</p> <p>25 A They live across Juniper.</p>	<p style="text-align: right;">Page 13</p> <p>1 And it's information that I believe needs to be</p> <p>2 answered here today.</p> <p>3 MR. Routsis: Well, I think that maybe we're going to</p> <p>4 have to take it under seal with the judge.</p> <p>5 I understand you have got -- you can ask him all the</p> <p>6 questions you like about pay, et cetera, but as to where he</p> <p>7 works, I think he has got a legitimate concern.</p> <p>8 So can you do that? I mean, salary, et cetera. Just</p> <p>9 leave out the name of the business so they can't contact him or</p> <p>10 his employer.</p> <p>11 MR. BROWN: I can't verify his employment for purposes</p> <p>12 of damages, and I'm not trying to be unreasonable, Bill.</p> <p>13 MR. Routsis: No. I appreciate that.</p> <p>14 MR. BROWN: I just want the information.</p> <p>15 MR. Routsis: Perhaps we can give you the name and</p> <p>16 keep it quiet in terms of disclosure at this time.</p> <p>17 MR. BROWN: Want to take a quick break?</p> <p>18 MR. Routsis: Yeah.</p> <p>19 MR. BROWN: Okay.</p> <p>20 THE VIDEOGRAPHER: We're going off the video record.</p> <p>21 The time is approximately 10:11 a.m.</p> <p>22 (A recess was taken)</p> <p>23 THE VIDEOGRAPHER: We're going back on the video</p> <p>24 record. The time is approximately 10:16 a.m.</p> <p>25 MR. Routsis: I would like to make a quick record.</p>

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1 This is William Routsis representing the cross-claimant, Jeff
2 Spencer.

3 And due to the fact that -- in the history of this
4 case, my client has lost his job due to what we believe is some
5 of the alleged conduct of the defendants in our cross-claim.

6 So my client, to protect that from happening again, we
7 decided not to reveal the name of his business to the
8 defendants, but I have provided the name and numbers to counsel.

9 And I'm going to ask that they keep that information
10 privileged from the defendants at this time, unless the judge
11 makes a ruling otherwise.

12 MR. BROWN: And I thank you for that. And you did, in
13 fact, provide me with a handwritten indication of who
14 Mr. Spencer's employer is.

15 For our purposes, I want to make for the record that I
16 believe that we are entitled to that information on the record
17 from Mr. Spencer.

18 I will go into issues surrounding his employment for
19 the time being and for today's purposes to keep the proceeding
20 going, but I still believe that we're entitled to that
21 information.

22 I don't believe that Mr. Spencer can pick and choose
23 what to respond to, unless there is an objection under privilege
24 in this case, and it would be his or your burden to move for a
25 protective order regarding that issue.

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1 With that said, let's go back onto the deposition.

2 BY MR. BROWN:

3 Q So, Mr. Spencer, you are currently employed?

4 A Yes.

5 Q How long have you been employed with your current
6 employer?

7 A Approximately three and a half years with one, and the
8 other one, off and on, maybe 2010 or around there. So maybe six
9 years with the other one.

10 Q Okay. So -- and that's what I was going to get at.

11 You indicated you have two employers?

12 A Yes.

13 Q One that you have been with -- that you were hired
14 after, sometime after 2012?

15 A Yes.

16 Q Do you know approximately when that hire date was?

17 A No. I could look it up, but I don't have that
18 information with me.

19 Q And the other employer, you were employed with, you
20 said, approximately six years?

21 A Yeah.

22 Q So 2010?

23 A (Nods affirmatively).

24 Q You, in this case, have disclosed, I believe, some pay
25 records with respect to the employer that you have been employed

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1 with about six years, correct?

2 A Correct. So whatever they say is what it is.

3 Q And that employer, not your more recent employer, but
4 that employer is F&B?

5 A Yes.

6 Q Explain to me what your job description is at F&B.

7 A Basically, truck driver.

8 Q Is F&B in any way affiliated with the snowplow work
9 that you did in your neighborhood?

10 A Yes.

11 Q Okay. So when you say you're a truck driver, to me,
12 that could fill a lot of different bills.

13 Tell me -- when you say truck driver, tell me what it
14 is specifically -- what you drive, what you do.

15 Are you a long-haul truck driver?

16 A No. F&B is local only.

17 Q What kind of trucks do you drive?

18 A Dump trucks and end dumps.

19 Q I'm sorry. Dump trucks?

20 A Dump trucks, end dumps, which is the long semi-style
21 dump truck and the snowplows.

22 Q Do you still do snowplow work for --

23 A Yes.

24 Q Or with F&B?

25 A Yes.

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1 Q And does that include work in your neighborhood?

2 A Yes.

3 Q Still to this day?

4 A Yes.

5 Q Who is your direct supervisor at F&B?

6 A I would guess Flipper Manchester.

7 Q Flipper Manchester?

8 Was Mr. Manchester your direct supervisor in 2012
9 also?

10 A Yes.

11 Q How many hours a week do you work for F&B?

12 A It varies on what they have.

13 Q Is there an average?

14 A Anywhere -- no, definitely not.

15 Q Are there seasons where you work more --

16 A Yes.

17 Q -- or less?

18 A Summer and the winters.

19 Q Mr. Spencer, I'm not picking on you, but what you are
20 doing is you are anticipating my questions and answering before
21 I get it out.

22 Again, just to make a clean record, pause a little bit
23 before --

24 A Okay.

25 Q -- you respond.

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<p style="text-align: right;">Page 18</p> <p>1 A Okay.</p> <p>2 Q So I believe you said that seasonally the work can</p> <p>3 pick up or drop off with F&B?</p> <p>4 A Yes.</p> <p>5 Q What's the busy time of the year?</p> <p>6 A Summer.</p> <p>7 Q The summer?</p> <p>8 A (Nods affirmatively).</p> <p>9 Q In 2012, can you give me -- can you tell me how much</p> <p>10 you made with F&B on an annual basis?</p> <p>11 A No.</p> <p>12 Q What about 2013?</p> <p>13 A No. I think the best evidence is the records that</p> <p>14 were turned in.</p> <p>15 Q Okay. What about last year?</p> <p>16 A I don't.</p> <p>17 Q You have no idea?</p> <p>18 A No.</p> <p>19 Q Is that a larger portion of your income than your</p> <p>20 new --</p> <p>21 A No.</p> <p>22 Q -- employer?</p> <p>23 A No.</p> <p>24 Q You got to let me finish.</p> <p>25 The answer was no?</p>	<p style="text-align: right;">Page 20</p> <p>1 A No, I haven't.</p> <p>2 Q Why not?</p> <p>3 A I haven't had time to do it yet.</p> <p>4 Q You know, this case has been pending for --</p> <p>5 MR. ROUTSIS: Objection. Argumentative. There is no</p> <p>6 need for your dialogue. Okay? You asked a question. He gave</p> <p>7 an answer.</p> <p>8 MR. BROWN: Counsel, you can object.</p> <p>9 MR. ROUTSIS: Argumentative. It's in the record.</p> <p>10 MR. BROWN: Okay. We don't make speaking objections.</p> <p>11 We -- you know, this is a civil matter that speaking --</p> <p>12 MR. ROUTSIS: Argumentative is not a speaking</p> <p>13 objection.</p> <p>14 BY MR. BROWN:</p> <p>15 Q Okay. I'm going to ask you to go ahead and answer</p> <p>16 that question.</p> <p>17 A Could you rephrase the question? I already forgot.</p> <p>18 Q You said you didn't have time. This litigation has</p> <p>19 been pending for well over a year.</p> <p>20 Why haven't you had time to produce that?</p> <p>21 A Because I work.</p> <p>22 Q Okay. When did you create that log?</p> <p>23 A I don't know. When did you tell me to create it?</p> <p>24 Probably -- I don't remember. It would be whenever</p> <p>25 the first time we met with Mr. Routsis. So we don't know when</p>
<p style="text-align: right;">Page 19</p> <p>1 A No.</p> <p>2 Q Okay. So as a result of this lawsuit, you never lost</p> <p>3 your employment with F&B, as a result of the allegations in this</p> <p>4 lawsuit?</p> <p>5 A Close, but never lost.</p> <p>6 Q Okay. And it didn't affect your hours that you</p> <p>7 worked?</p> <p>8 A It did.</p> <p>9 Q It did?</p> <p>10 So you are saying that prior to 2012 you worked more</p> <p>11 hours with F&B?</p> <p>12 A No.</p> <p>13 Q I don't understand your answer.</p> <p>14 How did it affect your hours?</p> <p>15 A It affected my hours by telling them I had to take off</p> <p>16 for this. It was hours I could have worked.</p> <p>17 Q How many hours have you taken off because of this?</p> <p>18 A Well, I couldn't say right now.</p> <p>19 Q Do you have a log or --</p> <p>20 A Yes.</p> <p>21 Q -- have you kept track of it?</p> <p>22 A Yes.</p> <p>23 Q Where is that log?</p> <p>24 A That would be at my house.</p> <p>25 Q Have you produced it in this case?</p>	<p style="text-align: right;">Page 21</p> <p>1 that is. I don't remember.</p> <p>2 Q That would have been sometime in 2012, around the</p> <p>3 criminal trial?</p> <p>4 A Yeah.</p> <p>5 Q Okay. What is your rate of pay at F&B?</p> <p>6 A It's not much. 20 bucks an hour or something like</p> <p>7 that.</p> <p>8 Q Has it gone up since 2012?</p> <p>9 A No.</p> <p>10 Q It's stayed the same?</p> <p>11 A Yeah.</p> <p>12 Q Do you get any benefits besides just an hourly rate of</p> <p>13 pay with F&B?</p> <p>14 A Yes.</p> <p>15 Q What benefits?</p> <p>16 A I don't know. Define benefits.</p> <p>17 Are you meaning like medical?</p> <p>18 Q Anything that you would receive other than your rate</p> <p>19 of pay as a result of working with F&B.</p> <p>20 A I receive -- how would I say this?</p> <p>21 Anything in the lineup at work I can get done for</p> <p>22 free. So landscaping, excavating, anything like that, I can do</p> <p>23 myself and have done.</p> <p>24 Q It sounds like F&B is more than a trucking company?</p> <p>25 A They are an excavation company, basically.</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q Okay. And where are they based out of?</p> <p>2 A Kingsbury Grade, Stateline.</p> <p>3 Q Okay. With respect to your newer employer, what's</p> <p>4 your current rate of pay?</p> <p>5 A It's 2,450 a week.</p> <p>6 Q 2,450?</p> <p>7 A Yeah.</p> <p>8 Q A month?</p> <p>9 A A week.</p> <p>10 Q A week?</p> <p>11 And what do you do, what is your job description with</p> <p>12 your newer employer?</p> <p>13 A Transportation manager, mechanic, training engineer.</p> <p>14 Q How many hours a week do you work?</p> <p>15 A That's pretty -- varies also. That could be anywhere</p> <p>16 from, let's see, from 40 to a hundred, probably.</p> <p>17 Q Per week?</p> <p>18 A Yes.</p> <p>19 Q The allegations in this lawsuit didn't affect your</p> <p>20 ability to get that job, correct?</p> <p>21 A No.</p> <p>22 Q Has anybody declined to hire you because of the</p> <p>23 allegations in this lawsuit?</p> <p>24 A No.</p> <p>25 Q Who is your immediate supervisor at your new</p>	<p style="text-align: right;">Page 24</p> <p>1 A We had a restraining order against the neighbor.</p> <p>2 Q Which neighbor?</p> <p>3 A Bruce Taylor.</p> <p>4 Q Who is not a party to this lawsuit?</p> <p>5 A No.</p> <p>6 Q Okay. Does Mr. Taylor still live in your</p> <p>7 neighborhood?</p> <p>8 A Yes.</p> <p>9 Q Did that restraining order ever expire?</p> <p>10 A Yes.</p> <p>11 Q And what was the restraining order over?</p> <p>12 A He was harassing us, yelling at my wife. He's just a</p> <p>13 very short-tempered person.</p> <p>14 Q Do you have any communications with Mr. Taylor to this</p> <p>15 day?</p> <p>16 A No.</p> <p>17 Q When was the last time you had any interaction or</p> <p>18 communication with him?</p> <p>19 A I couldn't tell you, but it would be 2011 or</p> <p>20 farther -- or further back than that.</p> <p>21 Q That's what I was getting at. It's been a long time?</p> <p>22 A Yeah. Before the restraining -- at least six months</p> <p>23 before the restraining order.</p> <p>24 Q Was that the first incident in your neighborhood</p> <p>25 involving your neighbors, with Mr. Taylor?</p>
<p style="text-align: right;">Page 23</p> <p>1 employment?</p> <p>2 A Ryan Negri, N-E-G-R-I.</p> <p>3 Q Is that a Nevada or a California corporation?</p> <p>4 A California.</p> <p>5 Q Have you been suspended or reprimanded in either the</p> <p>6 F&B or the newer employment --</p> <p>7 A No.</p> <p>8 Q -- for any reason?</p> <p>9 A No.</p> <p>10 Q It's my understanding you have security cameras</p> <p>11 installed in your home?</p> <p>12 A Yes.</p> <p>13 Q Okay. When did you get those installed in your home?</p> <p>14 A My best recollection would be the first part of 2012.</p> <p>15 Maybe March, April, something like that.</p> <p>16 Q Was that around the time that the dispute over parking</p> <p>17 a truck on the street started?</p> <p>18 A No. It was before that.</p> <p>19 Q Before that?</p> <p>20 Had there been any problems with your neighbors, from</p> <p>21 your point of view, prior to that incident, the truck being</p> <p>22 parked in the street, and I think it was April of 2012?</p> <p>23 A Yes.</p> <p>24 Q Okay. What sorts of incidents had occurred prior to</p> <p>25 that?</p>	<p style="text-align: right;">Page 25</p> <p>1 A Yes.</p> <p>2 Q Okay. Had there been any -- prior to April 2012, had</p> <p>3 you had any negative, what you view as negative interactions</p> <p>4 with any of the Klementis?</p> <p>5 A No.</p> <p>6 Q What about Miss Kinion?</p> <p>7 A No.</p> <p>8 Q What about the Shaws?</p> <p>9 A No.</p> <p>10 Q So that -- those disputes with the defendants, I guess</p> <p>11 the parties to this lawsuit, really started in about April 2012?</p> <p>12 A Could you say it again?</p> <p>13 Q The issues that you have with the parties named in</p> <p>14 this lawsuit, the Klementis, Miss Kinion and the Shaws, started</p> <p>15 approximately in April of 2012?</p> <p>16 MR. ROUTSIS: I'm going to object as to vague and</p> <p>17 ambiguous. I think you need to be more specific.</p> <p>18 BY MR. BROWN:</p> <p>19 Q You can go ahead and answer the question.</p> <p>20 MR. ROUTSIS: If you understand it.</p> <p>21 THE WITNESS: I think, more accurately, it would be</p> <p>22 May.</p> <p>23 BY MR. BROWN:</p> <p>24 Q May?</p> <p>25 A Yeah.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q Okay. And here is my understanding, that's why I'm</p> <p>2 asking this question.</p> <p>3 I understood that there was an issue involving you</p> <p>4 parking a truck on the street that occurred sometime in April of</p> <p>5 2012.</p> <p>6 A Okay. Then make it April.</p> <p>7 Q Okay. That's where that came from.</p> <p>8 A Okay.</p> <p>9 Q And so really the issues that have precipitated and</p> <p>10 are involved in this lawsuit started around that time?</p> <p>11 A Yes.</p> <p>12 Q Who installed your security cameras?</p> <p>13 A I did.</p> <p>14 Q Where did you get the system?</p> <p>15 A I don't even remember where we got the first system</p> <p>16 that was up at that time.</p> <p>17 Q Do you have another system now?</p> <p>18 A Yes.</p> <p>19 Q So let's talk about the first system.</p> <p>20 You installed it yourself?</p> <p>21 A Yes.</p> <p>22 Q Tell me how it's set up.</p> <p>23 A The first one was just a 13-inch monitor, TV, with a</p> <p>24 VCR, you know, like the old style, and it recorded onto the VCR</p> <p>25 tapes.</p>	<p style="text-align: right;">Page 28</p> <p>1 was it in the spring of 2012, the summer, the fall, or later?</p> <p>2 A Late summer maybe.</p> <p>3 Q Okay. And did you install that system yourself --</p> <p>4 A Yes.</p> <p>5 Q -- as well?</p> <p>6 Tell me about the second system that you installed.</p> <p>7 How did it operate? The old one operated off a VCR.</p> <p>8 A This is digital, so it has hard drives. And if you</p> <p>9 save something on it, you record it onto the thumb drive.</p> <p>10 And then it's -- so being digital, it also</p> <p>11 overwrites -- when the hard drive fills up, it just starts</p> <p>12 overwriting.</p> <p>13 Q So how would you store -- you know, say, given a</p> <p>14 24-hour day -- I presume this is recording 24 hours?</p> <p>15 A Yes.</p> <p>16 Q How would you store your video over a 24-hour period?</p> <p>17 A I just -- it stores it onto the hard drive.</p> <p>18 Q Okay. And you have a separate hard drive for that?</p> <p>19 A No. The hard drive is built into the -- it looks like</p> <p>20 a VCR. You know, the hard drive is built into it.</p> <p>21 Q Do you know how much space is in that hard drive?</p> <p>22 A Two terabytes.</p> <p>23 Q What's the brand of that hard drive?</p> <p>24 A I can't remember.</p> <p>25 INFORMATION REQUESTED: _____</p>
<p style="text-align: right;">Page 27</p> <p>1 Q And how long, if you just -- if you turned your</p> <p>2 security system on, how long would it record for before you had</p> <p>3 to put a new tape in?</p> <p>4 A It depended on the length of the tape. So about eight</p> <p>5 hours is the max you could do.</p> <p>6 Q And were you changing that in eight-hour increments,</p> <p>7 to your knowledge?</p> <p>8 A Yeah. Yes.</p> <p>9 Q Did you keep the tapes, or did you -- what did you do</p> <p>10 with them after -- once you had an eight-hour session that you</p> <p>11 would record?</p> <p>12 A Well, it got a little carried away because if you kept</p> <p>13 the tapes, then you'd have a ton of tapes, and that's kind of</p> <p>14 old school.</p> <p>15 So I would record over a lot of stuff, glance through</p> <p>16 it.</p> <p>17 Q Moving ahead to December of 2012, and we're going to</p> <p>18 get into a lot more specifics, did you have the same system in</p> <p>19 place?</p> <p>20 A No.</p> <p>21 Q Okay. You had a new system?</p> <p>22 A Yes.</p> <p>23 Q When did you install the new system?</p> <p>24 A I don't recollect.</p> <p>25 Q Do you have an approximation? Was it in the summer --</p>	<p style="text-align: right;">Page 29</p> <p>1 _____</p> <p>2 _____</p> <p>3 _____</p> <p>4 _____</p> <p>5 ***</p> <p>6 BY MR. BROWN:</p> <p>7 Q If I ask the court reporter to leave a blank in your</p> <p>8 deposition transcript, would you be able to provide that</p> <p>9 information?</p> <p>10 A Yes.</p> <p>11 Q Okay. And I would ask the court reporter to do that.</p> <p>12 So did you have a particular system, you know, for --</p> <p>13 obviously, a hard drive is eventually going to fill up.</p> <p>14 How did you maintain your security footage, or do you</p> <p>15 maintain your security footage, for any given period of time?</p> <p>16 A Thumb drives.</p> <p>17 Q So you just --</p> <p>18 A You would record off the hard drive onto a thumb</p> <p>19 drive.</p> <p>20 Q Did you do that every day?</p> <p>21 A No.</p> <p>22 Q How often did you do that?</p> <p>23 A I couldn't honestly answer that.</p> <p>24 Q Approximately how much time could you record before</p> <p>25 your hard drive would fill up?</p>

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1 A It would depend on where you have the camera set at,
2 how many frames per second they are recording and so forth.

3 Up to three months.

4 Q Had you changed -- from the time you installed it,
5 until December 2012, had you had to change out or, you know,
6 clear up any space in your hard drive?

7 A No. It records over.

8 Q What about the incidents that took place on, I
9 believe, December 18, 2012, how much of the day -- of that 24
10 hours before that incident and 24 hours after it, did you save
11 all of that footage?

12 A No.

13 Q Why not?

14 A I saved -- I took the hard drive out, but it got
15 corrupted trying to save the footage on it. I put it into a
16 different DVR, and it corrupted it.

17 So we're trying to get the rest of the footage off of
18 that.

19 Q So you no longer have that hard drive?

20 A No, I still possess it.

21 Q Okay. How much footage from that day did you actually
22 save?

23 A From which day?

24 Q I believe it was the 18th of December.

25 A I'm trying to think. I couldn't honestly tell you.

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1 Q How many cameras do you currently have installed in
2 your security system?

3 A I'm not going to answer that. It's a security system.
4 If I tell you how many cameras I have, then it won't be so
5 secure.

6 MR. BROWN: Counsel, are you advising your client not
7 to answer that question?

8 MR. ROUTSIS: It's his right, I would say. That's his
9 position, and I don't think he has got to give up his security
10 for this hearing.

11 MR. BROWN: You are under oath. You have made
12 allegations in this case. There is video footage. We're
13 entitled to that information as part of this case.

14 And if you are advising your client not to answer that
15 question, we will proceed accordingly. It's certainly relevant
16 to this case.

17 MR. ROUTSIS: How is it relevant?

18 MR. BROWN: Because we're entitled to know if there's
19 other footage, we're entitled to know different angles.

20 There has been a lot of -- it's my understanding that
21 your client is contending he could make out Mr. Klementi. He is
22 contending that somebody was in his driveway.

23 If he had security cameras and security footage, we
24 are certainly entitled to look at that information and consider
25 that.

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1 THE WITNESS: Okay. Would you ask the question again?

2 BY MR. BROWN:

3 Q And maybe I can ask it in a better way. I don't know
4 if this changes your answer, but I'm looking at 2012, December
5 of 2012, not necessarily today.

6 A Okay. Sure.

7 Q Okay. How many cameras did you have in 2012?

8 December of 2012. Sorry.

9 A I think eight.

10 Q Eight?

11 A If you want to leave that blank, I can go back and
12 fill that in.

13 Q I'll take eight, but we'll leave a blank if that
14 changes -- well, you know what? We don't even need to.

15 One thing I didn't explain to you at the beginning of
16 this deposition is at some point the court reporter is going to
17 generate a transcript. You are going to have an opportunity to
18 review that and make changes that you feel are necessary.

19 If you make any substantive changes, something that
20 somebody could comment on at trial -- if you are telling me
21 eight cameras today, and you go back and realize I had 6 or 7,
22 that's not, to me, a big deal or something I'm going to comment
23 on.

24 But you will have that right to change that.

25 So I believe you said you thought you had maybe eight

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1 at the time. And if you subsequently learn that you had less or
2 more, I would just ask that you make that change in the
3 deposition transcript.

4 A Okay. The system could only handle eight cameras. So
5 it would be eight or less.

6 Q Okay. Fair enough.

7 How many of the cameras were pointed towards the
8 street?

9 MR. ROUTSIS: Objection. What street?

10 BY MR. BROWN:

11 Q Charles.

12 A Three probably.

13 Q Three?

14 A Yeah.

15 Q And where -- again, we're going back to 2012.

16 Where would the other cameras point?

17 A The other cameras?

18 Q Yes. You said you had -- going by your recollection
19 that there might have been eight, you believe there was three
20 pointed towards Charles.

21 A Uh-huh (affirmative).

22 Q Where would the other cameras have been positioned?

23 A All the way around the house. Juniper, one shows
24 Juniper, a couple show the backyard.

25 Q And there was a --

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<p style="text-align: right;">Page 34</p> <p>1 A Side yard.</p> <p>2 Q I'm sorry. I didn't mean to cut you off.</p> <p>3 There was a camera also positioned towards your</p> <p>4 driveway, correct?</p> <p>5 A Yes.</p> <p>6 Can I make a correction?</p> <p>7 Q You can.</p> <p>8 A On the night in 2012, there was, I think, seven</p> <p>9 cameras, because there was one over the garage, but it wasn't</p> <p>10 connected yet.</p> <p>11 Q Okay.</p> <p>12 A And I think that's in the -- well, no.</p> <p>13 Q Those cameras, they are on a -- you talked to me about</p> <p>14 the hard drive that they are hooked up to.</p> <p>15 Is there also a monitor that you can see what's going</p> <p>16 on outside?</p> <p>17 A Yes.</p> <p>18 Q And where is that located in your house, or where was</p> <p>19 that located in your house?</p> <p>20 A On a desk, a little side desk, second story.</p> <p>21 Q In your -- near a family room or a --</p> <p>22 A Yeah, it's like near a family room.</p> <p>23 Q Okay. Easy access is what I was getting at.</p> <p>24 You could go access that room --</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 36</p> <p>1 record. You know, it has drop-down menus, so on and so forth,</p> <p>2 like a regular laptop.</p> <p>3 It has a USB port that you put the thumb drive in, and</p> <p>4 then you put in the time and the dates that you want to transfer</p> <p>5 to the thumb drive.</p> <p>6 Q And then you are able to take that thumb drive,</p> <p>7 without any other sort of companion program, into like, say, my</p> <p>8 computer, and I could clip that in there and click on the thumb</p> <p>9 drive and open the video?</p> <p>10 A All of the systems download their software onto your</p> <p>11 thumb drive when you download whatever you want to watch.</p> <p>12 So when you take off -- any of the systems, if you</p> <p>13 take the thumb drive, it will have the software on it.</p> <p>14 Q Understood. Actually, now that makes sense, in the</p> <p>15 production that I got from you guys, because there was a lot of</p> <p>16 stuff --</p> <p>17 A Yeah. That makes no sense?</p> <p>18 Q Yeah.</p> <p>19 What did you do with the footage of that 24 hours</p> <p>20 before and after the December 18th incident involving</p> <p>21 Mr. Klementi?</p> <p>22 A It's on the hard drive.</p> <p>23 Q It's still there?</p> <p>24 A We're hoping.</p> <p>25 Q Have you done anything to try and retrieve that</p>
<p style="text-align: right;">Page 35</p> <p>1 Q -- relatively quickly?</p> <p>2 A Yes.</p> <p>3 Q Okay.</p> <p>4 A If it's on.</p> <p>5 Q Correct.</p> <p>6 A Yeah.</p> <p>7 Q And --</p> <p>8 A The system can be recording and the monitor be off.</p> <p>9 Q Understood.</p> <p>10 A Okay.</p> <p>11 Q Is there -- when you save video off your hard drive</p> <p>12 onto a flash drive, like you explained earlier, is there any</p> <p>13 sort of program that you need to run that video?</p> <p>14 A The program that comes with the equipment.</p> <p>15 Q Do you know what the name of that program is?</p> <p>16 A No.</p> <p>17 Q Do you install that on another computer?</p> <p>18 A No.</p> <p>19 Q So how are you able to -- and I may be asking a very</p> <p>20 basic question. I'm not a computer guy, so bear with me.</p> <p>21 A Sure.</p> <p>22 Q How are you able to take the video off the hard drive</p> <p>23 from your security system, plug it into another computer, and</p> <p>24 watch it?</p> <p>25 A You go back into your system, and you put in to</p>	<p style="text-align: right;">Page 37</p> <p>1 information?</p> <p>2 A Yes.</p> <p>3 Q What have you done?</p> <p>4 A We took it to someone, but they couldn't -- they said</p> <p>5 there's stuff on there, but they couldn't get it off.</p> <p>6 Now we have someone else looking at it to see if they</p> <p>7 can.</p> <p>8 Q Okay. My recollection is, and I do have part of that</p> <p>9 video, and maybe that will -- everything that have produced</p> <p>10 here, anyways.</p> <p>11 You had about an hour of time, I think you had from</p> <p>12 8 o'clock, if I remember correctly, until the time of the</p> <p>13 incident, which was approximately a quarter til 9, correct?</p> <p>14 A Uh-huh (affirmative).</p> <p>15 Q How much time after the incident did you record also,</p> <p>16 do you recall?</p> <p>17 A I couldn't say, but I know I have until at least</p> <p>18 9 o'clock. And I know we have before 7 because we used that in</p> <p>19 court also.</p> <p>20 Q Okay. Other than -- you described a process for me,</p> <p>21 and we'll go back to this.</p> <p>22 You said that if you want video from a certain time</p> <p>23 frame -- and I'll use today as an example.</p> <p>24 Say, if you wanted video from 9 to 10 this morning,</p> <p>25 you could go in and type in 9 to 10 on today's date, and that</p>

<p style="text-align: right;">Page 38</p> <p>1 would download that portion of the video.</p> <p>2 A Yes.</p> <p>3 Q Is there any other way to get it, to your knowledge?</p> <p>4 A No. You have to also put in what camera.</p> <p>5 Q I'm sorry?</p> <p>6 A You have to put in what camera.</p> <p>7 Q Okay.</p> <p>8 A So if you have multiple cameras, you have to designate</p> <p>9 each camera you want to download.</p> <p>10 Q If you answered this already, I apologize. I don't</p> <p>11 recall asking this.</p> <p>12 But what was the purpose of installing the video</p> <p>13 camera system, the first one?</p> <p>14 A The restraining order.</p> <p>15 Q From Mr. Taylor?</p> <p>16 A Yes.</p> <p>17 Q Okay. What precipitated that restraining order with</p> <p>18 Mr. Taylor?</p> <p>19 A I wasn't home at the time. He came over and started</p> <p>20 screaming and yelling at my wife, who was sitting on the porch</p> <p>21 with her girlfriend. They just got back from doing some white</p> <p>22 water rafting.</p> <p>23 And he just went nuts, basically. Sat there and</p> <p>24 screamed and yelled for 20 minutes.</p> <p>25 Q Did he ever -- did you ever find out why he was</p>	<p style="text-align: right;">Page 40</p> <p>1 A Yes.</p> <p>2 Q And you were represented in that proceeding, as well?</p> <p>3 A Yes.</p> <p>4 Q Okay. And was that Todd Torvinen?</p> <p>5 A Yes.</p> <p>6 Q Before working for F&B, who did you work for?</p> <p>7 A At the moment, I can't remember.</p> <p>8 Q And you have worked for F&B, I believe you said, since</p> <p>9 approximately 2010?</p> <p>10 A Yes.</p> <p>11 Q And you don't remember who you worked for prior to</p> <p>12 that?</p> <p>13 A I've worked for various race teams since '96. So I</p> <p>14 would have to go back and look at my resume to tell you.</p> <p>15 Q When you say race teams, what do you mean by that?</p> <p>16 A Teams that race cars.</p> <p>17 Q So you didn't do any truck driving prior to 2010?</p> <p>18 A No, I have done that all my life.</p> <p>19 Q Okay. Did you have any truck driving jobs that you</p> <p>20 recall --</p> <p>21 A That would be the race team stuff.</p> <p>22 How that works is, since I have a commercial license,</p> <p>23 and I'm a mechanic, they like me because I can drive the truck</p> <p>24 and work on the cars and fill more roles in.</p> <p>25 Q Okay. Are you currently working for any race teams</p>
<p style="text-align: right;">Page 39</p> <p>1 screaming or yelling?</p> <p>2 A We know why he thinks he was yelling and screaming.</p> <p>3 Q That's what I'm getting at.</p> <p>4 What was your --</p> <p>5 A He claimed that that morning we were supposed to come</p> <p>6 over and help him load wood into his backyard, which I know we</p> <p>7 never agreed to that because my wife had a white water rafting</p> <p>8 trip planned. So --</p> <p>9 Q And so --</p> <p>10 A That seemed a little irrational to be screaming and</p> <p>11 yelling over something like that.</p> <p>12 Q Was there anything else that caused you to want to get</p> <p>13 a restraining order, or was that the sole incident?</p> <p>14 A No. He started driving by, you know, 15 times a day,</p> <p>15 and that's why we had the cameras.</p> <p>16 And that footage we took to the 30-day hearing and</p> <p>17 restraining order to get it extended to a year.</p> <p>18 Q And -- well, that was my next question.</p> <p>19 So you got the initial TRO for 30 days, and then there</p> <p>20 was a hearing to extend it?</p> <p>21 A Yes.</p> <p>22 Q And that was granted?</p> <p>23 A Yes.</p> <p>24 Q And so the restraining order lasted approximately 12</p> <p>25 months?</p>	<p style="text-align: right;">Page 41</p> <p>1 now?</p> <p>2 A Yes.</p> <p>3 Q And is that the --</p> <p>4 A Yes.</p> <p>5 Q Okay. And -- let me get my question out.</p> <p>6 That's the employer that -- the newer employer?</p> <p>7 A Yes.</p> <p>8 MR. ROUTSIS: Thank you.</p> <p>9 BY MR. BROWN:</p> <p>10 Q What does your wife do for a living?</p> <p>11 A She owns a mortgage brokerage, mortgage company.</p> <p>12 Q How long has she owned that company?</p> <p>13 A I can't say. I don't know when we opened it.</p> <p>14 Q Let me put it this way:</p> <p>15 Has it been -- has she owned it since before 2012,</p> <p>16 when --</p> <p>17 A Yes.</p> <p>18 Q Okay. And where is it located?</p> <p>19 A She has an office in South Lake Tahoe and an office in</p> <p>20 Reno.</p> <p>21 Q What's the name of her company?</p> <p>22 A Alpine Mortgage.</p> <p>23 Q I'm sorry. I didn't get that.</p> <p>24 A Alpine Mortgage.</p> <p>25 Q If I ask you to repeat yourself today, I apologize. I</p>

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1 have hearing aids, and I didn't wear them today, and my hearing
2 is terrible. So sometimes I just hear mumbling, and I might ask
3 you to repeat yourself on occasion.
4 Nobody other than you maintains the video camera
5 system?
6 A Correct.
7 Q What about your wife?
8 A She does not maintain it.
9 Q Does she know how to operate it?
10 A Yes.
11 Q Okay. Does she know how to view what's going on
12 through the monitor in the side room?
13 A Yes.
14 Q I want to jump ahead to April of 2012. We started
15 talking about that a little bit earlier.
16 It's my understanding that it's April of 2012 when
17 there was an issue that arose concerning you parking a truck on
18 the street.
19 A Yes.
20 Q An 18-wheeler, I believe.
21 Tell me what you know about that incident. How did it
22 first arise?
23 A I don't know.
24 Q You, at some point, became aware that somebody was not
25 happy about you parking a truck on the street, correct?

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1 A Yes.
2 Q Okay. How did you become aware of that?
3 A Volunteer sheriffs came out.
4 Q What did they tell you?
5 A They said they had a complaint that it was parked
6 illegally.
7 Q Was it?
8 A No. And they said, no, it wasn't. It was fine.
9 Q Did you ultimately move the truck?
10 A Yes.
11 Q Okay. Where did you move it to when you were parking
12 it?
13 A I backed it up on my lot next to my garage.
14 Q Was that truck with your employment with F&B?
15 A No.
16 Q It was one of the race teams?
17 A Yes.
18 Q And you don't work for that race team anymore?
19 A No.
20 Q Okay. Why not?
21 A It doesn't exist.
22 Q Okay.
23 A They closed it.
24 Q So it's not something related to this lawsuit. It
25 just doesn't exist?

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1 A Yeah. He closed it, and that's why the truck sat
2 there so long.
3 Q Okay. Beyond the sheriff, were there any other -- any
4 other interactions with law enforcement or public agencies
5 regarding that vehicle being parked on the street?
6 A Could you say that again?
7 Q Beyond the -- I think you said that a sheriff came
8 by --
9 A Yes.
10 Q -- and told you about the complaint.
11 Beyond that, did you have any other interaction with
12 any other law enforcement or any other government-type agencies
13 concerning that vehicle being parked on the street?
14 A Yes.
15 Q Tell me about them.
16 A The county sent us a letter.
17 Q And what did the county say?
18 A I believe you cannot park anything longer than 24 feet
19 on your property.
20 Q On your physical property?
21 A Yes.
22 Q So this is after you had moved it onto your property?
23 A Yes.
24 Q Okay. How did you deal with that letter, or did you?
25 A I spoke to them and told them I can't move it because

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1 I don't have the money to take it back to Texas. It was based
2 out of Texas. He never sent me the money to pay for the fuel to
3 drive it back.
4 Q And what were you told by the county?
5 A They gave me a deadline to move it. I don't remember
6 what it was.
7 Q Did you eventually move it?
8 A Yes.
9 Q And did you take it back to Texas?
10 A Yes.
11 Q Did you get paid?
12 A Eventually.
13 Q Who reported you, if you know?
14 A It's in the records, but I can't -- I don't know.
15 Q Do you know if Helmut was involved in reporting you?
16 A No, I do not.
17 Q I don't have specific times on this. I'm going to ask
18 you, and I'm going to probably be a little more vague. We have
19 the truck parking incident that happened sometime in 2012.
20 It sounds like the issue was resolved without you
21 getting any citations?
22 A Yes.
23 Q How long did that issue go on for, from the time it
24 was first parked in the street until the time you took it back
25 to Texas? And you can give me an estimation.

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<p style="text-align: right;">Page 46</p> <p>1 A My best recollection, I got there April maybe 26th, 2 and I think I moved it out June 16th, June 18th, somewhere 3 around there.</p> <p>4 Q Not quite two months?</p> <p>5 A Yeah.</p> <p>6 Q After you met with the sheriff who came out, and when 7 you got the letter from the county, were there any other -- did 8 you have any other -- did you have any confrontations with any 9 of your neighbors over the truck?</p> <p>10 A No.</p> <p>11 Q Now I understand that you also sometime in this time 12 frame built a fence on your property?</p> <p>13 A Yes.</p> <p>14 Q Do you know approximately when that was?</p> <p>15 A Memorial Day. Over Memorial Day weekend.</p> <p>16 Q So shortly after this?</p> <p>17 A Yes.</p> <p>18 Q Well, actually, you still had the truck there at the 19 time.</p> <p>20 A Yes.</p> <p>21 Q Okay. Why did you build the fence, what was the 22 purpose?</p> <p>23 A Our surveillance cameras showed Egon Klementi walking 24 around in our backyard.</p> <p>25 Q In your physical backyard?</p>	<p style="text-align: right;">Page 48</p> <p>1 A It's a safety issue. My backyard has got a 22-foot 2 drop. When we built the fence, everybody on the crew fell one 3 time or another.</p> <p>4 It's, you know, a foot deep in pine needles, give or 5 take, depending on the time of the year. So it's real easy to 6 fall.</p> <p>7 And there is rocks, boulders, everything else.</p> <p>8 Q When you say 22-foot drop, what do you mean? I'm 9 picturing your property line and a cliff face that --</p> <p>10 A Basically, yes. The house sits this way. Here's 11 Charles. On the Juniper side, it drops way down to our lot.</p> <p>12 Q Has anybody ever been hurt as a result of that?</p> <p>13 A Not that I'm aware.</p> <p>14 Q Okay.</p> <p>15 A Just fallen, but not been hurt.</p> <p>16 Q So you build a fence.</p> <p>17 It's my -- from what I read in this case, that fence 18 was approximately six feet tall?</p> <p>19 A Yes.</p> <p>20 Q Why did you decide on a six-foot fence?</p> <p>21 A For privacy. That's the highest that the county 22 allows.</p> <p>23 Q And I'm picturing in my head, I haven't seen it, but 24 I'm picturing in my head the redwood slats.</p> <p>25 Is that the type of fence you're talking about?</p>
<p style="text-align: right;">Page 47</p> <p>1 A Yes. Two weeks earlier.</p> <p>2 Q Did you -- do you still have that video footage?</p> <p>3 A Yes. I think that was -- it was supposed to be 4 submitted to you.</p> <p>5 Q It may have been. I'm not saying it hasn't, because I 6 haven't gone through every clip on there.</p> <p>7 A Yeah.</p> <p>8 Q So you believe there is video footage that you may 9 have produced in this case that shows Egon in your backyard?</p> <p>10 A Yes.</p> <p>11 Q When I say backyard, we're talking within the physical 12 boundaries of your property line?</p> <p>13 A Yes. Backyard.</p> <p>14 Q What was he doing when he was in your backyard?</p> <p>15 A I couldn't tell you.</p> <p>16 Q Was he with a dog?</p> <p>17 A Yes, I think so.</p> <p>18 Q Did you ever discuss with him that you didn't want him 19 on your property?</p> <p>20 A I can't remember.</p> <p>21 Q So once you saw him what you believed to be in your 22 backyard, you decided it was time to build a fence?</p> <p>23 A Yes.</p> <p>24 Q Why is that? What was -- was he creating any harm in 25 your backyard?</p>	<p style="text-align: right;">Page 49</p> <p>1 A Yeah. Cedar, I think we used cedar.</p> <p>2 Q Cedar or redwood?</p> <p>3 A Yeah.</p> <p>4 Q Did it become an issue in the neighborhood about that 5 fence?</p> <p>6 A Yes.</p> <p>7 Q Tell me about that.</p> <p>8 A I'm not really sure how it started. The neighbors 9 complained about it, the county contacted me about it.</p> <p>10 Q When you say the neighbors complained -- you said a 11 few things. I'm going to break them down a little bit.</p> <p>12 A Okay.</p> <p>13 Q Neighbors complained.</p> <p>14 Who complained?</p> <p>15 A I believe the Klementis and the Shaws complained. I'm 16 not sure who else.</p> <p>17 Q When you say the Klementis, there's a few of them in 18 this case.</p> <p>19 Do you know which ones we're talking about?</p> <p>20 A Probably the ones that live across the street.</p> <p>21 Q Egon and --</p> <p>22 A Yeah.</p> <p>23 Q -- Elfie?</p> <p>24 A Yeah.</p> <p>25 Q Did anybody come and complain to you personally?</p>

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<p style="text-align: right;">Page 50</p> <p>1 A No.</p> <p>2 Q So the first you heard about it was the neighbors?</p> <p>3 A Yeah.</p> <p>4 Q Okay. Did you ever -- when -- I'm going to back up a</p> <p>5 little bit, and I'm sorry. I may jump around a little bit.</p> <p>6 A That's okay.</p> <p>7 Q When you saw Egon on your property, or when you saw</p> <p>8 him on the video footage on your property, did you ever have a</p> <p>9 discussion with him that you didn't want him on your property?</p> <p>10 A No.</p> <p>11 Q How --</p> <p>12 A I figured that --</p> <p>13 Q I'm sorry. Go ahead.</p> <p>14 A I figured putting the fence up would end it. It</p> <p>15 wouldn't be a problem.</p> <p>16 Q How was your relationship with Egon and Elfie prior to</p> <p>17 building the fence?</p> <p>18 A Neighbors.</p> <p>19 Q No issues at that point?</p> <p>20 A Not that I was aware of.</p> <p>21 Q Okay. What about Helmut?</p> <p>22 A Same thing.</p> <p>23 Q What about Mary Ellen Kinion?</p> <p>24 A Same thing.</p> <p>25 Q Had you done anything socially with any of these</p>	<p style="text-align: right;">Page 52</p> <p>1 A Yeah.</p> <p>2 Q Okay.</p> <p>3 A Well, total. Once while we have been there. I think</p> <p>4 three times before.</p> <p>5 Q Okay. So you -- when you -- you build the fence.</p> <p>6 How long after you build the fence do you get -- is it</p> <p>7 that you get contacted by the county?</p> <p>8 A I can't recall.</p> <p>9 Q A short period of time, or was there a long period of</p> <p>10 time?</p> <p>11 A I honestly don't even remember.</p> <p>12 Q Okay. What did the letter say?</p> <p>13 A I couldn't tell you.</p> <p>14 Q You just got a letter in relation to your fence?</p> <p>15 I mean, did it say, Mr. Spencer, you did a great job</p> <p>16 on the fence. It looks great. We like it?</p> <p>17 I mean, is that the kind of letter you got?</p> <p>18 A I just don't know -- what was I going to say?</p> <p>19 I don't remember.</p> <p>20 Q Do you have a copy of that letter still?</p> <p>21 A Yes.</p> <p>22 Q Okay.</p> <p>23 A We'll turn that in for you.</p> <p>24 Q Okay. Please do. Please give it to your counsel.</p> <p>25 Do you know if it indicated or concluded that you were</p>
<p style="text-align: right;">Page 51</p> <p>1 people?</p> <p>2 A No.</p> <p>3 Q What about your wife?</p> <p>4 A You will have to ask her.</p> <p>5 Q Okay.</p> <p>6 A I don't think so.</p> <p>7 Q You had indicated, too, that some of the -- I believe</p> <p>8 you had indicated that some of the workers who were building the</p> <p>9 fence, pretty much every one of them had fallen off that ledge.</p> <p>10 A (Nods affirmatively).</p> <p>11 Q Any physical injuries?</p> <p>12 A No.</p> <p>13 Q Nobody claimed any injuries against you for --</p> <p>14 A No.</p> <p>15 Q Are you aware of any injuries ever since you have</p> <p>16 owned that property as a result of that 22-foot drop?</p> <p>17 A Yes.</p> <p>18 Q Tell me about that.</p> <p>19 A It was in the wintertime, and there was a car wreck</p> <p>20 and a car flipped down the hill, and came about five feet from</p> <p>21 my house.</p> <p>22 Q When was this?</p> <p>23 A Which apparently has happened at least 4 or 5 times</p> <p>24 there.</p> <p>25 Q Prior to you living there?</p>	<p style="text-align: right;">Page 53</p> <p>1 in any sort of violation of any codes?</p> <p>2 A Yes.</p> <p>3 Q Okay. And it did conclude that?</p> <p>4 A Yes.</p> <p>5 Q Does your community that you live in have CC&Rs, to</p> <p>6 your knowledge?</p> <p>7 A I believe it does.</p> <p>8 Q Okay. Before you build any sort of fence or any</p> <p>9 additions onto your property, do you have to go through any sort</p> <p>10 of process?</p> <p>11 A No.</p> <p>12 Define that. What do you mean?</p> <p>13 Q Well --</p> <p>14 A With the CC&Rs, no.</p> <p>15 Q Okay.</p> <p>16 A But if you are doing something, then you have to</p> <p>17 contact the county and the TRPA.</p> <p>18 Q Right.</p> <p>19 But those are what I would view as probably separate</p> <p>20 from -- what I'm asking is, generally, as I understand, you live</p> <p>21 in a homeowners association, correct?</p> <p>22 A No.</p> <p>23 Q No?</p> <p>24 A No.</p> <p>25 Q Wasn't there a homeowners -- oh, that was the KGID</p>

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1 meetings. Sorry. Never mind.
 2 So there is no homeowners association, to your
 3 knowledge?
 4 A No.
 5 Q So really the only entity that was raising a concern
 6 was Douglas County over your fence?
 7 A Yes.
 8 Q Beyond the letter, did Douglas County do anything else
 9 regarding the fence?
 10 A Yes. We had quite a few conversations that came out.
 11 We applied for a variance. They kept changing the rules about
 12 the fence.
 13 Q When you built the fence, was it in compliance with
 14 Douglas County code?
 15 A Exactly to what they said on their internet site.
 16 Q And then you found out that it wasn't to code?
 17 A It was to code when I built it for what they had on
 18 the internet site.
 19 Q I see.
 20 So what they had on the internet was incorrect, as
 21 opposed to what code was currently in effect that governed the
 22 building of that fence; is that what you are telling me?
 23 A I don't know what's currently in effect.
 24 Q Well, I'm sorry. I probably asked a terrible
 25 question.

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1 In 2012, when you built that fence, you indicated to
 2 me that you looked on the Douglas County website.
 3 A Yes.
 4 Q And you believed the fence was up to code at that
 5 time.
 6 A Yes.
 7 Q What I understood is, although the internet may have
 8 had what was up to code, that may have not been the actual code
 9 that was in effect at that time.
 10 Was that your answer?
 11 A No. That was what was in effect at that time. And
 12 they mailed us out things.
 13 Maybe I can make this simpler. The county came back
 14 saying that Juniper was my main street, not Charles, where my
 15 address and my front door and my driveway is.
 16 So, thus, they said the setback needed to be 30 feet
 17 because Juniper was my front street, and the setback is 26 feet
 18 on there, because 20 feet was the rule.
 19 Now the other thing is, what's on the internet site
 20 said the fence and the setback refers to your property line, not
 21 from easements.
 22 So they are wanting a setback from an easement, not
 23 from my actual property line, even though what was on the
 24 internet said property line.
 25 Q Understood. And that does clear it up, at least in my

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1 mind.
 2 I also thought there was an issue over the height of
 3 the fence. Am I mistaken?
 4 A Eventually, yeah, they complained about that, and they
 5 said there was a line of sight issue.
 6 Q Explain that to me.
 7 A Normally for line of sight you take the intersection
 8 of the two streets, you measure back 45 feet in each direction,
 9 and then that makes a triangle that it can't be in.
 10 Okay. They did not use that rule to make me take the
 11 fence down.
 12 They used an old rule that said it takes in the speed,
 13 the slope of the streets, all that, and they came up with this
 14 line of sight that goes through the middle of my house.
 15 So my opinion was, if I could build this house, and
 16 you didn't care, why do you care about the fence now?
 17 Q Did you ever get cited by --
 18 A No.
 19 Q -- Douglas County?
 20 A No.
 21 Q Okay. Mr. Spencer, again, I'm not picking on you.
 22 You are doing it again, and I think it's just out of habit. You
 23 are anticipating my questions and answering before I get my
 24 answer -- or my question out.
 25 So, again, try your best to hold off until I finish my

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1 question.
 2 A Okay. Sorry. I'm just trying to speed things up.
 3 Q I know. And I apologize.
 4 A I was late, so to help you out.
 5 Q That's fine. And I'll probably pick on you some more
 6 throughout the deposition on that.
 7 So there was no citation, but did you agree, or did
 8 Douglas County come out and say, you need to take this down?
 9 A Yeah. Yeah, basically, you need to take it down.
 10 Q Were you threatened with fines or any sort of action
 11 by --
 12 A Yes.
 13 Q -- the county?
 14 What were you threatened with?
 15 A The DA said he was going to arrest me if I didn't take
 16 the fence down.
 17 Q That caused you to take it down?
 18 A (Nods affirmatively).
 19 Q Okay.
 20 A They now say I can't have a fence at all on that side
 21 of the property. Not even a two-foot fence, nothing.
 22 Q Do you have a fence up there now?
 23 A No.
 24 Q You took that down?
 25 A On the side that they wanted to, on the Juniper side.

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1 I still have a fence on the west side of the property
2 and the south side of the property.
3 Q And it's your belief that somebody in the neighborhood
4 turned you in?
5 A Yeah. It's documented.
6 Q It's documented.
7 Do you know who those individuals are? The individual
8 or individuals.
9 A I believe you asked that.
10 Q I may have.
11 A The Shaws and Klementis.
12 Q That's correct.
13 A And I think Mary Ellen also bitched about it.
14 Q Did you ever see their written complaints?
15 A Yes, I believe we do. I believe we got that through
16 subpoena to the county.
17 Q Did you ever talk to any of those individuals about
18 their concerns over your fence?
19 A No.
20 Q Why not?
21 A This is -- this is after the December incident, and we
22 weren't talking at all.
23 Q Okay. Were you talking prior to the December incident
24 with any of the parties in this lawsuit?
25 A No.

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1 Q Any reason? Was there animosity between you and them
2 at that point?
3 A No. Or maybe there was. I don't -- I can't speak for
4 them.
5 Q Okay. Have you ever had any problems with crime in
6 that neighborhood?
7 A Yes.
8 Q Prior to 2012?
9 A Yes.
10 Q Tell me about problems you had with crime in your
11 neighborhood.
12 A We had people try to break into our cars before. Our
13 neighbor had stuff stolen from his car.
14 There was actually, like, 181 incidents within that
15 year, 2012. I'm -- this is a rough guess, but we subpoenaed
16 that information also for the criminal trial. So that's
17 available through their --
18 Q I don't want a guess, but if you can give me an
19 estimate, you know, that's fine.
20 But you believe there was roughly 181 incidents in
21 your neighborhood?
22 A That number sticks out. I think that's what it was.
23 I'm not sure what area that encompasses.
24 Q Okay.
25 A The Kingsbury Grade area or --

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1 Q Okay. Prior to April 2012, had you ever called the
2 police in your neighborhood related to an incident that occurred
3 in your neighborhood?
4 A Just regarding the restraining order.
5 Q Just -- okay. The restraining order against
6 Mr. Taylor?
7 A And possibility the rental property that's
8 kitty-corner from us.
9 Q For what --
10 A Noise.
11 Q Noise?
12 A Yeah. They get out there, and it's at, usually at
13 3 a.m., and have a party, you know.
14 Q Understood.
15 But you have never -- you had indicated, I believe,
16 and correct me if I'm wrong, that you had previous break-ins to
17 your car.
18 A Uh-huh (affirmative).
19 Q And you have never -- go ahead.
20 A Attempts. They didn't get in it.
21 Q Okay. Did you ever report that?
22 A We talked to an officer about it, and he, basically,
23 said -- had a bad attitude, that, you know, nothing you can do
24 about it.
25 He asked if we could identify the person who was doing

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1 it, and we're like, we don't know who he is. Do you want the
2 video? And he didn't want the video.
3 So -- and I don't remember what officer it was.
4 Q You said something that I want to go back on. You
5 said we offered the video.
6 My question was -- and maybe it wasn't specific
7 enough. I was trying to break it down prior to April 2012.
8 I thought earlier you had indicated that the video was
9 installed in April or May of 2012; is that true?
10 A No. Yeah, yeah.
11 So it had to have been after that. So -- okay. I see
12 what you are saying.
13 Q So prior to installing the video camera -- we will use
14 that as the timeline.
15 A Okay.
16 Q Prior to installing the video camera, you don't recall
17 reporting any --
18 A No.
19 Q -- burglary, vandalism, or anything of that sort in
20 your neighborhood?
21 A No.
22 Q I understand that -- I'm jumping ahead to December of
23 2012 -- in reading the police statement and your wife's
24 statement, that there was a belief on that day or that evening
25 that someone was trying to break into your truck or your

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<p style="text-align: right;">Page 62</p> <p>1 vehicles on that day, correct?</p> <p>2 A Yes. It was in the newspaper.</p> <p>3 Q It was in the newspaper?</p> <p>4 A Yeah. It was in the newspaper that people were going</p> <p>5 around breaking into cars and keep them locked and so forth.</p> <p>6 Q Understood.</p> <p>7 But it didn't reference your specific house?</p> <p>8 A Oh, no. No.</p> <p>9 Q Okay. So there was -- generally, you were aware that</p> <p>10 people were going around trying to break into cars --</p> <p>11 A Yes.</p> <p>12 Q -- at that time?</p> <p>13 And prior to you getting home from work, it's my</p> <p>14 understanding that your wife had indicated that she saw somebody</p> <p>15 in the driveway?</p> <p>16 A Yes.</p> <p>17 Q Do you know approximately what time that was?</p> <p>18 And I'll ask her these questions later.</p> <p>19 A Approximately 7.</p> <p>20 Q Okay. Did you have video footage of that?</p> <p>21 A Yes.</p> <p>22 Q And where is that video footage?</p> <p>23 A It's been turned in.</p> <p>24 Q And that's from the 7 o'clockish time frame that you</p> <p>25 referenced?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q So sometime around 7 o'clock, you are still at work,</p> <p>2 your wife sees somebody in the driveway.</p> <p>3 A (Nods affirmatively).</p> <p>4 MR. PINTAR: Please respond verbally.</p> <p>5 BY MR. BROWN:</p> <p>6 Q I'm sorry. Yes, verbally. I didn't catch that.</p> <p>7 Would you give me a yes or a no?</p> <p>8 A Yes.</p> <p>9 Q Again, we're in the deposition, and she can't write</p> <p>10 down head nods.</p> <p>11 So roughly around 7 o'clock your wife sees somebody in</p> <p>12 the driveway?</p> <p>13 A Yes.</p> <p>14 Q Does she call you at work?</p> <p>15 A Yes.</p> <p>16 Q And what does she tell you when she reports this, to</p> <p>17 the best of your recollection?</p> <p>18 A Yeah. She just said that she was coming home from</p> <p>19 work, and when she was on Meadow, she saw Egon Klementi in our</p> <p>20 driveway taking pictures.</p> <p>21 Q Okay.</p> <p>22 A And as she turned the corner up on Charles, he walked</p> <p>23 right past the side of her truck.</p> <p>24 Q So she -- not only was it on video, but she also saw</p> <p>25 him?</p>
<p style="text-align: right;">Page 63</p> <p>1 A Yes.</p> <p>2 Q I won't hold you to a specific time.</p> <p>3 A Yes.</p> <p>4 Q And can you make out in that video who that individual</p> <p>5 is?</p> <p>6 A Yes.</p> <p>7 Q Who?</p> <p>8 A Egon Klementi.</p> <p>9 Q At 7ish?</p> <p>10 A Yes.</p> <p>11 Q And he is actually in your driveway?</p> <p>12 A Yes.</p> <p>13 Q And how are you able to tell that?</p> <p>14 A From camera angles.</p> <p>15 Q What caused you -- was there some landmark or</p> <p>16 something that specifically caused you to go, he just crossed</p> <p>17 into my property line?</p> <p>18 A Yes.</p> <p>19 Q What?</p> <p>20 A There is some wood along the west boundary of my</p> <p>21 fence.</p> <p>22 Q And when did you become aware that it was Egon? Was</p> <p>23 this before you went out, was this -- let me go over a basic</p> <p>24 timeline. You correct me if my timeline is incorrect.</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 65</p> <p>1 A Yes.</p> <p>2 Q And she was able to identify him?</p> <p>3 A Yes.</p> <p>4 Q Okay. In December, 7 is going to be dark, correct?</p> <p>5 7 o'clock at night, it's going to be dark out?</p> <p>6 A Yes.</p> <p>7 Q And so she called you and told you this. You come</p> <p>8 home approximately 8 o'clockish.</p> <p>9 Does that sound right?</p> <p>10 A Yes.</p> <p>11 Q I think -- actually, I think it said 7:45, but I'm not</p> <p>12 quibbling with time.</p> <p>13 Between 7:45 and 8 o'clock?</p> <p>14 A Yes.</p> <p>15 Q And do you go and review the video at that point?</p> <p>16 A No.</p> <p>17 Q You already knew that it was Egon because your wife</p> <p>18 had reported it?</p> <p>19 A Yes.</p> <p>20 Q And so I believe this -- the incident with my client</p> <p>21 happened about a quarter to 9 time frame.</p> <p>22 Does that sound right to you?</p> <p>23 A Yes.</p> <p>24 Q What did you do in the intervening 45 minutes or --</p> <p>25 let's just put it this way:</p>

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1 What did you do from the time you came home until the
2 time of that incident?

3 A I came home. I talked to her for a little bit. Then
4 I went upstairs, in the back, to the third story, and started
5 shoveling off the balcony.

6 Q Okay. There came a point in time when you became
7 concerned that somebody was in your driveway?

8 A Yes.

9 Q Walk me through what happened next.

10 A I was throwing the snow off the west side of the
11 balcony, porch, whatever. I heard someone crunching in the
12 snow, footsteps. I looked out, I saw a figure, something. It
13 was dark, I couldn't tell what it was.

14 I yelled at him. He didn't respond.

15 I went in, and had a real small flashlight, like the
16 Harbor Freight one you get for free, you know. It has like four
17 LEDs in it. I tried to shine that on him, but it wasn't
18 working.

19 I yelled again. They didn't respond.

20 Then I ran downstairs and told my wife to call 911,
21 and went out to the front porch and yelled, and they didn't
22 respond.

23 Q Okay. Do you have any floodlights in the front of
24 your house?

25 A I didn't then.

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1 Q You do now?

2 A I do now.

3 Q Okay. So you didn't have really any type of lighting
4 system?

5 A No.

6 Q What about a light once you get into your driveway,
7 anything of that sort?

8 A We have some lights on the overhang that were there,
9 but they are not floodlights. They are can lights that are
10 recessed up in.

11 Q Are they always on, or do you have to physically turn
12 them on?

13 A You have to physically turn them on, or there is a
14 motion sensor on there, and that -- I don't know if that was
15 there then.

16 Q Okay.

17 A I don't remember.

18 Q Do you recall those lights going on?

19 A No.

20 Q Did you -- before you went down and had the issue with
21 my client, did you go in and check out the video --

22 A No.

23 Q -- footage on the monitor?

24 Any reason why not?

25 A Because I thought it was a kid breaking into my truck,

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1 and it wouldn't do me any good to look at the video.

2 Q Okay. Having known that Egon was in the area
3 previously, did that cross your mind that Egon or Helmut may
4 have been back in the area?

5 A It did. Why would they come back if they had already
6 been there.

7 Q Okay. So you immediately checked both of them off the
8 list?

9 A Yeah.

10 Q Now, again, I'm going to jump around a little bit, and
11 I'm sorry for doing this.

12 At this point in time, had there been allegations of
13 you, as a snowplow driver in the neighborhood, bemoaning in their
14 driveway?

15 A Yes.

16 Q Okay. How long had that been going on, those issues
17 with respect to you being involved in plowing the neighborhood?

18 MR. ROUTSIS: I'm going to object to the form of the
19 question. It assumes facts not in evidence.

20 BY MR. BROWN:

21 Q I'll go back and clean it up.

22 One of the issues, as I understand it, that has caused
23 this dispute in the neighborhood was the allegation that you had
24 been plowing in individual's driveways, correct? You understand
25 that as an allegation?

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1 A Yes.

2 Q Okay. And I also believe there was an allegation by
3 Mrs. Shaw, and maybe Mary Ellen Kinion, I'm not exact on who
4 made this, that you assaulted Egon with the snowplow by driving
5 by and spraying him with snow, directing your blade to him and
6 spraying him with snow; is that correct?

7 A Yes, there was an allegation of that.

8 Q And did that all happen before this incident?

9 A Yes.

10 Q Had it been brought up with your employer?

11 A Yes.

12 Q Who complained to your employer, to your knowledge?

13 A He told me that Mary Ellen called him and one of the
14 Klementis called.

15 Q Do you know which one?

16 A No.

17 Q Up to this point, had you had any issues with my
18 client, Helmut, up to --

19 A No.

20 Q -- that issue on the 18th?

21 A No.

22 Q Was there also a Kingsbury Grade Improvement District
23 meeting earlier that day?

24 A That night, yes.

25 Q Okay. Were you there?

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<p style="text-align: right;">Page 70</p> <p>1 A No.</p> <p>2 Q What do you understand -- let me ask a better</p> <p>3 question.</p> <p>4 Do you know if you were an issue of discussion at that</p> <p>5 meeting?</p> <p>6 MR. ROUTSIS: Objection. Vague and ambiguous.</p> <p>7 At what time? When? It's not relevant unless you</p> <p>8 give us a time. Was he aware he was discussed that night, a</p> <p>9 week later?</p> <p>10 MR. BROWN: I've only asked about one meeting,</p> <p>11 Counsel. I asked him --</p> <p>12 MR. ROUTSIS: Excuse me. You asked him was he aware</p> <p>13 of that meeting.</p> <p>14 When? It's not relevant unless you give a time</p> <p>15 period.</p> <p>16 MR. BROWN: It may not be relevant to you, but it's my</p> <p>17 deposition. So let me just do my job.</p> <p>18 MR. ROUTSIS: Vague and ambiguous.</p> <p>19 If you don't understand it, don't answer it. I mean,</p> <p>20 you may have been aware a week later.</p> <p>21 BY MR. BROWN:</p> <p>22 Q So you were aware of that meeting on the 18th?</p> <p>23 MR. ROUTSIS: If you don't understand it, don't answer</p> <p>24 it.</p> <p>25 THE WITNESS: I don't think I was.</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. ROUTSIS: Speculation, as well. Please reask the</p> <p>2 question.</p> <p>3 BY MR. BROWN:</p> <p>4 Q Go ahead and answer that question.</p> <p>5 MR. ROUTSIS: If you don't understand the question --</p> <p>6 he is asking you to speculate. If you don't understand --</p> <p>7 MR. BROWN: Counsel, he didn't say that he --</p> <p>8 MR. ROUTSIS: Excuse me. I'm talking to my client.</p> <p>9 MR. BROWN: You're testifying now.</p> <p>10 MR. ROUTSIS: Excuse me. I'm not testifying.</p> <p>11 MR. BROWN: You are telling --</p> <p>12 MR. ROUTSIS: Excuse me. I'm talking to my client.</p> <p>13 MR. BROWN: Counsel --</p> <p>14 MR. ROUTSIS: If you don't understand the question,</p> <p>15 you tell him you don't understand the question. Okay?</p> <p>16 If he is asking you to speculate, let me him know that.</p> <p>17 BY MR. BROWN:</p> <p>18 Q I'm not asking you to speculate anything. In fact, I</p> <p>19 told you not to speculate at the beginning of this deposition.</p> <p>20 So I would ask you, to your knowledge, what was the</p> <p>21 issue concerning you that was raised at that meeting?</p> <p>22 A I would speculate if I said. I don't know.</p> <p>23 Q You wouldn't speculate. You --</p> <p>24 A I would have to read the notes.</p> <p>25 MR. ROUTSIS: Objection. Argumentative.</p>
<p style="text-align: right;">Page 71</p> <p>1 BY MR. BROWN:</p> <p>2 Q I thought you just said you were aware of it.</p> <p>3 A I'm aware of it now. But if you are talking about was</p> <p>4 I aware of it that day when I was plowing snow, no.</p> <p>5 Q Okay.</p> <p>6 A I'm aware of it now because the transcripts are in</p> <p>7 evidence.</p> <p>8 Q When did you become aware of that meeting?</p> <p>9 A Within a couple days probably.</p> <p>10 Q Have you since become aware that you were an issue of</p> <p>11 discussion at that meeting?</p> <p>12 A Yes.</p> <p>13 Q What was the issue concerning you at the meeting, to</p> <p>14 your knowledge?</p> <p>15 A I would say the best evidence would be to look at the</p> <p>16 notes.</p> <p>17 Q I'm asking you your recollection. I can go look at</p> <p>18 those notes any time. You can tell me what you know about it.</p> <p>19 MR. ROUTSIS: I'm going to object. Again, vague and</p> <p>20 ambiguous. Restate the question.</p> <p>21 MR. BROWN: Can you read the question back, Court</p> <p>22 Reporter?</p> <p>23 Record read by the reporter as follows:</p> <p>24 "QUESTION: What was the issue concerning you at the</p> <p>25 meeting, to your knowledge?"</p>	<p style="text-align: right;">Page 73</p> <p>1 BY MR. BROWN:</p> <p>2 Q You had indicated --</p> <p>3 MR. ROUTSIS: He's saying -- he has answered the</p> <p>4 question. He doesn't want to speculate.</p> <p>5 MR. BROWN: Counsel, you're impeding the process.</p> <p>6 MR. ROUTSIS: I'm advising him not to answer the</p> <p>7 question at this point.</p> <p>8 Don't answer the question if you have to speculate as</p> <p>9 to what you don't have personal knowledge of.</p> <p>10 BY MR. BROWN:</p> <p>11 Q Let's go back on the -- let's go back and just talk</p> <p>12 about this for a minute.</p> <p>13 So you indicated that you did -- you were aware of the</p> <p>14 meeting, you were aware that you were discussed at the meeting.</p> <p>15 But now you are telling me you don't understand my</p> <p>16 question concerning what issues were raised at that meeting?</p> <p>17 A I understand your question, but I don't know what</p> <p>18 issues were raised. I wasn't at the meeting.</p> <p>19 Q Okay. So just to be clear.</p> <p>20 You can't testify at all whether my client, Helmut</p> <p>21 Klementi, raised any issues about you at that meeting?</p> <p>22 A Correct. We would have to look at the notes from the</p> <p>23 meeting, and then we could see who talked at the meeting.</p> <p>24 Q And you haven't looked at those notes?</p> <p>25 A I might have read them back in 2013.</p>

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1 Q Didn't you --

2 A I probably did before the criminal trial.

3 Q Okay. Did you read the lawsuit -- or the complaint

4 that's been filed in this lawsuit?

5 A Yes.

6 Q Okay. And you are aware that you have alleged that

7 false statements were made at that meeting?

8 A Yes.

9 Q But you don't know what those false statements were?

10 A I would have to look at the notes.

11 Q Okay. You are the one bringing that claim.

12 And you -- as you sit here, you don't know what those

13 statements were?

14 A I'm not going to say something that I don't know is

15 accurate.

16 Q Do you have an understanding of what was said based on

17 what you have read and looked at?

18 A Not at this time. I'm a little nervous, and I don't

19 have it.

20 Q You are a little nervous?

21 A Of course.

22 MR. ROUTSIS: Objection. Argumentative. Asked and

23 answered.

24 You've asked the question. He gave you an answer.

25 MR. BROWN: No, Counsel.

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1 MR. ROUTSIS: You asked him. He said -- you asked the

2 question, are you nervous? He said, yes. You said, you're

3 nervous? He's already answered it.

4 MR. BROWN: Counsel, you don't have to raise your

5 voice. I can hear you speaking fine.

6 MR. ROUTSIS: I thought you couldn't hear well.

7 MR. BROWN: I can't hear well, but you don't have to

8 yell and raise your voice.

9 MR. ROUTSIS: Okay.

10 MR. BROWN: I'm just trying to get his understanding

11 of complaints that he's alleged in this lawsuit.

12 MR. ROUTSIS: Asked and answered. You asked the same

13 question twice.

14 He said he couldn't hear. You said you can't hear.

15 Asked and answered.

16 MR. BROWN: He first said that he was aware.

17 MR. ROUTSIS: You can read it back. You asked him --

18 you couldn't -- he said he couldn't hear. You reasked the

19 question. That's asked and answered.

20 BY MR. BROWN:

21 Q Do you believe my client, Helmut Klementi, said

22 anything about you at the meeting?

23 A Like I said, I don't remember who spoke at the

24 meeting, right now here today.

25 Q Did that issue ever come up at your criminal trial?

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1 A I think it did.

2 Q Okay. And you have reviewed your transcript before

3 coming here today?

4 A Just part of it.

5 Q I thought you said you reviewed the entire transcript.

6 A Not the whole thing.

7 Q What portion of your transcript did you review?

8 A Maybe the first third of it.

9 Q Okay. Other than the meeting minutes of the KGID

10 meeting that was held on the 18th of December, do you have any

11 other evidence, that you are aware of, of statements that were

12 said about you at that meeting?

13 A I'm not sure I understand what evidence would be.

14 Q Evidence could be documents, testimony, video. Really

15 anything that would support the claims that you have alleged in

16 this lawsuit.

17 A Yeah. People that were there.

18 Q Identify who was there that you had -- you've received

19 additional information from.

20 A I would have to look at the notes.

21 Q So you don't know?

22 A Not sitting here, I don't.

23 Q Okay. Did you talk to anybody other than -- or who

24 was at the meeting?

25 A Talk to anybody?

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1 Q Uh-huh (affirmative).

2 A Regarding what?

3 Q Regarding statements that were said about you at the

4 meeting.

5 A Yes.

6 Q Who did you talk to?

7 A I couldn't remember. It was three years ago. I'm

8 sure I have talked to people about it.

9 I talked to my employer about it. He has talked to me

10 about everything. He was there.

11 Q What did your employer tell you about the meeting?

12 A I don't remember.

13 Q But even though you don't remember what your employer

14 told you, what you read about the meeting minutes, you still

15 believe that you were defamed at that meeting?

16 A Yes.

17 Q Okay. But as you sit here today, you have no basis

18 for telling me why or how you were defamed at that meeting?

19 A The basis is in the notes.

20 Q So what you are saying is the sole evidence for that

21 is in the notes?

22 A No.

23 MR. ROUTSIS: Objection. Misstates the evidence.

24 MR. BROWN: I'm just trying to get what he knows,

25 Counsel, about the claims that he has alleged.

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<p style="text-align: right;">Page 78</p> <p>1 MR. ROUTSIS: Okay.</p> <p>2 THE WITNESS: I said --</p> <p>3 MR. ROUTSIS: But that was his answer. You misstated</p> <p>4 the evidence. That was the objection.</p> <p>5 Go on.</p> <p>6 BY MR. BROWN:</p> <p>7 Q So we have got the notes, that you don't remember</p> <p>8 anything about as you sit here today, correct?</p> <p>9 A Correct.</p> <p>10 Q We have got your employer, who was there.</p> <p>11 And who from your employer was there, do you recall</p> <p>12 that person?</p> <p>13 A It would be Flipper was there.</p> <p>14 Q Do you still speak to Flipper?</p> <p>15 A Pardon?</p> <p>16 Q Do you still speak to Flipper?</p> <p>17 Oh, that's right. He's your direct supervisor, I</p> <p>18 think you testified.</p> <p>19 A Yes.</p> <p>20 Q Okay. Anybody else that you recall that was there</p> <p>21 that you have talked to?</p> <p>22 A Not that I recall. But there was others that I talked</p> <p>23 to that were there. I just don't recall their names.</p> <p>24 Q Have you identified them as witnesses in this case?</p> <p>25 A I don't know if they are identified or not.</p>	<p style="text-align: right;">Page 80</p> <p>1 attorney?</p> <p>2 A Yes.</p> <p>3 Q And what are those notes of?</p> <p>4 A Of the case.</p> <p>5 Q What case? This case, the criminal case --</p> <p>6 A The criminal case.</p> <p>7 Q -- the TRO?</p> <p>8 A The criminal case.</p> <p>9 Q Okay. Is it a log? Tell me what -- tell me about</p> <p>10 these notes.</p> <p>11 A I believe it's client-attorney privilege, and I</p> <p>12 shouldn't have to tell you anything about it.</p> <p>13 Q Well, we'll let your attorney make that objection.</p> <p>14 What was the purpose for taking these notes?</p> <p>15 A The purpose is to show the constant harassment.</p> <p>16 Q And when were they taken? They were just taken at the</p> <p>17 trial?</p> <p>18 A No.</p> <p>19 Q When were they taken?</p> <p>20 A They were taken as it happens, as I find it. As I</p> <p>21 review the video, and see what they are doing, you know.</p> <p>22 Q So you took notes on December 18th?</p> <p>23 A I did not on December 18th.</p> <p>24 Q Okay. Did you take notes --</p> <p>25 A I took notes of December 18th after reviewing the</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Okay. If they are not identified, and you can't</p> <p>2 remember who they were, how am I going to find out who you</p> <p>3 talked to?</p> <p>4 A Probably by buying the transcripts to the criminal</p> <p>5 trial.</p> <p>6 Q So they would have been witnesses at the criminal</p> <p>7 trial?</p> <p>8 A That's a good start.</p> <p>9 Q Okay. Who were the witnesses on your behalf at the</p> <p>10 criminal trial?</p> <p>11 A I don't remember.</p> <p>12 Q So you have no recollection, as you sit here today, of</p> <p>13 any statements that anybody has given you concerning what</p> <p>14 happened at that meeting?</p> <p>15 A Like I said, it's all in my personal notes, notes for</p> <p>16 our criminal trial, and from the minutes of the KGID meeting.</p> <p>17 Q What -- you said personal notes.</p> <p>18 What are you talking -- are you talking about the time</p> <p>19 log that we talked about earlier?</p> <p>20 A Yeah. I have a time log, we have notes on the whole</p> <p>21 thing.</p> <p>22 Q Have you given those notes to your attorney?</p> <p>23 A We discussed them.</p> <p>24 Q That wasn't my question, Mr. Spencer.</p> <p>25 My question was, have you given those notes to your</p>	<p style="text-align: right;">Page 81</p> <p>1 video in the following days.</p> <p>2 Q Had you retained counsel by December 19th?</p> <p>3 A We had counsel retained from earlier than -- farther</p> <p>4 than that.</p> <p>5 Q That was Mr. Torvinen for the TRO, correct?</p> <p>6 A Yes.</p> <p>7 Q You hadn't yet retained counsel for the criminal</p> <p>8 proceeding, correct?</p> <p>9 A No. We had talked to Todd about this.</p> <p>10 Q I'd ask you to produce those notes to your attorney</p> <p>11 for production in this case.</p> <p>12 MR. ROUTSIS: Well, first of all, if he provided me</p> <p>13 with -- I don't know what he is referring to. That would be</p> <p>14 work product for the criminal matter.</p> <p>15 I'm unaware of what he is specifically talking about.</p> <p>16 So --</p> <p>17 THE WITNESS: Okay.</p> <p>18 MR. ROUTSIS: -- we'll have to address this at another</p> <p>19 time.</p> <p>20 MR. BROWN: I guess it would be my position if he took</p> <p>21 notes the day after, and you weren't retained --</p> <p>22 MR. ROUTSIS: Yeah.</p> <p>23 MR. BROWN: -- they couldn't be privileged, unless you</p> <p>24 called up Todd Torvinen and Todd Torvinen said to take notes of</p> <p>25 that.</p>

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1 THE WITNESS: He has been retained since we had the
2 issue with Mr. Taylor.
3 BY MR. BROWN:
4 Q Yeah. Which is a separate incident.
5 A But it's -- I don't think you are following me. We
6 took -- we -- he is retained currently. Okay? Maybe you don't
7 understand that.
8 We started taking notes because of the Taylor
9 incident. Okay? Those notes just kept going with these
10 incidents.
11 Q Okay. Did you review those notes in preparation for
12 today's deposition?
13 A No.
14 Q When was the last time you looked at those notes?
15 A I could not honestly tell you. I don't go back and
16 look at them.
17 Q Did you take them on a -- do you have daily log notes
18 that you take?
19 A Yes.
20 Q When was the last time you had a problem with
21 Mr. Taylor?
22 A I haven't had a problem with him since the TPO,
23 although he still drives by a lot.
24 Q Okay. So back to the meeting.
25 You are not aware of any statements, as you sit here

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1 today, you personally, and have knowledge of, that were said
2 about you at that meeting?
3 A No, I'm aware of statements that were made. I just
4 can't recall them word-for-word right now.
5 Q Okay. What are the substance of the statements? In
6 other words, if you can't recall them word-for-word, what is
7 your understanding of what they were?
8 MR. ROUTSIS: I'm going to object. You have a log,
9 you have the findings, transcripts, of that hearing, don't you?
10 Why are you asking him when you have the best evidence?
11 You've asked him seven different times. He told you
12 he doesn't have a clear recollection. Why do you keep asking
13 him questions?
14 MR. BROWN: Because I'm entitled to his understanding
15 of what this lawsuit is about.
16 MR. ROUTSIS: He's given you an answer. It's been
17 asked and answered. He told you he has no clear recollection.
18 Let's move on.
19 MR. BROWN: He just told me he had an understanding,
20 but he didn't recall the specifics. That's why I want to know
21 what his understanding is. That's it.
22 We can spend all day on this issue, or we can just get
23 it over with.
24 MR. ROUTSIS: You can ask it again, you can keep
25 asking it, and you are going to get the same answer.

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1 MR. BROWN: Well, he keeps changing his answer, so I
2 want to find out what his answer is.
3 BY MR. BROWN:
4 Q What is your understanding of the nature of the
5 statements that were made at the meeting?
6 A Derogative against me.
7 Q Okay. In what respect? Are we talking derogative as
8 in you are ugly, derogative as in you just plowed my street and
9 bermed in my driveway?
10 Can you give me any more specifics than derogatory?
11 A No.
12 Q Okay. When did you find out that statements had been
13 made about you at the meeting?
14 A I don't recall. Within a couple days.
15 Q Okay. So a time frame of less than a week, probably
16 within a couple days after the 18th?
17 A For people that were there, within a couple days, but
18 the notes weren't available for probably two months.
19 Q And you got those notes when they became available?
20 A Yes.
21 Q Okay. And you said people that were there.
22 But the only person you have been able to identify
23 that you recall is Flipper?
24 A Yes.
25 Q Understanding that you didn't know that statements

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1 were made at the time that the meeting occurred, and you didn't
2 find out until afterwards, did that impact your -- did those
3 statements that were made at the meeting, that you don't really
4 recall what they were, impact your employment in any way?
5 A Yes.
6 Q Tell me how it impacted your employment.
7 A It impacted the relationship with Flipper and I about
8 this, what we were going to do about it. It reflected on my
9 hours, not being used unless it was really necessary.
10 Q Correct me if I am wrong, because this was a while
11 back, earlier today. I thought you had testified today that you
12 were still plowing snow in that neighborhood.
13 A Yes.
14 Q Has the amount of work that you have done in that
15 neighborhood plowing snow decreased since 2012?
16 A Yes.
17 Q How much?
18 A I couldn't tell you. But that's also an issue with
19 less snow.
20 Q Last -- the year before last?
21 A Yeah. We haven't had any good winters.
22 Q Okay. How did it impact your relationship with
23 Flipper?
24 A Basically, he doesn't need the harassment, the crap of
25 being involved in this, and the only reason he keeps me is

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1 because there's a shortage of snowplow drivers. He can't find
2 anyone that doesn't break the equipment.

3 Q Was there -- other than this discussion that you had
4 with Flipper, was there any other formal reprimand?

5 A No.

6 Q We probably plowed this ground already. No pun
7 unintended.

8 Are you able to give me today an estimate of time that
9 you worked with F&B prior to December 18th versus after? Has
10 there been a -- I guess what I'm getting at, has there been a
11 change in the amount of time that you are able to work for that
12 company?

13 A Yes, but I could not give you an estimate.

14 Q Is it a significant cut in time?

15 And I know that's a broad term, significant, but I'm
16 trying to get an idea of what --

17 A Cut in time in the winter, but not in the summer.

18 Q What causes you to believe it's related to this
19 incident, or do you believe that?

20 A Yes, because he doesn't want to put up with having
21 KGID calling him and everyone else calling him.

22 Q Is it also due to what you just indicated, that
23 there's been less snow, so there's been less need for snowplow
24 drivers?

25 A Yes.

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1 Q So let's go back to the evening -- and, again, I'm
2 sorry for jumping around. You'll find I'll probably do that
3 throughout the day.

4 We have got -- the 18th, as I seem to recall, you were
5 plowing -- or not plowing -- you were shoveling snow on your
6 deck --

7 A Right.

8 Q -- right before the incident happened. You get home,
9 you are shoveling snow off the deck.

10 I believe you testified that you heard snow crunching
11 out in front of your house?

12 A Yes.

13 Q Okay. What -- tell me -- walk me through very
14 specifically what happened next.

15 A From where?

16 Q From the time you hear the crunching of the snow until
17 the time that you and Mr. Klementi were in the street.

18 A I thought I did say that.

19 Q If you did, I apologize. I probably got distracted
20 with something else.

21 Walk me through that again.

22 A Okay. I was shoveling snow off on the west side of
23 the balcony. I hear the crunching in my driveway. I look down,
24 I see a figure. I see something. It's dark, but I can tell
25 there is some movement down there.

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1 I yell, nothing happens.

2 I go into my -- the porch is off our master bedroom.

3 I go in the master bedroom, get a little flashlight I had. It
4 doesn't -- I tried to shine it on him. It didn't work.

5 I yell again, and I run in the house, tell my wife to
6 call 911, and run out on the front porch and yell again, with no
7 response.

8 Q Okay. And then what happens?

9 A Then I run down the stairs, run out around my truck,
10 and that's when I collided with Mr. Klementi.

11 Q I believe in your statement you said you saw an
12 individual with a hood.

13 A No. That's in my statement, but I didn't say that.

14 The cop said that to me. I can't remember the name -- the
15 officer's name.

16 They said, what, did he have a hood on? And I just --
17 yeah, whatever, I agreed. Because I thought they had already,
18 obviously, had been there in the street, so they must have seen
19 it.

20 Q Okay. So you don't believe you have ever said that
21 Mr. Klementi had a hood on?

22 A I agreed to it, I didn't say it, because they said
23 that.

24 Q Why did you agree to something that wasn't true?

25 A I figured it was an officer, he must have known what

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1 was going on, he must have known the truth.

2 My mistake. I have learned much from this.

3 Q Okay. Did you ever have video evidence -- I'm jumping
4 around again. Sorry.

5 Did you ever have video evidence that Mr. Klementi was
6 actually in your driveway?

7 A Yes.

8 Q Okay. How come you haven't -- and this is -- this is
9 the time -- this is right after -- when you are shoveling snow
10 on your balcony, you hear the crunching of the snow.

11 I'm talking about this incident, not the earlier
12 incident that you claimed that happened around 7 o'clock, or you
13 think --

14 A Oh.

15 Q So you do have video of Helmut Klementi in your
16 driveway?

17 A Yes.

18 Q Immediately before this? Immediately before this
19 occurs, before you run down the stairs?

20 A Yes.

21 Q Okay. Have you produced that video?

22 A Yes.

23 Q And how are you able to tell that my client is in your
24 driveway?

25 A You can see him -- as I recall, you can see him walk

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1 up the curb. You can tell by the pinpoint of the three
2 different camera angles I have of it, or two different angles, I
3 guess.

4 And like I said earlier, the wood. Where my fence
5 stops, there's a bunch of wood that I set, that I was splitting
6 and cutting and whatever.

7 Q Prior to this incident, had you ever told Helmut
8 Klementi not to step foot on your property?

9 A No.

10 Q Okay. Any no trespassing signs?

11 A We have some up, but I can't say when we put them up.
12 I don't remember.

13 Q And would you be able to see them from the driveway?

14 A Yes.

15 Q Okay. And you don't know if those were up in December
16 of 2012?

17 A No.

18 Q Okay. So you run down the stairs, past your truck.

19 Did you stop to look and see if your truck had been --

20 A No.

21 Q Why not?

22 A Because I figured it was a teenager, and I wouldn't
23 catch him if I stopped to look at my truck.

24 Q Was this individual running from you?

25 A I didn't -- couldn't tell. I didn't see him.

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1 Q How far away from your driveway to where the impact
2 occurred was that? And you can give me an approximation if you
3 don't know exactly.

4 A I don't -- I don't know.

5 Q It's a standard street? I mean, there's nothing
6 unique about the street? It's not ten lanes?

7 A No.

8 Q It's a two-lane street?

9 A It's 22-feet wide.

10 Q Okay. So, at most, if it's 22-feet wide from your
11 driveway to where this happened, which the video looks like it
12 happened somewhere in the middle of the street, we're not
13 talking any greater than 20 feet away --

14 A I couldn't --

15 Q -- from your driveway?

16 A I couldn't tell you.

17 Q Okay. But you do agree the street is 22 feet?

18 A Yeah. I have measured it.

19 Q And you agree that this happened in front of your
20 house?

21 A No.

22 Q Where did it happen?

23 A Where I finally collided with him was next to my
24 property.

25 Q Okay. So next to your property line?

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1 A Yeah, on the other side by the lot.

2 Q Okay. We're not talking a great distance from where
3 your vehicle was -- where your driveway is to where the impact
4 occurred, correct?

5 A Correct.

6 Q Okay. And you couldn't see him?

7 A No.

8 Q You didn't try to identify him?

9 A I yelled from the back porch and the front porch.

10 Q And --

11 A If someone doesn't -- I'm sorry.

12 Q Go ahead.

13 A If someone doesn't identify themselves when they are
14 on your property, and you're yelling at them, the conclusion is
15 they are up to no good.

16 Q Okay. How old were you at the time, 2012, December?

17 A 50.

18 Q Okay.

19 A I don't know.

20 Q And so you couldn't tell if they were running?

21 A No.

22 Q It didn't strike you as odd that you thought this was
23 a teenager, you are able to catch up with a teenager, and you're
24 50 years old?

25 A That's why I was running after them.

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1 Q But you are getting closer to this figure and they are
2 not getting further, correct?

3 A I couldn't see. I couldn't tell if they were getting
4 closer to me or not.

5 Q As you are running up to them and getting closer to
6 them, you couldn't tell --

7 A I didn't see him. No.

8 Q So it was just completely -- you couldn't see this
9 individual in the street?

10 A No.

11 Q There's no street lights in your neighborhood?

12 A No.

13 Q Okay. No other lighting?

14 A No. My porch light was on when we came out. I think
15 it was on about the time -- I think I turned it on when I came
16 out. I don't remember.

17 But I remember, from looking at the video, that when I
18 was on my porch, my porch light was on. So I'm right underneath
19 the lights, looking into the dark. My eyes didn't focus, I
20 couldn't see anything.

21 Q Okay. I'm just a little confused.

22 You're running after an individual that you can't see;
23 is that what you are telling me?

24 A Yes.

25 Q So how do you know which way they were running?

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1 A Because they are on that side of the driveway. So
2 they, obviously, would have to go that direction.
3 Q They couldn't go through the empty lot?
4 A They could have, if they can go through four foot of
5 snow or whatever was there, you know.
6 I don't know if it was four foot. It might have been
7 two foot.
8 Q And it was snowing, or there was snow on the ground?
9 A Yes, it had been snowing.
10 Q So it was white in -- on the ground?
11 A Not on the street, because we had plowed the street.
12 Q But there was white background, white in the yards?
13 There was, essentially, snow on the ground?
14 A Yeah, I guess.
15 Q And, again, you still couldn't see the individual,
16 even with the snow on the ground?
17 A No.
18 Q Do you have bad eyesight?
19 A Yeah.
20 Q What's your eyesight?
21 A I don't know.
22 Q Do you wear glasses?
23 A Yes.
24 Q Who is your doctor?
25 A I don't know.

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1 Q When was the last time you went to an eye doctor?
2 A Five months ago.
3 Q Where is your doctor located?
4 A I went down, and I had them checked at the Walmart
5 there.
6 Q The Walmart in Carson?
7 A Yeah.
8 And I also went to another one in Carson or Reno. I
9 just go to the Walmart one to have glasses done.
10 Q Okay. Do you get eye checks?
11 A Yes.
12 Q I notice you are not wearing any glasses today.
13 Do you wear contacts?
14 A No.
15 Q Okay. How come you are not wearing glasses?
16 A Because I need them for distance, not for close up.
17 Q Okay.
18 A My eyes have a problem focusing from close to
19 distance.
20 Q Do you have any restriction on your driver's license?
21 A I have to wear glasses.
22 Q And that's -- you have a CDL?
23 A Yes.
24 Q Okay. How often do you have to get tested, or -- it's
25 my understanding you have to go through a medical check to keep

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1 up your CDL?
2 A Yes.
3 Q How often is that process?
4 A Every two years.
5 Q When was the last time you had one?
6 A I think it would have been February 2015.
7 Q So sometime in the near future you are going to have
8 to have another --
9 A Next January.
10 Q Okay. Do you have any night blindness?
11 A I can't see very well at night, but it's not diagnosed
12 as night blindness.
13 Q Okay. So it's your testimony you could not see, that
14 you were chasing after an individual that you couldn't see?
15 A Yeah. I was running down the street to see if I could
16 find whoever was in my driveway.
17 Q Did there come a point in time when you came up on
18 Mr. Klementi, not realizing it's him, we'll talk about that in a
19 minute, but did there come a point in time when you were chasing
20 this individual before the impact that you saw him?
21 A Yes.
22 Q When was that, how far away was that?
23 A About maybe five feet from him.
24 Q Okay. Why did you continue -- once you saw this
25 figure, why did you continue on chasing after him at that point?

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1 A I couldn't stop. I was five feet from him when I saw
2 him.
3 Q Okay.
4 A I was in socks, and the street was icy.
5 Q You couldn't try to avoid the collision?
6 A No.
7 Q Were you wearing your glasses that evening?
8 A Not at that time.
9 Q Not during the chase?
10 A No.
11 Q All right. So it's your testimony you were running
12 after an individual that you couldn't see, on a night where
13 there was snow on the ground, but you testified it wasn't on the
14 street, and that you could not see him until you were
15 approximately five feet away, and at that point, it was too late
16 to stop, and you just had to collide with him.
17 Is that a fair statement?
18 A Basically.
19 The amount of snow on the street, it was plowed, so I
20 can't really tell you. I think the best evidence for that is
21 the pictures they submitted.
22 Q Were you wearing shoes?
23 A No.
24 Q Why were you shoveling snow in your socks if you
25 weren't wearing shoes?

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1 A I was wearing slip-ons on the back porch. We don't
 2 wear our shoes in the house. So I leave a pair at the back
 3 door, I leave a pair at the front door.
 4 Q Were you wearing slip-ons when you --
 5 A No.
 6 Q So you kick off your slip-ons, give chase in your
 7 socks at that point?
 8 A No. When I came in off the back deck, that's when I
 9 took them off.
 10 Q Okay.
 11 A Okay? I didn't want to track snow into the house.
 12 Then I ran downstairs, told my wife to call 911, and
 13 just ran out the door.
 14 Q And didn't put your slip-ons back on?
 15 A It didn't -- funny, it didn't even enter my mind.
 16 Q So explain the collision between you and Mister -- my
 17 client, Mr. Klementi, as you recall it.
 18 A Basically, I saw him when he was about five feet in
 19 front of me. I put my arms up, and we ran into each other. He
 20 was walking towards me at the time.
 21 Q He was talking towards you?
 22 A Yes.
 23 Q Okay. So you just -- you two just happened to collide
 24 in the middle of the street is what you are saying?
 25 A Yes.

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1 Q It was an accident; is that your testimony?
 2 A Not an accident. I meant to stop whoever was breaking
 3 into my truck.
 4 Q Okay. And so --
 5 A I went out looking for whoever it was. I just ran
 6 into him because he was right there. At the last minute I seen
 7 him.
 8 Q Okay. So when was it that you first became aware that
 9 it was -- I know Egon and Helmut are twins.
 10 So when was it you first became aware that it was a
 11 Klementi that you had impacted?
 12 A I knew it was a Klementi almost immediately --
 13 Q Okay.
 14 A -- because they started talking in their native tongue
 15 or whatever, and I can tell by the accents.
 16 Q Once you collided with him -- I have seen the video.
 17 He hits the deck. You don't. What do you do?
 18 A I recognize it's him, or one of them, as I said. I
 19 can tell. I hear him talking. And I start screaming and
 20 yelling at him, why didn't he say who you were. You know, why
 21 didn't he identify himself.
 22 I hear one of them yelling to call 911. I say, we
 23 have already called them. Then I walked back to my house.
 24 Q Okay. One thing -- a couple things that I didn't hear
 25 you say is, I'm sorry, or are you okay. It sounds like you just

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1 started yelling at him.
 2 A Yeah.
 3 Q Why didn't you check to see if he was okay?
 4 A He was obviously okay because he was trying to kick
 5 me. So he wasn't -- and he is yelling. So he is not out of --
 6 he has not lost conscious.
 7 Q Okay.
 8 A And his brother was there, I knew it was one of the
 9 other ones, was right at the fence. So I'm sure they were going
 10 to take better care of him.
 11 Q Do you know how old he is?
 12 A No.
 13 Q Over 70?
 14 A Yeah.
 15 Q Okay. That didn't concern you, that you just knocked
 16 a 70-year-old man down in a hard street?
 17 A It did. That's why I was so upset. If he would have
 18 just said, it's Mr. Klementi, I'm taking pictures, then I
 19 wouldn't have came out.
 20 Or whatever he was doing. I don't know.
 21 Q Why were you upset at him for you knocking him down?
 22 That's what I'm confused about.
 23 A Because he never identified who he was.
 24 Q So it's his fault?
 25 MR. ROUTSIS: Objection. Argumentative. He didn't

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1 say it's his fault.
 2 He stated the facts. Move on.
 3 BY MR. BROWN:
 4 Q But you weren't concerned for his safety? In other
 5 words, you didn't ask, are you okay, can I help you up?
 6 A No.
 7 Q All right.
 8 A I was concerned for his safety, but I didn't ask him
 9 if he was okay.
 10 Q And you didn't try and help him up?
 11 A No.
 12 Q In fact, after you yelled at him, you turned around
 13 and left, correct, went back to your house?
 14 A Yes.
 15 Q Why didn't you just stay there to make sure that he
 16 was okay and make sure --
 17 A Because his brother was there. And he was trying to
 18 kick me, so he, obviously, didn't want me there.
 19 Q Okay. So you just felt like I'm just going to let his
 20 70-some-odd-year-old brother help him, and I'm going to leave?
 21 A Yeah.
 22 Q And up to this point, you are not aware or -- correct
 23 me if I am wrong.
 24 You are not aware of any false statements that
 25 Mr. Helmut Klementi had made towards you?

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1 This is up until December 18th, the evening -- up
 2 until the time of the impact.
 3 A I would have to -- I guess.
 4 Q Okay. What happened next? You went back in the
 5 house?
 6 A I went back up to the house. My wife was talking to
 7 the 911 operator. She said for us to stay in the house, you
 8 know, sheriffs had been dispatched.
 9 Q Were you arrested that evening?
 10 A Yes.
 11 Q Okay. Now I read the police statement. I'm sure you
 12 have read it, too.
 13 Can you confirm that?
 14 A Yes.
 15 Q When was the last time you read it?
 16 I have a copy here if -- you can look at it.
 17 A I don't know.
 18 Q Within the last week?
 19 You know what? I didn't realize we have been going
 20 two hours. Why don't we take a 10-minute break?
 21 Are you fine with that?
 22 A Yes.
 23 Q Before we do that, the answer to the last question
 24 that I just posed to you, approximately when was the last time
 25 you reviewed that statement?

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1 A I have read it in the last couple days probably.
 2 Q Okay. That's what I needed to know.
 3 MR. BROWN: All right. Let's take a short break.
 4 And just so counsel knows, I have to attend a
 5 conference call at 12:30. I'm hoping it doesn't take more than
 6 a half hour. In fact, I'll make it -- I'll cut it short at one
 7 if they want to go longer than that. So --
 8 MR. ROUTSIS: I guess nobody wants to take a lunch
 9 break today?
 10 MR. BROWN: You know what? Why don't we --
 11 MR. ZANIEL: I would rather press on.
 12 MR. ROUTSIS: I would, too.
 13 MR. BROWN: Let's take a lunch break from the 12:30 to
 14 one time frame. I'll just try and grab something to eat on my
 15 conference call.
 16 MR. ROUTSIS: I don't need one, so --
 17 MR. BROWN: Let's take a five-minute break, and then
 18 we'll come back, we'll go for about another 25 minutes, and
 19 proceed on.
 20 THE VIDEOGRAPHER: We're going off the video record.
 21 The time is approximately 12:02 p.m.
 22 (A recess was taken)
 23 THE VIDEOGRAPHER: We are going back on the video
 24 record. The time is approximately 12:14 p.m.
 25 MR. ROUTSIS: What is it in England, though?

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1 BY MR. BROWN:
 2 Q So, Mr. Spencer, I think we left off, you had gone
 3 back into the house, and whoever was on the phone with 911, I
 4 believe with your wife, told you to stay in the house, correct?
 5 A Yes.
 6 Q Okay. Prior to that, you had indicated that you
 7 couldn't see.
 8 That when you went outside there was snow on the
 9 ground, but it was not in the street because of the snowplow.
 10 A There is always going to be snow on the street
 11 basically in the winter after a storm. But it's not deep snow.
 12 It's been scraped, whatever.
 13 Q So there is a white contrast to it, though? There is
 14 still white on the ground?
 15 A Well, it depends on how well it's scraped. It could
 16 have a black contrast, and I don't remember what it looked like.
 17 Q I would like to show you some pictures that were
 18 produced as exhibits in this case, and I believe we're going to
 19 keep a running exhibit list for ease.
 20 This is Exhibit 2. Let me have you take a look at
 21 that exhibit. Tell me if that accurately represents how the
 22 street looked on the night in question.
 23 A Can't tell you. I don't know when the picture was
 24 taken.
 25 Q You don't know if that's my client in the middle of

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1 the street on the night of December 18th?
 2 A It's one of them, but I can't tell you what night it
 3 was.
 4 Q Okay. You think he just went out and laid in the
 5 street --
 6 A Could have.
 7 Q -- to take a picture?
 8 Okay. So you are not sure if that's how the street
 9 looked that evening?
 10 A No.
 11 Q All right.
 12 A Show me the rest of them.
 13 See, just between that picture and this picture, it
 14 looks different. It's got here, smoother. Here you have got a
 15 lot more on the street.
 16 Q Yeah. I don't think it looks different because we
 17 have got the middle -- this is a closer version. You can't see
 18 the sides.
 19 You are pointing to the sides that you can't see.
 20 This is the front of him. This is the rear.
 21 So I don't --
 22 A It looks different from here.
 23 Q Maybe it looks different to you, but --
 24 A Well, that's kind of my job, you know.
 25 Q Well, you know, maybe that will be for a jury to

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<p style="text-align: right;">Page 106</p> <p>1 determine.</p> <p>2 Do you know if that's the way the street looked that</p> <p>3 evening?</p> <p>4 A No.</p> <p>5 Q And that's Exhibit 4?</p> <p>6 A That doesn't look plowed yet.</p> <p>7 Q Okay. So you don't --</p> <p>8 A You can see where it was plowed here, but you don't</p> <p>9 see continued.</p> <p>10 Q So you don't --</p> <p>11 A Can I look at it?</p> <p>12 Q Can I finish?</p> <p>13 You don't think that looks like the street that</p> <p>14 evening?</p> <p>15 A I don't remember.</p> <p>16 Q Okay. You have no reason, though, to say it's not the</p> <p>17 night in question, other than you don't remember, and you are</p> <p>18 not sure who took the picture, correct?</p> <p>19 A Correct. I don't know who took the picture or when it</p> <p>20 was taken.</p> <p>21 Q Okay. That was Exhibit 4 that we just looked at.</p> <p>22 You were -- how soon after this incident occurred were</p> <p>23 you ultimately cuffed and arrested?</p> <p>24 A I --</p> <p>25 Q An hour?</p>	<p style="text-align: right;">Page 108</p> <p>1 A I don't really know what it was. Misdemeanor battery</p> <p>2 of some --</p> <p>3 Q Okay. You ultimately did give a statement, though,</p> <p>4 and that's, I think you said, you were in the holding cell?</p> <p>5 A Yeah.</p> <p>6 Q Would you turn, and let's make sure it's on Exhibit 1.</p> <p>7 Would you turn to Exhibit 1? I'll give it to you here</p> <p>8 in a minute. I just want to make sure it's here.</p> <p>9 The last three pages of that exhibit appear to be --</p> <p>10 actually, I'm sorry. The last two pages of that exhibit appear</p> <p>11 to be your written statement.</p> <p>12 Would you take a minute and review that, and confirm</p> <p>13 to me that that is the statement or a copy of a statement that</p> <p>14 you gave?</p> <p>15 A That's hard for even me to read.</p> <p>16 Q Why is that?</p> <p>17 A My writing.</p> <p>18 Q I'm just going to go over a few things in this.</p> <p>19 Earlier you said that you just agreed with the officer</p> <p>20 that the individual who was on your property had a hood on?</p> <p>21 A Yes.</p> <p>22 Q Why did you put it in your statement if that wasn't</p> <p>23 true?</p> <p>24 A Because I thought it was true. That's what he said</p> <p>25 so -- why would an officer come in my house and lie about what</p>
<p style="text-align: right;">Page 107</p> <p>1 A I couldn't tell you.</p> <p>2 Q Okay.</p> <p>3 A Probably less.</p> <p>4 Q Probably less.</p> <p>5 Okay. Did you give a statement to the police officers</p> <p>6 that evening?</p> <p>7 A He wouldn't take my statement. He wouldn't take my</p> <p>8 wife's statement, either.</p> <p>9 Q Did you ever give a written statement?</p> <p>10 A I did in the holding cell.</p> <p>11 Q So you did when you got to the holding cell?</p> <p>12 A Yes.</p> <p>13 Q How long did you spend in jail?</p> <p>14 A I don't know.</p> <p>15 Q Was it a full day, 24 hours?</p> <p>16 A No. No. I bailed myself out.</p> <p>17 Q That's what I'm getting at.</p> <p>18 Within a few hours?</p> <p>19 A Yeah, few hours.</p> <p>20 Q Were you out before the morning?</p> <p>21 A Yes.</p> <p>22 Q Okay.</p> <p>23 A About midnight, I think.</p> <p>24 Q What were you charged with, if you recall?</p> <p>25 You got to remember, I wasn't part of that case so --</p>	<p style="text-align: right;">Page 109</p> <p>1 he said?</p> <p>2 Q He didn't see the incident, though.</p> <p>3 A But he had already been out and checked Helmut.</p> <p>4 Q And you had been out there because you stood over him,</p> <p>5 yelled at him, you didn't see a hood on him.</p> <p>6 So why would you say something that you didn't believe</p> <p>7 to be true?</p> <p>8 A I didn't know it was untrue.</p> <p>9 The officer said, did he have a hood on, and I said,</p> <p>10 okay. Whatever. I agreed with him. I think I said that.</p> <p>11 Q You agreed with that, even after you were in the</p> <p>12 holding cell, and you had been arrested at this point for, I</p> <p>13 believe you said, a misdemeanor assault?</p> <p>14 A Agreed with what?</p> <p>15 Q You still agreed with the officer's statement that</p> <p>16 this individual had a hood on --</p> <p>17 A Yeah.</p> <p>18 Q -- at 10:15 when you wrote this in the holding cell?</p> <p>19 A Yes.</p> <p>20 Q Don't you think the fact that you couldn't see him, as</p> <p>21 you testified here, was an important fact that you should have</p> <p>22 reported in your statement?</p> <p>23 A Probably, but I have never been arrested or written a</p> <p>24 statement like that, so -- I was still pretty upset right there.</p> <p>25 Q Let's talk about that.</p>

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1 You said you had never been arrested.
 2 Weren't you arrested in 1985 for sort of a similar
 3 incident where you actually caused great bodily injury to
 4 somebody?
 5 MR. ZANIEL: Objection to the form of the question.
 6 MR. ROUTSIS: Yes, I join.
 7 BY MR. BROWN:
 8 Q Go ahead and answer.
 9 A Do I have to?
 10 MR. ROUTSIS: Well, ask him to rephrase the question.
 11 BY MR. BROWN:
 12 Q Were you arrested in 1985 for a felony in California?
 13 A Yes.
 14 Q And was it -- I couldn't call it a road rage incident,
 15 but was it an incident involving you driving and another driver
 16 of a vehicle?
 17 A Yes.
 18 MR. ZANIEL: Same objection.
 19 I will just have a running objection on this.
 20 But, yes, go ahead and answer.
 21 BY MR. BROWN:
 22 Q You just indicated to me that you had never been
 23 arrested before. I want --
 24 A Like this, and wrote a statement.
 25 Q So you didn't give any statement in the case you were

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1 arrested for in 1985?
 2 A (Witness shook head negatively).
 3 Q Ever?
 4 A Huh-uh (negative).
 5 Q Did you give any testimony?
 6 A I mean, I -- I can't remember. I don't think I did.
 7 Q Were you convicted of a felony?
 8 A It ended up being a misdemeanor.
 9 Q You got four years probation?
 10 A I had probation, but I don't know what term. I don't
 11 remember the term.
 12 Q Didn't it cause paralysis of the -- the altercation
 13 with the other individual that you were arrested for, wasn't he
 14 paralyzed?
 15 A No.
 16 Q No?
 17 A No.
 18 Q He didn't crack his skull?
 19 A No.
 20 Q Okay. But you were charged with a felony hit-and-run
 21 as one of the charges?
 22 A Yeah. I don't remember.
 23 Q You don't know if you were convicted of that felony?
 24 A No, I was not convicted of that.
 25 Q Were you convicted of the charge of assault with a

Page 112

1 deadly weapon?
 2 A Yes. They plea-bargained down.
 3 Q Tell me what happened that resulted in that
 4 conviction.
 5 What was the incident that gave rise to that
 6 conviction?
 7 A Should I discuss this?
 8 MR. ROUTSIS: Well, I'm going to join on the
 9 continuing objection.
 10 But go ahead.
 11 MR. BROWN: You can have a continuing objection.
 12 MR. ROUTSIS: Go ahead.
 13 THE WITNESS: What was the question again?
 14 BY MR. BROWN:
 15 Q What was the -- tell me about the incident that gave
 16 rise to the conviction. The altercation between you and the
 17 other driver.
 18 A Some guy was chasing me. Tried to outrun him. He
 19 started chasing me because he thought I had my high beams on
 20 when I came up behind him.
 21 So I went around him. He started chasing me for some
 22 reason for that.
 23 Q Okay. And what happened?
 24 A I ran -- it was a new neighborhood that I was in.
 25 I pull in. Got -- it was a street going into a

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1 four-lane highway.
 2 Q Uh-huh (affirmative).
 3 A I pull up to turn left on that. And while I was
 4 waiting in traffic, there was two cars in front of me.
 5 He runs up behind me, or he drives up behind me, so I
 6 pull into a gas station to try to get away.
 7 As I turn around the fuel pumps and come this way, he
 8 jumps out of his car with a crowbar and throws it at my
 9 windshield.
 10 Q That's it?
 11 A That's it.
 12 Q There was no physical altercation?
 13 A Never got out of my truck.
 14 Q Was he ever charged?
 15 A No.
 16 Q Why was -- why were you charged?
 17 A Because I left the scene of an accident.
 18 Q Okay. And you didn't have to give any written
 19 statement as a result of that?
 20 A I can't remember. That was 20 years ago.
 21 Q That's fine. "Can't remember" is fine.
 22 But when you told me earlier you have never given
 23 another statement, and you had never been arrested before,
 24 that's why I went down this line of questioning.
 25 A Well, I thought --

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<p style="text-align: right;">Page 114</p> <p>1 MR. ROUTSIS: Okay. Stop. Stop. That's</p> <p>2 argumentative.</p> <p>3 He was explaining that he never gave a written</p> <p>4 statement. It was ambiguous. He wasn't intentionally deceiving</p> <p>5 you.</p> <p>6 MR. BROWN: Okay. Can we go on?</p> <p>7 MR. ROUTSIS: Please.</p> <p>8 BY MR. BROWN:</p> <p>9 Q Let's go for a couple more minutes. Then I have got</p> <p>10 to --</p> <p>11 A Sure.</p> <p>12 Q -- cut this short.</p> <p>13 Okay. So I asked you, and I think we got on the side</p> <p>14 detour regarding the 1985 incident.</p> <p>15 But I asked you why you didn't put in your statement</p> <p>16 that you couldn't see him as you were running up on him.</p> <p>17 My recollection is that you testified that you had</p> <p>18 never written a statement before and never been arrested.</p> <p>19 A I thought it was concerning the last 20 years, not a</p> <p>20 whole life.</p> <p>21 Q Okay. Well --</p> <p>22 A That's usually what --</p> <p>23 Q That wasn't responsive to my question.</p> <p>24 So what I'm trying to get at, maybe I asked a bad</p> <p>25 question.</p>	<p style="text-align: right;">Page 116</p> <p>1 Okay. So towards the end -- let me find it. Okay.</p> <p>2 If you go to the very bottom of the statement, and you</p> <p>3 go three lines up, you see where it says refuse to respond,</p> <p>4 period?</p> <p>5 A Yeah.</p> <p>6 Q Okay. The next statement or the next sentence, as I</p> <p>7 read it, I ran after them and gave them a push to stop them.</p> <p>8 Is that a true statement?</p> <p>9 A No.</p> <p>10 Q So your statement here is not true at the time that</p> <p>11 you wrote it?</p> <p>12 A That was under duress right there, right now. I had</p> <p>13 no idea exactly what all happened.</p> <p>14 Q Okay. So just to be clear, your testimony here today</p> <p>15 is the statement that you gave at 10:15 on 12/18/12, is not</p> <p>16 true, in the sense that, with respect to that statement that</p> <p>17 says, the person refused to respond -- I'm sorry.</p> <p>18 I ran after them and gave them a push to stop them.</p> <p>19 That's an untrue statement?</p> <p>20 A The whole thing is untrue because it also says that I</p> <p>21 thought he had a hoodie on him.</p> <p>22 Q Okay. And that was based on --</p> <p>23 A I was just trying to remember anything I could.</p> <p>24 Q Okay. That was based on the officer telling you that</p> <p>25 he had a hoodie --</p>
<p style="text-align: right;">Page 115</p> <p>1 What I am trying to get at is, why didn't you -- you</p> <p>2 are writing this statement in jail after you have been arrested,</p> <p>3 charged with some sort of assault on my client.</p> <p>4 You didn't feel that it was important to put in this</p> <p>5 statement that you couldn't see him?</p> <p>6 And the answer is yes or no.</p> <p>7 A No.</p> <p>8 Q Okay. Another thing I need a bit of clarity on is, as</p> <p>9 I understood your testimony earlier, you are going to correct me</p> <p>10 if I am wrong, or I misinterpreted it.</p> <p>11 But as I understood it, you said you were running</p> <p>12 towards him, and you didn't see him until about five feet prior</p> <p>13 to the impact.</p> <p>14 A (Nods affirmatively).</p> <p>15 Q And at that point, whether you testified or what I</p> <p>16 interpreted this, and this is why I want your correction.</p> <p>17 I understood that it was too late to stop, and you</p> <p>18 impacted him?</p> <p>19 A Yeah. I just put my hands up.</p> <p>20 Q Okay. So you weren't intending to impact him?</p> <p>21 A I wasn't intending to impact him, no. I intended to</p> <p>22 stop him and hold him for the cops that we already called.</p> <p>23 Q Would you take a look at page 1 of 2 of your written</p> <p>24 statement? I'm sorry. It's right here again. Back to it.</p> <p>25 And this is Exhibit 1 of a previous deposition.</p>	<p style="text-align: right;">Page 117</p> <p>1 A Yeah.</p> <p>2 Q -- so you put that in your statement?</p> <p>3 But your testimony here today is true?</p> <p>4 A Yes.</p> <p>5 Q Okay. And this was incorrect, the time that you gave</p> <p>6 this testimony?</p> <p>7 A Yeah.</p> <p>8 Q Or the time that you signed this statement and wrote</p> <p>9 it out?</p> <p>10 A (Nods affirmatively).</p> <p>11 Q Did anybody tell you to write the statement this way?</p> <p>12 A I don't think so.</p> <p>13 Q So an officer in there telling you, no, you can't</p> <p>14 write it that way. I want you to put this in here, put this in</p> <p>15 here.</p> <p>16 Was there somebody coaching you on how to write this</p> <p>17 statement?</p> <p>18 A No.</p> <p>19 Q Okay. So what else about this statement -- because</p> <p>20 now we found a couple inaccuracies about a statement that you</p> <p>21 provided to law enforcement.</p> <p>22 What else is inaccurate about this statement?</p> <p>23 MS. CAPERS: Doug, I don't know, but it's 12:30. I</p> <p>24 don't know if you want to break now.</p> <p>25 MR. BROWN: Oh, thank you. I'm sorry. I got carried</p>

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<p style="text-align: right;">Page 118</p> <p>1 away.</p> <p>2 Could you answer generally that question real quickly?</p> <p>3 Are there other inaccuracies about this statement?</p> <p>4 THE WITNESS: I don't see any.</p> <p>5 MR. BROWN: Okay. That's what I needed. We need to</p> <p>6 go off the record, and I need to make a conference call.</p> <p>7 And if we could get back on around 1 o'clock. If I</p> <p>8 finish sooner, I will let everybody know, but -- all right.</p> <p>9 MR. ZANIEL: We're all staying here, I believe, so</p> <p>10 whenever.</p> <p>11 THE VIDEOGRAPHER: We're going off the video record.</p> <p>12 The time is approximately 12:32 p.m.</p> <p>13 (A lunch recess was taken)</p> <p>14 THE VIDEOGRAPHER: We are going back on the video</p> <p>15 record. The time is approximately 12:58 p.m.</p> <p>16 BY MR. BROWN:</p> <p>17 Q All right. So, Mr. Spencer, when we left off, I think</p> <p>18 we talked about your written statement in the police report, and</p> <p>19 you had indicated to me, other than the two issues that I</p> <p>20 pointed out regarding the hood and pushing him to stop him,</p> <p>21 there's no other statements that are inaccurate, or no other</p> <p>22 facts or statements that are inaccurate in that statement,</p> <p>23 correct?</p> <p>24 A Not really inaccurate, but false. Just bad wording.</p> <p>25 Q What else would you say was bad wording?</p>	<p style="text-align: right;">Page 120</p> <p>1 A Correct.</p> <p>2 Q Okay. And what I'm trying to get at is at the time</p> <p>3 that you wrote this, was your memory concerning that event</p> <p>4 better at that time than it is today, four years later?</p> <p>5 A How could I tell --</p> <p>6 Q Okay.</p> <p>7 A -- four years ago what I was thinking?</p> <p>8 Q Okay. Well, that's my question is, how could you</p> <p>9 tell?</p> <p>10 How do you know -- you sit here, you have given me</p> <p>11 reasons why that statement was inaccurate on the date that you</p> <p>12 wrote it.</p> <p>13 How are you able to remember that?</p> <p>14 A From the video.</p> <p>15 Q From what?</p> <p>16 A From the video.</p> <p>17 Q The video?</p> <p>18 A What I remember happening is five feet in front of</p> <p>19 him, I see him. So I raise my hands up, and we collided.</p> <p>20 Q Okay. And you didn't see him until just before the</p> <p>21 collision, as you testified earlier?</p> <p>22 A Correct.</p> <p>23 Q So when you sit down in the jail, and you said I</p> <p>24 pushed him to stop him, or something, the statement that you</p> <p>25 have already read?</p>
<p style="text-align: right;">Page 119</p> <p>1 A Well, we collided. We didn't really push. I didn't</p> <p>2 push him. We just collided into each other.</p> <p>3 Q Why would you say that you pushed him at the time, and</p> <p>4 now you are saying you collided with him?</p> <p>5 A Because pretty much at the time that I wrote that I</p> <p>6 was stressed out in jail.</p> <p>7 Q But that was closer in time to the incident than</p> <p>8 today, correct?</p> <p>9 A Correct.</p> <p>10 Q Things were fresher in your mind at that point in</p> <p>11 time?</p> <p>12 A I couldn't say.</p> <p>13 Q They just happened within two hours of the written</p> <p>14 statement.</p> <p>15 I am presuming that your memory would be better about</p> <p>16 the events that had happened two hours ago than four years ago.</p> <p>17 Is that an incorrect assumption on my part?</p> <p>18 A Say that again.</p> <p>19 Q You gave the statement, you wrote the statement down</p> <p>20 approximately 10 o'clock, or whatever the time, 10:15.</p> <p>21 My recollection is that this incident happened around</p> <p>22 a quarter to nine. Correct?</p> <p>23 So it's actually about an hour and a half prior to</p> <p>24 your writing that statement.</p> <p>25 Do you agree?</p>	<p style="text-align: right;">Page 121</p> <p>1 A Start all over. I couldn't hear you.</p> <p>2 Q I'm sorry.</p> <p>3 So I believe you testified, just to be clear, and I'm</p> <p>4 going to move on from this, this point, that you wrote, the</p> <p>5 statement I had you read concerning pushing him to stop him, you</p> <p>6 wrote that in jail, when you were sitting in jail.</p> <p>7 Why didn't you say, we collided, I didn't intend to</p> <p>8 push him?</p> <p>9 A Because I intended to hold him, and I didn't think of</p> <p>10 it. I don't have the vocabulary that you do.</p> <p>11 I mean, you know, I was under duress and just trying</p> <p>12 to write down what happened.</p> <p>13 I was more concerned with the fact that he was trying</p> <p>14 to break into my truck, which I thought he was at the time.</p> <p>15 Q Okay. Did you ever verify if there was any footprints</p> <p>16 from my client on your property?</p> <p>17 A Yes, there was.</p> <p>18 Q Okay. Do you know if the officer took pictures of --</p> <p>19 A No, he didn't.</p> <p>20 Q -- his footprints?</p> <p>21 A No, he didn't.</p> <p>22 Q So the officer that wrote that in his statement was</p> <p>23 incorrect?</p> <p>24 A I don't know. What are you referring to that he wrote</p> <p>25 in the statement?</p>

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1 Q I'll show you. Bear with me.
 2 Okay. You would turn to, you will see a Bates
 3 number -- you have to back up a little bit. But you see the
 4 Bates numbers on the bottom, Klementi 163.
 5 That one is not numbered. Keep going back. It's a
 6 typewritten -- okay. They are not Bates-numbered, but this is
 7 going to be page 5 of ten, the deputy report.
 8 MR. ROUTSIS: Did you want him to read something?
 9 BY MR. BROWN:
 10 Q I wanted to point it out to him in a minute. I just
 11 need to fix my microphone.
 12 Okay. So if you go towards the bottom of the page,
 13 you will see a paragraph that looks like it's the fourth
 14 paragraph up. It says, I asked Helmut if he was in Jeff's
 15 driveway.
 16 MR. ROUTSIS: Right there.
 17 THE WITNESS: Yeah, I see it.
 18 BY MR. BROWN:
 19 Q Do you see that?
 20 A Yes.
 21 Q Go to the next sentence. Read it to yourself. I'm
 22 going to read it out loud, but it says, I double-checked and
 23 photographed Helmut's boots and confirmed that they were not
 24 similar to any of the boot prints in Jeff's driveway.
 25 A He photographed Helmut's boots at the hospital. Not

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1 on-site. He didn't take any photographs at the scene.
 2 Q Okay. Is that an important distinction in your mind?
 3 A It is. He never took the photographs of the
 4 footprints in the snow, yes.
 5 Q Okay. Never came back and took photographs or tried
 6 to match them?
 7 A No. They even let a car drive through the whole
 8 scene.
 9 Q Did you take photographs of the footprints in the
 10 snow?
 11 A No.
 12 Q Did your wife?
 13 A No.
 14 Q Okay. So really at the end of the day, it's going to
 15 be your word against this officer's that you saw my client's
 16 footprints in the driveway, and he is going to say, I didn't,
 17 based on this report.
 18 Is that a fair statement?
 19 MR. ROUTSIS: I'm getting to object to the form of the
 20 question. It's not relevant.
 21 BY MR. BROWN:
 22 Q Well, it is, because there is an inconsistency.
 23 But go ahead. You can answer.
 24 MR. ROUTSIS: Answer it if you understand it.
 25 THE WITNESS: No, I don't.

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1 MR. ROUTSIS: Because I don't.
 2 THE WITNESS: I don't understand it.
 3 MR. BROWN: Counsel, because you don't, doesn't
 4 necessarily mean your client doesn't. I'm asking --
 5 MR. ROUTSIS: He gave you his opinion that he didn't,
 6 either. So please move on.
 7 MR. BROWN: I'd ask you to refrain from coaching the
 8 witness.
 9 MR. ROUTSIS: I'm not coaching the witness. I'm
 10 giving him advice on an ambiguous question that I objected to.
 11 MR. BROWN: Okay. And that's your view, and thank you
 12 for that. I appreciate it.
 13 MR. ROUTSIS: You are very welcome.
 14 BY MR. BROWN:
 15 Q All right. So what evidence do you have besides your
 16 testimony that my client's footprints were in your snow?
 17 A Video.
 18 Q Video?
 19 A Yeah.
 20 Q Okay. Did you --
 21 A I can't have video of him being on my property without
 22 him leaving footsteps.
 23 We saw the footsteps. My wife saw the footsteps. The
 24 officer saw the footsteps.
 25 The officer saw the footsteps in front of my truck and

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1 didn't take photographs of those.
 2 Q Okay. Did you have a discussion with the officer or
 3 your wife where you pointed out some footprints, and the officer
 4 indicated that it was another officer's footprints?
 5 MR. ROUTSIS: Objection. Vague and ambiguous.
 6 BY MR. BROWN:
 7 Q Do you recall that?
 8 MR. ROUTSIS: Do you understand the question?
 9 THE WITNESS: No.
 10 MR. ROUTSIS: Ask him to repeat it.
 11 THE WITNESS: Repeat the question. I don't think I
 12 understand.
 13 BY MR. BROWN:
 14 Q Okay. Fair enough.
 15 Do you recall reporting, either you or your wife,
 16 reporting to the responding officers, after the incident
 17 happened, before you were arrested, that there were footprints
 18 in your driveway?
 19 A Yes.
 20 Q And do you recall pointing to those footprints,
 21 indicating that they were my client's footprints?
 22 A Yes.
 23 Q Okay. And do you recall a conversation with -- well,
 24 let me ask you another question before that.
 25 How many officers responded?

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1 A Two.
 2 Q Okay. So there is two officers?
 3 A Yes.
 4 Q Do you remember an officer, after you pointed those
 5 out, indicating that those footprints that you had pointed out
 6 belonged to the other officer who had responded with him?
 7 A No, I don't recall.
 8 Q Okay. And you would disagree with that statement?
 9 That those footprints were the other officer's?
 10 MR. ROUTSIS: I'm going to object. Vague and
 11 ambiguous.
 12 What footprints?
 13 THE WITNESS: There was a lot of footprints there, so
 14 I don't know which --
 15 BY MR. BROWN:
 16 Q Well, that's what I'm trying to get at.
 17 How can you tell which footprints were my client's?
 18 A That, I think, is the point. They didn't take
 19 pictures of the footprints so we could tell.
 20 Q Okay. So as you sit here, there's nothing that you
 21 can point to, concrete, that shows my client's footprints in
 22 your driveway?
 23 A That shows a picture of his footprints?
 24 Q Right.
 25 A No.

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1 Q Okay. That's what I wanted to get at.
 2 A Okay.
 3 Q Did you look at the treads on my client's shoes?
 4 A No.
 5 Q Do you know what size of shoe he wears?
 6 A No.
 7 Q You testified earlier that the officer told you -- and
 8 I don't want to misstate your testimony, so you correct me if
 9 I'm wrong.
 10 But I thought you said the officer told you that
 11 individual that you confronted out in the street had a hood on.
 12 A He called it a hoodie.
 13 Q A hoodie.
 14 Okay. Do you recall an officer telling you that
 15 neither my client or Egon Klementi were wearing a hood?
 16 A No, I don't.
 17 Q If an officer -- if that is in this report, would you
 18 disagree with that?
 19 A No.
 20 Q An officer told you that?
 21 A No, I would not.
 22 Q Then take a look at the first full paragraph.
 23 A On the same page?
 24 Q Yes, sir.
 25 And read that to yourself real quick, and I'm going to

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1 focus in on that last sentence of that paragraph.
 2 A Okay.
 3 Q So you see the last sentence that says, I told Jeffrey
 4 the subject that he confronted in the street was Helmut, not
 5 Egon, and neither were wearing a hood.
 6 Did you read that?
 7 A Yes.
 8 Q Do you agree or disagree with that statement?
 9 A I disagree with that. He never said that to me. He
 10 never even told me who it was. The jailer was the one that told
 11 me who it was.
 12 Q Okay. So the officer was not being accurate in this
 13 statement is your testimony?
 14 A Yes.
 15 Q Do you have any indication why he would be inaccurate
 16 in a police report?
 17 MR. ROUTSIS: Objection. That's speculation. That is
 18 really an unfair question.
 19 MR. BROWN: If it's speculation, then he can tell me
 20 "I don't know. I would be guessing."
 21 If it's not speculation, and he has some other fact
 22 that is responsive to that question, then he can respond with
 23 that fact.
 24 MR. ROUTSIS: You don't need to raise your voice.
 25 You asked him a question. And the question was, does

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1 he have reason to believe why the officer would write a report
 2 that way, or something to that effect. That's speculation.
 3 MR. BROWN: Let's read the question back, Counsel,
 4 just so we can be clear that my question was appropriate and
 5 proper.
 6 MR. ROUTSIS: Okay.
 7 Record read by the reporter as follows:
 8 "QUESTION: Do you have any indication why he would be
 9 inaccurate in a police report?"
 10 MR. ROUTSIS: I think that's speculation. You can't
 11 ask him to answer why a police officer would be inaccurate.
 12 MR. BROWN: Unless he had some fact, and I don't know
 13 whether he has some fact --
 14 MR. ROUTSIS: Then foundation. Ask a correct
 15 question.
 16 Ask him, does he have any indication as to facts that
 17 would support -- but to ask him why an officer wrote a report
 18 that would be inaccurate is speculation.
 19 MR. BROWN: I said an indication. I'm asking for
 20 facts.
 21 BY MR. BROWN:
 22 Q Do you have any facts or evidence as to why this
 23 officer was inaccurate in his report?
 24 A No.
 25 Q Okay. You indicated earlier that you reviewed this

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<p style="text-align: right;">Page 130</p> <p>1 report about -- within the last two days?</p> <p>2 A Not this part of it.</p> <p>3 Q Okay. Why don't you take your time and read through</p> <p>4 this report? I would like you to read through it. Just the</p> <p>5 typewritten part. Starting on page 3 of ten and going through</p> <p>6 page 8 of ten.</p> <p>7 That's where you found one factual inaccuracy by your</p> <p>8 testimony. I want to see if there are others.</p> <p>9 MR. ROUTSIS: Well, I'm going to object if you are</p> <p>10 asking him to read a report, and then to identify every factual</p> <p>11 error in the report.</p> <p>12 MR. BROWN: Let's go over sentence by sentence, then.</p> <p>13 MR. ROUTSIS: If you want to ask questions --</p> <p>14 MR. BROWN: If you are not going to let him read the</p> <p>15 report and tell me there is other facts in here that are</p> <p>16 inaccurate, I'm going to go over this word by word.</p> <p>17 BY MR. BROWN:</p> <p>18 Q So let's go over the first sentence.</p> <p>19 A How am I going to know what's factual when he wrote</p> <p>20 it, and I don't know what he was thinking.</p> <p>21 Q You just told me that there was an inaccuracy, and so</p> <p>22 I am entitled --</p> <p>23 A What he quoted me of saying. So I don't know what</p> <p>24 else he has got in there that could --</p> <p>25 Q He didn't quote you. He quoted himself.</p>	<p style="text-align: right;">Page 132</p> <p>1 client's testimony.</p> <p>2 MR. ROUTSIS: I'm not trying to be difficult.</p> <p>3 But if you ask a man to read an 8-page report, and</p> <p>4 then he forgets to tell you, oh, well, you know, I asked you</p> <p>5 what was wrong, and you didn't bring that up, because he forgot.</p> <p>6 That's just an unclear way of going over a record.</p> <p>7 That sets him up for improper impeachment down the road.</p> <p>8 MR. BROWN: Let's make it clear.</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MR. BROWN:</p> <p>11 Q I have got a copy right here, Counsel, that he can go</p> <p>12 through, and he can mark with an X each factual inaccuracy by</p> <p>13 his testimony.</p> <p>14 And then that way, we can go back over it, and go over</p> <p>15 them one by one.</p> <p>16 So why don't you do that? Why don't you read through</p> <p>17 my report?</p> <p>18 A Why don't we just start here?</p> <p>19 As I turned down to Charles Avenue from Juniper Drive,</p> <p>20 I could see an elderly male subject laying on the ice.</p> <p>21 There is no frigging way from Juniper, where this</p> <p>22 happened, he is going to tell if it's an elderly man, elderly</p> <p>23 woman, anything.</p> <p>24 He is going to see a figure laying there, if he sees</p> <p>25 that.</p>
<p style="text-align: right;">Page 131</p> <p>1 I told Jeffrey the subject he had confronted in the</p> <p>2 street was Helmut, not Egon, and neither were wearing a hood.</p> <p>3 And so if you are telling me that you are not going to</p> <p>4 read through this and point out any other things that are</p> <p>5 inaccurate --</p> <p>6 A No, these --</p> <p>7 MR. ROUTSIS: Counsel, that's not what I'm saying.</p> <p>8 What I'm saying to ask him to read an 8-page report,</p> <p>9 and then to tell you what's inaccurate, it's highly unreliable.</p> <p>10 It's not a way to do it. It's not the way you do impeachment.</p> <p>11 MR. BROWN: May not be how you do it. But it's how</p> <p>12 I'm going to do it. Look, there's two ways to do it.</p> <p>13 He is either going to read through it, and tell me</p> <p>14 what's inaccurate, or I'm going to go over this sentence by</p> <p>15 sentence.</p> <p>16 And I don't care. It doesn't matter to me.</p> <p>17 MR. ROUTSIS: I think both ways are incorrect. I</p> <p>18 think if you want to point out something, and question him about</p> <p>19 it, that you think is inaccurate.</p> <p>20 MR. BROWN: I don't know.</p> <p>21 MR. ROUTSIS: You don't need to go line by line.</p> <p>22 MR. BROWN: I wasn't there, Counsel. He was.</p> <p>23 I have already found three inaccuracies. One, in the</p> <p>24 officer's, and two in his statement.</p> <p>25 So I'm worried there is other inaccuracies by your</p>	<p style="text-align: right;">Page 133</p> <p>1 Q Where is that at? Where did you find that?</p> <p>2 A First -- let's see. Second --</p> <p>3 Q Second paragraph?</p> <p>4 A Second paragraph, second sentence.</p> <p>5 Q First sentence or second sentence? I can see --</p> <p>6 A But now I can't say.</p> <p>7 Q Okay. You just believe that. You weren't there. You</p> <p>8 don't know what he saw. But you believe that's not accurate?</p> <p>9 A Yeah.</p> <p>10 Q Or possible?</p> <p>11 A Yeah. See, that's what I saying.</p> <p>12 Q Understood.</p> <p>13 A He turned the corner. There is no way he could see</p> <p>14 that.</p> <p>15 Q Okay.</p> <p>16 A Or by the time he got there, all the lights were on.</p> <p>17 Everything else.</p> <p>18 Q All right. So continue if you would.</p> <p>19 A Let's see.</p> <p>20 So if you want another inaccuracy, the same paragraph,</p> <p>21 last sentence.</p> <p>22 Q "I position" starts off --</p> <p>23 A Yes.</p> <p>24 Q Okay.</p> <p>25 A My vehicle in the center of Charles Avenue, near the</p>

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<p style="text-align: right;">Page 134</p> <p>1 two males, blocking the travel lane.</p> <p>2 Well, he didn't position it very well because a car</p> <p>3 went through there. So he didn't really position it blocking</p> <p>4 the travel lane if traffic went through.</p> <p>5 Q Okay.</p> <p>6 A When he says Deputy Almeida arrived.</p> <p>7 But I believe they arrived at the same time. I think</p> <p>8 we can look at the video and see about that.</p> <p>9 Q Okay. Possible inaccuracy there.</p> <p>10 A I don't think Egon ever retrieved the blanket. Third</p> <p>11 paragraph from the bottom.</p> <p>12 Q I instructed Egon to retrieve the blanket from his</p> <p>13 residence?</p> <p>14 A Yeah.</p> <p>15 Q How do you know that's not true?</p> <p>16 A From the video.</p> <p>17 Q Okay.</p> <p>18 A So that statement is not accurate, either. The last</p> <p>19 paragraph.</p> <p>20 Q Okay. Where at?</p> <p>21 A He said he walked away, when he was walking towards</p> <p>22 me.</p> <p>23 He started walking away, he turned around, he was</p> <p>24 walking towards me.</p> <p>25 Said, he says, I struck him on his back, knocked him</p>	<p style="text-align: right;">Page 136</p> <p>1 Run back to your residence. Okay.</p> <p>2 A The first -- the next paragraph I can't say because I</p> <p>3 don't know what he was looking at. What the officer was doing.</p> <p>4 Q Yeah, that's fine. I'm not asking you to comment on</p> <p>5 that.</p> <p>6 If you just are aware of something that you believe is</p> <p>7 false or inaccurate on this, that's what I would ask you to</p> <p>8 point out.</p> <p>9 A Okay. Third paragraph, a second person walked to the</p> <p>10 scene. That's inaccurate.</p> <p>11 Second person was Mary Ellen. Janet Wells was</p> <p>12 probably the fourth or the fifth person that he talked to.</p> <p>13 Q Okay. I'm sorry.</p> <p>14 A second person walked to the scene and said she did</p> <p>15 not see the specific incident.</p> <p>16 Okay. So what is inaccurate about that?</p> <p>17 A The second person was Mary Ellen there. Janet Wells</p> <p>18 was probably the fifth person on-site.</p> <p>19 Her daughter and husband were down there first.</p> <p>20 Q Okay.</p> <p>21 A So that would put her at probably the fifth person.</p> <p>22 Q Okay.</p> <p>23 A I see. Fourth, let's see. One, two, three, four,</p> <p>24 fifth paragraph from the bottom.</p> <p>25 Q Jeffrey was telling?</p>
<p style="text-align: right;">Page 135</p> <p>1 to the ground.</p> <p>2 I never struck him on his back.</p> <p>3 Q Where did you strike him?</p> <p>4 A I never struck him.</p> <p>5 Q You never made physical contact with him?</p> <p>6 A No. We collided face to face.</p> <p>7 Q Okay. So your issue is with the word "struck" versus</p> <p>8 "collide"?</p> <p>9 A Yeah. And he is saying on his back.</p> <p>10 Q What's the difference between struck and collide?</p> <p>11 A Struck is -- well, I would think is more of a punch.</p> <p>12 Q Can there be other ways that you can strike someone?</p> <p>13 A I don't know.</p> <p>14 Q Okay. So that's your definition is a strike is a</p> <p>15 punch?</p> <p>16 A Yeah.</p> <p>17 Q Collide is -- how is that different?</p> <p>18 A Running into each other.</p> <p>19 Q Okay.</p> <p>20 A But the issue is, he says on his back. It was face to</p> <p>21 face.</p> <p>22 Q Okay.</p> <p>23 A And I did not run back to my residence. I walked</p> <p>24 back.</p> <p>25 Q Okay. I see.</p>	<p style="text-align: right;">Page 137</p> <p>1 A Wait a minute. Now I have lost it. Hang on a second.</p> <p>2 Q Jeffrey went on to say, I ran down the street?</p> <p>3 A I would have tackled him. I never said that.</p> <p>4 Q Okay. Hold on. I have got to find that.</p> <p>5 A Yeah. That's right -- right after the Jeffrey went on</p> <p>6 to say.</p> <p>7 Q I ran down the street and pushed him down.</p> <p>8 Okay. So you never said that?</p> <p>9 A No.</p> <p>10 Q All right.</p> <p>11 A You know, I'm running on, running on ice. You don't</p> <p>12 need to tackle someone.</p> <p>13 Q So this report is incorrect with respect to those</p> <p>14 quotations, I ran down the street and pushed him down.</p> <p>15 I would have tackled him, but we would have both</p> <p>16 gotten hurt.</p> <p>17 A Yeah.</p> <p>18 Q You never said that?</p> <p>19 A No, I did not.</p> <p>20 Q Okay.</p> <p>21 A He didn't compare any footprints in front of us like</p> <p>22 he is saying there.</p> <p>23 Q Where?</p> <p>24 A This is the last paragraph. As you turn the page, he</p> <p>25 said he compared Deputy Almeida's footprints -- boots to the</p>

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1 footprints.

2 Q Okay.

3 A He's interjecting that he did that in front of us

4 while we were out there. And he never did that while we were

5 there.

6 Q Okay.

7 A And again he says -- because I said he was wearing a

8 hoodie. We have already been over that.

9 Q Any time a hoodie is referenced, you don't have to

10 point that out. I understand that.

11 A Okay.

12 Q By your testimony, that's inaccurate.

13 A I don't know how much of that statement is accurate,

14 how accurate it is, but I said something relative to that.

15 Q Where are you talking?

16 A 1, 2, 3, fourth paragraph down.

17 Q Okay. Was he okay, he wasn't bleeding or anything?

18 A Yeah. Not sure that's my exact words, but I did say

19 something to him like that.

20 Q Okay.

21 A He never asked me if I was willing to write a

22 statement. That was the jailer.

23 Q Okay.

24 A Helmut's statement that we were involved with hostile

25 confrontations with his brother.

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1 We were never involved in a hostile confrontation.

2 Q You never had any words with Egon prior to this?

3 A Not hostile. I talked to him for 20 minutes while he

4 was taking pictures of kids on my property, but they weren't

5 hostile.

6 Q What did you tell him when he was taking pictures on

7 your property?

8 A I asked him why he was doing it.

9 Q Okay.

10 A That's in the video. It's --

11 Q That's fine. You said hostile, and I'm wondering if

12 that -- you know, talked about struck a little bit earlier.

13 You said it's a strike with a fist.

14 A Hostile, you want me to define what I think --

15 Q No. I'm just asking is it possible that you interpret

16 that word differently than somebody else?

17 A That's possible.

18 Q Okay. All right. So go ahead.

19 A When he says he wasn't in my driveway. Not only does

20 the photo prove it, but so does the video evidence that he was

21 in my driveway.

22 So that's inaccurate.

23 Q So there's photos, too?

24 A Video proof.

25 Q So the videotape?

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1 A Yeah.

2 Q Okay.

3 A His photos, the photo of, one of the photos that they

4 turned in is in my driveway. Taking the picture straight across

5 at the telephone pole.

6 Q Okay. How do you know it's in your driveway?

7 A One, I have a video that shows the flash when he took

8 it, and, two, the picture. It has to be there.

9 Q Okay.

10 A You can -- if you came to the site and saw the

11 picture, where he was standing, the distance and everything, you

12 know it has to be.

13 Q Okay. I'm fine.

14 Just asking you to point out what you find inaccurate.

15 A Okay. Yeah, I don't agree with the statement where he

16 said he responded to the jail after he went to the hospital and

17 came back.

18 As I recollect, he never talked to me again. The

19 jailer told me what I was being booked for. They had to wait

20 until he was at the hospital --

21 Q Okay.

22 A -- to check for injuries.

23 I never said I grabbed it on my way out, but it did

24 not work. And that's it.

25 MR. Routsis: Hold on a second.

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1 I'm going to have a continuing objection if this is

2 ever presented at trial, and here's the reason.

3 Jeff Spencer is nervous, and you are asking him under

4 pressure at a deposition to read through a detailed report, and

5 I'm certain many, many things are going over his head.

6 Many things he is forgetting. It's an improper way to

7 ask for impeachment evidence.

8 So if you want to ask him specific questions, I think

9 that's the only way you are going to get an accurate answer.

10 Because I know Jeff, when he reads things, he doesn't

11 retain things well. He is nervous.

12 So at the end of this, he may say ten things are

13 incorrect, and then he could look back upon it in a relaxed

14 atmosphere and see there is 25 things.

15 This isn't a proper way of doing it. It doesn't get

16 to the truth.

17 MR. BROWN: Are you finished?

18 MR. Routsis: I am finished.

19 MR. BROWN: Okay. I'm not saying I'm using this for

20 impeachment.

21 A deposition, Counsel, as you know, is a fact-finding

22 vehicle for me.

23 Whether the issue is -- whether it's relevant or not,

24 that is something that we'll discuss at another time.

25 But I'm entitled to have his opinion in looking

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<p style="text-align: right;">Page 142</p> <p>1 through this, and if there's another way, if I need to just ask 2 this question by question, sentence by sentence, I'll be happy 3 to do that.</p> <p>4 But he is never not going to be nervous when he's 5 talking to me because he is going to be under oath, whether it's 6 here or in trial.</p> <p>7 And so I am entitled, because I can't just call him up 8 and talk to him, to get his understanding and his belief of 9 what's inaccurate about this report.</p> <p>10 If he needs to -- he can take all the time he wants. 11 I'm not rushing him.</p> <p>12 MR. ROUTSIS: No. I understand that.</p> <p>13 But I'm just saying, if at trial, if you ever try to 14 say, to Mr. Spencer, I asked you to look at all these pages 15 during the deposition, and point out inaccuracies, and you 16 didn't point out seven other things that you are bringing up 17 today, I'm going to have a real problem with that.</p> <p>18 And that's why --</p> <p>19 MR. BROWN: I'm going to have a real problem with that 20 because you are changing his testimony, and it is under oath.</p> <p>21 MR. ROUTSIS: Then I'm going to advise him not to 22 answer questions, because we're not -- don't answer any more 23 questions regarding that type of impeachment.</p> <p>24 MR. BROWN: Are you kidding me?</p> <p>25 MR. ROUTSIS: If you want to impeach him under the</p>	<p style="text-align: right;">Page 144</p> <p>1 written statement, Mr. Spencer's written statement, things that 2 he believes were inaccurate.</p> <p>3 He has also pointed out other statements by the 4 officer that he believes are inaccurate.</p> <p>5 So I have asked him to read through the statements, 6 and point out any other inaccuracies that he may be aware of in 7 there.</p> <p>8 Mr. Routsis has objected and told him that he is not 9 going to permit him to answer any more questions regarding this 10 statement because he feels it's improper impeachment, and that 11 he has never seen it in his 30-year legal career.</p> <p>12 MR. ROUTSIS: 29.</p> <p>13 MR. BROWN: 29-year legal career.</p> <p>14 So in order to streamline this, we decided to call you 15 to see if we could get some sort of guidance on that issue, Your 16 Honor.</p> <p>17 MR. ROUTSIS: And, Judge, if I could just clarify for 18 a minute.</p> <p>19 JUDGE KOSACH: Go ahead, Bill.</p> <p>20 MR. ROUTSIS: Yeah, the fine attorney provided my 21 client with an 8-page police report and asked my client to tell 22 him, without any questions being asked, what's wrong with the 23 report. What's inaccurate about the report?</p> <p>24 I lodged an objection because my client is very 25 nervous, and even during the recess, we looked over, and he is</p>
<p style="text-align: right;">Page 143</p> <p>1 evidence code, you go to a specific area in the report, identify 2 it, and ask him if it's accurate.</p> <p>3 You don't tell somebody --</p> <p>4 MR. BROWN: Let's see if we can get the judge on the 5 phone. Let's see if we can get Judge Gregory on the phone.</p> <p>6 MR. ROUTSIS: Get him on the phone.</p> <p>7 MR. BROWN: Do we have a phone number? A Bar 8 directory? And I think you should keep this on.</p> <p>9 MR. PINTAR: 782-9961.</p> <p>10 MR. ROUTSIS: Why Judge Gregory? He is not our judge.</p> <p>11 MR. BROWN: Who is our judge? Judge Young?</p> <p>12 MR. ROUTSIS: Judge Kosach.</p> <p>13 MR. BROWN: Oh, Kosach. Sorry.</p> <p>14 Let's see if we can get him on the phone.</p> <p>15 THE VIDEOGRAPHER: We're going off the video record. 16 The time is approximately 1:31 p.m.</p> <p>17 (A recess was taken)</p> <p>18 MR. BROWN: Judge?</p> <p>19 JUDGE KOSACH: Yes.</p> <p>20 MR. BROWN: All right. We are in the deposition of 21 Jeff Spencer, who is the defendant counterclaimant in this case. 22 I am taking his deposition, and I'm going over a 23 narrative police report that was written by an officer in this 24 case who arrested Mr. Spencer.</p> <p>25 I have found -- Mr. Spencer has pointed out in his own</p>	<p style="text-align: right;">Page 145</p> <p>1 missing things right and left, because there are no specific 2 questions being asked to him.</p> <p>3 And my concern is at trial, Judge, the fine young -- 4 the attorney is going to say, Mr. Spencer, I gave you an 8-page 5 report at the deposition, and I asked you to point out all the 6 inaccuracies, and you gave me these six inaccuracies.</p> <p>7 So today, you have got ten other problems with the 8 report, and what I am saying, Judge, is if you are going to try 9 and impeach or cross-examine somebody with a document, the 10 proper procedure is to lay the foundation, question by question, 11 to ask him if this is true and accurate, so an objection can be 12 lodged as to each issue of the report.</p> <p>13 For example, you know, my client is giving answers, 14 well, I don't think the police officer saw that.</p> <p>15 Well, because -- if he asked the question, I could 16 object to speculation.</p> <p>17 So I'll submit it on that, Judge.</p> <p>18 MR. BROWN: Your Honor, one of the allegations against 19 my client is that he has given false statements to the police 20 officer.</p> <p>21 This police officer provided a narrative statement. I 22 am simply asking Mr. Spencer to go through and identify 23 anything, because I don't know. I wasn't there the night of the 24 question.</p> <p>25 I'm just simply asking him to go through this report,</p>

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<p style="text-align: right;">Page 146</p> <p>1 and if he feels that there is an error, an inaccuracy in the</p> <p>2 report, to identify it, so I can do further discovery on that</p> <p>3 issue, maybe redepose the officer, maybe look at another</p> <p>4 witness.</p> <p>5 But I can't find out this information, and I can't ask</p> <p>6 a specific question unless you are telling me I need to ask each</p> <p>7 sentence, I need to read each sentence, and ask him if he</p> <p>8 believes that's an accurate sentence or not.</p> <p>9 I can't figure out what the basis of his claims are if</p> <p>10 I don't know what he believes is inaccurate about the report</p> <p>11 that he believes he was wrongfully arrested on.</p> <p>12 MR. ROUTSIS: And, Judge, one final short point.</p> <p>13 For example, if he were to ask my client, Mr. Spencer,</p> <p>14 when the police officer wrote in the report that he spoke to</p> <p>15 Helmut Klementi, was that true, and I would object to</p> <p>16 speculation, because he has no way of knowing that.</p> <p>17 But he is generalizing an 8-page report, saying, bring</p> <p>18 up everything that you think may not be correct about the</p> <p>19 report.</p> <p>20 All I'm asking is that we follow the rules of</p> <p>21 evidence, and he ask specific questions to specific facts so we</p> <p>22 cover -- so we are protected by the evidence code.</p> <p>23 You don't -- I mean, have you ever seen a trial where</p> <p>24 you give a ten-page report to somebody and say, okay. Tell me</p> <p>25 what's wrong with the report.</p>	<p style="text-align: right;">Page 148</p> <p>1 the Grand Jury room of the second -- the Washoe County</p> <p>2 courthouse, right?</p> <p>3 MR. BROWN: Yes, Your Honor.</p> <p>4 JUDGE KOSACH: All right.</p> <p>5 MR. BROWN: Everybody is here that will be present.</p> <p>6 JUDGE KOSACH: Okay. See you, then, guys.</p> <p>7 MR. BROWN: Thanks, Your Honor. Have a good day.</p> <p>8 MR. ROUTSIS: Take care.</p> <p>9 JUDGE KOSACH: All right.</p> <p>10 THE VIDEOGRAPHER: We are going back on the video</p> <p>11 record.</p> <p>12 The time is approximately 1:46 p.m.</p> <p>13 BY MR. BROWN:</p> <p>14 Q All right. So, Mr. Spencer, I believe we left off,</p> <p>15 you were towards the bottom of page 5 of ten.</p> <p>16 MR. ROUTSIS: How do you know that?</p> <p>17 BY MR. BROWN:</p> <p>18 Q Because he said -- well, okay.</p> <p>19 Where do you want -- where -- do you recall where we</p> <p>20 left off?</p> <p>21 A No.</p> <p>22 Q Okay. Then let's go back up to the statement that I</p> <p>23 do know that you had issue with, and that's where it says,</p> <p>24 Helmut told me, and that's one -- about a paragraph up.</p> <p>25 A I got you.</p>
<p style="text-align: right;">Page 147</p> <p>1 I mean, it's just improper.</p> <p>2 MR. BROWN: I'm not going to ask that question at</p> <p>3 trial, Your Honor, and I hope that you know that I would not ask</p> <p>4 that question at trial.</p> <p>5 But this is in discovery. It's a fact-finding</p> <p>6 mission. And I'm entitled to his opinion on what he believes is</p> <p>7 accurate, which is reported about him, and he has already</p> <p>8 pointed out several things that he believes are inaccurate.</p> <p>9 That, in fact, he has stated already that the officer</p> <p>10 wrote down things that were never said at this confrontation.</p> <p>11 So I'm entitled to go in and say, what else is wrong</p> <p>12 with this officer's report?</p> <p>13 JUDGE KOSACH: All right. I got the idea.</p> <p>14 The objection overruled. This is discovery. Go ahead</p> <p>15 and complete your questioning, the narrative that's given by the</p> <p>16 witness. The objection is overruled.</p> <p>17 Let me ask this: I put on an email, I changed the</p> <p>18 date -- I changed the time on August 11th to 12:30 to try to</p> <p>19 make sure that Mike can make it.</p> <p>20 And, Mike, are you there, Pintar?</p> <p>21 MR. PINTAR: I am here, Judge.</p> <p>22 JUDGE KOSACH: Yeah. Is that okay? Is 12:30 Okay?</p> <p>23 MR. PINTAR: Yeah, that's perfect. Thank you very</p> <p>24 much.</p> <p>25 JUDGE KOSACH: All right. So everybody is on 12:30 in</p>	<p style="text-align: right;">Page 149</p> <p>1 Q Okay. Why don't you start with that?</p> <p>2 Because I know we have already gone over that, but if</p> <p>3 we can't remember where we started, let's start at least where</p> <p>4 we were at, at one point.</p> <p>5 A Let me understand this.</p> <p>6 Everything I feel is inaccurate on here, you want me</p> <p>7 to mention?</p> <p>8 Q Yes.</p> <p>9 A Irregardless of who said it, or what it is?</p> <p>10 Q Yeah. If you believe -- and whether that's something</p> <p>11 that comes out later, that's -- we'll deal with -- the attorneys</p> <p>12 will deal with that.</p> <p>13 But if there's something in here that you have a</p> <p>14 problem with, you don't think is accurate in some way, shape or</p> <p>15 form, let's talk about it.</p> <p>16 It may be a minor issue, and we can move on, or it</p> <p>17 might be significant.</p> <p>18 But I would like --</p> <p>19 A Okay.</p> <p>20 Q -- anything that you have issue with.</p> <p>21 A Right below that paragraph, two down.</p> <p>22 MR. ROUTSIS: Can you --</p> <p>23 BY MR. BROWN:</p> <p>24 Q Starts off with "I confirmed"?</p> <p>25 A No. "I asked". Right above that one.</p>

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1 Q Asked Helmut?

2 A Yeah.

3 Q Okay.

4 A He said he was not in my driveway.

5 Video evidence showed he was. So that's not accurate.

6 Q I think we talked about that before we went off the

7 record.

8 A Okay.

9 Q So we were at least at that paragraph.

10 A Okay. So right here.

11 MR. ROUTSIS: Well, have you reviewed these

12 paragraphs?

13 Because he is asking you to go over every paragraph.

14 Have you reviewed this paragraph and that paragraph?

15 THE WITNESS: No. I skipped through some stuff.

16 BY MR. BROWN:

17 Q You need to start over?

18 A No. I didn't realize I can -- I can disagree with

19 what somebody else says.

20 I thought this was just disagreeing with the facts

21 that officer wrote.

22 Q I want you to take your time, absolute time, you know,

23 that's not a concern of mine, from my perspective.

24 So if you feel comfortable starting back over, and

25 rereading it, I'm happy to do that, too.

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1 A Okay. Okay.

2 Next page. Second paragraph.

3 MR. ROUTSIS: What page?

4 BY MR. BROWN:

5 Q Six of ten?

6 A Six of ten.

7 Q Starts Wednesday, December 19th?

8 A Yes.

9 Q Okay.

10 A I was not yelling at Egon as he walked his dog by.

11 The video will show that I was talking to him for 20

12 minutes, and we were on Juniper, and not on Charles.

13 Q And that was the following -- the day following the

14 incident, correct?

15 A No. She is -- she is referring to --

16 Q Oh, prior altercation? I see.

17 A Yeah.

18 Q Okay. Do you know approximately when that exchange

19 took place?

20 And I'm trying --

21 A We have that on video also. It was around Memorial

22 Day.

23 Q Oh, so it was months --

24 A It was the fence.

25 Q It was several months prior to this?

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1 A Yes.

2 Q Okay. Understood.

3 So it was incorrect, because you were not yelling.

4 You had a conversation?

5 A Yes.

6 Q And it was not on the correct street?

7 A Correct.

8 Q Okay.

9 A She never stood between us, either.

10 Q She never stood between you two?

11 A Yes.

12 Q Okay.

13 A And I don't know, the next paragraph, I don't know how

14 she can say what I have a dislike or like for.

15 Q You are critical of her perspective of you?

16 A Yeah.

17 Q Okay.

18 A I don't block the driveways of the neighbors --

19 Q Okay.

20 A -- that I'm not fond of.

21 Everybody gets a berm up there. It's how it is. We

22 don't have gates on the snowplow, so as you go down the street,

23 it blows the snow off the side, and that's how it is.

24 Q Okay.

25 A You know, over on the side of the lake, they have

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1 gates they can drop, which stops the snow from coming off the

2 blade.

3 It's at the end of the blade. We don't have those.

4 Q Okay. And that's what creates --

5 A Yeah.

6 Q -- the other than smooth surface in front of the

7 blade?

8 A Yeah.

9 Q Okay.

10 A And the comments about Marilyn making comments after

11 the KGID meetings, saying she has a concealed weapons permit,

12 that's just ridiculous.

13 Q Does she have --

14 A She has a concealed --

15 Q Regardless of the comments that were alleged, does she

16 have a CCW?

17 A She does.

18 Q Okay.

19 A Which we don't even go to the KGID meetings. We

20 haven't in the, in this whole time frame.

21 Q Understood.

22 A So then the officer says he checked, and that we were

23 both CCW holders. We are not. I'm not and never have been a

24 CCW holder.

25 Q Just Marilyn?

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<p style="text-align: right;">Page 154</p> <p>1 A Just Marilyn.</p> <p>2 Q Okay.</p> <p>3 A She had the restraining order against Bruce. That was</p> <p>4 why she got it.</p> <p>5 Q Okay.</p> <p>6 A Next paragraph, he says he didn't locate a temporary</p> <p>7 restraining order against me.</p> <p>8 Because it's not against me. It's against Bruce</p> <p>9 Taylor.</p> <p>10 Q Well, then, that's accurate. He couldn't find one</p> <p>11 against you.</p> <p>12 A Involving me.</p> <p>13 Q If there is not one in existence against you, then</p> <p>14 that's an accurate statement.</p> <p>15 I'm not quibbling with you. But you are doing what I</p> <p>16 told you, so continue. Sorry.</p> <p>17 A It's against him from us. So I don't know if that is</p> <p>18 considered involving us, or how you look at that.</p> <p>19 Q You are following the instructions to a T, and I</p> <p>20 appreciate it.</p> <p>21 A Okay. The conclusion, he says, I go outside with a</p> <p>22 flashlight.</p> <p>23 I think we went over that. I didn't.</p> <p>24 Q I figured you would disagree with pretty much</p> <p>25 everything in that paragraph.</p>	<p style="text-align: right;">Page 156</p> <p>1 Q "Helmut said"?</p> <p>2 A Yes, Helmut said.</p> <p>3 Well, in the middle of the paragraph there, the next</p> <p>4 Helmut said.</p> <p>5 Egon came to his aid and tried to help him stand up.</p> <p>6 He never did, and that's in the video. He walked up and started</p> <p>7 taking pictures of him.</p> <p>8 Q Hold on one second. I'm trying to get there.</p> <p>9 Helmut said Egon came to his aid. Tried to help him</p> <p>10 stand up. However, he was in pain and could not stand.</p> <p>11 A Yeah.</p> <p>12 Q Okay.</p> <p>13 A Yes.</p> <p>14 Q Okay.</p> <p>15 A So in actuality the next, the next sentence, Egon</p> <p>16 stood next to Helmut to stop any cars.</p> <p>17 Well, he wasn't paying attention to the cars driving</p> <p>18 down Meadow. He was taking pictures.</p> <p>19 Q Okay.</p> <p>20 A As much as I can read now, that covers everything I</p> <p>21 see.</p> <p>22 Q Okay.</p> <p>23 A My eyes are getting out of focus too much.</p> <p>24 Q Thank you for that exercise. I just wanted to make</p> <p>25 sure we were on the same page with this report.</p>
<p style="text-align: right;">Page 155</p> <p>1 A Yeah. So we'll just leave it at that. That I</p> <p>2 disagree with everything in there.</p> <p>3 Q Fair enough.</p> <p>4 A Let me go back.</p> <p>5 The previous page, page 5 of ten. Sixth paragraph.</p> <p>6 Q Hold on one second, sir.</p> <p>7 A I'm not sure I mentioned this.</p> <p>8 Q So go back to page 5 of ten?</p> <p>9 A Yes.</p> <p>10 Q All right.</p> <p>11 A Where it starts off "Helmut told me".</p> <p>12 Q Okay.</p> <p>13 A And now I lost my point. Let's see.</p> <p>14 MR. ROUSIS: Just go on back.</p> <p>15 THE WITNESS: Where it says, Jeff likes to harass all</p> <p>16 the neighbors in Kingsbury General Improvement District, blah,</p> <p>17 blah, blah.</p> <p>18 I don't harass all my neighbors or anyone in the</p> <p>19 district. The only problems I have is with those that are</p> <p>20 involved in this lawsuit.</p> <p>21 BY MR. BROWN:</p> <p>22 Q Okay. Understood. And I figured you would have</p> <p>23 disagreed with that statement.</p> <p>24 A Yeah.</p> <p>25 The first page. Last paragraph.</p>	<p style="text-align: right;">Page 157</p> <p>1 So you -- we talked a little bit about the incident.</p> <p>2 We talked about the arrest.</p> <p>3 You indicated that you were in jail for maybe a couple</p> <p>4 hours at most.</p> <p>5 Bailed yourself out that evening, correct?</p> <p>6 A Correct.</p> <p>7 Q And then at some point, you had a criminal trial?</p> <p>8 A Correct.</p> <p>9 Q And as I recall, you were acquitted in that criminal</p> <p>10 trial, correct?</p> <p>11 A Correct.</p> <p>12 Q Okay. Approximately how much time or how long was it</p> <p>13 from the time you were released from jail until the criminal</p> <p>14 trial?</p> <p>15 A I don't recall when it was.</p> <p>16 Q Was it a year, 6 months?</p> <p>17 I don't need an exact date. I'm just trying to get an</p> <p>18 idea of timewise because I want to talk about the in between</p> <p>19 time frame.</p> <p>20 A I think it's eight months.</p> <p>21 Q So probably less than a year, some point?</p> <p>22 A Yeah.</p> <p>23 Q So from the time that you were arrested, until the</p> <p>24 time of the criminal trial, did you have any interaction with</p> <p>25 Helmut Klementi that you can recall?</p>

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1 A No.

2 Q Did he do anything during that period that you were

3 aware of that -- did he give any false statements that you are

4 aware of, as you have alleged in this lawsuit, from the time of

5 the arrest until the criminal trial?

6 And we'll talk about the criminal trial in a minute.

7 MR. ROUTSIS: Could you repeat that? I'm sorry.

8 BY MR. BROWN:

9 Q Yeah.

10 You have alleged my client has made false statements

11 about you in this lawsuit.

12 A Uh-huh (affirmative).

13 Q You understand that?

14 A Yes.

15 Q Okay. What I'm trying to get at is, whether -- are

16 you aware, as you sit here today, of any false statements that

17 Mr. Klementi, my client, may have made about you from the time

18 you got out of jail, until the time of the trial?

19 And we're not talking about going into the trial yet.

20 A Yes, he has.

21 Q Okay. Tell me what statements you are aware of that

22 you believe that he has made that are false during that time

23 frame.

24 A I would have to look at our file to see. I know he

25 has made more about the incident that night. I'm not sure about

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1 any meetings.

2 Q I'm sorry?

3 A I'm not sure about any other meetings.

4 Q Meetings?

5 A I don't think he went to the county meeting. Yeah.

6 Q So where else would he have made statements during

7 that period?

8 A I said, I'm not sure about the meetings. I would have

9 to look at the file, though.

10 Q But you do believe statements were made during that

11 period?

12 A Yes.

13 Q What statements?

14 A Derogative stuff against me.

15 Q I'm sorry?

16 A Derogative stuff against me.

17 Q What sort of derogative stuff?

18 A Same stuff. The snowplowing, that I beat him up, all

19 that.

20 Q Who did he make these statements to?

21 A I would have to look at the file.

22 Q Okay. What is going to help you about the file? What

23 is going to refresh your memory about the file?

24 What documents?

25 A Looking at the documents that we have.

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1 Q Okay. Which ones? That's what I'm trying to get at

2 is where -- where can I look?

3 You have alleged my client made false statements. I'm

4 entitled to know when those statements were made, and who they

5 were made to.

6 And so I'm trying to get a better handle on who, what,

7 when, and where with respect to those statements during the time

8 frame that we just talked about.

9 A Correct. So I need to add those to discovery, I

10 guess.

11 Q What do you mean? There are statements that you

12 haven't provided yet?

13 A There is a lot of stuff I haven't provided yet.

14 Q Like what?

15 A There's a lot of video. A lot of statements.

16 Q Why haven't you provided it?

17 A Because -- I think we went over this this morning. I

18 work, and I haven't had time to do it.

19 Q In the last two years?

20 A No. I don't think the lawsuit has been going on the

21 last two years.

22 Q Okay. But since the lawsuit has been filed, you just

23 have had no time at all to produce this stuff?

24 A I have produced some of it, but not all of it.

25 Q Okay. So as you sit here right now, you can't

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1 identify any specific statements from the time you were released

2 from jail to the start of the criminal trial of Mr. Klementi,

3 Helmut Klementi?

4 A I don't want to say specifics when I can't remember

5 exactly word for word.

6 Q That's fine, sir. The answer is, no, you can't, or is

7 it yes?

8 A No. I can't remember specifics.

9 Q Okay. What I'd like to do, then, is let's go over

10 your complaint, your second amended complaint because there's --

11 I brought a copy for you.

12 So you have alleged a claim of defamation against my

13 client.

14 And, Counsel, I brought one for you, too.

15 MR. PINTAR: What exhibit, please?

16 MR. BROWN: We're going to mark this as an exhibit,

17 the next line, which will be Exhibit 9.

18 MR. ROUTSIS: This is not a filed complaint.

19 MR. BROWN: It's the one that's pending, the amended

20 complaint.

21 MR. ROUTSIS: Right. But we have not introduced it.

22 MR. BROWN: You have filed it. It's part of the case.

23 It's an allegation, and I'm entitled to find out about it.

24 MR. ROUTSIS: Okay. Well, if you need, we can go over

25 the other one, which is even more vague.

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<p style="text-align: right;">Page 162</p> <p>1 This one is pretty vague. That's why we were getting</p> <p>2 another one done.</p> <p>3 MR. BROWN: Take a look at this defamation.</p> <p>4 (Exhibit 11 marked for identification)</p> <p>5 BY MR. BROWN:</p> <p>6 Q Okay. I believe that was on page 6. If you could</p> <p>7 come back to page 6.</p> <p>8 A Isn't going to page 6 kind of jumping head ahead of</p> <p>9 this?</p> <p>10 Q I'm looking to the defamation claim.</p> <p>11 A Okay.</p> <p>12 Q It's entitled defamation. I may have given you the</p> <p>13 wrong page number.</p> <p>14 A Six.</p> <p>15 Q You have alleged a claim of defamation in this</p> <p>16 proposed amended complaint.</p> <p>17 I have read through that claim again this morning, and</p> <p>18 I don't find one reference to my client in there.</p> <p>19 Can you take a look at that and confirm if there's any</p> <p>20 references to my client in the defamation claim?</p> <p>21 A Not understanding what you are --</p> <p>22 Q Is his name referenced where he has made a false</p> <p>23 statement under the claim of defamation?</p> <p>24 A You want me to just take a look through and see if I</p> <p>25 see his name? Is that what you are saying?</p>	<p style="text-align: right;">Page 164</p> <p>1 lawsuit --</p> <p>2 MR. ROUTSIS: You cannot ask the same question three</p> <p>3 times. You got the same answer.</p> <p>4 He does not have a recollection as he sits here today</p> <p>5 of any specific statements that Helmut made.</p> <p>6 That's his answer.</p> <p>7 BY MR. BROWN:</p> <p>8 Q Fair enough. Then I'll move on.</p> <p>9 What about trial? What statements did my client make</p> <p>10 at trial that was false?</p> <p>11 A Buy the transcripts.</p> <p>12 Q I'm asking you. You sat through the trial. I wasn't</p> <p>13 there. I'm asking your recollection.</p> <p>14 A So buy the transcripts, and you can see.</p> <p>15 Q That's not an acceptable answer.</p> <p>16 My answer -- question to you is, what statements do</p> <p>17 you recall my client stated or made at trial that were</p> <p>18 inaccurate?</p> <p>19 A It's the same question.</p> <p>20 MR. ROUTSIS: Objection.</p> <p>21 BY MR. BROWN:</p> <p>22 Q I'm entitled to your recollection, Mr. Spencer.</p> <p>23 A My recollection at this moment is not accurate enough</p> <p>24 to say anything.</p> <p>25 Q Okay. So you can't testify as to trial, either, as to</p>
<p style="text-align: right;">Page 163</p> <p>1 Q Because I'm trying to figure out how he has defamed</p> <p>2 you.</p> <p>3 A Well, I'm not a legal writer. But it looks to me like</p> <p>4 he just has to have his name added to this.</p> <p>5 But I would think that would be covered under the --</p> <p>6 you are asking me something that's way above my understanding.</p> <p>7 Q Okay. Well, so, I'm just trying to get the basis of,</p> <p>8 you know, you have sued somebody for defamation.</p> <p>9 You sat here, and you told me you can't remember any</p> <p>10 statements that were made from the time of your arrest until the</p> <p>11 time of trial.</p> <p>12 I have asked you to review the complaint and identify</p> <p>13 any statements under defamation, under the defamation claim.</p> <p>14 And you haven't identified any. So I'm entitled to</p> <p>15 your best recollection of when my client made false statements</p> <p>16 and what those false statements were.</p> <p>17 And as you are sitting here today, you don't -- you</p> <p>18 are not aware of any such statements?</p> <p>19 A No. That's not what I said. I'm aware of them, but I</p> <p>20 can't accurately --</p> <p>21 MR. ROUTSIS: This has been asked and answered now</p> <p>22 three times, Counsel.</p> <p>23 THE WITNESS: Yeah.</p> <p>24 MR. ROUTSIS: He has told you three times.</p> <p>25 MR. BROWN: Number one, your client has filed a</p>	<p style="text-align: right;">Page 165</p> <p>1 any statements that my client may have stated towards you?</p> <p>2 MR. ROUTSIS: Asked and answered. He just gave you an</p> <p>3 answer, and now you are getting argumentative.</p> <p>4 BY MR. BROWN:</p> <p>5 Q Answer the question, please.</p> <p>6 MR. ROUTSIS: He answered the question.</p> <p>7 Hold on. Don't answer.</p> <p>8 MR. BROWN: You are telling your client not to answer?</p> <p>9 Can we get Judge Kosach back on the phone? I'm not</p> <p>10 going to play this game.</p> <p>11 MR. ROUTSIS: Get him on the phone.</p> <p>12 MR. BROWN: Let's get him on the phone.</p> <p>13 MR. ROUTSIS: Call him, why don't you just keep him on</p> <p>14 the line.</p> <p>15 MR. BROWN: I will. I am going to ask him if he will.</p> <p>16 MR. ROUTSIS: You asked him a question. Here was your</p> <p>17 question.</p> <p>18 MR. BROWN: Can we go off the record, at least off the</p> <p>19 video?</p> <p>20 THE VIDEOGRAPHER: We're going off the video record.</p> <p>21 The time is approximately 2:08 p.m.</p> <p>22 (A recess was taken)</p> <p>23 THE VIDEOGRAPHER: We are going back on the video</p> <p>24 record. The time is approximately 2:12 p.m.</p> <p>25 ///</p>

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1 BY MR. BROWN:

2 Q Okay. Mr. Spencer, we're just going to go over this
3 complaint paragraph by paragraph, and if I have to read it to
4 you, or you have to read it, either way is fine with me.

5 But I'm going to turn -- because there is a lot of
6 just basic boilerplate allegations on the first page, and you
7 are more than welcome to review over those, but I'm trying to
8 cut to the chase.

9 Starting with paragraph eight, on page 3, is really
10 where the factual allegations begin.

11 So I'd like you to take a look at that paragraph and
12 tell me when you are done reading it. We're just going to go
13 over it.

14 A So, I read it. What do you want?

15 Q Just asked you to let me know when you are ready.

16 A I read it.

17 Q Okay. So this indicates that Egon Klementi called
18 KGID on or about, or in December of 2012 and complained that you
19 were intentionally leaving a snow berm in his driveway when he
20 plowed his road.

21 He also alleges, submitted a photograph, depicting
22 snow at the edge of his driveway.

23 How do you know that fact?

24 A Video.

25 Q How do you know if he called --

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1 A Video, and, sorry, excuse me.

2 Video and subpoenas from the criminal trial.

3 Q Okay. So you got information from KGID --

4 A Yes.

5 Q -- that indicated that?

6 A Uh-huh (affirmative).

7 Q Okay.

8 A And when he calls and complains, KGID called my boss
9 and tells him.

10 Q So then is that true statement that you were leaving a
11 snow berm in his driveway?

12 MR. ROUTSIS: Well, excuse me. Stated, correct,
13 intentionally leaving a snow berm.

14 BY MR. BROWN:

15 Q Okay.

16 A Not intentionally leaving a snow berm.

17 Q So there was no intentional --

18 A No.

19 Q -- part of it.

20 When it was left, it was unintentional is what you are
21 saying?

22 A Correct. As I said, earlier, everybody gets snow
23 berms. I can show you video of snow berms I get.

24 Q Okay.

25 A When it's snowing, and you are plowing the street, the

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1 snow has to go somewhere, and it goes off the blade.

2 Q I understand, and I understood that when you explained
3 it earlier.

4 How do you -- how are you able -- you subpoenaed the
5 records from KGID concerning Egon Klementi's call to KGID.

6 What sort of evidence was there? Was there a phone
7 log, or was there testimony?

8 Or how were you able to confirm that he actually
9 called on that day in December?

10 A They give you these sheets, I can't remember exactly
11 what it was. But they gave us everything with stuff as long as
12 they had been around about -- just gave us all snow berm
13 complaints.

14 Q Did anybody --

15 A Anything.

16 Q I'm sorry. I didn't mean to cut you off, and I
17 violated my own rule.

18 Did anybody from KGID testify at the criminal trial?

19 A I believe not.

20 Q Okay. So let's go to the next paragraph and tell me
21 when you are done reading that.

22 A Okay.

23 Q Okay. You indicated here on December 12th that he
24 reported to Douglas County that you used your snowplow again to
25 intentionally cause snow and ice and other debris to strike him

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1 while he shoveled snow in his driveway.

2 Is that a true statement?

3 A It's kind of like a compound question, isn't it? This
4 is multiple stuff in here.

5 Q Your attorney can object.

6 MR. ROUTSIS: Okay. Compound question. Objection.

7 THE WITNESS: Okay. That's a true statement that Egon
8 called the sheriff's.

9 And it is untrue that Mary Ellen Kinion witnessed it,
10 but she did call to try to collaborate the story.

11 BY MR. BROWN:

12 Q Okay. How do you know that Mary Ellen didn't witness
13 this?

14 A Counsel, can you have your client removed? I heard
15 that. I'm not sitting here --

16 MR. ROUTSIS: Listen, they are making snide comments.
17 Control your clients, please. This is improper.

18 MR. BROWN: Those aren't my clients.

19 MR. ROUTSIS: Okay. This is a civil deposition.

20 We're here to get to the truth, and there's no need for these --
21 Miss Kinion --

22 MS. KINION: Sorry.

23 THE WITNESS: You did that the last couple times.

24 MR. ROUTSIS: Why don't you state for the record what
25 she did?

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1 THE WITNESS: For the record, Mary Ellen Kinion said,
2 liar.
3 MR. ROUTSIS: So, Counsel, I would hope that you
4 admonish your --
5 MR. BROWN: I'm going to say for the record sitting
6 here I didn't hear anything coming from behind me.
7 I don't have the best hearing, but I didn't even
8 hear --
9 MR. ROUTSIS: You also, for the record, you said you
10 don't have your hearing aid in today, and you are having trouble
11 hearing.
12 MR. BROWN: I just confirmed that to you, as well,
13 but I didn't hear anything.
14 MR. ROUTSIS: I don't think there is a lot of
15 relevance to your comments.
16 MR. BROWN: I would like to hear from other counsel on
17 that issue, as well.
18 MR. PINTAR: I didn't hear.
19 MR. ROUTSIS: Okay.
20 THE WITNESS: I heard it and saw it.
21 Why don't you turn the camera that direction?
22 MR. ROUTSIS: Can we play the camera back? It won't
23 show her.
24 Okay. Let's go on. Let's move on.
25 THE WITNESS: So to go on the lying part that she

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1 decided to say, she perjured herself on the stand, as Mister --
2 as William was there and admitted she didn't see it, which is
3 in --
4 BY MR. BROWN:
5 Q At trial?
6 A Trial transcripts.
7 Q Okay. Was there an incident involving a snowplow with
8 Mr. Klementi, Egon Klementi, that happened on or about
9 December 12th, whether it was intentional or not?
10 Do you recall any such incident?
11 A Oh, I recall what he called and said was the incident.
12 Q I'm sorry?
13 A I didn't drive by and throw snow on him.
14 But I recall what you are talking about, obviously.
15 This is one of the charges against me.
16 Q Okay.
17 A This was turned into an assault charge.
18 Q Okay. So you were contending in this paragraph, that
19 Egon Klementi and Mary Ellen were not truthful when they
20 reported this incident to Douglas County?
21 A Correct.
22 Q Okay. And the next paragraph, December 12th, it
23 starts about December 12th, Mary Ellen Kinion called law
24 enforcement officers and said she witnessed you striking
25 Klementi.

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1 So again, that's something that you believe she
2 testified to that, at trial, that she did not actually see?
3 A That's not what I said. She testified to seeing it.
4 Then recanted her story and admitted that she didn't see it.
5 Q So all of this happened in this same trial, the same
6 course of testimony?
7 A Yes.
8 Q If she testified at one point in trial that she did
9 see it, and I'm assuming on cross-examination, or some other
10 point in trial, you're telling me that she recanted that, and
11 said, no, I actually didn't see it?
12 A Yes.
13 Q Okay.
14 A As I remember, that's it.
15 But, like I said, buy the transcripts.
16 Q Okay. You also state in that same paragraph that
17 Miss Kinion called your employer and repeated the same thing to
18 him.
19 Would that be Flipper?
20 A Yes.
21 Q Okay. What -- how do you know --
22 A Where do you see that?
23 Q Paragraph ten, the next sentence.
24 It says on or about the same date, Mary Ellen Kinion
25 called your employer.

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1 A Okay. Got it, yes.
2 Q Do you see that?
3 A Yes.
4 Q Okay. How do you know that occurred?
5 A He told me.
6 Q He did tell you?
7 A Flipper Manchester told me.
8 Q Flipper?
9 A Yes.
10 Q What did Flipper tell you Mary Ellen had stated on the
11 phone?
12 A I don't remember the exact conversation.
13 Q And how do you know, and why would you allege here
14 that she said the same thing that she had said previously about
15 what she had witnessed?
16 A Because you are asking me to be specific, and I can't
17 be specific.
18 Q Okay. Did Flipper testify at the criminal trial?
19 A Yes, he did.
20 Q Do you know if he testified to this fact?
21 A I can't remember.
22 Q So next paragraph, 11. Take a minute to read that.
23 A Okay.
24 Q So how do you know that Deputy Sanchez concluded that
25 no crime had been committed?

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1 A He called me on the phone that day.
 2 Q And so --
 3 A He called and talked to my boss, Flipper, and then he
 4 called me directly.
 5 Q What did he say to you?
 6 A He just wanted me to be aware of the situation. He
 7 told me that he talked to Flipper, and that he wasn't writing a
 8 police report because there was no evidence of anything
 9 happening.
 10 I actually begged him to write a police report because
 11 I wanted him to do it. And he said, no, there's no evidence.
 12 He is not doing it.
 13 MR. ROUTSIS: And for the record, you can take
 14 judicial notice of the court transcripts.
 15 Deputy Sanchez testified at trial to these facts. If
 16 you read the transcripts, you will verify a lot of this
 17 information.
 18 MR. BROWN: Well, I get to verify this with your
 19 client, Counsel. That's why --
 20 MR. ROUTSIS: I'm just informing you.
 21 BY MR. BROWN:
 22 Q So Mr. Spencer, this all happened on the 12th.
 23 Now I'm a little curious about something. You have a
 24 very vague recollection of everything that happened on paragraph
 25 9 and 10.

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1 But you have a very specific recollection of your
 2 conversation with Deputy Sanchez --
 3 MR. ROUTSIS: Objection. Argumentative. Misstates
 4 the evidence.
 5 Your testimony about what his recollection is, is
 6 irrelevant.
 7 Please just ask the question and don't give your
 8 input. That question is improper.
 9 MR. BROWN: I'm entitled to question him.
 10 MR. ROUTSIS: If he has vague recollection and a
 11 specific recollection, that's your opinion.
 12 Your opinion is not relevant.
 13 BY MR. BROWN:
 14 Q Do you have any problems associated with your memory
 15 that we should know about here today at the deposition?
 16 And that's why I'm asking that, Counsel, that
 17 question, Counsel.
 18 MR. ROUTSIS: That's a fair question.
 19 MR. BROWN: It's an acceptable question.
 20 MR. ROUTSIS: That's a fair question. But your
 21 opinion as to what's vague or not --
 22 MR. BROWN: That's why you should let me finish my
 23 question before you object.
 24 BY MR. BROWN:
 25 Q Do you have any problems associated with your memory

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1 here today, Mr. Spencer?
 2 A No.
 3 Q Ever been treated for memory issues?
 4 A No.
 5 Q Are you on any medication?
 6 A For memory issues? No.
 7 Q Any kind of medication?
 8 A Yes.
 9 Q What are you on?
 10 A I don't know the name of it.
 11 Q Okay. Did you forget that, too?
 12 A No, it's -- Seratellin? Sortolin? Sortolin?
 13 Something like that.
 14 Q What is it for?
 15 A Depression.
 16 Q Okay. How long have you been on that medication?
 17 MR. ROUTSIS: Objection. Relevance.
 18 MR. BROWN: Absolutely it's relevant.
 19 MR. ROUTSIS: Objection. Medication -- the question
 20 of medication is not -- you think is relevant?
 21 MR. BROWN: Counsel, I don't know how much you do in
 22 the civil arena, but your client has alleged --
 23 MR. ROUTSIS: Just answer the question.
 24 I'm asking you, why is it relevant?
 25 MR. BROWN: -- intentional infliction of emotional

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1 distress claim. I'm entitled to go into his potential damages.
 2 MR. ROUTSIS: I agree. I'll withdraw the objection.
 3 BY MR. BROWN:
 4 Q Thank you.
 5 How long have you been on that medication?
 6 A I can't remember.
 7 Q You forgot that, too?
 8 A No.
 9 MR. ROUTSIS: Objection. Argumentative.
 10 THE WITNESS: You are asking for --
 11 MR. ROUTSIS: Stop that. Okay? Enough. Enough.
 12 Don't -- that's argumentative, and if you can't be
 13 civil, then let's cut this thing off right now.
 14 Stop it. You are not going to do that.
 15 MR. BROWN: If he has forgotten --
 16 MR. ROUTSIS: Be civil or we're done.
 17 MR. BROWN: If he has -- you are not being civil.
 18 MR. ROUTSIS: I'm telling you, Counsel, you are going
 19 to push me.
 20 Don't be rude to my client. He is under
 21 cross-examination. Be civil and decent or stop your
 22 examination.
 23 MR. BROWN: I am entitled to probe his memory.
 24 MR. ROUTSIS: No, you're not entitled to say you
 25 forgot that, too.

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<p style="text-align: right;">Page 178</p> <p>1 That is argumentative, and it's improper.</p> <p>2 MR. BROWN: I am entitled to that because it appears</p> <p>3 that he has memory issues.</p> <p>4 MR. ROUTSIS: Counsel, you are going to stop this, or</p> <p>5 not go on. It's up to you.</p> <p>6 BY MR. BROWN:</p> <p>7 Q Who treats you, or who prescribes that medication?</p> <p>8 A I just went to her. I can't remember. I can't</p> <p>9 remember her name.</p> <p>10 MR. ROUTSIS: We're going to take a five-minute</p> <p>11 recess. Come on outside.</p> <p>12 Counsel, you are going to stop this. You are not</p> <p>13 going to get rude with my client. He is under a lot of stress,</p> <p>14 and you are out of line.</p> <p>15 MR. BROWN: I'm not getting --</p> <p>16 MR. ROUTSIS: You're out of line.</p> <p>17 MR. BROWN: He is the one that's brought it up.</p> <p>18 MR. ROUTSIS: You're out of line.</p> <p>19 MR. BROWN: No, you're out of line.</p> <p>20 MR. ROUTSIS: No. You are.</p> <p>21 MR. BROWN: You are out of line, and I'm not --</p> <p>22 MR. ROUTSIS: Come on, Jeff.</p> <p>23 THE VIDEOGRAPHER: We're going off the video record.</p> <p>24 The time is approximately 2:26 p.m.</p> <p>25 (A recess was taken)</p>	<p style="text-align: right;">Page 180</p> <p>1 judge, whatever the legal term is in civil court, so --</p> <p>2 MR. PINTAR: Operative document.</p> <p>3 MR. ROUTSIS: Yes.</p> <p>4 So you can question him if you like regarding this,</p> <p>5 but we're going to be asking to vacate this document.</p> <p>6 We do have an original complaint that's on file, that</p> <p>7 has been file-stamped. This one has never been accepted by the</p> <p>8 Court.</p> <p>9 MR. BROWN: Right. It's never been ruled on.</p> <p>10 MR. ROUTSIS: Right.</p> <p>11 MR. BROWN: It was filed through a motion for leave to</p> <p>12 amend, so --</p> <p>13 MR. ROUTSIS: Right.</p> <p>14 MR. BROWN: -- what I'm asking you, Counsel, before we</p> <p>15 get back, are you going to withdraw that motion for leave to</p> <p>16 amend?</p> <p>17 This is an exhibit --</p> <p>18 MR. ROUTSIS: Yes, yes.</p> <p>19 MR. BROWN: -- to that motion that I have pulled off.</p> <p>20 MR. ROUTSIS: For this amended complaint, yes.</p> <p>21 MR. BROWN: Okay. Then you will file a subsequent</p> <p>22 motion for leave to amend?</p> <p>23 MR. ROUTSIS: That's correct.</p> <p>24 MR. BROWN: Okay.</p> <p>25 MR. ROUTSIS: Okay.</p>
<p style="text-align: right;">Page 179</p> <p>1 THE VIDEOGRAPHER: We are going back on the video</p> <p>2 record. The time is approximately 2:32 p.m.</p> <p>3 MR. ROUTSIS: Okay. Let me get his name right. I'm</p> <p>4 very --</p> <p>5 MR. BROWN: Doug Brown.</p> <p>6 MR. ROUTSIS: Yes.</p> <p>7 Mr. Brown is questioning my client on the first</p> <p>8 amended third-party complaint, demand for jury trial.</p> <p>9 Right. This is not file-stamped, but he has presented</p> <p>10 copies here today that are not file-stamped.</p> <p>11 And William Swafford, the author of that document, has</p> <p>12 abandoned the Spencers during the course of representation. He</p> <p>13 is under a bar complaint.</p> <p>14 And we have retained Lynn Pierce, who now has come in</p> <p>15 as attorney of record, will be filing an amended complaint.</p> <p>16 My recollection is that at the first hearing with</p> <p>17 Judge Kosach, the only hearing we had in chambers, we addressed</p> <p>18 that a complaint had been filed, amended complaint, but -- we</p> <p>19 served the parties, but then during this period, Mr. Swafford, I</p> <p>20 believe, abandoned his client, and I believe the representations</p> <p>21 made to Kosach were we were going to hold off on the amended</p> <p>22 complaint and any rulings on it, and that's where we're at.</p> <p>23 We are going to be filing our amended complaint, I</p> <p>24 believe Miss Pierce indicated this week or next week.</p> <p>25 That will be the complaint that we're going to ask the</p>	<p style="text-align: right;">Page 181</p> <p>1 MR. BROWN: And if that happens, I would reserve my</p> <p>2 right to retake Mr. Spencer's depo if there is any new</p> <p>3 information that's not in this or your previous complaint.</p> <p>4 MR. ROUTSIS: Very good. It will have much less than</p> <p>5 this. I can confirm that.</p> <p>6 MR. BROWN: Okay.</p> <p>7 BY MR. BROWN:</p> <p>8 Q I want to go back to the medication that you are on.</p> <p>9 A Okay.</p> <p>10 Q You said it's for depression?</p> <p>11 A Yes.</p> <p>12 Q How long approximately have you been on that</p> <p>13 medication?</p> <p>14 A Year and a half. Two years. Something like that.</p> <p>15 Q Have you ever been on any -- I'm going to refer to it,</p> <p>16 and you correct me if I'm wrong, it sounds like you're on an</p> <p>17 antidepressant?</p> <p>18 A Yes.</p> <p>19 Q And you just testified that you have been on it for</p> <p>20 approximately a year to a year and a half?</p> <p>21 A I thought I said year and a half to two years.</p> <p>22 Q Okay. If you did, I apologize. I didn't catch that.</p> <p>23 So a year and a half to two years, so that would have</p> <p>24 put that --</p> <p>25 A I think.</p>

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1 Q -- around 2014ish time frame?

2 A Yeah. Somewhere in there.

3 Q Had you ever been on antidepressants prior to 2014?

4 A No.

5 Q Not in your entire life?

6 A No.

7 Q And who do you see to get that medication?

8 A I had to ask my wife the doctor's name. That one is

9 Steinmez.

10 Q I'm sorry?

11 A Steinmez.

12 Q Steinmez?

13 A Yeah.

14 MR. PINTAR: Can you spell it?

15 THE WITNESS: Let me look it up. I have got her in my

16 phone.

17 S-T-E-I-N-M-E-Z.

18 MR. PINTAR: Thank you.

19 What's the address?

20 THE WITNESS: I don't know her address. It's down on

21 Third Street by the hospital there.

22 BY MR. BROWN:

23 Q In Carson or Douglas?

24 A Tahoe.

25 Q In Tahoe?

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1 A South Lake Tahoe.

2 Q What type of doctor is Dr. Steinmez?

3 A Whoops. I just called her. Sorry.

4 General practitioner, and then she referred me to a

5 psychologist, I guess.

6 Q Have you -- so how -- before I get into that.

7 How long has Dr. Steinmez been your doctor?

8 A I couldn't say.

9 Q Was she your --

10 A Probably more than five years.

11 Q Okay. That's what I was getting at.

12 Prior to this accident. Or prior to this incident in

13 December of 2012?

14 A I think so, yes.

15 Q Okay. Since the incidents in December of, I'm going

16 to call it -- I'm going to refer to the incident that happened

17 on the night of the December 18th as "the incident".

18 A Okay.

19 Q Since the incident, after the incident occurred, do

20 you recall when the first time you treated with Dr. Steinmez

21 was?

22 A No, sir.

23 Q Approximately how many times have you received

24 treatment with Dr. Steinmez since the accident?

25 And I don't need an exact number.

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1 A I could not tell you.

2 Q Would you be able to say with any certainty that it

3 was less than half a dozen times?

4 A No. It would be more than that.

5 Q Okay. How about less than a dozen times?

6 A I don't -- I don't think so, but I can't say.

7 Q Okay. So, again, I'm not holding you to anything.

8 I'm just trying to get an idea.

9 You think it is possibly between six and a dozen

10 times, but you are not certain on that.

11 Is that a fair way of restating your testimony?

12 A I really have no recollection of how many times, so --

13 Q Okay.

14 A -- that's really a guess.

15 Q All right. Fair enough.

16 What sorts of things have you treated with

17 Dr. Steinmez with since the date of the accident, or the

18 incident?

19 A The stress. I don't -- I have a hard time with -- I

20 can't think of what it's called.

21 Q If you don't know the name of it, you can try and

22 describe what it is.

23 A It's an infection, but I can't --

24 Q And that's fine. I can stop you there.

25 An infection, and you can correct me, but an infection

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1 is not something that you are relating to arising out of that

2 incident that happened in December, correct?

3 A No. It is.

4 Q Oh, it is?

5 A Because it's -- you get the infection, and if you are

6 stressed, you can't fight it off. It's too hard to fight it

7 off. So it came back 3 or 4 times.

8 Q Like a lung infection, or are you talking about --

9 A No. It's, it's a -- yeah, like a sore and a body

10 infection.

11 Q Where did you get that at?

12 I mean, what part of your body did you have the sore

13 on?

14 A My nose, my toes, usually goes to your outlying ends.

15 Q Is it like a staph?

16 A Yeah. Like -- it's like a staph infection, yeah.

17 Q And were you put on antibiotics for that?

18 A Yes.

19 Q Okay.

20 A Multiple antibiotics. Normal antibiotics didn't do

21 it.

22 Q And you said it's come up in different places in your

23 body. Your nose --

24 A Yes.

25 Q -- is one place.

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<p style="text-align: right;">Page 186</p> <p>1 You said your fingers?</p> <p>2 A Toes.</p> <p>3 Q Toes. Anywhere else?</p> <p>4 A My arm.</p> <p>5 Q How was it treated, besides -- I know you said you got</p> <p>6 antibiotics.</p> <p>7 A Antibiotics, and then they cut it and drain it. It's</p> <p>8 kind of gross.</p> <p>9 Q Okay. And I assumed something based on your</p> <p>10 testimony, so you are going to correct me if I'm right or wrong.</p> <p>11 But you believe that that infection is somehow related</p> <p>12 to the incident that occurred on December 18th, 2012?</p> <p>13 A Yes.</p> <p>14 Q Okay. What is the basis for that belief?</p> <p>15 A My immune system is down to nothing. I'm stressed out</p> <p>16 so much that I get infections. I get sick constantly.</p> <p>17 Abdominal problems, you know. Stomach issues.</p> <p>18 Q Has any doctor told you that those infections were</p> <p>19 related to the incident --</p> <p>20 A Yes.</p> <p>21 Q -- that happened on -- got to let me finish --</p> <p>22 December 18th, 2012?</p> <p>23 A To the situation, not to that specific day.</p> <p>24 Q The overall situation?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 188</p> <p>1 Q Do you know --</p> <p>2 A I might have her in my phone.</p> <p>3 Q Okay. Perfect.</p> <p>4 A I think I do actually.</p> <p>5 MR. ROUTSIS: Marilyn can provide you with all that,</p> <p>6 too, today because she knows everybody.</p> <p>7 MS. CAPERS: Have these medical records been produced?</p> <p>8 MR. BROWN: I haven't seen it.</p> <p>9 MR. PINTAR: We may assume they will be part of the</p> <p>10 damages, right?</p> <p>11 MR. ROUTSIS: Yes. I'll get Lynn right on</p> <p>12 it because I think we need to.</p> <p>13 MR. PINTAR: If we send you an authorization, would</p> <p>14 you have Mr. Spencer sign it?</p> <p>15 MR. ROUTSIS: Absolutely. I'm sharing with Lynn -- I</p> <p>16 mean, again, I'm just the trial attorney, but talk to Lynn about</p> <p>17 everything.</p> <p>18 She will give you everything you need. This is her --</p> <p>19 she is here to get me to trial and can follow the civil</p> <p>20 procedure. Okay.</p> <p>21 THE WITNESS: I don't know how to go about getting my</p> <p>22 medical records.</p> <p>23 MS. CAPERS: Has she been associated in yet?</p> <p>24 MR. ROUTSIS: Yes. She has been associated in and has</p> <p>25 been in contact with these gentlemen here, I think.</p>
<p style="text-align: right;">Page 187</p> <p>1 Q The arrest, the trial?</p> <p>2 A Yes.</p> <p>3 Q Okay. Who has told you that?</p> <p>4 A Every one of my doctors.</p> <p>5 Q Okay.</p> <p>6 A Except for my heart doctor.</p> <p>7 Q You have only talked about one doctor with me so far.</p> <p>8 A I have four.</p> <p>9 Q Okay. So we have got Dr. Steinmez?</p> <p>10 A Yes.</p> <p>11 Q Who else?</p> <p>12 A I don't remember that. A GI doctor. I don't</p> <p>13 remember -- she is in Gardnerville and Carson.</p> <p>14 Q This is a GI doctor?</p> <p>15 A Yeah.</p> <p>16 Q Would reference to your phone help you out?</p> <p>17 A No, I don't have their number.</p> <p>18 Q Okay. Who else?</p> <p>19 A Cardiologist that I went to. They put me under stress</p> <p>20 test and have done all that and put a monitor on me.</p> <p>21 I have episodes where I pass out, and they can't</p> <p>22 figure it out.</p> <p>23 Q Okay. Anybody else?</p> <p>24 A Dana, the psychiatrist, psychologist, whatever she is.</p> <p>25 She is in Reno, but I can't remember her last name.</p>	<p style="text-align: right;">Page 189</p> <p>1 THE WITNESS: I don't have her number.</p> <p>2 BY MR. BROWN:</p> <p>3 Q Okay.</p> <p>4 A Unless I looked through everything but --</p> <p>5 Q Okay.</p> <p>6 A It's probably under last.</p> <p>7 Q As soon as Dave gets back, we'll pick back up.</p> <p>8 THE VIDEOGRAPHER: We're going off the video record.</p> <p>9 The time is approximately 2:44 p.m.</p> <p>10 (A recess was taken)</p> <p>11 THE VIDEOGRAPHER: We are going back on the video</p> <p>12 record. The time is approximately 2:47 p.m.</p> <p>13 BY MR. BROWN:</p> <p>14 Q Mr. Spencer, before the break, I asked you to identify</p> <p>15 the doctors that you were seeing, and you identified</p> <p>16 Dr. Steinmez, a GI doctor, but couldn't remember the name, a</p> <p>17 cardiologist, and either a psychiatrist or a psychologist, is</p> <p>18 what I believe you testified to.</p> <p>19 During the break, I believe your wife wrote down the</p> <p>20 names of your doctors.</p> <p>21 Would it refresh your memory if I showed you the list</p> <p>22 that your wife provided, where she provided names of the</p> <p>23 doctors?</p> <p>24 A Yes.</p> <p>25 Q Okay. I'm going to show you that list, and then once</p>

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<p style="text-align: right;">Page 190</p> <p>1 you have looked at it -- would you hand that to the court</p> <p>2 reporter, and we'll mark this as an exhibit, also?</p> <p>3 A I don't -- I think doctor --</p> <p>4 MR. ROUTSIS: We will mark these. I don't know how</p> <p>5 you --</p> <p>6 MR. BROWN: Yes.</p> <p>7 MR. ROUTSIS: I'll let you do that.</p> <p>8 THE WITNESS: I had hand it to her and she --</p> <p>9 BY MR. BROWN:</p> <p>10 Q Yes.</p> <p>11 A -- first?</p> <p>12 Q And then I'm going to ask you if looking at that list</p> <p>13 refreshed your recollection as to who your doctors were?</p> <p>14 A Yes, it did.</p> <p>15 Q Okay.</p> <p>16 (Exhibits 12-13 marked for identification)</p> <p>17 BY MR. BROWN:</p> <p>18 Q So, Mr. Spencer, having looked at that list of your</p> <p>19 physicians, do you remember the names of the physicians?</p> <p>20 A Yes.</p> <p>21 Q Okay. And so we have got Dr. Steinmez.</p> <p>22 You said, I believe earlier, she is some sort of a</p> <p>23 general practitioner?</p> <p>24 A Yes.</p> <p>25 Q Who is the GI doctor?</p>	<p style="text-align: right;">Page 192</p> <p>1 Have any of these doctors -- and I think you indicated</p> <p>2 that Steinmez was your doctor before the incident in December,</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q Okay. What about the GI doctor?</p> <p>6 A No.</p> <p>7 Q That's a new doctor?</p> <p>8 A Yes.</p> <p>9 Q Had you ever been treated by a GI doctor before the</p> <p>10 incident --</p> <p>11 A No.</p> <p>12 Q -- in December?</p> <p>13 Okay. What about cardiologists?</p> <p>14 A No.</p> <p>15 Q You had never seen a cardiologist prior to what</p> <p>16 happened in December?</p> <p>17 A No.</p> <p>18 Q Okay. And I believe you testified earlier --</p> <p>19 A Oh, wait. Let me change that.</p> <p>20 I must have seen a cardiologist before then, because I</p> <p>21 did take a treadmill test some years ago, just a checkup.</p> <p>22 Q Was that while you were living at the lake?</p> <p>23 A Yes. Because I think it was in Carson hospital also.</p> <p>24 Carson-Tahoe, Carson City.</p> <p>25 Q You believe it may have been with the same group?</p>
<p style="text-align: right;">Page 191</p> <p>1 A Gao.</p> <p>2 Q Dr. Gao. Where is Dr. Gao located?</p> <p>3 A I see her in Gardnerville.</p> <p>4 Q Okay. And I'm certain you probably don't have her</p> <p>5 address, if I asked you.</p> <p>6 And we can get that later, if you don't.</p> <p>7 A No, I don't have it with me.</p> <p>8 Q Okay. Who is the cardiologist?</p> <p>9 A That, I don't remember. But it says it was Carson,</p> <p>10 Carson Cardiologists.</p> <p>11 Q Okay.</p> <p>12 A So it was in Carson hospital. Carson-Tahoe.</p> <p>13 Q Oh, Carson-Tahoe in Carson City?</p> <p>14 A Yes.</p> <p>15 Q That's where you see the cardiologist?</p> <p>16 A Yes.</p> <p>17 Q All right. And then. The psychiatrist or</p> <p>18 psychologist you see, do you recall that individual's name?</p> <p>19 A Dana Anderson.</p> <p>20 Q And where is Miss Anderson located? In Reno?</p> <p>21 A She is in Reno.</p> <p>22 Q Do you know if she is either -- do you know which one</p> <p>23 she is? A psychologist or a psychiatrist?</p> <p>24 A No, I don't.</p> <p>25 Q Okay. Fair enough.</p>	<p style="text-align: right;">Page 193</p> <p>1 A It might have been, yeah.</p> <p>2 Q Okay. How many times have you seen Miss Anderson</p> <p>3 approximately since 2012?</p> <p>4 A I couldn't say approximately.</p> <p>5 Q I'm going to ask you the same question I asked for</p> <p>6 Dr. Steinmez.</p> <p>7 Do you know if it's less than a half a dozen times?</p> <p>8 A I would say it's over.</p> <p>9 Q Over?</p> <p>10 A I would think.</p> <p>11 Q Is it less than a dozen times?</p> <p>12 A Oh, I meant over a dozen, sorry.</p> <p>13 Q You meant -- so you have seen her over a dozen times?</p> <p>14 A I'm guessing.</p> <p>15 Q Okay.</p> <p>16 A I can't --</p> <p>17 Q That's fine.</p> <p>18 A I can't swear to it.</p> <p>19 Q If it turns out it's ten, and you said it's over a</p> <p>20 dozen, I'm not too concerned about that.</p> <p>21 But I'm just trying to get an idea.</p> <p>22 A Right.</p> <p>23 Q You believe as you sit here, anyways, that it's at</p> <p>24 least over a dozen times?</p> <p>25 A Yeah.</p>

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<p style="text-align: right;">Page 194</p> <p>1 Q Okay.</p> <p>2 A It's a little hard to get appointments with her,</p> <p>3 because she is so far out and because of my work schedule.</p> <p>4 Q Okay. So can I see 12, please? Let me grab it.</p> <p>5 I'm going to give you another list that appears was</p> <p>6 prepared by your spouse, and which appears to be conditions that</p> <p>7 you have been treated for.</p> <p>8 If I showed you this list, would it help refresh your</p> <p>9 memory as to what sorts of conditions you are being treated for?</p> <p>10 A Yes.</p> <p>11 Q Okay. This is the original.</p> <p>12 Tell me when you are done reviewing that.</p> <p>13 A I'm done.</p> <p>14 Q Okay. I see the first on the list, which is</p> <p>15 Exhibit 13, it looks like it's either Barrett's or Barrett's</p> <p>16 esophagus.</p> <p>17 Have you heard either one of those terms before?</p> <p>18 A Yeah.</p> <p>19 Q Okay. Which one is it because I can't --</p> <p>20 A Barrett's.</p> <p>21 Q Barrett's.</p> <p>22 Tell me what that is, if you know? And I understand</p> <p>23 you are not a doctor.</p> <p>24 A I could you tell the symptoms more than I can tell you</p> <p>25 what this means.</p>	<p style="text-align: right;">Page 196</p> <p>1 A No.</p> <p>2 Q Is it, is your answer more of "I was told that I might</p> <p>3 need some sort of future intervention or treatment", or was it</p> <p>4 "I may need treatment if the condition arises again"?</p> <p>5 A No. I will need treatment eventually, because it will</p> <p>6 stay there.</p> <p>7 So what we're doing is trying to keep things at bay,</p> <p>8 as you might want to say.</p> <p>9 Q Okay. High blood. Is that the cardiologist that</p> <p>10 treats that or Dr. Steinmez?</p> <p>11 A The cardiologist.</p> <p>12 Q And prior to the incident in December, you had never</p> <p>13 been diagnosed with high blood pressure before?</p> <p>14 A Correct.</p> <p>15 Q Acid reflux?</p> <p>16 A Yes.</p> <p>17 Q And the GI doctor treat you for that, as well?</p> <p>18 A Yeah.</p> <p>19 Q Are you on any sort of --</p> <p>20 A Yeah.</p> <p>21 Q -- antacids?</p> <p>22 A I think it's Nexium or something. Something I have to</p> <p>23 take the rest of my life.</p> <p>24 Q And that's something you had never been treated prior</p> <p>25 to --</p>
<p style="text-align: right;">Page 195</p> <p>1 Q Okay. Tell me what you believe the symptoms are.</p> <p>2 A Problem swallowing. Problem keeping food down, which</p> <p>3 it's way out of my league. I just tell the doctor to fix me,</p> <p>4 you know.</p> <p>5 Q Sure. I understand.</p> <p>6 But you, obviously, went to a doctor for some</p> <p>7 complaint related to your esophagus.</p> <p>8 A Yes. That was the same -- went to the GI doctor for</p> <p>9 that, and my intestines issue, and my stomach ulcers and</p> <p>10 everything else.</p> <p>11 Q Okay. And so what it sounds like, what you testified</p> <p>12 is you have problems swallowing, keeping stuff down?</p> <p>13 A Yes.</p> <p>14 Q Okay. Anything else related to the esophagus that you</p> <p>15 can think of while we are here that you have experienced?</p> <p>16 A I have to say no.</p> <p>17 Q Are you on any sort of medication for that condition?</p> <p>18 A Yes.</p> <p>19 No. It's not for the esophagus. It's for the</p> <p>20 stomach, intestines.</p> <p>21 Q Okay. Do you have to have any additional treatment</p> <p>22 for Barrett's esophagus that you are aware of?</p> <p>23 A Possibly down the road.</p> <p>24 Q Do you know what kind that could be? What sort of</p> <p>25 treatment?</p>	<p style="text-align: right;">Page 197</p> <p>1 A Correct.</p> <p>2 Q -- the incident?</p> <p>3 Depression, we talked about that a little bit. You</p> <p>4 are on a medication that I don't think you can recall the name</p> <p>5 of completely?</p> <p>6 A Correct.</p> <p>7 Q How often do you have to take that medication? Once a</p> <p>8 day?</p> <p>9 A 150 milligrams every morning.</p> <p>10 Q What is nocturnal hypoxemia, if you know?</p> <p>11 A Sleeping disorder. Sleeping at night and not</p> <p>12 breathing, I think.</p> <p>13 Q Not breathing?</p> <p>14 A Yeah.</p> <p>15 Q Is that --</p> <p>16 A I am not sure, you know, I, all this stuff is --</p> <p>17 Q That's fine. I understand you are not a doctor.</p> <p>18 A I don't understand doctor's lingo.</p> <p>19 Q Okay. Has anybody told you, or do you recall hearing</p> <p>20 the term "sleep apnea", or anything like that?</p> <p>21 A Oh, I know what that is.</p> <p>22 Q Do you have that?</p> <p>23 A No.</p> <p>24 Q Okay. So this is different --</p> <p>25 A Yes.</p>

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1 Q -- than that condition?
 2 A Yes.
 3 Q What has been done to address that condition, the
 4 nocturnal hypoxemia?
 5 A I'm not sure that that's some of the pills or
 6 stress-related, or what we're doing with that.
 7 Q Who treats you for that condition?
 8 A That would be the general, Steinmez.
 9 Q Steinmez. Okay.
 10 Die --
 11 A Diverticulitis.
 12 Q Okay. I'm not going to try to repronounce that.
 13 A That's the GI doctor.
 14 Q What is that?
 15 A Intestine problem.
 16 Q And is that something that -- when did that first
 17 arise?
 18 A That was probably a year ago. I'm trying to think
 19 when I first went to her.
 20 Yeah. A year, maybe a year and a half.
 21 Q Okay. Fair enough. And that's all I want is your
 22 best estimate.
 23 MERSA, chronic. And we talked about that a little
 24 bit.
 25 How many times have you had MERSA since the incident

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1 in April?
 2 A Four times.
 3 Q Did it ever require a hospitalization?
 4 A No.
 5 Q Okay. So you were able to either treat it through
 6 antibiotics or lancing it --
 7 A Yeah.
 8 Q -- and keeping it clean?
 9 A Yes.
 10 Q Do you know what kind of antibiotics they put you on
 11 for MERSA?
 12 A I know I have to take penicillin with some other ones.
 13 There is three different antibiotics. There is an antibiotic
 14 ointment, also. I can't really tell you.
 15 If I don't take the penicillin, it doesn't even effect
 16 it. So it has to be penicillin, plus these other ones, also.
 17 Plus you have to take baths in Clorox. Real fun,
 18 there. Other stuff.
 19 Q And have you ever had MERSA prior to December 2012?
 20 A No.
 21 Q Okay. We talked about nocturnal hypoxemia earlier.
 22 But there is also a reference to insomnia on this
 23 list.
 24 Do you know -- again, if you know, that's fine. If
 25 you don't, that's fine, too.

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1 Is there a difference between those two conditions?
 2 A I don't know.
 3 Q Okay. What do they do to treat your insomnia?
 4 A They tried changing my allergy medicine, try different
 5 things to see -- you know, that's also part of where the
 6 psychiatrist, psychologist, whichever, comes in.
 7 Q Sleeping pills?
 8 A No. I take some sometimes, but that's not a regular
 9 thing.
 10 Q Okay. And you have got migraines listed on here, as
 11 well?
 12 A Yeah.
 13 Q Who treats you for that condition?
 14 A Steinmez. And we just do -- like, the prescription
 15 Ibuprofen, 800 milligrams, or something like that.
 16 Q Is that a symptom that you had prior to the incident
 17 in December of 2012 or after?
 18 A No. After.
 19 Q After. Okay.
 20 A Dizziness, is that what you are reading, the last one?
 21 Q Yeah. Well, there's something two point -- oh,
 22 fainting?
 23 A Yeah. That is the cardiologist issue.
 24 Q Now we talked about the conditions.
 25 I'd like to know if you believe, based on what you

Page 201

1 have been told by your medical doctors, that -- whether these
 2 conditions that we have all identified are related to the stress
 3 that you allege that you sustained as a result of the actions of
 4 my clients or Mr. Pintar's clients in this case?
 5 A Yes.
 6 Q Okay. Who pays for your medical, your medical
 7 treatment? Is it you, or an insurance company?
 8 A It was us for quite a while. We have insurance now.
 9 Q So it sounds like a little of both?
 10 A Yeah, a little of both. I can't think who the
 11 insurance company is now.
 12 Q I'm going to ask two other questions regarding this,
 13 and I may have to break it down further.
 14 But do you have any idea of what the total medical
 15 expense is, regardless of who has paid for them, are associated
 16 with the treatment that you have received for these conditions?
 17 A No. I don't ever see the bills when the insurance
 18 pays them.
 19 Q Do you have any idea of what you have paid
 20 out-of-pocket for these treatments?
 21 A No.
 22 Q Do you know if it's -- I'm going to ask you one of
 23 these general questions again.
 24 Do you know if it's less than \$10,000?
 25 A No, I don't.

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1 Q Okay. And what has the psychiatrist, slash,
2 psychologist, because we don't know which one she is, Anderson,
3 done with respect to your treatment?

4 What is the course of treatment that you are supposed
5 to go through?

6 A She kind of confirms what Steinmez prescribes to me,
7 and then gives us tools to help fight the stress.

8 Q Has Miss Anderson -- and I call her that because I
9 don't know whether she is a doctor or not -- but has
10 Miss Anderson, to your knowledge, ever indicated that your
11 depression-related symptoms for which you are receiving
12 antidepressants for, are in any way related to actions of my
13 client, or any of the other parties in this case?

14 A Yes.

15 Q Okay. And tell me what you recall her saying.

16 A It's directly, directly related. That's where all the
17 stress came from.

18 Q Okay. And that's based on her interviewing you?

19 A Yes.

20 Q Okay. What about the cardiologist?

21 Has the cardiologist, and to your recollection,
22 related the treatment here she has provided to you since
23 December of 2012 to the actions of either my client or the other
24 parties in this lawsuit?

25 A Yes.

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1 Q Okay. And --

2 A They said it would be stress-related.

3 Q Go ahead. I'm sorry.

4 A It's stress related, and you can't find out why it's
5 happening.

6 Q Okay. So he believes that it's all stress-related?

7 A Yes.

8 Q Is it "he"?

9 A Yes, it is a he.

10 Q Okay. The GI doctor, has the GI doctor to your
11 knowledge or recollection indicated to you that the treatment he
12 has had to provide, he or she, has had to provide since December
13 of 2012 is in some way related to the actions of my client, or
14 any other parties in this case?

15 A Yes. She said it's stress-related also.

16 Q You said she?

17 A She. It's a she.

18 Q So she indicated it was stress-related?

19 A Uh-huh (affirmative). But that there's nothing you
20 can do for it from here on out.

21 Q What do you mean by that? Is that --

22 A It's -- everything is kind of like an ulcer. Once you
23 have it, you have it.

24 So all you do is try to maintain it to keep it from
25 getting bad. Watch your diet and that kind of stuff. Take

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1 pills.

2 Q What sorts of treatment, if any, in the future has she
3 suggested you might need?

4 A Checkup, you know. That kind of thing.

5 She said there's just -- you take the pills, and you
6 have to do it all your life, and that should keep it, keep it to
7 where it is.

8 Q And with respect to the -- and I apologize. We're
9 getting late in the day. If I asked this question already, I'm
10 sorry. We're going to move on here shortly.

11 What about Dr. Anderson? Has she indicated that you
12 will need any treatment in the future?

13 A Yes.

14 Q Okay. What has she told you about that?

15 A That when this is all over, it will probably get
16 better. You know, said we need to move, that kind of stuff.

17 Q Do you have any plans to move?

18 A No. Can't afford to. Owe more on the house than it's
19 worth.

20 Q I'm sorry. I didn't hear that.

21 A We owe more on the house than it's worth.

22 Q Understood. Understood.

23 Are you planning on getting any other type of
24 treatment that we haven't discussed?

25 A Not planning on any.

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1 Q Unless something arises that you don't anticipate or
2 are not anticipating?

3 A Yes.

4 Q Okay. Let's go back to this.

5 And I know, Counsel, you are going to be withdrawing
6 it, but it is a pleading that's filed in this case. It's got
7 allegations. I know it has not been accepted, but I'm still
8 going to go through it.

9 MR. ROUTSIS: Okay.

10 BY MR. BROWN:

11 Q Mr. Spencer, we were on page 3, and I think, and I'll
12 have you confirm this for me.

13 I think we were talking about paragraph 11 at the
14 bottom of the page.

15 Do you recall us discussing that paragraph? And I
16 think you concluded that, and I think you will correct me if I
17 am wrong, that deputy, I think you told me Deputy Sanchez
18 advised you that no crime had been committed?

19 A Yes.

20 Q Okay. Let's go to the next page.

21 Now this -- and read that paragraph, and let me know
22 when you are done. I'm just going to try and move this along a
23 little bit.

24 A Okay.

25 Q This reference is a letter that was written by Dr. and

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1 Mr. Shaw on December 13th.
 2 Did you actually ever see that letter?
 3 A Yes.
 4 Q Okay. How did you -- was that through the criminal
 5 trial?
 6 A Yes.
 7 Q Through a subpoena?
 8 A Yes.
 9 Q Okay. You also say that on the same day on the next
 10 paragraph, the 13th, she wrote similar letters to Douglas County
 11 and other Douglas County agencies making identical claims.
 12 In other words, that you with your snowplow intended
 13 to batter and did batter Mr. Egon Klementi.
 14 A Yes.
 15 Q How do you know that that occurred? That she --
 16 A Same thing. Subpoena.
 17 Q Okay. You reference other agencies, but you don't say
 18 which ones.
 19 What other agencies?
 20 A There was multiple Douglas County agencies and KGID.
 21 Q Okay. Now paragraph 14, read that if you would can,
 22 tell me when you are ready to go.
 23 A Yeah.
 24 Q First off, who is Mr. McKay?
 25 A He is the head of KGID.

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1 Q Is he someone that you have personal familiarity with?
 2 A (Witness shook head negatively).
 3 Q No?
 4 A I only know who he is. I have never talked to him.
 5 Q Fair enough.
 6 How do you know Egon called him directly on the 13th,
 7 and again informed Mr. McKay that you tried to batter him?
 8 A That, I don't know. I don't know at this time.
 9 Q Okay. We talked about this a little bit earlier, but
 10 next paragraph, December 18th -- or I'm sorry.
 11 Paragraph 13 talks about the KGID meeting that
 12 happened on the date of the incident.
 13 Tell me when you are done reading that.
 14 A Okay.
 15 Q When you talk about what both Egon and Mary Ellen
 16 Kinion said at that meeting, how do you know those statements
 17 were said?
 18 A I don't know that this paragraph here is even
 19 accurate.
 20 Q Okay. And that's what I want.
 21 If it's not accurate you, obviously, tell me that you
 22 question its accuracy, or you are not sure.
 23 A I don't remember anything on December 17th.
 24 Q Was the allegation based on what we have talked about?
 25 What day -- and I know you dispute what happened, but

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1 what day did that occur where Egon says you tried to assault him
 2 with the snowplow?
 3 Was that on the 17th or some day earlier?
 4 A Earlier.
 5 Q Okay.
 6 A Possibly the 12th.
 7 Q Okay. So let's, for a minute, assume that
 8 December 17th is a typo.
 9 Is there anything else that you question in that
 10 paragraph besides the date?
 11 A No. That is --
 12 Q Sorry?
 13 A It looks good to my knowledge.
 14 Q Let's move on to the next one, 16.
 15 A Outside of the time, it's accurate.
 16 Q That's right, this happened later in the hour?
 17 A Yes.
 18 Q And this is consistent with what you testified to
 19 earlier, and this -- you also disputed how the report
 20 characterized the impact between you and my client?
 21 A Yes.
 22 Q Okay. Next page.
 23 And when you are done with that, let me know. I think
 24 we can probably get rid of this one pretty quickly.
 25 A I don't agree with what's in the parentheses. I

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1 don't --
 2 Q Whom he believed was his twin brother Egon Klementi?
 3 A Yeah. What's he referring to there? What's that
 4 referring to? I don't --
 5 Q I don't necessarily understand that, either.
 6 A Okay.
 7 Q Let's cross that portion out, just for the time being,
 8 and ignore that, because I don't think it adds much one way or
 9 the other.
 10 And again, it's just a statement that's filed in this
 11 case, and I don't know what that means either, but --
 12 MR. ROUTSIS: Well, I think it's apparent.
 13 He believed at the time when he was on the ground, he
 14 first thought it was Egon.
 15 Didn't you?
 16 THE WITNESS: Yeah, but it says --
 17 BY MR. BROWN:
 18 Q I don't think this is a statement by Jeff.
 19 I think this is a statement by Egon or Helmut, and
 20 that's why that's confusing.
 21 A Yeah.
 22 Q So -- but there are a couple things I want to ask you
 23 about this.
 24 There's a statement here that says plaintiff ran
 25 outside and punched my client, Helmut.

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<p style="text-align: right;">Page 210</p> <p>1 Where did you get that word "punched" from?</p> <p>2 A This looks like it's, to me, it looks like it's a</p> <p>3 quote.</p> <p>4 Q From where?</p> <p>5 We can go back and read the police report. I'd rather</p> <p>6 not do that, but --</p> <p>7 A Because it says the police officers once again called</p> <p>8 to the scene, and they were informed by Egon and Helmut</p> <p>9 Klementi.</p> <p>10 Q Uh-huh (affirmative).</p> <p>11 A So that, to me, sounds like Egon and Helmut Klementi</p> <p>12 were talking to the police officers.</p> <p>13 Q Let me just cut to this:</p> <p>14 Are you -- do you have any knowledge, or are you aware</p> <p>15 of any document that says, where my client or Egon says, you</p> <p>16 punched Helmut?</p> <p>17 A Yes.</p> <p>18 Q Where?</p> <p>19 A Police reports. Trial. And transcripts.</p> <p>20 Q Well, then let's go back to the police reports.</p> <p>21 A Not that one. I don't think -- yeah, it does say</p> <p>22 that. It does say that in there. Yeah. Look at their</p> <p>23 statements.</p> <p>24 MR. ROUTSIS: And, for the record, if you read the</p> <p>25 trial transcripts, that's their testimony under oath.</p>	<p style="text-align: right;">Page 212</p> <p>1 punched.</p> <p>2 MR. BROWN: Okay. Understood.</p> <p>3 THE WITNESS: There's reference to it at page 6.</p> <p>4 Line 14.</p> <p>5 BY MR. BROWN:</p> <p>6 Q I'm sorry. Oh, in the complaint?</p> <p>7 A Yeah.</p> <p>8 Q Okay. Other than the complaint, are you aware --</p> <p>9 MR. ROUTSIS: I think he was referring to testimony</p> <p>10 from trial.</p> <p>11 THE WITNESS: Yes, that reference.</p> <p>12 MR. ROUTSIS: Although that isn't in the report. It</p> <p>13 is referencing the trial transcripts.</p> <p>14 BY MR. BROWN:</p> <p>15 Q Okay. Page 16 or paragraph 16?</p> <p>16 A Page 6?</p> <p>17 Q Sorry?</p> <p>18 A Page 6?</p> <p>19 MR. ROUTSIS: Line 15.</p> <p>20 THE WITNESS: 15, I guess you would call that.</p> <p>21 MR. ROUTSIS: Right in the middle.</p> <p>22 THE WITNESS: Yeah, 15 and a half.</p> <p>23 BY MR. BROWN:</p> <p>24 Q So the only quotes says substantial bodily injuries?</p> <p>25 MR. ROUTSIS: No. It says Helmut testified that</p>
<p style="text-align: right;">Page 211</p> <p>1 BY MR. BROWN:</p> <p>2 Q Okay. Would you go back to Exhibit 1 and identify for</p> <p>3 me where it says "punched"?</p> <p>4 A This is Exhibit 1, the police report?</p> <p>5 Q Yes, sir.</p> <p>6 A Okay.</p> <p>7 Q You are looking --</p> <p>8 A I saw Jeff Spencer hitting Helmut from the back and</p> <p>9 pushing him to the floor/street.</p> <p>10 Q Okay.</p> <p>11 A That is Egon Klementi's statement.</p> <p>12 Q Okay. But does it say "punched"?</p> <p>13 A No. It says hitting.</p> <p>14 Q So when a car hits another car, does that require a</p> <p>15 physical punch? Or is that --</p> <p>16 MR. ROUTSIS: Objection.</p> <p>17 BY MR. BROWN:</p> <p>18 Q I'm just asking you --</p> <p>19 MR. ROUTSIS: That's argumentative. Let move on.</p> <p>20 BY MR. BROWN:</p> <p>21 Q Anywhere else that it says punched?</p> <p>22 A This is -- okay. Something was out of order here.</p> <p>23 I think the officer said something like that.</p> <p>24 MR. ROUTSIS: Just to expedite this matter, if you</p> <p>25 read the trial transcripts, I believe he testified he was</p>	<p style="text-align: right;">Page 213</p> <p>1 plaintiff punched --</p> <p>2 BY MR. BROWN:</p> <p>3 Q I got it. But when you -- I assumed when you said</p> <p>4 quote, I went for quotes, and I only saw --</p> <p>5 A Yeah.</p> <p>6 MR. ROUTSIS: I'll be quiet. He is. I'm not</p> <p>7 testifying.</p> <p>8 BY MR. BROWN:</p> <p>9 Q Okay. So other than the references in the complaint,</p> <p>10 and what you are saying here today that it's in the trial</p> <p>11 transcript, that's the only place you are aware of that that</p> <p>12 exists?</p> <p>13 A No.</p> <p>14 Q The word punched?</p> <p>15 A I believe it's in other places.</p> <p>16 Q Where?</p> <p>17 A In other documents.</p> <p>18 Q What other documents?</p> <p>19 A I can't remember.</p> <p>20 Q Do you have access to those documents?</p> <p>21 A Yes.</p> <p>22 Q And for my purposes, where are they? Are they at your</p> <p>23 house?</p> <p>24 A Yes. I don't believe -- we don't have all that stuff</p> <p>25 turned in.</p>

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1 Q Okay.

2 A So we have a lot of disclosure, I guess.

3 Q You do have a lot of disclosure. I'm also going to

4 ask the court reporter to leave several blanks for you to

5 identify any other documents where you -- where my client or

6 Egon or anybody says that you punched Helmut Klenenti.

7 INFORMATION REQUESTED: _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 ***

18 THE WITNESS: Okay.

19 BY MR. BROWN:

20 Q I'm going to ask you the same question.

21 I'm going to ask you to, if you independently recall

22 this, and if not, I'm going to ask the court reporter to leave

23 blanks for this, too.

24 But where it says in the -- paragraph 17 of the

25 proposed amended complaint that --

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1 A Wait. Wait. Wait. Paragraph 17?

2 Q Yes, page 5. Paragraph 17. Top of the page.

3 A Top? Okay.

4 Q Right after the parenthetical that you and I had

5 problems with, says before throwing him to the ground.

6 Who -- who has said that?

7 A I have no idea.

8 Q You don't know if it was Egon or Helmut?

9 A No. Like I said, I don't even understand that, that

10 paragraph.

11 Q Okay. Are you aware of any allegation -- or I'm

12 sorry.

13 Any statement by either my client or Egon or anybody

14 else that has, basically, said you punched and then threw him to

15 the ground?

16 A Yes.

17 Q Okay. And where was that statement?

18 A One of the reports. I don't remember where.

19 Q Okay. Did my client testify, to your recollection, to

20 that in trial, as well?

21 A I can't say.

22 Q Okay.

23 A Excuse me. You said your client?

24 Q My client is Helmut.

25 A I don't believe he ever said that I threw him down.

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1 Q Okay. To your knowledge?

2 A Helmut, yes.

3 Q Okay.

4 A That I can remember.

5 Q Okay. I don't think there is any dispute about

6 paragraph 18.

7 That you were arrested, and that an investigation was

8 instituted concerning whether you willfully abused an elderly

9 person pursuant to NRS 200.5092.

10 With that said, can you take a look at 19?

11 A Uh-huh (affirmative).

12 Q I'm curious about this. I think I have seen your

13 surveillance video.

14 You had indicated somewhere, and maybe I read it in

15 here -- oh, you did. That the video provided by the Shaws

16 showing Helmut standing in the road was intentionally edited by

17 Mr. or Dr. and Mr. Shaw.

18 Tell me what you know about that allegation.

19 A Well, I have three camera angles that shows him in my

20 driveway, and their video does not show him in my driveway.

21 But shows me running around my truck. So, obviously,

22 he has enough clarity that far away to see me and not see him.

23 That has to be edited. And the hour they turned in is

24 not an hour long. Although the time stamp is an hour, you can

25 go through, with surveillance equipment, you can click each

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1 frame.

2 So if you go through and click frames, some there's

3 seven shots per second, some there's 24 shots per second. So

4 we're missing frames.

5 So it's been shortened up. It's not an actual hour.

6 And, obviously, he would be standing there -- even the pictures

7 he turned in shows him placed there, yet it's not on his

8 videotape.

9 And they did not turn in the video around 7 o'clock

10 when he was on my property. Why was that?

11 Q Did they come out? I mean, did they come out -- were

12 they --

13 A I don't know if they were at home.

14 Q Okay. Have you done anything to have that video

15 analyzed to determine whether it was edited?

16 A No.

17 Q So that is your belief, but you don't have any --

18 anybody that's come out and looked at it, and said, no, that's

19 not --

20 A Correct.

21 Q Okay.

22 A I think we would have to get -- to do that, don't you

23 have to get a copy from the courts, and then have your chain of,

24 whatever, and have it sent directly to someone to check it?

25 Q I don't know the process. I'm just asking if you had

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1 done that?

2 A Okay. Well, I know I can't do it because then you

3 will question that.

4 Q Looking at paragraph 20, it just talks about the

5 amended complaint being filed.

6 I have no way of verifying it, but I'm assuming that

7 it was filed on that day, March 8th, 2013.

8 Anything that you find inaccurate or have concerns

9 about in paragraph 20?

10 A No. I don't know what the standards are there, the

11 NRS, the codes.

12 Q Yeah. That's why I'm asking. It seems pretty

13 vanilla.

14 A Yeah, it's pretty cut and dry there.

15 Q Okay. So let's take a look at paragraph 21 and tell

16 me when you are done.

17 A Yeah. That is kind of inaccurate.

18 Q It's inaccurate? It rolls over to -- I'm sorry.

19 A It says battering Helmut Klementi. That has never

20 come up.

21 Q Where?

22 A Halfway down, line at the end of line 25.

23 Q Three -- yeah, okay. Battering -- you don't

24 believe --

25 A Oh, I was thinking battering with the snowplow,

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1 because I was reading the line ahead. Excuse me.

2 Q Yeah. Okay.

3 And this is just the preliminary hearing, correct?

4 A Yeah.

5 Q This just refers to the preliminary hearing.

6 A Yeah. So this is, basically -- let's see. Okay.

7 Yeah, that's correct.

8 Q Okay. And then on 22, read that and tell me when you

9 are done.

10 A Okay.

11 Q Okay. You refer to the last sentence of that

12 paragraph, says the statements of Egon and Mary Ellen were

13 entirely false.

14 And what statements are you referring to?

15 A Again --

16 MR. ROUTSIS: I'm going to object to the form of the

17 question. He didn't write the document.

18 THE WITNESS: Yeah.

19 MR. BROWN: Okay.

20 MR. ROUTSIS: I mean, he is not the author of the

21 document.

22 BY MR. BROWN:

23 Q Well, you read it. So you are right. That's a bad

24 question. I'll go back, and I'll redo that.

25 That, and I jumped to the end.

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1 So paragraph 22 talks about statements that were made,

2 evidence presented at your criminal trial, established that the

3 plaintiff never used his snowplow to either intentionally place

4 berms of snow on anyone's driveway or batter Egon Klementi with

5 snow and ice.

6 And then it goes on to say the statements of Egon and

7 Mary Ellen were entirely false.

8 Understanding you didn't write this, but understanding

9 that Egon and Mary Ellen testified at your criminal trial, what

10 statements -- and I don't need -- if you can't remember

11 specifics, but what general statements do you recall that were

12 false that they provided at trial?

13 A Well, to me, the way that paragraph is written, what

14 you are asking my opinion, I'm not an attorney on this --

15 Q And I think you misunderstood my question.

16 A I must have.

17 Q Let's go back.

18 You sat through the trial.

19 A Correct.

20 Q You have alleged, among other things, that my client

21 just made false statements, and we have talked about that a

22 little bit.

23 I believe you have alleged that the other defendants

24 in this case --

25 MR. ROUTSIS: If I can just pose an objection,

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1 Counsel.

2 If you read the transcripts, not only did Mary Ellen

3 Kinion and Egon testify that they called the police --

4 MR. BROWN: Counsel, Counsel, before you start

5 testifying, I don't want to hear it.

6 I know you have told me "read the transcripts". I

7 want to know what his knowledge is and what he remembers from

8 trial.

9 MR. ROUTSIS: Well, it's irrelevant.

10 MR. BROWN: I don't want you to testify.

11 MR. ROUTSIS: Well, it's irrelevant, then. If you

12 don't know the record, and you are asking him where this comes

13 from, you don't know --

14 MR. BROWN: Don't matter whether I know the record. I

15 am entitled to his recollection of what happened.

16 MR. ROUTSIS: It's irrelevant.

17 MR. BROWN: It's not irrelevant.

18 MR. ROUTSIS: It is.

19 MR. BROWN: It is his recollection. He is a party in

20 this. He has made the allegations.

21 MR. ROUTSIS: If this is absolutely verified by

22 certified trial transcripts, asking him if he remembers is

23 irrelevant.

24 MR. BROWN: It's not irrelevant. Because I'm allowed

25 to probe his memory. He has made claims in this case.

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1 MR. ROUTSIS: Carry on. Go ahead. It's just a waste
2 of time.
3 MR. BROWN: Thank you. It's not a waste of time.
4 MR. ROUTSIS: It really is.
5 MR. BROWN: I'm allowed to probe his memory.
6 MR. ROUTSIS: It really is.
7 BY MR. BROWN:
8 Q I'm allowed to probe his memory.
9 What statements did Egon and Mary Ellen make at trial
10 that you believe were false?
11 And if you don't remember, just tell me that you don't
12 remember, and I'll move on.
13 A I'm not, I'm not going to quote them. No, I don't
14 remember.
15 Q Okay.
16 A The best, the best evidence would be the trial
17 transcripts.
18 Q What is your recollection?
19 MR. PINTAR: Let's take a break.
20 MR. BROWN: Okay. And I've got about an hour left
21 before I have got to get out of here.
22 THE VIDEOGRAPHER: We are going off the video record.
23 The time is approximately 3:31 p.m.
24 (A recess was taken)
25 THE VIDEOGRAPHER: We are going back on the video


Page 223

1 record. The time is approximately 3:47 p.m.
2 MR. BROWN: We took a break, and while we are off the
3 record, counsel had a discussion about continuing this depo to
4 another date and time that is going to be convenient for the
5 attorneys and parties.
6 In the meantime -- and we are going to work on getting
7 some of the medical records that came up in this deposition.
8 And Mr. Routsis has also indicated that they will be
9 filing a new motion for leave to file a new amended complaint.
10 MR. ROUTSIS: When that occurs --
11 MR. BROWN: Go ahead.
12 MR. ROUTSIS: Which is really just going to redact and
13 simplify. We're going to put less than more.
14 Go ahead.
15 MR. BROWN: And so what we'll do is we will agree at
16 another time, obviously before the discovery cutoff date, to
17 retake or to finish and conclude Mr. Spencer's deposition.
18 We also did not get to Miss Spencer's deposition, and
19 we'll work with counsel to reschedule that, as well.
20 MR. ROUTSIS: When is the discovery cutoff?
21 MR. BROWN: It's not for a long time.
22 MR. ROUTSIS: Okay.
23 MR. BROWN: I think it's October.
24 MR. PINTAR: Experts are -- are we off the record?
25 Are we off record?

Page 224

1 MR. BROWN: We can go off the record.
2 Does counsel agree to that course of action?
3 MR. ROUTSIS: Yes. Yes.
4 MR. BROWN: Okay. That's it.
5 THE VIDEOGRAPHER: This concludes the deposition of
6 Jeffrey Spencer on July 28, 2016, which consists of four
7 videotapes.
8 The original videotape will be retained by Sunshine
9 Litigation Services.
10 Off the video record at approximately 3:48 p.m.
11 (Proceedings concluded at 3:49 p.m.)
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Page 225

1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)
3 I, DEBORAH MIDDLETON GRECO, a Certified Court Reporter
4 in and for the State of Nevada, do hereby certify:
5 That on Thursday, July 28, 2016, at the hour of
6 10:01 a.m. of said day, at 151 Country Estates Circle, Reno,
7 Nevada, personally appeared JEFFREY SPENCER, who was duly sworn
8 by me to testify the truth, the whole truth and nothing but the
9 truth, and thereupon was deposed in the matter entitled herein;
10 That I am not a relative, employee or independent
11 contractor of counsel to any of the parties, or a relative,
12 employee or independent contractor of the parties involved in
13 the proceedings, or a person financially interested in the
14 proceeding;
15 That said deposition was taken in verbatim stenotype
16 notes by me, a Certified Court Reporter, and thereafter
17 transcribed into typewriting as herein appears;
18 That the foregoing transcript, consisting of pages 1
19 through 225, is a full, true and correct transcription of my
20 stenotype notes of said deposition.
21 DATED: At Reno, Nevada, this 1st day of August, 2016.
22 
23
24 DEBORAH MIDDLETON GRECO
25 CCR #113, RDR, CRR

JEFFREY SPENCER - 07/28/2016

Page 226

ERRATA SHEET

2
3
4
5 I declare under penalty of perjury that I have read the
6 foregoing _____ pages of my testimony, taken
7 on _____ (date) at
8 _____ (city), _____ (state),
9
10 and that the same is a true record of the testimony given
11 by me at the time and place herein
12 above set forth, with the following exceptions:
13

Page	Line	Should read:	Reason for Change:
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Page 227

ERRATA SHEET

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17
18 Date: _____
Signature of Witness
19
Name Typed or Printed
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24
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Henderson

2400 W. Horizon Ridge Parkway
Henderson, Nevada 89052
Telephone: (702) 477-7774
Facsimile: (702) 477-7778

Henderson (Satellite)

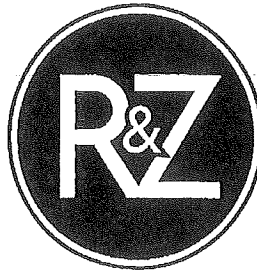
2340 W. Horizon Ridge Parkway, Suite 100
Henderson, Nevada 89052
Telephone: (702) 477-7774
Facsimile: (702) 477-7778

Reno

50 W. Liberty St., Suite 1050
Reno, Nevada 89501
Telephone: (775) 786-4441
Facsimile: (775) 786-4442

Tempe

209 E. Baseline Rd., Suite E-205
Tempe, Arizona 85283
Telephone: (602) 845-5500
Facsimile: (602) 845-5502



RANALLI & ZANIEL, LLC TRIAL ATTORNEYS

George R. Applegate, Esq.
David M. Zaniel, Esq.
Jason Andrew Fowler, Esq.
Ernest MP Moran, Esq.

Kimberly C. Smith, Esq.
Vicki L. Driscoll, Esq.
Michael T. Nixon, Esq.
John W. Kirk, Esq.
Scott L. Rogers, Esq.
Brett J. Schwartz, Esq.
Lawrence R. Phillips, Esq.
Cher L. Shaine, Esq.
C. Benjamin Scroggins, Esq.
Erin L. Bittick, J.D.
Theodore W. Sell, J.D.
Michael G. Trippiedi, J.D.

Of Counsel
Brent Jordan, Esq., L.L.M.

Reply to: **Reno Office**

September 29, 2016

VIA BOOTLEG COURIER

Sunshine Litigation Services
151 Country Estates Circle
Reno, Nevada 89511

Re : *Klementi v. Spencer*
Case No : 14-CV-0260
Our File No. : 3400.650

To Whom it May Concern,

Attached please find the corrections to the deposition transcript of Jeffrey Spencer. A copy of the corrections and this correspondence will be forwarded to all counsel and parties related to the case. Please do not hesitate to contact us with any questions or concerns.

Sincerely,


RANALLI & ZANIEL, LLC

David Zaniel, Esq.
dzaniel@ranallilaw.com

cc: Michael Pintar, Esq.; Douglas R. Brown, Esq.; William J. Routsis, Esq.; Lynn G. Pierce, Esq.; Tanika Capers, Esq.

DMZ/ko
Enc (as stated)

JEFFREY SPENCER - 07/28/2016

Page 226

ERRATA SHEET

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3
4
5 I declare under penalty of perjury that I have read the
6 foregoing 226 pages of my testimony, taken
7 on 7/28/16 (date) at
8 Reno (city), NV (state),
9
10 and that the same is a true record of the testimony given
11 by me at the time and place herein
12 above set forth, with the following exceptions:
13
14 Page Line Should read: Reason for Change:
15
16 6 2 Dale Incorrect middle name
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18 9 22 Charles No street type
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22 41 22/24 Alpen Not Alpine
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Page 227

ERRATA SHEET

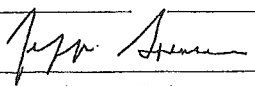
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18 Date: 09/25/16 
19 Signature of Witness
20 Jeffrey Spencer
21 Name Typed or Printed
22
23
24
25

EXHIBIT 4

EXHIBIT 4



May 31, 2012

COMMUNITY DEVELOPMENT

1594 Esmeralda Avenue, Minden, Nevada 89423

Shane Pieren

Code Enforcement Officer

spieren@co.douglas.nv.us

(775) 782-6214

FAX: 775-782-6297

website: www.douglascountynv.gov

Building Division
Engineering Division
Planning Division
Code Enforcement

HELEN L SCHOENE, TRUSTEE

PO BOX 2326

STATELINE, NV 89449

RE: VIOLATION OF DOUGLAS COUNTY CODE AT 321 CHARLES, STATELINE, NV
APN: 1318-23-810-085 CASE NO.: 12-052401

Dear Ms. Schoene:

In response to a number of reports received by Douglas County regarding the above referenced property, an inspection of the site has verified violation(s) of Douglas County Codes 10.12.030, 20.690.030 (U), 20.690.030 (F), 8.14.020 and 20.692.080 (A).

The County requires that you: 1.Remove from the property or store all unlicensed and junk vehicles in a garage.

2. Cease parking the commercial truck and trailer on the street. It is unlawful for the owner or driver of a vehicle or trailer, which is rated by the manufacturer's nominal rating in excess of eight thousand unloaded pounds or which exceeds twenty-four feet in length to stand or park the vehicle or trailer at any time upon any public street, highway, or alley except for purposes of loading and unloading passengers, materials or merchandise in a residentially zoned area.

3. Storage of the commercial truck and trailer is not permitted on residentially zoned lots. Nor is the storage of the back hoe in the front yard.

4. The newly built fence does not meet height requirements for front and side yards adjacent to a street. Fences for front and side yards adjacent to the street are limited to 3 feet in height. Please lower fence heights to their permitted height.

Douglas County requires that these conditions be corrected within fifteen (15) days from the date of this letter.

Property owners within the County are required to maintain their property in a manner, which has a positive affect on the overall safety and appearance of our community. No property within the County may be maintained in a manner, which downgrades the value, use, enjoyment, or safety of one's own, or surrounding property.

Your cooperation in this matter is appreciated. If you desire additional information, you may contact me at (775) 782-6214/spieren@co.douglas.nv.us.

Respectfully,

Shane Pieren

Code Enforcement Officer

Enclosures

MAILING ADDRESS:P.O. BOX 218, Minden, NV 89423

121



OFFICE OF THE DISTRICT ATTORNEY
DOUGLAS COUNTY

2 R.App.321

Mark B. Jackson
District Attorney

November 13, 2012

Certified Mail: 7010 0780 0001 5686 9617

Mailing Address
P.O.Box 218
Minden, Nevada 89423

Carson Valley Office
1038 Buckeye Road
Minden, Nevada 89423
775-782-9800
775-782-9807 (fax)

Lake Tahoe Office
175 U.S. Highway 50
Stateline, Nevada 89449
775-586-7215
775-586-7217 (fax)

Child Support
P.O.Box 1240
Minden, Nevada 89423
775-782-9881
775-782-9880 (fax)

Douglas V. Ritchie
Chief Civil Deputy

Thomas W. Gregory
Chief Criminal Deputy

Steven D. Schultz
Chief Investigator

Jan Budden
Office Manager

Connie Wenner
Child Support Coordinator

Jeff and Marilyn Spencer
P.O. Box 2326
Stateline, NV 89449

Dear Mr. and Mrs. Spencer:

On Monday, November 5, 2012, I along with Douglas County Code Enforcement Officer Shane Pieren and Douglas County Engineer Erik Nilssen inspected the fence you constructed on your property located at 321 Charles Avenue, Stateline, Nevada which is adjacent to the intersection of Charles and Juniper streets. The purpose of the inspection was to reassess the fence and any public safety concerns created by the fence as a result of decreased visibility to motorists traveling through the intersection of Charles and Juniper.

After conducting its review, the County determined that your fence creates a public safety hazard because it is located within the right-of-way, and does not allow sufficient visibility to motorists travelling through the intersection. Required sight lines at the intersection under standard street engineering guidelines are totally obscured by the fence, which does not allow motorists to adequately see crossing traffic before entering the intersection. The public safety hazard is heightened by the coming winter season which is likely to make travel through the intersection even more difficult due to snow and ice on the roadway, and the grade of Charles Avenue approaching the intersection with Juniper

As you know, you were previously notified of the non-compliant fence by Douglas County Code Enforcement. You first received notice of the code violation on May 31, 2012. You responded by indicating that you wanted to seek a variance from the County to allow your fence to remain on your Property. Under appropriate procedure, a variance should be sought *prior to* a property owner constructing a non-compliant structure, instead of the non-complaint structure being constructed before a variance is sought. In any event, you have not applied for a variance to date, although I am informed that you attended a pre-variance conference with County personnel on or about October 17, 2012. I further understand that you were given a deadline of December 4, 2012 to file your variance application, if any.

Notwithstanding your possible variance application and the ultimate resolution of any such application, due to the clear public safety hazard created by your non-compliant fence, the County requires that you remove the vertical fence boards from your fence immediately (you may leave the fence posts and framing in place pending your variance application). This will ensure that motorists passing

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We support a
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2383 App.321

Jeff and Marilyn Spencer
November 13, 2012
Page 2

through the intersection of Charles and Juniper have sufficient visibility to safely travel through the intersection. Should your variance application be denied, the remaining fence posts and framing must be removed. Should your variance application be approved, the vertical fence boards can be reattached upon notice of the variance approval by the County.

The County intends to conduct an inspection of your Property on November 28, 2012, to ensure compliance with the County's requirement that you remove the vertical fence boards from your fence. In the event that you do not comply, the County will have no choice but to initiate legal proceedings to obtain a court order directing you to remove the vertical fence boards, in addition to all other available legal remedies.

Should you wish to discuss this matter further, please contact me at 775-782-9803.

Thank you,

MARK B. JACKSON
Douglas County District Attorney

Zachary J. Wadell
Zachary J. Wadell
Deputy District Attorney

SENDER: COMPLETE THIS SECTION ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		COMPLETE THIS SECTION ON DELIVERY A. Signature <i>[Signature]</i> B. Received by <i>[Signature]</i> C. Date of Delivery <i>[Signature]</i> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: Jeff + Marilyn Spencer P.O. Box 2326 State Line, NV 89449		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
2. Article Number (Transfer from service label) PS Form 3811, February 2004		7010 0780 0001 5686 9617 Domestic Return Receipt 102595-02-M-1540	

7010 0780 0001 5686 9617

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Postmark Here	Postage & Fees	Return Receipt Fee (Domestic Mail Only)	Restricted Delivery Fee (Domestic Mail Only)
	\$ 5.75		

Sent to: Jeff + Marilyn Spencer, P.O. Box 2326, State Line, NV 89449

PS Form 3811, August 2005 See Reverse for Instructions



OFFICE OF THE DISTRICT ATTORNEY DOUGLAS COUNTY

Mark B. Jackson
District Attorney

November 2, 2012

Mailing Address
P.O.Box 218
Minden, Nevada 89423

Carson Valley Office
1038 Buckeye Road
Minden, Nevada 89423
775-782-9800
775-782-9807 (fax)

Lake Tahoe Office
175 U.S. Highway 50
Stateline, Nevada 89449
775-586-7215
775-586-7217 (fax)

Child Support
P.O.Box 1240
Minden, Nevada 89423
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775-782-9880 (fax)

Douglas V. Ritchie
Chief Civil Deputy

Thomas W. Gregory
Chief Criminal Deputy

Steven D. Schultz
Chief Investigator

Jan Budden
Office Manager

Connie Wenner
Child Support Coordinator

Peter and Rowena Shaw
P.O. Box 3006
Stateline, NV 89449

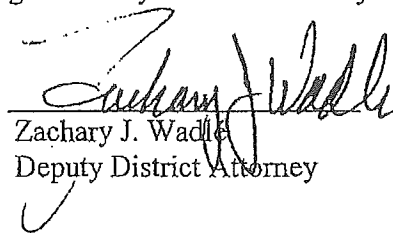
Dear Mr. and Mrs. Shaw:

This letter responds to your correspondence dated October 22, 2012, regarding the fence erected on the Spencer's property located at 321 Charles Avenue, Stateline, Nevada. Thank you for bringing your concerns to our attention regarding possible traffic dangers at the corner/intersection of Charles and Juniper given the impending Winter season. The County intends to review the site and current conditions in light of your concerns and will take corrective action if necessary. As to your questions related to possible liability for any accidents at the intersection, the County cannot answer such questions given the many variables that may bear upon liability in a hypothetical accident with unknown circumstances. In any event, the County takes your concerns seriously and will promptly review the intersection to determine if further action must be taken. Should you have further questions, please contact me at 775-782-9803.

Thank you,

MARK B. JACKSON
Douglas County District Attorney

By:


Zachary J. Wadley
Deputy District Attorney

ZJW:jf

cc: Shane Pieren, Code Enforcement Officer

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RECEIVED

OCT 24 2012

DOUGLAS COUNTY
DISTRICT ATTORNEY

October 22, 2013

Mr. Mark Jackson, District Attorney
P.O. Box 218
Minden, NV 89423

Mr. Jackson,

This letter is a follow-up to the one we sent last September regarding this ongoing issue. We received an update from Mr. Shane Pieren, Code Enforcer, that the Spencers attended the scheduled October meeting and was given a December 04, 2012 deadline to submit their application for a variance to retain the fence height, as is, and pay the requisite filing fee. If the application is finally submitted, it will take until January, 2013 to arrange for a hearing with county commissioners.

Given the fact that the Spencers erected the fence last Memorial Day weekend, motorists and pedestrians have been challenged and forced to contend with the hazardous blind corner for the past five months. Evidently, our neighborhood will continue to be exposed to the perilous intersection as this case drags.

At the corner of Charles and Juniper where the blind corner exists, the terrain is inclined and is on the shady side of the street. Consequently, during winter, ice builds up. Vehicles have to accelerate or risk sliding backward. Speeding up the slope on a blind intersection will inevitably result in an accident. We have seen children walking from the bus stop, drop to their knees to clamber up the slippery slope. Drivers cannot see children crouched on the road! These incidents are not exaggerations. We witnessed and experienced such occurrences multiple times. Dreadfully, the first winter snow of the year fell last October 22, 2012.

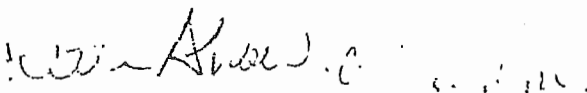
Our questions at this point are:

Is Douglas County liable for any damage and/or injury to motorists and/or pedestrians since the county granted several extensions for filing to the Spencers, thus, allowing the "danger to the public" situation to persist.

Are the Spencers liable for any damage and/or injury for creating the public safety issue?

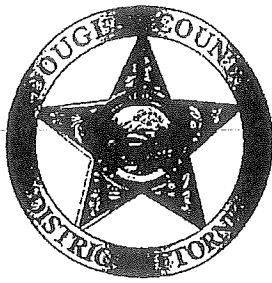
We would appreciate a reply.

Sincerely,



Peter Shaw and Dr. Rowena Shaw
P.O. Box 3006
Stateline NV 89449
(775) 588-2890

Cc: Mr. Zach Wadle, Community Development, Douglas County Commissioners, Planning Commission



OFFICE OF THE DISTRICT ATTORNEY
DOUGLAS COUNTY

2 R.App.325

Mark B. Jackson
District Attorney

October 8, 2012

Mailing Address
P.O.Box 218
Minden, Nevada 89423

Carson Valley Office
1038 Buckeye Road
Minden, Nevada 89423
775-782-9800
775-782-9807 (fax)

Lake Tahoe Office
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775-586-7217 (fax)

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Douglas V. Ritchie
Chief Civil Deputy

Thomas W. Gregory
Chief Criminal Deputy

Steven D. Schultz
Chief Investigator

Jan Budden
Office Manager

Connie Wenner
Child Support Coordinator

Todd L. Torvinen, Esq.
232 Court Street
Reno, NV 89501

Re: *Marilyn & Jeff Spencer vs. Bruce Taylor*, Case No: PO 12-0005
*Notice of Subpoena Duces Tecum for Douglas County Community
Development Department*

Dear Todd:

Enclosed are copies of the responsive records to the Subpoena Duces Tecum for 321 Charles Avenue, Stateline, NV 89449 from April 1, 2010 to present. Below is also the Privilege Log for the records produced.

Should you have any questions, please do not hesitate to contact this office.

PRIVILEGE LOG: *Spencer v. Taylor*

Bate Stamp No.	Date	Doc Type	Document Summary
DC01-02	05-24-12	Complaint Form	Reporting Party Redacted due to pending criminal investigation/anticipated prosecution, <i>Donrey v. Bradshaw 106 Nev. 630 (1990)</i> .
DC35 & 41	08-29-12	E-mail	Nonresponsive, Redacted information regarding a distinct and separate code enforcement case involving a different address.
DC42	09-04-12	E-mail	Attorney Client Privileged Communication E-mail exchange between Shane Pieren and Zach Wadle, DDA.

Sincere Regards,

MARK B. JACKSON
Douglas County District Attorney

By: *Cynthia Gregory*
Cynthia Gregory
Deputy District Attorney

DRUG USE °
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We support a
drug free community

CG:jaf
Enclosures
cc: Mimi Moss, Community Development Director (w/enclosures)

2567 App.325

EXHIBIT 5

EXHIBIT 5

1
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5
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

8 -o0o-

9
10 HELMUT KLEMENTI,
Plaintiff,

Case No. 14-CV-0260

Dept. No. II

11 vs.
12 JEFFREY D. SPENCER, et al.,
Defendants.
13 AND RELATED COUNTERCLAIMS.

14
15
16 DEPOSITION OF
17 ELFRIEDE KLEMENTI

18 April 14, 2016

19 Reno, Nevada
20
21
22
23

24 JOB NO. 299004-A

25 REPORTED BY: DEBORAH MIDDLETON GRECO, CCR #113, RDR, CRR

ELFRIEDE KLEMENTI - 04/14/2016

Page 2	Page 4
<p style="text-align: center;">A P P E A R A N C E S</p> <p>FOR THE PLAINTIFF: Nicholus Palmer, Esq. Laub & Laub 630 E. Plumb Lane Reno, NV 89502 323-5282 Nik@lawlaub.com</p> <p>FOR THE DEFENDANTS: David M. Zaniel, Esq. Ranalli & Zaniel, LLC 50 West Liberty St., #1050 Reno, NV 89501 786-4441 Dzaniel@ranallilawyers.com</p> <p>FOR THE COUNTERCLAIMANT: William J. Routsis, II, Esq. 1070 Monroe Street Reno, NV 89509 337-2609</p> <p>FOR COUNTERDEPENDANTS KLEMENTIS: Christian L. Moore, Esq. Lemons, Grundy & Eisenberg 6005 Plumas Street, #300 Reno, NV 89509 786-6868 Clm@lge.net</p> <p>FOR COUNTERDEPENDANT KINION: Michael A. Pintar, Esq. Glogovac & Pintar 427 West Plumb Lane Reno, NV 89509 333-0400 Mpintar@gplawreno.net</p> <p>(Continued on Next Page)</p>	<p style="text-align: center;">I N D E X</p> <p>EXAMINATION PAGE</p> <p>Examination by Mr. Zaniel 5</p> <p>Examination by Mr. Routsis 107</p> <p style="text-align: center;">E X H I B I T S</p> <p>NUMBER DESCRIPTION PAGE</p> <p>EXHIBIT 8 Brochure "The Klementis" 101</p> <p>EXHIBIT 9 Google Map of the Area 101</p> <p>(Original Exhibits Retained in Binders at Sunshine Litigation Services)</p>
Page 3	Page 5
<p style="text-align: center;">A P P E A R A N C E S (Continued)</p> <p>FOR THE SHAWs: Tanika M. Capers, Esq. 6750 Via Austi Parkway, #310 Las Vegas, NV 89119 (702) 371-5657 Tcapers@amfam.com</p> <p>ALSO PRESENT: Mary Ellen Kinion Helmut Klementi Jeffrey Spencer Marilyn Spencer</p>	<p>BE IT REMEMBERED that on Thursday, April 14, 2016, at the hour of 9:11 a.m. of said day, at the offices of SUNSHINE LITIGATION SERVICES, 151 Country Estates Circle, Reno, Nevada, before me, DEBORAH MIDDLETON GRECO, a Certified Court Reporter, personally appeared ELFRIEDE KLEMENTI, who was by me first duly sworn and was examined as a witness in said cause.</p> <p style="text-align: center;">-oOo-</p> <p style="text-align: center;">ELFRIEDE KLEMENTI</p> <p>called as a witness, having been duly sworn, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. ZANIEL:</p> <p>Q Can you state your name for the record, ma'am?</p> <p>A My name is Elfriede Klementi. I'm known as Elfie.</p> <p>Q Okay. Maybe you could spell that just for the court reporter's sake?</p> <p>A I spell Elfriede, E-L-F-R-I-E-D-E. Last name, Klementi, with K-L-E-M-E-N-T-I.</p> <p>Q I'm going to call you Miss Klementi, if that's okay?</p> <p>A Whatever you want.</p> <p>Q Okay. So you were present at the depositions that were taken last Thursday, I believe, for each one of them?</p> <p>A Yes.</p> <p>Q I believe in each one of those depositions you heard some admonitions or rules of depositions that were given.</p>

ELFRIEDE KLEMENTI - 04/14/2016

Page 6

1 So what I'm about to tell you is probably redundant
2 for you, but I think I should probably go over those rules just
3 so you are understanding now that you are the deponent in the
4 case, okay?

5 A Thank you.

6 Q The court reporter placed you under oath this morning.

7 A Uh-huh (affirmative).

8 Q And we're sitting in an informal setting in a
9 conference room.

10 But the oath that was provided to you was the same
11 oath that would be given in a courtroom, and that oath requires
12 you to tell the truth today under the penalty of perjury.

13 Do you understand that?

14 A Yes.

15 Q If you don't understand a question that is asked of
16 you by myself or any of the attorneys, then stop us and let us
17 know.

18 If you answer the question today, then we will assume
19 that you have understood the question and answered it to the
20 best of your ability; is that fair?

21 A Yes, sir.

22 Q The last major rule is that after today, if you change
23 your testimony, the attorneys may be able to comment upon those
24 changes, and it may affect your credibility.

25 Do you understand that?

Page 7

1 Do you understand that?

2 A Yes, I do.

3 Q Those are the major rules.

4 If you need to take a break or talk to your attorney,
5 I don't have any problem with that.

6 If there's a question that's pending, I'd like to just
7 have that response before we break, but we'll know when the good
8 times to break are.

9 But if you need to go to the bathroom right away or
10 something, just let me know, and we'll stop the deposition.

11 Have you taken any medications in the last 24 hours?

12 A Yes.

13 Q Okay. What medications have you taken?

14 A Blood pressure pill.

15 Q Okay. That blood pressure pill doesn't effect your
16 ability to recall information or testify clearly here today?

17 A No.

18 Q And you are feeling in overall good health to go
19 forward this morning?

20 A I feel fantastic.

21 Q Very good.

22 What I would like to do is get a little background
23 information from you.

24 And then we'll talk about some incidents leading up to
25 the main incident, and then information that you know about the

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1 incident, and any information you may know about after the
2 incident.

3 So with that said, let's get started.

4 What is your date of birth, ma'am?

5 A August 14, 1941.

6 Q And where were you born?

7 A In Austria.

8 Q And when did you move from Austria to the United
9 States?

10 A The first time we came to the United States was 1975.

11 And we are here since, permanent, since -- oh, my
12 goodness. 1989.

13 Q Okay. So 1975, you came to the United States?

14 A Yes.

15 Q And then you moved back to Austria?

16 A We traveled worldwide. So we came and left Lake
17 Tahoe.

18 But since 1989, we are permanent.

19 Q Okay. And how long have you lived -- well, what's
20 your address, ma'am?

21 A Physical address? 187 Meadow Lane, Stateline, Nevada,
22 89449.

23 Q Okay. And when did you obtain your, or when did you
24 purchase that residence?

25 A Oh, nearly 30 years ago. About 26 years ago.

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1 Q What year would that be?

2 A Oh, I can't tell exactly.

3 Q Make me do math in the morning.

4 A '92.

5 Q Okay. 1992?

6 A Yeah.

7 Q So that was after you were permanently in the United
8 States, then?

9 A Correct.

10 Q Okay. The first time you were in the United States in
11 '75, how long did you stay that time approximately?

12 A We stayed about 6, 8 months.

13 Q Okay.

14 A And then we traveled back to Europe, and coming and
15 going since '89.

16 Q Okay. And that 6 to 8 months the first time you came,
17 was that, were you in the Lake Tahoe area?

18 A No. The first time we came was to Anaheim.

19 Q Okay.

20 A We did sport shows, Anaheim and Kansas City, and then
21 we flew back to Austria and came back again.

22 Q So 1989, when you came back, did you come back to the
23 Nevada area at that time?

24 A Yes.

25 Q Okay. So had you been to Lake Tahoe before 1989?

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1 A Yes.
 2 Q So you had visited on your last occasion?
 3 A Yes.
 4 Q You felt that to be a nice place to live, and when you
 5 returned in 1989, that's where you knew that you were going to,
 6 eventually, buy a home and reside?
 7 A Correct.
 8 Q Okay. All right. So 1992 is when you moved into the
 9 Meadow Lane?
 10 A Yes.
 11 Q Okay. And when you moved into the Meadow Lane, do you
 12 know who your neighbors were in that area?
 13 A No. We never met the neighbor who was living before
 14 the Spencers.
 15 Q Okay. You have heard some of the other deponents in
 16 the case, like the Shaws and Miss Kinion?
 17 A No, I did not know anyone.
 18 Q Okay. So let's go over when you met these particular
 19 people, so we have kind of got a background in terms of the
 20 timeline.
 21 Do you remember when you first would have met
 22 Miss Kinion?
 23 A Oh, my God.
 24 Q You can estimate for me.
 25 A Yeah. At least, I'm sure at least we're there five

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1 years already in our house at least.
 2 Q Five years ago or five years --
 3 A No. In the house. So makes it 1998, 1999, something
 4 like that.
 5 Q Okay. When you moved in, was Miss Kinion already
 6 living there in her residence?
 7 A Not until her residence now. She was in a different
 8 house.
 9 Q Okay. But she was in that area?
 10 A Correct.
 11 Q Okay. All right. So that's Miss Kinion.
 12 How about Dr. Shaw and Mr. Shaw? Do you remember when
 13 you first would have met them?
 14 A I met them about 15 years ago. Actually only Dr. Shaw
 15 and her daughter. But only by name.
 16 Q Okay.
 17 A I never met them in person.
 18 Q Okay. And then when -- as we sit here today, what do
 19 you recall the first time you would have met Mr. or Mrs.
 20 Spencer?
 21 And by "met", I mean, introduced yourself as, hello, I
 22 am Miss Klementi?
 23 A Mrs. Spencer introduced herself to us when they
 24 started building the house.
 25 We never met Mr. Spencer. He did not introduce

Page 12

1 himself.
 2 Q Do you know approximately when that was that
 3 Miss Spencer introduced herself when she was building the home?
 4 A I don't remember when they started building the house.
 5 Q Was it 20 years ago, 15 years ago, or just don't
 6 recall?
 7 A At least 15 years ago. I don't know.
 8 Q Okay. All right. And you are married, ma'am?
 9 A Yes.
 10 Q And who are you married to?
 11 A I'm married to Egon Klementi.
 12 Q And what year were you and Egon married?
 13 A 1964. We are married over 52 years.
 14 Q That's a long time.
 15 Where were you married?
 16 A In Austria.
 17 Q Have you been married to anybody else other than Egon?
 18 A No. Not in 52 years.
 19 Q Do you have any children?
 20 A Yes.
 21 Q How many children do you have?
 22 A I have one son.
 23 Q And what's your son's name?
 24 A Rene, R-E-N-E, apostrophe.
 25 Q Last name? I'm sorry.

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1 A No. I said after the last "E", it's apostrophe. I
 2 don't know to say in English.
 3 Q How do you spell apostrophe?
 4 THE REPORTER: Apostrophe.
 5 BY MR. ZANIEL:
 6 Q Apostrophe. I thought it was an Austrian grammatical
 7 thing. Okay.
 8 Where is Rene living at?
 9 A He lives in Austria.
 10 Q Since, so you moved into the residence, you said, in
 11 1992.
 12 A Correct.
 13 Q Was the house already built when you moved into it?
 14 A The house was built. But we remodeled the house.
 15 Q Over the years, how many times have you remodeled the
 16 house?
 17 A We remodeled when we moved in.
 18 Q Did you add onto the house at that time?
 19 A No.
 20 Q Okay. You just remodeled the inside?
 21 A Correct.
 22 Q Okay. Since 1992 until we sit here today, have you
 23 and your husband visited Austria?
 24 A Yes.
 25 Q How many -- would you say it's more than ten times?

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1 A About 8 to 10 times.
 2 Q The incident that we're here to talk about today was
 3 in 2012, correct?
 4 A Correct.
 5 Q Okay. From December 2012, until we sit here today,
 6 have you and your husband been to Austria at all?
 7 A Yes.
 8 Q How many times have you been to Austria since December
 9 of 2012?
 10 A Only one time.
 11 Q And can you tell me approximately when that was?
 12 A You know, I have to recall. It was before 2012.
 13 It was 2011. I apologize.
 14 Q That's all right. Just to make the record clear,
 15 then, from December 2012 until we sit here today, you and your
 16 husband have not been to Austria?
 17 A No.
 18 Q Okay. So in 2011, do you remember what time frame
 19 that was approximately?
 20 A Yeah, in spring, because my granddaughter got married.
 21 Q Spring 2011, you and your husband returned to Austria
 22 for your granddaughter's marriage?
 23 A Correct.
 24 Q And how long were you there for during that time?
 25 A Three weeks.

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1 Q Do you know if Helmut went with you on that visit?
 2 A No.
 3 Q And I'm using first names between Helmut and Egon, not
 4 to be disrespectful, but if I said Mr. Klementi, I don't want
 5 there to be a confusion.
 6 A Okay.
 7 Q Okay. So as we sit here today, you said you had met
 8 Miss Spencer. She introduced herself to you when they were
 9 building their house; is that true?
 10 A Yeah, she came over.
 11 Q And how was the relationship between you and
 12 Mrs. Spencer at that point, in the early points, at the early
 13 times?
 14 A We never had a contact.
 15 Q Okay. So it was, basically, just an introduction?
 16 A Yes.
 17 Q Very simple conversation?
 18 A In fact, she came over, introduced herself and
 19 borrowed a cup of sugar. This was the introduction.
 20 Q Okay. As we sit here today, do you have any
 21 recollection of a dispute between you and Mrs. Spencer before
 22 December of 2012?
 23 A No.
 24 Q Before December 2012, do you have any recollections of
 25 conversations between you and Mrs. Spencer or Mr. Spencer?

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1 A No. No conversations.
 2 Q Okay. So you never went over to their house for any
 3 reason whatsoever, and they never came over to your house?
 4 A No.
 5 Q It's a pretty small neighborhood there. So if you see
 6 each other out, did you wave to each other, or, no?
 7 A We said "hi".
 8 Q Okay. And did that continue on up until a certain
 9 point?
 10 A Yes.
 11 Q And at what point did that continue on until?
 12 A When Mr. Spencer parked his a 18-wheeler on Charles
 13 Street.
 14 Q Okay. And do you know approximately what time that
 15 was?
 16 A It was in May of 2012.
 17 Q Okay. So I think we can dispense with a lot of years
 18 here.
 19 So from the time that the Spencers moved in, up until
 20 May of 2012, there was no disputes that you can recall between
 21 you and the Spencers?
 22 A We had no contact at all.
 23 Q Other than "hi" if you saw each other?
 24 A Yes.
 25 Q Okay. Were you yourself ever on the Spencer property

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1 at all?
 2 A No.
 3 Q Did you ever knock on the door for any reason?
 4 A Not one time.
 5 Q Okay. The home that you live in on Meadow Lane, is
 6 that equipped with security cameras?
 7 A Yes.
 8 Q And at what point did you purchase the security
 9 cameras?
 10 A After the trial. After we are advised to put security
 11 camera on our house.
 12 Q Okay. So after December 2012?
 13 A Correct.
 14 Q And how many cameras did you install at that time?
 15 A Four.
 16 Q And could you tell us just the location of those
 17 cameras?
 18 A One is pointed to our entrance to the garage.
 19 One was pointed on the corner for the intersection
 20 Charles and Meadow Lane.
 21 One is pointed to Charles.
 22 And the fourth one is pointed to Charles and
 23 intersection Juniper.
 24 Q Which is the next street down from Meadow?
 25 A Yeah.

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1 Q Where the Shaws live?
 2 A Correct.
 3 Q Okay. And if you know the answers to these, great. I
 4 may ask Helmut as to how the security system works.
 5 Do you have any information about that?
 6 A What do you mean exactly?
 7 Q Well, who installed the cameras?
 8 A A professional.
 9 Q Do you know the name of the company?
 10 A I think it was Accurate, but I'm not hundred percent
 11 sure.
 12 Q I understand.
 13 So Accurate Electronics or something like that?
 14 A Yeah.
 15 Q Where are they located?
 16 A In South Lake Tahoe.
 17 Q Okay. And then in terms of how the video works, is it
 18 recorded onto a drive? If you don't know, don't guess, and
 19 don't -- just tell me you don't know.
 20 A I don't know.
 21 Q Okay. So you wouldn't know how long the video stays
 22 on a certain device, but it gets recirculated?
 23 A Yeah. I think it's every two weeks or four weeks, it
 24 deletes.
 25 Q Okay.

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1 A Automatically.
 2 Q And have you ever saved any of the video that you have
 3 recorded since the installation of your security cameras?
 4 In other words, have you ever put any type of device
 5 into a machine and taken it out and saved information that you
 6 observed on the cameras?
 7 A Yeah.
 8 Q And how many times have you done that approximately?
 9 A Twice maybe.
 10 Q Okay. Do you do that, or does Helmut do that?
 11 A Helmut doesn't live in our house. He has nothing to
 12 do with the camera.
 13 Q My mistake. Egon.
 14 A Oh, no. My husband doesn't know what to do. I am
 15 doing it.
 16 Q Okay. My understanding is that Egon's --
 17 A Egon has Alzheimer's.
 18 Q And it's got progressively worse?
 19 A Yes. Otherwise, he would be here.
 20 Q Okay. All right. We'll talk about that in a little
 21 bit.
 22 All right. So at some point in May of 2012, is that
 23 the first time you observed an 18-wheeler parked on Charles
 24 Street?
 25 A Yes.

Page 20

1 Q Up until that time, had you or Egon made any
 2 complaints to any government agencies, such as KGID or the
 3 police or anything about the Spencers?
 4 A No.
 5 Q In May of 2012, when you first noticed an 18-wheeler
 6 on Charles Street, what did you do about that?
 7 A We asked the code enforcer if this is allowed to park
 8 on this residential area.
 9 Q Okay. And when you say the code enforcer, do you
 10 remember who you called?
 11 Was that KGID?
 12 A No, down in Minden.
 13 Q So a county entity?
 14 A Correct.
 15 Q And did you make a phone call? Or did you write a
 16 letter to them?
 17 A No. We drove there.
 18 Q Okay. And did you speak to anybody?
 19 A Yes.
 20 Q And when you say "we", that's you and Egon?
 21 A We drove together.
 22 Q Okay. And do you remember who you talked to?
 23 A I don't remember his name.
 24 Q Okay. At that conversation, you indicated that
 25 there's an 18-wheeler that's parked on Charles Street, and you

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1 wanted to know if that was legal or a violation of a code?
 2 A Correct.
 3 Q And what were you told?
 4 A That it was illegal.
 5 Q Okay. And at that time, what did the person that you
 6 spoke to say?
 7 Were they going to do anything about it? Or did you
 8 just kind of walk out of there with the understanding that you
 9 advised them, and that was -- and then they were going to do it,
 10 or they were going to do something about it, or they were not
 11 going to do something about it?
 12 A The code enforcer said he would check it out.
 13 Q Okay. And do you know what happened with regard to
 14 that complaint that was made to the code enforcer?
 15 Did they follow up on that?
 16 A I don't know.
 17 Q Did you ever receive any correspondence from the code
 18 enforcer or the county regarding that issue?
 19 A I don't think so.
 20 Q Did the 18-wheeler continue to park there after that
 21 meeting?
 22 A Yes.
 23 Q Okay. And how long did that last for before you
 24 stopped seeing an 18-wheeler?
 25 A The 18-wheeler was coming and going, being parked on

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<p style="text-align: right;">Page 22</p> <p>1 the street, and later on, it was parked against their property.</p> <p>2 Q Okay. So when you say it was parked against their</p> <p>3 property, I guess the first time you saw it, was it parked on</p> <p>4 Charles Street or --</p> <p>5 A On Charles Street in front of our windows.</p> <p>6 Q On which side of Charles Street? On the Spencer side</p> <p>7 or your side?</p> <p>8 A On the right side, on the Spencer side.</p> <p>9 Q Okay. And then you saw that truck coming and going</p> <p>10 after you went to the code violation folks, and did it continue</p> <p>11 to park in the same area?</p> <p>12 A Yes.</p> <p>13 Q Okay. Did there come a time where you stopped seeing</p> <p>14 the 18-wheeler?</p> <p>15 A When he went on a trip.</p> <p>16 Q Okay. And when was that?</p> <p>17 A This was in May. I can't tell you the date.</p> <p>18 Q May of two thousand --</p> <p>19 A '12.</p> <p>20 Q Okay. So in May of 2012, you noticed it parked there,</p> <p>21 and then he left, the truck left.</p> <p>22 Did the truck return after that?</p> <p>23 A Yes.</p> <p>24 Q Okay. And then did it, did this kind of leaving and</p> <p>25 coming with the 18-wheeler go on for a period of time?</p>	<p style="text-align: right;">Page 24</p> <p>1 residence about that?</p> <p>2 A A deputy sheriff came, and went to the Spencers'</p> <p>3 house, and after that, he came to our house and told us that he</p> <p>4 told him he is not allowed to park there. It's a violation.</p> <p>5 Q Okay. Okay. With regard to the 18-wheeler, any other</p> <p>6 agencies or entities that you talked to?</p> <p>7 A About what?</p> <p>8 Q The 18-wheeler?</p> <p>9 A No.</p> <p>10 Q Okay. So now we're done with the 18-wheeler?</p> <p>11 A Correct.</p> <p>12 Q So any other issues that exist in which you made a</p> <p>13 complaint or just a request for information or anything like</p> <p>14 that with regard to Mr. and Mrs. Spencer to any government</p> <p>15 entity or agency?</p> <p>16 A Yeah. They started building an illegal fence.</p> <p>17 Q And approximately when was that?</p> <p>18 A This was end of May, too. Memorial Day weekend 2012.</p> <p>19 Q Okay. And tell me what, what did you see happen? Did</p> <p>20 you see the fence start to get built up?</p> <p>21 A Correct.</p> <p>22 Q Okay. And what made you think it was illegal at that</p> <p>23 time?</p> <p>24 Did you know that there was certain rules of the KGID</p> <p>25 or that area, that it was a violation?</p>
<p style="text-align: right;">Page 23</p> <p>1 A Correct.</p> <p>2 Q And is it still going on?</p> <p>3 A No.</p> <p>4 Q When is the last time that you have seen the</p> <p>5 18-wheeler?</p> <p>6 A I don't recall. End of May or later.</p> <p>7 Q Okay. End of May which year?</p> <p>8 A 2012.</p> <p>9 Q Okay. So in 2013, you didn't see an 18-wheeler there?</p> <p>10 A No.</p> <p>11 Q And from that point until we sit here today, you</p> <p>12 haven't seen it?</p> <p>13 A No.</p> <p>14 Q Okay. So you went to the code enforcer. You made a</p> <p>15 request about the legality of the 18-wheeler being parked there.</p> <p>16 Did you contact any other government agency or entity</p> <p>17 about any disputes or problems or violations with regard to</p> <p>18 Mr. and Mrs. Spencer?</p> <p>19 A I think I called the sheriff in Douglas County, if</p> <p>20 this is allowed to park there.</p> <p>21 Q Okay. So we're still referring now to the 18-wheeler?</p> <p>22 A Correct.</p> <p>23 Q Okay. And when did you call Douglas County sheriff?</p> <p>24 A Must have been in May, as well.</p> <p>25 Q Okay. And did they send an officer out to your</p>	<p style="text-align: right;">Page 25</p> <p>1 A Yes. You could see that they tried to put up a</p> <p>2 six-foot fence, and in this area, you are only allowed</p> <p>3 three-foot fence or three feet.</p> <p>4 Q And you are talking about the height of the fence?</p> <p>5 A Correct.</p> <p>6 Q Are there provisions in that area about how far a</p> <p>7 fence line has to be off property, back from the street?</p> <p>8 A I think it's 2 to 3 feet, but I'm not sure.</p> <p>9 Q Where are these provisions located?</p> <p>10 Do you know what -- is it in a KGI handbook? You</p> <p>11 don't have a homeowners association, do you?</p> <p>12 A No.</p> <p>13 Q Where are these provisions located as to what can and</p> <p>14 cannot be done within the neighborhood where you reside?</p> <p>15 A I assume KGID.</p> <p>16 Q Okay. Because when you said that you can only build a</p> <p>17 fence three feet high, you must be referring to, like, some</p> <p>18 manual or policy book that allows a fence to be built three feet</p> <p>19 high.</p> <p>20 A Yeah.</p> <p>21 Q And I'm just trying to find out what the name of that</p> <p>22 is, that book?</p> <p>23 A I don't know.</p> <p>24 Q But you know it exists? Something exists.</p> <p>25 A I assume. I don't know.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q Okay. How did you find out about the fact that they 2 can only build three feet high? Did somebody tell you that, or 3 did you read it?</p> <p>4 A I think because we built a fence. We had a 5 three-foot -- I don't know these things, three-foot or three 6 feet, high fence, a wooden fence.</p> <p>7 And then this got rotten. We rebuilt it with a 8 six-foot steel fence, and that's why we know how it's allowed to 9 do.</p> <p>10 Q So at this time, do you have a six-foot steel fence?</p> <p>11 A Yes.</p> <p>12 Q Yes?</p> <p>13 A Is it four? I don't know how high it is. We are in 14 the KGID restrictions, permissions.</p> <p>15 Q Okay.</p> <p>16 A Sorry about my confusing.</p> <p>17 Q It's not a problem at all. We will definitely get 18 through it.</p> <p>19 So I guess my question is, is it 3 or 4 feet, do you 20 know, that you can build?</p> <p>21 Because yours sounds like it may be four feet high. 22 Do you know if it's three feet or four feet?</p> <p>23 A No. It's higher than three feet. It's six feet. 24 I'm sorry. I can't answer the question.</p> <p>25 Q If you don't know, just tell me you don't know.</p>	<p style="text-align: right;">Page 28</p> <p>1 And what the Spencers were doing were above that 2 height restriction?</p> <p>3 A Yes.</p> <p>4 Q When you saw them building that fence, what did you do 5 at that point?</p> <p>6 Did you make a complaint to a specific person or 7 agency?</p> <p>8 A We came down to a meeting to the planning commission 9 in Minden.</p> <p>10 Q And was there anybody else from the neighborhood? 11 "The neighborhood" being your neighborhood?</p> <p>12 A Yeah.</p> <p>13 Q That was present at that commission?</p> <p>14 A Yes. Several neighbors.</p> <p>15 Q Could you tell me who they were?</p> <p>16 A Besides our family of three, Miss Kinion, Miss Tedrik.</p> <p>17 Q Tedrik?</p> <p>18 A Tedrik. I think you spell it T-E-D-R-I-K. Diane 19 Tedrik.</p> <p>20 Dr. Shaw and her husband.</p> <p>21 I believe Mrs. Wells. I don't know if Mr. Wells was 22 there, too.</p> <p>23 Q Okay. What happened at that planning commission 24 meeting?</p> <p>25 You all went there. Did you speak about the fence</p>
<p style="text-align: right;">Page 27</p> <p>1 A Yeah.</p> <p>2 Q So when you moved in there, you had a wooden fence 3 around your property?</p> <p>4 A Yes.</p> <p>5 Q And that rotted out, so the -- you and your husband 6 wanted to put a new fence in there, and you decided to do steel, 7 so it wouldn't rot?</p> <p>8 A Well, yeah.</p> <p>9 Q And did you put in a request to KGID to get that 10 approved?</p> <p>11 A We had it done professional. And the gentleman who 12 built the thing made all those arrangements.</p> <p>13 Q Okay. And do you know when that was, approximately, 14 when you had that built?</p> <p>15 A I couldn't tell you the date.</p> <p>16 Q Whatever the case is, whatever it was built, the 17 person that built it told you that it was acceptable within the 18 KGID standards?</p> <p>19 A Correct.</p> <p>20 Q Did you -- you built your fence, though, the iron 21 fence, before the Spencers started building their wooden fence?</p> <p>22 A Yes.</p> <p>23 Q Okay. So the people that you had contracted to must 24 have, you must have known somehow that there was a certain 25 height restriction.</p>	<p style="text-align: right;">Page 29</p> <p>1 issue?</p> <p>2 A Correct.</p> <p>3 Q Was there any decisions made by the commissioners at 4 that meeting?</p> <p>5 A No. It was delayed for -- they listened to the 6 complaint.</p> <p>7 Oh -- and, of course, Mrs. Spencer -- no, I'm sorry. 8 Oh, I know who else was there.</p> <p>9 The builder of their fence.</p> <p>10 Q The company that was building their fence?</p> <p>11 A Their friend and a young gentleman with him.</p> <p>12 Q Okay. Was Mr. or Mrs. Spencer present?</p> <p>13 A No.</p> <p>14 Q Okay. So they listened to public comment at that 15 meeting?</p> <p>16 A Correct.</p> <p>17 Q And then what happened after that? Did they say that 18 they would issue a ruling down the road?</p> <p>19 A We will find out what happens in the future.</p> <p>20 Q Okay. From the time of the 18-wheeler, up until the 21 time of the fence issue, were there any retaliations by 22 Mr. and Mrs. Spencer that you are aware of, against you, Helmut 23 or Egon?</p> <p>24 A There was nothing against me.</p> <p>25 Q Okay.</p>

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<p style="text-align: right;">Page 30</p> <p>1 A I had no contact with the Spencers.</p> <p>2 Q Are you aware as we sit here today whether they</p> <p>3 retaliated in any capacity against Egon or Helmut Klementi?</p> <p>4 A I don't know about Helmut. I know about my husband.</p> <p>5 But I was not there.</p> <p>6 Q Okay. Well, considering the fact that we may not be</p> <p>7 able to get your husband's testimony, could you tell us what</p> <p>8 they were?</p> <p>9 What retaliations were you aware of?</p> <p>10 A My husband came home one evening, and when he was</p> <p>11 walking his dog, and he said that Mr. and Mrs. Spencer</p> <p>12 confronted him.</p> <p>13 And that Mr. Spencer say to my husband, I punch you in</p> <p>14 the face.</p> <p>15 Q Okay. That he would punch him in the face?</p> <p>16 A Yes.</p> <p>17 Q So a threat --</p> <p>18 A If he comes around again, threatening, I punch you in</p> <p>19 the face.</p> <p>20 Q Let's go over that a little bit more, because I'm not</p> <p>21 sure I understand it.</p> <p>22 So your husband came home one day after walking his</p> <p>23 dog, and your husband told you that he had met both Mr. and</p> <p>24 Mrs. Spencer somewhere outside?</p> <p>25 A Around the area. Around, yeah, where they build the</p>	<p style="text-align: right;">Page 32</p> <p>1 punch you in the face if something else happens.</p> <p>2 I'm trying to find out what that condition was. If</p> <p>3 they -- if you continue to fight me on the fence, if you come</p> <p>4 around here again, or do you remember what the condition was</p> <p>5 that the threat was made?</p> <p>6 A I don't know what Mr. Spencer had in mind by saying</p> <p>7 that.</p> <p>8 Q Okay. And whatever your husband said, you don't</p> <p>9 recall the exact words?</p> <p>10 A No.</p> <p>11 Q What did you and your husband do with regard to that</p> <p>12 threat?</p> <p>13 Did you contact the police?</p> <p>14 A No. My husband was quite upset and shaken up.</p> <p>15 Q Okay. Did a report get made to the sheriff's office?</p> <p>16 A No.</p> <p>17 Q Did you file a restraining, you or your husband, file</p> <p>18 a restraining order at that time?</p> <p>19 A No.</p> <p>20 Q Did you notify any of the neighbors about that</p> <p>21 conversation?</p> <p>22 A No.</p> <p>23 Q Okay. And that, approximately, that was after the</p> <p>24 18-wheeler and before the fence or after the fence?</p> <p>25 A During the fence.</p>
<p style="text-align: right;">Page 31</p> <p>1 fence.</p> <p>2 Q Okay. And the specific conversation that you, your</p> <p>3 husband told you was that Mr. Spencer said something?</p> <p>4 A Yes.</p> <p>5 Q And what specifically did he say, then?</p> <p>6 I heard that "I'm going to punch you in the face", but</p> <p>7 you also said some other things.</p> <p>8 If you come around here again or --</p> <p>9 A This are my words. This are not my husband's words.</p> <p>10 Q Do you remember specifically what your husband said?</p> <p>11 A I remember very clear that he said that Mr. Spencer</p> <p>12 say to him, I punch you in the face.</p> <p>13 Q And -- I'm sorry. I cut you off.</p> <p>14 A No.</p> <p>15 Q And you're summarizing or generalizing the "if you</p> <p>16 come around here again".</p> <p>17 When you said "if you come around here again", that</p> <p>18 may not have been exactly what your husband had said, but that's</p> <p>19 what you are summarizing it to be.</p> <p>20 Do you not understand?</p> <p>21 A No. No, I don't. Can you phrase it different?</p> <p>22 Q I can.</p> <p>23 So the conversation was that Mr. Spencer told Egon</p> <p>24 that he would punch him in the face.</p> <p>25 I guess there was a condition to that: I'm going to</p>	<p style="text-align: right;">Page 33</p> <p>1 Q During the fence.</p> <p>2 Before the planning commission meeting, or after the</p> <p>3 planning commission meeting?</p> <p>4 A I don't remember.</p> <p>5 Q Okay.</p> <p>6 A Oh, I'm sorry. I do remember. The planning</p> <p>7 commission was in December.</p> <p>8 Q December of --</p> <p>9 A 2012.</p> <p>10 Q Okay. So the planning commission, when you all went</p> <p>11 down there was in 2012, and that was about the fence?</p> <p>12 A Correct.</p> <p>13 Q Okay. That wasn't the same meeting, the KGID meeting,</p> <p>14 about the snow berm, so that's a different issue, right?</p> <p>15 A Yes.</p> <p>16 Q Okay. All right. So the threatening -- your husband</p> <p>17 told you about the threatening comments by Mr. Spencer.</p> <p>18 That would have been before December 2012?</p> <p>19 A Yes.</p> <p>20 Q Okay. But you are not sure how long before</p> <p>21 December 2012?</p> <p>22 A Yeah. It was around the time when they build the</p> <p>23 fence.</p> <p>24 Q Okay. So around December 2012?</p> <p>25 A No. May 2012, they build the fence.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q And that's when the threatening comments were made?</p> <p>2 A Correct.</p> <p>3 Q Okay. And then did the fence continue to get built,</p> <p>4 up until December 2012 when the planning commission meeting</p> <p>5 happened?</p> <p>6 A The fence was built over the Memorial weekend. It was</p> <p>7 completely built.</p> <p>8 Q Okay. And the meeting with the commission wasn't</p> <p>9 until December 2012?</p> <p>10 A Correct.</p> <p>11 Q All right. So were there any other complaints or</p> <p>12 disputes that you made to any government agency other than the</p> <p>13 18-wheeler and the planning commission with regard to the fence?</p> <p>14 A No.</p> <p>15 Q Were there any other threatening remarks made by</p> <p>16 Mr. Spencer or Mrs. Spencer other than the one we talked about</p> <p>17 between the time that you first met the Spencers up until</p> <p>18 December 18th of 2012?</p> <p>19 A No.</p> <p>20 Q Is there a reason that you didn't, when I say "you",</p> <p>21 is there a reason that you or your husband didn't make a report,</p> <p>22 or call 911, or file a restraining order if Mr. Spencer</p> <p>23 threatened to physically harm your husband?</p> <p>24 A We didn't think about it. We never had anything to do</p> <p>25 with police or sheriff. And he was just shaken up, and we</p>	<p style="text-align: right;">Page 36</p> <p>1 Spencers prior to December 18th, 2012?</p> <p>2 A To us?</p> <p>3 Q Yes.</p> <p>4 A No.</p> <p>5 Q Helmut never told you or your husband about any</p> <p>6 threatening comments made by the Spencers before December 18th,</p> <p>7 2012?</p> <p>8 A No.</p> <p>9 Q Okay. All right. So let's go to December 12, 2012.</p> <p>10 There was a KGID, was there a KGID meeting on</p> <p>11 December 12, 2012?</p> <p>12 A No. 18th.</p> <p>13 Q Okay. Tell me about the snow plowing issue that --</p> <p>14 you were here during all these depositions last week?</p> <p>15 A Uh-huh (affirmative).</p> <p>16 Q Do you have any information regarding the snow removal</p> <p>17 issues?</p> <p>18 I guess, let's start with, you heard testimony last</p> <p>19 week that Mr. Spencer put snow on Egon in his driveway at some</p> <p>20 point.</p> <p>21 Did you hear that testimony?</p> <p>22 A Yes.</p> <p>23 Q And do you remember when that was?</p> <p>24 A December 12.</p> <p>25 Q Okay. And were you home at that time?</p>
<p style="text-align: right;">Page 35</p> <p>1 talked about it.</p> <p>2 Q Okay. But you called the Douglas County Sheriff's</p> <p>3 Department about the 18-wheeler, though, right?</p> <p>4 A Yeah. To find out if it's allowed to park in a</p> <p>5 residential area.</p> <p>6 Q Okay.</p> <p>7 A Because it was a hazard. It blocked half of the</p> <p>8 street. And people had a hard time to go around, from, coming</p> <p>9 from Juniper or driving up from Meadow Lane.</p> <p>10 Q I understand.</p> <p>11 Helmut and Egon are twin brothers?</p> <p>12 A Yes.</p> <p>13 Q Okay. And where does -- I mean, I could ask Helmut</p> <p>14 too, where does Helmut live relative to you guys?</p> <p>15 A Two streets lower. It's called Pine -- Pine Ridge?</p> <p>16 Q I'll ask him. That's fine. I just want to know the</p> <p>17 approximate location.</p> <p>18 Between May of 2012 and December of 2012, how often</p> <p>19 would you see Helmut?</p> <p>20 A Nearly daily.</p> <p>21 Q Did Helmut typically come to your house, or did you</p> <p>22 guys go to Helmut's house or a combination of both?</p> <p>23 A Mostly he comes to our house.</p> <p>24 Q Did Helmut ever report -- did Helmut ever speak to you</p> <p>25 about any physical comments or threatening comments made by the</p>	<p style="text-align: right;">Page 37</p> <p>1 A No.</p> <p>2 Q Where were you at?</p> <p>3 A I was working.</p> <p>4 Q Okay. I didn't get that part.</p> <p>5 Where do you work at, ma'am?</p> <p>6 A You have to do your homework.</p> <p>7 Q I have to do my homework.</p> <p>8 A No. I'm working at Harrah's. Harrah's Casino in</p> <p>9 Stateline.</p> <p>10 Q And what do you do there?</p> <p>11 A I work for entertainment.</p> <p>12 Q The entertainment department?</p> <p>13 A The department, yeah.</p> <p>14 Q What do you do specifically for the entertainment</p> <p>15 department?</p> <p>16 A I take care of all the entertainers, bands who come to</p> <p>17 the South Shore Room or outdoor concerts.</p> <p>18 Q Okay. So Miss Kinion described a job similar to that,</p> <p>19 I believe, when she was deposed.</p> <p>20 Is it a similar job that you have?</p> <p>21 A I think my job is more -- I don't know what she said.</p> <p>22 I don't remember.</p> <p>23 Q That's fine.</p> <p>24 So if Harrah's books a concert or a band, they contact</p> <p>25 you, and they say, you are responsible for meeting the needs of</p>

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<p style="text-align: right;">Page 38</p> <p>1 the band?</p> <p>2 A Yeah. When they make -- when Harrah's makes a</p> <p>3 contract with the agency, then they send you a letter, it's</p> <p>4 called a hospitality letter, or technical letter.</p> <p>5 It comes to me. I check it out. Make my decision,</p> <p>6 you can have this, or you don't have this.</p> <p>7 And then the band has to be in advance, and then I</p> <p>8 deal with the tour manager, and then the band arrives. I have</p> <p>9 everything ready for them.</p> <p>10 I arrange meet-and-greet. Sometimes change their</p> <p>11 transportation and so on.</p> <p>12 Q Okay. That's not a full-time job, then?</p> <p>13 A Yes. It's a full-time job.</p> <p>14 Q Okay. So what days of the week do you work?</p> <p>15 A I work five days a week, 4 to 5 days a week.</p> <p>16 Q Is it Monday through Friday?</p> <p>17 A I can make my own days, depending on when we have the</p> <p>18 shows.</p> <p>19 Q And about how many hours a day do you work?</p> <p>20 A It depends. From 4 to 13, 14. Depending on what kind</p> <p>21 of show.</p> <p>22 Q And the hours depend upon what time the show is?</p> <p>23 A Correct.</p> <p>24 Q Are you required to be present at the time of the</p> <p>25 show?</p>	<p style="text-align: right;">Page 40</p> <p>1 bands.</p> <p>2 Q Okay. Did you do anything else within Harrah's other</p> <p>3 than those two jobs?</p> <p>4 A I was also worked for special events.</p> <p>5 Q For the past 27 years, have you had any other</p> <p>6 employers other than Harrah's?</p> <p>7 A No.</p> <p>8 Q Before Harrah's, what did you do?</p> <p>9 A I was in show business for 27 years.</p> <p>10 Q Okay. And can you tell me about that?</p> <p>11 A My husband, my brother-in-law, and I, we did a bicycle</p> <p>12 act.</p> <p>13 Q Okay. And when did that start? In Austria?</p> <p>14 A I started with the Klementi Twins being on stage in</p> <p>15 Paris, France, 1965.</p> <p>16 Q Okay. So -- which is the approximate time you were</p> <p>17 married?</p> <p>18 A Yeah. I got married, was 24 or 25.</p> <p>19 Q Okay. So soon after your marriage is when you joined</p> <p>20 Egon and Helmut?</p> <p>21 A Correct.</p> <p>22 Q In their act?</p> <p>23 A Correct.</p> <p>24 Q Prior to that, had you had any type of</p> <p>25 entertainment --</p>
<p style="text-align: right;">Page 39</p> <p>1 A Yes. I am there before the band arrives, and I'm the</p> <p>2 last one leaving from the dressing room area.</p> <p>3 Q Okay. And how long have you had that position in the</p> <p>4 hospitality department of Harrah's?</p> <p>5 A 27 years.</p> <p>6 Q And has it been the same position over that course of</p> <p>7 the 27 years?</p> <p>8 A No. I started out as a dresser for the Broadway shows</p> <p>9 for the stars.</p> <p>10 And then I got promoted, and --</p> <p>11 Q And when you say a dresser for the Broadway shows, at</p> <p>12 Harrah's?</p> <p>13 A Yes.</p> <p>14 Q Like a costume?</p> <p>15 A Meaning, yeah. You have to take care of the costumes</p> <p>16 of the leading lady. You have to do quick changes in the</p> <p>17 backstage area. And take care of all her need.</p> <p>18 Q Okay. You did that for the early years of the 27</p> <p>19 years?</p> <p>20 A I did this '89, from May, for three months. Started</p> <p>21 May '89.</p> <p>22 Q Okay. And then how long did you do that for up until</p> <p>23 the time you were promoted to the hospitality department?</p> <p>24 A Oh, it gradually changed with the shows. You never</p> <p>25 know. One year, we had Broadway shows. The next year you had</p>	<p style="text-align: right;">Page 41</p> <p>1 A No.</p> <p>2 Q -- experience?</p> <p>3 A No.</p> <p>4 Q When you met your husband, what was him and his</p> <p>5 brother doing? Like, what was the act at that time?</p> <p>6 A They were already ten years in show business as</p> <p>7 Klementi Twins and traveled worldwide.</p> <p>8 Q And what was the show that they did, a bicycle act?</p> <p>9 A A bicycle act for two.</p> <p>10 Q I'm sorry. A bicycle act?</p> <p>11 A A bicycle act for two.</p> <p>12 Q And tell me what that means, a bicycle act for two?</p> <p>13 Did they both ride bicycles?</p> <p>14 A Yeah. I have a brochure in case you like to see it.</p> <p>15 Q I would like to see it.</p> <p>16 A Instead of explaining this to you. Because people</p> <p>17 don't understand.</p> <p>18 Q I don't understand.</p> <p>19 So if you have it, I would like to see it. Can you</p> <p>20 leave it with us?</p> <p>21 A Sure. You can try to practice.</p> <p>22 Q Well, I assume it takes a lot of work to be in show</p> <p>23 business.</p> <p>24 A Okay. Okay.</p> <p>25 Q When was this brochure made?</p>

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<p>1 A Oh, this is in the '80s.</p> <p>2 Q Okay. And this is in Caesar's Palace in Las Vegas?</p> <p>3 A This is different pictures.</p> <p>4 Q Okay.</p> <p>5 A I can tell you where the pictures were taken.</p> <p>6 Q So they were international?</p> <p>7 A Yes.</p> <p>8 Q This was an international act?</p> <p>9 A Yes.</p> <p>10 Q Okay. All right. So when you met -- do you all want</p> <p>11 to see this?</p> <p>12 MR. PALMER: Sure. Have not seen this before.</p> <p>13 BY MR. ZANIEL:</p> <p>14 Q When you met your husband, then, he was part of the</p> <p>15 act, and then you started to go on tour with the act?</p> <p>16 A Right.</p> <p>17 Q Okay. And you went internationally wherever they did?</p> <p>18 A Correct.</p> <p>19 Q What did you -- it was a bicycle act for two.</p> <p>20 What, where do you come in?</p> <p>21 A Well, I met him in Austria. Fell in love. Dated two</p> <p>22 years, and he asked me to marry.</p> <p>23 Q No. I understand that.</p> <p>24 But where did you come in, in the act, if it was a</p> <p>25 bicycle act for two? Did you perform?</p>	<p>1 Q So Egon had hip replacement?</p> <p>2 A Correct.</p> <p>3 Q Which hip did he have replaced?</p> <p>4 A The right one.</p> <p>5 Q And then from that point forward, he didn't work at</p> <p>6 all?</p> <p>7 A No. He was an artist. He did art and gave lessons</p> <p>8 and was in the art association.</p> <p>9 And then later on, he started driving limousines for</p> <p>10 Harrah's.</p> <p>11 Q Okay. So let's talk about the artist.</p> <p>12 So your husband was an artist. Did he have his own</p> <p>13 studio, or did he work out of the house on Meadow Lane?</p> <p>14 A He worked out of the house. At this time, he had no</p> <p>15 studio.</p> <p>16 Q Has he ever had a studio?</p> <p>17 A No. We just built on a room, and that's where he did.</p> <p>18 Q His artwork?</p> <p>19 A Yeah.</p> <p>20 Q And is it painting? Is that the type of art?</p> <p>21 A He is doing painting, mixed media, photography.</p> <p>22 Sculptures.</p> <p>23 He is a multi-talent, multimedia, I have to say.</p> <p>24 Q Okay. All right. And then he also drove limos for</p> <p>25 Harrah's.</p>
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<p>1 A No.</p> <p>2 Q Okay.</p> <p>3 A You mean what I did private?</p> <p>4 Q I wanted -- my question was, did you perform in the</p> <p>5 show?</p> <p>6 Or did you just follow your husband with Helmut as</p> <p>7 they toured around?</p> <p>8 A I started being in the act 1965.</p> <p>9 Q Okay. And what was your role in the act?</p> <p>10 A I was always on top.</p> <p>11 Q Okay.</p> <p>12 A I mean --</p> <p>13 Q So it was a three-person show?</p> <p>14 A Yes.</p> <p>15 Q And how long did that act continue?</p> <p>16 A better question is, when was your last performance?</p> <p>17 A May '89 at Harrah's in Lake Tahoe.</p> <p>18 Q And is that the time that you started working for</p> <p>19 Harrah's in the capacity that you are?</p> <p>20 A Three months after, I started with Harrah's.</p> <p>21 Q Okay. After the last performance at Harrah's in May</p> <p>22 of 1989, do you know if your husband worked in any capacity</p> <p>23 after that?</p> <p>24 A No. He had hip replacement after we quit show</p> <p>25 business in May '89.</p>	<p>1 How long did he do that job for?</p> <p>2 A I think he did it for 6, 7 years.</p> <p>3 And after that, he was a butler for Harrah's for the</p> <p>4 VIPs at the 16th floor.</p> <p>5 Q Okay. Now if you know, I'm going to ask Helmut, but</p> <p>6 if you know, did Helmut have hip replacement surgery at some</p> <p>7 point as well?</p> <p>8 A No.</p> <p>9 Q Okay. So I think that takes us through your career.</p> <p>10 Yes?</p> <p>11 A Yes.</p> <p>12 Q All right. So let's go back to where we left off</p> <p>13 before we got into that.</p> <p>14 The December 12, 2012, incident. You were not home at</p> <p>15 the time you said?</p> <p>16 A No.</p> <p>17 Q How did you find out about this incident?</p> <p>18 A My husband called me at work.</p> <p>19 Q Okay. And approximately what time did your husband</p> <p>20 call you, if you remember?</p> <p>21 A Must be around noonish, 1 o'clock, something like</p> <p>22 that.</p> <p>23 Q And when your husband called you, what did he say?</p> <p>24 A He had a teary voice, and he said, guess what happened</p> <p>25 to me?</p>

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<p style="text-align: right;">Page 46</p> <p>1 That Mr. Spencer put snow and debris over his body, 2 when he was in the driveway. 3 Q Okay. That was pretty specific. 4 Was that the exact words, or are you just kind of 5 summarizing? 6 A I'm summarizing what happened. 7 Q Fair enough. 8 And in response to that, what did you say? 9 A I said, should I come home? And he said, no. He can 10 deal with it. 11 Q Okay. 12 A He knew it was a difficult day for me not to come 13 home, so he said he can deal with it. 14 Q Okay. What do you mean it was a difficult day for 15 you? 16 A I had a lot of work there. 17 Q Oh, busy day? 18 A A busy, yeah, sorry. 19 Q All right. So did you ask Mister -- your husband, if 20 he was injured in this incident? 21 A I don't remember. 22 Q Did you recommend that the police be called for that 23 incident? 24 A No. 25 Q Okay. How long were you on the phone with your</p>	<p style="text-align: right;">Page 48</p> <p>1 body. 2 Q I just want to make sure. 3 Up until that point, with regard to snowplowing, you 4 don't have any information about Mr. Spencer doing anything 5 inappropriate with regard to his plowing around your home; is 6 that true? 7 A Yeah. Once we were bermed-in. 8 Q Okay. So when was that? 9 A Sometime in December. 10 Q Of 2012? 11 A I assume so, yeah. 12 Q I don't want you to assume. 13 A No. I say so. Sorry. 14 Q That's okay. 15 So in December 2012, was that before or after the 16 throwing of the snow onto Egon? 17 A This was before. 18 Q Okay. So before December 2012 there was an incident 19 where you were bermed-in? 20 A Correct. 21 Q Did you see that happen? 22 A No. 23 Q As we sit here today, do you know for a fact that 24 Mr. Spencer was the operator of the plow that bermed you in? 25 A Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 husband about that? Couple minutes? 2 A Yeah. 3 Q Do you know if the police were called about that 4 incident? 5 A Yeah, he told me later. 6 Q Okay. What time did you get home that day? 7 A I don't remember. 8 Q Did Egon, did he say he had any physical injuries as a 9 result of that incident? 10 A No. 11 Q Did you and your husband ever talk about that incident 12 after that day? 13 In other words, you had a phone call what happened. 14 When you got home from work, did you guys talk about 15 it again? 16 A Probably. 17 Q You don't have any specific recollection of 18 conversations? 19 A No. 20 Q Okay. Did Egon go show you where he was standing when 21 this happened? 22 A He said in front of the driveway, near to the street. 23 Q Okay. And did he describe with any detail how the 24 snow came out of the plow at all or anything like that? 25 A No, he said he saw him coming. And just came over his</p>	<p style="text-align: right;">Page 49</p> <p>1 Q How do you know that? 2 A Because I saw him coming from the Meadow Lane, driving 3 into Charles, to his house. 4 He parked his snowplow there and went in his house. 5 Q Okay. Was that after or before the berm was in your 6 driveway? 7 A I had the berm there already. 8 Q Okay. So just so I am clear. 9 You didn't see the snow being bermed into your 10 driveway. 11 You observed Mr. Spencer get out of a plow that was 12 parked in front of his residence and go in. 13 And your conclusion was that it must have been 14 Mr. Spencer that was operating the plow at that time? 15 A Because he came -- I don't know where east and west 16 is, sorry. 17 He came by our house. 18 Q Yes. 19 A I didn't see that. 20 And usually to turn around, end of Meadow Lane, and 21 come back down Meadow Lane, and I saw the snowplow going from 22 Meadow Lane in the intersection going up to his house, and he 23 stopped there, and he went into his house. 24 Q Okay. So he passed -- a snowplow passed your house on 25 Meadow Lane.</p>

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<p style="text-align: right;">Page 50</p> <p>1 Went to the end, made a U-turn, came down Meadow Lane, 2 and then made a left on Charles? 3 A Correct. 4 Q Okay. And you saw the snowplow make the left turn 5 onto Charles? 6 A Yes. 7 Q And you watched the snowplow from that point up until 8 it stopped, and you saw Mr. Spencer get out? 9 A Correct. 10 Q Where -- were you outside or inside at this time? 11 A Inside. 12 Q Where were you inside your home? 13 A In the -- in our computer room facing Meadow Lane, 14 second floor. 15 Q Okay. So your home is a two-story home, then? 16 A Correct. 17 Q You were on the second floor, which you labeled the 18 computer room, and there is a window there, and that faces out 19 to Meadow Lane? 20 A Meadow Lane. 21 Q From that vantage point, you were able to see the 22 snowplow go by on Meadow Lane? 23 A Correct. 24 Q You were able to see the snowplow make a left turn on 25 Charles?</p>	<p style="text-align: right;">Page 52</p> <p>1 realize that you were bermed-in? 2 A When I watched the snowplow going to Charles, I came 3 back to the room, and then I saw that we had the snow berm 4 there. 5 Q Okay. 6 A And my husband saw it earlier. 7 Q So your husband was home at that time, as well? 8 A Yeah, he was downstairs. 9 Q Okay. And we talked about berming-in, I think a few 10 times, and I guess for definition purposes, let's be on the same 11 page with it. 12 So berming-in, as far as you would define it -- I 13 don't want to testify for you, but I just wanted to make sure I 14 understand. 15 Berming-in is when snow, ice, debris is deposited in 16 front of your driveway making it impossible for you to enter or 17 exit your driveway? 18 A Correct. 19 Q Would you define it any other way? 20 A No, I agree with you. 21 Q Okay. On that particular day, which was before 22 December 12 of 2012, did any other driveways that you could see 23 have any berming-in issues? 24 A Before this time? 25 Q Before that time?</p>
<p style="text-align: right;">Page 51</p> <p>1 A Yes. 2 Q Were you able to see Mr. Spencer from that vantage 3 point? 4 A I saw the snowplow. 5 And I saw that Mr. Spencer is parked at his house and 6 came out of the snowplow, so he was in the snow driving by. 7 Q I understand that. 8 But just from your vantage point of being in the 9 computer room, you were able to see the parked snowplow, and 10 Mr. Spencer get out of it? 11 A No. We have more windows. 12 I followed. I went to a different room and looked 13 where the snowplow is going. 14 Q Okay. 15 A Sorry about that. 16 Q That's fine. I just want to follow that. 17 A Yeah. 18 Q So did you stay on the second floor, or did you go 19 down to the first floor to follow the snowplow? 20 A No. I stayed on the second floor. 21 Q So there is a window on your second floor that looks 22 out over Charles Street? 23 A Correct. 24 Q Okay. When you were in the computer room, were you 25 able to observe the berming-in part of it, or when did you</p>	<p style="text-align: right;">Page 53</p> <p>1 A Yes. 2 Q That was -- let me go back. 3 On that day, whenever that day was when you got 4 bermed-in, it was before December 12. 5 You are not sure of the exact day, though? 6 A No. Sorry. 7 Q But on that specific day that you watched the snowplow 8 come around, when you looked out the window, did other driveways 9 also have bermed-in issues? 10 A I didn't check on this day. 11 Q Okay. But on prior days, you had seen that? 12 A Yes. 13 Q Okay. So we can talk about that in a minute. 14 As a result of that berming-in issue, did you contact 15 anybody, on that day now, the day that you actually observed the 16 snowplow come around. 17 Did you contact the Douglas County Sheriff's Office? 18 A No. 19 Q Did you contact KGID? 20 A No, I did not. 21 Q Did you make any reports to anyone? 22 A I did not. 23 Q Okay. How did the snow and debris get out of the 24 berming-in? 25 Did your husband have to go out and shovel it?</p>

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<p style="text-align: right;">Page 54</p> <p>1 A We both had to shovel it, at least to make one space 2 so we can leave with the car. 3 Q Okay. Did you or your husband ever go talk to 4 Mr. and Mrs. Spencer about that? 5 A No. 6 Q Did you take any pictures of that? 7 A No. 8 Q Did your husband take any pictures of that? 9 A No. 10 Q Did Helmut take any pictures of that? 11 A No. He doesn't live there. 12 Q Okay. So then you mentioned some other berming-in 13 issues that you observed, but weren't part of, yourself? 14 A We were always included in different berms, too. 15 Q So that -- before December 2012, before December 12, 16 2012, when you specifically have that recollection of the 17 snowplow coming around, prior to that, you also had issues of 18 being bermed-in? 19 A Yes. 20 Q Okay. And how many times would you say that you have 21 been bermed-in? 22 A Oh, I could not tell you. 23 Q More than ten, or less than ten? 24 A Less than ten. I don't know. 25 Q I don't want you to guess at anything.</p>	<p style="text-align: right;">Page 56</p> <p>1 December 12th, when this happened, he reported it to KGID. 2 Q Okay. Now it had happened before, though, correct? 3 The berming-in had happened before? 4 A Yes. 5 Q At least one time we know? 6 A Yes. 7 Q There was no complaints made at that time? 8 A No. 9 Q On any of those prior times, do you have any evidence 10 that Mr. Spencer was operating the plow at that time? 11 A No. 12 Q Okay. Is there a reason that it had happened on prior 13 occasions, and there was no complaints made to KGID, but on 14 December 12th, there was a complaint made? 15 A This was when he got sprayed with the snow and debris. 16 Q Okay. 17 A So he had to report it. 18 Q Okay. The one time, though, that you actually 19 observed, and I don't want to keep asking the same question. 20 But the one time that you actually observed 21 Mr. Spencer coming around Charles Street and getting out of his 22 plow, that was before December 12, 2012? 23 A Correct. 24 Q But you didn't report it, then? 25 A No.</p>
<p style="text-align: right;">Page 55</p> <p>1 A So I don't know. 2 Q Okay. But more than one? 3 A Yes. 4 Q Have you ever taken any photographs of your driveway 5 in a condition where it's been bermed-in? 6 A I did not. 7 Q Did Helmut or Klementi -- or did Helmut or your 8 husband take any photographs? 9 A Helmut did some pictures. 10 Q Okay. 11 A December 18th. 12 Q Okay. Before December 18th -- let's go from 13 December 12th right now. 14 Before December 12th, did anybody that you are aware 15 of take any pictures of bermed-in areas? 16 A I don't know. 17 Q As we sit here today, have you ever seen any 18 photographs of any bermed-in driveways before December 12th, 19 2012? 20 A I don't think so. 21 Q Okay. But it happened, but there was just no photos? 22 A Yeah. 23 Q Were there any complaints made by you or Egon or 24 Helmut to KGID about the berming-in issue? 25 A Yeah. I think, I believe my husband went on</p>	<p style="text-align: right;">Page 57</p> <p>1 Q And that particular time wasn't the first time that 2 you had been bermed-in? 3 A Yes. 4 Q Is there a reason you hadn't reported it up through 5 that time? 6 A We live in a snow country. We know you have certain 7 berms. 8 But if the berms are too high, like on this one day, 9 then, you know, it's different. 10 Q Okay. So just so I'm clear, then. 11 Up until that time before December 12th, 2012, there 12 was berms, but you didn't think they were too high? 13 A Good question. There were some berms too high. 14 Q But how come you didn't report those? 15 A We reported all this December 18th. 16 Q No. I understand that. 17 But how come you didn't report it at the time? 18 A We don't run every time to an office and report it. 19 Q Okay. All right. December 12th happens. 20 Your husband makes a complaint to KGID. 21 Do you know if he physically went down and wrote a 22 report, or did he just call? 23 A I think he went down physically. 24 Q Okay. Have you ever seen a copy of a report that was 25 written on that day?</p>

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<p style="text-align: right;">Page 58</p> <p>1 A No.</p> <p>2 Q All right. So that's December 12th, 2012.</p> <p>3 The incident that we're talking about is</p> <p>4 December 18th, 2012.</p> <p>5 A Yes.</p> <p>6 Q What happened between December 12, 2012, and</p> <p>7 December 17th, 2012, the day before the incident, regarding you</p> <p>8 and the Spencers, anything?</p> <p>9 A On December 17th?</p> <p>10 Q From December 12th, when your husband had snow on him,</p> <p>11 up until the day before of this incident.</p> <p>12 Were there any incidents involving you and the</p> <p>13 Spencers with regard to any snow berm issues or any retaliation</p> <p>14 or any disputes?</p> <p>15 A No.</p> <p>16 MR. PINTAR: Dave, can we take a break? I need to</p> <p>17 make a phone call.</p> <p>18 MR. ZANIEL: Yes.</p> <p>19 (A recess was taken)</p> <p>20 BY MR. ZANIEL:</p> <p>21 Q All right. So we're back on the record.</p> <p>22 We're going to mark as Exhibit 8, next in order, the</p> <p>23 Klementis' brochure that talks about their act.</p> <p>24 And we're going to get a color copy made by the court</p> <p>25 reporter to put in there as Exhibit 8, so we'll --</p>	<p style="text-align: right;">Page 60</p> <p>1 A Correct.</p> <p>2 Q And that's Charles Street?</p> <p>3 A Correct.</p> <p>4 Q Is that ever used for vehicle traffic?</p> <p>5 A No.</p> <p>6 Q Okay.</p> <p>7 A Very seldom.</p> <p>8 Q But there are operating gates that open?</p> <p>9 A Yes.</p> <p>10 Q Okay.</p> <p>11 A Two gates.</p> <p>12 Q Okay. Now the berm on the 17th that you are referring</p> <p>13 to, if we're looking at Exhibit 7 here, where -- could you just</p> <p>14 point for me where those were?</p> <p>15 A Can I take this?</p> <p>16 Q No, I don't want you to --</p> <p>17 A I don't mark it. Just with my finger.</p> <p>18 Q Okay. So --</p> <p>19 A Yes.</p> <p>20 Q More towards -- and you are not good at north, south,</p> <p>21 east or west, but more toward the Spencers?</p> <p>22 A Yes, before our --</p> <p>23 Q Okay. And you say it was bermed against your fence?</p> <p>24 A Yes.</p> <p>25 Q How far is your fence from the street, do you know?</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. PINTAR: Dave, can I see that? I'll bring it</p> <p>2 back.</p> <p>3 BY MR. ZANIEL:</p> <p>4 Q That's fine.</p> <p>5 All right, ma'am. So we kind of left off in between</p> <p>6 December 12th and December 17th, that time frame now.</p> <p>7 Leading up to the day of the incident that we're</p> <p>8 really here to talk about today.</p> <p>9 But in between that time frame, I just want to make</p> <p>10 sure that nothing happened that you can recall with regard to</p> <p>11 any disputes or berming issues or anything like that?</p> <p>12 A On December 17th, we had a berm against our fence on</p> <p>13 Charles.</p> <p>14 Q Okay. And so Charles Street there, that's not your --</p> <p>15 there is a circular driveway there?</p> <p>16 A We have a circular driveway.</p> <p>17 Q Where do you typically park your vehicles? On Charles</p> <p>18 or on Meadow Lane?</p> <p>19 A On Meadow.</p> <p>20 Q Okay. So that circular driveway is not in use?</p> <p>21 A No. Not in winter. No.</p> <p>22 Q All right. I guess, let me just -- we have, I think,</p> <p>23 one of the exhibits shows -- maybe we didn't.</p> <p>24 Yeah, okay. So in Exhibit Number 7 here, this is your</p> <p>25 circular driveway?</p>	<p style="text-align: right;">Page 61</p> <p>1 A Three feet.</p> <p>2 Q From the street?</p> <p>3 A Yeah.</p> <p>4 Q Three feet? Okay.</p> <p>5 Were there any photographs taken of that berm on the</p> <p>6 17th?</p> <p>7 A My brother-in-law tried to take a picture.</p> <p>8 Not on the 17th.</p> <p>9 Q Helmut?</p> <p>10 A Yes. I'm sorry. Helmut.</p> <p>11 Q So Helmut tried to take a photo of the berm on -- that</p> <p>12 was done on the 17th.</p> <p>13 Did he take, did he try to take the pictures on the</p> <p>14 17th?</p> <p>15 A No. On the 18th.</p> <p>16 Q Okay. What time of day did the berm happen on the</p> <p>17 17th?</p> <p>18 Was it daytime or nighttime?</p> <p>19 A I couldn't tell you.</p> <p>20 Q How did you realize that there was a berm there? Did</p> <p>21 you see it, or did somebody tell you?</p> <p>22 A I don't remember.</p> <p>23 Q Okay. Did you see the berm, though, at any time after</p> <p>24 you first got notice of the berm?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 62</p> <p>1 Q When you say Helmut tried to take photos of the berm, 2 he did that not on the 17th, but on the 18th?</p> <p>3 A Correct.</p> <p>4 Q Okay. Was he present at your house on the 17th, 5 Helmut. Was Helmut present at your house?</p> <p>6 A I understand. Yes.</p> <p>7 Q Okay. But no photos were taken on the 17th?</p> <p>8 A No.</p> <p>9 Q You mentioned Egon is into photography, as well?</p> <p>10 A Yes.</p> <p>11 Q Did Egon ever take any photographs of any berm issues 12 that you are aware of as we sit here today?</p> <p>13 A I don't know.</p> <p>14 Q Have you seen any photos that Egon has taken of any of 15 the berm issues?</p> <p>16 A No.</p> <p>17 Q The berm on the 17th, you didn't see the berm being 18 deposited there?</p> <p>19 A No.</p> <p>20 Q Do you know if anybody saw that?</p> <p>21 A I don't know.</p> <p>22 Q You don't know who would have done the berm, "who" 23 being the snowplow operator, which snowplow operator would have 24 deposited the berm there?</p> <p>25 A I don't recall.</p>	<p style="text-align: right;">Page 64</p> <p>1 And to help you, we might be able to see from the 2 police report what day of the week it was, and that may assist 3 you in your recollection.</p> <p>4 Sometimes the police reports have it, sometimes they 5 don't.</p> <p>6 I don't see the day on here, and I'm not going to look 7 through entire report to see it.</p> <p>8 As we sit here today do you know what day -- oh, 9 Tuesday, December 18th. It was a Tuesday.</p> <p>10 Do you remember, does that help you know what you did 11 on that day on December 18th of 2012?</p> <p>12 A No.</p> <p>13 Q Do you know if you worked that day?</p> <p>14 A I don't remember.</p> <p>15 Q Okay. You did go to a KGID meeting on that day.</p> <p>16 A Yes.</p> <p>17 Q When was that planned?</p> <p>18 In other words -- I guess, let me ask you this: 19 How often did KGID have meetings at that time? Was it 20 a scheduled meeting?</p> <p>21 A I think they have meetings every month.</p> <p>22 Q So this was a scheduled meeting on the 18th?</p> <p>23 A Yes.</p> <p>24 Q Had you, Egon, or Helmut ever been to a KGID meeting 25 prior to December 18th, 2012?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q Do you know how many snowplow operators there are that 2 plow that particular neighborhood?</p> <p>3 A No.</p> <p>4 Q Do you know how many pieces of equipment are 5 responsible -- how many different types of plows, and those 6 types of things, the type of equipment, and the number of 7 equipment that plow that neighborhood?</p> <p>8 A No.</p> <p>9 Q Tell me about the week between the 12th and the 18th 10 in terms of weather.</p> <p>11 What you remember? Do you remember that week being -- 12 snowing at all during that week?</p> <p>13 A Yeah. We had snow on the ground.</p> <p>14 Q Okay. If you remember, great, if you don't, just let 15 me know. We can probably look it up on a weather forecasting 16 station.</p> <p>17 But do you know how much snow you received that week 18 at all?</p> <p>19 A No.</p> <p>20 Q The week between the 12th and the 18th?</p> <p>21 A No.</p> <p>22 Q Okay. So that takes us to December 18th of 2012. 23 Do you remember what time you got up that day?</p> <p>24 A No.</p> <p>25 Q Do you remember if you worked that day?</p>	<p style="text-align: right;">Page 65</p> <p>1 A No.</p> <p>2 Q What was the reason that you attended the 3 December 18th, 2012, meeting?</p> <p>4 A About the snowplowing.</p> <p>5 Q Okay. Specifically what about the snowplowing?</p> <p>6 A Getting berms.</p> <p>7 Q I'm aware -- you have testified here today as to one 8 berm on the 17th on Charles Street, one berm on the 12th, and 9 then one berm prior to the 12th.</p> <p>10 And then at least one other berm prior to that, but we 11 don't know how many exactly, correct?</p> <p>12 A Yes.</p> <p>13 Q But you had never attended a meeting before this one?</p> <p>14 A No.</p> <p>15 Q How about in December 2011?</p> <p>16 Did you have any snow berms during that winter season?</p> <p>17 A I don't remember.</p> <p>18 Q Okay. Okay. So how did you get notice that there was 19 a KGID meeting on the 18th?</p> <p>20 Do you guys receive mail saying that "our next meeting 21 is on this day", or did somebody come to you and say, "hey, 22 there's a KGID meeting on the 18th. Let's plan on going to 23 that"?</p> <p>24 A I don't remember, sir.</p> <p>25 Q That's fine.</p>

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<p style="text-align: right;">Page 66</p> <p>1 I don't know what you know until I ask you, so that's</p> <p>2 the reason.</p> <p>3 What time did the meeting start?</p> <p>4 A 6 o'clock.</p> <p>5 Q Okay. What time did -- did you see Helmut at all on</p> <p>6 December 18th prior to the meeting?</p> <p>7 A We met at the Kingsbury Grade meeting.</p> <p>8 Q So Helmut did not come over to the house on that day?</p> <p>9 A I don't recall.</p> <p>10 Q When you say you don't recall, it's possible, you just</p> <p>11 don't have a recollection of it happening?</p> <p>12 A Correct.</p> <p>13 Q Okay. Had you eaten dinner before you left for the</p> <p>14 KGID meeting? Or, no?</p> <p>15 A We ate after the meeting.</p> <p>16 Q Okay. So the meeting starts at 6 o'clock?</p> <p>17 A Yes.</p> <p>18 Q How far away is the meeting from your residence?</p> <p>19 A By car, two minutes.</p> <p>20 Q Okay. How did you go to the KGID meeting?</p> <p>21 A We drove.</p> <p>22 Q And who was present in your vehicle?</p> <p>23 A My husband and I.</p> <p>24 Q And when you arrived at the KGID meeting, who was</p> <p>25 present at that time?</p>	<p style="text-align: right;">Page 68</p> <p>1 The whole board. The whole board.</p> <p>2 Q And how many people are on the board?</p> <p>3 A I don't know. I can mention a few names.</p> <p>4 Q Who is the leader?</p> <p>5 A Dr. Norman, chairman of the board. Daniel Norman.</p> <p>6 Q Prior to that board meeting, did you know that</p> <p>7 Dr. Daniel Norman, was the leader of the board, the KGID board?</p> <p>8 A No.</p> <p>9 Q Okay. So Dr. Norman was the leader of the board.</p> <p>10 How long did the meeting last for?</p> <p>11 A Probably an hour.</p> <p>12 Q Was there any other business discussed at this board</p> <p>13 meeting other than the berming-in issue?</p> <p>14 A They had a meeting after we got done without us being</p> <p>15 there.</p> <p>16 Q Okay. So the first -- so you were there during public</p> <p>17 comment?</p> <p>18 A That's what it's called, yeah.</p> <p>19 Q Who spoke at that board meeting?</p> <p>20 A Several people and myself.</p> <p>21 Q Okay. Could you -- do you have a recollection? Could</p> <p>22 you tell me who actually spoke at the board meeting?</p> <p>23 A Dr. Shaw, Janet Wells, myself. I don't know anyone</p> <p>24 else. I don't remember.</p> <p>25 Q Do you remember what the content of Dr. Shaw's</p>
<p style="text-align: right;">Page 67</p> <p>1 A You mean how many people attended?</p> <p>2 Q Yes.</p> <p>3 A Mr. Shaw and Dr. Shaw, Mr. and Mrs. Wells, their</p> <p>4 daughter and her husband, Miss Kinion, us three Klementis.</p> <p>5 There was a young gentleman there, a young fellow. I</p> <p>6 don't know the name. I never saw him before.</p> <p>7 And that's it.</p> <p>8 Q I guess where did the meeting take place? Is there a</p> <p>9 specific building that it happened in?</p> <p>10 A Yes. It's a KGID building at Pine Street. Pine</p> <p>11 Ridge.</p> <p>12 Q That's close to where Helmut lives?</p> <p>13 A Correct.</p> <p>14 Q Okay. So those are the people there that you remember</p> <p>15 being there.</p> <p>16 You went over the list, and there was one person that</p> <p>17 was present that you didn't know?</p> <p>18 A No.</p> <p>19 Q As we sit here today, have you seen him again after</p> <p>20 this meeting?</p> <p>21 A No.</p> <p>22 Q Do we know who that person is at all?</p> <p>23 A No.</p> <p>24 Q Okay. Who was there for KGID?</p> <p>25 A I have a problem, too.</p>	<p style="text-align: right;">Page 69</p> <p>1 speaking was about? Was it about berms?</p> <p>2 A Yes.</p> <p>3 Q Were you present when she testified about her flower</p> <p>4 bed issue?</p> <p>5 A Yeah.</p> <p>6 Q Was that what she was speaking about to your</p> <p>7 recollection?</p> <p>8 A Yes.</p> <p>9 Q Okay. How about Miss Wells? What did she speak</p> <p>10 about?</p> <p>11 A That if they have berms, they have problems. She has</p> <p>12 a business, takes care of children, and the people have a</p> <p>13 problem driving up if the berm is still there.</p> <p>14 Q Was Miss Kinion at that meeting that you recall?</p> <p>15 A Yes.</p> <p>16 Q But she didn't speak?</p> <p>17 A I don't remember.</p> <p>18 Q Okay. And then you spoke?</p> <p>19 A Yes.</p> <p>20 Q Tell me what you said at the board meeting.</p> <p>21 A I think you have everything in the file.</p> <p>22 That we had the same problem.</p> <p>23 Q Okay.</p> <p>24 A That we have been bermed-in.</p> <p>25 That in 2011, when my husband was shoveling snow at</p>

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<p style="text-align: right;">Page 70</p> <p>1 our gate on Charles, that Mrs. Spencer came over, and said, her 2 husband is now driving snowplows, and if we were interested, he 3 can put the snow away from us, from our driveway, and my husband 4 declined. 5 And I told them the whole story about the 18-wheeler, 6 the fence, and about the berm problem. 7 Q Okay. Did you specifically mention the December 12th 8 incident with snow being put onto Egon's body? 9 A I think so. I'm not sure. 10 Q Okay. Did you mention the December 17th berming-in 11 issue? 12 A I don't remember. 13 Q Okay. You mentioned something before, which we hadn't 14 talked about, and that was in 2011, Miss Spencer came over to 15 you? 16 A To my husband. 17 Q Were you present during that? 18 A No. 19 Q Okay. So you found out about this from Egon? 20 A Correct. 21 Q And what did Egon tell you about this meeting between 22 himself and Miss Spencer in 2011? 23 A What I just told you. That she offered -- she said 24 her husband is now snowplowing, and if he likes, if he is 25 interested, that he would take the berms away from our driveway.</p>	<p style="text-align: right;">Page 72</p> <p>1 Q So you wrote something down on paper. You brought 2 that to the board? 3 A Correct. 4 Q And did you give that letter to the board then? 5 A I said it can be -- 6 Q Introduced as a document? 7 A Correct. 8 Q Okay. Do you know at that board meeting, were there 9 any pictures introduced into the meeting itself? 10 A No. 11 Q No, there were not? 12 A No. 13 Q Okay. All right. So everybody spoke, and it sounded 14 like it took about an hour for all of the speakers to speak? 15 A Yes. 16 Q Did the board ask questions back to the speakers? 17 A I think so. 18 Q Do you have any recollection of those questions? 19 A No. 20 Q The board stayed at the meeting, and then it sounded 21 like the room emptied out, because public comment was over? 22 A Yes. 23 Q Did the board give any suggestions to any of the 24 people in attendance at the meeting about this berm issue? 25 A Yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Okay. The driveway on Charles? 2 A Correct. No. The driveway on Meadow Lane. 3 Q Was there a berm on the driveway at that time? 4 A I don't remember. 5 Q Okay. And then Egon declined that offer? 6 A Correct. 7 Q Do you know why he declined that offer? 8 A Because he is doing it himself. 9 Q Who is doing it himself? 10 A At this time, my husband. 11 Q And how was he doing it, with a shovel? 12 A With a shovel, depending on the snow, or with the 13 snowplow. 14 Q So you yourself, you guys own a snowplow? 15 A Yes. 16 Q Okay. So Mrs. Spencer made that offer to your husband 17 in 2011. It was declined. 18 Were there any similar offers like that other than 19 that one in 2011? 20 A No. 21 Q That was mentioned at the board meeting? 22 A I think I read it in my letter. 23 Q Okay. So you submitted a letter to the board? 24 A I wrote the letter because I was better in reading 25 than talking.</p>	<p style="text-align: right;">Page 73</p> <p>1 Q And what were the suggestions the board said? 2 A Dr. Norman suggested everyone can take pictures of the 3 berms and bring it to KGID attention. 4 Q Okay. 5 A We should speak up. 6 Q Okay. So he suggested that photos be taken? 7 A Correct. 8 Q Okay. Anybody else offer any suggestions? Either 9 Dr. Norman or anybody else on the board? 10 A Dr. Norman was the main speaker. 11 Q Okay. Did Dr. Norman say at that time that the next 12 board meeting is on this date, and to come back? 13 Or did it -- did this issue end on the 18th, as far as 14 you know? 15 A He did not mention any further meetings. 16 He only said we should come forward if anything 17 happened, meaning going to KGID. 18 Q So you leave the meeting at approximately 7 o'clock? 19 A Correct. 20 Q And you and your husband get into your vehicle? 21 A Correct. 22 Q And where did you go there, from there? 23 A We drive home. 24 Q Is Helmut with you at that time? 25 A No.</p>

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<p>1 Q How did Helmut get to the meeting if you know?</p> <p>2 A He has his own car.</p> <p>3 Q Okay. So you arrive home at 7 o'clock, and in</p> <p>4 December, it's dark at that time, I assume?</p> <p>5 A Yes.</p> <p>6 Q You arrive. You pull into your garage?</p> <p>7 A I think so.</p> <p>8 Q Okay. Is that where you typically park your vehicle,</p> <p>9 inside a garage?</p> <p>10 A Most of the time.</p> <p>11 Q How many vehicles do you and Egon own?</p> <p>12 A At this time, we had two.</p> <p>13 Q Okay. So when you arrived home that evening after the</p> <p>14 board meeting, to the best of your recollection, you pulled into</p> <p>15 the garage in your home?</p> <p>16 A Yes.</p> <p>17 Q And I didn't ask you.</p> <p>18 There were no stops between you leaving the board</p> <p>19 meeting and arriving home?</p> <p>20 A No.</p> <p>21 Q So you get out of the garage, and you walk into your</p> <p>22 residence?</p> <p>23 A Yes.</p> <p>24 Q And now what do you do once you get inside your</p> <p>25 residence?</p>	<p>1 meeting?</p> <p>2 A I assume he had to go home to his house because he has</p> <p>3 his car parked there, and then he drove to us.</p> <p>4 Q Okay. So he didn't have his car at the meeting?</p> <p>5 A No. He lives nearby.</p> <p>6 Q Okay. So he arrives at your house.</p> <p>7 Do you know where he parked his vehicle when he</p> <p>8 arrived at your house on December 18th, "he" being Helmut?</p> <p>9 A He usually parks in the driveway.</p> <p>10 Q Okay. Does your home have any exterior lighting?</p> <p>11 Is there any outside lights at that time, such as a</p> <p>12 front porch light, any floodlights, anything like that?</p> <p>13 A We have this -- what they call it? If you come nearby</p> <p>14 the garage, then the light --</p> <p>15 Q A motion light.</p> <p>16 A A motion light, yeah.</p> <p>17 Q And the garage being on Charles Street?</p> <p>18 A Yes.</p> <p>19 Q Okay.</p> <p>20 A No. The garage on Meadow Lane.</p> <p>21 Q I meant Meadow Lane. Thank you for correcting me.</p> <p>22 A Okay.</p> <p>23 Q Okay. So there is a motion light on Meadow, by the</p> <p>24 garage on Meadow Lane, and that's activated in the evening time</p> <p>25 if there's motion?</p>
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<p>1 A I am preparing for dinner.</p> <p>2 Q Okay. And when you say you're preparing, are you</p> <p>3 cooking? Preparing -- are you making a full meal or just</p> <p>4 sandwiches?</p> <p>5 A No, full meal. Dinner.</p> <p>6 Q All right. So where is the kitchen in your home?</p> <p>7 Is there a window in your kitchen?</p> <p>8 A Yes.</p> <p>9 Q Which way does that face, Meadow or --</p> <p>10 A Charles.</p> <p>11 Q Okay. So you are preparing dinner.</p> <p>12 And what happens next? You're in the kitchen</p> <p>13 preparing dinner.</p> <p>14 What happens next?</p> <p>15 A We eat.</p> <p>16 Q Okay.</p> <p>17 A And then when we are done with the dinner, Helmut, my</p> <p>18 brother-in-law, says, he goes home, and he -- before he leaves,</p> <p>19 he takes a picture of the berm.</p> <p>20 Q Okay. All right. Hang on a second.</p> <p>21 So we get through dinner. So when did Helmut come</p> <p>22 over to your house?</p> <p>23 A After the meeting. After the KGID meeting.</p> <p>24 Q Do you know if Helmut went home first, and then came</p> <p>25 to your house, or did he come straight to your house from the</p>	<p>1 A Correct.</p> <p>2 Q Okay. Any other exterior lights on your residence</p> <p>3 other than that?</p> <p>4 A On the corner of our house.</p> <p>5 Q On the corner of Meadow/Charles?</p> <p>6 A Meadow/Charles.</p> <p>7 Q Okay.</p> <p>8 A Meadow/Charles.</p> <p>9 Q Do we know if that was on -- that doesn't even show</p> <p>10 your whole residence.</p> <p>11 So was that exterior light on, on the evening of</p> <p>12 December 18th?</p> <p>13 A If there was a motion, then it goes on. If there is</p> <p>14 no motion, then it does not go on. I don't know.</p> <p>15 Q So the motion light was by the garage, you said?</p> <p>16 A Garage.</p> <p>17 Q And the corner?</p> <p>18 A I can show you.</p> <p>19 Q So we're looking at Exhibit 7.</p> <p>20 A Is this our house?</p> <p>21 Q Yeah. But that's not the whole house.</p> <p>22 A Well, here is the garage. One light is here, one</p> <p>23 light is here, and one light is here.</p> <p>24 Q So on three of the four corners of the house?</p> <p>25 A Actually four corners. The back of the house.</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q Okay. So the four corners of the house, they all have</p> <p>2 motion lights?</p> <p>3 A Correct.</p> <p>4 Q Okay. And all these lights are operated in the</p> <p>5 evening time only if there's motion?</p> <p>6 A Yes.</p> <p>7 Q Okay. Any other exterior lights that work just on a</p> <p>8 switch? Like, the front porch or something?</p> <p>9 A Yes.</p> <p>10 Q Were those on or off on the 18th, if you know?</p> <p>11 A I don't know.</p> <p>12 Q Okay. So you get home. You are preparing dinner.</p> <p>13 Helmut comes over.</p> <p>14 Does he come over before you eat dinner?</p> <p>15 A Yes.</p> <p>16 Q And how long -- approximately what time do you eat</p> <p>17 that night?</p> <p>18 A Took us about an hour.</p> <p>19 Q Okay. Did Helmut or Egon help you prepare dinner?</p> <p>20 A No.</p> <p>21 Q You were the cook?</p> <p>22 A I am the cook.</p> <p>23 Q Okay. So about an hour.</p> <p>24 So you ate. Then, according to our timeline, you</p> <p>25 would have eaten dinner at approximately 8 p.m.?</p>	<p style="text-align: right;">Page 80</p> <p>1 in the residence?</p> <p>2 A Yes.</p> <p>3 Q And where did they go while you were cleaning up?</p> <p>4 Did they stay at the table, or did they go into a</p> <p>5 different area of the house?</p> <p>6 A My -- Helmut said he is going to leave, and my husband</p> <p>7 went to his studio.</p> <p>8 Q Okay. So that left you alone in the kitchen area?</p> <p>9 A Correct.</p> <p>10 Q Was there any discussion among the three of you during</p> <p>11 dinner about what had happened at the board meeting?</p> <p>12 A I'm sure we talked about it.</p> <p>13 Q Do you have specific recollection about that issue?</p> <p>14 A No.</p> <p>15 Q Do you know if Helmut brought his camera to your</p> <p>16 residence on that evening?</p> <p>17 A Yes.</p> <p>18 Q Do you have a specific recollection of seeing the</p> <p>19 camera while he was inside your home eating and right after</p> <p>20 dinner?</p> <p>21 A No.</p> <p>22 Q How do you know he brought the camera to your house?</p> <p>23 A Because Helmut usually has a camera in his pocket.</p> <p>24 Q Okay. Now Egon is the photographer.</p> <p>25 Is Helmut also, if you know, an artist in that sense?</p>
<p style="text-align: right;">Page 79</p> <p>1 A Correct.</p> <p>2 Q Is that fair?</p> <p>3 A Yes.</p> <p>4 Q Okay. And was there any alcohol served at dinner?</p> <p>5 A I don't know. I don't remember.</p> <p>6 Q Typically did either you, Egon, or Helmut have a glass</p> <p>7 of wine with dinner? Was that a typical thing that was done, or</p> <p>8 an occasional thing that was done?</p> <p>9 A It was an occasional thing.</p> <p>10 Q Okay. On this particular day, do you know if Helmut</p> <p>11 had a glass of wine or any alcohol before the incident took</p> <p>12 place?</p> <p>13 A No. Helmut drinks really nothing.</p> <p>14 Q Okay. So the answer is he had no wine --</p> <p>15 A Yeah.</p> <p>16 Q -- in your presence?</p> <p>17 A Yeah.</p> <p>18 Q So dinner ends at approximately 8 p.m.</p> <p>19 After dinner ended, do you clean up?</p> <p>20 A Yes.</p> <p>21 Q So you are the cooker and the cleaner.</p> <p>22 Do you clear the table and put the dishes in the sink?</p> <p>23 A In the sink and the dishwasher.</p> <p>24 Q Okay. How long did the cleaning -- well, strike that.</p> <p>25 While you were cleaning up, was Helmut and Egon still</p>	<p style="text-align: right;">Page 81</p> <p>1 Does he enjoy photography?</p> <p>2 A Both are amateur photographers, if you -- if this is</p> <p>3 the question.</p> <p>4 Q Yes.</p> <p>5 A Amateur photographs. Not professional photographs.</p> <p>6 Q No.</p> <p>7 A Hobby photographs.</p> <p>8 Q No. I understand.</p> <p>9 So Helmut, as far as you recall, Helmut typically had</p> <p>10 a camera on him when he was walking around the neighborhood?</p> <p>11 A I don't know.</p> <p>12 Q Okay. Prior to December 18th of 2012, had you ever</p> <p>13 seen any photographs of the neighborhood that Helmut showed you?</p> <p>14 A No.</p> <p>15 Q Do you know if there were any photographs that Helmut</p> <p>16 took of the neighborhood that he had showed Egon before</p> <p>17 December 18th, 2012?</p> <p>18 A No.</p> <p>19 Q That Egon would have told you about? No?</p> <p>20 A No.</p> <p>21 Q All right. So you finished dinner.</p> <p>22 About the time you are leaving -- about the time you</p> <p>23 are cleaning up, Helmut says I'm going to go home.</p> <p>24 And your husband says, I'm going to the studio.</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q And the studio, I apologize if I asked this before, 2 the studio is on the second floor? 3 A No. Next to the kitchen. 4 Q Next to the kitchen. 5 A Bottom floor. 6 Q And is there a window in the studio? 7 A Yes. 8 Q How many windows? 9 A All around. One -- the whole, the whole wall is 10 windows. 11 Q And which way does the window face out? 12 A One faces, two -- a glass door and a window faces 13 Charles direct, and the other ones face our backyard. 14 Q Okay. The door and the window that face Charles 15 Street, what type of window coverings are on those windows? 16 Blinds, curtains, drapes? 17 A Blinds. 18 Q What type of blinds? Vertical blinds? 19 A Something like that. 20 Q These type of blinds in this room? 21 A Correct. 22 Q Yes, like these blinds? 23 A Yes. 24 Q Okay. On the evening of December 18th, do you know if 25 the blinds were open or closed?</p>	<p style="text-align: right;">Page 84</p> <p>1 Was there a discussion before him leaving that he was 2 going to take any photographs of the area that evening? 3 A He said he would take a picture of the berm. 4 Q Okay. And when did he say this? 5 A Before he left. 6 Q During dinner or on his way out? 7 A On his way out. 8 Q And which berm are you referring to? 9 A The berm on Charles. 10 Q Okay. All right. So he leaves the front door. 11 And do you see -- was the next time you see Helmut 12 after he walks out your front door? 13 A I hear his voice screaming help, help. 14 Q And approximately in a time fashion, how long after 15 you hear the door close behind Helmut, do you hear the noise 16 help, help, how much time elapses, approximately? 17 A I must say four minutes. 18 Q That's your best estimate? 19 A It's my -- I don't -- I don't. 20 Q I don't want you to guess, but I would like to get an 21 estimate from you. 22 I'm not trying to pin you down to two minutes, 18 23 seconds, but 3 to 4 minutes is that an estimate? 24 A Yeah. 25 Q During this 3 to 4 minutes, did you stay in the same</p>
<p style="text-align: right;">Page 83</p> <p>1 A No. 2 Q No what? 3 A I don't know. 4 Q Okay. The art studio, it has a light in it, a lamp? 5 A Yes. 6 Q How many lighting fixtures are in the studio at that 7 time? 8 One lamp, two lamps, an overhead light, do you 9 remember? 10 A We have overhead lights. 11 Q Is that the only source of lighting in the studio at 12 that time? 13 A Yeah. 14 Q Okay. I assume that if your husband retired to the 15 studio at this time, he would have turned the light on? 16 A Yes. 17 Q Okay. All right. So did you say goodbye to Helmut? 18 A Yes. 19 Q You knew that he was leaving your residence? 20 A Yes. 21 Q Did you walk him to the door? 22 Or is he family, and he just comes and goes as he 23 wants? 24 A He comes and goes. 25 Q Okay. So he left the residence.</p>	<p style="text-align: right;">Page 85</p> <p>1 location, or were you going back and forth clearing the table? 2 A I'm in the kitchen. 3 Q Okay. And the kitchen, which -- there are windows in 4 the kitchen? 5 A Yes. 6 Q And which way do those windows face? 7 A Charles. 8 Q Okay. Is there lighting in the kitchen? 9 A Yes. 10 Q And what is the lighting in the kitchen? Overhead 11 lighting? 12 A Overhead lighting. Ceiling lighting. 13 Q Okay. And the window coverings for the kitchen, same 14 as we have already discussed? 15 A Yes. 16 Q Were those open or closed at that time? 17 A Closed. 18 Q Okay. Typically is that your, what you do, you, in 19 the evening time, you close your window coverings? 20 A Yes. 21 Q Your blinds? 22 Okay. Okay. So you're in the kitchen cleaning up. 23 When you hear these sounds of help, help, where 24 exactly are you standing? 25 Are you in the kitchen?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A Yes.</p> <p>2 Q Okay. You are not outside the residence? You are</p> <p>3 inside the residence?</p> <p>4 A Inside the residence.</p> <p>5 Q And where is Egon at that time?</p> <p>6 A In his studio.</p> <p>7 Q Okay. Now during the 3 to 4 minutes approximate</p> <p>8 between when Helmut left, did you see Egon during that time</p> <p>9 frame?</p> <p>10 A I did not see him, but I heard him.</p> <p>11 Q Okay. So I'm trying to find out if it's possible that</p> <p>12 he went outside the home at that time?</p> <p>13 A No.</p> <p>14 Q You are a hundred percent sure of that?</p> <p>15 A 1,000 percent.</p> <p>16 Q And although you didn't see him, you heard him?</p> <p>17 A I heard him.</p> <p>18 Q Did you hear him for the entire 3 to 4 minutes?</p> <p>19 A Yes.</p> <p>20 Q What did you hear? Like, was he talking to himself,</p> <p>21 or was he rustling papers?</p> <p>22 Or tell me what sounds did you hear emanating from the</p> <p>23 studio?</p> <p>24 A He prepared artwork because he had an appointment the</p> <p>25 next day with the Tahoe Tribune, it was a journalist coming to</p>	<p style="text-align: right;">Page 88</p> <p>1 You have known Helmut a very long time. So could</p> <p>2 you identify the person that said help, help as Helmut</p> <p>3 immediately?</p> <p>4 A Immediately.</p> <p>5 Q You knew it was him?</p> <p>6 A Yes.</p> <p>7 Q What do you do now?</p> <p>8 A I ran automatically to our entrance door.</p> <p>9 Q On -- which is that located?</p> <p>10 A It faces Charles.</p> <p>11 Q Okay. So your entrance door faces Charles. So you</p> <p>12 run there from the kitchen?</p> <p>13 A Correct.</p> <p>14 Q Do you say anything to Egon before you reach the door?</p> <p>15 A I remember, I scream, it's Helmut.</p> <p>16 Q Okay. All right. So who -- do you get to the door</p> <p>17 before Egon?</p> <p>18 A I don't know.</p> <p>19 Q Do you remember opening the door?</p> <p>20 A The entrance door?</p> <p>21 Q Yes.</p> <p>22 A Yes.</p> <p>23 Q Okay. If you had to estimate for me how much time</p> <p>24 would have elapsed between the time you heard help, help, and</p> <p>25 the time you first walked out the door, five seconds?</p>
<p style="text-align: right;">Page 87</p> <p>1 our home, and that's why he put pictures back and forth, and</p> <p>2 arranged things to show, whatever the interview was all about.</p> <p>3 Q Okay. Just so I'm clear, so the Tahoe Tribune, a</p> <p>4 reporter was coming over to your home on the 19th to interview</p> <p>5 Egon and discuss his artwork?</p> <p>6 A Yes.</p> <p>7 Q And he was getting ready for that appointment?</p> <p>8 A Correct.</p> <p>9 Q So you heard him moving photographs around?</p> <p>10 A Yes.</p> <p>11 Q Okay. All right. So you hear help, help.</p> <p>12 When you hear that sound, are you -- and I'm trying to</p> <p>13 picture how your house looks, which I have never been in it, so</p> <p>14 I don't know.</p> <p>15 Does your sink face the window?</p> <p>16 A Yes.</p> <p>17 Q Were you at your sink when you heard this sound?</p> <p>18 A I don't remember.</p> <p>19 Q Could you tell -- because you were inside, and the</p> <p>20 sound came from outside, correct?</p> <p>21 A Yes.</p> <p>22 Q Could you tell where the sound was coming from, which</p> <p>23 direction it was?</p> <p>24 A It came from Charles Street.</p> <p>25 Q Okay. Okay. So you hear the sound help, help.</p>	<p style="text-align: right;">Page 89</p> <p>1 A Seconds.</p> <p>2 Q Less than ten?</p> <p>3 A Yes.</p> <p>4 Q Less than five?</p> <p>5 A 5, 6, 5, 10 seconds. Immediately.</p> <p>6 Q Okay. So now you are outside. Right?</p> <p>7 A Yes.</p> <p>8 Q Tell me about the lighting that you see now.</p> <p>9 Because -- did you see any of your motion lights that</p> <p>10 had activated at that time?</p> <p>11 A Yes.</p> <p>12 Q Which lights had activated?</p> <p>13 A By the entrance door.</p> <p>14 Q Which corner? There are four corners.</p> <p>15 A Charles, by the entrance door on Charles. Right here.</p> <p>16 Q Okay. So was that a motion light or an automatic --</p> <p>17 or was that a switch light?</p> <p>18 A We have a motion light and a switch light.</p> <p>19 Q Okay. So that light was activated.</p> <p>20 A Yes.</p> <p>21 Q Was any of the corner lights activated? Strike that.</p> <p>22 Were any of the corner lights on when you first walked</p> <p>23 out the door?</p> <p>24 A I don't remember.</p> <p>25 Q When you walked out your door, could you see Helmut at</p>

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<p style="text-align: right;">Page 90</p> <p>1 that time?</p> <p>2 A Yes.</p> <p>3 Q And was he directly in front of you? Was he off to</p> <p>4 your right? Or was he off to your left?</p> <p>5 A He was off to the left.</p> <p>6 Q If we use a clock dial, walking straight out your door</p> <p>7 is 12 o'clock on a clock dial, was he at 10 o'clock, 11 o'clock</p> <p>8 or 9 o'clock somewhere in that -- trying to see, what angle he</p> <p>9 was at?</p> <p>10 A Can you explain this different?</p> <p>11 Q Yes.</p> <p>12 When you walked, when you walked straight out your</p> <p>13 door, if you keep going straight out your door, you get to</p> <p>14 Charles Street, correct?</p> <p>15 A I didn't go to Charles Street. I stayed at my house</p> <p>16 on the porch.</p> <p>17 Q Okay. But I'm trying to find out where Helmut was.</p> <p>18 You said he was on Charles Street?</p> <p>19 A Up here.</p> <p>20 Q So approximately by the circular driveway?</p> <p>21 A Near to the end of the -- more than, between circular</p> <p>22 driveway and our fence. He was not -- you know, this area.</p> <p>23 Q Okay. So what did you see? How was he positioned?</p> <p>24 A He was laying on his back.</p> <p>25 Q Okay. I think -- let me show you this photo.</p>	<p style="text-align: right;">Page 92</p> <p>1 draw an X where you first observed Mr. Klementi?</p> <p>2 A No. I didn't mark that. I was thinking.</p> <p>3 Q Okay.</p> <p>4 MR. MOORE: The record will reflect the witness does</p> <p>5 not have to draw an X, you can draw a circle in the general</p> <p>6 area, if that's more consistent with your recollection.</p> <p>7 BY MR. ZANIEL:</p> <p>8 Q You can draw anything you want to represent where</p> <p>9 Mr. Klementi was.</p> <p>10 A (Witness complied with the request).</p> <p>11 Can you see that?</p> <p>12 Q Yes. So you have drawn an oval?</p> <p>13 A Yes.</p> <p>14 Q And that represents Mr. Klementi's approximate body</p> <p>15 position on Charles?</p> <p>16 A Yes.</p> <p>17 Q When you first walked out the door?</p> <p>18 A Yes.</p> <p>19 Q Was he -- was he on his, I think you said this, he was</p> <p>20 on his back --</p> <p>21 A Back.</p> <p>22 Q -- looking up at the sky?</p> <p>23 A Yes.</p> <p>24 Q Okay. Were his feet more toward your front door</p> <p>25 pointing to your -- were his feet pointing more towards your</p>
<p style="text-align: right;">Page 91</p> <p>1 Does that appear to be your home there? Can you make</p> <p>2 that out as your home?</p> <p>3 A Yeah. Yeah.</p> <p>4 Q And that's Charles Street there?</p> <p>5 A Correct.</p> <p>6 Q Could you mark for us where you saw -- the approximate</p> <p>7 location where you saw Helmut on the ground on Charles Street</p> <p>8 when you first walked out the door?</p> <p>9 A (Witness complied with the request). Around here.</p> <p>10 MR. ZANIEL: Is that going to show?</p> <p>11 MR. PALMER: No. Do you have something better?</p> <p>12 MR. ZANIEL: No. Is there a marker in there?</p> <p>13 MR. PALMER: Which way is Meadow Lane on that?</p> <p>14 THE WITNESS: This is Meadow Lane. This is Charles.</p> <p>15 MR. PALMER: Where is your front door on the house?</p> <p>16 THE WITNESS: Right here, here.</p> <p>17 BY MR. ZANIEL:</p> <p>18 Q Can we -- why don't you mark -- we just went over a</p> <p>19 bunch of testimony.</p> <p>20 Why don't you mark it on the exhibit?</p> <p>21 Can you put "Meadow Lane" over there, and maybe</p> <p>22 "Charles" -- I don't know if it will show up here. You can draw</p> <p>23 maybe a line down here and put "Charles" down in the white.</p> <p>24 A (Witness complied with the request).</p> <p>25 Q Okay. And then did that show up on the -- did you</p>	<p style="text-align: right;">Page 93</p> <p>1 front door, or towards the Spencers' or pointing away from your</p> <p>2 front door?</p> <p>3 A I didn't see that.</p> <p>4 Q Okay. What did Mr. Klementi -- what did Helmut wear</p> <p>5 clotheswise to the board meeting?</p> <p>6 A I think he wore a leather jacket and slacks.</p> <p>7 Q Okay. Do you remember what kind of shirt? Like a</p> <p>8 button-down shirt or a polo shirt?</p> <p>9 A Button-down shirt.</p> <p>10 Q Okay. Do you remember what color it was?</p> <p>11 A No.</p> <p>12 Q Did he wear the same thing to your home, if you know?</p> <p>13 Did he change when he went to get his car?</p> <p>14 A He had the same outfit on.</p> <p>15 Q Okay. And what color was the leather jacket?</p> <p>16 A Black.</p> <p>17 Q Okay. Okay. So you see Mr. Klementi when you go to</p> <p>18 the -- you walk out the front door.</p> <p>19 Do you physically go, do you leave your house and walk</p> <p>20 towards him at this point?</p> <p>21 A No.</p> <p>22 Q Okay. How far do you get out of the front door before</p> <p>23 you stop?</p> <p>24 A Two steps out of the door on our porch.</p> <p>25 Q Okay.</p>

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1 A Not any further.
 2 Q Okay. And what do you do at that point? Why do you
 3 stop there?
 4 A I saw him, and I run immediately to the phone and
 5 called 911.
 6 Q Okay. Between that time frame, from when you first
 7 heard help, help, until you went in and called 911, did you hear
 8 any other sounds from Helmut?
 9 A No.
 10 Q When you went in to call 911, where was Egon?
 11 A He was running -- Egon was already running when I was
 12 on the steps, to the gate, to check out his brother.
 13 Q Do you know how Egon got to that point?
 14 Did he exit the front door or the studio door?
 15 A When I came out our entrance door, Egon came out,
 16 running, from his studio door.
 17 Q Okay. And then while you were standing two steps out,
 18 you observed Egon running at that time?
 19 A He passed me.
 20 Q Okay. By the time you turned around and went inside
 21 to dial 911, had Egon left your property line at all, entered
 22 into the street?
 23 A No. He had to go through Meadow because he could not
 24 come out the gate on Charles.
 25 Q Are those gates locked?

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1 A Frozen. It was winter.
 2 Q Okay. All right. So he would have went around to
 3 Meadow Lane, and then had to walk to --
 4 A Correct.
 5 Q All right. So you called 911.
 6 Tell me, what do you say to 911? Tell me about the
 7 conversation the best you can recall. You dial 911.
 8 They say, "emergency dispatch. What's your
 9 emergency?"
 10 What do you say?
 11 A I said my brother-in-law got just attacked, pushed,
 12 what I say, and he is laying on the floor, and I need help.
 13 Q Okay. Now you didn't see the incident happen?
 14 A No.
 15 Q How -- why would you tell the dispatcher that he got
 16 pushed?
 17 A I saw Mr. Spencer running from Helmut towards his
 18 house, walking up his steps.
 19 Q Okay. So when you were outside during that time
 20 period, you saw Mr. Spencer?
 21 A Yes.
 22 Q And where did you see Mr. Spencer at?
 23 A Leaving Helmut, a few feet away from Helmut, running
 24 up Charles, going up his stairs.
 25 Q Okay. Could you describe Mr. Spencer's clothing on

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1 that night?
 2 A No.
 3 Q Would you describe Mr. Spencer's movement as you saw
 4 him heading back to his residence as walking slowly, walking
 5 normally, walking quickly or running?
 6 A Running.
 7 Q Now I understand that you observed Helmut on the
 8 ground at this time, and you observed Mr. Spencer running
 9 towards his house.
 10 But you still don't know what happened at this time,
 11 correct?
 12 A No.
 13 Q It could have been possible that Helmut just slipped
 14 on ice?
 15 A Then would the -- Mr. Spencer wouldn't run away from
 16 Helmut. He would help him to get up.
 17 Q Okay. So you just told the 911 dispatcher that your
 18 brother-in-law had been pushed down on the roadway, something
 19 like that?
 20 A Yes.
 21 Q And what did the 911 dispatcher say?
 22 A Street address, my name.
 23 And during our conversation, he said, wait a moment.
 24 I get another call in.
 25 Q Okay. As we sit here -- and he says another call,

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1 about this incident, or about a different incident?
 2 A I didn't know about which incident.
 3 Q As we sit here today, do you know if anybody else
 4 dialed 911?
 5 A Yeah. It was probably Mrs. Spencer.
 6 Q Okay. Did the dispatcher then come back on with you?
 7 A Immediately, yes.
 8 Q And what -- tell me about the rest of the
 9 conversation.
 10 A That he is sending someone.
 11 Q And was that the end of the conversation with the 911
 12 dispatcher?
 13 A Yeah.
 14 Q If you had to estimate for me how long was it before
 15 an EMS or anybody arrived in terms of police, fire or
 16 paramedics, how long of time was it, after you hung up the
 17 phone?
 18 A I could not tell you.
 19 Q After you hung up the phone, what did you do?
 20 A I stayed at our house in the porch. We had the, both
 21 doors open, and I watched what happened.
 22 Q When you had both doors open, you had the front door
 23 open and the studio door?
 24 A Correct.
 25 Q Okay. Where were you positioned?

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<p style="text-align: right;">Page 98</p> <p>1 A By the entrance door.</p> <p>2 Q Okay. And you were looking out?</p> <p>3 A Yes.</p> <p>4 Q Okay. Did you ever move from that position before the</p> <p>5 police or fire or paramedics arrived?</p> <p>6 A No.</p> <p>7 Q From that position, could you hear any conversations</p> <p>8 that were taking place?</p> <p>9 A No.</p> <p>10 Q Where was -- from that position, was Helmut still in</p> <p>11 the same position that you had seen him when you first came out?</p> <p>12 A He was always on the, on the street, laying on the</p> <p>13 street.</p> <p>14 Q When you were waiting on the porch for the police to</p> <p>15 arrive, where was Egon?</p> <p>16 A He was by Helmut.</p> <p>17 Q Okay. And you couldn't hear any conversations between</p> <p>18 Egon and Helmut at that time, while you were standing on the</p> <p>19 porch?</p> <p>20 A No.</p> <p>21 Q Did you see any other people around Helmut prior to</p> <p>22 the police or paramedics arriving?</p> <p>23 A No.</p> <p>24 Q Do you remember who arrived first? Was it a police</p> <p>25 officer, a paramedic?</p>	<p style="text-align: right;">Page 100</p> <p>1 Do you see that?</p> <p>2 A Yeah.</p> <p>3 Q Is that also your statement?</p> <p>4 A Yes.</p> <p>5 Q When did you write the typed statement that you are</p> <p>6 looking at now?</p> <p>7 A Later, the next day.</p> <p>8 Q So the 19th?</p> <p>9 A 19th or 20th. I don't remember.</p> <p>10 Q Who did you write this statement for? Did somebody</p> <p>11 ask you to provide further information?</p> <p>12 A I don't remember.</p> <p>13 Q Okay. Have you -- did you read these statements at</p> <p>14 all after you wrote them?</p> <p>15 Did you read them ever again until you just saw them</p> <p>16 last week?</p> <p>17 A Last week.</p> <p>18 Q Okay. Did you have the opportunity to read those?</p> <p>19 A Yeah.</p> <p>20 Q Is there anything that's inaccurate that, as we sit</p> <p>21 here today, in either of those statements?</p> <p>22 MR. PALMER: Before she answers that question, I would</p> <p>23 like her to read them completely.</p> <p>24 MR. ZANIEL: That's why I asked you if you read them.</p> <p>25 MR. PALMER: I want you to actually read them.</p>
<p style="text-align: right;">Page 99</p> <p>1 A Police officer.</p> <p>2 Q And which way did they pull up? From Meadow or from</p> <p>3 Charles, if you remember?</p> <p>4 A They came from, down from Juniper, Charles.</p> <p>5 Q Okay. And did you speak to the police that evening?</p> <p>6 A I made a statement after the ambulance was there, the</p> <p>7 situation.</p> <p>8 Q On that evening?</p> <p>9 A Yes.</p> <p>10 Q Was it a written statement?</p> <p>11 A It was a written statement.</p> <p>12 Q Okay. Okay. Did you give that to the police?</p> <p>13 A The police took it.</p> <p>14 Q Okay. So in Exhibit 1 -- these are Bates-stamped.</p> <p>15 Let me show you what has been marked already as</p> <p>16 Exhibit 1. There is a police statement there.</p> <p>17 Is that your handwriting?</p> <p>18 A Yes.</p> <p>19 Q When did you write that statement out, that evening?</p> <p>20 A Yeah.</p> <p>21 Q Had Helmut already gone by ambulance from the scene at</p> <p>22 the time you wrote this statement out?</p> <p>23 A Yes.</p> <p>24 Q There is also a statement that's typed that's right</p> <p>25 behind that statement.</p>	<p style="text-align: right;">Page 101</p> <p>1 MR. ZANIEL: We'll go off record for a couple minutes.</p> <p>2 (Exhibits 8-9 marked for identification)</p> <p>3 MR. PALMER: Are you done reading?</p> <p>4 THE WITNESS: Yeah.</p> <p>5 BY MR. ZANIEL:</p> <p>6 Q Okay. Now that you have had the opportunity to read</p> <p>7 those, is there anything inaccurate in either of those</p> <p>8 statements?</p> <p>9 A No. That's correct.</p> <p>10 Q Okay. And I'm sorry. I think I just asked you this,</p> <p>11 who asked you to write this typewritten statement out?</p> <p>12 A No one.</p> <p>13 Q Why did you write it?</p> <p>14 A So I can read it, instead of -- I think this is the</p> <p>15 report I read from with the KGID meeting --</p> <p>16 Q Okay.</p> <p>17 A -- on the 18th.</p> <p>18 Q Okay. So that's the report that you prepared for</p> <p>19 KGID?</p> <p>20 A Correct.</p> <p>21 Q Okay. Other than this statement here, the police</p> <p>22 statement, have you written any other statements about this</p> <p>23 incident up until the time that you have spoken to your</p> <p>24 attorney?</p> <p>25 A No.</p>

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<p style="text-align: right;">Page 102</p> <p>1 Q Okay. After this incident took place, up until we sit 2 here today, do you know if Helmut had taken any photographs that 3 night before this incident happened? 4 A No. Only on the 18th. 5 Q On the evening of the incident? 6 A Right. 7 Q Did he take photographs on the evening of the 18th? 8 A That's what he said. 9 Q Okay. Have you seen those photographs? 10 A No. 11 Q Do you know how many photographs there were taken? 12 A No. 13 Q We went over some photographs last week in Exhibits, I 14 think, 4 and 5. 15 Do you remember seeing some of these photographs? 16 There's actually -- these are photographs of the snow area 17 there. 18 A Uh-huh (affirmative). 19 Q One of them actually has, I believe, Helmut in it. 20 There's some feet -- right here. So this is Exhibit 21 Number 2. 22 A Yes. 23 Q Did you take this photograph? 24 A No. 25 Q Do you know who took this photograph?</p>	<p style="text-align: right;">Page 104</p> <p>1 A Usual, once a year. 2 Q Have you ever -- Helmut is not married? 3 A No. 4 Q He lives by himself? 5 A Yes. 6 Q When, in going to doctor's appointments and things 7 like that, have you ever helped him out in that capacity? 8 A No. 9 Q Has Egon? 10 A No. 11 Q When was Egon officially diagnosed with dementia? 12 A May 2013. 13 Q Okay. Before May of 2013, did you ever notice a 14 decline in Egon's cognitive abilities? 15 A I saw -- I got the first shock at the preliminary 16 hearing, when he was asked questions, and he answered them 17 completely wrong. 18 Q Did he have a doctor at that time? 19 A No. 20 Q How -- I'm sorry. I cut you off. 21 A I apologize. 22 But when I realized that, then I made a contact with a 23 doctor right away. 24 Q And is it that same doctor that we know that is 25 treating him now? Which I don't know the name of.</p>
<p style="text-align: right;">Page 103</p> <p>1 A I don't know. My husband maybe. I don't know. 2 Q Okay. Do you know when this photograph was taken? 3 A On the 18th. 4 Q Okay. So you believe Egon took this photograph on the 5 18th? 6 A Yeah. 7 Q Where is Egon's camera now? 8 Well, did -- does Egon still have the same camera that 9 he had on December 18th? 10 A I think Egon took Helmut's cameras, not Egon's 11 cameras. 12 Q So these photographs were taken with Helmut's cameras? 13 A Correct. 14 Q Do you know if there were any photographs taken by 15 Egon the night of the accident? 16 A I don't know. Egon ran out from his studio and had no 17 camera on his body. 18 Q So tell me, they took Helmut to the hospital that 19 night? 20 A Yes. 21 Q And you -- how often have you seen Helmut between that 22 night and today, almost daily? 23 A Almost daily, if he is not in Austria. 24 Q How many times has Helmut gone to Austria from 25 December 18th until today?</p>	<p style="text-align: right;">Page 105</p> <p>1 A His name is Dr. Doyle. 2 Q How long has Dr. Doyle been treating Egon? 3 A Since May 13th. 4 Q Since May 13, it has just progressively gotten worse? 5 A Yes. Sorry to say, yes. 6 Q But as we sit here today, your first thought process 7 on when there was a problem was at the preliminary hearing? 8 A Correct. 9 Q In terms of Helmut's injuries, did he, as far as we 10 know, did he have any hip problems before this incident that you 11 are aware of? 12 A No. 13 Q Any shoulder problems before this incident? 14 A No. 15 Q Does he still walk around the neighborhood? 16 A Very little. 17 Q He has a dog? 18 A No. 19 Q Do you have a dog? 20 A Yes. 21 Q Do you -- who walks your dog? 22 A My husband and I. 23 Q Does Helmut ever talk about any discomfort or pain he 24 is in now? 25 A Yes.</p>

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<p style="text-align: right;">Page 106</p> <p>1 Q Tell me what he mentions to you. What does he talk 2 about?</p> <p>3 A His hip and walking.</p> <p>4 Q Which hip?</p> <p>5 A I couldn't tell you.</p> <p>6 Q So he mentions his hip, but does he mention it every 7 time he sees you, or just occasionally?</p> <p>8 A No. Occasionally.</p> <p>9 Q And when you say walking, does he say that if he 10 walks, it hurts more, or something like that?</p> <p>11 A He knows he cannot walk like he walked before.</p> <p>12 Q Any other areas of his body he is complaining about 13 now other than his hip?</p> <p>14 A No.</p> <p>15 Q Have you noticed any cognitive issues with Helmut at 16 all?</p> <p>17 A What means "cognitive"?</p> <p>18 Q Like your husband, the dementia issues, forgetfulness?</p> <p>19 A No.</p> <p>20 Q He has none of those issues?</p> <p>21 A No.</p> <p>22 Q All right. I'm going to pass you to the other 23 attorneys, so they may or may not have questions for you.</p> <p>24 A Can I go quick to the ladies' room?</p> <p>25 Q We can take a break. Yes, ma'am.</p>	<p style="text-align: right;">Page 108</p> <p>1 remembered things falsely?</p> <p>2 MR. PALMER: Objection. It's a compound question.</p> <p>3 BY MR. ROUTSIS:</p> <p>4 Q Did he also testify to facts that didn't happen?</p> <p>5 A No.</p> <p>6 Q So your recollection is that his testimony failed to 7 remember facts that did happen?</p> <p>8 A Yes.</p> <p>9 Q Did he also remember things differently than you 10 remembered them?</p> <p>11 A Yes.</p> <p>12 Q Did you bring that up to the prosecutor, prior to 13 trial?</p> <p>14 A No.</p> <p>15 Q Now the preliminary hearing occurred sometime in May, 16 I believe. Correct?</p> <p>17 A I don't remember.</p> <p>18 Q When was the trial?</p> <p>19 Now the trial occurred about, approximately 5 or 6 20 months later in September.</p> <p>21 Does that sound right to you?</p> <p>22 A Yes.</p> <p>23 Q And prior to trial, had Egon gone to see any, excuse 24 me, doctor or address the issue on the memory?</p> <p>25 MR. PALMER: Objection. It's two questions.</p>
<p style="text-align: right;">Page 107</p> <p>1 A I'm first.</p> <p>2 (A recess was taken)</p> <p>3 EXAMINATION</p> <p>4 BY MR. ROUTSIS:</p> <p>5 Q Okay. Very good.</p> <p>6 A Hi, Mr. Routsis.</p> <p>7 Q How are you again? It's been a while, hasn't it?</p> <p>8 I wanted to ask you some questions about Egon.</p> <p>9 A Yes.</p> <p>10 Q His memory.</p> <p>11 You testified at the preliminary hearing that you saw 12 him testify.</p> <p>13 And I had asked him questions at that hearing, as 14 well, correct?</p> <p>15 Do you remember me asking him questions?</p> <p>16 A Yeah.</p> <p>17 Q And you have testified that after the preliminary 18 examination, that you were concerned about the manner in which 19 he answered the questions?</p> <p>20 A Yeah.</p> <p>21 Q Did you feel some of the questions were answered in a 22 manner that showed a failure to remember, or would look like the 23 wrong answer?</p> <p>24 A A failure to remember.</p> <p>25 Q Did he also testify to things that were untrue or</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. ROUTSIS: No, it isn't. It really isn't.</p> <p>2 MR. PALMER: Well, your question is, did he go to see 3 a doctor.</p> <p>4 BY MR. ROUTSIS:</p> <p>5 Q Right.</p> <p>6 Did he go see a doctor and address his memory?</p> <p>7 A When?</p> <p>8 Q After the preliminary examination?</p> <p>9 A Yes.</p> <p>10 Q And was there a diagnosis done as to what, if 11 anything, was wrong?</p> <p>12 A Yes.</p> <p>13 Q And what was that diagnosis?</p> <p>14 A They took an MRI, and they saw that my husband has 15 Alzheimer's.</p> <p>16 Q So they made a diagnosis prior to trial that he had 17 Alzheimer's?</p> <p>18 A In May, yes.</p> <p>19 Q And was that information provided to the prosecutor 20 prior to trial?</p> <p>21 A I think I mentioned it.</p> <p>22 Q And did you tell the prosecutor the doctor that gave 23 Egon the MRI?</p> <p>24 A No.</p> <p>25 Q What was the name of the doctor that gave him the MRI?</p>

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<p style="text-align: right;">Page 110</p> <p>1 A Dr. Doyle.</p> <p>2 Q Okay. Now when he testified at the trial, months</p> <p>3 later in September, was he provided with any type of medication</p> <p>4 for his memory?</p> <p>5 A Yes.</p> <p>6 Q What kind of medication was he given?</p> <p>7 A Namenda.</p> <p>8 Q Okay.</p> <p>9 A And Donepezil.</p> <p>10 Q Okay. Now you are aware that he testified at trial</p> <p>11 for hours and hours, correct?</p> <p>12 A Not hours and hours.</p> <p>13 Q Really? I thought it was.</p> <p>14 MR. MOORE: Is that a question?</p> <p>15 MR. ROUTSIS: We call those comments.</p> <p>16 MR. MOORE: Thank you for clarifying.</p> <p>17 BY MR. ROUTSIS:</p> <p>18 Q Now you weren't in the room, or were you, in the -- I</p> <p>19 think you were a witness at the trial, were you not?</p> <p>20 A Yes.</p> <p>21 Q So at the preliminary hearing, you got to see your</p> <p>22 husband testifying, correct?</p> <p>23 A Yes.</p> <p>24 Q At the trial, you did not get to see him testify,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 112</p> <p>1 A Yes.</p> <p>2 Q All right. Does he know his name, and can he answer</p> <p>3 simple questions?</p> <p>4 A He knows his name.</p> <p>5 Q And so the Alzheimer's is not that progressed?</p> <p>6 A You can read this in the doctor's report, it has</p> <p>7 progressed.</p> <p>8 Q Can you have conversations with him?</p> <p>9 A Yes.</p> <p>10 Q Does he remember his name and childhood? Let</p> <p>11 me strike that.</p> <p>12 Does he remember where he was born?</p> <p>13 A I hope so.</p> <p>14 Q So is his problem mostly with long-term memory or</p> <p>15 short-term memory?</p> <p>16 A Short-term and long-term.</p> <p>17 Q Okay. If we were to question him about what happened</p> <p>18 on the 18th of December 2012, do you think his memory would be</p> <p>19 pretty good about that or not?</p> <p>20 A I don't know.</p> <p>21 Q Okay. Moving ahead Miss Klementi, Mrs. Klementi.</p> <p>22 A Mrs. Klementi.</p> <p>23 Q Klementi.</p> <p>24 A You better learn it now.</p> <p>25 Q Okay. Okay. Very good.</p>
<p style="text-align: right;">Page 111</p> <p>1 A No.</p> <p>2 Q So you don't know if his testimony was inaccurate at</p> <p>3 trial, as well?</p> <p>4 A No.</p> <p>5 Q Didn't you have concerns with the prosecutor -- let me</p> <p>6 rephrase it.</p> <p>7 Did the prosecutor address with you prior to the</p> <p>8 testimony at trial her concerns about his Alzheimer's?</p> <p>9 A No.</p> <p>10 Q Did she express to you at all, or did Egon express, or</p> <p>11 let me ask you -- strike that.</p> <p>12 Did you talk with Egon and discuss with him, you know,</p> <p>13 you are testifying in a criminal matter about a man's liberty.</p> <p>14 Perhaps the defense should be made aware that your</p> <p>15 memory isn't very good?</p> <p>16 A No.</p> <p>17 Q You indicated that at the present time, your</p> <p>18 understanding is he has Alzheimer's, correct?</p> <p>19 A Which present time?</p> <p>20 Q This, right now.</p> <p>21 A Today, yeah.</p> <p>22 Q Alzheimer's is difficult to diagnose, isn't it, as far</p> <p>23 as you know?</p> <p>24 A I don't know.</p> <p>25 Q But someone has told you he has Alzheimer's?</p>	<p style="text-align: right;">Page 113</p> <p>1 A I don't care.</p> <p>2 Q Prior, prior to December 12th, 2012, it's been your</p> <p>3 testimony here today that you recall an event where you believed</p> <p>4 Jeffrey Spencer had left the berm in front of your residence up</p> <p>5 at South Lake Tahoe, correct?</p> <p>6 A Correct.</p> <p>7 Q And that your testimony today was that you were</p> <p>8 looking out through a window, and you changed rooms and saw the</p> <p>9 snowplow turn around, and then drive to the Spencer house, and</p> <p>10 Mr. Spencer got out; is that correct?</p> <p>11 A Yes.</p> <p>12 Q That's how you know it was Mr. Spencer that left the</p> <p>13 berm, correct?</p> <p>14 A Yes.</p> <p>15 Q Are you sure of that as you sit here today that that's</p> <p>16 what happened?</p> <p>17 A Yes.</p> <p>18 Q Now do you remember the approximate date, other than</p> <p>19 it was before December 12th, 2012?</p> <p>20 A Can you ask me this question again, please?</p> <p>21 Q Yes.</p> <p>22 I'm talking about the incident where you apparently</p> <p>23 saw Jeff Spencer leave a berm in front of your residence prior</p> <p>24 to December 12, 2012.</p> <p>25 And I'm asking you, approximately how much prior? Was</p>

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<p style="text-align: right;">Page 114</p> <p>1 it a week?</p> <p>2 MR. PALMER: I'll object to that question.</p> <p>3 I think she testified earlier she did not see</p> <p>4 Mr. Spencer leave a berm in front of her house.</p> <p>5 BY MR. ROUTSIS:</p> <p>6 Q Well, you testified that you saw Mr. Spencer get out</p> <p>7 of his vehicle, and you followed the snowplow after the berm was</p> <p>8 left.</p> <p>9 And it's your testimony as a result of that, it was</p> <p>10 Mr. Spencer you saw leave the berm in front of your house,</p> <p>11 correct?</p> <p>12 A Yes.</p> <p>13 MR. ROUTSIS: Come on, Counsel.</p> <p>14 MR. MOORE: Is that a question or a comment?</p> <p>15 MR. ROUTSIS: "Come on, Counsel" was a question, it</p> <p>16 was a comment that it's exactly what she testified to, so</p> <p>17 perhaps we can be more mindful in our objections.</p> <p>18 MR. MOORE: Is your intention here to ask questions or</p> <p>19 make comments?</p> <p>20 BY MR. ROUTSIS:</p> <p>21 Q Anyway, Miss Klementi, getting back to the incident</p> <p>22 we're talking about that was prior to December 12th, 2012, do</p> <p>23 you know how long prior it was to December 12?</p> <p>24 Was it a week prior? Two weeks prior?</p> <p>25 A I couldn't answer this.</p>	<p style="text-align: right;">Page 116</p> <p>1 A I could not drive out with my car on this day.</p> <p>2 Q Certainly that can happen, if there's a large</p> <p>3 snowfall, correct?</p> <p>4 A Yes.</p> <p>5 Q And you indicated that, in fact, at some point,</p> <p>6 Mr. Spencer had approached your husband in 2011 and offered to</p> <p>7 avoid the berms.</p> <p>8 But Egon preferred to do it himself and shovel out.</p> <p>9 Is that correct?</p> <p>10 A Yes.</p> <p>11 Q So there was no problem on the berm. It was</p> <p>12 understood that he refused any special type of snowplowing from</p> <p>13 Mr. Spencer?</p> <p>14 A I don't think that Mr. Spencer is allowed, if he is</p> <p>15 doing commercial snowplowing, to offer a private citizen to dig</p> <p>16 out the berm on his driveway.</p> <p>17 Q Well, Mr. Spencer never did make that offer.</p> <p>18 A Mrs. Spencer did.</p> <p>19 Q Those are two different people, are they not?</p> <p>20 A Right. But they are one unit.</p> <p>21 Q In any event, Mr. Spencer never said that he offered</p> <p>22 not to leave a berm?</p> <p>23 A Not Mr. Spencer.</p> <p>24 But if my husband would have said, yes, I'm sure we</p> <p>25 would have gotten the pleasure to taking out the snow berm from</p>
<p style="text-align: right;">Page 115</p> <p>1 Q And in that event, you never took any photographs,</p> <p>2 correct?</p> <p>3 A No.</p> <p>4 Q Never made any complaints, correct, about the berm?</p> <p>5 A No.</p> <p>6 Q And -- but you did comment on the evening of the</p> <p>7 December 18th at the meeting regarding that berming incident,</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q And you also testified at the preliminary hearing</p> <p>11 about that berming incident, did you not?</p> <p>12 A I don't remember.</p> <p>13 Q Do you recall that you testified that you were</p> <p>14 snowed-in on that date?</p> <p>15 A That I was snowed-in prior to the 12th?</p> <p>16 Q Yes. Correct?</p> <p>17 A I don't remember.</p> <p>18 Q And regarding that berm, was there anything about that</p> <p>19 berm that would have been different than any other berm that was</p> <p>20 left that day by a snowplow in the normal course of berming the</p> <p>21 streets?</p> <p>22 A It was a higher berm.</p> <p>23 Q How do you know that?</p> <p>24 A Because I saw the differences in berms.</p> <p>25 Q So you compared the berms on that day?</p>	<p style="text-align: right;">Page 117</p> <p>1 our driveway.</p> <p>2 Q In any event, your husband denied the request for</p> <p>3 assistance or special courtesy, if you will, from Mrs. Spencer.</p> <p>4 And you had indicated that he preferred to do it</p> <p>5 himself, correct? Clear the berm in front of your driveway?</p> <p>6 A Yes.</p> <p>7 Q So there was no problem on this preDecember 12th</p> <p>8 berming incident, because this was normal operating procedure at</p> <p>9 this point, wasn't it?</p> <p>10 A Yes.</p> <p>11 Q Did you -- and you never called the police on that, or</p> <p>12 made a complaint about that until December 18th, correct?</p> <p>13 A We did not call the police.</p> <p>14 Q Okay. Okay. Now I want to draw your attention back</p> <p>15 to 2010.</p> <p>16 You recalled the Spencers had some friends that drive</p> <p>17 motorcycles, and there was, like, ten or 20 motorcycles parked</p> <p>18 on Charles Avenue?</p> <p>19 A Yes.</p> <p>20 Q And do you recall that your husband Egon took pictures</p> <p>21 of them?</p> <p>22 A Yes.</p> <p>23 Q And do you recall that your husband submitted those</p> <p>24 photographs in a complaint, either to KGID or some other agency?</p> <p>25 A My husband did not submit this picture to the code</p>

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1 enforcer for the complaint about the 18-wheeler.
 2 Q No. No. No. I'm talking about the motorcycles.
 3 A Yes.
 4 Q Sometimes in 2010, you have a memory that there were
 5 numerous motorcycles parked out on Charles Street in front of
 6 Mr. Spencer's residence, correct?
 7 A Yes.
 8 Q And my question is, do you recall your husband Egon
 9 taking pictures of that?
 10 A Yes.
 11 Q He wasn't, both you and him were not happy about that,
 12 correct?
 13 A Yes.
 14 Q And these were apparently friends of Mr. Spencer's
 15 that had parked their motorcycles on the street for an
 16 afternoon, correct?
 17 A Yes.
 18 Q And it bothered the two of you, did it not?
 19 A Yes.
 20 Q And as a result of that, your husband took
 21 photographs, correct?
 22 A He took one picture, yes.
 23 Q Are you sure? Were you present when he took the
 24 picture?
 25 A I saw the printed picture.

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1 Q All right. Do you know for sure he just took one
 2 picture?
 3 A No.
 4 Q Okay. So he may have taken many pictures?
 5 A Whatever.
 6 Q Okay. Do you recall back in 2010 if he provided that
 7 picture to KGID, police department, or any other agency?
 8 A He did not supply, supply to KGID or to the police.
 9 It just happened that the code enforcer saw it in my
 10 husband's folder when he showed him pictures of the 18-wheeler,
 11 which was our complaint.
 12 We did not complain about the 40, 50 motorcycles in,
 13 on Charles.
 14 Q How many motorcycles?
 15 A At least 40, 50.
 16 Q 40 or 50?
 17 A Yeah.
 18 Q So after those motorcycles were photographed, until
 19 the 18-wheeler, there was no other unpleasant occurrence between
 20 you and the Spencers other than the pre-December 12, 2012,
 21 berming incident?
 22 A No.
 23 Q And in regard to that berming incident, it's your
 24 testimony today that you believe the berm may have been bigger
 25 than berms in front of other people's residences on that date.

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1 Is that the final opinion?
 2 A Yes.
 3 Q And you are aware that berms aren't always the same
 4 height on everybody's driveway.
 5 It can depend on where the snow piles up and other
 6 factors that effect plowing, correct?
 7 A Yes.
 8 Q So you have no way of knowing, do you, that the plow
 9 or the berm that was left in front of your residence was an
 10 intentional act against you to get back at you for some, for
 11 some motive?
 12 You don't know whether that was intentional or not, do
 13 you?
 14 A We knew it was intentional.
 15 Q Aha. And how do you know? Tell us.
 16 A Because the Spencers don't like us.
 17 Q So you believe that the Spencers don't like you.
 18 So an act that could have been purely normal, you
 19 assumed was an intentional act to get back at you, correct?
 20 A Yes.
 21 Q Okay. And, however, you had made no complaints or
 22 done any actions to the Spencers prior to that date that would
 23 give them a motive to get back at you, had you?
 24 A No.
 25 Q Okay.

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1 A We tried to avoid the Spencers.
 2 Q Okay. So there was no reason to get back at you on
 3 that day, was there?
 4 A Yes.
 5 Q What was the reason?
 6 A I told you, they don't like us.
 7 And Mrs. Spencer made a comment prior to neighbors
 8 that they will show -- that they would berm us in.
 9 Q I move to strike that as many levels of hearsay at
 10 this point.
 11 In any event, progressing up to the 18-wheeler
 12 incident, you also made complaints -- let me strike that.
 13 Your husband took numerous pictures of the 18-wheeler,
 14 did he not?
 15 A He made several ones.
 16 Q And you testified today that the 18-wheeler was parked
 17 out on the street for months?
 18 A Coming and going, I said.
 19 Q However, isn't it true, Mrs. Klementi, that the
 20 18-wheeler was only parked out on Charles Avenue for one -- for
 21 one day?
 22 A Absolutely not.
 23 Q And isn't it true that the Spencers pulled the
 24 18-wheeler up to the side of their house shortly after it was
 25 parked on Charles Avenue?

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1 A Not shortly after. It was parked several days on the
 2 street, and then he parked it against his house.
 3 Q So earlier when you testified that the 18-wheeler was
 4 there for a month or months?
 5 A I didn't say months.
 6 Q Okay. I'm sorry. What did you say?
 7 A For some time.
 8 Q Okay. The total amount of time in your memory that it
 9 was actually parked on the street, on Charles Avenue, was a day
 10 or two before it was moved to the side of their house?
 11 A I didn't mention any day, amount of days.
 12 Q I'm asking you now.
 13 A I said several times.
 14 Q Would you say the total amount of time that it was
 15 parked on Charles Avenue, the 18-wheeler, was ten hours, 20
 16 hours, two days?
 17 Can you give us --
 18 A Several days.
 19 Q And then it was moved to the side of their house,
 20 correct?
 21 A Correct.
 22 Q And their house faces Charles -- faces your house,
 23 right?
 24 A Somehow.
 25 Q And next to the driveway, they had an area where the

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1 truck would be parked, so the 18-wheeler would be parked totally
 2 off the roadway, correct?
 3 A Yes.
 4 Q Okay. And you -- your husband took pictures of that
 5 18-wheeler, and did he send the pictures to KGID or any
 6 complaining agency, sheriff, police, code enforcer?
 7 A I told you already, he only showed the picture to the
 8 code enforcer.
 9 Q Okay. And did your husband, before he did that --
 10 because at this point, there had been nothing between you and
 11 the Spencers that would lead any of you to believe that there
 12 was an ongoing problem, correct?
 13 A Yes.
 14 Q So did your husband or you knock on the Spencers'
 15 doors as neighbors, and say, you know, I know that you need to
 16 make a living, and there's a truck here.
 17 Can you tell us how long it's going to be here?
 18 Was that ever attempted?
 19 A No.
 20 Q Instead you went directly to a reporting agency,
 21 correct?
 22 A Yes.
 23 Q Okay.
 24 A We did not report. We asked if it's allowed to have
 25 an 18-wheeler parked there on the residential street.

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1 Q Okay. I understand.
 2 A And the sheriff and the code enforcer both denied it,
 3 and Mr. Spencer was told by both code enforcer and the sheriff
 4 that he cannot park on the street.
 5 Q How -- were you there during these conversations? How
 6 do you know he was told that?
 7 A Because after the --
 8 Q No. No. The question is, you said the Spencers were
 9 told by the sheriff and the code enforcer that he could not park
 10 the vehicle on the street.
 11 Do you have personal knowledge of those conversations,
 12 yes or no?
 13 A Yes.
 14 Q You were present when they told the Spencers that?
 15 A The code -- no. The code --
 16 Q Were you present when they told the Spencers that?
 17 A We were present when the deputy sheriff told us that
 18 he just came from the Spencers and told him that he is not
 19 allowed to park there.
 20 Q Okay. And I assume shortly thereafter the truck was
 21 moved to the side of the residence?
 22 A Yes.
 23 Q Okay. Now the truck incident was -- if -- I think you
 24 have testified that the fence being built that has caused some
 25 concerns was on Memorial Day, May 27th of 2012, that weekend,

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1 correct?
 2 A Yes.
 3 Q The truck incident occurred how long prior to that, do
 4 you believe?
 5 A I don't remember.
 6 Q Okay. And you have built a fence on your property,
 7 correct?
 8 A Yes.
 9 Q And originally the fence you built, wasn't it
 10 destroyed by a snowplow?
 11 A Yes.
 12 Q And was it some other driver other than Mr. Spencer
 13 that had destroyed the fence?
 14 A Yes.
 15 Q So snow can do damage. When you live at the lake, you
 16 have to be very careful because the snow can accumulate, and you
 17 have personal knowledge that it destroyed the fence you built,
 18 correct?
 19 A Yes.
 20 Q And how tall is your fence right now?
 21 A Six-foot.
 22 Q Six-foot. I thought you can only have a three-foot
 23 fence?
 24 A No. You can -- you only can have -- you can have a
 25 six-foot fence when it's not a solid wooden fence, if it's

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1 spaces in between, then you are allowed to have that.
 2 Q Okay. So the Spencers began building the fence on
 3 Memorial Day weekend of 2012, correct?
 4 A Yes.
 5 Q And they had some young men working, boys, working on
 6 the property, as well as another man, correct?
 7 A I believe so.
 8 Q And prior to that, hadn't your husband Egon Klementi,
 9 would he ever take pictures of the Spencers' residence?
 10 Prior to that day, May 27th, did he have other, other
 11 than taking pictures of the 18-wheeler, do you know if he took
 12 other pictures of the Spencers' residence?
 13 A From the property next to the Spencers' property.
 14 Q Do you know --
 15 A A vacant lot.
 16 Q Do you know why he was doing that?
 17 A Because Mr. Spencer leveled ground. He thought it was
 18 illegal, and he tried to document this.
 19 Q Okay.
 20 A Before he parked the 18-wheeler there.
 21 Q So your husband felt that the Spencers had improperly
 22 raked some ground or leveled some ground?
 23 A Yes.
 24 Q And did he make a complaint about that, as well,
 25 Mr. Klementi, your husband?

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1 A He asked TRPA.
 2 Q Okay. And do you know if there was any code
 3 enforcement found?
 4 A I don't recall.
 5 Q So moving ahead to May 27th, at this point,
 6 Mr. Spencer has been a perfectly good neighbor as far as he
 7 knows between the two of you, because there's been -- well, let
 8 me rephrase that.
 9 There apparently was a complaint about an 18-wheeler
 10 that was parked for a day or two, and then it was moved to the
 11 side of his house. Correct?
 12 So at that point, Mr. Spencer, you believe, was made
 13 aware of the complaint because a sheriff's officer then came and
 14 told you that he informed Mr. Spencer that it was a violation,
 15 correct?
 16 A Correct.
 17 Q So on May 27th, the Spencers begin, or on that
 18 weekend, putting up a fence, correct?
 19 A Yes.
 20 Q And at the time they begin putting up the fence, you
 21 have no idea that the fence is going to be legal or illegal, or
 22 a violation of a code or a nonviolation of a code; is that a
 23 fair comment?
 24 A No.
 25 Q Did you pull all the regulations regarding fences at

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1 the time they started building the fence?
 2 A You mean our fence or their fence?
 3 Q Their fence, on May 27th.
 4 A We know that you are not allowed to have a six-foot
 5 wooden fence there. Everyone in the neighborhood knows that.
 6 Q So on that weekend, Memorial weekend, when Mr. Spencer
 7 began putting up his fence with the help of some young men and
 8 another gentleman, you were aware of a code that says you cannot
 9 have a six-foot solid fence.
 10 Is that correct?
 11 A Yes.
 12 Q Are you sure that code didn't occur until after, after
 13 May 27th?
 14 What I'm asking you, you are certain that the code at
 15 the time Mr. Spencer was building the fence, was that you cannot
 16 build a fence that's six-foot --
 17 A Exactly.
 18 Q -- and solid?
 19 Okay. So at some point you saw the fences go up, and
 20 you believed it was over six feet or six feet, correct?
 21 A Yes.
 22 Q But prior to that, your husband Egon Klementi had gone
 23 out, according to your testimony, and come back home on the
 24 27th, and told you that Jeffrey Spencer had threatened to punch
 25 him in the face, correct?

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1 A Yes.
 2 Q That's a criminal act. It's an assault. Right?
 3 Right?
 4 MR. PALMER: Objection. You are speculating that she
 5 knows what a criminal act is.
 6 BY MR. ROUTSIS:
 7 Q Okay. He was threatened with physical force by a
 8 younger man, correct?
 9 Correct?
 10 A Yes.
 11 Q Now you've already testified that Egon was willing to
 12 make some calls or to make reports regarding motorcycles parked
 13 on the street?
 14 A It's not true, Mr. Routsis.
 15 Q An 18-wheeler parked on the street.
 16 So my question to you is, your husband comes home, and
 17 he is threatened with being assaulted.
 18 Why don't you call the police?
 19 A We didn't think about that.
 20 Q How could you not think about that?
 21 A Because we never had anything to do with the law.
 22 And my husband was so shocked, and so was I. So we
 23 just don't report things like that, like it's here in America.
 24 We don't make lawsuits all the time. I'm sorry to say that.
 25 Q However, the Spencers called the police on May 27th --

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<p style="text-align: right;">Page 130</p> <p>1 A Yes, we know.</p> <p>2 Q -- for -- and the police knocked on your door, right?</p> <p>3 A Yes.</p> <p>4 Q Shortly after your husband had told you that he was</p> <p>5 just assaulted or threatened to be assaulted by a younger man,</p> <p>6 correct?</p> <p>7 A It was not shortly after.</p> <p>8 Q I'll just ask you, how long after?</p> <p>9 A Several hours.</p> <p>10 Q Several hours.</p> <p>11 And the -- was it the sheriff's department or the</p> <p>12 police department?</p> <p>13 A I don't know the difference.</p> <p>14 Q Okay. They knocked on your door, correct?</p> <p>15 A Yes.</p> <p>16 Q The door was opened, and the officer was permitted to</p> <p>17 come into your residence?</p> <p>18 A We invited him.</p> <p>19 Q And once he was inside, he informed you, did he not</p> <p>20 that, the Spencers were quite upset about your husband</p> <p>21 continually taking pictures on his property, invading their</p> <p>22 property.</p> <p>23 And they made a complaint regarding your husband</p> <p>24 harassing their freedom, and it was a formal complaint that they</p> <p>25 came to inform you of, correct?</p>	<p style="text-align: right;">Page 132</p> <p>1 pictures of younger people on the property?</p> <p>2 A That's absurd, Mr. Routsis.</p> <p>3 Q Maybe. I'm just asking.</p> <p>4 A You know this from the trial.</p> <p>5 Q No. That was kept out of trial by the judge.</p> <p>6 A Yes.</p> <p>7 Q But the Spencers have --</p> <p>8 A You know, it's absurd, and it's insane that you are</p> <p>9 saying something.</p> <p>10 Q No. I understand you being upset about that.</p> <p>11 A Yeah.</p> <p>12 Q But I'm not --</p> <p>13 A It's an insult.</p> <p>14 Q I'm not asking you if it --</p> <p>15 A No. You are telling me.</p> <p>16 Q No, I'm asking you.</p> <p>17 Did the police officer bring it up?</p> <p>18 A No.</p> <p>19 Q Okay. You are sure?</p> <p>20 A No.</p> <p>21 Q Okay. Did they give you a warning, or Egon a warning,</p> <p>22 not to take pictures of people on the Spencers' property or</p> <p>23 their house as that will be considered harassment, and that was</p> <p>24 a warning?</p> <p>25 A No. He said he should not take any pictures from</p>
<p style="text-align: right;">Page 131</p> <p>1 A Yes.</p> <p>2 Q And at that point, of course, you have to tell them,</p> <p>3 well, wait a second, no. We were assaulted by -- Mr. Spencer</p> <p>4 assaulted my husband Egon today. That's what happened.</p> <p>5 Didn't you tell them that?</p> <p>6 A I think so. Not me.</p> <p>7 Q Well, the officer testified and said it was never</p> <p>8 mentioned to him that day.</p> <p>9 Do you know why it was never mentioned to the police?</p> <p>10 Wouldn't that be a perfect opportunity to tell them about an</p> <p>11 assault if it actually did happen?</p> <p>12 A Yes.</p> <p>13 Q But it was never mentioned. Right?</p> <p>14 A Because we didn't think like you are thinking.</p> <p>15 Q Okay. So the police officer then gave you a warning</p> <p>16 not to continue taking pictures on the Spencers' property,</p> <p>17 correct?</p> <p>18 A He didn't give me a warning.</p> <p>19 Q He gave your husband a warning, right?</p> <p>20 A Yes.</p> <p>21 Q And your husband, this incensed your husband, made him</p> <p>22 very angry, did it not?</p> <p>23 A No.</p> <p>24 Q Isn't it also true that the police officer informed</p> <p>25 you that the Spencers were upset that your husband was taking</p>	<p style="text-align: right;">Page 133</p> <p>1 Spencers' property or around their property.</p> <p>2 Q Okay. And did Egon say "I won't do that anymore"?</p> <p>3 A Yes.</p> <p>4 Q Now why -- I'm going to ask you one more time.</p> <p>5 Why at that point, if your husband was assaulted, and</p> <p>6 he told you he was assaulted, wouldn't you tell the police that?</p> <p>7 MR. PALMER: I'm going to object. It's been asked and</p> <p>8 answered already. Possibly even twice.</p> <p>9 BY MR. ROUTSIS:</p> <p>10 Q The police officer then leaves. Correct?</p> <p>11 A Yes.</p> <p>12 Q Your husband now and you are by yourselves, correct?</p> <p>13 A Yes.</p> <p>14 Q This is about May 27th.</p> <p>15 Correct?</p> <p>16 A Yes.</p> <p>17 Q Your husband was quite upset that the police came over</p> <p>18 and warned him about intruding on your neighbor's property,</p> <p>19 wasn't he?</p> <p>20 A He was not upset.</p> <p>21 Q Okay.</p> <p>22 A The police officer was playing with our dog, and we</p> <p>23 had a very nice time with him.</p> <p>24 Q Okay. But what I'm asking you is, after the officer</p> <p>25 left, was your husband upset?</p>

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<p style="text-align: right;">Page 134</p> <p>1 MR. PALMER: I'm going to object again. You have 2 asked that. 3 MR. ROUTSIS: I don't think I have gotten an answer. 4 MR. PALMER: I believe you have. 5 BY MR. ROUTSIS: 6 Q Well, I'm going to ask it again. 7 Were your husband or you upset that the police officer 8 had accused Helmut -- or Egon, of taking photographs and 9 harassing the Spencers? 10 Was he upset that he had received a warning? 11 A We were amazed that people can do something like that. 12 We were not upset. We were amazed. 13 Q You were amazed that people could be upset that you 14 would constantly take pictures of them on their property? 15 A No. 16 Q Does that amaze you? 17 A No. 18 Q Okay. Anyway, I'll move ahead. 19 After May 27th, you had indicated that at some point 20 in time, you, the Shaws, Mary Ellen Kinion, had gone to Minden 21 to make some type of complaint on the code violation, correct, 22 regarding the fence that was being constructed on Memorial Day 23 weekend 2012? 24 A Yes. 25 Q Can you tell us approximately what, how many months</p>	<p style="text-align: right;">Page 136</p> <p>1 A Yes. 2 Q After that, now they built a fence, and your husband 3 is taking pictures of that fence, too, correct? 4 A I don't know. 5 Q You do know. You actually -- 6 A No. Yeah, I know, but he didn't take any pictures. 7 Q I'm asking you, did your husband take pictures of the 8 fence after May 27th? 9 A I'd say yes. 10 Q That's what I'm asking. 11 And prior to the December meeting, what did you or 12 your husband do to make complaints about the fence? 13 Who all did you contact? 14 A My husband did nothing. I made the complaint. 15 Q And who did you make the complaint to? 16 A At the meeting. 17 Q What meeting? 18 A The planning commission meeting in Minden. 19 Q Okay. That's in December. 20 A Right. 21 Q But I'm saying prior to that, didn't you go to KGID, 22 and try to get some -- 23 A Absolutely not. 24 Q Okay. So the first time that you complained about the 25 fence was -- to any agency, authority, bureau, county office --</p>
<p style="text-align: right;">Page 135</p> <p>1 after the construction of the fence that meeting occurred? 2 A What I remember, the first planning commission meeting 3 was in December, because the Spencers asked for a variance to 4 build their fence. 5 And, by the way, the Spencers started building their 6 fence without any permission. 7 Q How do you know that? 8 A We found this out when we were at the planning 9 commission hearing. 10 Q Do you have that in paperwork? 11 A No. You can find this at the planning commission. 12 Q So somebody told you that? 13 A We heard this at the meeting at the planning 14 commission. 15 Q The planning commission meeting was in December of 16 2012. 17 Correct? 18 A Yes. 19 Q Was it after December 18th? 20 A It was before. 21 Q How soon before, do you know? 22 A I don't know. 23 Q Okay. So after May of -- May 27th or Memorial Day 24 weekend 2012, this is the first time the Spencers have ever 25 called the police on you, right?</p>	<p style="text-align: right;">Page 137</p> <p>1 was in Minden in December? 2 A Correct. 3 Q Okay. But you had discussed it with your neighbors, 4 and -- about the fence, correct? 5 A Correct. 6 Q Okay. So after the police came out and gave you a 7 warning for intruding on the Spencers' privacy back in May of 8 2012, your husband's preparing to make a formal complaint by 9 taking pictures of the fence, correct? 10 You are both preparing to document the fence in order 11 to get the fence taken down, correct? 12 A What do you mean with "documenting"? 13 Q Well, you are taking photographs. 14 A My husband did not bring any photographs to the 15 planning commission. 16 Q Okay. Okay. But he had photographs taken of the 17 fence? 18 A For himself. 19 Q For himself? 20 Not as evidence to use in a complaint against the 21 Spencers? 22 A No. 23 Q What possible use could he personally have for 24 photographs of the Spencers' fence? 25 A Because he tries to take pictures.</p>

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<p>1 Q So you are --</p> <p>2 A The planning commission did their own pictures. The</p> <p>3 planning commission came up and took pictures from the fences.</p> <p>4 Q So your husband took pictures of the Spencers' fence</p> <p>5 because it was artwork?</p> <p>6 A No.</p> <p>7 Q Okay. In any event, I'll move ahead.</p> <p>8 Now you've had snow -- you have lived up there, I</p> <p>9 believe you indicated, I think you said, from '95, 1995?</p> <p>10 A '92.</p> <p>11 Q You have had a fence destroyed by snowplowing that</p> <p>12 wasn't Mr. Spencer, correct?</p> <p>13 A Yes.</p> <p>14 Q Everybody gets a berm during storms, correct?</p> <p>15 A Yes.</p> <p>16 Q We're going to move ahead now to December 18.</p> <p>17 The police have come out, and the Spencers have called</p> <p>18 the police on you in May.</p> <p>19 And now in December, apparently you go to work, and</p> <p>20 it's your testimony that you receive a phone call from your</p> <p>21 husband Egon Klementi regarding something that occurred that day</p> <p>22 with the snowplow, correct?</p> <p>23 A Did you say December 18th?</p> <p>24 Q I did.</p> <p>25 A That's wrong.</p>	<p>1 Did you have a cellphone at that time?</p> <p>2 A No.</p> <p>3 Q Did your husband have a cellphone?</p> <p>4 A No.</p> <p>5 Q So maybe there will be phone records.</p> <p>6 But, in any event, you believe he called you from the</p> <p>7 home?</p> <p>8 A He did call me.</p> <p>9 Q And you were at the office?</p> <p>10 A At my working place.</p> <p>11 Q Does he have a direct line, or does he have to go</p> <p>12 through the operator that puts him through to you?</p> <p>13 A At this time, he had to go through the operator.</p> <p>14 Q Okay. And you picked up the phone, and Egon's on the</p> <p>15 phone, and what did he say?</p> <p>16 A You don't know what just happened to me.</p> <p>17 Q And what happened?</p> <p>18 A That Jeff Spencer came by with the snowplow and put</p> <p>19 debris, snow and ice, over his body when he was standing in our</p> <p>20 driveway.</p> <p>21 Q Did he tell you how long ago that had occurred?</p> <p>22 Had it just occurred?</p> <p>23 A He said just now.</p> <p>24 Q Did he tell you that he had called 911?</p> <p>25 A No.</p>
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<p>1 Q Oh, I'm sorry. December 12th. My fault.</p> <p>2 A Good.</p> <p>3 Q Is that correct?</p> <p>4 A Yes.</p> <p>5 Q And I assume he -- does he call you on your cellphone,</p> <p>6 or do you have a business line he calls you --</p> <p>7 A Business line.</p> <p>8 Q And what are your hours? What hours were you working</p> <p>9 that day?</p> <p>10 A I have a variation of hours.</p> <p>11 Q Are you --</p> <p>12 A Usually swing shift. It depends on my schedule. It</p> <p>13 depends on the shows.</p> <p>14 Q So do you work a swing shift, or do you work whenever</p> <p>15 you need to work?</p> <p>16 It could be two hours one day, 5 hours the next, it</p> <p>17 depends on what's going on?</p> <p>18 A I usually make between 35 and 40 hours a week, except</p> <p>19 on Saturdays I have 10, 12 hours.</p> <p>20 Q On that particular day, do you recall how many hours</p> <p>21 you were working when you --</p> <p>22 A No.</p> <p>23 Q -- got a call on December 12th?</p> <p>24 A No.</p> <p>25 Q And this would have been 2012.</p>	<p>1 Q So he called you before he -- before he called law</p> <p>2 enforcement?</p> <p>3 A I don't know that.</p> <p>4 Q Okay. Did he tell you he was going to call 911?</p> <p>5 A No.</p> <p>6 Q Did he tell you he had called 911?</p> <p>7 A No.</p> <p>8 Q Nothing was mentioned of Miss Kinion on that telephone</p> <p>9 call, correct?</p> <p>10 A No.</p> <p>11 Q So he never told you, well, Miss Kinion, Mary Ellen</p> <p>12 Kinion, called me and guess what?</p> <p>13 She was a material eyewitness to an assault with the</p> <p>14 snowplow.</p> <p>15 He never said that, did he?</p> <p>16 A I don't remember.</p> <p>17 Q You would have remembered, had he?</p> <p>18 A Yes.</p> <p>19 Q So when you hung up the phone with him on</p> <p>20 December 12th, was it your understanding he was going to call</p> <p>21 911? Had called? You don't know?</p> <p>22 A I don't know.</p> <p>23 Q Okay. Now did you call your friends in the community,</p> <p>24 and did Egon call his friends and tell them about the horrible</p> <p>25 act that Jeff committed with the snowplow?</p>

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1	A No, Mr. Routsis.	1	Q Do you have any information that Egon took pictures?
2	Q No?	2	A No.
3	A No.	3	Q Okay. So a meeting occurred on the evening of
4	Q Nobody was told?	4	December 18, where Helmut, the Shaws, you, Mary Ellen Kinion go
5	A No. We are not this kind of people talking around.	5	to a meeting about 6 o'clock.
6	Q Okay. So as far as your memory is, you never told the	6	Right?
7	Shaws, Mary Ellen Kinion, Janet Wells, regarding the snowplow	7	A Yes.
8	assault?	8	Q And complaints are made about Jeffrey Spencer leaving
9	A I know from Miss Mary Ellen because she saw it.	9	berms, big berms, intentionally? Correct?
10	Q Miss Mary Ellen Kinion?	10	A Yes.
11	A Yes.	11	Q Yet nobody knows if it's intentional, and nobody knows
12	Q How do you know she saw it?	12	if it's Jeff Spencer, right?
13	A Because she told me.	13	A Only certain people on Meadow Lane had bigger berms,
14	Q Well, but you don't know if she saw it. You are just	14	and this is exactly the people you just mentioned --
15	saying what she told you?	15	Q Right.
16	A Yes.	16	A -- by name.
17	Q When did she tell you she saw it?	17	Q Your husband and Helmut were photographers, right?
18	A The same day probably.	18	A Amateur photographers.
19	Q Do you recall the conversation?	19	Q Your husband had taken pictures of the 18-wheeler, the
20	A No.	20	motorcycles.
21	Q Well, why do you say "the same day probably", then?	21	Did anybody have any pictures to give to the people at
22	A Because it happened on this day.	22	KGID to say look at the berm, compared to somebody else's berm?
23	Q Okay. In any event, as we, let's move -- let's	23	A No.
24	progress up to December 18th.	24	Q Had anybody prior to the 18th called Mr. Spencer's
25	A Yeah.	25	employer to say, my gosh. Jeff Spencer is leaving berms, make a
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1	Q Okay? Now on December 18th during the day, it was a	1	complaint?
2	Tuesday, I believe. Correct?	2	Yes or no? Do you know if you or Egon called
3	A I don't know.	3	Mr. Spencer's employer prior to the 18th?
4	Q Were you aware whether your husband had gone down onto	4	A Called KGID, not Mr. Manchester.
5	Charles Avenue and taken photographs of whatever berm there was?	5	Q Did he call them prior to the 18th?
6	A No.	6	A I did not call.
7	Q You don't think he did, or you are not aware of?	7	Q So all of you go arrange to go to a meeting, and
8	A I don't know.	8	wasn't it also brought up that your husband was assaulted by
9	Q Through the course of any communications with either	9	Spencer on May 27th and threatened to punch him?
10	him or Helmut, or seeing any photographs, are you aware that	10	A Yes.
11	hours before 7 o'clock at night, earlier on that day, that	11	Q You said that, too, right? That happened?
12	pictures were taken of whatever berm there was on Charles	12	A Yeah. In my letter I read.
13	Avenue?	13	Q But you weren't there?
14	A Did you say now December 12th?	14	A I was at the meeting.
15	Q December 18th. Did I say 12?	15	Q No.
16	A I heard December 12.	16	But you weren't on the street with your husband and
17	Q December 18.	17	Mr. Spencer on May 27th?
18	A I misunderstood.	18	A No.
19	Q December 18th.	19	Q Correct?
20	A I understood 12th.	20	So at the meeting on May, January -- December 18,
21	Q December 18th.	21	Helmut actually drove to your house prior to that meeting,
22	Are you aware if your husband Egon or you took	22	didn't he, in his own vehicle?
23	pictures of the snow on Charles Avenue on the side of your house	23	A I don't think so.
24	earlier in the day?	24	Q Okay. And have you been in communication with the
25	A No.	25	Shaws and Mary Ellen for all of you to go down there and arrange

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<p style="text-align: right;">Page 146</p> <p>1 to make these allegations against Mr. Spencer?</p> <p>2 Did you all coordinate so you would all be there for</p> <p>3 this same meeting?</p> <p>4 A Yeah. We were asked when the meeting is.</p> <p>5 Q All right. It snowed very lightly that day, didn't</p> <p>6 it, on the 18th?</p> <p>7 A I think so.</p> <p>8 Q And the meeting is had, you voice your complaints.</p> <p>9 And the meeting ends, right?</p> <p>10 And you were quite aware prior to December 18th that</p> <p>11 the Spencers were very sensitive about their privacy, and, in</p> <p>12 fact, so much so, that they had called the police on you to stop</p> <p>13 taking pictures and to leave them alone and a warning was given,</p> <p>14 right?</p> <p>15 A Yes.</p> <p>16 Q And isn't it also true, Miss Klementi, that when the</p> <p>17 Spencers would bring people to their home, whenever they would</p> <p>18 do something, your husband would open the door or you and stare</p> <p>19 at them and take photographs of them?</p> <p>20 A Absolutely not.</p> <p>21 Q When did you get your security equipment?</p> <p>22 Your video surveillance equipment?</p> <p>23 A After the trial.</p> <p>24 Q After the trial. So after Mr. Spencer was acquitted</p> <p>25 of all counts.</p>	<p style="text-align: right;">Page 148</p> <p>1 A There was no discussion.</p> <p>2 Q So dinner ended, right?</p> <p>3 A Yes.</p> <p>4 Q May have had some drinks or not. Right?</p> <p>5 A Yes.</p> <p>6 Q And Helmut indicated that he was going to be leaving</p> <p>7 at some point?</p> <p>8 A Yes.</p> <p>9 Q Was it then that your husband went into his studio?</p> <p>10 A After Helmut left, my husband went into his studio.</p> <p>11 Q Now how do you know your husband didn't go outside?</p> <p>12 A Because I saw him.</p> <p>13 Q Where were you?</p> <p>14 A In the kitchen.</p> <p>15 Q Well, if he went into his studio and opened the door</p> <p>16 that goes out to Charles Street, you wouldn't see him from the</p> <p>17 kitchen?</p> <p>18 A I would have heard it.</p> <p>19 Q Maybe, maybe not.</p> <p>20 In any event, is it possible that Egon went outside</p> <p>21 with his own camera on the evening of the 18th, and had</p> <p>22 orchestrated with Helmut to go and take photographs of his own</p> <p>23 on Charles Avenue at the same time?</p> <p>24 A No.</p> <p>25 Q Why would Helmut take photographs?</p>
<p style="text-align: right;">Page 147</p> <p>1 A 2014 I think or whenever it was.</p> <p>2 Q Okay.</p> <p>3 So when the meeting terminates on the 18th, Helmut,</p> <p>4 Egon's brother, comes back to your residence, right? Right?</p> <p>5 A He comes for dinner.</p> <p>6 Q And was there any conversation prior to the incident</p> <p>7 that occurred on the 18th regarding taking pictures out on</p> <p>8 Charles Avenue to get -- to continually to thwart and to upset</p> <p>9 Jeff Spencer?</p> <p>10 A I think we were upset about the snow berm, not</p> <p>11 Mr. Spencer.</p> <p>12 Q No. My question is, prior to Helmut leaving and going</p> <p>13 on Charles Avenue and taking photographs, did Helmut and Egon</p> <p>14 have a conversation discussing that Helmut would go take</p> <p>15 pictures with a flash, or Egon would take pictures, or both of</p> <p>16 them would go out there together, that evening?</p> <p>17 A You asked me now three questions: Helmut, Egon, and</p> <p>18 who took pictures.</p> <p>19 Q Right. Any of them?</p> <p>20 A One at a time, please.</p> <p>21 Q Fair enough. Thank you.</p> <p>22 A Yeah.</p> <p>23 Q Did you hear any conversation between Helmut and Egon</p> <p>24 after the meeting on December 18th, 2012, regarding going and</p> <p>25 taking pictures of the street on Charles, the property?</p>	<p style="text-align: right;">Page 149</p> <p>1 You have already indicated that that side of your</p> <p>2 house on Charles Avenue was not a driveway that was being used</p> <p>3 during the wintertime, correct?</p> <p>4 A Correct.</p> <p>5 Q There wasn't much snow, very light snow on that date?</p> <p>6 A But there was a --</p> <p>7 Q I'm not done.</p> <p>8 During that time --</p> <p>9 A Apologize.</p> <p>10 Q -- correct? Very light snow, correct?</p> <p>11 A Yes.</p> <p>12 Q What possible relevance would Helmut have in taking</p> <p>13 photographs at night having to walk in front of Jeffrey</p> <p>14 Spencer's, Marilyn Spencer's house of that area?</p> <p>15 What possible relevance does it have?</p> <p>16 A He took the advice of Dr. Norman to take pictures,</p> <p>17 instead of my husband. So he is doing it for him. He did my</p> <p>18 husband a favor.</p> <p>19 Q Well, let's talk about that.</p> <p>20 The advice that was given at that meeting, if it was</p> <p>21 given, was to take pictures of berms that effect your driveway.</p> <p>22 Not to take pictures of the side of your house. There</p> <p>23 was no relevance to that picture, was there?</p> <p>24 MR. MOORE: Objection. Argumentative.</p> <p>25 ///</p>

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<p style="text-align: right;">Page 150</p> <p>1 BY MR. ROUTSIS:</p> <p>2 Q Can you think of any reason that he would take</p> <p>3 pictures of the side of your house?</p> <p>4 MS. CAPERS: And calls for speculation.</p> <p>5 BY MR. ROUTSIS:</p> <p>6 Q Did he express any reason that he would do that?</p> <p>7 Did he tell you, "I want to go take pictures of</p> <p>8 something that's not important"?</p> <p>9 MR. MOORE: Objection. Compound.</p> <p>10 BY MR. ROUTSIS:</p> <p>11 Q As you sit here today, do you believe that Egon went</p> <p>12 into his studio while Helmut went out on the street and took</p> <p>13 pictures, correct?</p> <p>14 A No. I said Helmut left, and my husband went into his</p> <p>15 studio, and I was in the kitchen.</p> <p>16 Q All right. Okay. And you have no personal knowledge</p> <p>17 of that, but you are saying that you believe that to be the case</p> <p>18 because of what your ear observations told you, correct?</p> <p>19 A No.</p> <p>20 MR. PALMER: Objection. That's vague.</p> <p>21 BY MR. ROUTSIS:</p> <p>22 Q At the time that Helmut was taking photographs, were</p> <p>23 you in the study to see whether Egon Klementi was in the study</p> <p>24 or outside of the study?</p> <p>25 A My husband was in the study.</p>	<p style="text-align: right;">Page 152</p> <p>1 The study that Egon Klementi has had its own set of</p> <p>2 doors, does it not?</p> <p>3 A Yes.</p> <p>4 Q It's a private entrance, correct?</p> <p>5 A Yes.</p> <p>6 Q If you were to go out from the kitchen, you would have</p> <p>7 to take a different entrance?</p> <p>8 A Yes.</p> <p>9 Q So you and -- are you testifying today that you and</p> <p>10 Egon went out the same doors from the study?</p> <p>11 A When my husband heard Helmut screaming, I said,</p> <p>12 Helmut, and he and I went out the same time in two different</p> <p>13 doors.</p> <p>14 Q Okay. So that would indicate that you had no idea if</p> <p>15 he was inside or outside, because you didn't go out the same</p> <p>16 doors as him.</p> <p>17 You went out two separate doors, correct?</p> <p>18 A I heard my husband --</p> <p>19 MR. MOORE: Objection. Argumentative.</p> <p>20 BY MR. ROUTSIS:</p> <p>21 Q You and your husband did not go out the same doors</p> <p>22 from the study.</p> <p>23 You went out two different sets of doors, correct?</p> <p>24 A I say we went out the same time.</p> <p>25 Q But from two different sets of doors, correct?</p>
<p style="text-align: right;">Page 151</p> <p>1 Q Were you there to personally observe where he was?</p> <p>2 A I was three or four meters away from his study.</p> <p>3 Q Did you personally observe him as to whether he was in</p> <p>4 the study or outside the study at the time the incident occurred</p> <p>5 with Helmut and Mr. Spencer?</p> <p>6 A I heard him working around with easels, pictures,</p> <p>7 making noise.</p> <p>8 Q Okay. So the answer --</p> <p>9 A I heard it.</p> <p>10 Q So the answer to that is you never saw where Egon</p> <p>11 Klementi was during the incident with Jeff Spencer and Helmut</p> <p>12 Klementi?</p> <p>13 MR. MOORE: Objection. That mischaracterizes the</p> <p>14 testimony.</p> <p>15 BY MR. ROUTSIS:</p> <p>16 Q It doesn't.</p> <p>17 You never saw him, did you?</p> <p>18 MR. MOORE: The record speaks for itself. The</p> <p>19 objection stands.</p> <p>20 BY MR. ROUTSIS:</p> <p>21 Q Did you ever see him when -- during the incident,</p> <p>22 where Egon Klementi was?</p> <p>23 A Egon, my husband, and I went out the doors at the same</p> <p>24 time when we heard my brother-in-law screaming for help.</p> <p>25 Q Okay. Well, let's talk about that.</p>	<p style="text-align: right;">Page 153</p> <p>1 A Yes. And I would hear my husband's door with the</p> <p>2 blinds on it. Whenever you open this door, it makes a noise.</p> <p>3 Q Okay. Now when you -- you said you heard some</p> <p>4 yelling, correct?</p> <p>5 A Yes.</p> <p>6 Q And you went out the side, and Egon -- you saw Egon</p> <p>7 also outside, correct?</p> <p>8 A Yes.</p> <p>9 Q So the first time you saw Egon Klementi after the</p> <p>10 incident with Helmut was outside, he was outside?</p> <p>11 A I saw my husband, when I was at our entrance door, I</p> <p>12 saw my husband running from his studio door, passing me, to the</p> <p>13 gate.</p> <p>14 Q Was anything handed -- did you hand anything to Helmut</p> <p>15 Klementi when he was laying down on the ground?</p> <p>16 A During the evening, the sheriff screamed that he needs</p> <p>17 something for his head.</p> <p>18 Q Prior to the sheriff getting there, did you give</p> <p>19 anything to Helmut Klementi when he was laying on the ground?</p> <p>20 A I did not give Helmut anything.</p> <p>21 Q Did Egon give Helmut anything when he was laying on</p> <p>22 the ground?</p> <p>23 A I don't -- I don't remember.</p> <p>24 Q Did you give anything to Egon to give to Helmut?</p> <p>25 A I think he, I think he called me to bring him a</p>

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<p style="text-align: right;">Page 154</p> <p>1 flashlight.</p> <p>2 Q Who did?</p> <p>3 A My husband.</p> <p>4 Q Asked you to bring him a flashlight?</p> <p>5 A Yeah. So he can shine to Helmut's body on the street.</p> <p>6 Q Did you give your husband a camera?</p> <p>7 A No.</p> <p>8 Q Do you know if your husband and Egon or Helmut, if</p> <p>9 cameras were exchanged, or if a camera was given by Egon to</p> <p>10 Helmut, or Helmut gave -- were any cameras exchanged as far as</p> <p>11 you know between Egon and Helmut that evening?</p> <p>12 A I know for sure my husband did not run out with a</p> <p>13 camera. He had no camera on his body.</p> <p>14 Q Was a flashlight -- did you give a flashlight to Egon?</p> <p>15 A Yeah.</p> <p>16 Q Where did you get the flashlight?</p> <p>17 A From inside.</p> <p>18 Q And did Egon use the flashlight?</p> <p>19 A Yes.</p> <p>20 Q And Egon at some point went out to see Helmut,</p> <p>21 correct?</p> <p>22 A When he heard the scream, he was running right away to</p> <p>23 help him to see what happened.</p> <p>24 Q Did you hear them speaking?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 156</p> <p>1 Pence on numerous occasions; is that true?</p> <p>2 A You mean the assault?</p> <p>3 Q I mean the act of self-defense.</p> <p>4 A That's what you call it.</p> <p>5 Q That's what the jury called it.</p> <p>6 MR. MOORE: Objection.</p> <p>7 BY MR. ROUTSIS:</p> <p>8 Q Okay. Well, he was acquitted. You are aware of that.</p> <p>9 Correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. So when you are acquitted, that means you are</p> <p>12 found not guilty of assault.</p> <p>13 MR. MOORE: Objection as to form.</p> <p>14 MR. ROUTSIS: Okay.</p> <p>15 MR. MOORE: Objection. Argumentative.</p> <p>16 And objection, Counsel, you are testifying instead of</p> <p>17 asking questions now.</p> <p>18 BY MR. ROUTSIS:</p> <p>19 Q You're aware of that, are you not, that the jury found</p> <p>20 him not guilty?</p> <p>21 A Yes.</p> <p>22 Q So when, after the 18th of December, did you meet</p> <p>23 Maria Pence, the prosecutor for Douglas County that prosecuted</p> <p>24 Jeff Spencer, did you have occasion to meet with her to prepare</p> <p>25 for the trial?</p>
<p style="text-align: right;">Page 155</p> <p>1 Q Since that time, have you had the opportunity to ask</p> <p>2 Helmut why he did not respond to Mr. Spencer who was asking him</p> <p>3 what he was doing near his house?</p> <p>4 MR. MOORE: Objection. Foundation.</p> <p>5 BY MR. ROUTSIS:</p> <p>6 Q Since December 18th, have you had the opportunity to</p> <p>7 talk with Helmut Klementi regarding why on the evening where he</p> <p>8 was knocked to the ground, he didn't respond to Mr. Spencer's</p> <p>9 questions as to what he was doing near the property?</p> <p>10 MR. MOORE: Object as to form.</p> <p>11 BY MR. ROUTSIS:</p> <p>12 Q You can answer if you know.</p> <p>13 A If Helmut discussed this with me?</p> <p>14 Q Yes. Yes.</p> <p>15 A Yes.</p> <p>16 Q Did he tell you why he -- why he never responded to</p> <p>17 Mr. Spencer?</p> <p>18 A No.</p> <p>19 Q He didn't address that?</p> <p>20 A He was busy putting -- he tried to have his video</p> <p>21 ready so he can put the voice from Mr. Spencer on the video.</p> <p>22 Q Is that what he told you?</p> <p>23 A That's what I think, yeah.</p> <p>24 Q Okay. Now after the 18th, you had the opportunity</p> <p>25 prior to trial to discuss this matter with the prosecutor Maria</p>	<p style="text-align: right;">Page 157</p> <p>1 A Yes.</p> <p>2 Q And during the course of the preparation between</p> <p>3 December 18th and trial, how many times do you believe you met</p> <p>4 with her or spoke to her?</p> <p>5 A I don't remember.</p> <p>6 Q Over ten times?</p> <p>7 A Oh, no.</p> <p>8 Q No?</p> <p>9 A No.</p> <p>10 Q Well, let's -- not met with her.</p> <p>11 How many times do you think you spoke with her, either</p> <p>12 by phone or in person, do you think you had contact with her, 30</p> <p>13 times?</p> <p>14 A No.</p> <p>15 Q What do you think?</p> <p>16 A Before the trial was the question?</p> <p>17 Q Yes.</p> <p>18 A I don't know.</p> <p>19 Q How many times do you think you met or spoke with her</p> <p>20 prior to the preliminary hearing?</p> <p>21 A I don't know.</p> <p>22 Q Let's -- let me ask you this.</p> <p>23 From December 18th until Jeff Spencer was acquitted of</p> <p>24 all charges, how many times do you believe approximately you</p> <p>25 communicated with her?</p>

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1 A I don't remember, sir.
 2 Q Would it be -- would you say more than ten?
 3 A Probably. I don't know. I can't answer this
 4 question.
 5 Q And during the course of that time period, do you
 6 recall some subpoenas that were given to you by my office?
 7 A Yes.
 8 Q Regarding cameras, correct?
 9 A Yeah.
 10 Q And we asked for all the memory sticks to the cameras,
 11 correct?
 12 A Yeah.
 13 Q And apparently they broke, or they weren't working,
 14 right?
 15 A I don't have any memory sticks.
 16 Q Well, we had asked for the memory sticks to all the
 17 pictures that were taken on both cameras, and do you recall that
 18 they weren't working properly?
 19 A I didn't take any cameras.
 20 MR. MOORE: Objection. Counsel, I don't know what
 21 cameras you are referring to in that question.
 22 Would you clarify?
 23 MR. ROUTSIS: Okay.
 24 MR. MOORE: Also, I don't mean to interrupt.
 25 But if you would just keep in mind, it's after 12:30.

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1 When do you think would be a good time to take a lunch break?
 2 MR. ROUTSIS: Whenever you guys would like. I'm here
 3 to make you happy.
 4 MR. MOORE: I don't believe that.
 5 MR. ROUTSIS: If you would like to take lunch, I'm
 6 more than happy to do that now.
 7 MR. MOORE: Let's have a consensus.
 8 THE WITNESS: I'm fine. I can deal with Mr. Routsis
 9 all evening.
 10 MR. ROUTSIS: That's awesome. Yes.
 11 THE WITNESS: We know each other.
 12 MR. ROUTSIS: Yes, we do.
 13 THE WITNESS: And we respect each other.
 14 MR. ROUTSIS: Yes, we do. I like you.
 15 THE WITNESS: Yes.
 16 MR. ROUTSIS: Okay. We just have different opinions
 17 about this.
 18 THE WITNESS: Absolutely, Mr. Routsis.
 19 MR. MOORE: Let's take a lunch break.
 20 (A lunch recess was taken)
 21 BY MR. ROUTSIS:
 22 Q Okay. We're going to begin.
 23 Okay. Mrs. Klementi?
 24 A Thank you. You learn.
 25 Q We left off -- strike that.

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1 I wanted to do something. I wanted to ask you -- oh,
 2 okay.
 3 So the letter that you wrote that was attached to the
 4 police report that was typewritten, you provided that to law
 5 enforcement as well after December 18th, correct?
 6 You wrote a handwritten statement, and then you gave
 7 them -- did you provide them with the typed statement we had
 8 marked earlier?
 9 A I don't --
 10 Q This one here?
 11 A I don't remember if I gave this when we had the
 12 restraining order against Mr. Spencer, or if I only used it for
 13 the KGID meeting.
 14 Q Well, you brought this to the attention, did you not,
 15 of Maria Pence, the prosecutor, and provided her with a copy of
 16 this?
 17 A No.
 18 Q Well, did you provide it to law enforcement after the
 19 incident on the 18th?
 20 A I don't remember exactly.
 21 Q Okay. You are aware that there's some video footage
 22 from both the Spencers and the Shaws regarding the events that
 23 evening of the 18th of December 2012?
 24 A Right.
 25 Q Do you still wish to stick with your testimony that

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1 you never approached Helmut and gave him something when he was
 2 on the ground?
 3 A I'm under oath, and I said 1,000 percent I stick to
 4 whatever I told you in this room.
 5 Q Did you go out to the street and talk to him?
 6 A No.
 7 Q Okay. When you were -- at some point a subpoena was
 8 presented, or given to you and/or your husband from my law
 9 office regarding cameras.
 10 Do you recall that, prior to trial?
 11 A Yes.
 12 Q And it was addressing the camera that Egon may or may
 13 not have had that evening, and a camera that Helmut may or may
 14 not have had that evening.
 15 It was two cameras. Do you recall that?
 16 A Yes.
 17 Q And do you recall that we wanted to get any and all
 18 photographs that were taken on December 18th from either one of
 19 those cameras?
 20 A Right.
 21 Q And do you recall that there was some type of problem
 22 with the memory stick, and we were unable to get that
 23 information?
 24 A Right.
 25 Q I'm almost done.

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