

IN THE SUPREME COURT OF THE STATE OF NEVADA

Supreme Court No.
District Court Case No. A-18-772761-C

Electronically Filed
Sep 26 2019 02:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

VENETIAN CASINO RESORT, LLC, a Nevada limited liability company,
LAS VEGAS SANDS, LLC, a Nevada limited liability company,
Petitioners,

v.

EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND THE HONORABLE KATHLEEN
DELANEY in her capacity as District Judge,
Respondent,
JOYCE SEKERA, an individual,
Real Party in Interest

**APPENDIX TO PETITIONERS' EMERGENCY PETITION FOR WRIT OF
MANDAMUS AND/OR WRIT OF PROHIBITION UNDER NRAP RULES
21(a)(6) AND 27(e) AND EMERGENCY MOTION UNDER NRAP 8
STAYING EXECUTION OF ORDER DIRECTING PETITIONERS TO
DISCLOSE PRIVATE, PROTECTED INFORMATION OF GUESTS NOT
INVOLVED IN UNDERLYING LAWSUIT**
Volume 1 of 3 (Exhibits 1-14)

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Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, by and through their counsel of record, Royal & Miles LLP, hereby submit is Appendix in compliance with Nevada Rule of Appellate Procedure 30.

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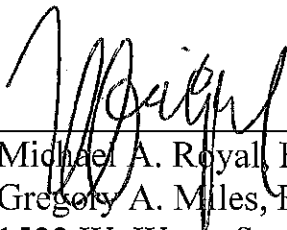
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The Appendix shall be contained in 3 separate volumes in accordance with NRAP 30(c)(2) (2013), each volume containing no more than 250 pages.

DATED this 26 day of September, 2019.

ROYAL & MILES LLP

By 
Michael A. Royal, Esq. (SBN 4370)
Gregory A. Miles, Esq. (SBN 4336)
1522 W. Warm Springs Rd.
Henderson, NV 89014
(702) 471-6777
Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the law firm of Royal & Miles LLP, attorney's for Petitioners, VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC, and that on the 26 day of September, 2019, I served true and correct copy of the foregoing APPENDIX TO PETITIONERS' EMERGENCY PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF PROHIBITION UNDER NRAP RULES 21(a)(6) AND 27(e) AND EMERGENCY MOTION UNDER NRAP 8 STAYING EXECUTION OF ORDER DIRECTING PETITIONERS TO DISCLOSE PRIVATE, PROTECTED INFORMATION OF GUESTS NOT INVOLVED IN UNDERLYING LAWSUIT Volume 1 of 3 (Exhibits 1-14), by delivering the same via U.S. Mail addressed to the following:

Keith E. Galliher, Jr., Esq.
THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
Attorneys for Real Party in Interest

Honorable Kathleen Delaney
Eighth Jud. District Court, Dept. 25
200 Lewis Avenue
Las Vegas, NV 89155
Respondent



An employee of Royal & Miles LLP

EXHIBIT “1”



1 **COMP**

2 THE GALLIHER LAW FIRM
3 Keith E. Galliher, Jr., Esq.
4 Nevada Bar Number 220
5 1850 E. Sahara Avenue, Suite 107
6 Las Vegas, Nevada 89104
7 Tele: 702-735-0049
8 Fax: 702-735-0204
9 kgalliher@galliherlawfirm.com

10 Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

11 JOYCE SEKERA, an Individual,
12 Plaintiff,

CASE NO.: A-18-772761-C
DEPT. NO.: Department 24

13 v.

14 VENTIAN CASINO RESORT, LLC,
15 d/b/a THE VENETIAN LAS VEGAS,
16 a Nevada Limited Liability Company;
17 LAS VEGAS SANDS, LLC d/b/a THE
18 VENETIAN LAS VEGAS, a Nevada
19 Limited Liability Company; YET
20 UNKNOWN EMPLOYEE; DOES I
21 through X, inclusive,

22 Defendants.

COMPLAINT

23 Plaintiff, by and through her undersigned attorneys, complains of Defendants as follows:

GENERAL ALLEGATIONS

I

24 Plaintiff is a resident of the State of Nevada. The incident which gives rise to this cause of
25 action occurred within the State of Nevada.
26
27
28

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1850 E. Sahara Avenue, Suite 107
Las Vegas, Nevada 89104
702-735-0049 Fax: 702-735-0204

II

Defendants, VENETIAN CASINO RESORT, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), LAS VEGAS SANDS, LLC d/b/a THE VENETIAN LAS VEGAS (hereinafter VENETIAN), are, upon information and belief, Nevada Limited Liability Companies duly licensed and doing business within the State of Nevada.

III

1. The true names of DOES I through V, their citizenship and capacities, whether individual, corporate, associates, partnership or otherwise, are unknown to Plaintiff who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes, and therefore alleges, that each of the Defendants, designated as DOES I through V, are or may be, legally responsible for the events referred to in this action, and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend the Complaint to insert the true names and capacities of such Defendants, when the same have been ascertained, and to join them in this action, together with the proper charges and allegations.

2. DOES I through V are employers of Defendants who may be liable for Defendants negligence pursuant to NRS 41.130, which states:

Whenever any person shall suffer personal injury by wrongful act, neglect or default of another, the person causing the injury shall be liable to the person injured for damages; and where the person causing such injury is employed by another person or corporation responsible for his conduct, such person or corporation so responsible shall be liable to the person injured for damages.

IV

On or about November 4, 2016 at approximately 1:00 p.m. Defendants negligently and carelessly permitted a pedestrian walkway to be unreasonably dangerous in that they allowed liquid on the floor causing the Plaintiff to slip and fall. Defendant had actual and/or constructive notice of

1 the condition which caused the fall. Pursuant to the mode of operation doctrine Defendant was on
2 continuous notice of the presence of liquid on its floors.

3
4 **V**

5 At the aforementioned place and time, Plaintiff was walking through the VENETIAN when
6 her foot came into contact with a liquid substance on the floor causing her to slip and fall. The
7 liquid on the floor coupled with the composition of the floor, rendered the area dangerous for use as
8 a passageway for the Plaintiff and for other patrons of the VENETIAN.

9 **VI**

10 The Defendant knew or should have known that liquid located in an area of the fall was
11 dangerous and in the exercise of ordinary care would have had reasonable opportunity to remedy the
12 situation prior to the happening of the fall herein alleged. In spite of Defendants actual, constructive
13 and/or continuous notice of the presence of the liquid, the Defendant failed to take appropriate
14 precautions to prevent injury to Plaintiff and/or guests and/or patrons.
15

16 **FIRST CLAIM FOR RELIEF**

17 **(Negligence)**

18 **I**

19 Plaintiff repeats and realleges the allegations contained in Paragraphs I through VI of her
20 General Allegations as though fully set forth herein.
21

22 **II**

23 As a direct and proximate result of the negligence of Defendant and its yet unknown
24 employee and/or employees, Plaintiff sustained personal injuries to her head, neck, back, arms and
25 legs and has suffered pain and discomfort all to her damage in a sum in excess of FIFTEEN
26 THOUSAND DOLLARS (\$15,000).
27
28

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III

Said injuries have resulted in medical treatment all to Plaintiff's damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

IV

Plaintiff has been compelled to retain the services of an attorney to prosecute this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs of suit incurred herein.

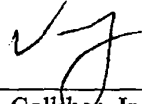
WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant as follows:

FIRST CLAIM FOR RELIEF

1. General damages in a sum in excess of \$15,000;
2. Special damages in a sum in excess of \$15,000;
3. Attorney's fees and costs of suit incurred herein; and,
4. For such other and further relief as the Court may deem just and proper on the premises.

DATED this 19th day of March, 2018

THE GALLIHER LAW FIRM



Keith E. Gallher, Jr., Esq.
Nevada Bar No. 220
1850 E. Sahara Ave., Suite 107
Las Vegas, NV 89104
Attorney for Plaintiffs

EXHIBIT “2”

Arrest <input type="checkbox"/> Crime <input type="checkbox"/> Non-Criminal <input checked="" type="checkbox"/>	Venetian Security 3355 LAS VEGAS BLVD., S. LAS VEGAS, NV 89109	CASE # 1611V-0680
Narrative Report		Page 1 of 2
OFFENSE(S) Protected Health Information		OFFENSE(S) cont'd
DATE, TIME AND DAY OF OCCURRENCE 11/04/16 12:39 Friday TO 11/04/16 13:31 Friday		DATE AND TIME REPORTED 11/04/16 12:39
LOCATION OF OCCURRENCE	LOCATION NAME Outside Grand Lux Cafe Restrooms	TYPE OF LOCATION BEAT SECTOR
NARRATIVE <p>On November 4th, 2016 at 12:39pm, I was dispatched to the area outside of the restrooms adjacent to the Grand Lux Cafe for report of a slip and fall incident. I arrived on scene and met with Las Vegas Tours (business located in Grand Canal Shoppes) employee Sekera, Joyce who was seated on the marble flooring. I noted that a Public Areas Department team member was on scene and mopping the flooring in the area. Sekera apologized for falling and did not appear to be in any immediate distress. I did not observe an obvious injuries to threats to life at that time.</p> <p>Sekera was alert and oriented to person, place, time, and events, had a patent airway, and was breathing adequately. She stated she was walking through the area when she slipped in what she believed was water on the floor. She reported that she fell backwards and put her right hand behind her head to protect it. She landed on the marble flooring and her left elbow struck the base of a pillar next to her. She denied striking her head during the fall and denied losing consciousness prior to, or after, falling. She denied any head pain, neck pain, back pain, weakness, dizziness, or nausea at that time. I noted that she was guarding her left elbow and reported she was only experiencing pain there at that time. She stated she was embarrassed to which I offered to assist her to a more private area. She agreed and was assisted to a standing position. I asked if she felt any new pain, weakness, dizziness, or nausea to which she denied at that time. She agreed to be assessed in the Medical Room and refused wheelchair assistance. She was able to ambulate on her own to the Medical Room and was able to sit without assistance.</p> <p>Sekera's left elbow was exposed which presented with an abrasion. I did not observe any other injuries or deformities to the area. Palpation of the area showed an increase in tenderness with no obvious signs of instability or crepitation. Distal circulation, motor function, and sensory function were found intact in the left arm. Grip strength was found to be equal bilaterally in the upper extremities. She rated her pain at approximately 7 on a 1-10 severity scale. She had a limited range of motion in the left elbow due to increasing pain on movement. She stated that she was starting to feel a tingling sensation in left phalanges II and III (index and middle finger). A SAM splint was formed on the right arm and applied to the left arm. The splint covered the left elbow and wrist and was secured using four-inch Kerlix gauze and tape. Distal circulation, motor function, and sensory function were rechecked and found to be intact with no changes. The splinted left arm was placed into a</p>		
ADMINISTRATION		
BY OFFICER J. Larson 000025821	DATE/TIME 11/04/2016 15:30	APPROVED BY Michael Dean 000041303
OFFICER	UNIT/SHIFT	ASSIGNED TO
		DATE APPROVED 11/05/16
		CASE STATUS Closed

Arrest <input type="checkbox"/> Crime <input type="checkbox"/> Non-Criminal <input checked="" type="checkbox"/>	Venetian Security 3355 LAS VEGAS BLVD., S. LAS VEGAS, NV 89109 Narrative Report	CASE # 1611V-0680 Page 2 of 2
OFFENSE(S) Protected Health Information		OFFENSE(S) cont'd
DATE, TIME AND DAY OF OCCURRENCE 11/04/16 12:39 Friday TO 11/04/16 13:31 Friday		DATE AND TIME REPORTED 11/04/16 12:39
LOCATION OF OCCURRENCE	LOCATION NAME Outside Grand Lux Cafe Restrooms	TYPE OF LOCATION BEAT SECTOR
NARRATIVE <p> sling made out of a triangle bandage to which she reported the treatment provided some relief from her pain. She added that she was beginning to feel minor pain and soreness to her left lower back and left side (localized to the axillary line). </p> <p> Sekera agreed to seek further medical attention, but refused ambulance transport. She stated her job did not provide Workers' Compensation and did not know where she should go. After some discussion, she opted to self-transport to Centennial Hills Hospital as it was close to her home. She refused to complete a Voluntary Statement for the incident and completed a Medical Release. She was escorted to her booth in the Grand Canal Shoppes, collected her belongings, and was escorted to her vehicle in the Team Member Garage on level 8. </p> <p> I checked the area of incident and noted that the marble flooring appeared to be flat, even, and dry throughout the area. I did not observe any wet or slick areas and no obstructions were observed. An Accident Scene Check was completed by Facilities Team Member Chavez, Rafael TM#9648 at 1:28pm which found no defects in the area of incident. </p> <p> Video coverage is available per Surveillance. </p> <p> Risk Management was notified. </p> <p> Attached Items 1 Scan of the Medical Release 1 Scan of the Accident Scene Check 2 Photographs of Sekera's left arm 2 Photographs of Sekera's shoes (top and bottom) 5 Photographs of the area of incident </p>		
ADMINISTRATION		
BY OFFICER J. Larson 000025821	DATE/TIME 11/04/2016 15:30	APPROVED BY Michael Dean 000041303
OFFICER	UNIT/SHIFT	ASSIGNED TO
		DATE APPROVED 11/05/16
		CASE STATUS Closed

EXHIBIT “3”

Acknowledgement of First Aid Assistance & Advice to Seek Medical Care

☒ I (or my guardian) have been informed that only an initial Emergency First Aid treatment and evaluation has been rendered to me by a Venetian or Palazzo Emergency Medical Technician (EMT) who is not a medical doctor and that I (or my guardian) have been advised that I should seek the advice of a physician as soon as possible.

☐ I (or my guardian) refuse treatment by a Venetian or Palazzo Emergency Medical Technician (EMT) and have been advised that I should seek the advice of a physician as soon as possible.

Name (Print): JOYCE SEKERA WFA 5'6" 160 PPO/BRD
(LV TOUR → GCS)
Signature: [Signature]
Address: 7810 NESTING PINE PL, LV, NV 89143
Date of Birth: 3/22/56 Social Security #: N/A
Phone: (702) 467-5457
Witness: _____
Witness: _____
Date: 11/4/16 Time: 1257
Refused to Sign: _____
Venetian/Palazzo EMT: _____ ID#: 25821

S/F, fell backwards onto base of pillar @ LOC, @ H/N/B, @ Overly
① elbow → @ IT, @ IC ↳ Guarded post injury dizzy

@ CMS, tingling in @ PII, PIII; limited ROM due to pain
↑ 7/10

① axillary pain/soreness

① flank/lateral back pain

① video, ① foot slipped 30 min prior to fall

IX - splint to ① elbow/FA

@ CMS → @ Δ P approx 12 min; @ hx

EXHIBIT “4”







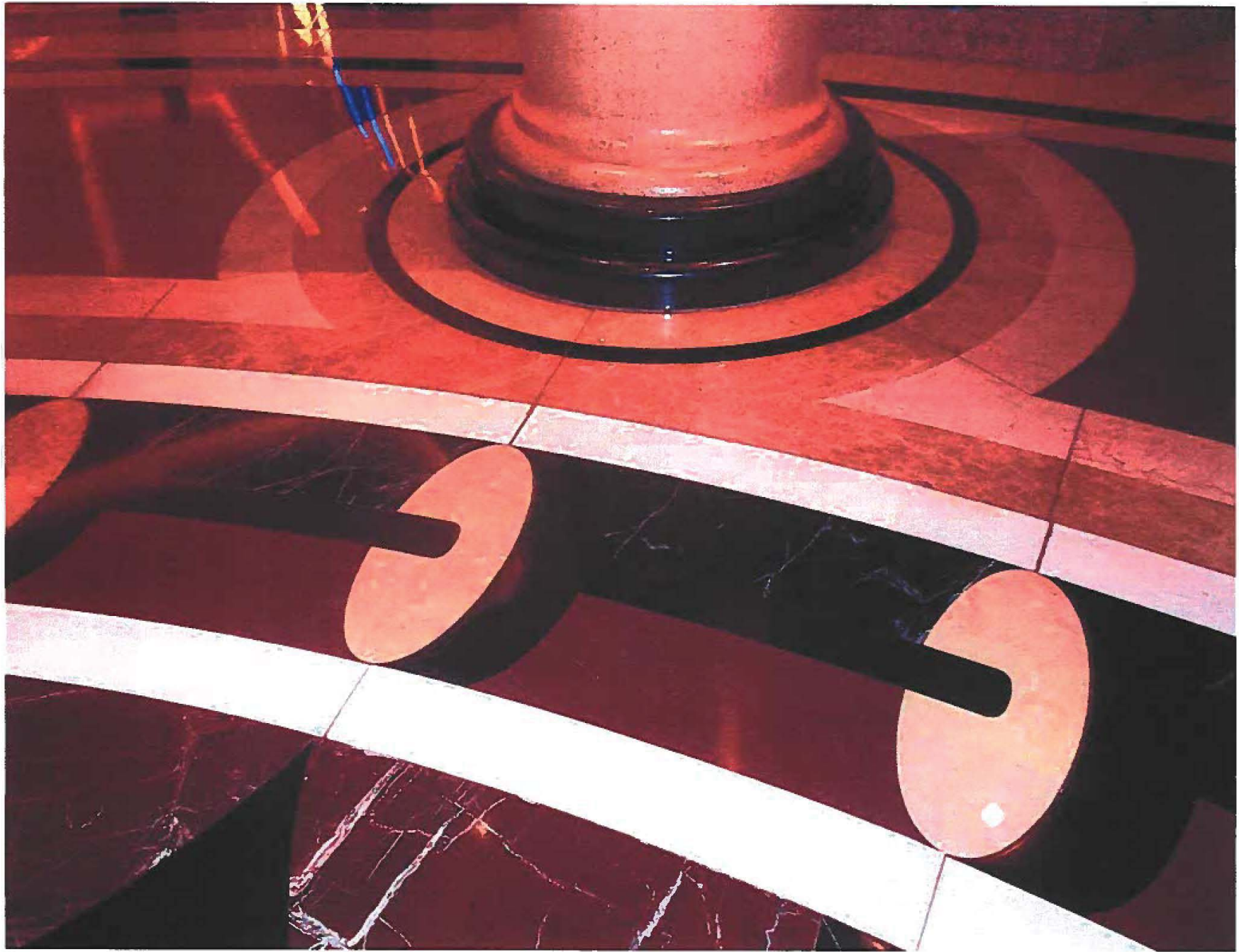








EXHIBIT “5”

Deposition of:

Joyce P. Sekera

Case:

Joyce Sekera v. Venetian Casino Resort, LLC d/b/a The Venetian Las Vegas, et al.
A-18-772761-C

Date:

03/14/2019



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DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual,)
Plaintiff,)
vs.) CASE NO.: A-18-772761-C
DEPT NO.: XXV
VENETIAN CASINO RESORT, LLC,)
d/b/a, THE VENETIAN LAS)
VEGAS, a Nevada Limited)
Liability Company; LAS VEGAS)
SANDS, LLC d/b/a THE)
VENETIAN LAS VEGAS, a Nevada)
Limited Liability Company;)
YET UNKNOWN EMPLOYEE; DOES I)
through X, inclusive,)
Defendants.)

DEPOSITION OF JOYCE P. SEKERA

Taken on Thursday, March 14, 2019

By a Certified Court Reporter

At 1522 West Warm Springs Road

Henderson, Nevada

At 10:00 a.m.

Reported by: Blanca I. Cano, CCR No. 861, RPR
Job No.: 31775

1 27th. I'm not sure. But at any rate, in August of
2 2018, this says you reviewed the answers to
3 interrogatories, you verified that they were accurate,
4 and that's your signature?

5 A. Yes.

6 Q. Okay. So having looked at these again, did it
7 refresh your recollection?

8 A. Yes.

9 Q. Did you see any of your responses that appeared
10 inaccurate or --

11 A. Yes.

12 Q. Let's go --

13 MR. KUNZ: You're talking about the
14 interrogatories or the admissions?

15 MR. ROYAL: Yes, the interrogatories.

16 MR. KUNZ: So there are two different --

17 THE WITNESS: Oh.

18 BY MR. ROYAL:

19 Q. Yeah. Let's just focus on the interrogatories.

20 Did you see anything in the interrogatories you
21 wanted to change?

22 A. No.

23 Q. Okay. Did you see something in the admissions
24 that you wanted to change?

25 A. Yes.

1 Q. Okay. That's -- the admissions are Exhibit B,
2 so let's just look at those.

3 Was there more than one?

4 A. Yes.

5 Q. Okay. Let's go to the first one.

6 Which one did you note that is not correct?

7 MR. KUNZ: Page 2, No. 2.

8 THE WITNESS: Thank you.

9 BY MR. ROYAL:

10 Q. I'll read it. "Admit that you did not see
11 liquid on the floor of the subject area after your fall
12 on November 4, 2016," and then it says, "Deny."

13 A. Yes, because I didn't see it. I was looking
14 through the people to walk to the restroom. I felt it
15 when I fell.

16 Q. Okay. So --

17 A. I remember my pants being wet.

18 Q. Okay. So I get it. So you would change that
19 to "Admit"?

20 I'll read it to you again. Request No. 2 in
21 Exhibit B, page 2, says, "Admit that you did not see
22 liquid on the floor of the subject area after your fall
23 on November 4, 2016."

24 You would admit that; is that correct?

25 A. I felt it.

1 Q. No. I get that you -- I understand. Look, the
2 question is you did not see it?

3 A. Right. Correct.

4 Q. Okay. So you would admit you did not see it?

5 A. Correct.

6 Q. Okay. I understand you felt it, and we'll get
7 into the specifics of that.

8 Was there another change?

9 MR. KUNZ: Page 7.

10 BY MR. ROYAL:

11 Q. Before we get to that one, let me look at
12 Request No. 3 and have you look at that.

13 Request No. 3 reads, "Admit that you did not
14 see a foreign substance on the floor potentially causing
15 your fall on November 4, 2016, at any time."

16 Again, I know you said you felt it, but the
17 question is did you see it?

18 A. No, I did not.

19 Q. Okay. So the answer to No. 3, would that also
20 be "Admit" instead of "Deny"?

21 A. Correct.

22 Q. Okay. Those were kind of the same.

23 Which one are we on now?

24 MR. KUNZ: Page 7.

25 MR. ROYAL: Which number?

1 MR. KUNZ: Hold on just a second, please.

2 Number 27.

3 BY MR. ROYAL:

4 Q. Okay. Number 27 reads, "Admit that William D.
5 Smith, M.D., accurately related in his report of your
6 February 22nd, 2018, visit that you lost consciousness
7 as a result of the subject incident."

8 A. I don't know what the correct wording would be.
9 I was dazed and shocked and I don't remember. I knew I
10 didn't -- lose consciousness was you're out cold.

11 Q. Okay. So we'll get to that too.

12 Is it your testimony that when you -- when this
13 incident happened, you were not out cold?

14 A. I remember falling and talking, but I don't
15 know what was coming out. I was -- I had pain and I
16 don't remember.

17 Q. Okay. Are there any other changes?

18 MR. KUNZ: There is. Page 8.

19 MR. ROYAL: Which number? Again, we're talking
20 about Exhibit B.

21 THE WITNESS: Oh, I did drive.

22 MR. KUNZ: Request No. 28.

23 MR. ROYAL: "Admit that William D. Smith,
24 M.D., accurately related in his report on your
25 February 22nd, 2018, visit that you did not drive

1 employment?

2 A. No. Only if we had a question which the guest
3 wanted that particular seat and they couldn't have it
4 because it was reserved for the hotel, so...

5 Q. Okay. The time that -- it sounds to me like
6 you were spending anywhere from 40 to 60 hours a week at
7 the Venetian.

8 A. Yes.

9 Q. Does that sound right?

10 A. Yes.

11 Q. And that would be pretty much from December 26,
12 2015, until the date of the incident?

13 A. Yes.

14 Q. Did you take any vacations?

15 A. No, I did not. And I was always there at least
16 an hour or two prior.

17 Q. What does that mean? Prior to what?

18 A. Prior to my shift starting.

19 Q. So if your shift started at 9:00, you would
20 arrive at 7:00?

21 A. Yeah, because I would set up all the computers
22 for everybody.

23 Q. And you're not paid for that time?

24 A. No.

25 Q. So you actually would have been there from,

1 like, what, 7:00 to 7:00?

2 A. Pretty much, or at least 8:00 to 7:00.

3 Q. Okay. I'm just doing the math in my head here.

4 That's a lot of hours. So you're talking about -- you
5 could actually be working 80 hours a week.

6 A. Yeah.

7 Q. Does that sound right?

8 A. Yes.

9 Q. Okay.

10 A. And that wasn't every day, but I tried to help
11 people because -- and have it all ready for them when
12 they walked on the shift.

13 Q. So during the time that you work there for
14 sounds like -- I'm going to say 50 to 70 hours a week
15 maybe --

16 Does that sound about fair?

17 A. Fair.

18 Q. -- were you ever aware of any incidents where
19 guest or employees would slip and fall?

20 A. No.

21 Q. The times that you were working at this booth,
22 you don't recall ever responding to someone who had
23 fallen; is that correct?

24 A. I would say yes. I don't remember helping
25 anybody.

1 Q. Okay. When you would go to -- let's say on
2 breaks, use the restroom and stuff, do you recall ever
3 seeing security responding to somebody on the floor,
4 anything like that?

5 A. No.

6 Q. Did you ever have any conversations that you
7 can recall prior to your fall with hotel -- Venetian
8 hotel security about incidents occurring on property?

9 A. No. I didn't really know anybody there.

10 Q. Okay. So prior to your incident of November 4,
11 2016, is it fair to say that you were never aware of
12 anyone slipping and falling at the Venetian property?

13 A. Yes.

14 Q. Okay. That was a correct statement; is that
15 right?

16 A. Yes.

17 Q. So for all the time that you were at the
18 Venetian working for Allstate Ticketing and Tours and
19 then for Brand Vegas, the only fall that you're aware of
20 occurring at the Venetian property was your fall?

21 A. That's correct.

22 Q. Okay. Do you recall during the time that you
23 worked at the Venetian property -- now I'm going to
24 expand it from any time that you're working there from
25 1995 until 2016, I'm just going to ask you all of your

1 experience as an employee where you were working at a
2 kiosk at the Venetian property, do you recall ever
3 seeing foreign substances on the floor?

4 A. I have to just say this. When I worked for
5 Allstate Ticketing, they didn't acquire the Venetian
6 kiosk till a few years before, so earlier they weren't
7 there. From '96 to -- I just can't remember the date.
8 You said from '96 to...

9 Q. Okay. Thank you. But what I'm trying to do is
10 you said you were probably at the Venetian 10 to 20
11 times over the 15 years --

12 A. Yeah, not a lot.

13 Q. Okay. That's when you were at Allstate?

14 A. Right.

15 Q. And then you were there it sounds like almost
16 every day for almost close to a year --

17 A. Oh, for Brand, yes.

18 Q. -- for Brand Vegas; correct?

19 A. Yes.

20 Q. All right. And during all that time,
21 collectively, you don't recall ever seeing a substance
22 on the floor, like somebody spilled a drink or something
23 like that?

24 A. Oh, sure, I might have and I might have called
25 housekeeping. See, I don't remember that. If that

1 happened, it was, like, once.

2 Q. Okay. But I'm asking if you have a specific
3 memory --

4 A. No.

5 Q. -- of something like that.

6 A. Oh, no.

7 Q. Okay. So that's -- that's one of those things
8 where I don't want you to speculate. If you have a
9 specific memory, "Oh, yeah, I remember once or twice" --

10 A. Okay.

11 Q. Do you have a specific memory?

12 A. No.

13 Q. Okay. All right. Did you -- in all your time
14 working at the Venetian talking with people, selling
15 tickets, people walking by, casual conversation, even
16 people that you were working with in your kiosk with
17 that other company, okay, do you recall speaking with
18 anyone who made any reference to any slip-and-falls that
19 occurred on the company?

20 A. No.

21 Q. This would be a good time to take a break
22 because I'm going to move into something else.

23 Let's go off the record.

24 (A short recess was taken from 11:41 a.m.
25 to 11:48 a.m.)

1 Q. -- as you're walking; right?

2 Is that correct?

3 A. That's correct.

4 Q. Were you in a hurry?

5 A. No.

6 Q. Do you remember if you had the beverage in your
7 right or left hand?

8 A. No.

9 Q. So you remember your feet going out quickly in
10 front of you?

11 A. Yes.

12 Q. Tell me about as you fell.

13 What do you remember about the fall itself, how
14 you landed?

15 A. I just remember landing hard. Whether it was
16 my back, my butt, I don't know. I just remember going
17 backwards and I was dazed. I mean, shocked. I can't --
18 I don't remember. That's what kills me. I don't
19 remember --

20 Q. Okay.

21 A. -- exactly what was on the floor or...

22 Q. Right.

23 A. I know it was liquid because my pants felt wet.

24 Q. Okay. So let me get back to the fall.

25 A. Okay.

1 Q. Because your initial complaint was your left
2 elbow.

3 Do you remember striking your left elbow?

4 A. Yes, I do. Hard on the marble, yes.

5 Q. Do you remember -- other than your left elbow,
6 do you remember striking your head?

7 A. My shoulder.

8 Q. Your left shoulder?

9 A. Uh-huh, because it was on the left side because
10 I was trying to -- I just went -- it happened so quick.

11 Q. Okay. Let's -- I'm trying to take it one frame
12 at a time here.

13 So you struck your left shoulder -- I'm sorry.
14 Strike that.

15 Your feet go out in front of you, you strike
16 your left elbow, and you remember striking your left
17 shoulder -- part of your shoulder; correct?

18 A. Yes.

19 Q. Do you remember striking your hip, your left
20 hip? That's something you remember?

21 A. I kind of remember just bouncing and I hit so
22 hard, but I don't know -- I don't remember -- it's hard.

23 Q. Okay. Do you recall what happened to your
24 drink that you were carrying?

25 A. No, I do not.

1 Q. Okay. Do you recall if any -- so you don't
2 recall if any of part of your drink spilled when you
3 fell?

4 A. No.

5 Q. You said that after the fall you're shocked and
6 dazed, something you're not expecting; right?

7 A. Correct.

8 Q. You felt immediate pain in your left elbow?

9 A. Yes.

10 Q. Did you feel immediate pain in your left
11 shoulder?

12 A. Yes. My neck, my head, yes.

13 Q. Okay. You felt immediate pain in your head?

14 A. Again, I fell on my left side hard. And I'm
15 not 90 pounds, so when I fell hard, yeah, I felt it, the
16 pain, the whole side, the left side.

17 Q. So when you say "the whole side," was it the
18 left side of your head?

19 A. It just went down from my neck down.

20 Q. Okay. Now, so I'm pointing to, like, the back
21 part of your head.

22 Do you recall any part of your head striking
23 anything?

24 A. Yes. I remember just bouncing.

25 Q. Okay. So did you have a sore spot on your head

1 from when you fell?

2 A. Yes.

3 Q. Was it, like, a bump or just sore when you
4 touched it?

5 A. Sore when I touched it.

6 Q. Okay. And so you have the left side of your
7 head, the left -- or then your neck. I'm going to say
8 the left side of your neck only because you've been
9 pointing to your left side; is that correct?

10 A. Yes.

11 Q. And then your left shoulder and your left
12 elbow?

13 A. Elbow.

14 Q. Okay. What do you remember right after the
15 incident? What's the next thing you remember? People
16 coming to you and seeing if you're okay?

17 A. I remember people in my face, "Are you okay?
18 Are you okay?" That's all I remember. I just -- I
19 don't know what you call it. For me to not remember,
20 it's hard.

21 Q. Okay. How long were you on the floor?

22 A. That, I do not know.

23 Q. Do you remember someone from security coming to
24 speak with you?

25 A. Is that the, like, paramedic?

1 Q. EMT?

2 A. The EMT, yes.

3 Q. Do you remember --

4 A. He was trying to help me up.

5 Q. Do you remember anything about your
6 conversation with him?

7 A. No. I remember him walking me upstairs and
8 fixing my arm so that I could drive to the hospital.
9 That's all.

10 Q. Do you remember -- you said there was liquid on
11 your pants?

12 A. Yes.

13 Q. Where on your pants?

14 A. Back side.

15 Q. The back left side?

16 A. Yes.

17 Q. Can you describe -- is it your rear end?

18 A. Yes.

19 Q. So your left rear end?

20 A. Yes.

21 Q. Was it --

22 A. And my back, so...

23 Q. The back of your shirt?

24 A. Yes.

25 Q. So it was on the left rear end and the back of

1 your shirt?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. Anywhere else?

6 A. I didn't -- again, when I hit hard, I do not
7 remember a lot from back then, but I do remember being
8 wet.

9 Q. Okay. And I understand that. And I'm not
10 trying to badger you. I'm just trying to get as best
11 information I can when you say you felt wet, so I just
12 want to know what parts of your body you felt wet.

13 So you've indicated the left rear and you think
14 maybe --

15 A. Back.

16 Q. -- the low-back area; correct?

17 A. Yes.

18 Q. Any other areas where you recall specifically
19 that were wet?

20 A. I do not recall.

21 Q. Okay. So as I understand it, you fell -- you
22 didn't see anything on the floor before your fall;
23 correct?

24 A. Correct.

25 Q. You've described your fall. You didn't see

1 Q. This particular photo, this represents the
2 bathroom that you were going to at the time of the
3 incident?

4 A. Yes.

5 Q. And this is the bathroom that you would
6 typically use at least once a day when you were working
7 at the Venetian?

8 A. Yes.

9 Q. And typically to get to the bathroom, you would
10 either go down the elevator or go down the escalator,
11 both of which would be off to the left of the photo in
12 this vantage point?

13 A. Yes.

14 Q. Okay. Let's go to the next photo. I'll
15 represent to you my understanding is is that you'll see
16 the column here and that this VEN 040 represents the
17 area where you fell.

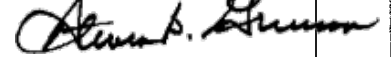
18 Do you recognize it?

19 A. Yes.

20 Q. As you look at this photo, does anything about
21 this photo refresh your recollection to anything you
22 testified to at this point?

23 A. I'm looking at the pillar and I know they have
24 a pillar. I don't remember the floor per se, but I
25 fell --

EXHIBIT “6”



1 THE GALLIHER LAW FIRM
2 Keith E. Galliher, Jr., Esq.
3 Nevada Bar No. 220
4 Jeffrey L. Galliher, Esq.
5 Nevada Bar No. 8078
6 George J. Kunz, Esq.
7 Nevada Bar No. 12245
8 Kathleen H. Gallagher, Esq.
9 Nevada Bar Number 15043
10 1850 East Sahara Avenue, Suite 107
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14 kgalliher@galliherlawfirm.com
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16 gkunz@lvlawguy.com
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18 Attorneys for Plaintiff

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702-735-0049 Fax: 702-735-0204

DISTRICT COURT
CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual,
Plaintiff,

CASE NO.: A-18-772761-C
DEPT. NO.: 25

v.

VENETIAN CASINO RESORT, LLC,
d/b/a THE VENETIAN LAS VEGAS, a
Nevada Limited Liability Company; LAS
VEGAS SANDS, LLC d/b/a THE
VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; YET
UNKNOWN EMPLOYEE; DOES I
through X, inclusive,

FIRST AMENDED COMPLAINT

Defendants.

Plaintiff, by and through her undersigned attorneys, complains of Defendants as follows:

I

II

III

2

1 the person causing such injury is employed by another person or corporation responsible for his
2 conduct, such person or corporation so responsible shall be liable to the person injured for damages.

3
4 **IV**

5 On or about November 4, 2016 at approximately 1:00 p.m. Defendants negligently and
6 carelessly permitted a pedestrian walkway to be unreasonably dangerous in that they allowed liquid
7 on the floor causing the Plaintiff to slip and fall. Defendant had actual and/or constructive notice of
8 the condition which caused the fall. Pursuant to the mode of operation doctrine Defendant was on
9 continuous notice of the presence of liquid on its floors.

10 **V**

11 At the aforementioned place and time, Plaintiff was walking through the VENETIAN when
12 her foot came into contact with a liquid substance on the floor causing her to slip and fall. The liquid
13 on the floor coupled with the composition of the floor, rendered the area dangerous for use as a
14 passageway for the Plaintiff and for other patrons of the VENETIAN.

15 **VI**

16 The Defendant knew or should have known that liquid located in an area of the fall was
17 dangerous and in the exercise of ordinary care would have had reasonable opportunity to remedy the
18 situation prior to the happening of the fall herein alleged. In spite of Defendants actual, constructive
19 and/or continuous notice of the presence of the liquid, the Defendant failed to take appropriate
20 precautions to prevent injury to Plaintiff and/or guests and/or patrons.

21 **VII**

22 The Defendant knew that its marble floors caused unreasonable amount of injury slip and
23 falls and thus were dangerous to pedestrians, and in the existence of ordinary care, would have had
24 opportunity to remedy the situation prior to Plaintiff's fall.

VIII

In the three years prior to Plaintiff's fall there were at least 73 injury slip and falls on the marble floors in Venetian. In spite of Defendant's actual, constructive, and/or continuous notice their marble floors were significantly more slippery than is safe for pedestrians, the Defendant failed to take any appropriate precautions to prevent injury to Plaintiff and other guests.

FIRST CLAIM FOR RELIEF

(Negligence)

I

Plaintiff repeats and realleges the allegations contained in Paragraphs I through VI of her General Allegations as though fully set forth herein.

II

As a direct and proximate result of the negligence of Defendant and its yet unknown employee and/or employees, Plaintiff sustained personal injuries to her head, neck, back, arms and legs and has suffered pain and discomfort all to her damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

III

Upon information and belief, Defendant had actual or constructive notice of the hazard posed by their marble floors. Defendant knew that the unsafe condition posed an unreasonable hazard or slip and fall risk to the general public, invitees, patrons and business invitees. Defendant's failure to remedy the situation was knowing, wanton, willful, malicious and/or done with conscious disregard for the safety of Plaintiff and of the public. Defendant's outrageous and unconscionable conduct warrants an award of punitive damages pursuant to NRS 42.005.

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IV

Said injuries have resulted in medical treatment all to Plaintiff's damage in a sum in excess of FIFTEEN THOUSAND DOLLARS (\$15,000).

V

Plaintiff has been compelled to retain the services of an attorney to prosecute this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs of suit incurred herein.

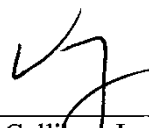
WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant as follows:

FIRST CLAIM FOR RELIEF

1. General damages in a sum in excess of \$15,000;
2. Special damages in a sum in excess of \$15,000;
3. Punitive damages;
4. Attorney's fees and costs of suit incurred herein; and,
5. For such other and further relief as the Court may deem just and proper on the premises.

DATED this 27th day of June, 2019

THE GALLIHER LAW FIRM



Keith E. Gallihier, Jr., Esq.
Nevada Bar Number 220
1850 E. Sahara Avenue, Ste. 107
Las Vegas, Nevada 89104
Attorney for Plaintiff

EXHIBIT “7”

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12 kgalliher@galliherlawfirm.com
13 jgalliher@galliherlawfirm.com
14 gkunz@lvlawguy.com
15 Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

16 JOYCE SEKERA, an Individual,) CASE NO.: A-18-772761-C
17) DEPT. NO.: 25
18 Plaintiff,)
19)
20 v.)
21)
22 VENETIAN CASINO RESORT, LLC,)
23 d/b/a THE VENETIAN LAS VEGAS, a)
24 Nevada Limited Liability Company;)
25 LAS VEGAS SANDS, LLC d/b/a THE)
26 VENETIAN LAS VEGAS, a Nevada)
27 Limited Liability Company; YET)
28 UNKNOWN EMPLOYEE; DOES I)
through X, inclusive,)
Defendants.)

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO

DEFENDANT

TO: VENETIAN CASINO RESORT, LLC., Defendant; and

TO: MICHAEL A. ROYAL, ESQ. with ROYAL & MILES LLP., attorney for Defendant

1 Plaintiff, JOYCE SEKERA, by and through her attorneys, THE GALLIHER LAW FIRM,
2 hereby makes the following Request for Production of Documents upon Defendant:

3 REQUEST NO. 1:

4 All written, oral, or recorded statements made by any party, witness, or any other person or
5 persons with knowledge of the incident described in Plaintiff's Complaint.
6

7 REQUEST NO. 2:

8 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings,
9 maps or pictures and/or photographs of any kind which has, as its subject matter, the incident
10 described in Plaintiff's Complaint.

11 REQUEST NO. 3:

12 A complete copy of the Defendants insurance carriers and/or risk management pre-litigation
13 claim file.
14

15 REQUEST NO. 4:

16 The names of all expert witnesses or consultants that Defendant will use at the time of trial
17 along with any reports produced by the same.

18 REQUEST NO. 5:

19 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the
20 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT
21 described in Plaintiff's Complaint for the day before, day of, and day after the incident described
22 therein.
23

24 REQUEST NO. 6:

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the
27
28

1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO
2 RESORT in which the fall occurred.

3 REQUEST NO. 7:

4 True and correct copies of any and all claim forms, legal actions, civil complaints,
5 statements, security reports, computer generated lists, investigative documents or other memoranda
6 which have, as its subject matter, slip and fall cases occurring on marble floors within the subject
7 VENETIAN CASINO RESORT within three years prior to the incident described in Plaintiff's
8 Complaint, to the present.

9 REQUEST NO. 8:

10 Any and all documents, information, memoranda, paperwork, or other material which relates
11 to, establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

12 REQUEST NO. 9:

13 Any surveillance video showing the Plaintiff's fall at the VENETIAN CASINO RESORT
14 from any other angle, other than the one shown in the video surveillance produced by the
15 Defendants thus far.

16 REQUEST NO. 10:

17 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

18 DATED this 15TH day of August, 2018

19 THE GALLIHER LAW FIRM

20 

21 Keith E. Galliher, Jr., Esq.
22 Nevada Bar Number 220
23 1850 E. Sahara Avenue, Suite 107
24 Las Vegas, Nevada 89104
25 Attorney for Plaintiff

THE GALLIHER LAW FIRM
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Las Vegas, Nevada 89104
702-735-0049 Fax: 702-735-0204

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of THE GALLIHER LAW FIRM and that service of a true and correct copy of the above and foregoing **REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT** was served on the 16th day of August, 2018, to the following addressed parties by:

☐ First Class Mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P 5(b)

☐ Facsimile, pursuant to EDCR 7.26 (as amended)

☒ Electronic Mail/Electronic Transmission

☐ Hand Delivered to the addressee(s) indicated

☐ Receipt of Copy on this _____ day of _____, 2018,

acknowledged by, _____

Michael A. Royal, Esq.
Gregory A. Miles, Esq.
ROYAL & MILES LLP
1522 W. Warm Springs Road
Henderson, Nevada 89014
Attorneys for Defendants



An employee of THE GALLIHER LAW FIRM

EXHIBIT “8”

ROYAL & MILES LLP
1522 W Warm Springs Road
Henderson NV 89014
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

1 **SUPP**
2 Michael A. Royal, Esq.
3 Nevada Bar No. 4370
4 Gregory A. Miles, Esq.
5 Nevada Bar No. 4336
6 **ROYAL & MILES LLP**
7 1522 West Warm Springs Road
8 Henderson Nevada 89014
9 Tel: 702-471-6777
10 Fax: 702-531-6777
11 Email: mroyal@royalmilesllp.com
12 *Attorneys for Defendants*
13 *VENETIAN CASINO RESORT, LLC and*
14 *LAS VEGAS SANDS, LLC*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 JOYCE SEKERA, an Individual;
18
19 Plaintiff,

CASE NO.: A-18-772761-C
DEPT. NO.: XXIV

20 v.

21 VENETIAN CASINO RESORT, LLC, d/b/a
22 THE VENETIAN LAS VEGAS, a Nevada
23 Limited Liability Company; LAS VEGAS
24 SANDS, LLC d/b/a THE VENETIAN LAS
25 VEGAS, a Nevada Limited Liability Company;
26 YET UNKNOWN EMPLOYEE; DOES I
27 through X, inclusive,

28 Defendants.

29 **FIFTH SUPPLEMENT TO DEFENDANTS' 16.1 LIST OF WITNESSES AND**
30 **PRODUCTION OF DOCUMENTS FOR EARLY CASE CONFERENCE**

31 Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and
32 through their counsel, Michael A. Royal, Esq., of the law firm of Royal & Miles LLP, pursuant to
33 N.R.C.P. 16.1, hereby supplement their list of witnesses and documents as follows:

34 ///

35 ///

Documents
(Updated Information in Bold)

1. Complaint (VEN 001 - 004);
2. Venetian Security CR-1 (1611V-0680) (11/04/16) (VEN 005);
3. Venetian Security Case MO (1611V-0680) (11/04/16) (VEN 006);
4. Venetian Security Person Profile (1611V-0680) (11/04/16) (VEN 007);
5. Venetian Security Narrative Report (1611V-0680) (11/04/16) (VEN 008 - 009);
6. Venetian Security Photographs (VEN 010 - 016);
7. Venetian Acknowledgment of First Aid Assistance & Advice to Seek Medical Care (1611V-0680) (11/04/16) (VEN 017);
8. Venetian Accident Scene Check (1611V-0680) (11/04/16) (VEN 018);
9. Venetian Surveillance Footage (1611V-0680) (11/04/16) (VEN 019);
10. Plaintiff's medical records (produced by Plaintiff, identified herein as PLF 001 - 624), including but not limited to:
 - a. Centennial Hills Hospital
 - b. Shadow Emergency Physicians
 - c. Desert Radiologists
 - d. Core Rehab
 - e. Las Vegas Radiology
 - f. Southern Nevada Medical Group
 - g. Radar Medical Group
 - h. PayLater/WellCare Pharmacy
 - i. Las Vegas Pharmacy
 - j. Walter M. Kidwell, MD (Pain Inst. Nevada)
 - k. Valley View Surgery Center
 - l. Steinberg Diagnostics
 - m. Desert Institute of Spine Care
11. Plaintiff's employment records (produced by Plaintiff, identified herein as PLF 625), including but not limited to:
 - a. Undated letter from Warren Church, Jr., CEO, Brand Las Vegas, LLC
12. Brand Vegas Ticket Broker Agreement (VEN 020 - 034).
13. Security Scene Photographs (VEN 035 - 043).

- 1 14. Medical and billing records from Centennial Hills Hospital, pertaining to Plaintiff (CHH 001 -
2 326) *(radiology films on CD are available for inspection upon request)*;
- 3 15. Medical and billing records from Southern Nevada Medical Group, pertaining to Plaintiff
(SOUTHERN 001 - 043);
- 4 16. Medical and billing records from Radar Medical Group, pertaining to Plaintiff (RADAR 001 -
5 426);
- 6 17. Medical and billing records from PayLater/WellCare Pharmacy, pertaining to Plaintiff (PLP
001- 003);
- 7 18. Medical and billing records from Pain Institute of Nevada, pertaining to Plaintiff (PAIN
8 001- 145); and
- 9 19. Medical and billing records from Valley View Surgery Center, pertaining to Plaintiff
10 (VALLEY 001- 104).
- 11 20. Medical and billing records from Las Vegas Pharmacy, pertaining to Plaintiff (LVP 001 -
12 002);
- 13 21. Medical and billing records from Western Regional Center for Brain & Spine, pertaining to
14 Plaintiff (WRC 001 - 191);
- 15 22. PAD schedule for 11.04.16 (VEN 044 - 051);
- 16 23. PAD SOPs (VEN 052 - 057);
- 17 24. Safety Handbook in its entirety (VEN 058 - 091);
- 18 25. Venetian Slips, Trips and Falls (safety program presentation, Lesson Plan) (VEN 092 -
19 094);
- 20 26. Venetian Slips, Trips and Falls (safety program presentation, Written Program) (VEN 095 -
21 105); and
- 22 27. Slips, Trips and Falls (instructional video) (VEN 106).
- 23 28. Medical and billing records from Desert Radiologists, pertaining to Plaintiff (DR 001 - 019)
(radiology films on 3 CDs are available for inspection upon request);
- 24 29. Employment and worker's comp records from Brand Vegas LLC, pertaining to Plaintiff
25 (BV 001 - 240);
- 26 30. Tom Jennings April 23, 2018 Report (VEN 107 - 119);
- 27 31. Joseph Cohen, Ph.D, August 8, 2018 (VEN 120 - 132);
- 28 32. Tom Jennings October 23, 2018 Report (VEN 133 - 134);

- 1 33. Medical records from Las Vegas Radiology, pertaining to Plaintiff (LVR 001 - 002)
2 *(radiology films on 5 CDs are available for inspection upon request);*
- 3 34. Medical and billing records from Desert Institute of Spine Care, pertaining to Plaintiff
4 *(DISC 001 - 050) (radiology films on CD is available for inspection upon request);*
- 5 35. Ticket Broker Agreement with Invoices (VEN 135 - 268); and
- 6 36. Medical and billing records from Shadow Emergency Physicians, pertaining to Plaintiff
7 *(SEP 001 - 042).*
- 8 **37. Billing records from Las Vegas Radiology, pertaining to Plaintiff (LVR 003 - 013);**
9 **and**
- 10 **38. Prior Incidents from 11.04.13 - 11.04.16 (VEN 269 - 928).**
- 11 Defendants reserve the right to supplement this document disclosure pursuant NRCP 16.1.
- 12 Defendants further reserve the right to use any document or item identified by Plaintiffs at any time
13 in the course of this litigation.

14 **Witnesses**
15 ***(Updated Information in Bold)***

- 16 1. Louie Calleros
17 2557 Land Rush Dr.
18 Henderson NV 89002
19 (702) (702) 414-9956

20 This witness was a Venetian front desk employee present when the subject incident
21 occurred and is expected to testify as to facts and circumstances surrounding this controversy. *This*
22 *witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

- 23 2. Rafael Chavez
24 c/o Royal & Miles LLP
25 1522 W. Warm Springs Rd.
26 Henderson, NV 89014
27 (702) 471-6777

28 This witness responded to the subject incident as a Venetian facilities employee and is
expected to testify of facts and circumstances surrounding this controversy. *This witness is to be*
contacted only through defense counsel for the exception of service of a subpoena.

///

///

1 3. Warren Church, Jr.
2 Brand Las Vegas, LLC
3 3130 S Rainbow Blvd Suite 305
4 Las Vegas, NV 89146
5 (702) 538-9000

6 This witness is believed to have been Plaintiff's employer at the time of the subject incident
7 and is expected to testify about Plaintiff's employment, including but not limited to Plaintiff's
8 claim for loss of earnings, and other facts and circumstances surrounding this controversy.
9

10 4. Maria Cruz
11 911 Melrose Dr.
12 Las Vegas, NV 89101
13 (702) 504-1742

14 This witness was a Venetian PAD employee assigned to patrol the area in question and
15 responded to the scene, and is expected to testify as to facts and circumstances surrounding this
16 controversy. *This witness is to be contacted only through defense counsel for the exception of
17 service of a subpoena.*

18 5. Milan Graovac
19 7660 W. Eldorado Ln. #140
20 Las Vegas, NV 89113

21 This witness was a Venetian PAD employee assigned to the area in question and responded
22 to the scene, and is expected to testify as to facts and circumstances surrounding this controversy.
23 *This witness is to be contacted only through defense counsel for the exception of service of a
24 subpoena.*

25 6. Sang Han
26 9997 Heritage Desert St.
27 Las Vegas, NV 89178
28 (702) 607-2262

This witness was a Venetian Housekeeping executive present at the scene shortly after the
incident and is expected to testify as to facts and circumstances surrounding this controversy. *This
witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

7. Chris Johnson
8445 Las Vegas Blvd. So, #2106
Las Vegas, NV 89123
(702) 241-2302

This witness was a Venetian responding security officer and is expected to testify as to facts
and circumstances surrounding this controversy. *This witness is to be contacted only through
defense counsel for the exception of service of a subpoena.*

8. Joe Larson, EMT
3339 Horned Lark Court
Las Vegas, NV 89117
619-961-8167

This witness was the responding/reporting Venetian security EMT and is expected to testify as to facts and circumstances surrounding this controversy. *This witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

9. David Martinez
517 North Yale St.
Las Vegas, NV 89107
(702) 878-2504

This witness was a Venetian PAD employee responding to the incident area in question and is expected to testify as to facts and circumstances surrounding this controversy. *This witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

10. Joyce Sekera
c/o THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014

This witness is the Plaintiff in this matter and is expected to testify about claims set forth in the Complaint and to other facts and circumstances surrounding this controversy.

11. Gary Shulman
10263 Jamapa Dr.
Las Vegas, NV 89178-4028
(702) 487-2207

This witness was a Venetian table games supervisor present when the subject incident occurred and is expected to testify as to facts and circumstances surrounding this controversy. *This witness is to be contacted only through defense counsel for the exception of service of a subpoena.*

12. Brand Las Vegas, LLC, NRCP 30(b)(6)
3130 S Rainbow Blvd Suite 305
Las Vegas, Nevada 89146.
(702) 538-9000

This witness is believed to have been Plaintiff's employer at the time of the subject incident and is expected to testify about Plaintiff's employment, including but not limited to Plaintiff's claim for loss of earnings, Plaintiff's workers compensation claim, and issues surrounding the tenancy of Brand Las Vegas, LLC, and other facts and circumstances surrounding this controversy.

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1 13. Centennial Hills Hospital, NRCP 30(b)(6)
2 6900 N Durango Dr.
3 Las Vegas, NV 89149
4 (702) 835-9700

5 This witness is expected to testify about examination and treatment of the Plaintiff in this
6 matter following the subject incident and to other facts and circumstances surrounding this
7 controversy.

8 14. Shadow Emergency Physicians, NRCP 30(b)(6)
9 620 Shadow Ln.
10 Las Vegas, NV 89106
11 (800) 355-2470

12 This witness is expected to testify about examination and treatment of the Plaintiff in this
13 matter following the subject incident and to other facts and circumstances surrounding this
14 controversy.

15 15. Desert Radiologists, NRCP 30(b)(6)
16 3920 S Eastern Ave.
17 Las Vegas, NV 89119
18 (702) 759-8600

19 This witness is expected to testify about examination and treatment of the Plaintiff in this
20 matter following the subject incident and to other facts and circumstances surrounding this
21 controversy.

22 16. Desert Chiro. & Rehab/Core Rehab, NRCP 30(b)(6)
23 7810 W Ann Rd, 110
24 Las Vegas, NV 89149
25 (702) 463-9508

26 This witness is expected to testify about examination and treatment of the Plaintiff in this
27 matter following the subject incident and to other facts and circumstances surrounding this
28 controversy.

29 17. Las Vegas Radiology, NRCP 30(b)(6)
30 7500 Smoke Ranch Rd #100
31 Las Vegas, NV 89128
32 (702) 254-5004

33 This witness is expected to testify about examination and treatment of the Plaintiff in this
34 matter following the subject incident and to other facts and circumstances surrounding this
35 controversy.

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1 18. Southern Nevada Medical Group, NRCP 30(b)(6)
2 1485 E Flamingo Rd.
3 Las Vegas, NV 89119
4 (702) 386-0882

5 This witness is expected to testify about examination and treatment of the Plaintiff in this
6 matter following the subject incident and to other facts and circumstances surrounding this
7 controversy.

8 19. Radar Medical Group, NRCP 30(b)(6)
9 2628 W Charleston Blvd.
10 Las Vegas, NV 89102
11 (702) 644-0500

12 This witness is expected to testify about examination and treatment of the Plaintiff in this
13 matter following the subject incident and to other facts and circumstances surrounding this
14 controversy.

15 20. Paylater Pharmacy, NRCP 30(b)(6)
16 552 E Charleston Blvd.
17 Las Vegas, NV 89104
18 (702) 852-6600

19 This witness is expected to testify about examination and treatment of the Plaintiff in this
20 matter following the subject incident and to other facts and circumstances surrounding this
21 controversy.

22 21. Las Vegas Pharmacy, NRCP 30(b)(6)
23 2600 W Sahara Ave # 120
24 Las Vegas, NV 89102
25 (702) 220-3906

26 This witness is expected to testify about examination and treatment of the Plaintiff in this
27 matter following the subject incident and to other facts and circumstances surrounding this
28 controversy.

29 22. Pain Institute of Nevada, NRCP 30(b)(6)
30 7435 W Azure Dr #190
31 Las Vegas, NV 89130
32 (702) 878-8252

33 This witness is expected to testify about examination and treatment of the Plaintiff in this
34 matter following the subject incident and to other facts and circumstances surrounding this
35 controversy.

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1 23. Valley View Surgery Center, NRCP 30(b)(6)
2 1330 S. Valley View Blvd.
3 Las Vegas, NV 89102
4 (702) 675-3276

5 This witness is expected to testify about examination and treatment of the Plaintiff in this
6 matter following the subject incident and to other facts and circumstances surrounding this
7 controversy.

8 24. Steinberg Diagnostics, NRCP 30(b)(6)
9 800 N Gibson Rd., Suite 110
10 Henderson, NV 89011
11 (702) 732-6000

12 This witness is expected to testify about examination and treatment of the Plaintiff in this
13 matter following the subject incident and to other facts and circumstances surrounding this
14 controversy.

15 25. Desert Institute of Spine Care, NRCP 30(b)(6)
16 56 N Pecos Rd.
17 Henderson, NV 89074
18 (702) 630-3472

19 This witness is expected to testify about examination and treatment of the Plaintiff in this
20 matter following the subject incident and to other facts and circumstances surrounding this
21 controversy.

22 26. Plaintiff's Workers Compensation Insurer, NRCP 30(b)(6)
23 Address Unknown

24 This witness is expected to testify about Plaintiff's course of medical care and benefits
25 provided following the subject incident and to other facts and circumstances surrounding this
26 controversy.

27 27. Venetian Casino Resort, LLC - NRCP 30(b)(6)
28 c/o Royal & Miles LLP
1522 W. Warm Springs Rd.
Henderson, NV 89014
(702) 471-6777

This witness is expected to testify regarding employees identified in the surveillance
footage (identified as VEN 019), Venetian's security report, PAD cleaning activities, and to other
facts and circumstances surrounding this controversy. *This witness is to be contacted only through
defense counsel for the exception of service of a subpoena.*

28 28. Western Regional Center for Brain & Spine, NRCP 30(b)(6)
3061 S. Maryland Pkwy., Suite 200
Las Vegas, NV 89109

1 This witness is expected to testify about examination and treatment of the Plaintiff in this
2 matter following the subject incident and to other facts and circumstances surrounding this
3 controversy.

4 Defendants reserve the right to supplement this witness disclosure pursuant NRCP 16.1.
5 Defendants further reserve the right to call any witness identified by Plaintiffs at any time in the
6 course of this litigation.

7 **COMPUTATION OF DAMAGES**
8 ***(Updated Information in Bold)***

9 Defendant reserves the right to seek reimbursement of any incurred attorneys' fees and costs
10 and permitted under applicable law.

11 **INSURANCE**
12 ***(Updated Information in Bold)***

13 Defendant is in the process of obtaining a copy of its policy and will supplement
14 accordingly.

15 DATED this 3 day of January, 2019.

16 **ROYAL & MILES LLP**

17 By: 

18 Michael A. Royal, Esq.
19 Nevada Bar No. 4370
20 Gregory A. Miles, Esq.
21 Nevada Bar No. 4336
22 1522 W. Warm Springs Road
23 Henderson, NV 89014
24 *Attorneys for Defendants*
25 *VENETIAN CASINO RESORT, LLC and*
26 *LAS VEGAS SANDS, LLC*
27
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1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 4 day of January, 2019, and pursuant to NRCP 5(b), I
3 caused a true and correct copy of the foregoing **FIFTH SUPPLEMENT TO DEFENDANTS'**

4 **16.1 LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS FOR EARLY CASE**

5 **CONFERENCE** to be served as follows:

6 ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed
7 envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

8 ☐ to be served via facsimile; and/or

9 ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the
10 Eighth Judicial Court's electronic filing system, with the date and time of the
11 electronic service substituted for the date and place of deposit in the mail; and/or

12 ☐ to be hand delivered;

13 to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

14 Keith E. Galliher, Jr., Esq.
15 THE GALLIHER LAW FIRM
16 1850 E. Sahara Avenue, Suite 107
17 Las Vegas, NV 89014

Attorneys for Plaintiff

Facsimile: 702-735-0204

18 E-Service: kgalliher@galliherlawfirm.com
19 dmooney@galliherlawfirm.com
20 gramos@galliherlawfirm.com
21 sray@galliherlawfirm.com

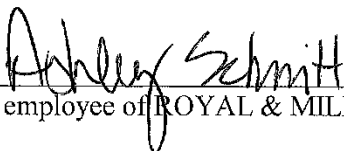
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23 An employee of ROYAL & MILES LLP
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EXHIBIT “9”



MPOR

Michael A. Royal, Esq.
Nevada Bar No. 4370
Gregory A. Miles, Esq.
Nevada Bar No. 4336

ROYAL & MILES LLP

1522 West Warm Springs Road
Henderson Nevada 89014
Tel: (702) 471-6777

Fax: (702) 531-6777

Email: mroyal@royalmilesllp.com

Attorneys for Defendants

*VENETIAN CASINO RESORT, LLC and
LAS VEGAS SANDS, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES I
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

Before the Discovery Commissioner

DEFENDANTS' MOTION FOR PROTECTIVE ORDER

COMES NOW, Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS
SANDS, LLC (collectively referenced herein as *Venetian*), by and through their counsel, ROYAL &
MILES LLP, and hereby submits the following Motion for Protective Order.

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1 This Motion is based on the pleadings and papers on file, the memorandum of points and
2 authorities contained herein, the affidavit of counsel, the attached exhibits and any argument permitted
3 by this Court at the time set for hearing.

4 DATED this 1 day of February, 2019.

5 ROYAL & MILES LLP

6
7 By 

8 MICHAEL A. ROYAL, ESQ.

9 Nevada Bar No. 4370

10 1522 W. Warm Springs Rd.

11 Henderson, NV 89014

12 *Attorney for Defendants*

13 *VENETIAN CASINO RESORT, LLC and*

14 *LAS VEGAS SANDS, LLC*

15 **NOTICE OF MOTION**

16 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

17 PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing

18 **DEFENDANT'S MOTION FOR PROTECTIVE ORDER**, on for hearing before the Discovery

19 Commissioner on the ___ day of March 8, 2019, at the hour of 9:00 a.m. of said day,

20 or as soon thereafter as counsel can be heard.

21 DATED this 1 day of February, 2019.

22 ROYAL & MILES LLP

23 By 

24 MICHAEL A. ROYAL, ESQ.

25 Nevada Bar No. 4370

26 1522 W. Warm Springs Rd.

27 Henderson, NV 89014

28 *Attorney for Defendants*

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

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1 (i.e. DOB/SSN), and scene photographs redacted to protect the privacy of prior guests involved in these
2 incidents since Plaintiff would not agree to a protective order.

3 8. That Mr. Galliher thereafter contacted me to discuss his objection to Venetian having
4 provided redacted reports, and we once again discussed Venetian's agreement to provide unredacted
5 documents with a Rule 26(c) stipulation. Mr. Galliher explained that, in his view, any person involved
6 in one of the disclosed prior incidents on Venetian property is a potential witness in this case. He
7 further stated his intention to contact any or all of the persons involved in the prior incidents. I
8 expressed concern that the information relating to these non-party patrons could not only be improperly
9 used in this litigation, but that it could also be passed along to other counsel or persons wholly
10 unrelated to this action and used for other purposes (subjecting these guests to further intrusions into
11 their privacy). After respectfully considering my stated concerns, Mr. Galliher and I were unable to
12 reach an agreement.
13

14 9. That on January 23, 2019, I sent correspondence to Mr. Galliher again outlining
15 Venetian's position and offering to resolve this dispute by requesting a phone conference with the
16 Discovery Commissioner. (*See Exhibit C, Correspondence from Michael Royal, Esq., to Keith*
17 *Galliher, Esq., dated January 23, 2019.*) Shortly thereafter, Mr. Galliher contacted me by phone and
18 agreed to have my office reach out to the Discovery Commissioner's office as suggested in an effort
19 to resolve this dispute expeditiously.
20

21 10. That my office was subsequently advised by the Discovery Commissioner's office that
22 a phone conference to resolve this dispute could not be arranged, but that a motion would need to be
23 filed.
24

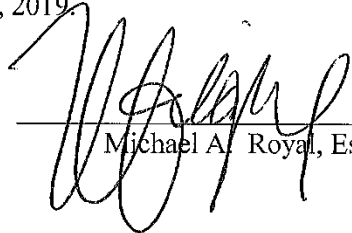
25 11. That on January 29, 2019, I advised Mr. Galliher that a motion would need to be filed,
26 and that the sole issue from Venetian's perspective is its desire for a Rule 26(c) protective order.
27

28

1 (See Exhibit D, *Email Correspondence from Michael Royal, Esq., to Keith Galliher, Esq.*, dated
2 January 29, 2019.)

3 12. That I have complied with the requirements of EDCR 2.34 in good faith and that,
4 despite meaningful discussions held with Mr. Galliher, the parties were unable to resolve this discovery
5 dispute regarding the subject non-party identification information.

6 Executed on 1 day of February, 2019.

7
8 
9 Michael A. Royal, Esq.

10
11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I.**

13 **STATEMENT OF FACTS**

14 This litigation arises from a November 4, 2016 incident occurring when Plaintiff slipped and
15 fell in a lobby area of the Venetian while taking a break from her work station where she was employed
16 as a salesperson for a vendor leasing space in the Grand Canal Shops. The cause of Plaintiff's fall is
17 in dispute, as Venetian denies that there was any foreign substance on the floor at the time the incident
18 occurred.

19
20 In the course of discovery, Plaintiff requested that Venetian provide three (3) years of prior
21 incident reports. (See Exhibit A, attached hereto.) Venetian produced sixty-four (64) incident reports
22 in redacted form (nearly 650 pages of documents), as Plaintiff would not agree to execute a stipulation
23 and order to protect the information pursuant to NRCP 26(c). Plaintiff now demands that all of the
24 nearly 650 pages produced responsive to her request be unredacted without providing the requested
25 protection by Venetian.
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II.

ARGUMENT

Rule 26, Nevada Rules of Civil Procedure, governs the scope of discovery, and provides for protection of both parties and other persons, against annoyance, embarrassment, oppression, or undue burden or expense. More specifically, NRCP 26(b)(1) provides as follows:

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Rule 26(c), Nevada Rules of Civil Procedure, reads as follows in pertinent part:

Protective Orders. *Upon motion by a party or by the person from whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer with the other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:*

- (1) that the discovery not be had;*
- (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;*
- (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;*
- (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;*
- (5) that discovery be conducted with no one present except persons designated by the court;*
- (6) that a deposition after being sealed be opened only by order of the court;*
- (7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way;*
- (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.*

The objective of discovery rules is to limit discovery to relevant matters, and to prevent "fishing expeditions" by restricting litigants to discovery that only implicates matters raised by them in the pleadings. (See FED. R. CIV. P. 26(b), Advisory Committee Note, Amendments to Federal Rules

1 of Civil Procedure, at 388-90). Pursuant to the Nevada Rules of Civil Procedure, the court in which
2 the action is pending may make any order/recommendation which justice requires to protect a party
3 so that certain discovery abuses do not occur. (See NRCP 26). The compulsion of production of
4 irrelevant information is an inherently undue burden. (See *Jimenez v. City of Chicago*, 733 F. Supp.
5 2d 1268, 1273 (W.D. Wash. 2010) (citing, *Compaq Computer Corp. v. Packard Bell Elecs.*, 163
6 F.R.D. 329, 335-336 (N.D.Cal.1995)).

7
8 A. **This is the kind of circumstance NRCP 26(c) is designed to address**

9 In the instant case, Plaintiff is using discovery in a manner that is unduly burdensome by
10 requesting the production of personal and sensitive information from non-parties to this action;
11 information which is not otherwise relevant to any claims or defenses of this case. Plaintiff is
12 demanding the production of personal identification information, including Social Security numbers,
13 dates of birth, driver's license numbers, home addresses, and telephone numbers of individuals who
14 do not have any personal knowledge of the incident at issue. Once produced, this identification
15 information would be used to correlate non-parties with sensitive health information included in the
16 previously produced incident reports. It is not disputed by Plaintiff that the individuals involved in the
17 prior incidents are not parties to this action, and are not percipient witnesses to Plaintiffs alleged
18 accident.
19

20
21 Plaintiff cannot reasonably articulate how the identity of individuals involved in prior incidents
22 on Venetian's premises, with no relation to Plaintiffs case, could be relevant to any issue of Plaintiff's
23 claim. Plaintiff's personal injury litigation stems from the allegation that Plaintiff slipped and fell on
24 a marble floor. Individuals involved in prior slip-and-fall incidents would be unable to provide any
25 information regarding the alleged hazard which Plaintiff contends caused her fall. Reports of prior slip
26 and fall incidents, which occurred on different circumstances, and on different dates, in different areas
27 of the property have no relevancy to the issue of whether Venetian had notice of any condition
28

1 contributing to Plaintiff's fall on November 4, 2016. (See *Eldorado Club, Inc. v. Graff*, 78 Nev. 507
2 (1962); *Southern Pac. Co. v. Harris*, 80 Nev. 426, 431 (1964).)

3 All that stated, it is important to note that **Venetian is not objecting to providing Plaintiff**
4 **with unredacted copies of prior incident reports, despite the fact that Venetian insists the**
5 **personal information of prior guests is not at all relevant to any issues regarding the subject**
6 **incident.¹ Venetian simply wants to keep all such information protected by order of the court**
7 **under NRCP 26(c) to ensure that it remains solely within the scope of this litigation.** Venetian's
8 concern is that such information can be disseminated to the public in a multitude of ways, and passed
9 onto other persons having nothing to do with this litigation, thereby subjecting the persons identified
10 herein to multiple contacts by persons, who have access to their personal information, including events,
11 injuries, care provided, etc.

12
13
14 **B. The policy interests of protecting the confidential personal information outweigh the**
15 **alleged need for discovery in this case**

16 Even where inquiries could reasonably lead to the discovery of admissible evidence, courts
17 must still balance the proponent's interest in discovery of the information against any legitimate interest
18 of the other party. Further, discovery requests should be specifically tailored to result in the production
19 of materials relevant to the claims at issue, rather than broadly drafted in the hopes of uncovering
20 relevant information. "[Nevada's] discovery rules provide no basis for [a carte blanche] invasion into
21 a litigant's private affairs merely because redress is sought for personal injury." *Schlatter v. Eighth*
22 *Judicial Dist. Court*, 93 Nev. 189, 192 (1977). "[T]he initiation of a lawsuit, does not, by itself, grant
23 plaintiffs the right to rummage unnecessarily and unchecked through the private affairs of anyone they
24 choose. A balance must be struck." (*Ragge v. MCA/Universal Studios*, 165 F.R.D. 601, 605 (C.D.
25
26

27
28 ¹Recall that Venetian contends that Plaintiff's fall had nothing to do with a foreign substance
being on the floor; regardless, Venetian provided Plaintiff with sixty-four (64) prior incidents involving
a foreign substance on the floor.

1 Cal. 1995) (*quoting Cook v. Yellow Freight Sys., Inc.*, 132 F.R.D. 548,551 (E.D. Cal. 1990)).
2 Discovery based on mere suspicion or speculation is nothing more than the proverbial "*fishing*
3 *expedition.*" (*See, Mackelprang v. Fid. Nat'l Title Agency of Nev.*, 2007 U.S. Dist. LEXIS 2379, *7
4 (D. Nev. Jan. 9, 2007); *see also, Costella v. Clark*, 2009 U.S. Dist. LEXIS 120566, *5 (N.D. Cal.
5 Dec. 7, 2009).)

6
7 Where privacy concerns are implicated by discovery requests, the party requesting such
8 information "*must show that the value of the information sought would outweigh the privacy interests*
9 *of the affected individuals.*" (*Case v. Platte County*, No. 8:03CV160, 2004 WL 1944777, at *2 (D.
10 Neb. June 11, 2004); *see also, Walters v. Breaux*, 200 F.R.D. 271, 274 (W.D. La. 2001),
11 acknowledging legitimate privacy concerns with respect to social security numbers).)

12 Public policy concerns surrounding the protection of personal medical information are far
13 reaching. Generally, public policy concerns favor the protection of individual health information.
14 Similar privacy concerns surround the protection of other confidential information of non-parties,
15 including individuals' Social Security numbers, unlisted telephone numbers and addresses, and dates
16 of birth. A protective order is warranted where the requested discovery "*contains highly personal*
17 *information.*" (*Knoll v. AT&T, et al.*, 176 F.3d 359 (6th Cir. 1999) (recognizing the need for
18 protection of information from non-parties including an individual's unlisted address and telephone
19 number, marital status, and medical background). In addition, many courts have found that social
20 security numbers are confidential and not reasonably calculated to lead to the discovery of [admissible
21 evidence]. (*See, e.g., Mike v. Dymon*, No. 95-2405-EEO, 1996 WL 674007, at *7 (D. Kan. Nov.
22 14, 1996) ("*The court does not find that requests for social security numbers and dates of birth of all*
23 *individuals who provided information to answer the interrogatories are reasonably calculated to lead*
24 *to the discovery of admissible evidence.*"); *Beasley v. First Amer. Real Estate Info. Serv., Inc.*, No.
25 3-04-CV-1059-B, 2005 WL 1017818, at *2 (N.D. Tex. April 27, 2005) ("*[T]he social security*
26
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1 *numbers of employees are confidential and not reasonably calculated to lead to the discovery of*
2 *admissible evidence.").*

3 In this case, the personal identification information withheld is arguably not otherwise relevant
4 to Plaintiff's claim, nor is it likely to lead to the discovery of admissible evidence. As such, the value
5 of the information sought arguably does not outweigh the privacy interests of the affected individuals.

6 **However, Venetian is nevertheless willing to produce unredacted copies with an NRCP 26(c)**
7 **protective order, as the incident reports at issue in this case contain the sensitive, and private**
8 **information of individuals who are not parties to this lawsuit, and who are not believed to have**
9 **any information regarding the facts or circumstances surrounding Plaintiffs allegations.**

10
11 The hundreds of pages of incident reports include home addresses, dates of birth, driver's
12 license numbers, and Social Security Numbers. Venetian has produced these prior reports with all
13 personal identification information redacted, in order to preserve the privacy of the guests. All other
14 information contained in the prior incident reports have been produced. Should unredacted reports be
15 produced without a protective order, the personal identification information, the medical information
16 contained in the reports, including brief medical histories of the guests, as well as other private
17 information, including dates and durations of the guests' stay with the hotel, injuries sustained during
18 the prior incidents, and the perception of consumption of alcohol of the guests at the time of the
19 incidents, could be used for any number of reasons by untold others wholly unrelated to this lawsuit.
20 If this information were so disclosed, without court ordered protection, it would likely lead to the
21 annoyance and aggravation of the individuals involved in prior incidents on Venetian's property;
22 individuals who are not believed to have any personal knowledge or information regarding any of the
23 facts surrounding Plaintiff's alleged incident.

24
25 Disclosure of the guest information as it pertains to this litigation alone creates an issue for
26 Venetian, as it is potentially detrimental to its business interests to protect the confidential information
27
28

1 of its guests. Were Venetian to disclose this information without court ordered protection, subjecting
2 its customers to unrelenting contact by persons uninvolved with the litigation, it would likely diminish
3 the customer/client relationships which Venetian has extended extraordinary effort and resources
4 establishing. There is a recognized interest in protecting the disclosure of personal client information,
5 as unauthorized disclosure would likely be perceived negatively by customers and potential customers.
6 (See e.g., *Gonzales v. Google, Inc.*, 234 FRD 674, 684 (N.D.CA 2006) (disclosing client information
7 "may have an appreciable impact on the way which [the company] is perceived, and consequently the
8 frequency with which customers use [the company]").)

10 Guests who stay at Venetian do so with an expectation that their personal information will not
11 be disclosed or disseminated without their consent. Accordingly, Venetian respectfully requests that
12 the private identification information of its guests involved in prior incidents be protected from
13 disclosure by anyone not involved in this litigation as legal counsel, an expert witness, or otherwise.

15 III.

16 CONCLUSION

17 Based on the foregoing, Venetian respectfully submits that it has presented good cause to this
18 Honorable Court to issue an order protecting the confidential personal identification information of
19 non-parties to this action. Venetian has made every effort to reasonably cooperate with discovery,
20 including the production of three years of prior incident reports, with guest identification information
21 redacted. Plaintiff's request to obtain un-redacted versions of these reports without an NRCP 26(c)
22 protective order is unreasonable. Therefore, Venetian moves this Honorable Court for a protective
23

24 ///

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1 order, that the unredacted information sought by Plaintiff not be disclosed for any purpose not directly
2 related to this litigation.

3 DATED this 1 day of February, 2019.

4 ROYAL & MILES LLP

5
6 By 

7 MICHAEL A. ROYAL, ESQ.

8 Nevada Bar No. 4370

1522 W. Warm Springs Rd.

Henderson, NV 89014

9 *Attorney for Defendants*

10 *VENETIAN CASINO RESORT, LLC and*

11 *LAS VEGAS SANDS, LLC*
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 1 day of February, 2019, and pursuant to NRCP 5(b), I
3 caused a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR PROTECTIVE**
4 **ORDER** to be served as follows:

5 _____ by placing same to be deposited for mailing in the United States Mail, in a sealed
6 envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

7 _____ to be served via facsimile; and/or

8 ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth
9 Judicial Court's electronic filing system, with the date and time of the electronic service
10 substituted for the date and place of deposit in the mail; and/or

11 _____ to be hand delivered;

12 to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

13 Keith E. Galliher, Jr., Esq.
14 THE GALLIHER LAW FIRM
15 1850 E. Sahara Avenue, Suite 107
16 Las Vegas, NV 89014
17 *Attorneys for Plaintiff*
18 Facsimile: 702-735-0204
19 E-Service: kgalliher@galliherlawfirm.com

20 dmooney@galliherlawfirm.com
21 gramos@galliherlawfirm.com
22 sray@galliherlawfirm.com

23 
24 An employee of ROYAL & MILES LLP
25
26
27
28

EXHIBIT “A”

THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, Nevada 89104
702-735-0049 Fax: 702-735-0204

1 THE GALLIHER LAW FIRM
2 Keith E. Galliher, Jr., Esq.
3 Nevada Bar No. 220
4 Jeffrey L. Galliher, Esq.
5 Nevada Bar No. 8078
6 George J. Kunz, Esq.
7 Nevada Bar No. 12245
8 1850 East Sahara Avenue, Suite 107
9 Las Vegas, Nevada 89104
10 Telephone: (702) 735-0049
11 Facsimile: (702) 735-0204
12 kgalliher@galliherlawfirm.com
13 jgalliher@galliherlawfirm.com
14 gkunz@lvlawguy.com
15 Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

12 JOYCE SEKERA, an Individual,) CASE NO.: A-18-772761-C
13) DEPT. NO.: 25
14 Plaintiff,)
15 v.)
16 VENETIAN CASINO RESORT, LLC,)
17 d/b/a THE VENETIAN LAS VEGAS, a)
18 Nevada Limited Liability Company;)
19 LAS VEGAS SANDS, LLC d/b/a THE)
20 VENETIAN LAS VEGAS, a Nevada)
21 Limited Liability Company; YET)
22 UNKNOWN EMPLOYEE; DOES I)
23 through X, inclusive,)
24 Defendants.)

PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO

DEFENDANT

TO: VENETIAN CASINO RESORT, LLC., Defendant; and

TO: MICHAEL A. ROYAL, ESQ. with ROYAL & MILES LLP., attorney for Defendant

1 Plaintiff, JOYCE SEKERA, by and through her attorneys, THE GALLIHER LAW FIRM,
2 hereby makes the following Request for Production of Documents upon Defendant:

3 REQUEST NO. 1:

4 All written, oral, or recorded statements made by any party, witness, or any other person or
5 persons with knowledge of the incident described in Plaintiff's Complaint.
6

7 REQUEST NO. 2:

8 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings,
9 maps or pictures and/or photographs of any kind which has, as its subject matter, the incident
10 described in Plaintiff's Complaint.

11 REQUEST NO. 3:

12 A complete copy of the Defendants insurance carriers and/or risk management pre-litigation
13 claim file.
14

15 REQUEST NO. 4:

16 The names of all expert witnesses or consultants that Defendant will use at the time of trial
17 along with any reports produced by the same.

18 REQUEST NO. 5:

19 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the
20 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT
21 described in Plaintiff's Complaint for the day before, day of, and day after the incident described
22 therein.
23

24 REQUEST NO. 6:

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the
27
28

THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, Nevada 89104
702-735-0049 Fax: 702-735-0204

1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO
2 RESORT in which the fall occurred.

3 REQUEST NO. 7:

4 True and correct copies of any and all claim forms, legal actions, civil complaints,
5 statements, security reports, computer generated lists, investigative documents or other memoranda
6 which have, as its subject matter, slip and fall cases occurring on marble floors within the subject
7 VENETIAN CASINO RESORT within three years prior to the incident described in Plaintiff's
8 Complaint, to the present.

10 REQUEST NO. 8:

11 Any and all documents, information, memoranda, paperwork, or other material which relates
12 to, establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

14 REQUEST NO. 9:

15 Any surveillance video showing the Plaintiff's fall at the VENETIAN CASINO RESORT
16 from any other angle, other than the one shown in the video surveillance produced by the
17 Defendants thus far.

18 REQUEST NO. 10:

19 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

20 DATED this 15TH day of August, 2018

22 THE GALLIHER LAW FIRM

23 

24
25 Keith E. Galliher, Jr., Esq.
26 Nevada Bar Number 220
27 1850 E. Sahara Avenue, Suite 107
28 Las Vegas, Nevada 89104
Attorney for Plaintiff

THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, Nevada 89104
702-735-0049 Fax: 702-735-0204

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of THE GALLIHER LAW FIRM and that service of a true and correct copy of the above and foregoing **REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT** was served on the 16th day of August, 2018, to the following addressed parties by:

☐ First Class Mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P 5(b)

☐ Facsimile, pursuant to EDCR 7.26 (as amended)

☒ Electronic Mail/Electronic Transmission

☐ Hand Delivered to the addressee(s) indicated

☐ Receipt of Copy on this _____ day of _____, 2018,

acknowledged by, _____

Michael A. Royal, Esq.
Gregory A. Miles, Esq.
ROYAL & MILES LLP
1522 W. Warm Springs Road
Henderson, Nevada 89014
Attorneys for Defendants

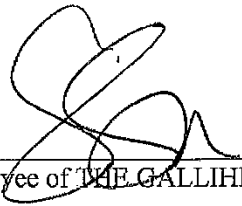

An employee of THE GALLIHER LAW FIRM

EXHIBIT “B”

From: Mike Royal
Sent: Tuesday, December 18, 2018 1:16 PM
To: 'Keith Galliher'
Cc: Ashley Schmitt
Subject: RE: VCR adv. Sekera
Attachments: 04SAO Protective Order.pdf

I apologize. Here's the one I intended to enclosed. Thanks for your patience.

Mike

Michael A. Royal, Esq.

Royal & Miles LLP
1522 W. Warm Springs Rd.
Henderson, NV 89014
(702) 471-6777 (o)
(702) 531-6777 (f)
mroyal@royalmilesllp.com
<http://www.royalmilesllp.com/>

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From: Keith Galliher [mailto:kgalliher@galliherlawfirm.com]
Sent: Tuesday, December 18, 2018 11:03 AM
To: Mike Royal
Subject: RE: VCR adv. Sekera

Mike: Wrong attachment . Please resend with correct one for my review. Thanks.

Keith E. Galliher, Jr., Esq.

THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Ste. 107
Las Vegas, Nevada 89104
kgalliher@galliherlawfirm.com
Tele: 702-735-0049
Fax: 702-735-0204

PLEASE BE ADVISED that due to my Court schedule and the volume of emails I receive daily, I am unable to read the majority of my emails on a daily basis. Therefore, your email is not deemed by our firm as being "received" by me unless I respond to the same, nor does it constitute service on, or notification to, our firm. Unless your email is of a personal/private nature to me, please copy my Paralegal Deena Mooney, at dmooney@galliherlawfirm.com ON ALL

EMAILS TO ENSURE RECEIPT. For personal emails, a follow up by telephone may be appropriate and necessary. I apologize for this inconvenience. Thank you for your cooperation.

From: Mike Royal <mroyal@royalmilesllaw.com>
Sent: Monday, December 17, 2018 4:20 PM
To: Keith Galliher <kgalliher@galliherlawfirm.com>
Cc: Stacy Ray <rray@galliherlawfirm.com>; Ashley Schmitt <ASchmitt@royalmilesllaw.com>
Subject: VCR adv. Sekera

Keith:

I have now completed gathering and reviewing the prior incident reports, but my client would like Rule 26(c) stip/order prior to disclosure. Will you please review the enclosed and advise if this is acceptable? If not, please relay any desired changes. Thanks.

Mike

Michael A. Royal, Esq.

Royal & Miles LLP
1522 W. Warm Springs Rd.
Henderson, NV 89014
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(702) 531-6777 (f)
mroyal@royalmilesllaw.com
<http://www.royalmilesllaw.com/>

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ROYAL & MILES LLP
1522 W Warm Springs Road
Henderson NV 89014
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

SAO

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

ROYAL & MILES LLP

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: (702) 471-6777

Fax: (702) 571-6777

Email: mroyal@royalmilesllp.com

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES I
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: 24

STIPULATION AND ORDER FOR PROTECTION PURSUANT TO NRCP 26(C)

COMES NOW Plaintiff JOYCE SEKERA, by and through her counsel of record, Keith E. Galliher, Jr., Esq., of The Galliher Law Firm, and Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC (collectively referenced as *VENETIAN*), by and through their counsel of record, Michael A. Royal, Esq., of ROYAL & MILES LLP, and hereby stipulate that the following be hereby entered as an ORDER by this Honorable Court:

1 Whereas, Plaintiff has requested production of information from Venetian relating to prior
2 incidents occurring on the VCR property, and,

3 Whereas, certain of the information requested by Plaintiff is held out and treated by Venetian
4 as proprietary and confidential, to and including mode of operation of security and its response to
5 incidents involving Venetian guests; and
6

7 Whereas, Venetian desires to protect the privacy of the above-referenced information; and

8 Whereas, in order (1) to facilitate Plaintiff's request and need for the information in this matter;
9 (2) to avoid the cost and expense of a discovery dispute with the Court; and (3) to protect the
10 proprietary and confidential nature of the information, Plaintiff and her counsel agree to the following
11 terms of confidentiality.

12 1. Any and all information produced by Venetian regarding its reports related to prior
13 incidents shall be protected under seal pursuant to NRCP 26(c) and preserved as confidential;

14 2. Plaintiff and her counsel will not reveal or release the confidential information to any
15 person or entity not involved in this matter;
16

17 3. In the event that the subject confidential information is exchanged to Plaintiff and her
18 counsel, Plaintiff and her counsel will take reasonable steps to preserve the confidentiality of the
19 information, including a requirement that other counsel abide by the terms of this stipulation and order;

20 4. Plaintiff will destroy, or return to Venetian's counsel, all existing electronic and hard
21 copies of the confidential information at the conclusion of the subject litigation;

22 5. Plaintiff and her counsel will not use or caused to be used the confidential information
23 in any other action in which Venetian is a party; and,
24

25 6. In the event that Plaintiff and her counsel determine it necessary to submit or refer to
26 the confidential information in filings with the Court in this matter, they will take reasonable steps to
27 preserve the confidentiality of the information in the process of doing so.
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IT IS SO AGREED.

DATED this ____ day of December, 2018.

DATED this ____ day of December, 2018.

ROYAL & MILES LLP

THE GALLIHER LAW FIRM

Michael A. Royal, Esq.
Nevada Bar No. 4370
Gregory A. Miles, Esq.
Nevada Bar No. 4336
1522 W. Warm Springs Road
Henderson, NV 89014
Attorneys for Defendants

Keith E. Galliher, Jr., Esq.
Nevada Bar No. 220
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
Attorneys for Plaintiff

ORDER

IT IS SO ORDERED.

Dated this ____ day of _____, 2018.

DISTRICT COURT JUDGE

EXHIBIT “C”

Michael A. Royal*
Gregory A. Miles*

Also Admitted in Utah



ROYAL & MILES LLP

1522 W. Warm Springs Road
Henderson, NV 89014

Telephone:
702.471.6777

Facsimile:
702.531.6777

Email:
ma@rmlaw.com

January 23, 2019

Sent Via US Mail &

Facsimile: 702-735-0204

Keith E. Galliher, Jr., Esq.

THE GALLIHER LAW FIRM

1850 E. Sahara Avenue, Suite 107

Las Vegas, NV 89104

Attorney for Plaintiff

Re: Venetian adv. Sekera, Joyce

Our File No.: 3837-18

Keith:

This follows my correspondence of December 17, 2018 regarding the prior incident reports and my client's request for a protective order under NRCP 26(c), and our two subsequent discussions on the subject, the latest being last Thursday. For clarification, I initially requested that your client agree to keep information provided regarding prior incident reports strictly within the scope of this litigation. As I have related, my client is concerned about protecting the privacy of its injured guests, who may not wish to be contacted by multiple attorneys unaffiliated with this matter. I understand your desire to name these patrons as witnesses in this matter and contact them for purposes of this litigation, per our discussion last week, and my client respects your position in that regard. However, its concern remains what happens to these unredacted reports if they are allowed to be passed around to persons who are not part of this litigation, exposing their personal information to be potentially shared via email, posted online, or stored in some kind of repository. As you know, these reports contain information not just about prior incidents, but also about injury complaints, initial examinations by responding EMTs, many have executed medical releases, and other private information.

My client will therefore agree to provide unredacted reports to you (with the exception of social security numbers, per our discussion last week) with an agreement by your client to keep all information protected, to be used only within the confines of this litigation. That addresses all of your stated concerns - allowing you to contact all patrons, interview and take statements from them, name them as witnesses, and present them to testify as permitted by the court. It also addresses my client's concern regarding the protection of patron privacy by limiting such contact

ROYAL & MILES LLP

Keith E. Galliher, Jr., Esq.

January 23, 2019

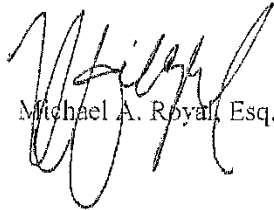
Page 2

and involvement to this particular litigation. I believe this proposed compromise is reasonable in light of the privacy concerns expressed by my client.

I have depositions this afternoon, but I am certainly open to discussing this further in an effort to reach a resolution without having to bring the matter before the Discovery Commissioner. Would you be amenable to requesting a phone conference with the Discovery Commissioner to address this more expeditiously rather than filing a motion? Whatever the case, thank you for taking time to work with me on this matter.

Very truly yours,

ROYAL & MILES LLP

A handwritten signature in black ink, appearing to read "M. Royal", is written over the typed name.

Michael A. Royal, Esq.

MAR/as

TRANSACTION REPORT

JAN/23/2019/WED 11:38 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	JAN/23	11:37AM	7027350204	0:01:17	3	MEMORY OK	ECM 4498

Michael A. Royal*
Gregory A. Miles*

*Also Admitted in Utah



1522 W. Warm Springs Road
Henderson, NV 89014

Telephone:
702.471.6777

Facsimile:
702.531.6777

E-Mail:
mroyal@royalmilesllp.com

FAX COVER SHEET

To: Keith E. Galliher, Jr., Esq.
THE GALLIHER LAW FIRM Fax No: 702-735-0204

From: Michael A. Royal, Esq.
Assistant: Ashley Schmitt

Date: January 23, 2019

File No: 3837-18

Subject: Venetian adv. Sekera

Number of Pages 3
(including cover):

Message: Please see attached correspondence dated January 23, 2019; your immediate attention is appreciated. Thank you!

NOTE: If you experience any problems in receiving this transmission, please call (702) 471-6777. If we do not hear from you, we will assume that you have received all pages, and that they are legible.

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EXHIBIT “D”

From: Mike Royal
Sent: Tuesday, January 29, 2019 11:32 AM
To: 'kgallier@gallierlawfirm.com'
Cc: Ashley Schmitt; sray@gallierlawfirm.com
Subject: VCR adv. Sekera

Importance: High

Keith:

Our office contacted the Discovery Commissioner's office and, unfortunately, we have been advised that a she will not hear this dispute via a phone conference, but that a motion must be filed. I can just file a motion for protective order to get it in front of the court. However, if you prefer to do it by motion to compel, that is fine, as well. I will respond with a countermotion for protective order. As we have discussed, that's my client's sole issue. It simply wants a protective order to ensure that unredacted documents produced with information of other incidents involving its guests are used solely for this litigation. If you reconsider, and will agree to that requested stipulation, we can resolve this today. Please advise.

Regards,

Mike

Michael A. Royal, Esq.

Royal & Miles LLP
1522 W. Warm Springs Rd.
Henderson, NV 89014
(702) 471-6777 (o)
(702) 531-6777 (f)
mroyal@royalmilesllp.com
<http://www.royalmilesllp.com/>

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EXHIBIT “10”

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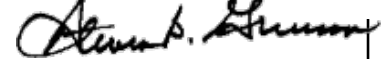
1
2 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and
3 correct.

4
5 Dated February 13, 2019 at Las Vegas, Nevada.

6
7
8 Signed:  _____

9 Peter Goldstein, Declarant
10
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EXHIBIT “11”



ROPP

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

ROYAL & MILES LLP

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: (702) 471-6777

Fax: (702) 531-6777

Email: mroyal@royalmilesllp.com

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES I
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

Before the Discovery Commissioner

Hearing Date: 03/13/19

Hearing Time: 9:00 am

**REPLY TO PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR PROTECTIVE ORDER**

COMES NOW, Defendants, VENETIAN CASINO RESORT, LLC, and LAS VEGAS
SANDS, LLC (collectively referenced herein as *Venetian*), by and through their counsel, ROYAL &
MILES LLP, and hereby files this REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION FOR PROTECTIVE ORDER.

ROYAL & MILES LLP
1522 W Warm Springs Road
Henderson NV 89014
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

1 This Reply is based on the pleadings and papers on file, the memorandum of points and
2 authorities contained herein, the affidavit of counsel, the attached exhibits and any argument permitted
3 by this Court at the time set for hearing.

4 DATED this 1 day of March, 2019.

5 ROYAL & MILES LLP

6
7 By 

8 MICHAEL A. ROYAL, ESQ.

9 Nevada Bar No. 4370

10 1522 W. Warm Springs Rd.

11 Henderson, NV 89014

12 *Attorney for Defendants*

13 *VENETIAN CASINO RESORT, LLC and*

14 *LAS VEGAS SANDS, LLC*

15 **DECLARATION OF MICHAEL A. ROYAL, ESQ.**

16 STATE OF NEVADA)
17) ss.
18 COUNTY OF CLARK)

19 MICHAEL A. ROYAL, ESQ., being first duly sworn, under oath deposes and states:

20 1. I am an attorney duly licensed to practice law in the State of Nevada and I am counsel
21 for Venetian in connection with the above-captioned matter. I have personal knowledge of the
22 following facts and if called upon could competently testify to such facts.

23 2. That through Plaintiff's counsel, Keith Galliher, Esq., I became aware of the following
24 matter: *Eric Cohen vs. Venetian Casino Resort, LLC*, case no. A-17-761036-C, where Mr. Galliher
25 attached a copy of *Discovery Commissioner's Report and Recommendations* (filed January 4, 2019)
26 as Exhibit 4 to Plaintiff's Opposition to Defendants' Motion for Protective Order.

27 3. That I contacted defense counsel in the *Cohen* matter and was advised that the prior
28 incident reports provided to Plaintiff's counsel in that matter were likewise redacted.

4. That Mr. Galliher provided a copy of the transcript of the *Deposition of Joseph Larson*, attached to the Opposition as Exhibit 2, to plaintiff's counsel in the matter of *Cohen, supra*, which transcript has been produced in the *Cohen* litigation pursuant to NRCP 16.1. (See Reply Exhibit A, *Plaintiff's First Supplement to NRCP 16.1 Early Case Conference List of Documents and Witnesses*, served February 4, 2019.)

5. That it is my understanding that Mr. Galliher plans to obtain unredacted reports of prior incidents for the purpose of not only contacting each Venetian patron involved, but to also share that information with other attorneys, as demonstrated in the *Cohen* matter, subjecting Venetian patrons with multiple contacts from untold attorneys handling unrelated litigated matters.

6. It is Defendants' position that production of certain information provided in prior incident reports is an invasion of privacy, that said information is not necessary for Mr. Galliher to make notice arguments, and that counsel's stated desire to contact any and all such prior patrons personally is the very kind of fishing expedition contemplated by *Schlatter v. Eighth Jud. Dist Court*, 561 P.2d 1342 (Nev. 1977).

7. I further declare that the exhibits identified in the Reply to Plaintiff's Opposition to Defendants' Motion For Protective Order, as outlined below, are true and correct copies of documents produced in or otherwise related to this matter.

Executed on 1 day of March, 2019.

MICHAEL A. ROYAL, ESQ.

/ / /

///

/ / /

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF RELEVANT FACTS**

4 This litigation arises from a November 4, 2016 incident occurring when Plaintiff fell in a lobby
5 area of the Venetian while taking a break from her work station where she was employed as a
6 salesperson for a vendor leasing space in the Grand Canal Shops. The cause of Plaintiff's fall is in
7 dispute, as Venetian denies that there was any foreign substance on the floor at the time the incident
8 occurred.
9

10 **II.**

11 **NATURE OF REPLY**

12 In the course of discovery, Plaintiff requested that Venetian provide three (3) years of prior
13 incident reports. Venetian produced sixty-four (64) incident reports in redacted form (nearly 650 pages
14 of documents), as Plaintiff would not agree to execute a stipulation and order to protect the information
15 pursuant to NRCP 26(c). Plaintiff now demands that all of the nearly 650 pages produced responsive
16 to her request be unredacted without providing the requested protection by Venetian, insisting she and
17 her counsel have *carte blanche* access to all contact information for guests and other non-employee
18 witnesses involved in these prior incidents, and to pass this information along to anyone else they
19 choose who is not in any way involved in the subject litigation. Defendants maintain that this is a
20 violation of privacy rights and an overreach by Plaintiff under *Schlatter v. Eighth Judicial Dist. Court*,
21 93 Nev. 189, 192 (1977). Defendants maintain, at this point, based on information presently available,
22 that Plaintiff should not even be allowed unredacted copies of the 650 pages of prior incident reports,
23 based on her stated desire to contact all such persons (and any other non-employee witnesses) and share
24 that information with the world. It is an unreasonable position and Defendants must protect the privacy
25 of their prior guests.
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III.

ARGUMENT

Referring again to NRCP 26(b)(1), in weighing a request for discovery in dispute, the Court must consider relevancy against the actual *needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit*. Plaintiff has not addressed these issues in the Opposition, nor has Plaintiff addressed the privacy concerns raised by Defendants - other than to assert that Defendants have not made a credible, compelling argument that the information qualifies for protection under NRCP 26(c).

Incredibly, Plaintiff has set forth her specific desire and intent to contact each and every non-employee witness identified in the 650 pages of redacted documents previously produced by Defendants in a wild fishing expedition to obtain information from people who know absolutely nothing about the subject incident and, therefore, have nothing of relevance to add. While Defendants objected to providing Plaintiff with this kind of access to information, they agreed to do so with a stipulation of protection in an effort to safeguard information related to those persons identified in other unrelated incidents. Plaintiff has refused to do so, with an expressed intention of sharing the 650 pages with anyone and everyone she chooses, however and whenever she so chooses. Defendants simply cannot agree to that. Now, based on new information received that Plaintiff has already shared information from this litigation with counsel in another matter, Defendants maintain that information previously produced to Plaintiff in redacted form should be sufficient.

Defendants maintain that producing 650 pages of redacted information designed to keep contact information of prior guests private is reasonable. Defendants do not, for example, have permission to provide this private information and would generally need to obtain that before releasing it without a

1 court order. That is especially the case when Defendants are aware of Plaintiff's desire to disseminate
2 that information to the world, as Plaintiff intends to do here. That is not within the spirit of NRCP
3 26(b), and certainly falls within the scope of NRCP 26(c), with Defendants reasonably seeking
4 protection.

5 In the Opposition, Plaintiff has educated the court with the following:

6 1. She received sixty-four (64) prior incident reports consisting of 650 pages from
7 Defendants, with contact information of all non-employees involved redacted;

8 2. She obtained the deposition testimony of former security officer Joseph Larson who
9 opined that he may have responded to 100 or so slip/fall incidents over a nine year period - or about
10 eleven (11) per year; and

11 3. She obtained a copy of a DCRR from another Venetian matter Plaintiff purports to
12 support her position that she should be allowed to have unfettered access to all private information for
13 guests involved in prior incidents on Defendants property (which information was previously produced
14 in redacted form); and

15 4. Plaintiff has a retained expert, Thomas Jennings, prepared to testify that the subject fall
16 area is slippery when wet.

17 In short, what Plaintiff accomplished in the Opposition is to demonstrate that she does not need
18 the information Defendants have redacted in the 650 pages pertaining to prior incidents to support her
19 claim of *mode of operation* and notice. Plaintiff has not given one good reason to support her stated
20 need to potentially contact hundreds of persons associated with prior incidents that have absolutely no
21 bearing on, relationship with, or relevance to the subject incident.

22 **A. Plaintiff's Reference to the Deposition of Joseph Larson**

23 Plaintiff attached a portion of the transcript from the deposition of Joseph Larson, taken
24 October 11, 2018, in this litigation (identified in the Opposition as Exhibit 2), apparently to support
25

1 the proposition that Defendants were not forthcoming in disclosing 650 pages of prior incidents over
2 the period of time from November 4, 2013 to November 4, 2016. Plaintiff's extrapolation of
3 information obtained from Mr. Larson, concluding that there must have been 600-1000 falls on marble
4 floors at the Venetian over a nine year period is interesting creative fiction, and may well make for
5 some compelling argument for those unschooled in the area of mathematics; however, it is a non-issue
6 here.
7

8 The subject motion is limited to Defendants' desire to protect the privacy rights of its guests
9 identified in prior incident reports. What Plaintiff has established is that she now has two avenues to
10 demonstrate notice based on evidence obtained in discovery; *to wit*: 1) the testimony of Joseph Larson;
11 and 2) 650 pages of prior incident reports provided by Defendants. What more does Plaintiff actually
12 need?
13

14 Something Plaintiff failed to relate from Mr. Larson's deposition testimony is that the witness
15 found no evidence of a foreign substance on the floor at the time he investigated the subject incident.
16 Mr. Larson testified that among the falls to which he responded as a Venetian employee were those
17 where no foreign substance was involved. Consider the following:

18 *Q. Does that have anything to do with why you take pictures of shoes?*

19 *A. Yeah, yes. Actually, yeah. We take shoes to document evidence of how
20 good of footwear the person was wearing when they're on our flooring.*

21 *Q. Okay. As you sit here today, you didn't make any conclusions as to
22 whether or not there was any kind of foreign substance on the floor that caused Ms.
23 Sekera to fall in this particular correct?*

24 *A. That's correct; I didn't observe anything.*

25 *Q. The only information you had is that she said to you she believed she
26 stepped in water?*

27 *A. Correct.*

28 *Q. As you do you recall or did you see anything in your report related to
Ms. Sekera complaining that her pants were wet after the fall?*

A. No. I didn't document and it wasn't discussed.

*Q. Did she say anything to you other than she believed there was water on
the floor?*

A. Aside from that, no.

(See Reply Exhibit A, deposition of Joseph Larson, at 81, ln 5-25; 82, ln 1.)

1 Despite the fact that there is no objective evidence of any foreign substance being on the floor
2 at the time of the subject accident, Defendants nevertheless provided Plaintiff with 650 pages of prior
3 incident reports which involve foreign substance on the floor. Plaintiff's complaint in the Opposition
4 that Defendants are not being sufficiently forthright based on how she creatively extrapolated from a
5 small portion of Mr. Larson's deposition testimony is devoid of both fact and reason, and should be
6 wholly disregarded.¹
7

8 **B. Plaintiff's Use of *Cohen v. Venetian Casino Resort, LLC* in Support of the Opposition**

9 Plaintiff attached a copy of a *Discovery Commissioner's Report and Recommendation* in *Cohen*
10 *v. Venetian Casino Resort, LLC*, Case No. A-17-761036-C, in the Opposition, identified as Exhibit 4.
11 The *Cohen* DCRR pertains to a ruling by the Discovery Commissioner in a case with much different
12 facts (*i.e.* where there was actually a foreign substance on the floor). However, in referencing the
13 *Cohen* matter, Plaintiff failed to advise the Court that the prior incident reports disclosed by Venetian
14 Casino Resort, LLC, there were likewise **in redacted form**.
15

16 It is unclear why Plaintiff included Exhibit 4 in the Opposition, as Defendants are not disputing
17 Plaintiff's right to obtain information generally regarding the occurrence of similar incidents.²
18 However, what *Cohen* DCRR does demonstrate to the Court is Defendants' consistency in their stated
19 desire to protect the privacy of guests identified in security reports in previous incidents. In the *Cohen*
20 matter, the redaction of guest information to protect privacy was at issue, apparently because the
21 plaintiff in that matter was satisfied
22

23
24 ¹Mr. Larson testified that he could not necessarily differentiate between slips and trips from his
25 estimated number of falls, or the number of occasions where other EMTs responded to the same call,
26 but stated a belief that the latter occurred about half the time. (*See* Exhibit A, Deposition of Joseph
Larson at 80, ln 3-19.)

27 ²Defendants again note that there is no evidence of a foreign substance being on the floor at the
28 time of Plaintiff's fall, beyond that which may have been introduced by the beverage she was carrying
in her left hand. Regardless, Defendants nevertheless provided Plaintiff with three years of prior
incidents, consisting of approximately 650 pages, in response to her Rule 34 production request.

1 with information regarding prior incidents to support a notice argument. In reality, the *Cohen* DCRR
2 attached by Plaintiff supports Defendants' position here.

3 Since Plaintiff has drawn the *Cohen v. Venetian Casino Resort, LLC* matter into the heart of
4 her Opposition, **Defendants note that *Cohen* counsel has now received a copy of the Joseph**
5 **Larson deposition transcript and identified it pursuant to NRCP 16.1.** (*See* Reply Exhibit A,
6 *Cohen v. Venetian Casino Resort, LLC*, Case No. A-17-761036-C, *Plaintiff's First Supplement to*
7 *NRCP 16.1 Early Case Conference List of Documents and Witnesses*.) While there is nothing
8 inherently wrong with Plaintiff's counsel sharing the transcript of a deposition taken of a witness in
9 the instant matter, this highlights what Plaintiff desires to do with 650 pages of unredacted prior
10 incident reports - share them with *Cohen* counsel and anyone else she desires. Indeed, if Plaintiff so
11 chooses, she could upload all of the 650 pages online for any purpose - thereby exposing persons
12 involved in prior incident reports to all kinds of undesired scrutiny and contact. Why would the Court
13 want to do anything but carefully protect such a potential invasion of privacy? Did Plaintiff contact
14 Mr. Larson to advise that she would be sharing his deposition transcript with other attorneys in Las
15 Vegas? That is quite unlikely.

16 Plaintiff's sharing of the Joseph Larson deposition transcript with counsel representing
17 *Cohen* further highlights why Defendants motion must be granted.

18 **C. Plaintiff's Use of Tom Jennings Report**

19 Plaintiff's discussion in the Opposition of the Tom Jennings report (attached thereto as Exhibit
20 3) bears no relevance to the issue at hand - which is the privacy rights of persons identified in prior
21 incident reports. However, the fact that Plaintiff has a report by Mr. Jennings addressing issues of slip
22 resistance and notice, combined with the testimony of Mr. Larson and 650 pages of prior incidents,
23 certainly seems to be more than sufficient for Plaintiff to make her case about notice and/or application
24 of the *mode of operation*

1 doctrine, without Plaintiff being allowed unfettered access to the private information of guests involved
2 in prior incidents.

3 **D. Protection of Privacy Rights**

4 It is clear that Plaintiff does not care about issues related to the protect of privacy rights. In
5 Plaintiff's world, the *Schlatter* decision is a one-way street that applies only to her benefit. She wants
6 to have access to all information related to every person identified in the 650 pages of redacted records
7 produced by Defendants not only for her use in this litigation, but with the freedom to share with the
8 world at large.

10 The objective of discovery in litigation is to limit discovery to relevant matters, and to prevent
11 "fishing expeditions" by restricting litigants to discovery that only implicates matters raised by them
12 in the pleadings. (See FED. R. CIV. P. 26(b), Advisory Committee Note, Amendments to Federal
13 Rules of Civil Procedure, at 388-90). Here, Plaintiff admittedly desires to go fishing by potentially
14 contacting hundreds of persons involved in prior incidents on Defendants' property. It is an overreach.
15 It is unnecessary. It is an invasion of privacy. It is harassment.

17 Where privacy concerns are implicated by discovery requests, the party requesting such
18 information "*must show that the value of the information sought would outweigh the privacy interests*
19 *of the affected individuals.*" (*Case v. Platte County*, No. 8:03CV160, 2004 WL 1944777, at *2 (D.
20 Neb. June 11, 2004); *see also, Walters v. Breaux*, 200 F.R.D. 271, 274 (W.D. La. 2001),
21 acknowledging legitimate privacy concerns with respect to social security numbers.) Plaintiff has not
22 demonstrated to the Court in Opposition why she should be allowed to have unfettered access to the
23 private information of prior guests and members of their party identified in prior incident reports, and
24 be allowed to freely share the private information with anyone she so chooses.

26 Guests who stay at Venetian do so with an expectation that their personal information will not
27 be disclosed or disseminated without their consent. Defendants take the position that this information
28

1 should be provided on a case by case basis, depending on the information provided in a prior accident
2 report. If Plaintiff can make a connection of relevance, then she should be allowed to have the contact
3 information. However, to just provide the information to Plaintiff so she can go *fishing* puts
4 Defendants at risk of violating privacy rights of its guests.

5
6 **IV.**

7 **CONCLUSION**

8 Based on the foregoing, Defendants respectfully submit that they have presented good cause
9 for this Honorable Court to conclude that they have adequately responded to the demand for prior
10 incident reports by providing 650 pages of redacted records to Plaintiff. With Plaintiff's stated
11 intention of contacting these individuals and passing along that information to anyone and everyone,
12 Defendants are now concerned that even granting their motion for protective order by providing
13 unredacted information to Plaintiff is sufficient under the circumstances. Defendants therefore move
14 for a protective order which provides that the redacted documents produced are sufficient, and that
15 Plaintiff may inquire with Defendants for contact information on a case by case basis, where some
16 reasonable connection with relevance to the subject incident can be established.

17
18 DATED this 1 day of March, 2019.

19 ROYAL & MILES LLP

20
21 By 

22 MICHAEL A. ROYAL, ESQ.

23 Nevada Bar No. 4370

24 1522 W. Warm Springs Rd.

25 Henderson, NV 89014

26 *Attorney for Defendants*

27 *VENETIAN CASINO RESORT, LLC and*
28 *LAS VEGAS SANDS, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of March, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER** to be served as follows:

_____ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

_____ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

_____ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.
THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
Attorneys for Plaintiff
Facsimile: 702-735-0204
E-Service: kgalliher@galliherlawfirm.com
dmooney@galliherlawfirm.com
gramos@galliherlawfirm.com
sray@galliherlawfirm.com


An employee of ROYAL & MILES LLP

EXHIBIT “A”

GEORGE T. BOCHANIS, LTD
LAW OFFICES
631 South Ninth Street
Las Vegas, Nevada 89101
(702) 388-2005

1 GEORGE T. BOCHANIS, ESQ.
2 Nevada Bar No.: 2262
3 **GEORGE T. BOCHANIS, LTD.**
4 631 So. Ninth Street
5 Las Vegas, Nevada 89101
6 Telephone: (702) 388-2005
7 Facsimile: (702) 388-0484
8 Attorney for Plaintiff, ERIC COHEN

DISTRICT COURT
CLARK COUNTY, NEVADA

9 ERIC COHEN, individually,) CASE NO. : A-17-761036-C
10) DEPT.NO. : 14
11 Plaintiff,)
12 vs.)
13 VENETIAN CASINO RESORT, LLC, is a)
14 Domestic Limited-Liability Company, duly)
15 authorized to conduct business in Clark)
16 County, Nevada; DOES I through X; and)
17 ROE CORPORATIONS I through X,)
18 inclusive,)
19 Defendants.)

PLAINTIFF'S FIRST SUPPLEMENT TO NRCP 16.1 EARLY CASE CONFERENCE
LIST OF DOCUMENTS AND WITNESSES

DOCUMENTS and/or INFORMATION

Plaintiff hereby produces the following documents:

1. Deposition transcript of Joseph Larson dated October 11, 2018 (bates-stamped 000860-000896).

///

///

///

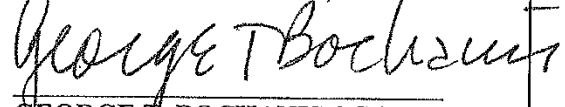
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Plaintiff reserves the right to use any and all exhibits listed by any other Party to this lawsuit, and any and all discovery responses and all pleadings filed and/or served in this case.

Plaintiff also reserves the right to supplement this document list at a later date.

DATED: February 4th, 2019.

GEORGE T. BOCHANIS, LTD.



GEORGE T. BOCHANIS, ESQ.

Nevada Bar No.: 2262
631 So. Ninth Street
Las Vegas, Nevada 89101
(702) 388-2005
Attorney for Plaintiff ERIC COHEN

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CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I certify that I am an employee of George T. Bochanis, Ltd.,
and that on the 14th day of February 2019, I served a true and correct copy of the foregoing

**PLAINTIFF'S FIRST SUPPLEMENT TO NRCP 16.1 EARLY CASE CONFERENCE
LIST OF DOCUMENTS AND WITNESSES:**

By placing same to be deposited for mailing in the United States Mail, in a sealed
envelope upon which first class postage was prepared in Las Vegas, Nevada;

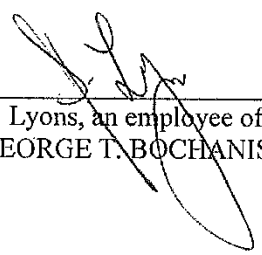
X XXX By electronic service in the Eighth Judicial District Court e-Filing System in
accordance with the mandatory electronic service requirements of administrative
Order 14-2 and the Nevada Electronic Filing and Conversion Rules, and/or;

By facsimile; and/or

By Receipt of Copy to the interested parties

as follows:

David P. Pritchett, Esq.
Messner Reeves LLP
8945 W. Russell Road, Suite 300
Las Vegas, Nevada 89148
Attorneys for Defendant
VENETIAN HOTEL & CASINO



S. Lyons, an employee of
GEORGE T. BOCHANIS, LTD.

EXHIBIT 1

DISTRICT COURT
CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual,
Plaintiff,

vs.

Case No. A-18-772761-C
Dept. 25

VENETIAN CASINO RESORT, LLC,
d/b/a THE VENETIAN LAS VEGAS,
a Nevada Limited Liability
Company; LAS VEGAS SANDS, LLC
d/b/a THE VENETIAN LAS VEGAS,
a Nevada Limited Liability
Company; YET UNKNOWN EMPLOYEE;
DOES I through X, inclusive,

Defendants.

DEPOSITION OF JOSEPH LARSON

Taken at the Galliher Law Firm
1850 East Sahara Avenue, Suite 107
Las Vegas, Nevada 89104

On Thursday, October 11, 2018
At 2:15 p.m.

Reported By: PAULINE C. MAY
CCR 286, RPR

1 APPEARANCES:

2 For the Plaintiff: KEITH E. GALLIHER, JR., ESQ.
-And-
3 GEORGE J. KUNZ, ESQ.
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7 For the Defendants: MICHAEL A. ROYAL, ESQ.
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8 1522 West Warm Springs Road
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9 (702) 471-6777
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14

15 * * * * *

17 I N D E X

18 WITNESS	PAGE
JOSEPH LARSON	
19 Examination By Mr. Galliher	3
Examination By Mr. Royal	37
20 Further Examination By Mr. Galliher	83

22 EXHIBITS	PAGE
Plaintiff's:	
23 1 Venetian Security report	3
24 2 Color photographs	3

25 -oOo-

JOSEPH LARSON 10/11/2018

Page 3	Page 5
<p>1 (Plaintiff's Exhibits 1 and 2 marked for 2 identification.) 3 JOSEPH LARSON, 4 having been first duly sworn to tell the truth, the 5 whole truth and nothing but the truth, was examined 6 and testified as follows: 7 8 EXAMINATION 9 BY MR. GALLIHER: 10 Q Would you state your name, please. 11 A Joseph Larson. 12 Q Your business address. 13 A I don't have one. 14 Q All right. Your home address. 15 A 3339 Horned Lark -- H-o-r-n-e-d, space, 16 L-a-r-k -- Court, Las Vegas, Nevada 89117. 17 Q Have you ever had your deposition taken 18 before? 19 A Yes. 20 Q Do you understand today that you are under 21 oath? 22 A Yes. 23 Q The oath you've taken carries with it the 24 same solemnity as if you were testifying in court 25 before a judge and a jury?</p>	<p>1 Q How long have you been unemployed? 2 A Since March of 2017. 3 Q Since before March of 2017, where were you 4 working? 5 A Before that? 6 Q Yes. 7 A At the Venetian. 8 Q So what years did you work at the Venetian? 9 A I started in 2008, I think in the summer. 10 In 2008 and then, yeah, I quit on March 2017. 11 Q And was there a reason that you quit? 12 A The reason I quit was, I was I guess tired 13 of being an EMT. I had been an EMT for about a decade 14 so I felt it was time to make a career shift. 15 Q So when you worked at the Venetian from 2008 16 to 2017, were you an EMT the entire time? 17 A EMT security officer. 18 Q And when we talk about that, that's an 19 Emergency Medical Technician security officer? 20 A Correct. 21 Q Give me a brief description of your duties 22 as an EMT security officer. 23 A The primary duties of my job were to respond 24 to any medical incidents or any serious incidents that 25 occurred on the property. The additional functions of</p>
Page 4	Page 6
<p>1 A I understand that. 2 Q Also carries with it the penalties of 3 perjury? 4 A I understand that. 5 Q General background first. How long have you 6 lived in Las Vegas? 7 A I moved here two thousand -- towards the end 8 of 2007, beginning of 2008. 9 Q How far did you go in school? 10 A Some college. 11 Q And where did you get your college? 12 A Many places, various colleges. 13 Q Let's start and make it simpler. Where did 14 you last go to college? 15 A Last go to college? CSN. 16 Q Here in Las Vegas? 17 A Yes. 18 Q What years did you attend CSN? 19 A It would have been when I got here, so 20 probably around 2008. I'm not exactly sure on the 21 year. 22 Q Let's talk a little bit about employment. 23 Since you don't have a business address, you are 24 currently not employed? 25 A Currently unemployed.</p>	<p>1 my job were to also work as a security officer. We 2 weren't ever posted anywhere, we were free to roam 3 around the property as needed. 4 Q What training did you have in EMT work? 5 A I received my EMT-Basic in San Diego and 6 then when I moved out here, I got my 7 EMT-Intermediate -- which is now called an Advanced 8 EMT certification -- when I arrived here so I could 9 work. 10 Q So are you still an EMT-Intermediate? 11 A No, I have -- 12 Q Did you give up your certification? 13 A Correct. 14 Q So you don't have any intentions to reenter 15 the EMT field? 16 A Correct. 17 Q Do you have any aspirations in terms of what 18 field you want to enter? 19 A I'm currently in a cybersecurity scholarship 20 program. 21 Q Tell me what that is for old people. 22 A Okay. There's a company called Cisco. They 23 manufacture a lot of the networking hardware and 24 infrastructure and things like that for companies, 25 businesses, you know, whoever wants to buy the</p>

3 (Pages 3 to 6)

1 equipment.
2 Cisco itself is putting on a cybersecurity
3 program for a select number of students as a
4 scholarship program. You apply, you test in, they
5 give you a scholarship to pay for your training, and
6 then you take a test at the end.
7 Q Where do you go after you take a test?
8 A Once I pass a test, I'll be applying for
9 cybersecurity jobs.
10 Q With Cisco or elsewhere?
11 A Anywhere.
12 Q I presume that's a job that pays better.
13 A Yeah, I would say so.
14 Q All right. That's a good reason.
15 A Sure.
16 Q All right. We're here to talk to you about
17 a fall incident that happened at the Venctian while
18 you were there. And I presume -- have you had an
19 opportunity to review the report that you prepared for
20 today's deposition?
21 A I have, yes.
22 Q So let me show you this that's been marked
23 as Exhibit 1 to your deposition and ask you if that's
24 a true and correct copy of the report you reviewed.
25 A All of the pages?

1 Q Yes.
2 A Yeah.
3 Q Now, the report there has the Bates stamp
4 numbers from VEN005 through 009, and then switch to
5 VEN017 and then 018. See that at the lower right-hand
6 portion of the report?
7 A Yes, sir.
8 Q As we look at the report, I note that your
9 name appears -- at least typed in -- 00025821 on the
10 first five pages; am I correct? At the same location,
11 lower left?
12 A Yes; correct.
13 Q Is that an entry that you made or that
14 someone else made?
15 A I believe that is what -- when you print out
16 a report from the system, it just basically shows who
17 typed up the report.
18 So when something happens on property and
19 you are assigned to report through dispatch, that's
20 assigned to your name, basically your identity in the
21 computer system. So I believe that's just an
22 automatic stamp that gets added to this printout.
23 Q Now, as you look at this report -- I'm
24 referring to the first five pages initially -- is this
25 information that you entered into the system?

1 A Yes, yeah. These would all be things that I
2 either entered by typing or checking a box.
3 Q So is everything in these first five pages
4 true and correct to the best of your knowledge?
5 A Yes.
6 Q Do you remember anything about this event
7 other than what's contained in this report?
8 A No.
9 Q Then let's look at the VEN017. That's the
10 next page after the first five.
11 A Yeah.
12 Q And can you tell me if any of the print --
13 or the writing on this page is your writing?
14 A All of the handwriting is mine except for
15 the signature line.
16 Q All right, so everything is yours except for
17 the signature line. What about the next page which is
18 VEN018?
19 MR. ROYAL: Can I just ask for
20 clarification? There's two signature lines.
21 THE WITNESS: Oh, I apologize. Yeah, the
22 second line with the "X" mark.
23 BY MR. GALLIHER:
24 Q And let me see what you are looking at. The
25 reason I ask that, Mike, is I'm looking at this page

1 and I'm not seeing a signature line.
2 Oh, talking about a signature line under
3 "Joyce Sekera"?
4 A Yeah.
5 Q For some reason, I'm looking at this page
6 and it looks like it's cut off at the end.
7 MR. ROYAL: Yeah, yes. And by the way, I
8 had inquired about that and I don't know that we have
9 what's cut off too.
10 BY MR. GALLIHER:
11 Q So these are handwritten entries that you
12 made based upon your specific observation of Joyce
13 Sekera?
14 A Correct.
15 Q And again, everything on this page is true
16 and correct to the best of your knowledge?
17 A Yes.
18 Q So as we go to the next page, we've got --
19 you see there's some -- you got security officer time,
20 1326, and some printing where it starts with "marble
21 flooring."
22 See that?
23 A Yes.
24 Q Is that your handwriting?
25 A Yes.

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1 Q So you made those entries as well?
2 A Correct.
3 Q How is it that you were dispatched to the
4 scene of the fall? Do you remember?
5 A I don't remember exactly, but I mean,
6 security dispatch would have contacted me on the radio
7 and told me where to go.
8 Q And do you remember how long after the fall
9 you arrived at the scene?
10 A I don't recollect.
11 Q And the reason I ask you, I'm looking at the
12 first page which is VEN005 and if you look up where it
13 says "Date and Time and Day of occurrence," see that?
14 A Yes, sir.
15 Q And it says 11/4/16, 12:39, Friday, to
16 11/4/16, 13:31 Friday. Is that correct?
17 A That's what it says, yeah.
18 Q So as I read that, looks like that's a
19 52-minute difference between the time that it starts
20 and the time that it ends.
21 A Basically --
22 Q See that?
23 A -- I would say.
24 Q Can you explain to me how we have this 52
25 minutes?

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1 A So what I'm gathering this says is when the
2 call started in the system, so when dispatch put it
3 into their system, and then 13:31 would be the time
4 that I cleared from my call.
5 Q So between the time that you were called to
6 the scene and the time you left the scene was 52
7 minutes?
8 A Yes.
9 Q And again, we're going to go through a few
10 things in this report with you --
11 A Yeah.
12 Q -- if that's okay?
13 A Sure.
14 Q By the way, just so you know, looking at the
15 same page we've got, "TM, one of one, Chavez, Rafael."
16 Do you see that a little lower in the page?
17 A Yes.
18 Q And we just deposed Mr. Chavez, he's a
19 member of your facilities department.
20 A Yes.
21 Q He told us he didn't arrive to the scene
22 until about 30 or 45 minutes until after the fall.
23 Does that square with your recollection?
24 A Time line-wise, I'm not sure of the exact
25 minutes, yeah, that's normal procedure for us, for him

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1 to respond after the incident.
2 Q Do you know if you entered the name "Chavez,
3 Rafael" there or if someone else did?
4 A I did.
5 Q On the lower right-hand-side portion of the
6 page, it says "Approved by Michael Dean." Who is he?
7 A That would be the supervisor.
8 Q And then on the upper -- again to the upper
9 portion of the report under Venetian Security there's
10 handwritten, "RC00008621." See that?
11 A Yes.
12 Q And what would that be?
13 A I do not know.
14 Q Is it like a report number? Event number?
15 A The event number would be the case number in
16 the upper right where it says is 1611V-0680.
17 Q All right. So it would be the case number,
18 that's the upper right; correct?
19 A Yeah.
20 Q And you don't know what is meant by the
21 handwritten RC00008621?
22 A Yeah, I don't know what that means.
23 Q Let's go then to the next page, VEN006.
24 Again, is this information that you entered?
25 A Yes. This information would be check boxes

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1 that I clicked.
2 Q And so what happens is that you check a box,
3 you click a box, so to speak, and it automatically
4 prints out?
5 A It would just add that information to the
6 report.
7 Q And that also applies to the information on
8 VEN007?
9 A Yes, that's correct.
10 Q And when we talk about the -- looks like
11 more of the narrative report, which is VEN008 and
12 nine. All information you entered?
13 A Yes.
14 Q And everything in that, those two pages, is
15 true and correct to the best of your knowledge?
16 A Yes.
17 Q You don't have a recollection of this event,
18 other than what's contained in these two pages?
19 A Not independent of what I wrote.
20 Q So you are going to stick with what's in
21 these pages?
22 A Correct.
23 Q Now I'm just curious about something. As
24 the -- did you respond to this fall as the EMT, as
25 security, or both?

5 (Pages 11 to 14)

1 A I would have responded to this as EMT.
 2 Q Do you know whether or not there was another
 3 security officer that responded to the scene other
 4 than you?
 5 A I believe there was, but I'm not exactly
 6 sure.
 7 Q Well, if you -- the reason I ask that
 8 question, as I read the report, it pretty much talks
 9 about your evaluation physically of Joyce Sekera as an
 10 EMT; is that right?
 11 A Correct.
 12 Q And, for example, there's reference made in
 13 the upper portion of VEN008 to, "I noted that a Public
 14 Areas Department team member was on scene and mopping
 15 the floor in the area."
 16 See that?
 17 A Uh-huh.
 18 Q Is that yes?
 19 A Yes. I'm sorry.
 20 Q And that's something that you saw?
 21 A Yes, that's what I observed.
 22 Q Did you have any conversations with that
 23 team member -- that public area department team
 24 member, about what it was that they were mopping?
 25 A I did not. I did not have a conversation.

1 Q Do you know if anybody else from security
 2 had a conversation with that person?
 3 A I don't know.
 4 Q So as you testify here today, you know there
 5 was mopping of the flooring in the area occurring, but
 6 you don't know what was being mopped up?
 7 A Correct.
 8 Q The rest of the report talks about your
 9 physical observations of your examination of Joyce
 10 Sekera; is that right?
 11 A Uh-huh. Yes; correct.
 12 Q And looks like, if I am reading my
 13 information correctly, we know, first of all, that
 14 there was a fall?
 15 A Yes.
 16 Q Right?
 17 A Yes.
 18 Q And we know there was an injury?
 19 A Yes.
 20 Q And the injury initially that you noted was
 21 to her left elbow?
 22 A That's correct.
 23 Q Then later you added that -- you stated that
 24 she added she was beginning to feel minor pain and
 25 soreness to her left lower back and left side

1 localized to the axillary line.
 2 See that? I'm talking about page 009 now.
 3 A Sorry, wrong page.
 4 Q Up at the top, first paragraph.
 5 A Oh. Okay, I see it.
 6 Q I'll read it again, just make sure I'm
 7 reading it correctly.
 8 "She added that she was beginning to feel
 9 minor pain and soreness to her left lower back and
 10 left side," in parentheses, "localized to the axillary
 11 line."
 12 See that?
 13 A Yes.
 14 Q What's the axillary line?
 15 A It is kind of an imaginary line that goes
 16 down your armpit across the side of your body.
 17 Q So it sounds like she had pain both in her
 18 left lower back and left side; is that right?
 19 A Yes.
 20 Q Now, again confirming everything else that
 21 you stated in this, these two pages, is true and
 22 correct to the best of your knowledge?
 23 A Yes.
 24 Q Now, there were apparently also some
 25 photographs taken at the scene. Are you aware of

1 that?
 2 A I'm aware, yeah.
 3 Q Did you take them?
 4 A I would have; yes.
 5 Q Let me show you what we've marked for
 6 identification as Exhibit 1 to your deposition. And
 7 Mike was kind enough to give better copies than we
 8 had. Take a look at those and tell me if those are
 9 true and correct copies of all the photographs that
 10 you took.
 11 A Yes, these would be photographs I've taken.
 12 Q Now, did you take any other photographs
 13 other than those?
 14 A If I did, they would be attached. I don't
 15 recall taking any other pictures.
 16 Q Do you know if any other security officers
 17 took photos?
 18 A I'm not aware.
 19 Q And as you testify here today, you don't
 20 have a recollection of whether or not any other
 21 security officers presented at this scene of the fall?
 22 A Independently, no.
 23 Q Are there any documents that would have been
 24 prepared in the event that another security officer
 25 had arrived at the scene?

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1 A Nothing officially, unless he would have
2 done a voluntary statement. But if the officer that
3 was on scene before me, if he didn't actually witness
4 anything and was just responding, we wouldn't ask him
5 to write a voluntary statement.
6 Q Do you have a recollection of whether or not
7 there was an officer there before you arrived?
8 A I'm not sure.
9 Q If there was an officer there before you
10 arrived, would that information be contained in the
11 report that we have just talked about?
12 A If he wasn't a witness to the incident, I
13 wouldn't have included him.
14 Q And what about witnesses to the fall? Is
15 that something that you would have taken care of in
16 terms of interviewing and getting statements from
17 them?
18 A Potentially, yes, if we had identified any
19 witnesses. But at that time, I was more concerned
20 about her well being.
21 Q So would it be fair to state that your focus
22 was on caring for Joyce Sekera as a result of her
23 injuries from the fall, rather than locating and
24 obtaining statements from witnesses?
25 A Yeah. That's my primary duty.

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1 Q And you don't recall whether or not there
2 was any other security officer at the scene of the
3 fall to help you to the extent of contacting
4 witnesses, if there were any, and getting statements
5 from them?
6 A I don't recall if there was other officers
7 there.
8 Q If there were statements taken, is that
9 something that would be part of her?
10 A If a statement was taken, yes.
11 Q And when you reviewed the report in
12 connection with today's deposition, the only
13 information that you reviewed is the information that
14 we have previously discussed in this report?
15 A Correct.
16 Q There was nothing else in the file that you
17 saw, other than this report and your photographs?
18 A Correct.
19 Q As far as you know, there were no other
20 witnesses that were identified or statements obtained
21 from?
22 A Correct.
23 Q Now, you were at the Venetian in the
24 security department part as an EMT for approximately
25 nine years?

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1 A Yes.
2 Q Is there any type of rule that a person
3 can't walk through the Venetian with a drink in their
4 hand?
5 A As far as I know, we didn't have any rules
6 like that.
7 Q In other words, if I were a customer at the
8 Venetian and I decided to buy a bottle of water or a
9 drink from one of the businesses located nearby, I
10 decided to walk through the Venetian, would you stop
11 me and tell me I couldn't drink?
12 A No.
13 Q So as far as you know, there's no
14 prohibition at the Venetian that would make it -- not
15 unlawful, but some cause for stopping a customer
16 saying, Hey, you can't drink that here?
17 A The only provision that I'm aware of -- in
18 fact, I don't even know if I would call it that. Call
19 it policy. There was a policy on having an actual
20 bottle of liquor. Like a bottle of Jack Daniels, say
21 for example, you couldn't walk around with that. A
22 simple beer, simple drink, would be fine, but no
23 actual, like, bottles of hard liquor you could get at
24 a convenience store.
25 Q And you are aware that you can buy hard

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1 liquor inside the convenience store at the Venetian?
2 A Yes.
3 Q So the fall occurred near the restroom
4 adjacent to the Grand Lux Cafe; right?
5 A Correct.
6 Q That's a marble floor?
7 A Correct.
8 Q Is that the first fall that you were aware
9 of on a marble floor at the Venetian when you worked
10 there?
11 A First fall?
12 Q Yes, ever.
13 A No, that wasn't the first.
14 Q Give me an idea of how many falls you
15 personally attended to when you were at the Venetian
16 in security.
17 A Like an actual number?
18 MR. ROYAL: I'm sorry --
19 BY MR. GALLIHER:
20 Q I'm asking for your best estimate.
21 MR. ROYAL: Are you asking falls on marble
22 floors or just any falls?
23 BY MR. GALLIHER:
24 Q We can clarify that after he answers the
25 first question and I can go from there.

7 (Pages 19 to 22)

1 A I know off the top of my head, I wrote -- in
2 nine years' time, I wrote about 2600 reports.
3 Q Okay.
4 A Of those being slip-and-falls, that's hard
5 to say. Because of those 2600 reports I wrote, that
6 would include also security details, that would
7 include trespasses, serious incidents, other types of
8 medical.
9 Q Well, maybe just give me your best estimate.
10 I don't expect you to be exact unless your memory is a
11 lot better than mine.
12 MR. ROYAL: Object to form.
13 Go ahead and answer.
14 THE WITNESS: My best guess over nine
15 years --
16 MR. ROYAL: He's not asking you to guess, by
17 the way.
18 BY MR. GALLIHER:
19 Q Best estimate.
20 A Okay, best estimate. Best estimate, I would
21 say maybe 300.
22 Q Okay. So of those 300 as your best
23 estimate -- by the way, just so you know the
24 difference between a best estimate and a guess, if I
25 were to ask you how long this conference table was

1 marble flooring inside the Venetian?
2 A I would say a little more than half.
3 Q So maybe somewhere between, let's say, 150
4 and 200?
5 A Yeah.
6 Q Would that be fair?
7 A Yeah.
8 Q All right. Yes?
9 A I would say 150 to, like, 175. I wouldn't
10 go the full 200.
11 Q So 150 to 175; would that be fair?
12 A That's right.
13 Q Is that a --
14 A That's a good estimate.
15 Q By the way, there's also marble flooring on
16 the fifth floor adjacent to the Bouchon Restaurant and
17 also where they have the other additional check-in
18 area at the Venetian?
19 A That would be the 10th floor.
20 Q The 10th floor. Were you responsible for
21 responding to falls there?
22 A Anywhere on property I was responsible.
23 Q So when we talk about the 150 to 175
24 slip-and-falls on marble floors, we're talking about
25 throughout the hotel, whether it be the first level or

1 from one side to the other, you could give me the best
2 estimate because you can see it.
3 If I were to ask you how long is my desk in
4 my office from one side to the other side, it would be
5 a guess. Why? Because you hadn't seen it.
6 So your best estimate is that you wrote
7 approximately 200 reports involving slip-and-fall
8 events at the Venetian during the nine years that you
9 were there?
10 A Correct.
11 Q Now when I talk about slip-and-falls, would
12 it be fair to state that the slip-and-falls would
13 occur on the marble flooring as opposed to the
14 carpeted areas?
15 A Between the two of those options? Yes.
16 Q So when you talk about the reports that you
17 wrote, would it be fair to state that those reports --
18 when we're talking about slip-and-falls, that
19 generally they would involve the marble floor?
20 A I wouldn't say a large number of them
21 because we also respond to slip-and-falls even on the
22 concrete in the sidewalk out in the front of the
23 property, the pool deck upstairs.
24 Q So can you narrow the number of reports that
25 you wrote regarding slip-and-falls occurring on the

1 the tenth level?
2 A Correct. And that also includes the suites
3 as well.
4 Q And we talk about the suites, we talk about
5 the suites that have marble floors?
6 A All of them, yes.
7 Q How many suites are there?
8 A Between the Venetian and Palazzo, a little
9 over 7000.
10 Q 7000 suites?
11 A Yes.
12 Q So all of the rooms have marble floors?
13 A Yes, in the bathroom areas.
14 Q Apart from the bathroom areas, any other
15 areas inside the suites that have marble floor?
16 A Just the bathroom and the main entryway.
17 Q So during that nine years when you were
18 there and a security officer, how many times did you
19 respond to falls occurring inside the suites on the
20 marble floors in the bathroom?
21 A That would include the 150 to 175.
22 Q What I'm trying to distinguish between is
23 the falls that occurred inside the suites versus the
24 falls that occurred on the ground floor and the 10th
25 level.

1 A Okay. So of that 150 to 175, how many were
2 in the suites that we're tracking?
3 Q Right.
4 A I would estimate that it was -- nine years
5 is a long time. I apologize.
6 Q That's okay.
7 A I would say probably 75 --
8 Q So --
9 A -- would have occurred in the suites.
10 Q So best estimate is 75 or so occurring in
11 the suites and 100 or so occur outside the suites on
12 the floor, either on the ground floor or the tenth
13 floor?
14 A In the public areas; yeah.
15 Q How many hours a day did you work as an EMT?
16 A Eight hours.
17 Q Did you respond to those fall events because
18 of your training as an EMT or because you were a
19 security officer or both?
20 A Because I was an EMT.
21 Q So would it be fair to state that you
22 responded to these calls to determine whether or not
23 there were injuries?
24 A Yes, and to determine the extent of their
25 injuries.

1 Q And in connection with this 175 or so falls
2 that you are aware of -- slip-and-falls on marble
3 floors, how many times was the customer or anyone else
4 injured in the fall?
5 A I would say about 80 percent of the time.
6 And that's as far as, you know, what they told us on
7 initial assessment.
8 Q So at least about 80 percent of the time
9 when you reported to the scene of the fall as an EMT,
10 injury was reported to you by whomever fell?
11 A Correct.
12 Q Did you work an eight-hour shift?
13 A Yes.
14 Q How many days a week?
15 A Five days.
16 Q Were there any other EMT security officers
17 on duty while you were on duty?
18 A Yes.
19 Q And how many other EMT security officers
20 would be on duty when you were on duty?
21 A Including myself, it would be two.
22 Q So it would be two per shift?
23 A Two per shift per side and some days it
24 would be three. By "per side," I mean Venetian and
25 Palazzo. Palazzo had their own EMTs as well.

1 Q Did you venture beyond the Venetian or did
2 you stick with Venetian and somebody else took care of
3 the Palazzo?
4 A Normally someone else took care of the
5 Palazzo. If they were busy, we would cover their side
6 for any calls and vice versa.
7 Q So when you give me the 175 number, is that
8 strictly Venetian or is that Venetian and Palazzo?
9 A That's both.
10 Q And can you apportion between the two? In
11 other words, how many at the Venetian versus how many
12 at the Palazzo?
13 A I don't know if I could estimate that only
14 because -- I say that only because I worked at the
15 Palazzo in the beginning and I transferred over to the
16 Venetian a couple years after.
17 Q Did the Palazzo have the same marble floors
18 as the Venetian?
19 A They had carpet. Their casino floor was
20 mostly carpet. Their suites were the same in terms of
21 bathroom and entryway being marble. Public areas, I
22 don't think they had marble on their floor.
23 Q So if the Palazzo didn't have marble on
24 their floors, the slip-and-falls that occurred in the
25 public areas would have occurred primarily in the

1 Venetian?
2 MR. ROYAL: I'm going to object to form.
3 BY MR. GALLIHER:
4 Q By the way, he gets to object. You get to
5 answer unless he tells you not to.
6 MR. ROYAL: Go ahead.
7 THE WITNESS: I apologize. I'm sorry, can
8 you repeat the question?
9 BY MR. GALLIHER:
10 Q We've established, based on your testimony,
11 the Palazzo is primarily carpeted when we're talking
12 about the public areas. The suites are the same as
13 the Venetian to the extent they have marble on the
14 bathroom areas; right?
15 A Correct.
16 Q The Venetian has the marble floors in the
17 public areas, both on the casino floor, hotel floor
18 and the 10th floor?
19 A Correct. I would add that as I'm thinking
20 about it -- it's been two years, year and a half since
21 I've been there.
22 The main entryway to the Palazzo where the
23 front desk is and their statue water feature is, and
24 the floor below that is all marble. So the casino
25 floor is --

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1 Q So at least as you testify here today, you
2 are unable to give me any quantification, so to speak,
3 of what percentage of falls you investigated at the
4 Venetian versus the Palazzo?
5 A I -- I would be unable to.
6 Q And that includes slip-and-falls?
7 A Correct.
8 Q And I think we have established previously
9 there was roughly 175 slip-and-fall events that you
10 personally investigated?
11 A My estimate; yes.
12 Q And 80 percent of the time the people were
13 injured?
14 A Correct.
15 Q Now, you said there were two EMTs per shift.
16 Was that at the Venetian, Palazzo or both?
17 A Both.
18 Q So was it two plus two equals four or just
19 two together?
20 A Correct. And depending on scheduling and
21 depending on the shift, some shifts had more EMTs than
22 others. On day shift and the shift I worked, it was
23 between two and three EMTs.
24 Q So was it between two and three EMTs for the
25 Venetian?

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1 A Yes, and that just depends on scheduling.
2 But more often than not, it was two.
3 Q What about the swing shift when -- I
4 presume -- a casino was busier, was there more EMTs?
5 A The Venetian had four EMTs scheduled, you
6 know, with varying days off. The Palazzo had three
7 and then that switched for overnight. The Venetian
8 had three EMTs on their overnight, the Palazzo had
9 four EMTs on their overnight.
10 Q What was the reason for that?
11 A I don't know.
12 Q You weren't part of the plan?
13 A No. Yeah, I didn't schedule anything.
14 Q So the total number of EMT security
15 officers, such as yourself, at the Venetian would vary
16 between two and four depending upon the shift --
17 A Correct.
18 Q -- and the conditions?
19 For example, if there was a major convention
20 there, I would presume they would have more EMTs on
21 the shift than the normal EMTs because of the volume
22 of customers.
23 A Depending on the day, yeah, it would change.
24 Q And who was responsible for scheduling the
25 EMT security officers?

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1 A That would fall on the shift manager or the
2 assistant shift manager.
3 Q When you say shift manager or assistant
4 shift manager, is that of the security department?
5 A Yes.
6 Q And do you remember the names of the
7 security manager or assistant security manager while
8 you were there?
9 A George Valley(phonetic) would have been --
10 November 2016, George Valley would have been the shift
11 manager. Michael Dean I think was a new addition at
12 that time, if I recall correctly, and I think Jacob
13 Johnson was the other assistant manager.
14 Q Let me shift gears again, go downstairs.
15 We're adjacent to the area where the fall happened,
16 which is next to the restroom areas by the Grand Lux
17 Cafe.
18 With me?
19 A Yes.
20 Q Do you know whether or not there are any
21 businesses in, let's say, within a 100-foot radius of
22 where the fall occurred that sell drinks?
23 A There would be -- at Grand Lux Cafe, they
24 had a small bistro.
25 Q Bakery?

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1 A Like a bakery where you could order coffee
2 or a pastry.
3 Q Water?
4 A Probably. I never shopped there.
5 Q And if you walked down the hallway to the
6 left past the restrooms, is there a food court?
7 A There is a food court around the corner.
8 Q Do you know how many businesses occupy the
9 food court?
10 A I don't know.
11 Q And then as you walk past the food court
12 around the corner, there is Bouchon Bakery?
13 A Bouchon Bakery, that would be the opposite
14 direction of the food court.
15 Q What I'm getting at is this -- I'll try to
16 show you with my hand as best I can. We've got the
17 Grand Lux Cafe. To the immediate -- as we face it to
18 the immediate left, we've got the bakery.
19 A Yes.
20 Q And then to the immediate right, we've got
21 the restrooms?
22 A All the way to the right; yes.
23 Q And then past the restrooms to the right, as
24 you walk down that hallway, you've got the food court?
25 A Yes.

10 (Pages 31 to 34)

1 Q And that's where the physical business --
2 there are five businesses in the food court. So if we
3 go past the food court to the right and go around the
4 corner, do you recall seeing the Bouchon Bakery there?
5 A From your diagram, it would be -- it would
6 be -- as you are facing Grand Lux Cafe, as you look to
7 the right, you would see the escalators. Undemeath,
8 on the backside of the escalators, was Bouchon Bakery
9 and then again to the right would be the restrooms,
10 and then to the right would be the food court.
11 Q As you go around the corner, the Bouchon
12 Bakery is behind the escalator -- we'll talk about
13 that in a minute.
14 To the right of the Bouchon Bakery, is there
15 a shop that sells hard liquor, beer, wine, water?
16 A A gift store; yes.
17 Q But it sells those items?
18 A Yes.
19 Q And then at the top of the escalator, is
20 there a Coffee Bean?
21 A A Coffee Bean? Yes.
22 Q At the top?
23 A Yes, at the top of the escalator.
24 Q And do you know whether or not they sell --
25 apart from coffee, do you know whether or not they

1 sell soft drinks, bottled water?
2 A I imagine they would.
3 Q I just want to know whatever you remember.
4 Do you remember whether or not there was a
5 cooler inside the Coffee Bean inside where all the
6 drinks were displayed in bottles?
7 A I don't remember.
8 Q For example, if I were to buy bottled water
9 at the Coffee Bean and if I were to go down the
10 escalator into the area adjacent to the Grand Lux and
11 the restroom and I had my bottled water and you saw
12 me, you wouldn't be stopping me and telling me I
13 couldn't drink the water?
14 A Correct.
15 MR. GALLIHER: I want to take a little bit
16 of a break. We may be almost done.
17 (Short Break.)
18 BY MR. GALLIHER:
19 Q As I understood what you testified earlier,
20 you left the Venetian because you decided you didn't
21 want to be an EMT any longer.
22 A Yeah. I mean it's a little deeper than
23 that, but...
24 Q But you didn't leave under bad terms?
25 A No, not at all.

1 Q So as you testify here today, you don't have
2 any axe to grind against the Venetian or have any bad
3 feelings against the Venetian?
4 A Not at all.
5 Q Have you understood all my questions?
6 A Yes.
7 Q Anything you want me to repeat or rephrase
8 for you?
9 A No.
10 MR. ROYAL: I have a few questions.
11
12 EXAMINATION
13 BY MR. ROYAL:
14 Q All right. Let's go back to -- I think we
15 marked it as Exhibit 1. Do you have it in front of
16 you? Now, I just -- let's see. Look at VEN005. So
17 this indicates up at the top 12:39 on Friday,
18 November 4, 2016, and then at 13:31 on Friday you
19 cleared.
20 So you were involved in this incident for,
21 looks like, almost an hour. Look about right?
22 A Yes.
23 Q Okay. The information that's on this
24 particular page where it says "Joyce Sekera," where
25 did you get that? There's a home address, phone

1 number and so forth.
2 A That would have been provided to me, which I
3 would have written down on the medical release, which
4 is VEN017.
5 Q And who provided that?
6 A I completed that with her.
7 Q With who?
8 A With Joyce. I'm sorry.
9 Q Okay.
10 A So any information that would have been
11 verbally given to me and I would have copied it down
12 on this form.
13 Q Which is "this form"? You mean VEN017?
14 A Correct.
15 Q Let's go to that, then.
16 Okay. So I think we have established that
17 everything on this particular page is in your
18 handwriting except for it says Signature with an "X"
19 and a circle around the "X."
20 A Correct.
21 Q Okay. All right. There's an indication
22 where it says "LV Tour," with an arrow, "GCS." Do you
23 know what that means?
24 A That would be Grand Canal Shops.
25 Q And what is LV Tours; do you know?

1 A I believe that's the company she worked for.
 2 Q Is that information she gave?
 3 A Yes.
 4 Q And how about above that? There's some
 5 abbreviations, "WFA," and just tell us what all that
 6 is.
 7 A That's a physical descriptor. That would be
 8 white female, 5'6", 160 pounds, brown eyes, brown
 9 hair.
 10 Q Is that information she gave you?
 11 A That's what I observed.
 12 Q All right. So some of the things on here,
 13 on this particular page, is information that you
 14 observed; other information is information she
 15 provided to you?
 16 A During the assessment and interview; yes.
 17 Q Okay. Now, when you were completing this
 18 particular form, do you recall where you completed
 19 this? Was it at the accident scene; do you remember?
 20 A It would have been a combination of both.
 21 Q "Both" what?
 22 A I'm sorry. So when responding to the scene,
 23 I usually jot down a few notes and then I would have
 24 completed the form with her on assessment -- on
 25 further assessment of the left elbow injury.

1 Q Okay. Now, as I recall -- or at least it
 2 appears that you indicated that you left the area to
 3 do your assessment. Is that correct?
 4 A Yes.
 5 Q All right, we'll get to that. So when you
 6 say "both," some of this was completed at the scene
 7 and some was completed in a different area?
 8 A Correct. The initial assessment, what I do
 9 on scene is determine that there's no life-threatening
 10 injuries, that she's able to stand and care for
 11 herself and that we don't need an ambulance
 12 immediately. Which would be most of this top line
 13 stuff -- I'm sorry. Here in the middle of the page it
 14 will say S, slash, F, slip-and-fall, fell backwards
 15 onto base of pillar, then negative LOC, which is
 16 negative loss of consciousness, negative H/N/B for
 17 negative head, neck, back pain. And then negative
 18 weak, dizzy.
 19 So as long as she wasn't displaying anything
 20 like that, we know that we would be able to move her
 21 without having to call an ambulance.
 22 Q So you just read on VEN017 where it says
 23 Venetian, Palazzo EMT. That's where your handwriting
 24 starts there starting with "S/F."
 25 A Correct.

1 Q Okay. Where did you get the information
 2 that you just read to us?
 3 A That would have been from me talking to her.
 4 Q So where it says, "fell backwards onto base
 5 of pillar," that's not something you witnessed; right?
 6 A Correct.
 7 Q And then where it says negative loss of
 8 consciousness, negative H/N/B means -- what again?
 9 A Head, neck or back pain.
 10 Q So when it says negative LOC, did you have a
 11 conversation? Did you ask if there was loss of
 12 consciousness?
 13 A Yes.
 14 Q Why did you ask that -- why would you ask
 15 that?
 16 A For any slip-and-fall we always ask that.
 17 It's pretty much the three standard questions that
 18 everyone is asked.
 19 Q So you asked about loss of consciousness
 20 which she denied?
 21 A Correct.
 22 Q You asked about injuries to the head, neck
 23 or back, which she initially denied?
 24 A Yes.
 25 Q You asked if she was weak or dizzy, which

1 she denied?
 2 A Correct.
 3 Q Go to the next line starting with the "L"
 4 that's circled and just read across if you would.
 5 A Okay. It would be left elbow and then the
 6 arrow symbol and then positive "C" would be
 7 tenderness, and then negative would be -- negative
 8 "IC" would be no instability or crepitation.
 9 Q Is that something that -- or how do you get
 10 that information? Is that by your assessment or is
 11 that from a report? In other words, she's giving you
 12 that information?
 13 A This would be my assessment. So the
 14 tenderness would be, as we palpate or feel the injury,
 15 they would tell us if touching it would increase the
 16 pain which would be the tenderness.
 17 And then instabilities or crepitation would
 18 be any issues with the bone, if we felt anything
 19 shifting or if the joint didn't feel whole or correct
 20 or stable.
 21 Q Okay. Now, there's a notation under where
 22 it says "pillar" in that first line that you read where
 23 it says "S/F," and under "pillar" there's a line down
 24 with an arrow. Can you read that?
 25 A Guarded posterior cranium.

1 Q What does that mean?
2 A So from what she told me and what was
3 documented in the report was that, when she fell she
4 put her hand behind her head as she fell to protect
5 her head. So the guarded posterior would be the rear
6 and cranium is head, so she guarded the back of her
7 head as she fell at the base of the pillar.
8 Q Okay. When you did this examination, did
9 you palpate anything other than the left elbow that
10 you recall?
11 A Normally we would palpate -- yes. We would
12 palpate the head, neck and back, the spinal column for
13 any additional pain.
14 Q Okay. And tell us about your palpation of
15 the head. How does that work; how did you do that?
16 A Usually we would just kind of feel around
17 the back of the skull. We feel for any depressions or
18 anything that's shifting, anything that doesn't feel
19 stable. Check for blood on gloves while doing that,
20 because a lot of open injuries in the hairline get
21 concealed pretty well.
22 So we just kind of take a general feel of
23 the entire cranium or head.
24 Q When you did that in this case, did you note
25 any complaints of tenderness?

1 A No.
2 Q Tell us about the neck down to the low back,
3 when you did that assessment.
4 A So for the neck, we would do mainly the
5 spinal region. We wouldn't do anything from, like,
6 the sides of the back, but we would do the spinal
7 region.
8 So neck would be the cervical spine from the
9 bottom of the head to the top of shoulders, and the
10 rest would be the thoracic spine all the way down to
11 the sacrum.
12 Q And you did that in this case after you did
13 the palpation of the head?
14 A Correct.
15 Q Were there complaints of pain from the neck
16 down to the low back when you did -- on palpation that
17 you recall?
18 A If it's not written here, it wasn't stated.
19 Q I don't know because I can't tell exactly
20 from your writing. Do you see anything like that?
21 A No, no, I don't.
22 Q Why don't you read to us. I'm going to
23 point to, it says plus CMS and just go ahead and read
24 down to where it says -- or just to the end of the
25 line.

1 A Okay. Plus CMS, it's -- CMS is shorthand
2 for circulation motor and sensory. So in the left arm
3 we would assist at the -- assess at the fingertips
4 whether there was circulation going past the elbow.
5 So in the form of what we would call a like
6 a capillary test where you press on the nail bed and
7 see how quickly blood would return. Motor, we would
8 ask them to move their fingers, and then sensory, if
9 they can feel at the tips of their fingers.
10 She reported -- and that's written here,
11 tingling in left P2 and P3. That's phalanges -- or
12 phalanx for the individuals, phalanges for both. P2
13 is the index finger, P3 is the middle finger.
14 And then after that I wrote "Limited ROM,"
15 that's range of motion, due to pain. So she didn't
16 have full movement of the elbow joint due to the pain
17 that she was reporting.
18 Q All right. So everything you just read to
19 us related to the left elbow?
20 A Correct.
21 MR. GALLIHER: Wait a minute. Objection,
22 you stated he was talking about two fingers.
23 MR. ROYAL: Okay. You are right. You are
24 right.
25 /////

1 BY MR. ROYAL:
2 Q Everything you just said related to your
3 examination of the left elbow?
4 A Left elbow and left arm, yes.
5 Q Were there any other body parts during your
6 examination where she exhibited -- Ms. Sekera
7 exhibited limited range of motion due to pain?
8 A No.
9 Q All right, down, then it says left --
10 auxiliary pain?
11 A Axillary pain.
12 Q Excuse me. What is that?
13 A That would be that armpit line, that
14 imaginary line straight down the armpit.
15 MR. GALLIHER: On the left side?
16 THE WITNESS: Left side, correct.
17 BY MR. ROYAL:
18 Q Okay. Tell us what that indicated to you,
19 if anything.
20 A Any indication -- I mean it could have been
21 numerous things. It indicated to me -- I mean I
22 didn't witness the fall so I don't know exactly how
23 she landed, but towards the end she was reporting left
24 axillary pain and soreness there.
25 But not to jump ahead, but left flank and

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1 lateral back pain would be also just left back side.
2 So I mean it could be any number of things if she
3 landed on at the base of the pillar.
4 What it would indicate to me is she maybe
5 made contact there and she maybe wasn't feeling it
6 because maybe the pain in her elbow was masking other
7 pain.
8 Because I did notate a little below that
9 that there was an increase, there's an arrow up and
10 seven out of 10, that was her pain in the area at the
11 time.
12 Q Pain for what?
13 A At the left elbow.
14 Q Did she give you a pain -- degree of pain in
15 anything other than the left elbow, that seven out of
16 10?
17 A No.
18 Q She didn't rate this back pain?
19 A No.
20 Q This lateral back pain, was that -- did she
21 explain about that after you had already done your
22 palpation? Was it during when you were palpating the
23 spine?
24 A That would have been towards the end. It's
25 stated in the narrative.

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1 Q Okay, we'll go to the narrative. That's
2 okay. Let's just read the rest of this as we can.
3 So there's -- go ahead and read it, what you
4 can. I realize a little bit's cut off here, but to
5 the degree you can just read the rest of it, under
6 where it says left flank.
7 A Okay. So at the angle, that's positive
8 video, and I'm not sure if that's from surveillance or
9 security control. It would be one of those two
10 entities that told me that we had video of the
11 incident. And below that is just kind of the quick
12 notes I took while they were talking to me on the
13 phone which would be left foot slipped, 30 minutes
14 prior, no spill, below that.
15 Q Do you know what that means?
16 A That would have been -- they reviewed
17 coverage 30 minutes before the fall and they said no
18 spill was observed.
19 MR. GALLIHER: And I'll allow the testimony,
20 but it's hearsay. But you can go ahead and answer.
21 THE WITNESS: But they didn't observe any
22 spill in the video footage.
23 BY MR. ROYAL:
24 Q Did you ever observe any spill?
25 A I did not see any wet areas.

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1 Q Did Ms. Sekera indicate to you she had
2 observed any spill at any time, that you recall?
3 A She said she had slipped and -- I think what
4 I said in the report was that something like water,
5 but I never observed what she stated she slipped in.
6 Q Okay. Let's go through the rest of this on
7 017.
8 A So continuing, that's "RX," which would be
9 treatment, which is splint to left elbow, slash FA,
10 which is forearm. And below that is positive CMS
11 which is -- what that indicates is after we apply a
12 splint to somebody, we want to reassess their injury
13 and anything distal or further down the body, so that
14 would be the fingertips.
15 So we would reevaluate CMS at the fingertips
16 again after the splint to make sure the splint isn't
17 doing any damage or hindering anything.
18 After that it goes negative triangle, which
19 is delta or change. So negative change. There is a
20 "P" with a line above it that's post, after. So
21 negative change after application.
22 And then that's negative HX, which is
23 history.
24 Q What does that mean?
25 A That would be no history of injury to that

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1 elbow.
2 Q Prior to the fall?
3 A Correct.
4 Q And that's information obtained from where?
5 A The assessment interview, speaking with her.
6 Q Okay. So let's go to, still on Exhibit 1,
7 VEN006. You asked about -- this was called the case
8 MO, and you were asked about I guess how you put this
9 information together. You said you checked boxes.
10 A Correct.
11 Q On a computer program you used?
12 A Correct.
13 Q When did you complete this report? Did it
14 say here?
15 Look at the VEN006 at the bottom by your
16 name. It says date and time, it says 15:30. What's
17 that?
18 A That would be November 4, 2016, at 3:30 p.m.
19 That, I believe -- and I'm not 100-percent sure
20 because I normally don't see these printouts. These
21 aren't what we normally look at in the report system,
22 but I think that's the time the report was submitted.
23 Q So if that's accurate, you would have
24 prepared this report within two hours of clearing?
25 A Correct.

14 (Pages 47 to 50)

1 Q All right. Look at where it says, under "MO
2 data," it says "Incident Information." About the
3 fourth line down says "PHI, outside vendor." What is
4 that?
5 A "PHI" is protected health information and
6 then "outside vendor" would be not a Palazzo Venetian
7 team member and not a guest of the hotel. So that
8 would be somebody who is a temp worker or somebody who
9 works in a business on the Venetian Palazzo property
10 that's not officially employed by the Venetian or
11 Palazzo.
12 Q Then you have Surface Conditions: Dry,
13 marble, flat.
14 A Correct.
15 Q Why did you select dry as opposed to wet?
16 A The reason I did that is because that was my
17 assessment of the area, and that was done on an
18 accident scene check which is VEN018.
19 Q Let's go to -- still in Exhibit 1, VEN007.
20 This is called a Person Profile. Is this the same
21 kind of form you fill out -- in other words, where you
22 get on and you click boxes?
23 A Correct.
24 Q Just give us -- based on what you clicked
25 here under "MO information," give us a summary of at

1 incident that you recall?
2 A Not that I'm aware of. Not that I would
3 recollect.
4 Q Still on the first paragraph, let's go to
5 the second-to-last sentence. It says "Sekera
6 apologized for falling and did not appear to be in any
7 immediate distress."
8 Do you have any independent recollection of
9 that initial conversation with Ms. Sekera where she
10 apologized?
11 MR. GALLIHER: Other than what's in the
12 report?
13 MR. ROYAL: Right.
14 BY MR. ROYAL:
15 Q I'm asking, do you have an independent
16 recollection of that conversation?
17 A Outside of this report, no.
18 Q Then you write, "I did not note any obvious
19 injuries or threats of life."
20 When you say you didn't note any obvious
21 injuries, what are you referring to?
22 A Any pools of blood, any obvious fractures.
23 Anything that you could just look at somebody and
24 understand something's not right about their
25 condition.

1 least what you indicated to be Ms. Sekera's state of
2 mind --
3 A Okay.
4 Q -- at the time you were doing your
5 assessment.
6 A That would be the patient assessment and
7 speech. When I clicked, Patient is alert, airway
8 status open, breathing adequate, circulation present,
9 patient has a trauma, slash, injury, abrasions,
10 tenderness and that her speech was normal.
11 Q At any time during your assessment, did she
12 have any -- did she exhibit any signs of a concussion
13 or anything of that nature?
14 A Nothing that was immediately noticeable.
15 Q Let's go to your VEN008, 009. This is a
16 narrative report.
17 All right, a few questions from this. It
18 says you arrived on scene and met with Las Vegas Tours
19 employee Sekera, Joyce.
20 Do you know what Las Vegas Tours is?
21 A I'm not exactly sure what they do. I know
22 they have a couple booths up in the Grand Canal Shops,
23 but I don't know exactly what they sell. I mean I
24 would imagine it's tours, but I'm not --
25 Q Had you ever seen Ms. Sekera before this

1 Q Okay, next sentence -- or rather the next
2 paragraph says, "Sekera was alert, oriented to person,
3 place, time and events."
4 At what point -- does this report indicate
5 at what point you had this particular conversation
6 with her to make that determination? Was it during
7 your initial assessment or was it later?
8 A This would be the initial assessment. This
9 would be right when I walked up and started talking to
10 her.
11 Q Okay. So the next sentence says "She stated
12 that she was walking through the area when she slipped
13 in what she believed was water on the floor."
14 See that?
15 A Yes.
16 Q When you say "She stated" in this report,
17 what is -- what does that indicate? What is that
18 meant to indicate? Can you explain that?
19 A In this, in my report writing, if I don't
20 add quotations, it's not a direct quote of what they
21 said. This would just be a paraphrase of what she
22 explained to me happened before she ended up on the
23 floor.
24 Q Okay. So she said she believed water was on
25 the floor. Did she ever identify to you anything else

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<p style="text-align: right;">Page 55</p> <p>1 beyond saying it was on the floor? Did she describe 2 it? Did she give any indication about size or 3 location? 4 A No, not that I can recall. 5 Q The next sentence says "She reported that 6 she fell backwards and put her right hand behind her 7 head to protect it." 8 When you say "She reported," is that any 9 different than when you said "She stated"? 10 A No. 11 Q Do you recall -- okay. Then it says, the 12 next sentence, "She landed on the marble floor and her 13 left elbow struck the base of the pillar next to her." 14 You didn't say "she reported" or "she 15 stated" prior to that particular statement. Is there 16 a reason for that? 17 A That would have been a continuation of the 18 previous sentence -- 19 Q Okay. 20 A -- because obviously I wouldn't have seen 21 it. 22 Q Okay. The next sentence, "She denied 23 striking her head during the fall and denied losing 24 consciousness prior to or after falling." 25 Do you see that?</p>	<p style="text-align: right;">Page 57</p> <p>1 Q The next sentence, "She denied any head 2 pain, neck pain, weakness, dizziness or nausea at that 3 time." 4 Again, when you use the words "She denied," 5 what does that indicate to us? 6 A That would be her saying, no, to basically 7 any of those things: Do you have any head pain, neck 8 pain, back pain? The weakness and dizziness would 9 have been included in the loss of consciousness 10 conversation. 11 Q Okay. So up to this point in paragraph 2, 12 other than the first sentence where you said she was 13 alert, oriented to person, place and time, pretty much 14 what we've been reading is information she has 15 provided to you; is that correct? 16 A Yes, correct. 17 Q All right. The next sentence says "I noted 18 she was guarding her left elbow and reported she was 19 only experiencing pain there at that time." 20 See that? 21 A Correct. 22 Q Okay. So you observed -- tell us about what 23 you observed in that sentence versus what information 24 she gave to you. 25 A So from what I typed there, guarding is</p>
<p style="text-align: right;">Page 56</p> <p>1 A Yes. 2 Q When you say "She denies," would you explain 3 to us how we're supposed to read that in this report? 4 A So that would be me asking her just 5 basically that: Did you feel like you were going to 6 pass out or did you pass out before falling, before 7 being on the floor? And do you remember being on the 8 floor and everything up until seeing me, is basically 9 how I would put it. 10 And then that's just kind of a paraphrasing 11 of that conversation. 12 Q Okay. So when we read this and it says she 13 denied striking her head, that indicates you had a 14 conversation with her? 15 A Correct. I would have asked her, you know, 16 how she fell, did her head hit anything; and then in 17 line with that, it would be other questions about loss 18 of conscious or levels of consciousness. 19 Q Okay. So as you sit here today and as you 20 read this report so far, does any of this refresh your 21 recollection as to any of the conversation you 22 actually had with Ms. Sekera? 23 A The exact conversation, no. No, I -- 24 outside of what's written here, I have no independent 25 recollection of this conversation.</p>	<p style="text-align: right;">Page 58</p> <p>1 basically kind of protecting or shielding. So a lot 2 of times people, when they're guarding an injury, they 3 won't put their hands directly over it, but they'll 4 guard like a body part near it. I didn't exactly 5 explain that she was holding an arm across her chest 6 or anything like that. 7 But guarding in the medical assessment is 8 usually something along those lines, that the patient 9 is protecting the injury from any further movement or 10 anything affecting it. 11 Q Okay. The next sentence, "She was 12 embarrassed, to which I offered to assist her to a 13 more private area." Again she stated she was 14 embarrassed, I should say. 15 That, again, was conversation you had with 16 Ms. Sekera? 17 A Yes. 18 Q Okay, let's continue. "She agreed and was 19 assisted to a standing position." 20 Did you do that? 21 A I would have, yeah. 22 Q Then it says, "I asked if she felt any new 23 pain, weakness, dizziness or nausea, to which she 24 denied at that time." 25 Can you explain to us why you would ask that</p>

16 (Pages 55 to 58)

1 a second time? Looks like you had already covered
2 that before.
3 A So like I said previously with the
4 splinting, anytime we change a condition for a
5 patient, you always want to reassess. So anytime you
6 do something you want to reassess: Is this hurting
7 you more? Does this make you feel better?
8 And then usually when somebody falls,
9 picking them back up, you know, sometimes people will
10 feel a little weak or dizzy, in my experience doing
11 that job. So that became just a normal question I
12 would ask whenever I would assist anybody to stand,
13 regardless of injury, is if there was any weakness or
14 dizziness upon standing up.
15 Q Okay. Continuing it says, "She agreed to be
16 assessed in the medical room and refused wheelchair
17 assistance."
18 What's the medical room?
19 A The medical room is a section of the
20 security office that the EMT stage out of. We have
21 our own computers, or own phone, own private area that
22 wasn't under camera coverage. Because most of the
23 security office had camera coverage because obviously
24 we wouldn't want any cameras in the medical room. So
25 the medical room is a more private place that I could

1 get her to and then finish the assessment there.
2 Q How did you get to the medical room from the
3 scene when you first met Ms. Sekera?
4 A From the report, looks like we walked
5 because she refused the wheelchair.
6 Q Do you remember anything about that walk?
7 A No.
8 Q Do you remember her having any trouble
9 ambulating from the accident scene to the medical
10 room?
11 A No. And if she did, I would have put her in
12 a wheelchair anyway.
13 A lot of times you would get a patient who
14 would overestimate their ability to walk. There were
15 ways that we could have conversations with people to
16 make them understand that, you know, if it's from a
17 previous fall, we don't want them falling again. We
18 don't want things getting worse.
19 So even though a wheelchair is
20 embarrassing -- a lot of people said it was
21 embarrassing, we would always prefer that route to
22 having them fall again, and most people were
23 understanding of that.
24 And that was part of us walking with them.
25 We wanted to make sure that they didn't appear

1 unstable or were able to walk on their own without
2 assistance.
3 Q Now, this next paragraph, it goes from -- it
4 goes on to VEN009, starting with the last paragraph.
5 This appears to be just details associated with your
6 assessment -- your assessment of the left elbow.
7 A The paragraph that ends on 008?
8 Q I'm sorry. Secure left elbow.
9 A Yeah, that would be my assessment of the
10 injury.
11 Q Now, I'm just sort of looking at this
12 chronologically the way you drafted this. Does this
13 sort of refresh your recollection as to where you did
14 this extensive left elbow assessment? Whether it was
15 at the accident scene or the medical room?
16 A This would have happened in the medical
17 room.
18 Q Okay. Now going on to VEN009 at the top
19 starting with "She added," "She added that she was
20 beginning to feel minor pain and soreness in her left
21 lower back and left side localized to the axillary
22 line."
23 Can you explain what that means again?
24 A So that would have been during my
25 conversation with her. This would have been after

1 treatment because all my report writing is
2 chronological. That would have been after treatment
3 of her elbow.
4 So once it was splinted -- let's see,
5 splinted and slinged, she began to report minor pain
6 and soreness, left lower back and left side. So that
7 would have been at the end of my assessment.
8 And usually for writing like this to be a
9 little more concise, throughout the entire call we
10 usually ask if they want an ambulance, if they want to
11 see a doctor or seek any further medical attention.
12 And the way I wrote my reports is that that would be
13 towards the end.
14 I mean if somebody says yes to an ambulance,
15 obviously that would be chronologically reported. But
16 to make the report more concise, I added the seeking
17 medical attention part towards the end of those
18 reports.
19 Q I'm going to ask you one more time about
20 this minor pain and soreness to her left lower back
21 and left side, localized to the axillary line, because
22 I'm not clear on where this is.
23 Where is the pain in the left lower back?
24 Is it like in the kidney area? Is it on the side or
25 the spine?

1 A Okay. So, yeah, it would be the area -- so
2 imagine on the left side, the invisible line like the
3 middle of the armpit going all the way down towards
4 the flank, which would be just above the beltline and
5 then around to the back.
6 Q So you've indicated going to the back either
7 to the spine or -- how far to the middle of the back?
8 A Yeah, usually -- I don't know if it was to
9 the spine. If it's not documented, I'm not exactly
10 sure how far it extended.
11 Q Okay. All right. Now on VEN009 starting
12 with "Sekera agreed to seek medical attention."
13 See that?
14 A Yes.
15 Q Okay. Then it says, "but refused ambulance
16 transport." That means what? That means you had a
17 conversation about whether you should call an
18 ambulance?
19 A Yes.
20 Q The next sentence says, "She stated her job
21 did not provide worker's compensation."
22 Do you know why that would be part of your
23 conversation?
24 A The reason that's in there is because she
25 was a third party -- I'm sorry. What was the exact

1 phrasing? On VEN006, "PHI, outside vendor."
2 Because she was in line with, like, a temp
3 worker or somebody who works at the Venetian Palazzo,
4 but is not employed by the Venetian Palazzo, we would
5 ask them if they had worker's compensation only
6 because that would require them to report to their
7 manager and that would require them to fill out the
8 worker's compensation paperwork.
9 And that -- mostly we saw temp workers for
10 injuries, but that's for third-party stuff like this.
11 And they had their own worker's comp, but most people
12 aren't aware of how to engage that conversation with
13 the manager or how to start the worker's compensation
14 process.
15 So that's just the normal thing we ask them,
16 anybody that's not employed by the Venetian Palazzo.
17 Only because, like I said, they have to report to the
18 manager and let them know they were injured.
19 Q That brings up another question. Is it
20 unusual to take someone from, let's say, the public
21 area back to the medical room? Just a normal guest?
22 A I wouldn't take a guest back to the medical
23 room.
24 Q Why did you on this occasion?
25 A Because she was an outside vendor. She

1 worked at the property, but wasn't exactly a team
2 member with us.
3 Those employees on our property do have
4 access to our back-of-house areas, so it's not against
5 anything for me to bring her back to a secure area
6 like that. And in the case of a guest, if they ask
7 for more privacy, there are other areas near the
8 casino floor that we could assess them that isn't the
9 medical room.
10 Q Okay. Back to VEN009, Exhibit 1, and it
11 indicates, "She refused to complete a voluntary
12 statement for the incident."
13 Can you explain what that indicates or
14 reads?
15 A Sure.
16 So our policy for reporting injuries to
17 outside vendors or third-party employees on property
18 was that they would fill out the medical release,
19 which is VEN017.
20 They would fill out the medical release and
21 they were given the option of completing a voluntary
22 statement for their employer. But, like, it's implied
23 it's a voluntary statement. If they don't want to
24 complete any paperwork for their injury, they don't
25 have to.

1 Q And you said "She was escorted to her booth
2 in the Grand Canal Shops, collected her belongings and
3 was escorted to her vehicle in the team member garage
4 on Level 8."
5 Do you see that?
6 A Yes.
7 Q Can you explain, to the best you can, what
8 that means?
9 A So after all the paperwork and photographs
10 were completed and everything I had -- everything I
11 needed I had, I offered to walk her back up to where
12 she worked, collect her belongings -- I guess I don't
13 know what that entailed and probably a purse, but
14 that's just guessing -- and then she was escorted to
15 her vehicle.
16 So I walked with her basically just to make
17 sure she was okay. Only because she was injured and
18 she was also complaining of the additional things, but
19 didn't want to go by ambulance.
20 More often than not -- and I think everybody
21 is different about it as far as EMTs. If somebody is
22 injured on property and I have the ability to walk
23 with them, I'll do it only because they are on our
24 property and I'm caring for them. I always take it
25 upon myself to escort injured team members or

<p style="text-align: right;">Page 67</p> <p>1 employees.</p> <p>2 Q So in this case, from the accident scene,</p> <p>3 where did you walk with her?</p> <p>4 A So from the accident scene, it would have</p> <p>5 been through the hotel -- the elevator lobby to the</p> <p>6 back of house, to the security office, and the medical</p> <p>7 room in the security office where the rest of the</p> <p>8 report was finished, paperwork was collected.</p> <p>9 And then we would have gone from the medical</p> <p>10 room back out to the casino floor and then her booth,</p> <p>11 which is where she worked up on the second floor out</p> <p>12 of the Grand Canal Shops. And then she would have</p> <p>13 collected her stuff and I would have walked with her</p> <p>14 to wherever her car was parked.</p> <p>15 Q Okay. Did you indicate, anywhere in your</p> <p>16 report, any concerns related to her ability to operate</p> <p>17 a vehicle on her own?</p> <p>18 A Not in the report itself, but I would have</p> <p>19 asked her. And it's not documented, so I can't say.</p> <p>20 Q Okay. So once you -- what happened after</p> <p>21 you got to the team member garage? Strike that. Let</p> <p>22 me ask another question.</p> <p>23 This team member garage, what is that? On</p> <p>24 Level 8, what's a team member garage?</p> <p>25 A Where all the employees park their vehicles</p>	<p style="text-align: right;">Page 69</p> <p>1 have to do an accident scene check. That is policy</p> <p>2 for us to complete.</p> <p>3 I don't remember this exact incident, but my</p> <p>4 normal procedure is to go where the incident happened,</p> <p>5 take a look around and just evaluate the area, see if</p> <p>6 there's anything uneven, see if there's any</p> <p>7 obstruction, see if there's just anything that might</p> <p>8 present a hazard.</p> <p>9 Because if there is something present -- and</p> <p>10 this was done in conjunction with facilities. So if</p> <p>11 there was something present, I would need to stand</p> <p>12 there and make sure nobody else got injured from it or</p> <p>13 tripped on something or slipped on something. So it</p> <p>14 would be on me to make sure either nobody else slipped</p> <p>15 or fell in that area, and that was done with the PAD</p> <p>16 department.</p> <p>17 Q The next line down says, "A previous wet</p> <p>18 spill was reported and cleaned by PAD."</p> <p>19 When you refer to a previous wet spill, what</p> <p>20 information did you have other than Ms. Sekera saying</p> <p>21 that she believed she stepped in water?</p> <p>22 A As far as my recollection, she was the only</p> <p>23 one that told me.</p> <p>24 Q And is there anything in your report</p> <p>25 indicating whether or not Ms. -- other than Ms. Sekera</p>
<p style="text-align: right;">Page 68</p> <p>1 and they walk onto the property.</p> <p>2 Q Then after you walked her to -- Ms. Sekera</p> <p>3 to her car, last paragraph indicates that you returned</p> <p>4 to the area; is that right?</p> <p>5 A Yes.</p> <p>6 Q Did you -- you don't have an independent</p> <p>7 recollection of that, do you?</p> <p>8 A No, not outside of the report.</p> <p>9 Q Okay. Now, it says, "Video coverage is</p> <p>10 available per surveillance."</p> <p>11 Do you recall ever reviewing any actual</p> <p>12 surveillance?</p> <p>13 A I'm not allowed to look at the video</p> <p>14 coverage.</p> <p>15 Q Okay. So you haven't?</p> <p>16 A No.</p> <p>17 Q On VEN018, if you could go to that for a</p> <p>18 minute. Your notes indicate, "Defects noted, explain</p> <p>19 in detail." It says "Marble flooring appears flat,</p> <p>20 even and dry."</p> <p>21 See that?</p> <p>22 A Yes.</p> <p>23 Q Do you recall what you did to make that</p> <p>24 determination or not?</p> <p>25 A So for this -- any slip-and-fall, we always</p>	<p style="text-align: right;">Page 70</p> <p>1 saying she believes she slipped in water, any other</p> <p>2 objective observation you made about the existence of</p> <p>3 water prior to this slip-and-fall?</p> <p>4 A No.</p> <p>5 MR. ROYAL: Did we mark those?</p> <p>6 MR. GALLIHER: They're marked as 2.</p> <p>7 MR. ROYAL: Can I look at those?</p> <p>8 BY MR. ROYAL:</p> <p>9 Q I just ask you, on Exhibit 2, on these</p> <p>10 photographs that we looked at, there's VEN035, I</p> <p>11 assume you took that photo.</p> <p>12 A Yes.</p> <p>13 Q All those photos; right?</p> <p>14 A Correct.</p> <p>15 Q Was that taken in the -- can you just tell</p> <p>16 us where this was taken.</p> <p>17 A That would be the medical room.</p> <p>18 Q Okay. And how about Photo 036?</p> <p>19 A Also in the medical room.</p> <p>20 Q And that's of the left elbow?</p> <p>21 A Yes.</p> <p>22 Q And how about 037?</p> <p>23 A Medical room.</p> <p>24 Q Do you know why you took that picture?</p> <p>25 A It's policy for us to photograph shoes if</p>

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<p style="text-align: right;">Page 71</p> <p>1 we're able to. Tops and bottoms of shoes. 2 Q And 038? 3 A Medical room. 4 Q Okay. That's the bottom of the shoe? 5 A Correct. 6 Q 039? 7 A That's the area of incident. 8 Q Do you remember when this one was taken, 9 039? Would that have been after you returned to the 10 scene? 11 A Yes. That photograph, I don't know exactly 12 when that was taken, but my normal operation was to 13 take photographs during the accident scene check. 14 Q All right. So VEN014, you took that? 15 A Yes. 16 Q And in this particular photograph or 17 anywhere around this pillar, did Ms. Sekera ever point 18 to you and say, "This is where I believe the water 19 was"? 20 A Not to my recollection. 21 Q All right, 041, that's also of where you 22 found Ms. Sekera? 23 A Yes. 24 Q On 042, why did you take this photo? 25 A That would be the pillar she pointed to as</p>	<p style="text-align: right;">Page 73</p> <p>1 A Yes. 2 Q There's an officer in a blue uniform -- I'm 3 sorry, there is a man in a blue uniform. Do you see 4 that? 5 A Yes. 6 Q Do you know who that is? 7 A Not off the top of my head. 8 Q Counsel had asked on direct whether or not 9 there was another security officer there. Does 10 looking at this, still at 12:43:15, at all refresh 11 your recollection? 12 A No. 13 Q I'm not left-handed so this is a little 14 tricky. Hang on. So I've let it -- it's now rolling, 15 it's 12:43:22. You are bending over. 16 You are talking to -- I assume that's 17 Ms. Sekera. 18 A I believe so. 19 Q Okay. Is this the first time you've seen 20 this footage? 21 A Yes. 22 Q Does anything that you are seeing at this 23 point refresh your recollection -- 24 A No. 25 Q -- about anything you testified to?</p>
<p style="text-align: right;">Page 72</p> <p>1 the falling event. 2 Q And other than her left elbow, did she 3 complain to you about anything else striking the 4 pillar? 5 A Striking the pillar? No. 6 Q Did she complain to you about anything else 7 striking the floor or any other object other than her 8 left elbow? 9 A No. 10 Q Okay. And this last photo, 0043, you took 11 that and that was of the incident area? 12 A Yes. 13 Q Okay. I just have a couple more here. I'm 14 going to show you -- 15 MR. ROYAL: Off the record for a second? 16 (Discussion off the record.) 17 BY MR. ROYAL: 18 Q And I'm trying to remember what I -- for the 19 record, I've got up here the surveillance photo of the 20 incident starting at 12:43:15. 21 And it's still right now, but do you 22 recognize yourself? 23 A Looks like me. 24 Q And would that be you on the right with the 25 backpack?</p>	<p style="text-align: right;">Page 74</p> <p>1 A No, not independently. 2 Q Hold on one second. 3 MR. ROYAL: Give me a second here. 4 BY MR. ROYAL: 5 Q Okay. I'm going to show you now video 6 starting at 12:44:45. Ms. Sekera is now standing up 7 and you are in -- is that a white shirt -- 8 A Yes. 9 Q -- white uniform? 10 A That's correct. 11 Q And then we still have this other officer 12 here in the blue uniform. We don't know who he is at 13 this point; is that right? 14 A I don't recognize him. 15 Q So I'm just going to hit Go here, so it's 16 rolling at 12:44:45 forward. You see the officer in 17 the blue uniform, looks like he's gone somewhere else 18 and just you and Ms. Sekera are walking from the scene 19 and you've got the wheelchair; right? 20 A Yes. 21 Q And where are you going at this particular 22 point? 23 A To the medical room. 24 Q Okay. So these cameras at 12:45:14, they 25 depict you going into what looks like the elevator</p>

20 (Pages 71 to 74)

1 lobby area.
 2 A Yes.
 3 Q And at 12:45:25 you are going through this
 4 door, and where does that lead?
 5 A To the back of house.
 6 Q Are guests typically allowed back there?
 7 A No.
 8 Q Okay, 12:45:40 we see you again with the
 9 wheelchair and Ms. Sekera in the back hall, and it
 10 just continues as you are going towards the medical
 11 room.
 12 Looking at any of this, does it refresh your
 13 recollection as to anything you testified to today?
 14 A Nothing outside the report.
 15 Q At 12:46:05, that's you and Ms. Sekera
 16 walking towards the camera?
 17 A Yes.
 18 Q At this particular time, does she at least
 19 appear to have difficulty ambulating to you?
 20 A No.
 21 Q Do you have an idea of the estimated
 22 distance that you walked from the incident scene to
 23 the medical -- to this room you are going into at
 24 12:46:42?
 25 A Total distance walked?

1 Q It's okay, best guess.
 2 A My best estimate is a couple hundred feet.
 3 Maybe -- trying to do the math in my head because each
 4 pace is about three steps or each pace is about
 5 two feet.
 6 Q You know what? It's not --
 7 A I don't know.
 8 Q So at 12:46:54, that's when you -- just
 9 because you disappeared, that's when you go into the
 10 medical room?
 11 A Correct.
 12 Q So I want you to -- all right, now I'm going
 13 to show you footage -- oh, boy. I'm going to show you
 14 footage starting at 13:02:37, and you said there's no
 15 cameras in the room where you were doing your
 16 assessment.
 17 A Correct.
 18 Q All right. So at 13:02:39, that looks like
 19 you and Ms. Sekera coming from the medical room.
 20 A Yes.
 21 Q All right. So according to at least the
 22 time difference there, looks like your assessment in
 23 the medical room was somewhere close to about 15
 24 minutes.
 25 A Yeah -- yes.

1 Q All right. So from this point, I'll just --
 2 I'll represent to you that this -- maybe I'll just
 3 kind of speed this up -- that this shows you walking
 4 back from the medical room, the same -- looks like the
 5 same course that you took to get there.
 6 Would you agree?
 7 A Yes.
 8 Q Okay. I'm at 13:04:06. We see you coming
 9 from those rooms that lead to the back area, and then
 10 now you are out in the common area -- the guest area?
 11 A Yes.
 12 Q Okay. At this point, we're -- at this point
 13 you are going where?
 14 A Back up to her booth or place of employment.
 15 Q So I'm going to speed this up a little bit.
 16 Now at 13:05:25, what are we seeing here? You see
 17 yourself and Ms. Sekera?
 18 A Yes.
 19 Q Where is that?
 20 A That's up in the Grand Canal Shops.
 21 Q Okay. It's a floor above?
 22 A Yes.
 23 Q A floor above where the incident occurred;
 24 is that right?
 25 A Not exactly, but, yeah.

1 Q What do you mean "Not exactly"?
 2 A Not like directly on top of it, but a floor
 3 above it.
 4 If you were to pinpoint exactly where it was
 5 above it, it would be further down that hallway on the
 6 left side of the video there.
 7 Q But it was one floor above?
 8 A Yeah.
 9 Q Okay. I'm going to speed it up quite a bit
 10 here. We're now at 13:13:08. Looks like you are
 11 backtracking, basically going back to the area that
 12 you came once you went up to the Grand Canal Shops. I
 13 don't know if you can tell.
 14 A Yeah, yeah.
 15 Q And at this point you are headed towards
 16 the --
 17 A The garage.
 18 Q Okay. We just watched at 13:08 -- 13:08:50,
 19 up to 13:09. Now it's continuing at this point, she's
 20 in a sling, she's walking on her own and just headed
 21 towards -- looks like the elevator.
 22 A Correct.
 23 Q And that's the elevator to get to the
 24 parking area?
 25 A Correct.

1 Q Okay, now it's at 13:10:08. Looks like you
2 are getting onto an elevator. Is this to go up to the
3 team member parking garage?
4 A To Level 8; yeah.
5 Q Okay. This looks like it ends at 13:10:32.
6 As you and Ms. Sekera are getting out of the elevator
7 on that particular floor to the team member parking,
8 see that?
9 A Yes.
10 Q Does anything that we just went over refresh
11 your recollection as to anything that is beyond, you
12 know, either what you can see in the video or what's
13 in your report that we have covered marked as
14 Exhibit 1?
15 A Nothing stands out.
16 Q If Ms. Sekera had complained to you about
17 anything else during the time that you were doing this
18 escort, either to the medical room or from the medical
19 room to the garage, is that something that you would
20 have typically included in your report?
21 A Yes.
22 MR. ROYAL: I just got a couple more
23 questions here.
24 BY MR. ROYAL:
25 Q You were asked about prior incidents and

1 very good about obstructions and things that people
2 could trip over.
3 More often than not, it was a slip over a
4 trip, but I couldn't give you a number.
5 Q Of the 150 to 175 that you estimated, how
6 many of those related to slips on marble floors where
7 there was no foreign substance?
8 A No foreign substance?
9 MR. GALLIHER: Again, I'll object on grounds
10 of foundation. There's no foundation for your
11 testimony, but you may answer.
12 THE WITNESS: Can you repeat the question?
13 BY MR. ROYAL:
14 Q Do you understand what I mean by foreign
15 substance?
16 A Yeah, like a fluid or anything like that.
17 Q Yeah. So of the 150 to 175 -- or let me ask
18 it this way.
19 Do you recall if you responded to any falls
20 or slips on a marble floor that did not involve a
21 foreign substance?
22 MR. GALLIHER: Same objection. You may
23 answer.
24 THE WITNESS: A slip that did not involve --
25 there might be a handful of those. It's usually

1 best estimates and so forth about slip-and-falls. I
2 want to cover a couple things about that.
3 There are occasions when you respond to
4 incidents like this where there are more than one EMT
5 that responds?
6 A Yeah, yeah, that's happened.
7 Q On some of those estimates that you
8 provided, how many of those would include other EMTs
9 responding with you?
10 A I wouldn't be able to estimate that.
11 Q Would it be more than 10 percent? More than
12 20 percent?
13 A I would say maybe 50 percent.
14 Q Of those 175 that you -- or I'll say 150 to
15 175, which is what my notes indicate you said,
16 How many of those falls on marble floors
17 were trips versus slips?
18 A I don't know if I would be able to estimate
19 that.
20 Q Are you -- when you said 175 or up to 175,
21 would that include just slips with a foreign substance
22 or was it any kind of a fall on a marble floor?
23 A More often than not it was a slip. If it
24 was a trip, it would be an unusual circumstance only
25 because they were very good -- PAD and facilities were

1 related to footwear or somebody not being cautious
2 about where they're stepping. Those are pretty
3 common.
4 BY MR. ROYAL:
5 Q Does that have anything to do with why you
6 take pictures of shoes?
7 A Yeah, yes. Actually, yeah. We take shoes
8 to document evidence of how good of footwear the
9 person was wearing when they're on our flooring.
10 Q Okay. As you sit here today, you didn't
11 make any conclusions as to whether or not there was
12 any kind of foreign substance on the floor that caused
13 Ms. Sekera to fall in this particular incident;
14 correct?
15 A That's correct; I didn't observe anything.
16 Q The only information you had is that she
17 said to you she believed she stepped in water?
18 A Correct.
19 Q As you -- do you recall or did you see
20 anything in your report related to Ms. Sekera
21 complaining that her pants were wet after the fall?
22 A No. I didn't document and it wasn't
23 discussed.
24 Q Did she say anything to you other than she
25 believed there was water on the floor?

1 A Aside from that, no.
 2 Q Did she indicate to you -- do you recall her
 3 indicating to you whether she had anything in her hand
 4 at the time she fell? A beverage of any kind?
 5 A I don't independent recall that, but the
 6 video coverage showed me that she had a white cup in
 7 her hand.
 8 Q Did she ever indicate to you, as you
 9 recall -- if you recall -- that she felt liquid on the
 10 floor with her hand after the fall?
 11 A I don't recall that.
 12 Q If she told you that, typically is that
 13 something you would put in your report?
 14 A Yes.
 15 Q Did she exhibit anything that indicated to
 16 you that she was dazed and confused as a result of the
 17 fall, based on your observation or based on your
 18 reporting?
 19 A No, no. I didn't see anything like that.
 20 MR. ROYAL: Okay. That's all my questions.
 21
 22 FURTHER EXAMINATION
 23 BY MR. GALLIHER:
 24 Q Back to me. Let's start with VEN018.
 25 And I think we established earlier that the

1 Q And no one else reported it to you; right?
 2 A That would be her saying that to me; yes.
 3 Q Who reported to you that the previous wet
 4 spill was cleaned by PAD?
 5 A I would attribute that to the phrasing,
 6 then, because I observed PAD cleaning when I arrived
 7 on scene. She would be the one that told me that the
 8 wet spill was there.
 9 Q So let's go back to VEN008, first paragraph,
 10 and -- all right. "I" -- meaning you, "noted that a
 11 Public Areas Department team member was on scene and
 12 mopping the floor in the area."
 13 Correct?
 14 A Correct.
 15 Q Now, would that indicate to you that there
 16 must have been something wet on the floor because
 17 somebody was mopping it up?
 18 MR. ROYAL: Objection, foundation; calls for
 19 speculation.
 20 THE WITNESS: Potentially? If I didn't see
 21 anything, I wouldn't -- I mean if I didn't see
 22 anything, I wouldn't make a notation of it.
 23 So if I saw a wet spill, I would make a
 24 notation of it in the report.
 25 ////

1 handwriting at the top half of the page where it
 2 says -- starts with "Marble flooring" was your
 3 handwriting.
 4 A Correct.
 5 Q And what exactly is PAD? Is that Public
 6 Areas Department?
 7 A Correct, yeah.
 8 Q So I'm reading the sentence that Mr. Royal
 9 read to you and I want to ask you about it. It says
 10 "A previous wet spill was reported and cleaned by
 11 PAD"; is that right?
 12 A Yes.
 13 Q That's what you wrote down?
 14 A Yes.
 15 Q How would Ms. Sekera know that PAD cleaned
 16 it?
 17 MR. ROYAL: Objection, form.
 18 THE WITNESS: So this statement was -- this
 19 observation was made by me. It wouldn't be anything
 20 that she said to me.
 21 BY MR. GALLIHER:
 22 Q Well, but earlier you testified that the
 23 previous wet spill was reported and you said that was
 24 Ms. Sekera.
 25 A Yes.

1 BY MR. GALLIHER:
 2 Q Remember something. You didn't come
 3 immediately after the fall, you came after it was
 4 cleaned up.
 5 A Correct.
 6 Q And what I'm asking you is that, you made a
 7 specific note in your report that there was a Public
 8 Areas Department team member on the scene mopping the
 9 floor in the area; right?
 10 A Correct. They had a mop and they were
 11 mopping through the area. I didn't see a puddle of
 12 anything being mopped up. I just saw that they
 13 were -- they had a mop in their hand.
 14 Q Did you walk over to where the Public Area
 15 Department person was and ask them what they were
 16 mopping up?
 17 A No.
 18 Q Did you go over and look to see whether the
 19 mop was wet?
 20 A No.
 21 Q Did you go over to look to see whether or
 22 not there was a wet spot that was being mopped?
 23 A No.
 24 Q So all you know is that in the immediate
 25 vicinity of the fall, there was a Public Areas

1 Department team member mopping the floor --
 2 A Correct.
 3 Q -- right?
 4 A That's what I saw.
 5 Q And go back to VEN018. So what we've got is
 6 a wet spill is reported and you said that was reported
 7 by Ms. Sekera, and then we have your personal
 8 observation that the floor was being mopped in the
 9 area of the fall; right?
 10 A Yes.
 11 Q Now, the assessment that you performed, I
 12 want to talk to you a little bit about that. That
 13 would be VEN017. With me?
 14 A Yes.
 15 Q Sounds to me like the assessment was
 16 performed roughly 15 to 20 minutes after the fall.
 17 Would that be fair?
 18 A I didn't follow the time stamps exactly.
 19 Q Well, the reason I ask is because when we
 20 talk about VEN018, the next page, it bears the time of
 21 13:26. Do you see that?
 22 A Yes.
 23 Q And that would be -- the fall was reported
 24 to you on 12:39.
 25 A Yes.

1 Q Same date?
 2 A Yes.
 3 Q So if I do my math correctly, it looks like
 4 you've got about 45 minutes that elapsed between the
 5 time the fall was reported to you and the time
 6 that you completed VEN018.
 7 A Correct.
 8 Q Would that right?
 9 A That would be correct.
 10 Q And then if we go back to VEN017, you've got
 11 the time there at 12:57. You see that?
 12 A Yes.
 13 Q So if we do the math, the fall was reported
 14 to you at 12:39, you do the assessment at 12:57. By
 15 my math, that's roughly 18 minutes; would that be
 16 fair?
 17 A The time inputted on here would be the time
 18 that I signed.
 19 Q Okay. So did you perform the assessment
 20 before 12:57?
 21 A Yes, the assessment was completed before
 22 12:57.
 23 Q So how long did the assessment take?
 24 A I don't remember the exact time we got to
 25 the room on the time stamps, but whatever time we got

1 to the room and then 12:57 on here.
 2 Q So we know that the assessment, then, would
 3 have been performed sometime between the time the fall
 4 was reported to you and 12:57 p.m.?
 5 A Yes.
 6 Q And so that would be roughly within that
 7 18-minute time frame post fall you performed the
 8 assessment?
 9 A Yes.
 10 Q Now, you mentioned in response to
 11 Mr. Royal's questions that you don't usually see the
 12 printouts which we have identified as VEN005 through
 13 009.
 14 Is that right?
 15 A Correct.
 16 Q Okay. So what do you normally see?
 17 A On the computer screen, it's kind of like a
 18 tab system. Like it would be, like, think of like a
 19 web browser with multiple tabs. It's kind of like a
 20 system like that. There's different areas for input
 21 and the area of the screen is just a blank space.
 22 That is just a printout of all the information I put
 23 in there, but what we see is not anything close to
 24 this when we're actually writing the report.
 25 Q So when you're looking at the computer

1 screen when you're writing the report, you are
 2 checking boxes?
 3 A Yes.
 4 Q And when you check the boxes, it comes back
 5 in printed form in the report which we previously
 6 discussed; is that correct?
 7 A Yeah. Not all the reports we complete are
 8 printed. It just stays in the system electronically.
 9 For cases like this, we just print it out and it comes
 10 out in this form which is not something I see very
 11 often.
 12 Q Apart from 017 and 018, do you recall if
 13 there was anything that was prepared in handwriting in
 14 connection with this fall event?
 15 A No, it would just be these two forms.
 16 Typically it would be a voluntary statement as well,
 17 but she declined.
 18 Q Now, you have been asked to describe the
 19 nature of the fall. In other words, what happened in
 20 connection with the fall, you are basing your
 21 description upon what Ms. Sekera told you?
 22 A Yes.
 23 Q And you haven't seen the video surveillance
 24 of the fall itself?
 25 A Of the fall; no.

1 Q So you would agree with me that all the
2 questions would be answered by the video surveillance
3 showing the fall?
4 In other words, what hit, what didn't hit,
5 how hard the fall was, the video surveillance would be
6 the best evidence of that?
7 A Yes.
8 Q A couple of other things that weren't
9 mentioned in Mr. Royal's examination of you that I
10 wanted to address.
11 Look at VEN009. The one thing it doesn't
12 mention is -- you said she refused ambulance
13 transport; right?
14 A Yes.
15 Q However, in the same paragraph -- and tell
16 me if I'm reading this correctly. It says, "After
17 some discussion, she," meaning Ms. Sekera, "opted to
18 self transport to Centennial Hills Hospital as it was
19 close to her home."
20 You see that?
21 A Yes.
22 Q That's what she told you she was going to
23 do?
24 A Yes.
25 Q In other words, she was going to go to the

1 Q And that would be the time that you filled
2 this out?
3 A That would be the time I looked at the area.
4 Q All right. So in other words, when you
5 looked at the area and found it to be flat, even and
6 dry, you were roughly, by my calculations, 45 minutes
7 after the fall.
8 A I believe so, yeah.
9 Q Because the fall was reported at 12:39;
10 right?
11 A Yes.
12 Q So 13:26 would be about 45 minutes later?
13 A Yes.
14 Q All right. So VEN018 was completed by you
15 as a result of an inspection of the floor 45 minutes
16 after the fall?
17 A Yes.
18 Q Thank you. That's all I have.
19 MR. ROYAL: Nothing else.
20 THE COURT REPORTER: Mr. Royal, did you want
21 to order a copy of this transcript?
22 MR. ROYAL: Yes, please.
23 (The deposition concluded at 4:05 p.m.)
24
25

1 hospital?
2 A Yes.
3 Q And then let's go with page VEN0007.
4 A Okay.
5 Q Something else that wasn't talked about when
6 we were talking about your assessment of Ms. Sekera.
7 The middle of the page, it says, "Odor of
8 intoxicants," do you see that?
9 A Yes.
10 Q And what did you indicate?
11 A "None."
12 Q So she was not -- did not smell of alcohol
13 or wasn't under the influence of alcohol at the time?
14 A She didn't have the mannerisms of it; no.
15 Q And she didn't smell -- you didn't smell --
16 A No.
17 Q If you had, you would have noted that in the
18 report?
19 A Yeah, yes; absolutely.
20 Q And then we talk about when you inspected
21 the floor area where the fall occurred. And as I read
22 that, looks like -- and I'm referring to VEN018.
23 A Okay.
24 Q And you note the time, 13:26.
25 A Correct; yes.

REPORTER'S DECLARATION

STATE OF NEVADA)
COUNTY OF CLARK)

I, Pauline C. May, CCR No. 286, declare as follows:

That I reported the taking of the deposition of the witness, JOSEPH LARSON, commencing on Thursday, October 11, 2018 at the hour of 2:15 p.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I thereafter transcribed said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time, and that a request has not been made to review the transcript.

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

Dated at Las Vegas, Nevada this _____ day of _____, 2018.

Pauline C. May, CCR 286, RPR

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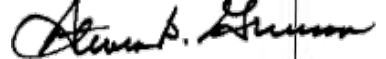
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EXHIBIT “12”



1 **ROPP**

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10 **CAROL SMITH**

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CAROL SMITH, an individual,

14 Plaintiff,

15 vs.

16 VENETIAN CASINO RESORT, LLC; and
17 DOES 1 through 50, inclusive,

18 Defendants.

Case No.: A-17-753362-C

Dept. No.: X

Discovery Commissioner

**PLAINTIFF'S REPLY TO
DEFENDANT VENETIAN CASINO
RESORT, LLC'S OPPOSITION TO
PLAINTIFF'S MOTION FOR
TERMINATING SANCTIONS,
MONETARY SANCTIONS FOR
WILLFUL SUPPRESSION OF
EVIDENCE PURSUANT TO NRCP
RULE 37**

Date of Hearing: March 20, 2019

Time of Hearing: 9:00 a.m.

19
20 Plaintiff, CAROL SMITH, by and through her attorney of record, PETER GOLDSTEIN, ESQ.,
21 hereby submit Plaintiff's Reply to Defendant Venetian Casino Resort, LLC's Opposition to Plaintiff's
22 Motion for Termination Sanctions, Monetary Sanctions for Willful Suppression of Evidence Pursuant to
23 NRCP Rule 37.

24 Dated: 3/12/19

PETER GOLDSTEIN LAW CORPORATION

26 BY: 

27 PETER GOLDSTEIN, ESQ.

28 Attorney for Plaintiff

1 **I. The Incident Reports In The Sekera Case And The Smith Case All Involve Falls**
2 **On Marble Floors**

3 Defendant argues that the discovery issues involving *Sekera v Venetian*, Case No. A-18-772761-
4 C and *Smith v Venetian* are not identical, but “rather are different”. The discovery requests and
5 responses involve prior falls on marble floors in lobbies of the Venetian Hotel and Casino primarily for
6 2014 to 2016. In request number 7, *Sekera* requested slip and fall incident reports on marble floors in the
7 Venetian Hotel and Casino for three years prior to the date of the *Sekera* incident (November 4, 2016).
8 Venetian provided 64 prior reports and 660 pages of documents in its Responses and Supplemental
9 Responses to Request for Production of Documents No. 7, see Exhibits 7 and 8. It is undisputed that 25
10 reports were produced in Smith for falls reports from 2014 to 2016, no reports were produced for the
11 two year period of time 2011 to 2013 for falls in Lobby One, see Exhibit 9, Defendant’s Ninth
12 Supplemental Disclosure.

13 Plaintiff will bring 660 bates stamped pages of documents produced by Defendant Venetian in
14 *Sekera v. Venetian*, to the hearing as they are responsive to the previous fall incident requests and
15 responses in Smith and directly relate to notice and knowledge of prior falls on wet marble floors (Ex.
16 10 not attached) but Plaintiff also attaches another spreadsheet of the incident reports, Exhibit 11,
17 showing the *Sekera* falls in black and the *Smith* falls in red. The *Sekera* reports were produced in
18 response to a request for prior falls on marble floors for a three-year period before November 14, 2016
19 and 56 involved falling on wet floors. Defendant’s argument that the cases differ in facts, circumstances,
20 allegations, discovery, orders, is more than misleading, it is flat out false. Of the 60 plus incident reports
21 disclosed in the 660 pages of documents, only four do not specifically state that Venetian patrons
22 slipped on a liquid on a marble floor. Of those four, two do not specify the reason for the fall and two
23 state that the individual tripped over their feet. Though, in those two reports, it is noted that the floor was
24 recently cleaned, so a wet floor cannot be ruled out. For example, an incident report, not disclosed in this

1 case, dated 11/24/2013 the author of the narrative states “impossible to see because of the shiny floor
2 until the liquid was encountered”.

3 This cannot be viewed as an innocent mistake. The Venetian generates and maintains incident
4 reports of injured persons. Venetian failed to provide 36 incident reports involving falls to Plaintiff in
5 this case for the time period requested on marble floors. Additionally, of the 36 non-disclosed incident
6 reports which Defendant argues are not similar situations, 14 reported the impact from their falls
7 resulted in specific complaints of knee injuries, similar to Plaintiff.
8

9 Defendant’s “understanding” of what it produced is not the question. Defendant cannot hide
10 behind the fact that they produced less than half as many reports, within the same time frame as another
11 case for the same discovery requests. It is simply inexcusable and Defendant implicitly concedes it has
12 no defense by failing to provide any reasonable explanation. In an effort to obfuscate, Defendant
13 conflates whether evidence is admissible or discoverable which is not the point. The sheer number of
14 prior fall reports speaks to their admissibility at trial. As the court stated in *Eldorado v Graff* (1962) 78
15 Nev 507:
16

17 “The admissibility of evidence of prior accidents in this kind of a case, to show notice or
18 knowledge of the danger causing the accident, is generally confined to situations where there are
19 conditions of permanency. See annot. 70 A.L.R.2d 167. Evidence of the type here in question is
20 usually excluded where it relates to a temporary condition which might or might not exist from
21 one day to the other unless, of course, **there is proper showing that the conditions**
22 **surrounding the prior occurrences have continued and persisted.”** Moore v. American
23 Stores Co., 169 Md. 541, 182 A. 436; Boles v. Montgomery Ward & Co., 153 Ohio St. 381, 92
24 N.W.2d 9; Montgomery Ward & Co. v. Wright, 70 Ariz. 319, 220 P.2d 225.
25

26 Defendant’s motive for not producing the reports and to minimize the number of prior reports is
27 so they can argue that the prior occurrences are less than actually exists so that the prior reports would
28

1 not be admissible at trial. This would be consistent with their failure to meet and confer regarding a
2 stipulation on the admissibility of the prior reports even though the Discovery Commissioner required
3 them to do so.

4 Similar to the Defendant's Opposition to Plaintiff's Motion for Disqualification, it rambles
5 between ad hominem attacks without any semblance of organized or cogent points and authorities. For
6 example, Defendant attack on Plaintiff's expert, Fred Hueston has nothing to do with the issues
7 presented in Plaintiff's Motion. Defendant falsely accuses Plaintiff of concealing information from the
8 Court without any basis. Fred Hueston's expert testimony concerns his opinions about the treatment,
9 maintenance and application of polymer to the marble floor in order to increase friction coefficient. He
10 is not testifying as an expert about anything other than his expertise in the area of marble flooring
11 treatment and maintenance. One of his opinions is that the product which Defendant utilizes to clean the
12 marble floors is V2, but after cleaning they fail to apply the V3 polymer which the manufacturer
13 recommends to help traction. This was admitted by defendant in its response to Request for Admissions,
14 set 3.

15
16
17 Defendant argues that the main line of questioning of Plaintiff's expert was the number of
18 incidents and gratuitously inserted an argument without any evidentiary support that the marble floors
19 were built within building codes which have been approved. This is unsupported hyperbole and lacks
20 evidentiary support.

21
22 Defendant then confuses and conflates the mode of operation theory of liability with the fact that
23 the marble floors are inherently dangerous when wet and are a serious slip hazard. It wasn't until 2012
24 when we heard the term in Nevada, the mode of operations, a legal variation to the traditional approach
25 to premises liability. Customarily, a business will only be held liable for a dangerous condition on its
26 floor (e.g., foreign substance) caused by someone other than an employee when the business had actual
27 or constructive notice of the condition and failed to remedy or warn of it. *See Sprague v. Lucky Store,*
28

1 *Inc.*, 109 Nev. 247, 849 P.2d 320 (1993). However, the Nevada Supreme Court first departed from
2 tradition in *Sprague*, based on an approach near identical to the mode of operations. Even in the absence
3 of constructive notice, the court looked at Lucky's "chronic hazard" from its self-service produce area.
4 Continual debris from falling items onto the store's floor required more than sweeping; rather, a jury
5 could continue that further precautions were necessary. In *FGA, Inc. v. Giglio*, 278 P.3d 490, 128 Nev.
6 Adv. Op. 26 (Nev. June 14, 2012), the Nevada Supreme Court stated it had "implicitly adopted the mode
7 of operation approach" with its *Sprague* ruling. *Id.*, 278 P.3d at 497.
8
9

10 Plaintiff's Motion did not misrepresent the fact that Defendant failed to produce video footage in
11 violation of the Court Order. Defendant never responded to the proposed Order contained in the email
12 which Plaintiff's counsel submitted to defense counsel. Regardless, that Order has been signed by the
13 Court, and attached as Exhibit 10.
14

15 This litigation has been ongoing for years and been the subject of two discovery hearings with
16 the Discovery Commissioner and one by the District Court Judge, accordingly there is no requirement to
17 further meet and confer. Plaintiff relied on representations that the reports produced were true and
18 correct, and constituted all prior incidents involving falls on liquids on marble floors of the five lobbies
19 that contain marble tile. The reports disclosed in this Smith case are simply false and this Motion
20 demonstrates that defendants have engaged in flagrant discovery abuse. Plaintiff's Motion does not take
21 issue with the protective order, which was simply for the purpose of allowing redacted names of the
22 persons involved.
23
24

25 **II. The Prior Falls Should Be Admitted As Evidence At Trial To Prove Notice And**
26 **Knowledge Of The Dangerous Condition.**
27
28

1 The court in *Reingold v Wet and Wild* previously held that **evidence** of subsequent, similar
2 accidents involving the same condition may be relevant on the issues of causation and whether there is a
3 defective and dangerous condition. *Ginnis v. Mapes Hotel Corp.*, 86 Nev. 408, 415, 470 P.2d 135, 139
4 (1970).

5 NRS 47.250(3) does provide for a disputable presumption “[t]hat **evidence willfully**
6 **suppressed** would be adverse if produced.” The district court apparently believed that
7 “**willful suppression**” requires more than following the company's normal records destruction policy.
8 We disagree. There is no dispute that the records were “**willfully**” or intentionally destroyed. Wet ‘N
9 Wild claimed that all records are destroyed at the end of each season. This policy means that the
10 accident records are destroyed even before the statute of limitations has run on any potential litigation
11 for that season. It appears that this records destruction policy was deliberately designed to prevent
12 production of records in any subsequent litigation. Deliberate destruction of records before the statute of
13 limitations has run on the incidents described in those records amounts to **suppression of evidence**. If
14 Wet ‘N Wild chooses such a records destruction policy, it must accept the adverse inferences of the
15 policy.
16
17

18 Additionally, *Ault v. International Harvester Company*, 13 Cal.3d 113, 117 Cal.Rptr. 812, 817,
19 528 P.2d 1148, 1153 (1974), held that the lower court did not err by admitting **evidence** of both prior
20 and *subsequent* accidents to prove a defective condition or cause of the accident. The court noted that
21 the purpose of providing **evidence** of the other accidents was to show that all the accidents, including the
22 one in litigation, occurred due to the dangerous condition. *Id.*

23
24 The United States Supreme Court stated that:

25 [The other accidents] were proved simply as circumstances which, with other **evidence**, tended
26 to show the dangerous character of the sidewalk.... *The frequency of accidents at a particular place*
27 *would seem to be good evidence of its dangerous character*—at least, it is some **evidence** to that effect.
28

1 *District of Columbia v. Arms*, 107 U.S. 519, 524–25, 2 S.Ct. 840, 844–46, 27 L.Ed. 618 (1883).

2
3 Defendant clearly found that it was better to be deceitful and attempt to hide evidence that would
4 harm their case than comply with discovery orders.
5

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10 DATED: 3.12.19

LAW OFFICES OF PETER GOLDSTEIN

11 BY: 

12 PETER GOLDSTEIN, ESQ.
13 Attorney for Plaintiff
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1
2 **CERTIFICATE OF SERVICE**
3

4 Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure and [N.E.F.R. 9(b)] I certify that
5 I am an employee of Peter Goldstein Law Corporation and that on March 12, 2019, I served a true
6 and correct copy of the foregoing document entitled **PLAINTIFF'S REPLY TO DEFENDANT**
7 **VENETIAN CASINO RESORT, LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR**
8 **TERMINATING SANCTIONS, MONETARY SANCTIONS FOR WILLFUL SUPPRESSION**
9 **OF EVIDENCE PURSUANT TO NRCP RULE 27.** upon all parties listed below, via the following
10 means:
11

12 _____ Via U.S. Mail by placing said document in a sealed envelope, with postage prepaid [N.R.C.P. 5(B)]
13 X Via Electronic Filing [N.E.F.R. 9(b)]
14 X Via Electronic Service [N.E.F.R. 9]
15 _____ Via Facsimile [E.D.C.R. 7.26(a)]
16

17 Michael Edwards
18 Lisa Thayer
19 Lani Maile
20 Ryan Loosvelt
21 MESSNER REEVES LLP
22 8945 W. Russel Road, Suite 300
23 Las Vegas, Nevada 89148
24 Tel: (702) 363-5100
25 Fax: (702) 363-5101
26 Email: medwards@messner.com
27 Email: lthayer@messner.com
28 Email: lmaile@messner.com
Email: RLoosvelt@messner.com
Attorney for Venetian Casino Resort, LLC

26
27 3/12/19
28 Date

Jocelynn Jordan
Jocelynn Jordan
An employee of the Law Office of Peter Goldstein

EXHIBIT 7

ROYAL & MILES LLP
1522 W Warm Springs Road
Henderson NV 89014
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

RFP

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Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

ROYAL & MILES LLP

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: 702-471-6777

Fax: 702-531-6777

Email: mroyal@royalmileslaw.com

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES 1
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

**RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS
AND MATERIALS TO DEFENDANT**

TO: Plaintiff JOYCE SEKERA; and

TO: Keith E. Galliher, Jr., Esq.; her attorney:

Pursuant to Rules 26 and 36 of the Nevada Rules of Civil Procedure, Defendant VENETIAN
CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel, ROYAL &
MILES LLP, responds to Plaintiff's first requests for production of documents and materials as
follows:

1 **REQUEST NO. 1:**

2 All written, oral, or recorded statements made by any party, witness, or any other person or
3 persons with knowledge of the incident described in Plaintiffs Complaint.

4 **RESPONSE NO. 1:**

5 Defendants object to the extent this request seeks information protected by attorney/client
6 privilege and/or attorney work product privilege. Without waiving said objection, Defendants refer
7 to their disclosures pursuant to NRCP 16.1, documents 2-9, and all supplements thereto. Discovery
8 is continuing.

10 **REQUEST NO. 2:**

11 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings, maps
12 or pictures and/or photographs of any kind which has, as its subject matter, the incident described in
13 Plaintiffs Complaint.

14 **RESPONSE NO. 2:**

15 See Response No. 1.

17 **REQUEST NO. 3:**

18 A complete copy of the Defendant's insurance carriers and/or risk management pre-litigation
19 claim file.

20 **RESPONSE NO. 3:**

21 Objection. This request lacks foundation, assumes facts not in evidence, seeks information that
22 is protected from disclosure by the attorney/client and/or attorney work product doctrine. Without
23 waiving said objection all known discoverable documents regarding the investigation of the loss have
24 been produced. See Defendants' NRCP 16.1 early case conference disclosures, documents 2-9, and
25 all supplements thereto. Discovery is continuing.

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1 **REQUEST NO. 4:**

2 The names of all expert witnesses or consultants that Defendant will use at the time of trial
3 along with any reports produced by the same.

4 **RESPONSE NO. 4:**

5 Objection. This request is premature. Defendants' expert disclosures containing the requested
6 information will take place as set forth in the court's scheduling order. It is also an improper request
7 for production of documents.
8

9 **REQUEST NO. 5:**

10 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the
11 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT
12 described in Plaintiffs Complaint for the day before, day of, and day after the incident described
13 therein.
14

15 **RESPONSE NO. 5:**

16 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,
17 is overly broad, vague and ambiguous. This request also presupposes that there was a foreign
18 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the
19 subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not
20 reasonably calculated to lead to the discovery of admissible evidence (*i.e.* documents related to
21 November 5, 2016). Without waiving said objection, Defendants respond as follows: *See* documents
22 identified pursuant to NRCP 16.1, bates numbers VEN 044-106. Discovery is continuing.
23

24 **REQUEST NO. 6:**

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the
27
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1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO RESORT
2 in which the fall occurred.

3 **RESPONSE NO. 6:**

4 Defendant objects to the extent this request lacks foundation, assumes facts not in evidence,
5 and is further overly broad, vague and ambiguous. This request also presupposes that there was a
6 foreign substance on the floor causing Plaintiff's fall, which Defendants deny. also incorrectly identifies
7 the subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not
8 reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection,
9 Defendant responds as follows: *See Response No. 5*.

11 **REQUEST NO. 7:**

12 True and correct copies of any and all claim forms, legal actions, civil complaints, statements,
13 security reports, computer generated lists, investigative documents or other memoranda which have,
14 as its subject matter, slip and fall cases occurring on marble floors within the subject VENETIAN
15 CASINO RESORT within three years prior to the incident described in Plaintiff's Complaint, to the
16 present.

18 **RESPONSE NO. 7:**

19 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,
20 is overly broad, vague and ambiguous, unduly burdensome and presupposes there was a foreign
21 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the
22 subject premises as *VENETIAN CASINO RESORT*. This request further seeks access to information
23 which is equally available to Plaintiff via public records, and otherwise seeks information that is not
24 reasonably calculated to lead to the discovery of admissible evidence. Defendant objects as the request
25 as over broad and not properly tailored to the issues in this case. Without waiving said objection,
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1 Defendant responds as follows: Defendant is in the process of making a good faith effort to identify
2 information responsive to this request and will respond as soon as the information is collected.

3 Discovery is continuing.

4 **REQUEST NO. 8:**

5 Any and all documents, information, memoranda, paperwork, or other material which relates
6 to establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

7 **RESPONSE NO. 8:**

8 See Response No. 1.

9 **REQUEST NO. 9:**

10 Any surveillance video showing the Plaintiffs fall at the VENETIAN CASINO RESORT
11 from any other angle, other than the one shown in the video surveillance produced by the
12 Defendants thus far.

13 **RESPONSE NO. 9:**

14 Defendants object to the extent this request incorrectly identifies the subject premises as
15 *VENETIAN CASINO RESORT*, and further that the term "*surveillance video*" is itself overly broad
16 and seeks information outside Defendants' knowledge, custody and control (*i.e.* videos taken by other
17 persons on the subject premises at the time). Without waiving said objection, Defendants respond as
18 follows: All known surveillance related to this matter was produced as Document No. 9 in Defendants'
19 NRCP 16.1 disclosure. Discovery is continuing.

20 **REQUEST NO. 10:**

21 Any other witnesses, documents, or other disclosures required by NRCP 16.1.

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RESPONSE NO. 10:

See Response No. 1.

DATED this 9 day of October, 2018.

ROYAL & MILES LLP

By: _____

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

1522 W. Warm Springs Road

Henderson, NV 89014

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of October, 2018, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO DEFENDANT** to be served as follows:

_____ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

_____ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

_____ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.
THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
Attorneys for Plaintiff
Facsimile: 702-735-0204
Email: kgalliher@galliherlawfirm.com


An employee of ROYAL & MILES LLP

EXHIBIT 8

ROYAL & MILES LLP
1522 W Warm Springs Road
Henderson NV 89014
Tel: (702) 471-6777 ♦ Fax: (702) 531-6777

RFP

Michael A. Royal, Esq.

Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

ROYAL & MILES LLP

1522 West Warm Springs Road

Henderson Nevada 89014

Tel: 702-471-6777

Fax: 702-531-6777

Email: mroyal@royalmilesllp.com

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES 1
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

**SUPPLEMENTAL RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF
DOCUMENTS AND MATERIALS TO DEFENDANT**

TO: Plaintiff JOYCE SEKERA; and

TO: Keith E. Galliher, Jr., Esq.; her attorney:

Pursuant to Rules 26 and 36 of the Nevada Rules of Civil Procedure, Defendant VENETIAN
CASINO RESORT, LLC, and LAS VEGAS SANDS, LLC, by and through their counsel, ROYAL &
MILES LLP, responds to Plaintiff's first requests for production of documents and materials as
follows:

1 **REQUEST NO. 1:**

2 All written, oral, or recorded statements made by any party, witness, or any other person or
3 persons with knowledge of the incident described in Plaintiffs Complaint.

4 **RESPONSE NO. 1:**

5 Defendants object to the extent this request seeks information protected by attorney/client
6 privilege and/or attorney work product privilege. Without waiving said objection, Defendants refer
7 to their disclosures pursuant to NRCP 16.1, documents 2-9, and all supplements thereto. Discovery
8 is continuing.

10 **REQUEST NO. 2:**

11 Any and all accident and investigative reports, films, video tapes, charts, plats, drawings, maps
12 or pictures and/or photographs of any kind which has, as its subject matter, the incident described in
13 Plaintiffs Complaint.

15 **RESPONSE NO. 2:**

16 See Response No. 1.

17 **REQUEST NO. 3:**

18 A complete copy of the Defendant's insurance carriers and/or risk management pre-litigation
19 claim file.

21 **RESPONSE NO. 3:**

22 Objection. This request lacks foundation, assumes facts not in evidence, seeks information that
23 is protected from disclosure by the attorney/client and/or attorney work product doctrine. Without
24 waiving said objection all known discoverable documents regarding the investigation of the loss have
25 been produced. See Defendants' NRCP 16.1 early case conference disclosures, documents 2-9, and
26 all supplements thereto. Discovery is continuing.

28

1 **REQUEST NO. 4:**

2 The names of all expert witnesses or consultants that Defendant will use at the time of trial
3 along with any reports produced by the same.

4 **RESPONSE NO. 4:**

5 Objection. This request is premature. Defendants' expert disclosures containing the requested
6 information will take place as set forth in the court's scheduling order. It is also an improper request
7 for production of documents.
8

9 **REQUEST NO. 5:**

10 Any and all sweep sheets, sweep logs, or other similar documentation which reflects the
11 maintenance and/or cleaning of the flooring located within the VENETIAN CASINO RESORT
12 described in Plaintiffs Complaint for the day before, day of, and day after the incident described
13 therein.
14

15 **RESPONSE NO. 5:**

16 Defendants object to the extent this request lacks foundation, assumes facts not in evidence,
17 is overly broad, vague and ambiguous. This request also presupposes that there was a foreign
18 substance on the floor causing Plaintiff's fall, which Defendants deny. It also incorrectly identifies the
19 subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not
20 reasonably calculated to lead to the discovery of admissible evidence (*i.e.* documents related to
21 November 5, 2016). Without waiving said objection, Defendants respond as follows: *See* documents
22 identified pursuant to NRCP 16.1, bates numbers VEN 044-106. Discovery is continuing.
23

24 **REQUEST NO. 6:**

25 True and correct copies of any and all manuals, documents, pamphlets, flyers, or other
26 memorandum which has, as its subject matter, the standard operating procedures with respect to the
27
28

1 maintenance, cleaning and sweeping of the floors with respect to the VENETIAN CASINO RESORT
2 in which the fall occurred.

3 **RESPONSE NO. 6:**

4 Defendant objects to the extent this request lacks foundation, assumes facts not in evidence,
5 and is further overly broad, vague and ambiguous. This request also presupposes that there was a
6 foreign substance on the floor causing Plaintiff's fall, which Defendants deny, also incorrectly identifies
7 the subject premises as *VENETIAN CASINO RESORT*. This request further seeks information not
8 reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection,
9 Defendant responds as follows: *See Response No. 5.*

11 **REQUEST NO. 7:**

12 True and correct copies of any and all claim forms, legal actions, civil complaints, statements,
13 security reports, computer generated lists, investigative documents or other memoranda which have,
14 as its subject matter, slip and fall cases occurring on marble floors within the subject VENETIAN
15 CASINO RESORT within three years prior to the incident described in Plaintiffs Complaint, to the
16 present.

18 **RESPONSE NO. 7:**

19 Defendants object to the extent this request lacks foundation, assumes facts not in
20 evidence, is overly broad, vague and ambiguous, unduly burdensome and presupposes there was
21 a foreign substance on the floor causing Plaintiff's fall, which Defendants deny. It also
22 incorrectly identifies the subject premises as *VENETIAN CASINO RESORT*. This request
23 further seeks access to information which is equally available to Plaintiff via public records, and
24 otherwise seeks information that is not reasonably calculated to lead to the discovery of
25 admissible evidence. Defendant objects as the request as over broad and not properly tailored
26 to the issues in this case. Without waiving said objection, Defendants respond as follows: Please
27
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1 | see Defendants' 5th Supplement to NRCP 16.1 Disclosure and all supplements thereto.

2 | Discovery is continuing.

3 | **REQUEST NO. 8:**

4 | Any and all documents, information, memoranda, paperwork, or other material which relates
5 | to establishes, or otherwise pertains to the affirmative defenses alleged by the Defendant herein.

6 | **RESPONSE NO. 8:**

7 | See Response No. 1.

8 | **REQUEST NO. 9:**

9 | Any surveillance video showing the Plaintiffs fall at the VENETIAN CASINO RESORT
10 | from any other angle, other than the one shown in the video surveillance produced by the
11 | Defendants thus far.

12 | **RESPONSE NO. 9:**

13 | Defendants object to the extent this request incorrectly identifies the subject premises as
14 | *VENETIAN CASINO RESORT*, and further that the term "*surveillance video*" is itself overly broad
15 | and seeks information outside Defendants' knowledge, custody and control (*i.e.* videos taken by other
16 | persons on the subject premises at the time). Without waiving said objection, Defendants respond as
17 | follows: All known surveillance related to this matter was produced as Document No. 9 in Defendants'
18 | NRCP 16.1 disclosure. Discovery is continuing.

19 | **REQUEST NO. 10:**

20 | Any other witnesses, documents, or other disclosures required by NRCP 16.1.

21 | ///

22 | ///

23 | ///

24 |

25 |

1 **RESPONSE NO. 10:**

2 See Response No. 1.

3 DATED this 3 day of January, 2019.

4 **ROYAL & MILES LLP**

6 By: _____

7 Michael A. Royal, Esq.

8 Nevada Bar No. 4370

Gregory A. Miles, Esq.

Nevada Bar No. 4336

1522 W. Warm Springs Road

Henderson, NV 89014

Attorneys for Defendants

VENETIAN CASINO RESORT, LLC and

LAS VEGAS SANDS, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4 day of January, 2019, and pursuant to NRCP 5(b), I caused a true and correct copy of the foregoing **SUPPLEMENTAL RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS AND MATERIALS TO DEFENDANT** to be served as follows:

_____ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

_____ to be served via facsimile; and/or

☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or

_____ to be hand delivered;

to the attorneys and/or parties listed below at the address and/or facsimile number indicated below:

Keith E. Galliher, Jr., Esq.
THE GALLIHER LAW FIRM
1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
Attorneys for Plaintiff
Facsimile: 702-735-0204
E-Service: kgalliher@galliherlawfirm.com
dmooney@galliherlawfirm.com
gramos@galliherlawfirm.com
sray@galliherlawfirm.com

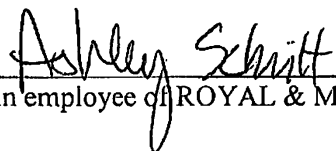

An employee of ROYAL & MILES LLP

EXHIBIT 9

1 **ECCD**
MARK B. SCHELLERUP
2 Nevada Bar No. 7170
ANDREW R. GUZIK
3 Nevada Bar No. 12758
MESSNER REEVES LLP
4 8945 W. Russell Road, Suite 300
Las Vegas, Nevada 89148
5 Telephone: (702) 363-5100
Facsimile: (702) 363-5101
6 Email: mschellerup@messner.com
Email: aguzik@messner.com
7 Attorneys for Venetian Casino Resort, LLC

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 CAROL SMITH, an individual,
12 Plaintiff,

Case No.: A-17-753362-C
Dept. No.: X

13 vs.

14 VENETIAN CASINO RESORT, LLC; and
15 DOES 1 through 50, inclusive,
16 Defendant(s).

**DEFENDANT'S NINTH
SUPPLEMENTAL EARLY CASE
CONFERENCE STATEMENT LIST OF
WITNESSES, EXHIBITS AND
PRODUCTION OF DOCUMENTS**

17
18 Defendant VENETIAN CASINO RESORT, LLC, by and through its attorneys of record,
19 Messner Reeves, LLP, hereby serves their Ninth Supplemental Early Case Conference Statement
20 List of Witnesses, Exhibits and Production of Documents with respect to the above captioned action.
21 New items in **[BOLD]**

22 **WITNESSES**

23 1. Security Officer, Patrick Overfield, Security Department of Venetian, c/o Messner
24 Reeves LLP, 8945 W. Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify
25 regarding the facts and circumstances surrounding the subject incident, any investigation regarding
26 the subject incident, any interaction with the Plaintiff or witnesses, the Incident Report.

27 2. Rafael Chavez, Facilities Department of Palazzo, c/o Messner Reeves LLP, 8945 W.
28 Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding the facts and

1 circumstances surrounding the subject incident, the inspection conducted after the alleged incident,
2 the Accident Scene Check report which he authored, any interaction with the Plaintiff or any
3 witnesses.

4 3. Security Officer, Michael Chreene, Security Department of Venetian, c/o Messner
5 Reeves LLP, 8945 W. Russell Rd., Suite 300, Las Vegas, Nevada 89148. Expected to testify
6 regarding the facts and circumstances surrounding the subject incident, any investigation regarding
7 the subject incident, any interaction with the Plaintiff or witnesses, the Incident Report.

8 4. Person Most Knowledgeable, PAD Department of Venetian, c/o Messner Reeves
9 LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding
10 the policies and procedures regarding floor maintenance in the area where this incident occurred.

11 5. Person Most Knowledgeable, Security Department of Venetian, c/o Messner Reeves
12 LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. Expected to testify regarding
13 the facts and circumstances surrounding the subject incident.

14 6. Carol Smith, Plaintiff, c/o PETER GOLDSTEIN LAW CORP, 10795 W. Twain,
15 #110, Las Vegas, NV 89135. Ms. Smith is the named Plaintiff in this matter and is expected to
16 testify regarding her interaction with security personnel, her visit to the Venetian, any conversations
17 she may have had with anyone relating to the subject incident, her medical treatment and medical
18 history and any other facts and circumstances surrounding the subject incident.

19 7. Plaintiff's medical providers.

20 8. Any witnesses identified by any party to this action.

21 9. Any necessary rebuttal witnesses.

22 Defendant hereby reserves the right to amend and/or supplement its Early Case Conference
23 Statement List of Witnesses, Exhibits and Production of Documents as it uncovers additional
24 information through discovery of this matter and it reserves the right to object to Plaintiff's
25 witnesses.

26 **EXHIBITS/DOCUMENTS**

27 A. Plaintiff's First Amended Complaint [Bates No. VEN001-VEN005]

28

- 1 B. Medical records produced with letter from Peter Goldstein dated 10/25/16 (letter
2 included) [Bates No. VEN006-VEN0027]
- 3 C. Venetian Incident Report w/ color photographs [Bates No. VEN028-VEN037]
- 4 D. Copy of Voluntary Statement authored by Carol Smith [Bates No. VEN038]
- 5 E. Copy of Accident Scene Check [Bates No. VEN039]
- 6 F. Copy of Letter of Representation from Peter Goldstein dated 7/19/16 [Bates No.
7 VEN040]
- 8 G. Copy of letter from Venetian to Peter Goldstein dated 8/2/16 [Bates No. VEN041]
- 9 H. Copy of letter from Venetian to Peter Goldstein dated 4/17/17 [Bates No. VEN042]
- 10 I. Copy of surveillance video [Bates No. VEN043]
- 11 J. Copy of records from Irvine Unified School District [Bates No VEN044-VEN132]
- 12 K. Copy of records from State of the Art Physical Therapy [Bates No. VEN133-
13 VEN223]
- 14 L. Copy of records from Orthopedic Surgery Center of Orange County [Bates No.
15 VEN224-VEN303]
- 16 M. Copy of records from State of the Art Physical Therapy [Bates No. VEN304-
17 VEN370]
- 18 N. Copy of Incident Reports of slip and falls for ~~two~~ FIVE (5) years prior to this
19 alleged incident, in the area where Plaintiff's incident occurred (with all personal information
20 redacted) [Bates No. VEN371-VEN499]
- 21 O. Copy of Preventing Slip, Trips & Falls [Bates No. VEN500-VEN510]
- 22 P. Copy of floor cleaner product documents [Bates No. VEN511-VEN522]
- 23 P. Copy of Public Area's Department Work Slips for two-years prior to incident
24 [Bates No. VEN523-VEN1750]
- 25 Q. Copy of Preventing Slips, Trips and Falls Lesson Plan [Bates No. VEN1751-
26 VEN1753]
- 27 R. Copy of Lobby 2 Day Shift Specialist Workslip [Bates No. VEN1754]
- 28 ///

1 S. Copy of Day Shift Schedule for 7/7/2016 [Bates No. VEN1755]
2 T. Copy of Slip & Fall Training Video [Bates No. VEN1756]
3 U. Copy of medical records from Newport Orthopedic Institute [Bates No. VEN1757-
4 VEN1891]

5 V. Copy of similar incident reports 7/7/14-7/7/16 with personal information
6 redacted [Bates No. VEN1892-VEN2251]

7 Defendant hereby reserves the right to amend and/or supplement its Early Case Conference
8 Statement List of Witnesses, Exhibits and Production of Documents as it uncovers additional
9 information through discovery of this matter and it reserves the right to object to Plaintiff's exhibits
10 and documents.

11 DATED this 8th day of June, 2018

12 MESSNER REEVES, LLP

13
14 By 

15 MARK B. SCHELLERUP
16 Nevada Bar No. 7170
17 ANDREW R. GUZIK
18 Nevada Bar No. 12758
19 8945 W. Russell Road, Suite 300
20 Las Vegas, NV 89148
21 Telephone: (702) 363-5100
22 Facsimile: (702) 363-5101
23 Attorneys for Venetian Casino Resort, LLC
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PROOF OF SERVICE
LV-Smith v. Venetian Casino Resort, LLC
Case No.: A-17-753362-C

The undersigned does hereby declare that I am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by Messner Reeves LLP, 8945 W. Russell Road, Suite 300, Las Vegas, Nevada 89148. I am readily familiar with Messner Reeves LLP's practice for collection and processing of documents for delivery by way of the service indicated below.

On June 11, 2018, I served the following document(s):

**DEFENDANT'S NINTH SUPPLEMENTAL EARLY CASE CONFERENCE STATEMENT
LIST OF WITNESSES, EXHIBITS AND PRODUCTION
OF DOCUMENTS**

on the interested party(ies) in this action as follows:

Peter Goldstein
Nevada Bar No. 6992
PETER GOLDSTEIN LAW CORP
10795 W. Twain Avenue, #110
Las Vegas, NV 89135
Telephone: (702) 474-6400
Facsimile: (888) 400-8799
Attorneys for Plaintiff

By U.S. Mail and Electronic Service. Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR, I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed on June 11, 2018, at Las Vegas, Nevada.


An employee of MESSNER REEVES LLP

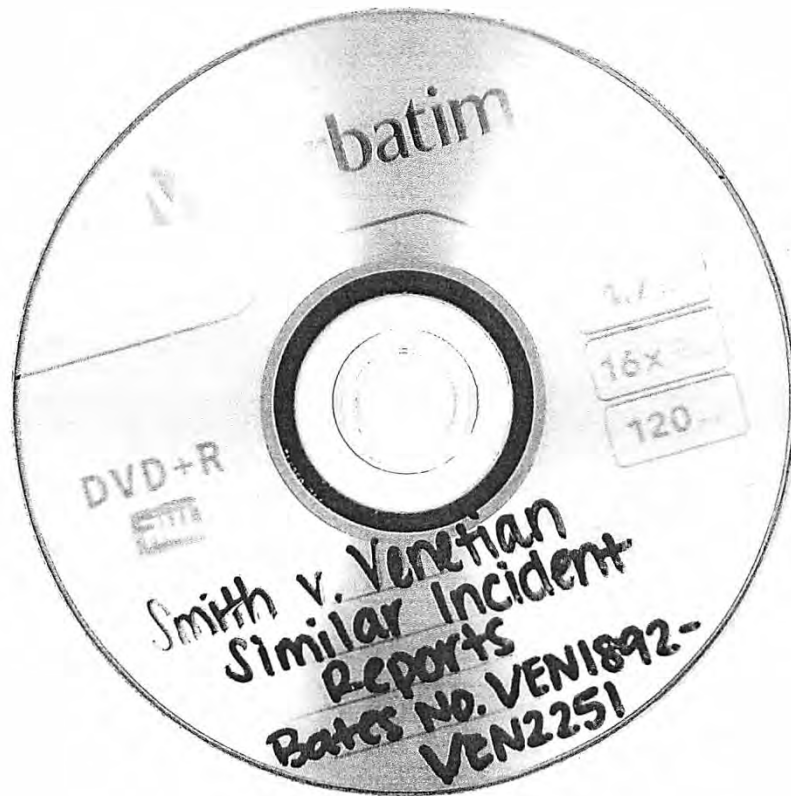


EXHIBIT 10

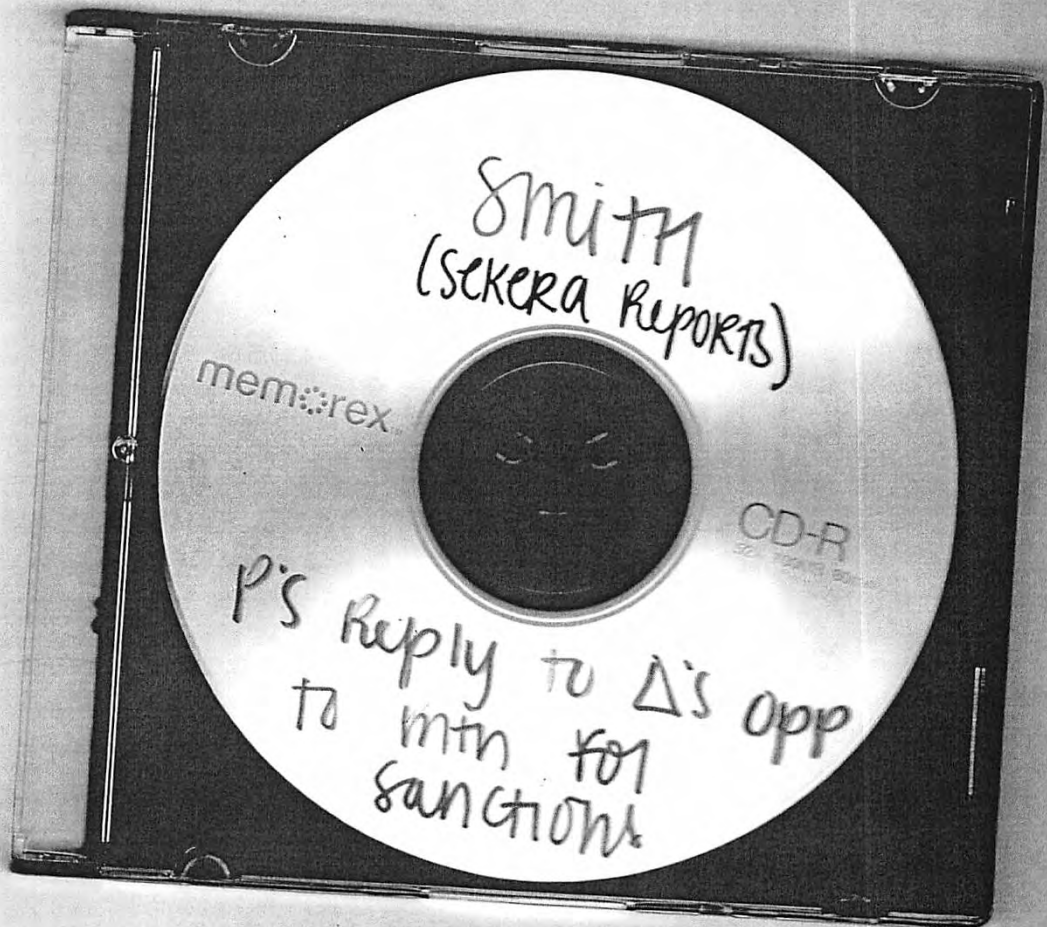


EXHIBIT 11

SEKERA FALLS

Sekera v. Venetian reports are in black
Smith v. Venetian reports are in red

DATE	TIME	REPORT	LOCATION	COMMENTS	SECURITY
11-24-13	5:27 a.m.	1311V-5502	Grand Luxe Café	Slip and fall	Mary Ros Eve Gizelbach Ryan Meyer J. Lopez report writer
11-24-13	1:54 p.m.	1311V-5588	Grand Hall	Slipped in apple cider given out by elves who are employees	Devon O'Brien manager Christopher Mosier ast. security manager G. Rescigno report writer David Magnism
1-26-14	12:28 a.m.	1401V-5339	Lobby 1	Water on marble	Conie Klaver Joe Barrett facilities senior watch L. Sivrais report writer Joe Barrett
5-2-14	4:42 p.m.	1405V-0423	Grand Hall LV	Water on marble	Manny Arguello R. Marquez report writer David Boyko
5-3-14	3:36 p.m.	1405V-0687	Grand Hall	Wet marble	Thomas Harris security officer Gary Rescigno security EMT T. McFate report writer Derek Santillan facilities
5-3-14	4:47 p.m.	1405V-0704	Lobby 1	Water on marble	Christopher Daniels Derek Santillan
5-24-14	9:49 p.m.	1405V-5900	Lobby 1	Wet marble	Karen Sidhoo front desk manager Tim Alvonells security shift manager T. Morgan report writer Sean Pemberton
6-28-14	2:10 p.m.	1406V-66937	Grand Luxe Café	Wet marble	Connic Kulver Nicholas Coronado Andres Florentino J. Lopez report writer John Burnett security officer
7-5-14	6:05 p.m.	1407V-1121	Lobby 1	Liquid stated he had fallen yesterday see report	Brittany Peck front desk manager Sean Pemberton engineer

				1407V-0807 (missing this report)	L. Sivas report writer
7-10-14	1:25 PM	1407V-2272	Grand Luxe	Water on floor	J. Larson report writer T. Mofate EMT/SO Merrick Anderson Facilities Eng.
7-10-14	12:30 a.m.	1407V-2142	Grand Hall	Drink on floor Prior to victim slipping group of unknown males with "yard" like drink spilled on floor	Sang Han front desk manager E. Gizelback report writer
7-13-14	8:02	1407V-3057	Lobby 1	Liquid	Jacob Johnson Asst. Sec. Mngr. Brittany Peck Front desk mngr. Taylor McFate, EMT S.O. G. Rescigno Report writer
7-13-14	8:02 a.m.	1407V-3057	Lobby 1	liquid marble	Jacob Johnson asst. security manager Brittany Peck front desk manager Tyler McFate EMT security G. Rescigno report writer
7-18-14	7:14 p.m.	1407V-4386	Venetian front desk	Fall happened at 6:00 p.m. victim stated there was a guy there said his buddy dropped his bottle of alcohol and left it there	Tim Avonellos security shift manager Conie Kluyer front desk manager kT. Morgan report writer
7-25-14	5:31 p.m.	1407V-6125	Lobby 1	Wet marble	Amy McCaslin front desk manager Kyle Donaldson Asst. security manager T. Morgan report writer
7-25-14	7:59	1407V-6151	Grand Hall	Liquid Victim Luz Gammio (unredacted)	Allen Backman facilities L. Sivas report writer
7-29-14	2:47 p.m.	1407V-7161	Lobby 1	Liquid	Thomas Labert Front Desk Mngr. Christopher Moiser Asst. Sec Mngr. Sean Pemberton Eng. G. Rescigno Report writer Chris Malcom S.O.
7-29-14	2:47 p.m.	1407V-7161	Lobby 1	Liquid	Thomas Lambert front desk manager Christopher Mosier asst. security manager Sean Pemberton engineer

					G. Rescigno Chris Malcom security officer
7-30-14	9:55 a.m.	1407V-7375	Lobby 1	Water fluid was spilled by unknown male at 9:48	Mary Rosk front desk manager Joseph Florio security officer Joseph Larson EMT security officer T. McFate report writer Abimael Suarez internal maintenance PAD
8-4-14	4:31 a.m.	1408V-0843	Lobby 1	Tripped over own feet	Mary Ros front desk manager John Ballesteros facilities team member E. Gizelbach report writer
8-5-14	5:08 a.m.	1408V-1088	Lobby 1	Tripped over own feet Marc Fescl engineer no defects but a wet floor	Mary Ros front desk manager Garry Lee security officer E. Gizelbach report writer
8-28-14	10:30 p.m.	1408V-7104	Venetian Tower	Fall reported next morning. Fall occurred near bathroom by Grand Luxe Water	Mary Ros, Front Desk Monte McAnulty Facilities J. Larson, Report Writer 1/7/15
8-28-14	10:30 p.m.	1408V-7104	11 Venetian Tower 121	Fall reported next morning. Fall occurred near bathrooms by Grand Luxe Water	Mary Ros front desk manager Monte McAnulty facilities J. Larson report writer
8-31-14	2:43 p.m.	1408V-7791	Lobby 1	large water spill	Jacob Johnson Asst. Sec. Mgr. Archie Balon, S.O. G. Rescigno, report writer Derek Santillan, Facilities
8-31-14	2:43 p.m.	1408V-7791	Lobby 1	Large water spill	Jacob Johnson asst. security manager Archie Balon security officer G. Rescigno report writer Derek Santillon facilities
9-13-14	3:17 p.m.	1409V2807	Grand Hall	Slipped due to water or drink spill that another guest caused. Tyler Corbely had notified security earlier about his stand by due to this fluid spill	Jacob Johnson asst. security manager Tyler Corbely field training officer G. Rescigno report writer

9-15-14	5:29 a.m.	1409V-3261	Lobby 1	3 piles of feces slip and fall	Nicholas Coronado Mary Ros Hinkle Z. Hakim report writer Rosa Estela facilities
9-30-14	1:30	1409V-6750	Grand Hall	Slip and fall on marble. "I slipped on something spilled on marble" pictures of liquid looks like milk	George Valley security manager Jonathan Derleth front desk manager John Wells security officer Z. Hakim report writer James Guernick security officer
10-11-14	2:08 a.m.	1410V-2293	Lobby 1	Tripped over feet	Nachely frond desk manager Zachary Hakim EMT security E. Gizelbach report writer Rudy Conception facilities engineer
12-23-14	5:24 p.m.	1412V-4685	Lobby 1	Liquid Ashay Shah minor (not redacted) Jignesh Shah father	Sang Han hotel manager Tim Avonellos security shift manager L. Sivrais report writer Derek Sentilian facilities
1-17-15	11:49 p.m.	1501V-3857	Venetian Front Office	Liquid	Nicolas Coronado, asst. mgr. Jonathan Deruth, Front desk mgr. Jose Lopez, EMT Sec. Z. Hakim Report Writer Theodore Reash, Facilities
1-17-15	11:49 p.m.	1501V-3857	Venetian front office	Liquid	Nicholas Coronado asst. manager Jonathan Deruth front desk manager Jose Lopez EMT security Z. Hakim report writer Theodore Eash facilities
1-31-15	2:53 p.m.	1501V-6887	Lobby 1	Water "there appeared to be water all over immediate area"	Tim Alvonellos security shift manager Thomas Lambert front desk manager L. Dozier report writer
2-9-15	1:37 p.m.	1502V-1803	Lobby1	Liquid	Eric Wennerberg security officer Rudy Conception senor watch Eve Gizelbach report writer
2-9-15	1:37 a.m.	1502V-1803	Lobby 1	Liquid	Eric Wennerberg, S.O. Rady Conception. Seior Watch E. Gizelbach Report writer

2-20-15	1:28 p.m.	1502V-4322	Lobby 1	Liquid. Slipped on spilled beverage	Jacob Johnson Asst. Sec. Mngr. Brittany Peck, Front Desk L. Dozier. Report writer
2-20-15	1:28 p.m.	1502V-4322	Lobby 1	Liquid. Slipped on spilled beverage	Jacob Johnson asst. security manager Brittany Peck front desk manager L. Dozier report writer
3-8-15	8:45 a.m.	1503V-1561	Grand Hall	Slip. "I observed a wet sticky spot on marble floor"	Melissa Perry front desk manager Bryan Greenfield facilities E. Gizelbach report writer
3-23-15	3:18 a.m.	1503V-5040	Lobby 1	Slip. "appeared to have red sauce or grease on marble" previous injury under report #1503V-5119 (we don't have report) stated she had been injured earlier that morning at 3:00 a.m. when she slipped and fell in pasta sauce	Nathan Beyers front desk manager Garry Lee security officer E. Gizelbach report writer James Stoyer facilities engineer
4-24-15	3:25p.m..	1504V-5396	Grand Hall	Slip. Broken bottle of alcohol	Sang Han front desk manager Melissa Perry front desk manager Lynn Sivrais EMT Security G. Rescigno report writer Rodolfo Storino
4-24-15	3:25 p.m.	1504V-5396	Grand Hall	Broken Bottle of Alcohol	Sang Han, Front Desk Mngr. Melissa Perry Front Desk Mngr. Lynn Sivrais, EMT S.O. V-5319G. Rescigno Report writer Rodolfo Stoiono
5-3-15	1:08 p.m.	1505V-0844	Grand Hall	Slip. "small puddles of what appeared to be a clear liquid"	Jacob Johnson asst. security manager Tyler Corbaley field training officer G. Rescigno report writer
5-22-15	4:43 p.m.	1505V-5319	Lobby 1	Water on floor	Thomas Lambert Front Desk Tony Bersano Asst. Sec. Mngr. Crystal Clanton S.O. J. Lopez Report writer Jeffrey Dunihoo, S.O.
5-22-15	4:43 a.m.	1505V-5319	Lobby 1	Water on floor	Thomas Lamber front desk manager

					Tony Bersano asst. security manager Crystal Clanton security officer J. Lopez report writer Jeffrey Duniolo security officer
5-29-15	7:36 a.m.	1505V-7253	Lobby 1	Slip	Christopher Moiler asst. security manager Francesca Comeli front desk manager G. Rescigno report writer Steve Hansen facilities
5-30-15	4:35 p.m.	1505V-7506	Lobby 1	Slip Water	Tony Bersano, Asst. Sec. Mngr. Thomas Lambert, Front Desk Mngr. Michael Perez, S.O. D. Davila Report writer Heather Kaufmann, S.O. Zachary Hakim, EMT S.O.
5-30-15	4:35	1505V-7506	Lobby 1	Slip water	Anthony Bersano asst. security manager Thomas Lambert front desk manager Zachary Hakim security officer EMT Michael Perez security officer Heather Kaufmann security officer S. Davila report writer John Ballesteros facilities
6-12-15	12:51 p.m.	1506V-7480	Lobby 1	Liquid	Antonio Lopez David Magnuson A. Lopez report writer
6-12-15	5:51 p.m.	1506V-2824	Lobby 1	Wet floor, "so much foot traffic I asked two males to stand by spill" "The spill was small comprised of droplets of what seemed to be water stretching about a foot and a half in a straight line on the tile"	Antonio Lopez security officer David Magnuson A. Lopez report writer
6-30-15	11:38 a.m.	1506V-7480	Lobby 1	Slip and fall "small pool of clear liquid on marble flooring nearby"	Mary Ros front desk manager Gary Rescigno Security/EMT John Wells Security Officer J. Larson Report writer

6-30-15	11:58 a.m.	1506V-7480	Lobby 1	Slip and fall. "small pool of clear liquid on marble flooring nearby"	Mary Ros front desk manager Gary Rescigno security EMT John Wells security officer J. Larson report writer Bryan Greenfield facilities
7-5-15	12:40 p.m.	1507V-1236	6 Venezia Tower 417 Lobby 4	Slip and fall on water	Jacob Johnson Asst. Security Manager K Ecnanneste facilities G. Rescigno Report writer
7-5-15	12:40 p.m.	1507V-1236	6 Venezia Tower 417 Lobby 4	Slip and fall on water	Jacob Johnson asst. security manager Keenam Meste facilities G. Rescigno report writer
7-19-15	8:18 a.m.	1507V-5121	19 Venetian Tower 129 Lobby 1	Liquid	Melissa Perry Front desk manager Jacob Johnson Asst. Security manager L. Dozier report writer Jeffrey Duniho security officer Richard Heleman
7-19-15	1:47 a.m.	1507V-5024	Grand Hall	Slip and fall	Nicholas Coronado asst. manager S Tevan security L. Lopez report writer Brian Corpas security officer
7-19-15	8:18 a.m.	1507V-5121	Venetian Tower 129	Slip and fall. Liquid on floor at approximately 7:05	Jacob Johnson asst. security manager L. Dozier report writer Jeffrey Duniho security officer Richard Heleman Melissa Perry
7-20-15	5:36 a.m.	1507V-5392	Main entrance	Slip and fall. Sofia Loygren victim (unredacted) Swedish passport	Julianne Edward front desk manager Nicholas Coronado asst. manager James Stoyer facilities J. Burnett report writer Eric Wenneberg security officer
8-2-15	10:48 a.m.	1508V-0357	Lobby 1	Slip and fall. Puddle of water on floor	Conie Klayer M. Criddle report writer
8-8-15	1:30 p.m.	1508V-1866	Grand Hall	Slip and fall	Jacob Johnson asst. security manager Jonathan Derleth front desk manager L. Dozier report writer Glen Helman facilities
8-8-15	2:00 p.m.	1508V-1869	Lobby 1	Slip and fall.	Jacob Johnson Asst. Security Manager

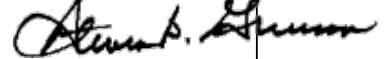
				Upon contacting surveillance I was advised an unknown guest had dropped a bucket	Brittany Peck Front desk manager Allan Hill security officer G. Rescigno report writer
8-8-15	2:00 p.m.	1508V-1869	Lobby 1	Slip and fall. Upon contacting surveillance I was advised an unknown guest had dropped a bucket	Jacob Johnson asst. security manager Brittany Peck front desk manager Allan Hill security officer G. Rescigno report writer
8-14-15	1:40 a.m.	1508V2554	17 Palazzo Tower 141	Slip and fall on water Susan hammonds (unredacted)	Michael Perez security officer Eddie Hoang security manager Mathan Byers facilities Marc Fesel facilities
8-29-15	11:34 a.m.	1508V-7246	Lobby 1	Slip and fall clear liquid. "significant pool of water"	Tim Alvonellos Security shift manager Thomas Lambert front desk manager D. Cabada report writer Marc Fesel facilities Joseph De Jesus security/EMT
8-29-15	11:34 p.m.	1508V-7246	Lobby 1	Slip and fall clear liquid. "significant pool of water"	Tim Alvonellos security shift manager Thomas Lambert front desk manager D. Cabada report writer Marc Fesel facilities Joseph De Jesus security officer EMT
9-6-15	6:39 p.m.	1509V-1497	Lobby 1	Slip and fall wet floor. Spilled drink on floor	Tim Alvonellos security shift manager Nachely Martinez front desk manager J. De Jesus report writer Catherine Carlson security officer
9-6-15	6:39 p.m.	1509V-1497	Lobby 1	Slip and fall wet floor. Spilled drink on floor	Tim Alvonellos security shift manager Nachely Martinez front desk manager Joseph De Jesus report writer Catherine Carlson security officer Derek Santillian facilities
9-13-15	11:26 p.m.	1509V-3312	Grand Hall	Slip and fall red liquid	Matthew Kaufman security manager Thomas Lambert front desk manager D. Cabada report writer Jose Lopez security officer Peter Guagiardo facilities
12-27-15	3:32 p.m.	1512V-5875	Lobby 1	Slip and fall clear liquid	Thomas Lambert front desk manager

				Tim Alvonellos security shift manager D. Cabada report writer Shane Navara facilities
2-20-16	2:56 p.m.	1602V-4290	1 Guest services podium	Liquid fall occurred earlier in day at 11:45 – 12:05 “very wet floor” Jacob Johnson asst. Security manager Devon O’Brien G. Rescigno report writer
2-20-16	2:56 p.m.	1602V-4290	Guest service podium	Jacob Johnson asst. Security manager Devon O’Brien G. Rescigno report writer
3-6-16	1:59 p.m.	1603V-1233	Lobby 1	Jacob Johnson Asst. security manager Kyle Kirchmeier VIP Services D. Winn report writer Rafael Chavez facilities
3-6-16	1:59 p.m.	1603V-1233	Lobby 1	Jacob Johnson security manager Kyle Kirchmeier VIP services D. Winn report writer Raphael Chavez facilities
3-18-16	2:57 p.m.	1603V-3584	5 th floor of the garage elevator lobby	Seljika Bucalo security officer David Boko facilities D. Wi report writer Devin O’Brien front desk manager Jacob Johnson security manager
3-25-16	1:14 p.m.	1603V-5018	Lobby 1	Sharry Kim front desk supervisor Rafael Chavez facilities J. Larson report writer
3-25-16	1:14	1603V-5018	Lobby 1	Sharry Kim front desk supervisor Rafael Chavez facilities J. Larson report writer
4-9-16	7:34 p.m.	1604V-1926	Lobby 1	Matthew Kaufman security manager C. Reanos report writer
4-9-16	2:44 p.m.	1604V-1850	Grand Hall	Archie Balon security officer Jacob Johnson security manger D. Winn report writer Raphael Chavez facilities
4-9-16	7:34 p.m.	1604V-1926	Lobby	Matthew Kaufman security manager C. Reanos report writer
4-10-16	1:51 p.m.	1604V-2136	Grand Hall	Nicole Floyd George Valley security manger

				Jason Palm guest (unredacted)	D. Winn report writer Shane Navara Facilities Sharry Kim front desk manager
4-12-16	3:40 p.m.	1604V-2459	Control 1	Slip and fall. Occurred on 4/10/16 SO "Felix" was attempting to stop foot traffic when he slipped and fell	Matthew Kaufman asst. manager Albert Liu D. Cabda report writer
4-12-16	3:40 p.m.	1604V-2459	1 control	Slip and fall. Occurred on 4/10/16 SO "Felix" was attempting to stop foot traffic when he slipped and fell	Matthew Kaufman asst. manger Albert Liu D. Cabada report writer Felix Escobar security officer
5-5-16	9:12 p.m.	1605V-0952	Lobby 1	Slip and fall. Picture of red solo cup and liquid on floor	Tim Alvonellos security shift manager Royce Phung front desk manager J. Buscemi report writer James Johnson security officer
5-5-16	9:12 p.m.	1605V-0952	Lobby 1	Slip and fall. Picture of red solo cup and liquid on floor	Tim Alvonellos security shift manager Royce Phung front desk manager J. Buscemi report writer James Johnson security officer Shane Navara facilities
5-12-16	12:56 a.m.	1605V-5069	Lobby 1	Liquid	Amy McCaslin front desk manager Nicolas Coronado security manager John Ballesteros facilities J. Dietrich report writer Joseph Barr-Wilson
5-25-16	12:56 a.m.	1605V-5069	Lobby 1	Slip and fall earlier in day approx. 6:49	Ay McCaslin front desk manager Nicholas Coronado security manager John Bullestors facilities J. Dietrich report writer Eve Gizelbach EMT security officer Joseph Barr-Wilson security officer
7-7-16	12:15 p.m.	1607V-1506	Lobby 1	Slip and fall. Large wet area	Jacob Johnson security manager Michael Chrene security officer R. Overfield report writer Raphel Chavez facilities

7-15-16	11:25 p.m.	1607V-3405	Lobby 1	Slip and fall. Ice cream on floor	Tim Alvonellos security shift manager Jonathan Derfeh front desk manager J. De Jesus report writer David Cabada EMT security officer Loren Harper security officer Rosa Estela facilities
8-5-16	11:07	1608V-0995	Casino	Slip and fall. Wet spill extended entire length of pit 9 guest walked into wet area and slipped and fell	Anthony Bersano assl. security manager Nathan Beyers front desk manager D. Cabada report writer Joseph De Jesus EMT security officer Dale Keezer field training officer Amber Platt security officer Laterrious Robinson field training officer Eddie Hinton facilities
8-5-16	5:04 p.m.	1608V-0947	Lobby 1	Slip and fall. Large pool of water	Tim Alvonellos security shift manager Monique Heng front desk manager J. De Jesus report writer Justin Vasquez security officer David Cabada EMT security officer Shane Naema facilities

EXHIBIT “13”



1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7
8 **JOYCE SEKERA,**
9 **Plaintiff,**

CASE NO.: A-18-772761

DEPT. XXV

10 **vs.**

11 **VENETIAN CASINO RESORT**
LLC, ET AL.,

12 **Defendants.**

13
14 **BEFORE THE HON. ERIN TRUMAN, DISCOVERY COMMISSIONER**
15 **WEDNESDAY, MARCH 13, 2019**

16 ***RECORDER'S TRANSCRIPT OF HEARING***
17 **DEFENDANT'S MOTION FOR PROTECTIVE ORDER**

18
19 **APPEARANCES:**

20 **For the Plaintiff: KEITH E. GALLIHER, JR., ESQ.**

21
22 **For the Defendants: MICHAEL A. ROYAL, ESQ.**

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25 **RECORDED BY: FRANCESCA HAAK, COURT RECORDER**

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Las Vegas, Nevada, Wednesday, March 13, 2019

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[Case called at 9:06 a.m.]

DISCOVERY COMMISSIONER: Sekera versus Venetian.

MR. GALLIHER: Good morning, Commissioner. Keith
Galliher, on behalf of the Plaintiff.

MR. ROYAL: Mike Royal, on behalf of the Defendants, Your
Honor.

DISCOVERY COMMISSIONER: Good morning. All right.
This is on for Plaintiff's motion for protective order.

MR. ROYAL: This is Defendant's motion, Your Honor.

DISCOVERY COMMISSIONER: All right.

MR. ROYAL: This is --

DISCOVERY COMMISSIONER: Do I have the wrong -- okay,
no, I got it. Sorry. I had the wrong note on my thing. Sorry about that.
Here we go. Defendant's motion for protective order.

MR. ROYAL: Your Honor, this relates to a motion we filed
regarding the disclosure of our incident reports. They were requested by
counsel. Prior to our disclosure of these reports, we requested that
counsel enter into a stipulation for a protective order as relates to the
information that we couldn't get at, counsel wouldn't agree, so we
provided him with redacted copies.

DISCOVERY COMMISSIONER: So all the redacted copies of
the incident reports have already been provided.

MR. ROYAL: That's correct. They've been provided. There

1 were 65 prior reports, somewhere in the neighborhood of 650 pages that
2 we produced.

3 Mr. Galliher objected to the fact that they were redacted. We
4 had some further discussion about how we could resolve this, perhaps
5 entering again into a -- to get a protective order so that if we disclose the
6 identities of these people, that they're not going to be passed around to
7 the world, legal community or the world. We don't know where it's going
8 to go.

9 And so we had a disagreement. I went ahead and filed this
10 motion, and while this motion was pending learned that some of the
11 redacted copies that we've already produced to Mr. Galliher have been
12 provided to other Plaintiffs' attorneys outside this case, which is exactly
13 what we were trying to protect against.

14 And so in my reply I just asked the Court to just simply enter
15 an order that we can have a 26(c) protective order in this case related to
16 these documents and that they remained in redacted form, and that if
17 Mr. Galliher has a specific case factually that he believes is potentially
18 relevant on point where he wants to contact individuals, perhaps use
19 them as witnesses for whatever reason related to this case, that we can
20 meet and confer on that, and then if we can't agree, we can bring it to
21 the Court.

22 But to just give him carte blanche information to everybody at
23 this point I think is just not something my client wants to provide. It has
24 concerns about exposing all of these people, prior guests, nonemployee
25 witnesses, to not just contact from Mr. Galliher's office, but from any

1 other attorney that this information is provided to, any other person, we
2 believe that there's other privacy issues that are play here, there's
3 HIPAA related information in these reports, and so just to provide them
4 to counsel with carte blanche access to all this information, to all these
5 people, that can be passed around to the world we think is just simply
6 not reasonable. So for that reason we move the Court for an order -- or
7 rather a Report and Recommendation granting our motion for protective
8 order as it relates to the redacted copies that we provided and that Mr. --
9 and that if Mr. Galliher sees something that he believes is relevant to our
10 case, that again we meet and confer and we can discuss disclosing
11 personal information of those particular people.

12 Now, if I can add just one other thing. We contest that this slip
13 and fall in this case was the result of foreign -- any kind of foreign
14 substance on the floor. There's no objective evidence that there was, in
15 fact, any foreign substance on the floor causing her to slip and fall.
16 Regardless, we still provided Mr. Galliher with 65 prior incidents, and all
17 of them that I can think of -- I can't think of one that did not involve a
18 foreign substance. So these are even, in our view, dissimilar cases. We
19 went ahead in good faith and provided these to counsel, so I only give
20 that to the Court just to realize or -- so the Court knows that we've acted
21 in good faith. We're doing everything we can.

22 Our primary issue is protecting the privacy of our prior guests
23 and our relationship with those guests.

24 DISCOVERY COMMISSIONER: And all those guests and
25 witnesses, their names have been redacted prior, the reports that were

1 disclosed.

2 MR. ROYAL: That's correct.

3 DISCOVERY COMMISSIONER: And just so that I'm clear,
4 the allegation is that there was water or some other substance on the
5 floor so it was a transient condition, is that correct?

6 MR. ROYAL: That's the allegation.

7 DISCOVERY COMMISSIONER: That's the allegation, okay.
8 That's the -- that's what I meant to ask. Okay.

9 All right. Mr. Galliher.

10 MR. GALLIHER: Thank you, Your Honor.

11 First of all, I don't doubt what Mr. Royal is saying in good faith,
12 but The Venetian's certainly not in good faith in this case, and I'll explain
13 why.

14 First of all, you know that prior falls are relevant to the notice
15 issue, and a foreseeability issue, which, of course, it's our obligation to
16 prove in this case, so prior falls are always discoverable.

17 Now, the thing that surprises me is that the defense actually
18 makes the argument late in this argument that they contest that my client
19 slipped and fell on liquid or water. There's a surveillance video, and
20 whoever wrote the brief could not have looked at the surveillance video.
21 The surveillance video shows what is clearly a slip on liquid and a fall.
22 She hits her head on a big marble post as she falls. There are two
23 women that see it and are right next to her when she falls.

24 Shortly thereafter we've got three security personnel from The
25 Venetian at the scene with shirts and ties and radios. Someone's talking

1 to someone upstairs. While they're talking, one of the women who sees
2 the fall walks over, points to the spill, and the guy, the security officer,
3 looks at it, then summons porters who come to the scene, one of the
4 porters takes out a mop, mops up the spill, another walks on with some
5 towels and wipes up the spill around the very area where my client fell.
6 That's pretty clear, that this was a slip and fall on water.

7 Now, here's the problem. The Venetian has polished marble
8 floors throughout its entire ground floor and also on the Bouchon floor,
9 which I think is floor number 10. They're very pretty, very attractive, and,
10 as the expert report attached to our opposition shows, also very slippery
11 when wet.

12 So when we talk about a transitory condition, not really. This
13 is a marble floor that's been at The Venetian from the get-go.

14 And then we start talking about the number of falls. Well, I
15 deposed their -- one EMT security officer who said that during the nine
16 years that he had been there he had personally investigated 100 --
17 approximately 100 injury falls on the marble floors at The Venetian.

18 Now, there are two EMT security officers per shift, sometimes
19 three, so if we do the math, we've got at least six security officers
20 working the three shifts at The Venetian, up to nine. So if we do that
21 math -- this one's -- this fellow has investigated personally 100 injury
22 falls, and we assume he's average -- then that means that there are
23 somewhere between 600 and 900.

24 DISCOVERY COMMISSIONER: Well, didn't three respond to
25 this one alone, and so that would be a, you know --

1 MR. GALLIHER: Well, no, no. Those weren't the same
2 security people.

3 DISCOVERY COMMISSIONER: Oh.

4 MR. GALLIHER: See, there -- The Venetian, Commissioner,
5 has security officers/EMTs. They are the ones that go to the injury
6 falls -- the other people do not -- because they're trained. Well, that's
7 who I deposed. So he's the one that told me under oath two security
8 officers/EMTs per shift, sometimes three, three shifts, very simple math.

9 Now we go from 100 falls investigated by one, to somewhere
10 around 900, and then we take it and we back out the nine years and
11 make it five -- 'cause that's what I was looking for. We're somewhere
12 between five, six hundred falls at The Venetian.

13 Now, what I received was 62 reports for a five-year period.
14 Well, that doesn't compute with my math, so the other thing that -- and
15 we talk about sharing information. Peter Goldstein has a case against
16 Venetian. In that case The Venetian furnished him 26 reports for the
17 same time frame. Well, how does that happen? Then what we did is we
18 compared the reports that he received with reports that we received. He
19 didn't get 26 of ours, we didn't get four of his; well, how does that
20 happen? Then we find out there's three defense firms representing The
21 Venetian in these three different cases; they're all different.

22 So what we're finding and what I'm alleging in this situation is
23 what The Venetian is doing is they're selectively distributing reports to
24 their defense firm to distribute to the Plaintiffs in individual cases, and
25 they're not giving everybody all the reports. It's very easy to determine

1 when I get a situation like this and I compare and find that Mr. Goldstein,
2 who got 26 has four I don't have for the same time frame. A couple of
3 them were on the same day; I got the one in the afternoon; he got the
4 one in the morning. Well, sorry, it's not Mr. Royal's fault. The
5 Venetian's not a good corporate citizen, that's for sure. They are
6 withholding these reports and selectively giving them to the Plaintiffs'
7 attorneys through the different defense firms that they're hiring. So
8 that's why this information needs to be disclosed.

9 But also, when we talk about the identification of the people
10 who fell -- you have probably tried slip and fall cases, I've tried my
11 share -- what does a defense attorney normally do in these cases?
12 They try to establish comparative negligence, particularly if there's liquid
13 on the floor. Well, weren't you looking where you were walking? Didn't
14 you see the spill on the floor? Why didn't you see it? It was right there.
15 Look at it. Comparative negligence, that's what this is about.

16 So if we have the identity of people who previously fell on
17 these same floors at The Venetian in liquid, we put on five of 'em or ten
18 of 'em to say -- very simple questioning -- what's your name; did you
19 stay at The Venetian; were you walking through The Venetian; did you
20 fall; did you fall on liquid; were you injured; did you see the liquid before
21 you fell; pass the witness.

22 DISCOVERY COMMISSIONER: Don't you already have an
23 expert who's going to testify regarding the coefficient of friction or, as
24 you allege --

25 MR. GALLIHER: Sure.

1 DISCOVERY COMMISSIONER: -- the slipperiness of the --

2 MR. GALLIHER: Absolutely.

3 DISCOVERY COMMISSIONER: -- the floor?

4 MR. GALLIHER: We have. That's attached to our opposition.

5 But that's a separate issue 'cause he's talking about the fact these floors
6 are slippery when wet; we know that. However, the comparative
7 negligence issue is a big one because invariably juries will come back
8 and apportion the negligence in the case. It's a little --

9 DISCOVERY COMMISSIONER: But the comparative
10 negligence of another party versus your own party wouldn't be relevant
11 to this action.

12 MR. GALLIHER: Well, I disagree, and I'll tell you why. If
13 you've got a situation like this where people are slipping on the same
14 floor on liquid -- and all the floors' identical, it's not like it's different -- and
15 these people don't see the liquid before they fall, which is why they fall,
16 why would that not be relevant to the question of comparative
17 negligence? Because if five people didn't see it, or ten people didn't see
18 it, why should my client have seen it? Very relevant.

19 I mean, remember, we're not talking just about admissibility,
20 because that's the call that's going to be made by Judge Delaney.
21 We're talking about discoverability, that's all.

22 So the bottom line -- and there's this privacy concerns, and
23 HIPAA violations, and -- these aren't medical records. They're security
24 reports. The Venetian doesn't have standing to reserve privacy
25 concerns on behalf of people who fell and were injured in their place, so

1 I'm not even sure where that argument comes from.

2 The question is whether or not it's discoverable. The question
3 is whether or not it leads to discoverable evidence; certainly does
4 because Judge Delaney will make the call concerning how many prior
5 fall victims she will allow to testify; she may say one; she may say five;
6 she may say ten. I have a case before Judge Crockett --

7 DISCOVERY COMMISSIONER: She may say none.

8 MR. GALLIHER: -- right now where he's -- Judge Crockett's
9 given us ten.

10 So bottom line is it's still discoverable, and they should be
11 forced to give us the information, and we'll contact the people, if we
12 choose to, and they'll talk to us, if they choose to, or not.

13 DISCOVERY COMMISSIONER: Mr. Royal.

14 MR. ROYAL: Just regarding -- I mean, I certainly could give
15 the Court the video; I don't think it's necessary. But there's issues in this
16 case regarding her shoes. I have an expert who's going to testify her
17 shoes are what caused the accident, that there was nothing on the floor,
18 and certainly everything counsel represented as far as indisputable
19 evidence regarding something on the floor, they're wiping something up.
20 She had coffee cup in her hand at the time that she fell.

21 I mean, Your Honor, to me that -- well, let me just get back to,
22 you know, our position simply is this -- we're happy -- we've given them
23 the information. They want to make arguments about notice, great,
24 they've got that. They want to make arguments and extrapolate
25 information from some -- from an employee who is -- who worked at the

1 property for nine years, great, they have that. They can make all their
2 notice arguments, their mode of operation arguments, they've already
3 got all that.

4 Contacting all of these people to march 'em -- just because
5 they may want to march 'em in, you know what, if there are certain
6 cases, certain people, certain facts, that are sufficiently related that Mr.
7 Galliher says, you know what, I'd like to bring the people in for this, or I'd
8 like to bring the people in for that, that's fine, I can deal with that, and I
9 think that's fair.

10 But to just give him carte blanche, here's everybody, go ahead
11 and contact them, share 'em with Mr. Goldstein, Mr. Bochanis, anybody
12 else that you want I think is -- I just think that's unreasonable.

13 And so I believe, Your Honor, at least it's our position that the
14 motion for protective order should be granted, that we've already
15 complied by giving them redacted information. If they want something in
16 addition to that -- and, by the way, you know, he's already shared this
17 information with Mr. Goldstein. I don't know who else this information's
18 been shared with, and counsel's allegation that there has been some
19 kind of conspiracy associated with The Venetian and how they're
20 handling one case, another case. These cases are different insofar as
21 what kind of information is being requested, and I should add that it's my
22 understanding from defense counsel in the Goldstein case is he got
23 redacted copies as well, and they were not -- and, in fact, I believe the
24 Discovery Commissioner even ordered that they could be redacted.

25 Regardless, Your Honor, I think the motion for protective

1 order, in our -- it's our view should be granted.

2 DISCOVERY COMMISSIONER: All right. The motion for
3 protective order is granted in part as follows -- The Venetian may
4 continue to provide redacted reports as previously done. However, with
5 regard to Mr. Galliher's claim that not all have been produced, The
6 Venetian is recommended to produce all reports that fit within the
7 requests made by Mr. Galliher, and if there are more, that needs to be --
8 they need to be supplemented immediately.

9 With regard to the reports that are produced, they are to be
10 redacted for the names and the contact information for all witnesses and
11 individuals who reported incidents.

12 With that said, if the Plaintiff goes through the reports and
13 identifies incidents that occurred in substantially the same location as
14 this incident occurred or have substantially similar facts as to the
15 incident at issue -- because The Venetian is a huge place, and so it
16 needs to be sufficiently identified to be in the same location or under
17 similar facts -- then I'd ask that the two of you have a 2.34 conference
18 about disclosing the contact information for those particular incidents
19 because I'm sure that's a much more narrow scope than all of them.
20 And if you cannot agree following that 2.34 conference, then bring it
21 back to the Commissioner's attention and we will have a hearing
22 regarding the disclosure of the contact and privacy information with
23 regard to those individuals.

24 I do believe there is -- there are privacy and HIPAA issues that
25 are to be considered, and so my inclination is not to disclose the names

1 and contact information for all people on all reports. It needs to be much
2 more narrow than that.

3 And, finally, I am going to issue a protective order that the
4 reports that are disclosed in this case are not circulated outside of this
5 case and for use only in this case.

6 Mr. Royal, would you please prepare the Report and
7 Recommendation?

8 MR. ROYAL: Yes, Your Honor.

9 DISCOVERY COMMISSIONER: Is there anything that I didn't
10 cover that the two of you wanted me to address, or does that cover all
11 the issues?

12 MR. GALLIHER: Not that I'm aware of.

13 MR. ROYAL: Think that covers everything.

14 DISCOVERY COMMISSIONER: So if there's any more that
15 your client has, the entirety, of all of the falls for the -- if there are any
16 other reports that your client has not disclosed, they are recommended
17 to produce all reports for the relevant time periods that have been
18 requested by the Plaintiff in this case.

19 MR. GALLIHER: If they've produced -- well, okay. Certainly.

20 DISCOVERY COMMISSIONER: And this just goes to the
21 issue he's claiming there are more than what have been produced to
22 him. And certainly Mr. Galliher can identify the ones that he has gotten
23 that supposedly were not produced and inquire further into that matter.

24 So if you would please prepare, Mr. Royal, the --

25 MR. ROYAL: Can I just ask, Your Honor --

1 DISCOVERY COMMISSIONER: Certainly.

2 MR. ROYAL: -- as to the scope, I mean, we're talking about
3 common areas, 'cause what was produced to Mr. Galliher was common
4 areas on the casino level floor.

5 DISCOVERY COMMISSIONER: Okay. And I don't know.
6 He's raised the issue that there are reports that he was not given. I think
7 you said that there were four --

8 MR. GALLIHER: That's pretty obvious.

9 DISCOVERY COMMISSIONER: -- that another attorney
10 had --

11 MR. ROYAL: Well, I'm not aware of --

12 DISCOVERY COMMISSIONER: Okay.

13 MR. ROYAL: -- of those four.

14 DISCOVERY COMMISSIONER: And so that's something that
15 the two of you need to discuss in a 2.34 before you bring it back to me,
16 and --

17 MR. GALLIHER: I think what he was getting at was, I mean,
18 we have a casino floor that's large, and the floor is identical throughout
19 this casino floor. It's not like there's anything different. The linoleum's
20 the same color, the same configuration, same design, same slip
21 resistance. It's uniform throughout the ground floor of The Venetian, and
22 also, for that matter, the Bouchon floor.

23 DISCOVERY COMMISSIONER: Okay. Well, I think that the
24 two of you need to work through the four reports at issue that you
25 believe you were not provided, have a 2.34 to discuss; if there is a

1 continuing issue regarding that, bring it back.

2 And I'm going to ask, Mr. Royal, can you please provide that
3 within ten days?

4 MR. ROYAL: Yes, Your Honor.

5 DISCOVERY COMMISSIONER: Thank you very much.

6 MR. GALLIHER: Thank you.

7 [Hearing concluded at 9:25 a.m.]

8 * * * * *

9 ATTEST: I do hereby certify that I have truly and correctly transcribed the
10 audio-video recording of this proceeding in the above-entitled case.

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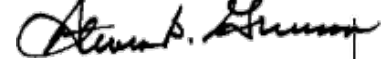
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FRANCESCA HAAK
Court Recorder/Transcriber

EXHIBIT “14”



DCRR

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Attorneys for Defendants

*VENETIAN CASINO RESORT, LLC and
LAS VEGAS SANDS, LLC*

DISTRICT COURT

CLARK COUNTY, NEVADA

JOYCE SEKERA, an Individual;

Plaintiff,

v.

VENETIAN CASINO RESORT, LLC, d/b/a
THE VENETIAN LAS VEGAS, a Nevada
Limited Liability Company; LAS VEGAS
SANDS, LLC d/b/a THE VENETIAN LAS
VEGAS, a Nevada Limited Liability Company;
YET UNKNOWN EMPLOYEE; DOES I
through X, inclusive,

Defendants.

CASE NO.: A-18-772761-C

DEPT. NO.: XXV

**DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATION**

Hearing Date: March 13, 2019, 9:00 am

Appearance: Keith E. Galliher, Jr., Esq., for Plaintiff, JOYCE SEKERA

Michael A. Royal, Esq., Royal & Miles LLP, for Defendants
VENETIAN CASINO RESORT, LLC and LAS VEGAS SANDS, LLC
(collectively "Venetian")

I.

FINDINGS

1. Defendant Venetian filed *Defendants' Motion for Protective Order* on February 1, 2019 related to the production of redacted prior incident reports in response to an NRCP 34 request by Plaintiff. Plaintiff filed an *Opposition to Defendants' Motion for Protective Order* on February 13, 2019, arguing that there is no basis to redact information in prior incident reports (other than Social Security numbers) or otherwise to afford them protection under NRCP 26(c). Defendant filed a *Reply to Opposition to Defendants' Motion for Protective Order* on March 5, 2019 and an *Addendum to Reply to Opposition to Defendants' Motion for Protective Order* on March 6, 2019 noting, among other things, that Plaintiff's counsel had already been sharing prior incident reports with other attorneys not involved in the present litigation.

2. A hearing on motion was held on March 13, 2019.

3. Venetian counsel argued that prior incident reports have been produced, which represent slip and falls occurring on marble floors in the common areas of the Venetian casino level.

4. Plaintiff's counsel argued that after comparing a production by Venetian in the case of *Smith v. Venetian*, Case No. A-17-753362-C, he discovered four incident reports produced in that case which were not produced by Venetian in this litigation. Defense counsel related that he is unaware of that issue and that he will investigate.

After reviewing the papers and pleadings on file, and consideration of arguments presented by counsel for the parties, the following recommendations are made.

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1 II.

2 RECOMMENDATIONS

3 IT IS RECOMMENDED that *Defendants' Motion for Protective Order* is GRANTED IN
4 PART and DENIED IN PART.

5 IT IS FURTHER RECOMMENDED that the prior incident reports produced by Venetian are
6 to remain in redacted form as originally provided in response to an NRCP 34 request, the Court
7 agreeing that this presents a privacy issue as it pertains to the identity of prior Venetian guests and
8 includes protected HIPPA related information.

9 IT IS FURTHER RECOMMENDED that all information within the redacted prior incident
10 reports produced by Venetian are to be protected under an NRCP 26(c) order, not to be shared with
11 anyone who is not directly affiliated with the litigation (*i.e.* counsel, counsel's staff, experts, etc.), and
12 when attached as exhibits to any filings with the Court are to be provided under seal.

13 IT IS FURTHER RECOMMENDED that if Plaintiff identifies a specific prior incident report
14 she feels is sufficiently related to her fall, with substantially similar facts and circumstances, occurring
15 in the same location, that counsel will have an EDCR 2.34 conference to discuss the request and
16 determine whether the identity of those involved in the specific prior incident should be provided
17 before filing a motion.

18 IT IS FURTHER RECOMMENDED that Venetian be required to review the alleged
19 discrepancy of four prior incident reports produced in the matter of *Smith v. Venetian. supra*, and
20 provide them in redacted form to the extent they are responsive to the Plaintiff's NRCP 34 request, and
21 to provide all reports deemed responsive to Plaintiff's NRCP 34 request no. 7 related to prior incident
22 reports of the Venetian.

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1 IT IS FURTHER RECOMMENDED that the motion is otherwise denied.

2 DATED this 2nd day of April, 2019.

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DISCOVERY COMMISSIONER

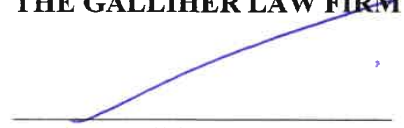
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6 Submitted by:

7 **Royal & Miles LLP**

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9 Michael A. Royal, Esq.
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12 *Attorneys for Defendants*
13 *VENETIAN CASINO RESORT, LLC and*
LAS VEGAS SANDS, LLC

Reviewed by:

7 **THE GALLIHER LAW FIRM**

8 
9 Keith E. Galliher, Jr., Esq.
10 Nevada Bar No. 220
11 1850 E. Sahara Avenue, Suite 107
Las Vegas, NV 89014
12 *Attorney for Plaintiff*

1 IT IS FURTHER RECOMMENDED that the motion is otherwise denied.

2 DATED this _____ day of _____, 2019.

3
4 _____
DISCOVERY COMMISSIONER

5 Submitted by:

6 **Royal & Miles LLP**

7
8 _____
9 Michael A. Royal, Esq.
10 Nevada Bar No. 4370
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13 *Attorneys for Defendants*
14 *VENETIAN CASINO RESORT, LLC and*
15 *LAS VEGAS SANDS, LLC*

Reviewed by:

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22 *Attorney for Plaintiff*

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5 **NOTICE**

6 Pursuant to NRCP 16.3(c)(2), you are hereby notified that within fourteen (14) days after being
7 served with a report any party may file and serve written objections to the recommendations.
8 Written authorities may be filed with objections, but are not mandatory. If written authorities
9 are filed, any other party may file and serve responding authorities within seven (7) days after
10 being served with objections.

11 **Objection time will expire on April 18 2019.**

12 A copy of the foregoing Discovery Commissioner's Report was:

13 _____ Mailed to Plaintiff/Defendant at the following address on the _____ day of
14 _____ 2019:

15 ☒ Electronically filed and served counsel on April 4, 2019, Pursuant to
16 N.E.F.C.R. Rule 9.

17
18 The Commissioner's Report is deemed received three (3) days after mailing or e-serving
19 to a party or the party's attorney, or three (3) days after the clerk of the court deposits a
20 copy of the Report in a folder of a party's lawyer in the Clerk's office. E.D.C.R. 2.34(f).

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22 By: 
23 COMMISSIONER DESIGNEE
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