

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPECIAL ADMINISTRATOR
SHALONDA MOLLETTE, AN
INDIVIDUAL, IN PLACE AND STEAD
OF JOE N. BROWN,

Appellant,

vs.

GNL, CORP., A NEVADA
CORPORATION, AND
THYSSENKRUPP ELEVATOR
CORP.,
A FOREIGN CORPORATION,

Respondents.

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SHALONDA MOLLETTE, AN
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No. 80581

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APPENDIX TO APPELLANT'S OPENING BRIEF

VOLUME 17

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Dated June 10, 2022.

Respectfully submitted,

IQBAL LAW PLLC

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CERTIFICATE OF SERVICE

I certify that I am an employee of IQBAL LAW PLLC and that on June 10, 2022, I caused a true and correct copy of the **APPENDIX TO APPELLANT’S OPENING BRIEF VOLUME 17** to be served as follows:

___ By placing the 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

___ Pursuant to NEFCR 9, to be sent via facsimile; and/or

X Pursuant to NEFCR 9, by transmitting via the Court’s electronic filing services by the document(s) listed above to the Counsel set forth on the service list.

/s/ Marie-Claire Alsanjakli
An Employee of **IQBAL LAW PLLC**

1 MS. MASTRANGELO: Objection. Leading.

2 THE WITNESS: I'm not aware.

3 THE COURT: Sustained.

4 THE WITNESS: I'm not aware.

5 BY MR. IQBAL:

6 Q When you took a look at the maintenance logs, Ms. Swett, did
7 you find entries for wobbly steps in the maintenance logs?

8 A Yes. There are entries.

9 Q For wobbly steps?

10 A Wobbly steps.

11 Q Okay. And those maintenance logs were produced after your
12 initial report and your supplemental report; correct?

13 A That is correct.

14 Q Do you recall if the maintenance logs were missing tasks and
15 required items that were required by code to be done multiple times a
16 year?

17 A I did not check for specific tasks and number. I merely saw
18 that they were not complete.

19 Q Okay. In your opinion based on what you saw, why were the
20 maintenance logs incomplete?

21 MS. MASTRANGELO: Objection. Lacks foundation. Calls
22 for speculation.

23 MS. McLEOD: Join.

24 THE COURT: Sustained.

25 BY MR. IQBAL:

1 Q Ms. Swett, you took a look at the maintenance logs; correct?

2 A Yes.

3 Q Okay. And have you reviewed maintenance logs for other
4 escalators?

5 A Yes.

6 Q Okay. Have you reviewed maintenance logs for elevators?

7 A Yes.

8 Q Okay. How many in your career, how many sets of
9 maintenance logs have you reviewed?

10 A They're supposed to be in every single elevator machine room
11 specific to every single elevator. So it would be the number of
12 inspections that I've done since those were required.

13 Q Okay. Is it safe to say that you've -- you've reviewed over a
14 thousand sets of maintenance logs?

15 MS. McLEOD: Objection. Leading.

16 THE COURT: Sustained.

17 BY MR. IQBAL:

18 Q Can you estimate how many sets of maintenance logs you've
19 reviewed in your career? And we don't need a specific number. Just
20 can you estimate.

21 A Yes. It's going to be thousands because I've inspected that
22 many pieces of equipment.

23 Q Okay.

24 THE COURT: Counsel, the only thing the Court's going to
25 notice is the time if you all are going to have any summary time.

1 MR. IQBAL: Thank you, Your Honor.

2 THE COURT: I mean --

3 BY MR. IQBAL:

4 Q Comparing --

5 THE COURT: -- do you understand that you've been going
6 over an hour -- more than an hour and twenty-three plus minutes not
7 including any break times and defense counsel's had less than a half
8 hour total. About approximately -- well about half hour totallish. Okay.

9 MR. IQBAL: Yes, Your Honor. I didn't anticipate the --

10 THE COURT: No worries. I'm just --

11 MR. IQBAL: -- scope of the question.

12 THE COURT: We're going to have to stop you if you -- if you
13 don't stop the next moment, then the only person who's going to get
14 summation time are the two defendants because in fairness. I'm just
15 trying to -- if you can balance your time. Because right now you each
16 have five minutes. If you can take your five minutes for questioning,
17 then I would have to take away from your summation time. Okay. Fair.

18 MR. IQBAL: Understood. I will end --

19 THE COURT: I appreciate it. Thanks so much.

20 MR. IQBAL: -- I will end with this question, Your Honor.

21 THE COURT: No worries.

22 BY MR. IQBAL:

23 Q Ms. Swett, you just testified you have looked at over a
24 thousand maintenance logs in your career?

25 A Yes.

1 Q Okay. And you reviewed the maintenance logs in -- in this
2 case; correct?

3 A Yes.

4 Q Were there any differences?

5 A There always be differences in type of equipment. I saw that
6 they weren't complete. That I mean some maintenance logs I've seen
7 are not complete and some are complete.

8 Q And what category would you put these maintenance logs?

9 A Not complete.

10 Q Okay.

11 No further questions, Your Honor.

12 THE COURT: The Court has one point of clarification and
13 what the Court does is the Court will tell you what the point of
14 clarification slash question the Court has either if any party does not
15 wish the Court to ask the witness a question, I won't. The Court's fine if
16 anybody says I don't. I can tell you what the question is. The question
17 is, the Court just wanted a clarification on whether or not Nevada -- it
18 was established whether or not Nevada did or did not do a A17.1 code
19 requirements. If that was established in the deposition that this witness
20 knew whether Nevada did or did not do A17.1.

21 Ms. McLeod's question I wasn't sure how to answer came with
22 response from the question that was asked. That's the question this
23 Court would have.

24 MS. MASTRANGELO: Fine by me, Judge.

25 MS. McLEOD: No objection.

1 MR. IQBAL: No objection.

2 THE COURT: Okay. So does Nevada follow A17.1 code?

3 THE WITNESS: I believe they do to a certain extent. Of the
4 two --

5 THE COURT: Okay. I believe they --

6 THE WITNESS: -- every six months now.

7 THE COURT: -- I believe they do to a certain extent. The
8 Court's follow-up question would be, what does that mean because I
9 thought it was a yes or no honestly, so.

10 THE WITNESS: All right.

11 THE COURT: Does any -- mind

12 THE WITNESS: The internal --

13 THE COURT: -- oh, excuse me, I have to ask all counsel if
14 they mind if I ask that follow-up question.

15 MS. McLEOD: No objection.

16 MR. IQBAL: No objection.

17 MS. MASTRANGELO: No objection.

18 THE WITNESS: The annual inspection normally has internals
19 and externals. It's all together. There's -- there's not normally a walk-
20 through type of inspection.

21 THE COURT: So Nevada does -- with the Court's follow-up
22 question -- I'm just really -- what I'm just trying to get an understanding
23 is, is Nevada A17.1 requirement spot on or is it modified in some
24 manner? Maybe there's another way of phrasing it. I'm just trying to get
25 that understanding. Does anyone object if I ask? That's the only

1 question I was trying to ask.

2 MR. IQBAL: No.

3 MS. MASTRANGELO: No objection.

4 MS. McLEOD: No objection.

5 THE COURT: Plaintiffs' counsel, was that a no or no
6 objection?

7 MR. IQBAL: No objection, Your Honor.

8 THE COURT: Okay.

9 THE WITNESS: I mean I think they do an external inspection
10 and then a different time do an internal inspection. Together the two
11 would be a full inspection.

12 THE COURT: I'm not --

13 MR. IQBAL: It's --

14 THE COURT: -- sure the question was answered.

15 MR. IQBAL: -- can I --

16 THE COURT: It really was simply yes or no, is it A17.1 or is it
17 something modified? Because --

18 MR. IQBAL: -- may I propose a rephrase question, Your
19 Honor?

20 THE COURT: Yeah, sure. Because I thought A17.1 you told
21 me was an annual inspection. Nevada does it every six months. And
22 it's broken down to two phrases, so I wasn't clear if that's what you all
23 were telling the Court and I was just really trying to get that point of
24 clarification.

25 MR. IQBAL: Perhaps the question could be asked, has

1 Nevada modified A17.1 or does Nevada follow the code as written.

2 THE COURT: If you all are fine with that, I really was just -- I
3 understood that question was asked at a deposition and --

4 MS. McLEOD: I have -- I have no objection if the Court has
5 further clarification for this witness, but we would direct the Court to
6 pages 78 through 81 of her deposition where it's clear from her
7 testimony that she's unsure what code applies in Nevada and
8 specifically to this case based on the age of the installation of the
9 escalator compared with the date of loss.

10 THE COURT: Okay.

11 MR. IQBAL: That's it -- I object to the extent that that goes
12 outside of the question, but to the extent there's no objection may I ask
13 that proposed question, Your Honor?

14 THE COURT: I'm talking at the time of the incident. I was just
15 talking about at the time of the incident, did Nevada file -- follow A17.1
16 requirement.

17 MR. IQBAL: Sheila, at the time of the incident, did Nevada
18 follow A17.1?

19 THE WITNESS: They're internal inspections are done with
20 mechanic. I believe that their external inspections did not require
21 mechanic.

22 THE COURT: Is that --

23 THE WITNESS: And I've done it two different times.

24 MR. IQBAL: That was just --

25 THE WITNESS: In that --

1 MR. IQBAL: -- I'm sorry, that was just a yes or no as to
2 whether Nevada followed --

3 THE WITNESS: [indiscernible - multiple speakers]

4 THE COURT: What?

5 MR. IQBAL: The answer is what?

6 THE WITNESS: No.

7 THE COURT: No. Okay. And the reason why -- okay. So I
8 guess because your witness didn't answer the [indiscernible] I asked a
9 yes or no question multiple times and unfortunately it took a long time.
10 So it looks like you each get three minutes. So go ahead counsel for --
11 the same order, is that how you want to do the summation?

12 MS. MASTRANGELO: It doesn't matter to me.

13 THE COURT: Or if you want --

14 MR. IQBAL: Can you we excuse the witness, Your Honor?

15 THE COURT: Do you want to excuse the witness that was
16 going to be my next question. Do you want to excuse the witness?

17 MS. MASTRANGELO: Yes.

18 THE COURT: Yes?

19 MS. McLEOD: That's fine.

20 THE COURT: Yes. Okay.

21 MR. IQBAL: Yes.

22 THE COURT: Then the witness is going to be clicked off and
23 counsel each get three minutes. Go ahead.

24 MR. IQBAL: Thank you.

25 THE COURT: Witness, thank you. Bye. Okay.

1 Counsel, in the same order. Go ahead.

2 MR. IQBAL: I'm going to make sure I don't go over Your
3 Honor, so I'm going to watch my time.

4 THE COURT: No worries. Okay.

5 MR. IQBAL: Your Honor, this is a witness who was appointed
6 by a Court 20 years ago to oversee an important renovation with the Bay
7 Area Transport Authority. This was a witness who is a witness who has
8 been put forth as an expert on approximately 50 occasions. This is a
9 witness who has worked on engineering projects, on specialized reverse
10 engineering projects on a number of projects for the same company that
11 now has brought this motion in limine to disqualify her based on her
12 educational background and other things that completely conflict with
13 what her work history shows with Thyssenkrupp and what her work
14 history shows with all of the major escalator and elevator companies.

15 Counsel was asking at different points the witness about what
16 she did not do at the inspection. The evidence at trial will show that she
17 did far more than defendant's expert. And the evidence at trial will also
18 show that the very documents and exhibits counsel relied on to attack
19 the credibility of Ms. Swett, in fact, showed that the State inspector, the
20 third party inspector, did not do their jobs.

21 And, in fact, the maintenance logs and the account histories
22 for Thyssenkrupp show that the escalator was in very poor condition, a
23 very poor state of cleanliness. And the evidence will also show that both
24 defendants hid the account histories, doctored account histories, hid
25 documents and destroyed evidence. And the evidence will show that

1 there was spoliation. And when you take it all together it would be
2 manifestly unfair and against the notions of fundamental justice to
3 exclude Ms. Swett.

4 And the final point, there was an inspection, there was a
5 report by defendant's expert, Mr. Turner. Defendants had the benefit of
6 Chris Dutcher who is the technician associated with the Nugget for eight
7 years. Defendant had the benefit of an inspection that they did not tell
8 plaintiffs about. And when you add that component to everything, Ms.
9 Swett should be allowed to testify at trial regarding her expert report.
10 Thank you, Your Honor.

11 THE COURT: Okay. Go ahead.

12 MS. MASTRANGELO: Your Honor, almost none of that
13 addresses the legal issue before you here today. There are three
14 requirements under NRS 52.75 and *Hallmark*, qualification, reliability
15 and assistance to the trier of fact.

16 Qualification; she is not qualified. She kept telling everybody
17 she's an engineer. She's not an engineer. She doesn't have an
18 engineering degree. She doesn't have a license. She's never
19 maintained escalators. She hasn't been through the schooling. All of
20 those are under the qualification *Hallmark*, formal schooling, degrees,
21 license, experience, specialized training. She has none of that.

22 Reliability; her methods have to be scientific, testable and
23 have been tested. She didn't use any kind of testing. She never even
24 looked at those steps. Those steps were preserved. The hotel
25 preserved them in their warehouse in a box. She didn't take them out,

1 wipe them down and looked for the cracks. Show us some testing.
2 Show us something that's been public -- published and subjected to
3 peer review. None of that.

4 Something generally accepted in the scientific community,
5 even KONE who manufactured those steps who put out the bulletin
6 telling everybody these steps are prone to crack, they never said that
7 they can become shaky. They said you're going to -- you're going to
8 wreck your escalator when the step -- when the cracks go all the way
9 through. Reliability requires something more than assumption and
10 conjecture and that's all we have in this case.

11 If you let her testify, it's going to ask the jury to assume the
12 steps were dirty even though all the evidence from the State inspector
13 and the record say it was clean and neat. She's going to say, no, they
14 were dirty because I saw them in a box in the warehouse in 2018 and
15 they were dirty. She agreed today that she doesn't know if they were
16 dirty in May of 2015 and she can't say any -- anything different.

17 Her opinion would require the jury to assume and speculate
18 that those steps were shaking and rocking when she doesn't know. No
19 one's told her that. How can you have an expert opinion based upon
20 what happened that day and never even considered the experience of
21 four people who were on that escalator. None of them told her the steps
22 were rocking and shaking and that's why they fell.

23 You have to assume the State inspector who inspected the
24 unit one day after the event was lying about his inspection saying
25 everything was fine, there was no shaking, nothing was going on. You'd

1 have to assume that Mr. Brown was standing on a cracked step which
2 she admitted she can't say that because she doesn't know. It's
3 speculation. You have to assume that the cracked step can cause
4 shakiness which she's the only one in the history of escalator mechanics
5 who's ever gone on the record and said that.

6 You know, there's no code violation. She agrees to that, but
7 yet she couldn't even tell Your Honor what the code is in the State of
8 Nevada. She doesn't have any other cases. She doesn't know what it
9 is. All this goes not only to her qualifications, but also the reliability.
10 How on earth is any of this going to help the jury when she can't tell us
11 the answers to these simple questions.

12 The *Ferlin* that I cited in my brief which is a 2012 Federal case
13 plaintiff's attorney didn't cite any case law or statutes, any -- any law in
14 his opposition. That *Ferlin* case is exactly what we have here. In that
15 case, the Court said this expert has degrees. Sheila doesn't have them,
16 but he did. He had degrees. He owned an escalator maintenance
17 company. She doesn't. But still the Court found he was not qualified to
18 testify as to escalator maintenance because he himself had not done
19 maintenance for 20 or 30 years on escalators.

20 And the Court also found in that case he didn't meet the
21 reliability standard because he could not testify in any scientific
22 methodology, tested and has been tested, peer reviewed, etcetera.
23 Everything that he said was ipse dixit meaning that it's true because I
24 says it's true.

25 And, Judge, that's not the law in Nevada. You have the

1 gatekeeper function and we shouldn't let junk science and stuff that's
2 made that's true because Sheila Swett says it's true. We can't let the
3 jury hear that. Thank you.

4 THE COURT: Counsel for GNL.

5 MS. McLEOD: Thank you, Your Honor. I'll be brief.

6 Ms. Swett was presented, asked about specifically her
7 qualifications. She said she was an elevator consultant. She admitted
8 she had never been an escalator mechanic. Never physically installed
9 an escalator. Never maintained an escalator. Never serviced an
10 escalator. None of the company she worked for her -- the companies
11 that she owns since leaving Dover Elevator serviced an escalator. In
12 fact, she said that that would be a conflict of interest for her to do so.

13 She is not licensed to inspect escalators in the State of
14 Nevada. As counsel pointed out had trouble responding to the Court's
15 questions what the standard for maintenance and inspections in the
16 State of Nevada. She has never testified before any Court. And
17 plaintiffs' counsel -- plaintiffs proffer her to come before Nevada jury
18 when she can't answer simple foundational questions about what code
19 applies to this action here in this state. She may have vast elevator
20 experience. She probably has great experience as an inspector.

21 And if the inspections were what the issue in this case, they
22 are not, the inspector is not a named defendant. The State of Nevada
23 has not been sued as any part of this case with an allegation of an
24 inadequate inspection either prior to or the day after the event of Mr.
25 Brown's fall. She could probably talk about the adequacy or inadequacy

1 of that inspection. But that's not what she's being proffered to do. She's
2 being proffered as an elevator -- an escalator maintenance expert. And
3 her opinions are about the quality or lack thereof of the escalator
4 maintenance.

5 And I wrote down in my notes during the course of this
6 afternoon's hearing an objection from plaintiffs' counsel to the scope of
7 the questioning and he said that her expertise was limited to escalator
8 inspection and that she wasn't being presented as an escalator
9 mechanic or maintenance expert. That's exactly the narrow question
10 that's presented by the motion in limine.

11 The Court's had a full afternoon to consider those issues and
12 have Ms. Swett answer these questions. She's unable to do so. The
13 *Novartis* pharmaceutical's case that's cited in the briefing is clear. We
14 implore the Court to follow its reasoning that experience in a particular
15 field is not enough to qualify as an expert. The expert must have
16 experience with the issue before the Court. It's that narrow specific
17 experience that would be helpful to the Court, helpful to the jury and
18 unfortunately Ms. Swett doesn't have it. And that makes her testimony
19 unhelpful to the jury at the time of trial. Thank you.

20 THE COURT: Someone have a copy of her supplemental
21 report? The June report.

22 MR. IQBAL: Yes, Your Honor.

23 MS. MASTRANGELO: Yes.

24 THE COURT: I was able to find on mine the May one real
25 quickly, but someone mind giving --

1 MR. IQBAL: And, Your Honor, just in terms of time, may I
2 respond? It's timing all three of us and counsel took significantly longer
3 time six minutes. I kept it at three minutes. I would just like an
4 opportunity to respond to some of the statements that were made.

5 MS. MASTRANGELO: Judge, he doesn't get rebuttal. I'm the
6 movant.

7 MR. IQBAL: But --

8 THE COURT: Yeah. Their motion in limine, counsel. I mean
9 --

10 MR. IQBAL: I understand, but --

11 THE COURT: -- I gave --

12 MR. IQBAL: -- but the Court --

13 THE COURT: -- counsel --

14 MR. IQBAL: -- gave specific instructions of three minutes both
15 counsel went twice as long.

16 THE COURT: -- and nobody objected when someone's going
17 a little bit over, so. You got an hour [indiscernible] okay. You know,
18 about a half hour by one for the cross Thyssenkrupp's, four minutes to
19 five minutes by Golden Nugget and it was an hour and -- hour plus, so it
20 was an hour eighteen, an hour and twenty, during the direct
21 examination. I was just -- I'm sorry -- is this --

22 MS. MASTRANGELO: You asked for the rebuttal report I
23 think.

24 THE COURT: Right. Right. Okay. Thank you. This is it?

25 MS. MASTRANGELO: Yeah.

1 THE COURT: It's not dated.

2 MS. MASTRANGELO: It's not --

3 THE COURT: Okay.

4 MS. MASTRANGELO: -- fancy.

5 THE COURT: Okay. The reason why the Court wanted to
6 double check this because I looked at it. I didn't bring it into the
7 courtroom today, so I just wanted to make sure. Okay. And this is just -
8 - okay. So point Court does need a point of clarification. The reason
9 why the Court was asking for rebuttal so I have both the rebuttal and the
10 initial report in front of me in order for the Court to make the new rulings.

11 Based on the original motion in limine, the motion in limine
12 was that she couldn't -- motion in limine number eight -- motion in limine
13 number eight was defendant third party defendant, Thyssenkrupp
14 Elevator Corporation's motion in limine number eight re: exclude the
15 testimony of Sheila Nabors Swett. The motion based on the pleadings --
16 okay, so -- and then the [indiscernible] request the Court grant the
17 foregoing motion in limine and so -- okay. Testimony is nothing more
18 than basically sheer speculation.

19 So in looking at both the motion and the reply, just a simple
20 clarification point, was it a pure exclusion of Ms. Swett or just purely
21 because you kept on saying throughout the motion testimony regarding
22 negligent maintenance, but yet through causes of action don't
23 necessarily tee up exactly how Thyssenkrupp has phrased their motion
24 in limine? So --

25 MS. MASTRANGELO: The intent of the motion was to

1 exclude her entirely because her opinions are based on negligent
2 maintenance. But there's no part of her testimony that's not subject to
3 what you heard today --

4 THE COURT: Negligent, maintenance.

5 MS. MASTRANGELO: -- and the argument made.

6 THE COURT: Okay. That was just point of clarification what
7 you viewed it to be because that's why the Court -- the Court's going to
8 her opinions. I'm looking at her May 4th opinions, okay. Looking at her
9 initial report and then when you get to the opinion -- because I see here
10 both -- she's designated both as an initial expert and a rebuttal expert.
11 And the Court didn't see that the motion in limine necessarily addressed
12 some aspects of her rebuttal opinions. And that's why the point I wanted
13 clarification, okay. Because let me go through what the Court's analysis
14 is. Okay.

15 Court's analysis; with regards to her initial opinions, I'm going
16 to -- I'm looking at page JNB2308. Since these are not numbered on
17 her pages, I gave you the bate stamp number, okay. That's the page
18 that has -- the third line it says opinions, okay. It's real easy to find. So
19 it's the one that says opinions, okay.

20 So opinions; the reason why you all no surprise why the Court
21 asked the question about A17.1 is because she cites A17.1 requirement,
22 right. And then basis several of those opinions based on A17.1.

23 Well based on Ms. Swett's own testimony, okay, let's go
24 through *Hallmark*, right. *Hallmark* and NRCP, right, must be qualified in
25 area of scientific, technical or specialized knowledge, the qualification

1 requirement his or her specialized knowledge must assist the trier of fact
2 to understand the evidence or to determine a fact. In issue, the
3 assistance requirement of his or her testimony must be limited to
4 matters within the scope of his or her specialized knowledge. The
5 limited scope *Hallmark versus Eldridge, 124 Nevada 492 189 P3d 646*
6 *2008*. Okay.

7 *Hallmark* additionally noted expert qualifications based on a
8 number of factors including formal schooling and academic degrees --
9 okay. Formal schooling and academic degrees. She has a associates.
10 She does not have a BA. Does not have a BS. Has no post graduate
11 degrees. Has some on the job experience and some certain
12 certifications that she testified to. That's what she has. That's formal
13 schooling and her academic degrees.

14 With regards to that, the Court doesn't find that she
15 necessarily would be precluded from potentially offering opinions based
16 on the formal schooling and academic degrees. Now, she's not an
17 engineer. She wouldn't be able to represent herself an engineer, but
18 that requirement in and of itself would not preclude her if she otherwise
19 met the other requirements, okay. But she has some schooling, but
20 does not have necessarily the academic degrees that she necessarily
21 stated.

22 Second is licensure. Licensure; she's not licensed anywhere.
23 She has some certain quote, certifications, that she has from certain
24 organizations, but she does not have a PE, Professional Engineer's
25 licenses, ME, all those types of licensures which are engineering based

1 specifically based or any post graduate type specific licensures. That
2 the Court is going to find challenging for the nature of some of her
3 opinions when the Court gets to some of those opinions, okay.

4 So then you go to employment experience. Well, she has
5 significant amount of employment experience. She says 95 percent is
6 elevator and 5 percent is escalator. She's got a lot of experience, 20-
7 some odd plus years, so she has experience. The Court's going to
8 address some concerns with regards to the focus of where she is sought
9 to testify in this case with regards to certain aspects of escalator
10 maintenance that she does not have the employment experience in the
11 escalator maintenance experience.

12 And this was specifically gone over in detail by Thyssenkrupp.
13 Went through the whole four-year program and she even stated she
14 didn't have the training. Didn't do the qualifications, maintenance and
15 then she went through, she's not union, but whether she's union or not,
16 she acknowledged she didn't go through the test. Didn't have the four
17 years. Didn't do all the test. Never -- I will phrase it, hands on the steps.
18 She's not the person to put -- I think she phrased it she doesn't carry the
19 tool belt, but doesn't wear the tools, doesn't have the tools, phrasing like
20 that is what she stated. She observes. She does not.

21 There is -- she's not going to be able to meet the employment
22 experience. She's got challenges with the employment experience as to
23 opinions regarding negligence maintenance as a initial expert. Okay.
24 We're going to go through those challenges in a moment.

25 Four, practical experience and specialized training; she has

1 practical experience in certain areas. There's going to be concerns
2 whether she has practical experience. The Court just pointed out with
3 regards to escalator maintenance for the reasons just stated because
4 she stated she does not do escalator maintenance. She works in an
5 observatory or inspector type capacity seeing what people do.

6 Particularly here, you're going to have to look at her practical
7 experience and look at whether she utilized her practical experience to
8 the extent she has some in this area, whether she utilized it in this case.
9 In very insightful in this particular case is she didn't necessarily utilize it
10 and she was very clear on this. She said she inspected six to eight
11 steps specifically at Thyssenkrupp specifically got through that whole
12 analysis that she was offered all the steps.

13 Now, whether this escalator has 58 or 60, well one would think
14 the expert would know. The Court's not going to ask you all right now,
15 but one that should not really be a question this close to trial how many
16 steps were on the very escalator at issue and the expert should know.
17 Maybe she was right. Maybe she's wrong. Court's not really going
18 there.

19 But the point is, if there were six to eight steps, she chose not
20 to look through the dusty steps. She chose not to pull out more steps.
21 She did not deny. And there was that whole series of questions about
22 she had a choice of warehouse. No one precluded her from doing it.

23 She also had the choice, and this goes to a pure *Hallmark*, so
24 this is the practical experience and the application of practical
25 experience looking at the prong. She may have some practical

1 experience, but she chose not to utilize it. She didn't talk to -- once
2 again Thyssenkrupp went the whole through didn't talk to anybody who
3 was on it, she did view the video and we'll go there in just a second, but
4 she did not talk to any of the people on it.

5 She acknowledges -- while she reviewed some of the report,
6 she acknowledged that the people's -- and she didn't read any
7 depositions, anyone who was physically on the escalator that day based
8 on her own testimony. Now I appreciate counsel may have a different
9 viewpoint, but that was her testimony today. She didn't read it. She did
10 read deposition testimony of some of the witnesses of the defense, but
11 they weren't quote, on the escalator, did not have firsthand knowledge
12 that could provide whether or not there were shaky steps.

13 Whether there were cracked steps on that day on the
14 escalator as the plaintiff wrote down, when I say plaintiff, I should say
15 plaintiffs because of course we have two plaintiffs in this case, so we
16 need to use the plural on that, on that, didn't talk to any of them. Did not
17 read their depositions. Did not talk to the inspector to see while she did
18 state she disagreed with the inspector's analysis and maintenance log,
19 she never talked to him to get an understanding which is why the Court
20 obviously one of the reasons why I had to sustain the speculation is
21 because she didn't talk to the person. So she has no knowledge of why
22 he put what he put about the maintenance log. She may have her own
23 opinion, but once again, since she can't clarify and articulate what is and
24 -- is and is not required in the State of Nevada, she can't contradict the
25 very Nevada inspector that she has her own opinion on, but she can't

1 contradict though that's compliant with Nevada or not or why he put
2 what he did.

3 And she even concedes that looking at, and this is the Court's
4 Exhibit 3 the one you all agreed to could come in, the 14 -- the 2014, but
5 he said that there wasn't in the violations went through all those analysis
6 of all three pages, looked at all the information and so she didn't talk to
7 that inspector directly to find out or the inspector the day after, she didn't
8 talk to either of them. So presumably she doesn't have any knowledge
9 to the extent that she may have some practical knowledge background
10 or she may have some specialized training background. She didn't
11 utilize it in this case which is the fact that the Court has to look at.
12 Because it might be nice if you have it in your back pocket, but you got
13 to utilize it in the case, okay. And that is pure *Hallmark*. That was the
14 pure -- pure biomechanical issue.

15 And now I'll get to the photographs. She did say she look at
16 photographs and that was her basis of where she felt the cracked steps,
17 because after the whole summary and analysis and questions asked by
18 Thyssenkrupp's counsel, she said well I looked at the photos. Well, we
19 all know photos in and of themselves isn't going to be sufficient because
20 when she had all those other avenues of information available to her,
21 the Court can't say that she had utilized the best information available to
22 her to make a well-reasoned determination under *Hallmark's* standards
23 to utilize.

24 I mean, she had the practical the experience and specialized
25 training in order -- and that's going to tie into the factors with regards to

1 both assistance factor as well -- somewhat a limited scope factor -- but
2 mostly the assistance factors because she didn't utilize all those things.

3 So showing some photographs and saying what she saw in
4 the photograph, well realistically, not saying you can or cannot show the
5 photographs, that's not before the Court so the Court's not making a
6 determination. But if she looked at photograph and said what she saw,
7 that's not an expert's role. Because she's not providing anything
8 different than what -- than somebody else who casually could view those
9 photographs. She did not provide anything in either the pleadings or
10 what's been presented to the Court in paper, what's been argued before
11 the Court or what the couple of hour evidentiary hearing slash *Hallmark*,
12 however you'd like to phrase it today, that she provides anything unique
13 that's going to assist the jury that if she got up there and said, well when
14 I saw a photograph, I interpret as X because I have this background, this
15 history, this training, this schooling, all the quote, *Hallmarky* [phonetic]
16 factors and NRCP factors, right, and the NRS factors [indiscernible] that
17 would give her the expert status to offer her opinions as distinct from a
18 lay witness. And there is a huge challenge for her with regards to the
19 negligence maintenance aspect, okay.

20 So and that goes to -- because she said didn't see shaking,
21 didn't see cracked, had an opportunity, didn't wipe down the steps, was
22 not prevented from looking at that even so -- even -- not even taking into
23 account that it was later because [indiscernible] experts may not have a
24 chance to look at things later, but this is not that anybody provided to
25 this Court that any of these steps were destroyed.

1 So far the Court's information available to it as of today when
2 I'm making the ruling is that these steps were preserved and were
3 available to her and that she chose not to look at what she chose not to
4 look at and she chose to look at what she did. She chose to look at
5 somewhere between about six to eight steps. She didn't find an issue in
6 those six to eight steps. And she chose not to wipe them down. That
7 was her decision, but she doesn't have a basis to say, and she even
8 said, she didn't see cracks, she didn't see the issues, she didn't see
9 wobbling and looking at the video and did not talk to anyone.

10 So then you go to -- well she's got some pictures. The Court's
11 already explained her perception of what she sees in the pictures. She
12 doesn't tie that she represents -- finds anything unique by looking at
13 those pictures versus the jury looking at them. There is known quote,
14 scientific method. There's nothing that's reliable or tested. There's
15 nothing she said in any analysis. There's no calculations. There's no
16 testing. There's no independent peer review.

17 Basically -- and she kept on saying she just looked at the
18 evidence, but both defense counsel kept on trying to ask her what she
19 meant by she just looked at the evidence. Well she said she put it in
20 chronological order, but she really doesn't say what she did anything
21 other than putting it chronological order. And that's why it's one of the
22 reasons why the Court asked the question about A17.1 because the
23 Court was once again trying to give her the whole benefit of the doubt
24 because maybe it was the A17.1 that was her crux, her tie-in, by taking
25 that code provision. Or maybe she was using that as her nexus to try

1 and say that it was that. She doesn't really have to have something
2 independent. It's the code violation.

3 But since she can't say that the State of Nevada follows A17.1
4 as she has articulated in her very own report, the Court can't utilize that
5 as the nexus, you know, the crux, as the code violation to get to her
6 negligent maintenance because it said the first question was a yes or
7 no, but then she kept -- she was going about the internal versus the
8 external. She went to the six months and the different things. And so
9 even her very citation to A17.1 requirement doesn't apply because by
10 her own testimony it doesn't apply.

11 So now you go to her opinions. Her opinions, okay, escalator
12 maintenance company, Thyssenkrupp, failed to maintain the down
13 escalator in a safe operating condition. She doesn't have any basis for
14 that because her only basis that she stated is the age of the at which
15 she stated in the paragraph before in reference to A17.1. But she's
16 acknowledged that A17.1 as she has stated it in this expert report is not
17 the Nevada standard, so it maybe a nationalized standard. But if it
18 doesn't apply in Nevada, then as written -- as she has written in her
19 report, and that's why I was double checking in her supplemental report
20 just to make sure that there was not a modification, she otherwise didn't.
21 I didn't recall seeing, but I wanted to make sure today that there wasn't
22 something different that I was missing and I don't see that she has
23 anything different in her supplemental report that she addresses some
24 Nevada parallel.

25 The deposition transcript; the Court's only taking into account

1 the specific deposition citations that were cited in the applicable briefs.
2 The Court's not taking into account any additional citations that may
3 have been referenced here today at Court. So that addresses the
4 objection raised by plaintiff.

5 Then you go to the next elevator maintenance company,
6 Thyssenkrupp failed to watch over and do adequate preventative
7 maintenance specifically on the step and roller assemblies having had
8 prior knowledge of the occurrences, replaced some of them in 2002.

9 This place, the writing, public and known danger; she states it,
10 but she gives no support from it. She doesn't give any of the *Hallmark*
11 factors to explain how any of those opinions come through because she
12 states she doesn't know what maintenance was done and the Court
13 does take into account, that's why the Court was asking about when you
14 got those investigations and those pages that you agreed the Court's
15 Exhibit 3.

16 Well she may have a viewpoint on the maintenance logs. The
17 Court has to rely on what was presented and no one said these are
18 false, inappropriate. There's nothing to say that they're manipulated in
19 any way. In fact, those questions were asked to the witness and she
20 didn't say that they were manipulated, false or anything like that. She
21 just disagrees with them.

22 And I'll tell you one point she actually while she gave the time
23 range, she didn't say necessarily which report she was referencing, so
24 the Court doesn't really have that clarity of which one she was
25 specifically referencing because she says she didn't recall. She has an

1 overall generalized disagreement. While she may have a disagreement,
2 there's nothing to establish any support for any of those opinions.

3 Third opinion, failed to provide the technical knowledge
4 required to service an escalator which such known defects. She hasn't
5 provided any support for that. She states it, but for all the analysis, the
6 Court just said she doesn't -- hasn't provided anything with that.

7 The next one is failed to provide a supervision and/or
8 oversight to recognize the inherent danger of this equipment and/or
9 monitor or educate the mechanics. Well since she said she's not a
10 mechanic and doesn't do any of the qualifications, the Court has no idea
11 how she can try and say that she knows what should be done to monitor
12 and educate when she doesn't even have the mechanic's qualifications.
13 So how would she know when she hasn't established that she would
14 know the education training required to monitor educate the mechanics.
15 She did not establish full two opportunities that plaintiffs' counsel to try to
16 elicit that information from her not only in the papers and the pleadings
17 provided to the Court, but also the additional evidentiary hearing that
18 was not elicited that she has that background experience. Everything
19 the Court just cited, *Hallmark* without repeating myself.

20 For the next one -- so therefore she failed on that one. Failed
21 to properly clean the escalator to enable visual inspection the damage to
22 the escalator equipment and step assemblies; she acknowledged that
23 directly head on. She was asked, do you know what steps look like in --
24 on the day of the incident. She says no. So if she says no here under
25 the penalty of perjury, the Court can't say that she can testify to it as

1 opinion in front of a jury, so -- and for all the reasons the Court just said.

2 The next one is a straight A17.1 code requirements. Well she
3 said that she's A17.1 isn't Nevada, so remember her final answer was
4 no. So her final answer is no if final answer A17.1 is not Nevada, well if
5 Thyssenkrupp is not meeting A17.1 and A17.1 is not Nevada, then that's
6 not of any assistance to the jury citing back to everything the Court just
7 said with regards to *Hallmark*.

8 Elevator owner; Golden Nugget, did not properly oversee the
9 maintenance contractor. Well, and they're required appearance. Well,
10 going back to what the Court said if she's not provided anything that she
11 knows anything about the ownership and obligation of a property owner
12 regarding the oversight and maintenance of its underlying contractor.
13 That was not anywhere in anything.

14 I mean there's not anything that she testified today, anything
15 in the pleadings that she knows what a hotel and property owner would
16 be able to do that she has that business. Remember she says that her
17 scope in both her two Swett companies, right, Swett Associations and
18 Swett Corp. is an inspector. Ninety-five percent elevators, five percent
19 escalators because that's the vertical market place. But she does not
20 say anything that she has any knowledge of what the oversight employers
21 do. She doesn't have the training. She doesn't have the education.
22 She doesn't have the experience. She worked for Dover. She doesn't
23 say that she's ever worked for any hotels, any coordinated with those
24 hotels.

25 Now while she did work with Alabama, Kentucky -- I'm missing

1 one another [indiscernible] Washington State -- another university she
2 never explored out how working with those entities gave her any
3 knowledge of how those entities -- she was hired by them and she was
4 also hired by Thyssenkrupp for 20 plus years X amount of dollars that
5 she's earned from Thyssenkrupp, but she's never explained how being
6 hired by those entities to inspect their elevator slash escalators in some
7 cases and including the Bush Airport where she's done the escalators
8 and a hundred escalator multiple times. So that gets her to two to three
9 hundred of escalators. And the, of course, thousands of elevators. But
10 she's never explained how doing those inspections on those particular
11 escalators and/or elevators in the 95 to 5 percent ratio has provided her
12 any information how the oversight of the property owner and their
13 obligations with relationships to that. This is clearly not in here. She
14 says it, but she doesn't show how she's got any of the *Hallmark* factors
15 [indiscernible] all the *Hallmark* factors, the reasoning the Court
16 previously said to support her statement. So she says it, but she doesn't
17 have any support for it in all of those.

18 Similarly, the reaction and respond when advised to the
19 extreme danger; well, she didn't even, you know, expose the unknowing
20 [indiscernible] public, everything I just said goes to that next one as well
21 with regards to Golden Nugget.

22 Same thing with the last one, escalator owner; Golden
23 Nugget, did not respond to reasonable time when Thyssenkrupp advised
24 them of the dangerous cracks and the correction of the cost required to
25 safely return the escalator to service only. Owner only approved the

1 minimum work step change replacements as cited as the violation of the
2 Nevada. AHG, Golden Nugget was advised in June of 2015 the danger
3 and did not replace the state -- steps until the end of 2015.

4 Well that one not explored really at all and how she could that
5 and how that conduct really goes to this -- how that subsequent conduct
6 really ties into this incident. But once again she -- well that maybe a
7 factual matter of timing that A, there was a violation and only certain
8 steps were because you all have acknowledged that. But she doesn't
9 say how her background and experience lets her say that that gives an
10 opinion that they -- Golden Nugget did not respond in a reasonable
11 timeframe.

12 She did not say in any of her thousands of times, her 50 times
13 of being an expert, never testifying in Court and she was retained.
14 Remember she was retained as an expert for modifications and
15 modernizations of elevators. None of those did she ever say she was
16 ever asked to opine on timeframes or what should or should not be done
17 by land owners or employers or owners. Or the timeframes in which
18 people should respond to do those things.

19 She said that as part basically, I presume it was a consent to
20 breach, she said settlement, most likely to consent to agree, but
21 whatever, it doesn't really matter for purposes that she was hired, she
22 bill and ensured that there was modernization. But never said that she
23 has the background and experience, etcetera, to know what the
24 timeframe is when something is first reported.

25 And the Court takes no position whether things were or were

1 not reported, but the Court fully understands that is a different disputed
2 issue between the parties in this case. But assuming for purposes only
3 of this motion in limine that that presumption for purposes of this ruling,
4 there's no basis to that.

5 So then we get to her rebuttal report; with regards to her
6 rebuttal report, everything I've said to the extent that those opinions are
7 similarly in her rebuttal report will apply to rebuttal report. However, with
8 regards to some of her rebuttal opinions, with regards to some of Mr.
9 Turner's, the Court sees some of those potentially could come in, but
10 you all didn't really phrase that clear enough for the Court to know what
11 you really wanted to potentially exclude or not exclude, so the Court with
12 regards to rebuttal responses to Mr. Turner's to not otherwise exclude,
13 apply what the Court has specifically stated, she still would be able to
14 testify in the rebuttal capacity which is not otherwise been excluded by
15 the Court.

16 In what I try to quickly say, I'm sorry. It's after the 5 o'clock
17 hour. Sorry specifically to my poor team because they're going since
18 8:30. So there's the Court's ruling. It is so ordered.

19 I'm going to give you back your rebuttal report because that's
20 already obviously in the pleadings and that's why the Court couldn't take
21 that into account because that's already attached. It's just the Court did
22 not have it handy. Court citation is of course everything that you all
23 stated. I'm incorporating the case law stated by everyone. Obviously it
24 was all looked up first time, second time. So that's all taken into
25 account. So that's the Court's ruling.

1 I will see you -- I'm not sure when I'm seeing you next
2 because that's going to be subject to, but I will see you tomorrow I
3 guess. But my team, I am going to apologize so profusely, but I guess
4 that I'm about to get asked a very specific question by counsel because
5 of the notification that they got as being number three. I think in fairness
6 can I take two minutes to do that? Am I being asked a question or I'm
7 just seeing you tomorrow?

8 MR. IQBAL: Your Honor, counsel had talked. I guess
9 requesting if we get moved -- potentially moved calendar call and see
10 you next week versus this week to -- to give the Court time.

11 THE COURT: Remember we specifically did it this week at
12 somebody's specific request. That's the only reason why we put you
13 two weeks out because otherwise you would have been on the normal
14 one-week out which your poor paralegal at your firm then see everything
15 would have been consistent. It's only because they requested it
16 specifically which is why it was the way it was.

17 MS. MASTRANGELO: Your Honor, that aside given it looks
18 like we're number three. I spoke to the plaintiffs' attorneys on both of
19 those bases in front of us that they swear they're not going to settle. So
20 --

21 THE COURT: I don't know --

22 MS. MASTRANGELO: -- what should we do from here?

23 THE COURT: Okay. The short answer is I don't know. The
24 second case could potentially -- the second easily could go to overflow.
25 I'm not saying it would or wouldn't. Second case could easily go to

1 overflow. The first case, I do not know. We were in round one of
2 terminating sanctions. We're going to the second day on Thursday
3 afternoon which you can appreciate because [indiscernible] time, so.
4 That's why of course we had to schedule everyone. We've been going
5 on this as well.

6 So I'm not sure what you're asking, folks. If you're asking not
7 to bring all your exhibits --

8 MS. MASTRANGELO: I don't know what I'm asking either.

9 THE COURT: -- in tomorrow. I mean but you all specifically
10 requested tomorrow versus the following week. That's the only reason
11 why we gave you your calendar call two weeks in advance. Because
12 normally we would have done it the week before because you're on the
13 21st because we don't try and ask people to get stuff early.

14 MR. ROBERTS: And, Your Honor, I consulted with the
15 lawyers who were here at the time. No one can recall actually
16 requesting specifically this date and I think we're all in agreement that a
17 week before would be good for everybody if that would give the Court
18 more time to review our submissions and --

19 THE COURT: What do you mean review your submissions?

20 MR. ROBERTS: -- allow us to be better prepared.

21 THE COURT: I've taken care of everything that's -- no, no,
22 no. Don't put it on the Court. Court's taken care of every single thing
23 that's due forth. I'm done.

24 MR. ROBERTS: Oh, I understand, Your Honor.

25 THE COURT: I will be very glad to have all your exhibits and

1 everything tomorrow. I am perfectly fine getting everything tomorrow.
2 Feel free. I would love to see it. Please don't put it on the Court.

3 MR. ROBERTS: It's --

4 MR. IQBAL: It's not on the Court, Your Honor.

5 THE COURT: Oh no, you just said to make the Court happier.
6 No. It's not for us. I'm glad to see everything tomorrow.

7 MR. IQBAL: If it's -- plaintiffs will request then that -- that --
8 request oral motion to -- to move calendar call to next week, Your
9 Honor.

10 THE COURT: Do you all want to be on 15th, is that -- I mean
11 normally I would never ever do this other than the fact you happen to be
12 uniquely the third case and uniquely you're here today and uniquely
13 there's, you know -- so what do you all want jointly? What do you want?
14 Two seconds because in fairness my --

15 MR. ROBERTS: The 15th, Your Honor.

16 THE COURT: -- my poor team -- well my poor team
17 remember.

18 MR. ROBERTS: Or the 14th.

19 MS. MASTRANGELO: Fourteenth is next Monday.

20 THE COURT: No. That's not Monday. You don't get
21 Mondays. Tuesdays are my calendar calls.

22 MR. ROBERTS: Tuesday the 15th, Your Honor.

23 THE COURT: It'd be the same time as the Pace [phonetic] at
24 9 a.m. on the 15th; is that what everybody is wanting?

25 MS. MASTRANGELO: That's fine by me.

1 MR. IQBAL: Thank you, Your Honor.

2 MS. McLEOD: Thank you, Your Honor.

3 THE COURT: Okay. Are you waiving any issues with their
4 inadvertent lateness? What are we doing about a pre-trial? I still -- my
5 pre-trial memo is already due. It's past 5 o'clock. I'm sure it already got
6 filed today.

7 MS. MASTRANGELO: I did mine.

8 THE COURT: I know Thyssenkrupp did, but I know --

9 MS. MASTRANGELO: I want to do a joint one --

10 MR. IQBAL: And --

11 MS. MASTRANGELO: -- but I'm waiting on plaintiffs' counsel

12 --

13 THE COURT: I'm sure it does done before 5 o'clock.

14 MS. MASTRANGELO: -- to get it to me.

15 MR. ROBERTS: G -- GNL filed their before 4 p.m., Your
16 Honor.

17 MR. IQBAL: And plaintiffs --

18 MR. ROBERTS: It should be in your box.

19 MR. IQBAL: -- have not, Your Honor.

20 MR. ROBERTS: But --

21 THE COURT: I'm -- there's -- there's -- at best somebody
22 said it was by end of day today which was before business hours today.
23 There's no reason things could not have been done. The Court's not
24 granting any extensions. Nobody asked given this Court any good
25 cause. I'm giving you the benefit of the doubt on something that --

1 seems to be in a little bit of lack of clarification, but [indiscernible] so do
2 you all want to be moved your calendar call on the 15th, fine. But there's
3 nothing else being extended, added and that is not an invitation for
4 anyone to file anything. Am I clear on that?

5 MS. MASTRANGELO: Yes.

6 THE COURT: I'm not saying -- you know what I mean? Court
7 is no way expending anything else.

8 MR. IQBAL: Yes, Your Honor.

9 THE COURT: Okay.

10 MS. McLEOD: Yes, Your Honor.

11 MR. ROBERTS: Yes, Your Honor.

12 THE COURT: Good. You could appreciate sometimes
13 people say if you expend a week that somehow a whole flood of things
14 come in or somehow the Court was implicitly doing that. I am not.
15 Everybody understands that in all caps?

16 MR. IQBAL: Yes, Your Honor.

17 MS. McLEOD: Yes, Your Honor.

18 MR. ROBERTS: Yes, Your Honor.

19 THE COURT: I already had today once, a binder this thick
20 showed up right in the middle of our hearing, so that wasn't you all's
21 case, so I guess I'm not clear enough when I tell people when they ask
22 for extra weeks that somehow things start popping, so I guess I now
23 have to say this each and every time for each and every hearing on
24 each and every case.

25 Okay. There's your thing. So you want to be moved all the

1 15th, yes, yes, yes and yes?

2 MS. MASTRANGELO: Yes.

3 THE COURT: Is that right?

4 MR. IQBAL: Yes, Your Honor.

5 MR. ROBERTS: Yes, Your Honor.

6 THE COURT: One time fine. Fine, you're on the 15th. Okay,
7 9 a.m. calendar call. Thank you.

8 MS. MASTRANGELO: Thank you.

9 THE COURT: But you're not going to see it probably changed
10 until tomorrow because my team needs to go, okay, so they have been
11 way, way more than accommodating. So I'm sure you all are not going
12 to talk and as you're packing up your stuff as you're leaving very, very
13 quickly.

14 MS. McLEOD: Thank you, Your Honor. We appreciate the
15 Court's time and especially that it's staff.

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25 THE COURT: Team is what I care about. I'm here, but they

1 have been more than accommodating today to a multiple of cases and I
2 am so appreciative and grateful.

3 THE COURT RECORDER: Off the record, Judge?

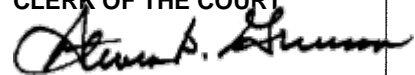
4 THE COURT: Thank you, yes.

5 [Hearing concluded at 5:30 p.m.]

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18 ATTEST: I do hereby certify that I have truly and correctly transcribed
19 the audio/video proceedings in the above-entitled case to the best of my
20 ability.

21
22 
23 Michelle Ramsey
24 Court Transcriber
25



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DISTRICT COURT

CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his Wife,
NETTIE J. BROWN, an individual,

Plaintiff,

v.

LANDRY'S, INC., a foreign corporation;
GOLDEN NUGGET, INC. a Nevada
corporation, d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP., a Nevada
corporation; THYSSENKRUPP ELEVATOR
CORP., a foreign corporation; DOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1 – 100,

Defendants.

GNL, CORP., a Nevada corporation

Third-Party Plaintiff,

vs.

THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,

Third-Party Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

**DEFENDANT/THIRD-PARTY
PLAINTIFF, GNL, CORP.
OBJECTIONS TO DEPOSITION
EXCERPTS OF DON HARTMANN,
JANUARY 24, 2018**





Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
1.	17:8-18:21		
2.	24:15-20		
3.	28:19-29:15		29:16-29:17
4.	30:7-31:11	Improper Hypothetical to Lay Witness. NRS 50.265. See beginning of question at 32:11-15.	
5.	34:11-20	Relevance	
6.	37:16-38:2	Relevance	
7.	40:23-41:1		
8.	42:7-20		42:21-22
9.	45:23-46:9	Relevance	
10.	47:7-24	Relevance	
11.	49:14-19	Relevance	
12.	50:22-51:9	Relevance	
13.	56:18-19	Relevance	
14.	57:2-20	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
15.	58:11-59:2	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
16.	59:15-22	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
17.	61:11-24	61:17-19. GNL MIL 3 and TKE MIL 7. Inadmissible	



		and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
18.	65:3-10, 18-23		65:11-12
19.	69:8-21	GNL MIL 2. Prior and subsequent repairs and incidents.	
20.	70:12-14	GNL MIL 2. Prior and subsequent repairs and incidents.	
21.	72:7-15	GNL MIL 2. Prior and subsequent repairs and incidents.	
22.	75:6-11		
23.	76:10-22		76:23-77:22
24.	78:20-79:5	Excerpt does not include question	
25.	79:19-80:10		
26.	82:11-83:6	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
27.	85:7-20	Relevance	
28.	87:13-88:4		
29.	88:7-18		
30.	90:10-25		
31.	93:8-24		
32.	94:21-97:13	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
33.	97:20-98:24	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	



1	34.	99:7-25	Relevance / Atty-client privilege and work product. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
2				
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5	35.	100:18-101:3	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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8	36.	101:22-104:20	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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11	37.	107:8-24	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
12				
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14	38.	111:11-21		111:22-112:2
15	39.	114:14-115:19	115:3-115:19. GNL MIL 2. Prior and subsequent repairs and incidents.	
16				
17	40.	118:5-119:22	Subsequent. GNL MIL 2. Prior and subsequent repairs and incidents.	
18				
19	41.	123:20-124:9	Improper Hypothetical to Lay Witness. NRS 50.265.	
20				
21	42.	126:24-129:14	Relevance, subsequent. GNL MIL 2. Prior and subsequent repairs and incidents	
22				
23	43.	132:11-23	Objection after line 20 – not testimony. GNL MIL 2. Prior and subsequent repairs and incidents	
24				
25	44.	133:4-13	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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45.	135:19-137:6	Internal Objections. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
46.	138:24-139:14	Internal Objections. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
47.	141:1-7	Relevance. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
48.	148:10-16	Internal obj. Improper Hypothetical to Lay Witness. NRS 50.265.	
49.	151:14-24	GNL MIL 2	
50.	154:21-24	GNL MIL 2	
51.	157:4-158:6	GNL MIL 2	
52.	159:2-160:12	GNL MIL 2	
53.	160:20-161:9	GNL MIL 2	
54.	162:16-163:21	GNL MIL 2	
55.	164:9-165:9	GNL MIL 2	
56.	166:11-16		
57.	172:14-173:1	GNL MIL 2	
58.	175:19-178:1	GNL MIL 2	
59.	179:8-180:7		
60.	182:16-183:20		



1	61.	184:16-185:1-4, 18-23		
2	62.	186:2-8, 17-25 to 187:1-5	GNL MIL 2	
3				
4	63.	188:3-25	GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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8	64.	190:17 – 191:22	GNL MIL 2	
9	65.	192:14-193:19	GNL MIL 2	
10	66.	195:12-196:8	Objection, must include answer lines 9-14	196:9-14
11				
12	67.	199:1-24	GNL MIL 2	
13	68.	202:19-203:22	Objection subsequent. GNL MIL 2	
14	69.	205:20-206:12	GNL MIL 2	
15	70.	207:18-22	Reference to capital budget – start line 19. GNL MIL 2	
16				
17	71.	210:1-17	Relevance. GNL MIL 2	
18	72.	212:6-213:8	Subsequent. GNL MIL 2	
19	73.	215:16-218:20	Relevance. GNL MIL 2	
20	74.	219:7-25	Relevance. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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24	75.	225:3-19	Relevance, testimony ends at ln 14. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
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1	76.	229:6-233:23	Relevance. GNL MIL 2	
2	77.	235:3-25	Relevance. GNL MIL 2	
3	78.	237:23-238:25	Starts mid answer. GNL MIL 2	
4	79.	241:11-244:7	Subsequent. GNL MIL 2	
5	80.	246:2-8	Improper Hypothetical to Lay Witness. NRS 50.265.	
7	81.	249:21-250:6	Money irrelevant. Improper Hypothetical to Lay Witness. NRS 50.265.	248:18-249:20
9	82.	250:21-23	Internal obj	
10	83.	251:23-252:20	Subsequent, relevance. GNL MIL 2.	

Dated this 7th day of October, 2019.

WEINBERG, WHEELER, HUDGINS,
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2019, a true and correct copy of the foregoing **DEFENDANT/THIRD-PARTY PLAINTIFF, GNL, CORP. OBJECTIONS TO DEPOSITION EXCERPTS OF DON HARTMANN, JANUARY 24, 2018** was electronically filed and served on counsel through the Eighth Judicial District Court's electronic service system pursuant to Administrative Order 14-2 and NEFCR 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

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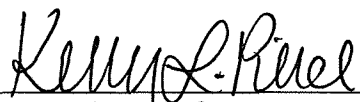
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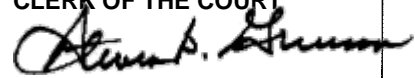
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DISTRICT COURT

CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his Wife,
NETTIE J. BROWN, an individual,

Plaintiff,

v.

LANDRY'S, INC., a foreign corporation;
GOLDEN NUGGET, INC. a Nevada
corporation, d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP., a Nevada
corporation; THYSSENKRUPP ELEVATOR
CORP., a foreign corporation; DOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1 – 100,

Defendants.

GNL, CORP., a Nevada corporation

Third-Party Plaintiff,

vs.

THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,

Third-Party Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

**DEFENDANT/THIRD-PARTY
PLAINTIFF, GNL, CORP.
OBJECTIONS TO DEPOSITION
EXCERPTS OF DON HARTMANN,
MAY 17, 2019**





Excerpt No.	Transcript Portion (pg:ln)	Objection
1.	17:20 – 18:17	
2.	27:5-18	Obj. GNL MIL 2. Prior and subsequent repairs.
3.	48:8-10	Obj. No question or answer.
4.	49:22 – 50:7	Obj. GNL MIL 2. Prior and subsequent repairs.
5.	55:17-25	Obj. GNL MIL 2. Prior and subsequent repairs.
6.	56:3-12	Obj. GNL MIL 2. Prior and subsequent repairs.
7.	63:24 – 64:6	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
8.	66:14 – 69:5	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
9.	73:25 – 75:4	Obj. GNL MIL 2. Prior and subsequent repairs.
10.	76:6-12	Obj. GNL MIL 2. Prior and subsequent repairs.
11.	82:6 – 83:4	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
12.	84:20-24	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
13.	86:19-88:24	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
14.	91:1-10	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.



15.	91:21-92:5	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
16.	92:23-93:22	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
17.	94:4-8	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
18.	94:16-23	Obj. GNL MIL 2. Prior and subsequent repairs.
19.	95:15-21	Obj. GNL MIL 2. Prior and subsequent repairs.
20.	100:14-17	Obj. GNL MIL 2. Prior and subsequent repairs.
21.	102:24-103:7	Obj. GNL MIL 2. Prior and subsequent repairs.
22.	107:8-108:4	Obj. GNL MIL 2. Prior and subsequent repairs.
23.	110:23-111:25	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
24.	112:3-25	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
25.	117:19-119:2	Obj. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.
26.	121:14-123:1	Obj. GNL MIL 2. Prior and subsequent repairs.
27.	123:20-124:22	Obj. GNL MIL 2. Prior and subsequent repairs.
28.	126:1-19	Obj. GNL MIL 2. Prior and subsequent repairs.
29.	129:15-131:18	Obj. GNL MIL 2. Prior and subsequent repairs.



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30.	134:5-8	
31.	141:15-142:9	Obj. GNL MIL 2. Prior and subsequent repairs.

Dated this 7th day of October, 2019.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

/s/ D. Lee Roberts, Jr.

D. Lee Roberts, Jr., Esq.

Howard J. Russell, Esq.

Kristian T. Kaskla, Esq.

6385 South Rainbow Blvd., Suite 400

Las Vegas, Nevada 89118

*Attorneys for Defendant/Third-Party Plaintiff,
GNL, CORP.*



CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of October, 2019, a true and correct copy of the foregoing **DEFENDANT/THIRD-PARTY PLAINTIFF, GNL, CORP. OBJECTIONS TO DEPOSITION EXCERPTS OF DON HARTMANN, MAY 17, 2019** was electronically filed and served on counsel through the Eighth Judicial District Court's electronic service system pursuant to Administrative Order 14-2 and NEFCR 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

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& GOLDEN NUGGET, INC.*

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*Attorneys for Defendant/Third-Party
Defendant ThyssenKrupp elevator
Corporation*

Kelly Ruce

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

A-16-739887-C Joe Brown, Plaintiff(s)
vs.
GNL Corp, Defendant(s)

October 11, 2019 10:00 AM Further Proceedings

HEARD BY: Kishner, Joanna S. COURTROOM: RJC Courtroom 12B

COURT CLERK: Jacobson, Alice

RECORDER: Harrell, Sandra

REPORTER:

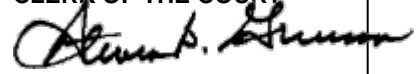
PARTIES PRESENT:

Alexandra B. McLeod	Attorney for Defendant, Third Party Plaintiff
D Lee Roberts, Jr.	Attorney for Defendant, Third Party Plaintiff
Mohamed A. Iqbal	Attorney for Plaintiff
Rebecca L. Mastrangelo	Attorney for Defendant, Third Party Defendant

JOURNAL ENTRIES

Telephonic Conference.

Court contacted counsel to set a trial date. Counsel estimated 15 days for trial. Court suggested that counsel talk with each other and experts and send the Court a joint letter with their available trial dates. Court noted that it was not inclined to have the trial past March 2020 due to the age of the case.

**NEOJ**

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ALEXANDRA B. M^CLEOD, ESQ.

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lroberts@wwhgd.comhrussell@wwhgd.comkkaskla@wwhgd.com*Attorneys for Defendant/Third-Party Plaintiff, GNL, CORP.***DISTRICT COURT****CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual, and his Wife,

NETTIE J. BROWN, an individual,

Plaintiffs,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP., a
foreign corporation; DOE INDIVIDUALS 1-
100,
ROE BUSINESS ENTITIES 1-100,

Defendants.

GNL, CORP., a Nevada corporation;

Third-Party Plaintiff,

Case No.: A-16-739887-C**Dept. No.: XXXI****NOTICE OF ENTRY OF ORDER
REGARDING GNL, CORP.'S
MOTIONS IN LIMINE #1-3**

1 vs.

2 THYSSENKRUPP ELEVATOR
3 CORPORATION a foreign corporation; DOES
4 1-75; ROE CORPORATION 1-75 and ROE
5 CORPORATION 1-25,

6 Third-Party Defendants

7 **NOTICE OF ENTRY OF ORDER**
8 **REGARDING GNL, CORP.'S MOTIONS IN LIMINE #1-3**

9 PLEASE TAKE NOTICE that an *Order Regarding GNL, Corp's Motions in Limine #1-*
10 *3* was entered in this matter on the 14th day of October, 2019; a copy of which is attached
11 hereto.

12 DATED this 16th day of October, 2019.

13 **GRANT & ASSOCIATES**

14 

15 ALEXANDRA B. MCLEOD, ESQ.

16 Nevada Bar No. 8185

17 7455 Arroyo Crossing Parkway, Suite 300

18 Las Vegas, Nevada 89113

19 *Attorney for Defendant/Third-Party Plaintiff,*
20 *GNL, CORP.*

CERTIFICATE OF SERVICE

I certify that I am an employee of **GRANT & ASSOCIATES** and that on this 16th day of October, 2019 I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER REGARDING GNL, CORP.'S MOTIONS IN LIMINE #1-3** to be served as follows:

— By placing the 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

— Pursuant to EDCR 7.26, to be sent via facsimile; and/or

X Pursuant to EDCR 7.26, by transmitting via the Court's electronic filing services by the document(s) listed above to the Counsel set forth on the service list.

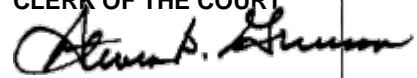
Mohamed A. Iqbal, Jr., Esq.
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Attorneys for GNL, Corp

/s/ Denisse A. Girard-Rubio

An Employee of **GRANT & ASSOCIATES**



1 **ORDR**

2 ANNALISA N. GRANT II, ESQ.

3 Nevada Bar No. 11807

4 ALEXANDRA B. M^CLEOD, ESQ.

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10 Fax: (855) 429-3413

11 Alexandra.M^CLeod@aig.com

12 *Attorney for Defendant/Third-Party Plaintiff, GNL, CORP.*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 JOE N. BROWN, an individual, and his Wife,
16 NETTIE J. BROWN, an individual,
17 Plaintiffs,

18 vs.

19 GNL, CORP., a Nevada corporation;
20 THYSSENKRUPP ELEVATOR CORP., a
21 foreign corporation; DOE INDIVIDUALS 1-
22 100,
23 ROE BUSINESS ENTITIES 1-100,

24 Defendants.

25 GNL, CORP., a Nevada corporation;

26 Third-Party Plaintiff,

27 vs.

28 THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,

Third-Party Defendants

Case No.: A-16-739887-C

Dept. No.: XXXI

**ORDER REGARDING GNL, CORP.'S
MOTIONS *IN LIMINE* #1-3**

Date of hearing: July 10, 2019

Time of hearing: 1:00 p.m.

Defendant, GNL, CORP.'s Motions *in Limine* #1-3, and Defendant, THYSSENKRUPP
ELEVATOR CORPORATION's Joinders to said Motions, having come on for hearing on the
10th day of July, 2019, the Honorable Joanna S. Kishner, District Court, Clark County,
Department XXXI presiding; and this Honorable Court having considered all of the papers and

1 pleadings on file herein, as well as the argument of counsel for the parties hereto; and good
2 cause appearing therefor;

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

4 1. A ruling on GNL, Corp.'s Motion *in Limine* #1 to Exclude Exclude Srinivas
5 Nalamachu, M.D. for Unauthorized Practice of Medicine in Nevada is deferred in part pending
6 a pre-trial, evidentiary hearing outside the presence of the jury at which time Srinivas
7 Nalamachu, M.D will be questioned as to the scope of his NRCP 35 examination of Plaintiff Joe
8 Brown at his home here in Las Vegas, Nevada, and for clarification and more information to be
9 provided on what this witness intends to testify.

10 2. Motion #2 and Joinder regarding Prior and Subsequent Events and Repairs are
11 GRANTED. Because Plaintiffs have failed to meet the the substantial similarity requirement,
12 twelve (12) prior incidents on 4-9-10; 8-28-10; 11-25-10; 2-8-12; 5-9-12; 8-17-12; 1-23-13; 2-
13 23-13; 4-21-13; 5-26-13; 9-30-13; and 2-14-15, as well as a subsequent incident on 5-25-15
14 shall be excluded from evidence at that time of trial.

15 3. Motion #3 and Joinder regarding relitigating discovery disputes in front of the
16 jury are GRANTED. Neither the timing of production of evidence nor the outcome of previous
17 discovery disputes is relevant to any fact of consequence at trial and all references, argument, or
18 testimony on those topics will be excluded from trial. The Court admonishes the parties are to
19 follow the law, and evidence not not previously disclosed will not come in at trial.

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1 IT IS SO ORDERED this 10 day of Oct, 2019.

2
3  JOANNA S. KISHNER
4 DISTRICT COURT JUDGE,
5 JOANNA S. KISHNER

6 Submitted by:

7 GRANT & ASSOCIATES

8 
ALEXANDRA B. MCLEOD, ESQ.

9 Nevada Bar No. 8185

7455 Arroyo Crossing Parkway, Suite 300, Las Vegas, Nevada 89113

10 Attorney for GNL, Corp.

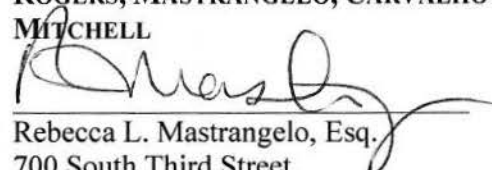
11
12 Approved as to form and content:

13 Dated this 10th day of Sept, 2019.

Dated this ____ day of _____, 2019.

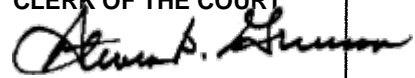
14 ROGERS, MASTRANGELO, CARVALHO &
15 MITCHELL

IQBAL LAW PLLC

16 
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18 Las Vegas, NV 89101
19 Attorney for Thyssenkrupp Elevator
20 Corporation

21 DECLINED
22 Mohamed A. Iqbal, Jr., Esq.
23 101 Convention Center Drive, Suite 1175
24 Las Vegas, NV 89109
25 Attorney for Plaintiffs
26
27
28

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Telephone No. (702) 940-3529
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rmastrangelo@rmcmlaw.com
Attorneys for Defendant
THYSSENKRUPP ELEVATOR CORPORATION

DISTRICT COURT
CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his wife,
NETTIE J. BROWN, an individual,

Plaintiffs,

vs.

LANDRY'S INC., a foreign corporation;
GOLDEN NUGGET, INC., a Nevada
corporation d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP., a Nevada
corporation; DOE INDIVIDUALS 1-100,
ROE BUSINESS ENTITIES 1-100,

Defendants.

CASE NO. A-16-739887-C
DEPT. NO. XXXI

GNL, CORP., a Nevada corporation;

Third-Party Plaintiff,

vs.

THYSSENKRUPP ELEVATOR CORPORATION
a foreign corporation; DOES 1-75; ROE
CORPORATIONS 1-75 and ROE
CORPORATIONS 1-25,

Third-Party Defendants.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order in the above-entitled action was entered and

JNB03189

1 filed on the 23rd day of October, 2019, a copy of which is attached hereto.

2 DATED this 24th day of October, 2019.

3 ROGERS, MASTRANGELO, CARVALHO &
4 MITCHELL

5 
6 REBECCA L. MASTRANGELO, ESQ.

7 Nevada Bar No. 5417
8 700 S. Third Street
9 Las Vegas, Nevada 89101
10 Attorney for Defendant
11 THYSENKRUPP ELEVATOR CORPORATION

12 **CERTIFICATE OF SERVICE**

13 Pursuant to N.R.C.P. 5(a), E.D.C.R. 7.26(a), and Rule 9 of the N.E.F.C.R. I hereby
14 certify that I am an employee of Rogers, Mastrangelo, Carvalho & Mitchell, and on the 24th
15 day of October, 2019, a true and correct copy of the foregoing **NOTICE OF ENTRY OF**
16 **ORDER** was served via electronic means with the Eighth Judicial District Court, addressed as
17 follows, upon the following counsel of record:

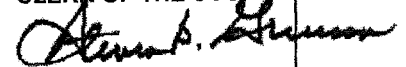
18 Mohamed A. Iqbal, Jr., Esq.
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21 Las Vegas, Nevada 89109
22 Attorneys for Plaintiffs

23 Annalisa N. Grant, Esq.
24 Alexandra B. McLeod, Esq.
25 GRANT & ASSOCIATES
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27 Las Vegas, Nevada 89113
28 Attorneys for Defendant/Third-Party Plaintiff

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Attorneys for Defendant/Third-Party Plaintiff



An employee of ROGERS, MASTRANGELO,
CARVALHO & MITCHELL



1 ORDR
2 REBECCA L. MASTRANGELO, ESQ.
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9 rmastrangelo@rmcmclaw.com
10 Attorneys for Defendant/Third-Party Defendant
11 THYSSENKRUPP ELEVATOR CORPORATION

7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 JOE N. BROWN, an individual, and his wife,
10 NETTIE J. BROWN, an individual,

11 Plaintiffs,

12 vs.

13 GNL, CORP., a Nevada corporation
14 DOE INDIVIDUALS 1-100,
15 ROE BUSINESS ENTITIES 1-100,

16 Defendants.

17 GNL, CORP., a Nevada corporation;

18 Third-Party Plaintiff,

19 vs.

20 THYSSENKRUPP ELEVATOR CORPORATION
21 a foreign corporation; DOES 1-75; ROE
22 CORPORATIONS 1-75 and ROE
23 CORPORATIONS 1-25,

24 Third-Party Defendants.

CASE NO.: A-16-739887-C

DEPT. NO.: XXXI

25 **ORDER REGARDING THYSSENKRUPP ELEVATOR**
26 **CORPORATION'S MOTION IN LIMINE #8**

27 DEFENDANT/THIRD PARTY DEFENDANT THYSSENKRUPP ELEVATOR
28 CORPORATION'S Motion in Limine #8 Re: Exclude the Testimony of Sheila Nabors Swett and
the evidentiary hearing previously ordered in regard to the same (order entered 8/7/19) having
come on for hearing on the 7th day of October, 2019, and Rebecca L. Mastrangelo, Esq., of the
law firm of Rogers, Mastrangelo, Carvalho & Mitchell, appearing on behalf of Defendant/Third

OCT 11 19 PM 05:01 PM

1 Party Defendant THYSSENKRUPP ELEVATOR CORPORATION, and Alexandra McLeod,
2 Esq., of the law firm of GRANT & ASSOCIATES, and D. Lee Roberts, Jr., Esq. of the law firm
3 of WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, appearing on behalf of Defendant
4 GNL, CORP. and Mohamed Iqbal, Esq., of the law firm of IQBAL LAW PLLC, appearing on
5 behalf of Plaintiffs and the court having reviewed the pleadings and papers on file herein, heard
6 the voir dire testimony of Sheila Nabors Swett, and entertained oral argument; and good cause
7 appearing, the court finds as follows:

8 Findings of Fact and Conclusions of Law:

9 1. Plaintiffs disclosed Sheila Swett, aka Sheila Nabors Swett, as an escalator expert
10 and produced a report and a rebuttal report authored by Ms. Swett.

11 2. NRS 50.275 provides that an expert must satisfy certain requirements in order to
12 testify as an expert witness. These requirements include that: (1) she must be qualified in an area
13 of "scientific, technical or other specialized knowledge" (the qualification requirement); (2) her
14 specialized knowledge must "assist the trier of fact to understand the evidence or to determine a
15 fact in issue" (the assistance requirement); and (3) her testimony must be limited "to matters
16 within the scope of [her] specialized knowledge" (the limited scope requirement).

17 3. In determining whether an expert is properly qualified, the court considers the
18 following factors: (1) formal schooling and academic degrees, (2) licensure, (3) employment
19 experience, and (4) practical experience and specialized training. *Hallmark v. Eldridge*, 124
20 Nev. 492, 189 P.3d 646 (2008). These factors are not exhaustive, may be accorded varying
21 weights, and may not be equally applicable in every case. *Id.*

22 4. As to the qualification requirement, Ms. Swett has some formal schooling and an
23 Associate's degree but no Bachelor's degrees. She is not an engineer. She holds no engineering
24 license, no elevator/escalator mechanic's license, nor any license which would allow her to
25 perform maintenance or repair work on escalators. While Ms. Swett has some employment
26 experience involving elevators and escalators, the majority of her work experience in the past 20
27

1 years has involved elevators, rather than escalators. As to escalators, her work experience in the
2 past 20 years has been observing and inspecting. She has never performed any maintenance or
3 repairs on any escalators and neither of her business entities employs anyone who performs
4 maintenance or repairs on escalators. Ms. Swett has no practical experience or specialized
5 training pertaining to escalator maintenance and repair.

6 5. The court has also considered whether Ms. Swett's testimony is based upon
7 reliable methodology and would be able to assist the trier of fact. In determining the same, the
8 court considers whether the expert's opinion is: (1) within a recognized field of expertise;
9 (2) testable and has been tested; (3) published and subjected to peer review; (4) generally
10 accepted in the scientific community; and (5) based more on particularized facts rather than
11 assumption, conjecture, or generalization. *Hallmark v. Eldridge, supra*, 124 Nev. at 500-02.

12 6. Ms. Swett's opinions were not formed under any reliable or scientific
13 methodology but were formed merely after her review of documents and photographs, a
14 "cursory" observation of the subject escalator (three years post incident and after substantial
15 changes had been made to the equipment), and an observation of the escalator steps which were
16 removed post-incident. Despite having the removed escalator steps available for a thorough
17 inspection of the alleged cracks in the steps, Ms. Swett chose to look at only a very few of the
18 steps and did not inspect any of them for cracks. Merely saying that she observed cracks in
19 photographs is not reliable or scientific methodology. Her formulation of opinions in this case
20 was not based upon any published works nor anything subjected to peer review. Her formulation
21 of opinions in this case was not tested or testable. Moreover, Ms. Swett's opinions consist of
22 assumptions and conjecture as she admitted that she could not state whether or not Plaintiff Joe
23 Brown was standing on a cracked step at the time of his fall, or whether the escalator steps were
24 so dirty in May of 2015 that they would've prevented the escalator mechanic from seeing any
25 cracks. Ms. Swett herself never observed any cracks in the steps and she did not experience any
26 shaking or rocking of the steps at the time she rode the escalator. Ms. Swett never spoke to, nor
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1 reviewed the deposition testimony of, the Plaintiffs, the other riders of the escalator at the time of
2 Mr. Brown's fall, or the State of Nevada inspector who inspected the escalator after Mr. Brown's
3 fall. Ms. Swett was unable to identify the code for escalators adopted by the State of Nevada
4 which applied to the escalator at the time of Mr. Brown's incident. Ms. Swett did not consider
5 any other possible reasons for Mr. Brown's fall or perform any scientific analysis to exclude
6 other possibilities.

7 7. Based upon the Points and Authorities set forth in THYSSENKRUPP
8 ELEVATOR CORPORATION'S MOTION IN LIMINE #8 and its Reply brief in support of the
9 Motion, as well as the testimony of Sheila Swett, the court finds that Ms. Swett is not qualified
10 to render opinions as to escalator maintenance and supervision of maintenance and that she is not
11 qualified to render opinions as to GNL, INC.'s oversight, training, and response to the alleged
12 danger of escalator cracks.

13 8. Based upon the Points and Authorities set forth in THYSSENKRUPP
14 ELEVATOR CORPORATION'S MOTION IN LIMINE #8 and its Reply brief in support of the
15 Motion, as well as the testimony of Sheila Swett, the court further finds that Ms. Swett's
16 formulation of her opinions in this case fails the reliability and assistance requirements of NRS
17 50.275 for the reasons set forth above.

18 Based upon the foregoing, IT IS HEREBY ORDERED, ADJUDGED and DECREED
19 that DEFENDANT/THIRD PARTY DEFENDANT THYSSENKRUPP ELEVATOR
20 CORPORATION'S Motion in Limine #8 Re: Exclude the Testimony of Sheila Nabors Swett is
21 hereby GRANTED as to all the opinions set forth in Sheila Swett's initial expert report dated
22 May 4, 2018, and as to any similar opinions set forth in Sheila Swett's rebuttal report dated May
23 28, 2018. This order does not necessarily preclude Sheila Swett from testifying in some capacity
24 as a rebuttal expert, and a decision regarding same is deferred until trial.

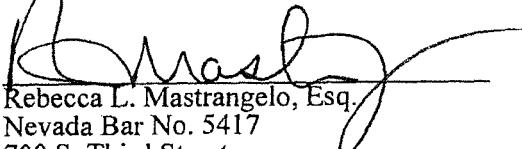
25 DATED this 18 day of October, 2019.

26
27 
28 DISTRICT JUDGE

JOANNA S. KISHNER

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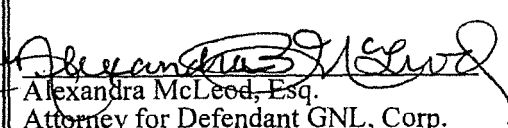
2 ROGERS, MASTRANGELO, CARVALHO
& MITCHELL

3 
4 Rebecca L. Mastrangelo, Esq.
5 Nevada Bar No. 5417
6 700 S. Third Street
7 Las Vegas, Nevada 89101
Attorney for Defendant
THYSSENKRUPP ELEVATOR CORPORATION

8 APPROVED AS TO FORM AND CONTENT:
9

10 

11 Mohamed Iqbal, Esq.
12 Attorney for Plaintiffs

13 
14 Alexandra McLeod, Esq.
Attorney for Defendant GNL, Corp.

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17 D. Lee Roberts, Esq.
18 Attorney for Defendant GNL, Corp.

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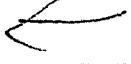
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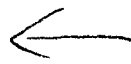
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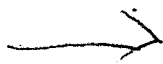
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1 SUBMITTED BY:
2 ROGERS, MASTRANGELO, CARVALHO
3 & MITCHELL
4 
5 _____
6 Rebecca L. Mastrangelo, Esq.
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8 700 S. Third Street
9 Las Vegas, Nevada 89101
10 Attorney for Defendant
11 THYSSENKRUPP ELEVATOR CORPORATION

12 ~~APPROVED AS TO FORM AND CONTENT:~~
13 *Plaintiffs respectfully*
14 *decline to sign.*
15 _____

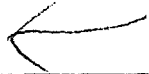
16 Mohamed Iqbal, Esq.
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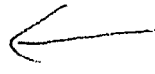
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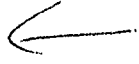
2 ROGERS, MASTRANGELO, CARVALHO
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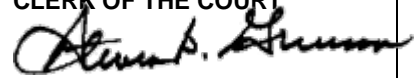
5 Rebecca L. Mastrangelo, Esq.
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7 700 S. Third Street
8 Las Vegas, Nevada 89101
9 Attorney for Defendant
10 THYSSENKRUPP ELEVATOR CORPORATION

11 APPROVED AS TO FORM AND CONTENT:

12 
13 _____
14 Mohamed Iqbal, Esq.
15 Attorney for Plaintiffs

16 
17 _____
18 Alexandra McLeod, Esq.
19 Attorney for Defendant GNL, Corp.

20 
21 _____
22 D. Lee Roberts, Esq.
23 Attorney for Defendant GNL, Corp.



NOAS
IQBAL LAW PLLC
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info@ilawlv.com; mai@ilawlv.com;
Attorneys for Plaintiffs Joe N. Brown and Nettie J. Brown

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual and his Wife,
NETTIE J. BROWN, an individual,

Plaintiffs,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP., a
foreign corporation; DOE INDIVIDUALS 1-
100, ROE BUSINESS ENTITIES 1-100,

Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

NOTICE OF APPEAL

AND ASSOCIATED CASES

NOTICE IS HEREBY GIVEN that Plaintiffs JOE N. BROWN and NETTIE J. BROWN, by and through their attorneys of record Mohamed A. Iqbal, Jr., Esq. and Christopher Mathews, Esq. of the law firm of IQBAL LAW PLLC, hereby appeal to the Supreme Court of Nevada from: (1) the Order Granting Summary Judgment on Punitive Damages, entered on September 27, 2019, a copy of which is attached hereto as **Exhibit 1**; and (2) the Order Regarding Thyssenkrupp Elevator Corporation's Motion in Limine #8, entered on October 24, 2019, a copy of which is attached hereto as **Exhibit 2**.

Dated October 28, 2019.

Respectfully Submitted,

IQBAL LAW PLLC

By: /s/ Mohamed A. Iqbal, Jr.

Mohamed A. Iqbal, Jr. (NSB #10623)

Christopher Mathews (NSB #10674)

*Attorneys for Plaintiffs Joe N. Brown and
Nettie J. Brown*

NOTICE OF APPEAL

1 of 2

JNB03198

CERTIFICATE OF SERVICE

I certify that I served the foregoing **NOTICE OF APPEAL** on all counsel of record in this matter using the Court's e-file/e-service system on October 28, 2019.

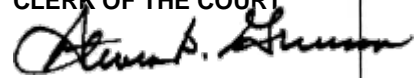
By: /s/ Kevin Williams
An employee of IQBAL LAW PLLC

I LAW LV

EXHIBIT 1

EXHIBIT 1

JNB03200



1 **OGSJ**

2 ANNALISA N. GRANT II, ESQ.

3 Nevada Bar No. 11807

4 ALEXANDRA B. MCLEOD, ESQ.

5 Nevada Bar No. 8185

6 **GRANT & ASSOCIATES**

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11 Alexandra.McLeod@aig.com

12 *Attorney for Defendant/Third-Party Plaintiff, GNL, CORP.*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 JOE N. BROWN, an individual, and his Wife,
16 NETTIE J. BROWN, an individual,
17 Plaintiffs,

18 vs.

19 GNL, CORP., a Nevada corporation;
20 THYSSENKRUPP ELEVATOR CORP., a
21 foreign corporation; DOE INDIVIDUALS 1-
22 100,
23 ROE BUSINESS ENTITIES 1-100,

24 Defendants.

25 GNL, CORP., a Nevada corporation;

26 Third-Party Plaintiff,

27 vs.

28 THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,

Third-Party Defendants

Case No.: A-16-739887-C

Dept. No.: XXXI

**ORDER GRANTING SUMMARY
JUDGMENT ON PUNITIVE
DAMAGES**

Date of hearing: Aug 27, 2019

Time of hearing: 9:30 a.m.

Defendant, GNL, CORP.'s Motion for Summary Judgment on Punitive Damages, and
Defendant THYSSENKRUPP ELEVATOR CORPORATION's (TKE) Joinder to said Motion,
having come on for hearing on the 27th day of August, 2019, the Honorable Joanna S. Kishner,
District Court, Clark County, Department XXXI presiding; and this Honorable Court having



1 considered all of the papers and pleadings on file herein, as well as the argument of counsel for
2 the parties hereto; and good cause appearing therefor;

3 **FINDINGS OF FACT**

4 1. Plaintiff Joe Brown's fall which is the subject of this lawsuit occurred on 5-12-
5 15, on the "down" escalator at Golden Nugget Laughlin, leading from the casino floor to the
6 lower restaurant level.

7 2. TKE (as successor to Dover Elevator Company) was the servicing company
8 contracted to maintain and, as necessary, repair the subject "down" escalator at Golden Nugget
9 Laughlin prior to and at the time of Plaintiff's fall.

10 3. Cracked escalator steps were replaced in 2012 and the "down" escalator received
11 all new steps (salvaged steps were used on the neighboring "up" escalator).

12 4. State of Nevada required annual inspections and testing were completed on or
13 about July 14, 2014 and February 11, 2015, and, according to the checklist, the steps were
14 specifically checked. As there were no violations noted and there was nothing out of order with
15 the subject "down" escalator, a new permit was issued for the time period including Plaintiff's
16 fall. Likewise, the previous five (5) semi-annual inspections, both internal and external,
17 revealed no discrepancies or code violations.

18 5. State of Nevada, Department of Business and Industry, Division of Industrial
19 Relations, Mechanical Compliance Section records including Notices of Violation reveal that
20 there were no violations/corrections in the preceding five years, approximately, that were not
21 abated prior to the 5-12-15 incident when Mr. Brown fell.

22 6. State regulations mandate whenever an individual is injured on a piece of
23 machinery and transported to the hospital for care that the equipment be taken out of service
24 until inspection by the State.

25 7. The day following Brown's accident (5-13-15), State Inspector Steve Robertson
26 arrived on site to investigate the occurrence and inspect the "down" escalator. Robertson
27 specifically "checked the steps to make sure they were in good working order."
28

8. As a result of his investigation, Inspector Robertson found no malfunctions or violations, and placed the down escalator back in service. Inspector Robertson determined the accident to have been caused by user error rather than equipment failure, and listed Brown's cane as a "contributing factor."

9. No further issue with replacement escalator steps cracking was identified until later in 2015, *after* Plaintiff's accident (and was subsequently cured with 40 additional replacement steps).

10. There has been no admissible evidence presented demonstrating that GNL had notice *after* it paid for the repairs and *before* Brown's fall that the down escalator still had cracked steps that could have posed a danger. The documentary evidence demonstrates that GNL was not notified of cracked steps again until after Brown's incident, not before.

CONCLUSIONS OF LAW

1. Nevada law has long recognized that “a plaintiff is never entitled to punitive damages as a matter of right.” *Dillard Dept. Stores, Inc. v. Beckwith*, 115 Nev. 372, 380, 989 P.2d 882, 887 (1999) (quoting *Ramada Inns v. Sharp*, 101 Nev. 824, 826, 711 P.2d 1, 2 (1985)).

2. Tort liability alone is insufficient to support an award of punitive damages. *Wichinsky v. Mosa*, 109 Nev. 84, 89, 847 26 P.2d 727 (1993). Punitive damages statutes in Nevada require conduct exceeding recklessness or gross negligence. *Wyeth v. Rowatt*, 244 P.3d 765, 126 Nev. Adv. Rep. 44 (2010); *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 743, 192 P.3d 243, 255 (2008).

3. As used in the Nevada statute, “[m]alice, express or implied, means conduct which is intended to injure a person or despicable conduct which is engaged in with a conscious disregard of the rights or safety of others.” NRS 42.001(3). Nevada courts have made clear “[t]he term malice as used in the statute means malice in fact and denotes ill-will, or a desire to do harm for the mere satisfaction of doing it.” *Warmbrodt v. Blanchard*, 692 P.2d 1282, 1286 (Nev. 1984) (emphases added).

4. “Conscious disregard” is defined in NRS 42.001 as “the knowledge of the probable harmful consequences of a wrongful act and a willful and deliberate failure to act to

1 avoid those consequences.” The Nevada Supreme Court has made it clear repeatedly that
2 “conscious disregard” in the punitive damages statute, NRS 42.005, requires a “culpable state of
3 mind that must exceed mere recklessness or gross negligence.” *Countrywide, supra*, 124 Nev. at
4 743; *First Nat. Bank of Ely v. Progressive Cas. Ins. Co.*, 2012 WL 5944847 (D. Nev. Nov. 27,
5 2012). “Even unconscionable irresponsibility will not support a punitive damages award.”
6 *Maduikie v. Agency Rent-A-Car*, 114 Nev. 1, 5, 953 P.2d 24, 26 (1998), *citing First Interstate*
7 *Bank v. Jafbro's Auto Body*, 106 Nev. 54, 57, 787 P.2d 765, 767 (1990).

8 5. Even assuming *arguendo* that all the down escalator steps were not replaced in
9 2012-2013 or that maintenance of the subject escalator may be found to be lacking, punitive
10 damages are not recoverable for negligent conduct or even grossly negligent or reckless
11 conduct.

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1 **IT IS HEREBY ORDERED** that GNL, Corp.'s Motion for Summary Judgment on
2 Punitive Damages, and TKE's Joinder to said Motion, are GRANTED and Plaintiffs' prayer for
3 punitive damages shall be dismissed from the Second Amended Complaint.

4 DATED this ____ day of September, 2019.

5
6 
7 **DISTRICT COURT JUDGE,**
8 **JOANNA S. KISHNER**

JOANNA S. KISHNER

9 Submitted by:

10 **GRANT & ASSOCIATES** #11897

11  *for*
12 **ALEXANDRA B. MCLEOD, ESQ.**

13 Nevada Bar No. 8185

14 7455 Arroyo Crossing Parkway, Suite 300, Las Vegas, Nevada 89113

15 *Attorney for GNL, Corp.*

16 Approved as to form and content:

17 Dated this ____ day of September, 2019.

18 **ROGERS, MASTRANGELO, CARVALHO &
MITCHELL**

Dated this ____ day of September, 2019.

IQBAL LAW PLLC

19 NEXT PAGE

20 Rebecca L. Mastrangelo, Esq.

21 700 South Third Street

22 Las Vegas, NV 89101

*Attorney for Thyssenkrupp Elevator
Corporation*

DECLINED

Mohamed A. Iqbal, Jr., Esq.

101 Convention Center Drive, Suite 1175

Las Vegas, NV 89109

Attorney for Plaintiffs

1 **IT IS HEREBY ORDERED** that GNL, Corp.'s Motion for Summary Judgment on
2 Punitive Damages, and TKE's Joinder to said Motion, are GRANTED and Plaintiffs' prayer for
3 punitive damages shall be dismissed from the Second Amended Complaint.

4 DATED this ____ day of September, 2019.

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DISTRICT COURT JUDGE,
JOANNA S. KISHNER

Submitted by:

GRANT & ASSOCIATES

LAST PAGE

ALEXANDRA B. McLEOD, ESQ.

Nevada Bar No. 8185

7455 Arroyo Crossing Parkway, Suite 300, Las Vegas, Nevada 89113

Attorney for GNL, Corp.


Approved as to form and content:

Dated this 10th day of September, 2019.

Dated this ____ day of September, 2019.

ROGERS, MASTRANGELO, CARVALHO &
MITCHELL

IQBAL LAW PLLC



Rebecca L. Mastrangelo, Esq.

700 South Third Street

Las Vegas, NV 89101

Attorney for Thyssenkrupp Elevator
Corporation

DECLINED


Mohamed A. Iqbal, Jr., Esq.

101 Convention Center Drive, Suite 1175

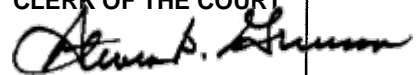
Las Vegas, NV 89109

Attorney for Plaintiffs

EXHIBIT 2

EXHIBIT 2

JNB03207



1 ORDR
2 REBECCA L. MASTRANGELO, ESQ.
3 Nevada Bar No. 5417
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8 Fax (702) 384-1460
9 rmastrangelo@rmcmlaw.com
10 Attorneys for Defendant/Third-Party Defendant
11 THYSSENKRUPP ELEVATOR CORPORATION

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 JOE N. BROWN, an individual, and his wife,
15 NETTIE J. BROWN, an individual,

16 Plaintiffs,

17 vs.

18 GNL, CORP., a Nevada corporation
19 DOE INDIVIDUALS 1-100,
20 ROE BUSINESS ENTITIES 1-100,

21 Defendants.

22 GNL, CORP., a Nevada corporation;

23 Third-Party Plaintiff,

24 vs.

25 THYSSENKRUPP ELEVATOR CORPORATION
26 a foreign corporation; DOES 1-75; ROE
27 CORPORATIONS 1-75 and ROE
28 CORPORATIONS 1-25,

Third-Party Defendants.

CASE NO.: A-16-739887-C

DEPT. NO.: XXXI

ORDER REGARDING THYSSENKRUPP ELEVATOR
CORPORATION'S MOTION IN LIMINE #8

DEFENDANT/THIRD PARTY DEFENDANT THYSSENKRUPP ELEVATOR
CORPORATION'S Motion in Limine #8 Re: Exclude the Testimony of Sheila Nabors Swett and
the evidentiary hearing previously ordered in regard to the same (order entered 8/7/19) having
come on for hearing on the 7th day of October, 2019, and Rebecca L. Mastrangelo, Esq., of the
law firm of Rogers, Mastrangelo, Carvalho & Mitchell, appearing on behalf of Defendant/Third

JNB03208

1 Party Defendant THYSSENKRUPP ELEVATOR CORPORATION, and Alexandra McLeod,
2 Esq., of the law firm of GRANT & ASSOCIATES, and D. Lee Roberts, Jr., Esq. of the law firm
3 of WEINBERG, WHEELER, HUDGINS, GUNN & DIAL, appearing on behalf of Defendant
4 GNL, CORP. and Mohamed Iqbal, Esq., of the law firm of IQBAL LAW PLLC, appearing on
5 behalf of Plaintiffs and the court having reviewed the pleadings and papers on file herein, heard
6 the voir dire testimony of Sheila Nabors Swett, and entertained oral argument; and good cause
7 appearing, the court finds as follows:

8 Findings of Fact and Conclusions of Law:

9 1. Plaintiffs disclosed Sheila Swett, aka Sheila Nabors Swett, as an escalator expert
10 and produced a report and a rebuttal report authored by Ms. Swett.

11 2. NRS 50.275 provides that an expert must satisfy certain requirements in order to
12 testify as an expert witness. These requirements include that: (1) she must be qualified in an area
13 of “scientific, technical or other specialized knowledge” (the qualification requirement); (2) her
14 specialized knowledge must “assist the trier of fact to understand the evidence or to determine a
15 fact in issue” (the assistance requirement); and (3) her testimony must be limited “to matters
16 within the scope of [her] specialized knowledge” (the limited scope requirement).

17 3. In determining whether an expert is properly qualified, the court considers the
18 following factors: (1) formal schooling and academic degrees, (2) licensure, (3) employment
19 experience, and (4) practical experience and specialized training. *Hallmark v. Eldridge*, 124
20 Nev. 492, 189 P.3d 646 (2008). These factors are not exhaustive, may be accorded varying
21 weights, and may not be equally applicable in every case. *Id.*

22 4. As to the qualification requirement, Ms. Swett has some formal schooling and an
23 Associate’s degree but no Bachelor’s degrees. She is not an engineer. She holds no engineering
24 license, no elevator/escalator mechanic’s license, nor any license which would allow her to
25 perform maintenance or repair work on escalators. While Ms. Swett has some employment
26 experience involving elevators and escalators, the majority of her work experience in the past 20
27

1 years has involved elevators, rather than escalators. As to escalators, her work experience in the
2 past 20 years has been observing and inspecting. She has never performed any maintenance or
3 repairs on any escalators and neither of her business entities employs anyone who performs
4 maintenance or repairs on escalators. Ms. Swett has no practical experience or specialized
5 training pertaining to escalator maintenance and repair.

6 5. The court has also considered whether Ms. Swett's testimony is based upon
7 reliable methodology and would be able to assist the trier of fact. In determining the same, the
8 court considers whether the expert's opinion is: (1) within a recognized field of expertise;
9 (2) testable and has been tested; (3) published and subjected to peer review; (4) generally
10 accepted in the scientific community; and (5) based more on particularized facts rather than
11 assumption, conjecture, or generalization. *Hallmark v. Eldridge, supra*, 124 Nev. at 500–02.

12 6. Ms. Swett's opinions were not formed under any reliable or scientific
13 methodology but were formed merely after her review of documents and photographs, a
14 "cursory" observation of the subject escalator (three years post incident and after substantial
15 changes had been made to the equipment), and an observation of the escalator steps which were
16 removed post-incident. Despite having the removed escalator steps available for a thorough
17 inspection of the alleged cracks in the steps, Ms. Swett chose to look at only a very few of the
18 steps and did not inspect any of them for cracks. Merely saying that she observed cracks in
19 photographs is not reliable or scientific methodology. Her formulation of opinions in this case
20 was not based upon any published works nor anything subjected to peer review. Her formulation
21 of opinions in this case was not tested or testable. Moreover, Ms. Swett's opinions consist of
22 assumptions and conjecture as she admitted that she could not state whether or not Plaintiff Joe
23 Brown was standing on a cracked step at the time of his fall, or whether the escalator steps were
24 so dirty in May of 2015 that they would've prevented the escalator mechanic from seeing any
25 cracks. Ms. Swett herself never observed any cracks in the steps and she did not experience any
26 shaking or rocking of the steps at the time she rode the escalator. Ms. Swett never spoke to, nor
27

1 reviewed the deposition testimony of, the Plaintiffs, the other riders of the escalator at the time of
2 Mr. Brown's fall, or the State of Nevada inspector who inspected the escalator after Mr. Brown's
3 fall. Ms. Swett was unable to identify the code for escalators adopted by the State of Nevada
4 which applied to the escalator at the time of Mr. Brown's incident. Ms. Swett did not consider
5 any other possible reasons for Mr. Brown's fall or perform any scientific analysis to exclude
6 other possibilities.

7 7. Based upon the Points and Authorities set forth in THYSSENKRUPP
8 ELEVATOR CORPORATION'S MOTION IN LIMINE #8 and its Reply brief in support of the
9 Motion, as well as the testimony of Sheila Swett, the court finds that Ms. Swett is not qualified
10 to render opinions as to escalator maintenance and supervision of maintenance and that she is not
11 qualified to render opinions as to GNL, INC.'s oversight, training, and response to the alleged
12 danger of escalator cracks.

13 8. Based upon the Points and Authorities set forth in THYSSENKRUPP
14 ELEVATOR CORPORATION'S MOTION IN LIMINE #8 and its Reply brief in support of the
15 Motion, as well as the testimony of Sheila Swett, the court further finds that Ms. Swett's
16 formulation of her opinions in this case fails the reliability and assistance requirements of NRS
17 50.275 for the reasons set forth above.

18 Based upon the foregoing, IT IS HEREBY ORDERED, ADJUDGED and DECREED
19 that DEFENDANT/THIRD PARTY DEFENDANT THYSSENKRUPP ELEVATOR
20 CORPORATION'S Motion in Limine #8 Re: Exclude the Testimony of Sheila Nabors Swett is
21 hereby GRANTED as to all the opinions set forth in Sheila Swett's initial expert report dated
22 May 4, 2018, and as to any similar opinions set forth in Sheila Swett's rebuttal report dated May
23 28, 2018. This order does not necessarily preclude Sheila Swett from testifying in some capacity
24 as a rebuttal expert, and a decision regarding same is deferred until trial.

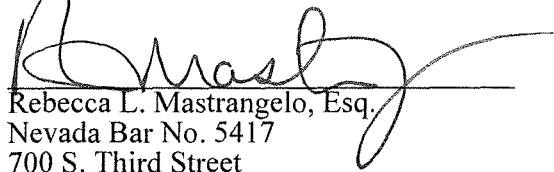
25 DATED this 18 day of October, 2019.

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28 DISTRICT JUDGE

JOANNA S. KISHNER

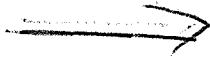
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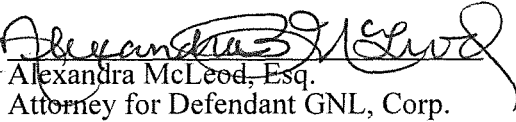
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5 Rebecca L. Mastrangelo, Esq.
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10 THYSSENKRUPP ELEVATOR CORPORATION

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10 Attorney for Defendant

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12

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15 *Plaintiffs respectfully*
16 *decline to sign.*

17 Mohamed Iqbal, Esq.

18 Attorney for Plaintiffs

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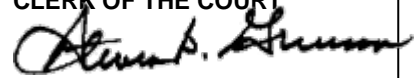
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ASTA
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Attorneys for Plaintiffs Joe N. Brown and Nettie J. Brown

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual and his Wife,
NETTIE J. BROWN, an individual,

Plaintiffs,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP., a
foreign corporation; DOE INDIVIDUALS 1-
100, ROE BUSINESS ENTITIES 1-100,

Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

CASE APPEAL STATEMENT

AND ASSOCIATED CASES

1. Name of appellant filing this case appeal statement:

Appellants: Plaintiffs, Joe N. Brown and Nettie J. Brown

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable Joanna S. Kishner

3. Identify each appellant and the name and address of counsel for each appellant:

Appellants: Plaintiffs, Joe N. Brown and Nettie J. Brown

Counsel: Mohamed A. Iqbal, Jr., Esq.

Christopher Mathews, Esq.

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Tel: 702-750-2950

4. Identify each respondent and the name and address of appellate counsel:

Respondent: Defendant, GNL, Corp., a Nevada Corporation

Counsel: Alexandra B. McLeod, Esq.

GRANT & ASSOCIATES

CASE APPEAL STATEMENT

1 of 5

JNB03215

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Respondent: Defendant, Thyssenkrupp Elevator Corp., a foreign corporation
Counsel: Rebecca L. Mastrangelo, Esq.
ROGERS, MASTRANGELO, CARVALHO & MITCHELL
700 South Third St.
Las Vegas, Nevada 89101
Tel: 702-383-3400

- 5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42:**

All counsel listed above are licensed to practice in Nevada.

- 6. Indicate whether appellant was represented by appointed or retained counsel in the district court:**

Appellants was represented by retained counsel in the district court (listed above).

- 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

Appellants are represented by retained counsel listed above on this appeal (listed above).

- 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:**

No such leave was either requested or granted.

- 9. Indicate the date the proceedings commenced in the district court (e.g., date of complaint, indictment, information, or petition was filed):**

The original complaint was filed on July 12, 2016 and assigned to the Honorable Joanna S. Kishner, Department XXXI.

- 10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:**

Nature of the Underlying Action:

1 Plaintiff Joe N. Brown, a retired bricklayer who previously volunteered for two tours of
2 duty in Vietnam and was honorably discharged, is a resident of Clark County. He lives in North
3 Las Vegas with his wife, Plaintiff Nettie J. Brown, who currently works¹ as hotel staff for
4 Harrah's. Plaintiffs visited Laughlin to celebrate Mother's Day Weekend in 2015; on the
5 evening of May 12, 2015, Plaintiffs and their party visited the Golden Nugget Casino in
6 Laughlin, Nevada (the "Nugget") and headed to the Bubba Gump restaurant on the lower floor of
7 the Nugget; Plaintiff Joe Brown, who was using a cane, took the "down" escalator.²

8 Unbeknownst to Plaintiffs, the "down" escalator had a history of mechanical issues and
9 was in a faulty and dangerous condition.³ The "down" escalator's wobbly step(s)/dangerous
10 condition caused Mr. Brown to lose his balance and fall forward—and to fracture his neck. The
11 escalator is owned and/or operated by Defendant GNL, Corp. ("GNL") and serviced/maintained
12 by ThyssenKrupp Elevator Corporation ("TKE").⁴ Plaintiffs moved during discovery to amend
13 Plaintiffs' then-current complaint to add TKE as a defendant and to seek punitive damages
14 against GNL and TKE, both of which the Honorable Judge Kushner granted.

15 Trial is currently set to begin on or about December 2, 2019. Plaintiffs intend to
16 respectfully request from Her Honor a stay of the trial while Plaintiffs' appeal is addressed, on
17 the bases and in the interests of judicial economy and efficiency.

18 Two Components to Plaintiffs' Appeal:

19 On August 27, 2019, Her Honor Judge Kushner heard and granted GNL's motion for
20 summary judgment with respect to punitive damages; the order associated therewith—and from
21 which Plaintiffs appeal—was entered on September 27, 2019.

22
23 ¹ Nettie Brown is set to retire in a few months.

24 ² Nettie Brown took the stairs. Other members of Plaintiffs' party took the "down"
25 escalator and the closest individual to Mr. Brown also felt the escalator to be wobbly.

26 ³ Defendants' records of the "down" escalator—to the extent records were even kept—
27 reflected numerous problems and concerns which persisted for several years because GNL was
28 too stingy to pay to make the "down" escalator safe, and TKE refused—even when paid by
GNL—to make essential repairs that were paid for.

⁴ TKE was originally a third-party defendant, having been brought into this action by
GNL in approximately February of 2017.

1 On October 7, 2019, Her Honor Judge Kishner granted, following a *voir dire* of
2 Plaintiffs' escalator expert Sheila Swett, TKE's motion in limine #8, which sought to exclude
3 Ms. Swett as an expert witness. The order associated therewith—and from which Plaintiffs
4 appeal—was entered on October 24, 2019.

5 Both orders from which this appeal flows are attached as Exhibit 1 and Exhibit 2,
6 respectively, to Plaintiffs' Notice of Appeal, which was also filed on October 28, 2019.

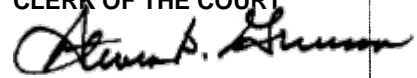
7 **11. Indicate whether the case has previously been the subject of an appeal to or original**
8 **writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
9 **docket number of the prior proceeding:**

- 10 ♦ TKE filed a Petition for Writ of Mandamus on October 19, 2018
- 11 ♦ In the caption, TKE was the Petitioner, versus the Eighth Judicial District Court of the
12 State of Nevada in and for the County of Clark; and the Honorable Joanna Kishner,
13 District Judge, Respondents; and Joe N. Brown and Nettie J. Brown were the Real
14 Parties in Interest
- 15 ♦ The Docket No. was 77211
- 16 ♦ The Supreme Court of Nevada transferred the appeal to the Court of Appeals on
17 November 2, 2018
- 18 ♦ Plaintiffs were *not* served with the initial appeal filings
- 19 ♦ TKE withdrew the Petition on January 10, 2019; the Petition contained
20 erroneous/false statements
- 21 ♦ The Court of Appeals issued an order denying the Petition on or about January 16,
22 2019

23 **12. Indicate whether this appeal involves child custody or visitation:**

24 This appeal does not involve child custody or visitation.

25
26 ///



OBJ

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*Attorneys for Defendant/Third-Party Plaintiff,
GNL, CORP.*

DISTRICT COURT

CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his Wife,
NETTIE J. BROWN, an individual,

Plaintiff,

v.

LANDRY'S, INC., a foreign corporation;
GOLDEN NUGGET, INC. a Nevada
corporation, d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP., a Nevada
corporation; THYSSENKRUPP ELEVATOR
CORP., a foreign corporation; DOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1 – 100,

Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

**DEFENDANT/THIRD-PARTY
PLAINTIFF, GNL, CORP. REVISED¹
OBJECTIONS TO DEPOSITION
EXCERPTS OF DON HARTMANN,
JANUARY 24, 2018**

¹ GNL based its original objections / counters filed on 10/07/2019 designations provided by Plaintiffs' counsel prior to Plaintiffs' counsel filing designations on 10/03/2019. Upon review, GNL has updated its objections to correctly reflect those identified in the 10/03/2019 filing.





GNL, CORP., a Nevada corporation
Third-Party Plaintiff,
vs.
THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,
Third-Party Defendants.

Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
1.	17:8-18:21		
2.	24:15-20		
3.	28:19-29:17		29:16-29:17
4.	30:7-31:11	Improper Hypothetical to Lay Witness. NRS 50.265. See beginning of question at 32:11- 15.	
5.	34:11-20	Relevance	
6.	37:16-38:2	Relevance	
7.	40:23-41:1		
8.	42:7-20		42:21-22
9.	45:23-46:9	Relevance	
10.	56:18-19	Relevance	
11.	57:2-20	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
12.	58:11-59:2	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
13.	59:15-22	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and	



Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
		irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
14.	61:11-24	61:17-19. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
15.	65:3-10, 18-23		65:11-12
16.	72:7-15	GNL MIL 2. Prior and subsequent repairs and incidents.	
17.	75:6-11		
18.	76:10-22		76:23-77:22
19.	78:20-79:5	Excerpt does not include question	
20.	79:19-80:10		
21.	82:11-16		
22.	85:7-20	Relevance	
23.	87:13-88:4		88:7-18
24.	90:10-25		
25.	94:21-97:3	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	93:8-24
26.	97:20-98:24	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
27.	100:18-101:3	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	



Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
28.	101:22-104:20	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
29.	114:14-115:19	115:3-115:19. GNL MIL 2. Prior and subsequent repairs and incidents.	
30.	118:5-119:22	Subsequent. GNL MIL 2. Prior and subsequent repairs and incidents.	
31.	123:20-124:9	Improper Hypothetical to Lay Witness. NRS 50.265.	
32.	126:24-129:14	Relevance, subsequent. GNL MIL 2. Prior and subsequent repairs and incidents	
33.	132:11-23	Objection after line 20 – not testimony. GNL MIL 2. Prior and subsequent repairs and incidents	
34.	133:4-13	Relevance. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
35.	136:15-137:6	Internal Objections. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
36.	138:24-139:14	Internal Objections. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
37.	141:1-7	Relevance. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE	



Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
		MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
38.	148:10-16	Internal obj. Improper Hypothetical to Lay Witness. NRS 50.265.	
39.	151:16-24		
40.	157:4-158:6	GNL MIL 2	
41.	159:2-160:12	GNL MIL 2	
42.	160:20-161:9	GNL MIL 2	
43.	162:16-163:21	GNL MIL 2	
44.	164:9-165:9	GNL MIL 2	
45.	166:11-14		
46.	172:14-173:1	GNL MIL 2	
47.	176:2-178:2	GNL MIL 2	
48.	179:8-180:1		
49.	184:16-185:1-4, 18-23		
50.	186:2-8, 17-25 to 187:1-5	GNL MIL 2	
51.	188:3-25	GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
52.	190:17 – 191:22	GNL MIL 2	
53.	192:14-193:19	GNL MIL 2	
54.	195:13-23		
55.	205:20-206:12	GNL MIL 2	



Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
56.	207:18-22	Reference to capital budget – start line 19. GNL MIL 2	
57.	209:18-210:19	Objection Relevance. GNL MIL 2. Prior and subsequent repairs and incidents.	
58.	215:16-218:20	Relevance. GNL MIL 2	
59.	219:7-25	Relevance. GNL MIL 2. Prior and subsequent repairs and incidents. GNL MIL 3 and TKE MIL 7. Inadmissible and irrelevant evidence of discovery dispute/allegation that a party hid evidence.	
60.	229:6-24	Relevance. GNL MIL 2	
61.	233:2-10	Objection Relevance. GNL MIL 2. Prior and subsequent repairs and incidents.	
62.	235:3-25	Relevance. GNL MIL 2	
63.	241:11-244:7	Subsequent. GNL MIL 2	
64.	246:2-8	Improper Hypothetical to Lay Witness. NRS 50.265.	

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65.	249:21-250:6	Money irrelevant. Improper Hypothetical to Lay Witness. NRS 50.265.	248:18-249:20
66.	251:23-252:20	Subsequent, relevance. GNL MIL 2.	

Dated this 14th day of November, 2019.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

/s/ D. Lee Roberts, Jr.

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Kristian T. Kaskla, Esq.

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*Attorneys for Defendant/Third-Party Plaintiff,
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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of November, 2019, a true and correct copy of the foregoing **DEFENDANT/THIRD-PARTY PLAINTIFF, GNL, CORP. REVISED OBJECTIONS TO DEPOSITION EXCERPTS OF DON HARTMANN, JANUARY 24, 2018** was electronically filed and served on counsel through the Eighth Judicial District Court's electronic service system pursuant to Administrative Order 14-2 and NEFCR 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

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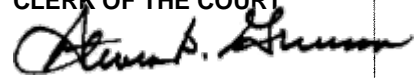
*Attorneys for Defendants/Third-Party
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DISTRICT COURT

CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his Wife,
NETTIE J. BROWN, an individual,

Plaintiff,

v.

LANDRY'S, INC., a foreign corporation;
GOLDEN NUGGET, INC. a Nevada
corporation, d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP., a Nevada
corporation; THYSSENKRUPP ELEVATOR
CORP., a foreign corporation; DOE
INDIVIDUALS 1-100, ROE BUSINESS
ENTITIES 1 – 100,

Defendants.

GNL, CORP., a Nevada corporation

Third-Party Plaintiff,

vs.

THYSSENKRUPP ELEVATOR
CORPORATION a foreign corporation; DOES
1-75; ROE CORPORATION 1-75 and ROE
CORPORATION 1-25,

Third-Party Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

**DEFENDANT/THIRD-PARTY
PLAINTIFF, GNL, CORP. OBJECTION
TO PLAINTIFFS' AMENDED
DEPOSITION EXCERPTS: DON
HARTMANN, JANUARY 24, 2018**





Excerpt No.	Transcript Portion (pg:ln)	Objection	Counter- Designation (pg:ln)
46.	16:12-169:5	GNL MIL 2. Prior and subsequent repairs and incidents.	

Dated this 15th day of November, 2019.

WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC

/s/ D. Lee Roberts, Jr.

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*Attorneys for Defendant/Third-Party Plaintiff,
GNL, CORP.*



CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November, 2019, a true and correct copy of the foregoing **DEFENDANT/THIRD-PARTY PLAINTIFF, GNL, CORP. OBJECTION TO PLAINTIFFS' AMENDED DEPOSITION EXCERPTS: DON HARTMANN, JANUARY 24, 2018** was electronically filed and served on counsel through the Eighth Judicial District Court's electronic service system pursuant to Administrative Order 14-2 and NEFCR 9, via the electronic mail addresses noted below, unless service by another method is stated or noted:

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Attorneys for Plaintiff

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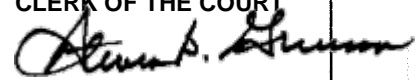
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DISTRICT COURT
CLARK COUNTY, NEVADA

JOE N. BROWN, an individual, and his wife,
NETTIE J. BROWN, an individual,

Plaintiffs,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP.
a foreign corporation; DOE INDIVIDUALS
1-100; ROE BUSINESS ENTITIES 1-100

Defendants.

CASE NO.: A-16-739887-C

DEPT. NO.: XXXI

GNL, CORP., a Nevada corporation;

Third-Party Plaintiff,

vs.

THYSSENKRUPP ELEVATOR CORPORATION
a foreign corporation; DOES 1-75; ROE
CORPORATIONS 1-75 and ROE
CORPORATIONS 1-25,

Third-Party Defendants.

STIPULATION AND ORDER FOR DISMISSAL OF THIRD PARTY COMPLAINT
WITHOUT PREJUDICE

IT IS HEREBY STIPULATED and AGREED, by and between Third-Party Plaintiff,
GNL, CORP. and Third-Party Defendant, THYSSENKRUPP ELEVATOR CORPORATION
ONLY, that the Third-Party Complaint be dismissed without prejudice, and with the parties
thereto to bear their own costs and attorney's fees.

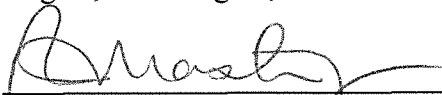
JNB03231

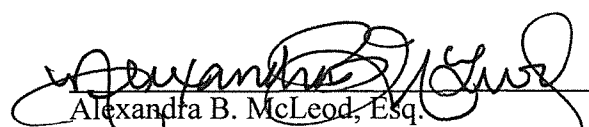
1 IT IS FURTHER STIPULATED and AGREED that the statute of limitations governing
2 the causes of action set forth in the Third-Party Complaint shall be tolled for 60 days following
3 entry of final judgment of the claims of JOE N. BROWN and NETTIE J. BROWN vs. GNL,
4 CORP. and THYSSENKRUPP ELEVATOR CORPORATION.

5 DATED this 21 day of Nov, 2019.

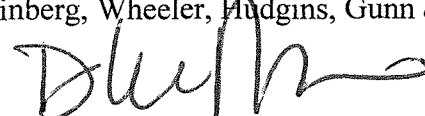
6 Rogers, Mastrangelo, Carvalho & Mitchell

Grant & Associates

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12 Attorney for Third-Party Defendant
13 thyssenkrupp Elevator Corporation

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19 Attorney for Third-Party Plaintiff
20 GNL, CORP.

21 Weinberg, Wheeler, Hudgins, Gunn & Dial

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23 D. Lee Roberts, Jr. Esq.
24 Nevada Bar No. 8877
25 6385 S. Rainbow Blvd. #400
26 Las Vegas, Nevada 89118
27 Attorney for Third-Party Plaintiff
28 GNL, CORP.

ORDER FOR DISMISSAL WITH PREJUDICE

Based upon the foregoing Stipulation by the parties and good cause appearing therefore, it is hereby

ORDERED, ADJUDGED and DECREED that the Third-Party Complaint of GNL, CORP. vs. THYSSENKRUPP ELEVATOR CORPORATION be dismissed without prejudice and subject to the tolling of the statute of limitations for 60 days after entry of final judgment in the underlying action, each party thereto to bear its own costs and attorney's fees incurred.

DATED this 21 day of November, 2019.

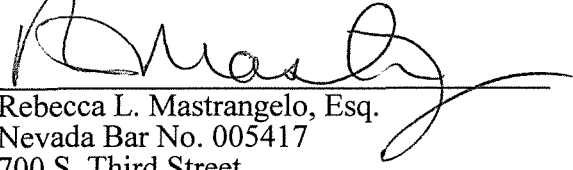

DISTRICT JUDGE

JNB03232

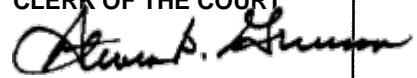
1 Submitted by:

2 Rogers, Mastrangelo, Carvalho & Mitchell

3

4 
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Las Vegas, Nevada 89101
6 Attorney for Third-Party Defendant
THYSSENKRUPP ELEVATOR CORPORATION
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JNB03233



1 **NEO**
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10 Attorneys for Defendant
11 THYSSENKRUPP ELEVATOR CORPORATION

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 JOE N. BROWN, an individual, and his wife,
12 NETTIE J. BROWN, an individual,

13 Plaintiffs,

14 vs.

15 LANDRY'S INC., a foreign corporation;
16 GOLDEN NUGGET, INC., a Nevada
17 corporation d/b/a GOLDEN NUGGET
18 LAUGHLIN; GNL, CORP., a Nevada
19 corporation; DOE INDIVIDUALS 1-100,
20 ROE BUSINESS ENTITIES 1-100,

21 Defendants.

CASE NO. A-16-739887-C
DEPT. NO. XXXI

22 **NOTICE OF ENTRY OF ORDER**

23 PLEASE TAKE NOTICE that an Order in the above-entitled action was entered and
24 filed on the 22nd day of November, 2019, a copy of which is attached hereto.

25 DATED this 27th day of November, 2019.

26 ROGERS, MASTRANGELO, CARVALHO &
27 MITCHELL

28 /s/ Rebecca L. Mastrangelo

REBECCA L. MASTRANGELO, ESQ.
Nevada Bar No. 5417
700 S. Third Street
Las Vegas, Nevada 89101
Attorney for Defendant
THYSSENKRUPP ELEVATOR CORPORATION

JNB03234

1 **CERTIFICATE OF SERVICE**

2 Pursuant to N.R.C.P. 5(a), E.D.C.R. 7.26(a), and Rule 9 of the N.E.F.C.R. I hereby
3 certify that I am an employee of Rogers, Mastrangelo, Carvalho & Mitchell, and on the 27th
4 day of November, 2019, a true and correct copy of the foregoing **NOTICE OF ENTRY OF**
5 **ORDER** was served via electronic means with the Eighth Judicial District Court, addressed as
6 follows, upon the following counsel of record:

7 Mohamed A. Iqbal, Jr., Esq.
8 Christopher Mathews, Esq.
9 101 Convention Center Drive, Suite 1175
10 Las Vegas, Nevada 89109
11 Attorneys for Plaintiffs

12 D. Lee Roberts, Jr. Esq.
13 Weinberg, Wheeler, Hudgins, Gunn & Dial
14 6385 S. Rainbow Blvd. #400
15 Las Vegas, Nevada 89118
16 Attorneys for Defendant
17 GNL Corp.

18 /s/ Laura Fitzgerald

19 _____
20 An employee of ROGERS, MASTRANGELO,
21 CARVALHO & MITCHELL
22
23
24
25
26
27
28



1 SAO
2 REBECCA L. MASTRANGELO, ESQ.
3 Nevada Bar No. 5417
4 ROGERS, MASTRANGELO, CARVALHO & MITCHELL
5 700 South Third Street
6 Las Vegas, Nevada 89101
7 Phone (702) 383-3400
8 Fax (702) 384-1460
9 rmastrangelo@rmcmlaw.com
10 Attorneys for Defendant
11 THYSSENKRUPP ELEVATOR CORPORATION

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 JOE N. BROWN, an individual, and his wife,
15 NETTIE J. BROWN, an individual,

16 Plaintiffs,

17 vs.

18 GNL, CORP., a Nevada corporation;
19 THYSSENKRUPP ELEVATOR CORP.
20 a foreign corporation; DOE INDIVIDUALS
21 1-100; ROE BUSINESS ENTITIES 1-100

22 Defendants.

23 GNL, CORP., a Nevada corporation;

24 Third-Party Plaintiff,

25 vs.

26 THYSSENKRUPP ELEVATOR CORPORATION
27 a foreign corporation; DOES 1-75; ROE
28 CORPORATIONS 1-75 and ROE
CORPORATIONS 1-25,

Third-Party Defendants.

CASE NO.: A-16-739887-C

DEPT. NO.: XXXI

23 **STIPULATION AND ORDER FOR DISMISSAL OF THIRD PARTY COMPLAINT**
24 **WITHOUT PREJUDICE**

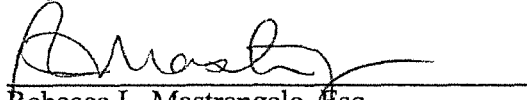
25 IT IS HEREBY STIPULATED and AGREED, by and between Third-Party Plaintiff,
26 GNL, CORP. and Third-Party Defendant, THYSSENKRUPP ELEVATOR CORPORATION
27 ONLY, that the Third-Party Complaint be dismissed without prejudice, and with the parties
28 thereto to bear their own costs and attorney's fees.

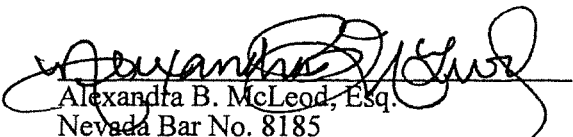
1 IT IS FURTHER STIPULATED and AGREED that the statute of limitations governing
2 the causes of action set forth in the Third-Party Complaint shall be tolled for 60 days following
3 entry of final judgment of the claims of JOE N. BROWN and NETTIE J. BROWN vs. GNL,
4 CORP. and THYSENKRUPP ELEVATOR CORPORATION.

5 DATED this 21 day of Nov, 2019.

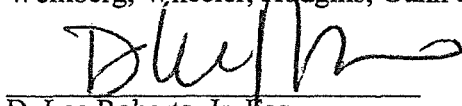
6 Rogers, Mastrangelo, Carvalho & Mitchell

Grant & Associates

7 
8 Rebecca L. Mastrangelo, Esq.
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10 700 S. Third Street
11 Las Vegas, Nevada 89101
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13 thyssenkrupp Elevator Corporation

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15 Alexandra B. McLeod, Esq.
16 Nevada Bar No. 8185
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20 GNL, CORP.

21 Weinberg, Wheeler, Huggins, Gunn & Dial

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26 Las Vegas, Nevada 89118
27 Attorney for Third-Party Plaintiff
28 GNL, CORP.

ORDER FOR DISMISSAL WITH PREJUDICE

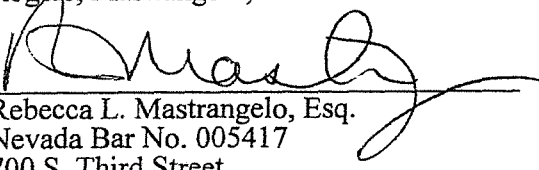
Based upon the foregoing Stipulation by the parties and good cause appearing therefore, it is hereby

ORDERED, ADJUDGED and DECREED that the Third-Party Complaint of GNL, CORP. vs. THYSENKRUPP ELEVATOR CORPORATION be dismissed without prejudice and subject to the tolling of the statute of limitations for 60 days after entry of final judgment in the underlying action, each party thereto to bear its own costs and attorney's fees incurred.

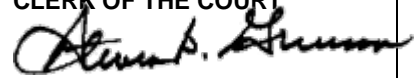
DATED this 21 day of November, 2019.


DISTRICT JUDGE

JNB03237

1 Submitted by:
2 Rogers, Mastrangelo, Carvalho & Mitchell
3 
4 Rebecca L. Mastrangelo, Esq.
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8 Attorney for Third-PartyDefendant
9 THYSSENKRUPP ELEVATOR CORPORATION
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JNB03238



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info@ilawlv.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual;

Plaintiffs,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP., a
foreign corporation; DOE INDIVIDUALS 1-
100, ROE BUSINESS ENTITIES 1-100,

Defendants.

AND ASSOCIATED CASES

Case No.: A-16-739887-C

Dept. No.: XXXI

**PLAINTIFF'S EDCR 7.27 CIVIL TRIAL
MEMORANDUM #1, OF PLAINTIFF'S
EVIDENTIARY REQUESTS
REGARDING: (1) OPENING
STATEMENT; AND (2)
DEMONSTRATIVE EXHIBITS**

Pursuant to Rule 7.27, Plaintiff Joe Brown ("Plaintiff"),¹ by and through his counsel of record, hereby respectfully submits Plaintiff's Civil Trial Memoranda #1, of Plaintiff's Evidentiary Requests regarding: (1) Opening Statement and (2) Demonstrative Exhibits.

In the run-up to trial, and through December 4, 2019, Plaintiff was served with objections to deposition excerpts from Defendants.²

Defendants' objections to the introduction of certain deposition excerpts *in combination with*: (1) Defendants' standing objections to Plaintiff's introducing other incidents and repairs;

¹ The operative complaint's loss-of-consortium claim shall be voluntarily dismissed, leaving the negligence claims to be adjudicated at trial and resulting in the release of Nettie Brown, Plaintiff's wife, and leaving Joe Brown as the sole plaintiff.

² Defendant GNL served revised objections to deposition excerpts at the end of the trial day on December 4 (and sent an inadvertently omitted objection on the morning of December 5). TKE served revised designations on Friday, November 22.

1 (2) Plaintiff's unredacted use of its two most critical exhibits: Plaintiff's Trial Exhibit No. 1,
2 Maintenance Logs, and Trial Exhibit No. 2, Account History (collectively, the "Safety
3 Records"); (3) Defendants' standing objections to Plaintiff raising spoliation of evidence; and (4)
4 Defendants' failures to produce the majority of the Safety Records—would rob Plaintiff of
5 several jury instructions Plaintiff is entitled to have given to the jury, and result in a profoundly
6 unfair playing field, for Plaintiff contrary to established law and the axiom of adjudicating
7 claims on their merits and including evidence for the jury's consideration.

8 Plaintiff's case-in-chief involves, among other things, negligent maintenance, failure to
9 maintain, and complete lack of maintenance. *It would be crippled before it even starts*, and
10 Plaintiff would be restricted in presenting his case to the jury, without the Court's intervention.

11 Plaintiff files this Civil Trial Memorandum to resolve the demonstrative exhibits dispute;
12 to avoid having several objections from Defendants during Plaintiff's opening statement; and,
13 more importantly, to ensure a level evidentiary playing field.

14 POINTS AND AUTHORITIES

15 1. Timeliness and a Level Evidentiary Playing Field

16 Rule 7.27 allows for the filing of trial memoranda "at any point prior to the close of
17 trial".

18 The Court's standing trial order required jury instructions to be submitted at or before
19 calendar call, and Plaintiff submitted Plaintiff's Special Jury Instructions at calendar call
20 (November 19). Plaintiff is entitled to any jury instructions supported by the evidence, and there
21 are boatloads of evidence of negligent and willful spoliation and discovery abuses by both
22 Defendants. If the Court does not admit into the record any evidence of, e.g., spoliation, then
23 Plaintiff's jury instructions are functionally rejected/denied before the jury is even selected.

24 Defendants' already-expressed defense that these issues were addressed in the *motions in*
25 *limine* ignore the fact that: (1) "pretrial rulings *in limine* do not bind a district court and may be
26 reversed or modified at trial." *Pineda v. State*, 88 P.3d 827, 831 (Nev. 2004); and (2) a number
27 of issues were discovered after the deadline to file *motions in limine* (November 2018).

1 Indeed, Defendants' actions were often undiscovered based on Plaintiff and/or the Court
2 relying on Defendants' representations. Three examples—of many acts by Defendants violative
3 of their respective discovery obligations and basic notions of fair play—are particularly relevant
4 to Plaintiff's evidentiary requests set forth below:

- 5 (i) Defendants represented to the Court at the hearing on Plaintiff's *motion in limine* #2 to
6 exclude expert Davis Turner based on a secret inspection that it was not a Rule 34
7 inspection and the Court denied Plaintiff's motion on this representation. This is flatly
8 contradicted by TKE's own written admissions to Mr. Turner – admissions found in a
9 letter disclosed *after* the *motion in limine* deadline, and buried in hundreds of pages of
10 late-produced discovery: "[a]s soon as you know what your availability will be, please
11 advise as *I will need to coordinate this date with the other parties and their experts.*"
12 (Emphasis added.) July 17, 2017 letter from TKE's counsel to Mr. Turner, at p. 1. This
13 letter was produced on November 15, 2018, after the close of discovery, and is Plaintiff's
14 Trial Exhibit No. 34. Additional issues associated with this one incident: the willful
15 spoliation/failure to preserve discussions and other evidence from that secret inspection
16 by both Defendants, and GNL concealing communications with TKE despite Plaintiff's
17 discovery requests requesting all such communications (see (iii) below). TKE was
18 separately sanctioned for the untimely production of a sliver of emails from Christopher
19 Dutcher; despite the Court's clear warnings regarding the requirements of *Bass-Davis* at
20 the hearing on January 8, 2019 (Her Honor begins speaking at approximately 10:43:19
21 AM Pacific), TKE failed to produce any emails thereafter.
- 22 (ii) At the July 10, 2019 hearing on GNL's *motion in limine* #2, regarding other incidents or
23 repairs, GNL presented to the Court and Plaintiff a total of 12 prior incidents and one (1)
24 subsequent incident to be excluded from evidence. The Court was incredibly patient and
25 diligent in reviewing each and every incident presented by GNL and spent time on the
26 record ruling on each incident based on the similarity with the incident at issue.

Unfortunately, GNL presented to the Court and Plaintiff an incomplete list,³ leaving the Court and Plaintiff to wander around an incomplete evidentiary universe—to, in other words, play with stacked deck.

(iii) GNL made certain representations to Plaintiff's discovery requesting communications. See Plaintiff's Trial Exhibit #26, Defendant GNL's October 20, 2017 Responses to Plaintiff's Second Set of Requests for Production of Documents, at RFP #26 (26-014). Plaintiff relied on those representations. GNL earlier produced a very specific sliver of TKE's account history that in tiny font reflected a search on 7/22/16 at 16:31:46 (Plaintiff's Trial Exhibit No. 7, 7-001); *unless GNL telepathically* selected that specific timeframe of TKE's account history and magically transported it into GNL's records without TKE's knowledge, the two parties must have spoken for GNL to access internal TKE records, and GNL lied in its responses and concealed those discussions. Defendants also concealed from Plaintiff all of the discussions involving the coordination of the Davis Turner secret inspection, and the discussions during the secret inspection.

2. Evidentiary Request No. 1: Plaintiff Must Be Allowed to Refer to Other Incidents and Repairs – After All, this is a Case regarding Negligent Maintenance

The Court made motion in limine rulings regarding other incidents and repairs based on the “substantial similarity” test. Plaintiff is entitled to introduce evidence of prior and subsequent incidents and repairs for completely separate reasons. *See Francklin v. New York El. Co.*, 38 AD3d 329 (1st Dept. 2007), where the Court held that “records of post accident repairs are discoverable subject to the proviso that they are not to be introduced at trial except upon a showing of relevance to the condition of the elevator at the time of the accident.” *See also Albino v. New York City Housing Authority*, 52 AD3d 521 (1st Dept. 2008)(evidence of repairs discoverable to show that a particular condition was dangerous); *see generally, Steinel v.*

³ Missing are: (a) an accident from 2016/2017, as noted in the Maintenance Logs (Plaintiff's Trial Exhibit No. 1, 1-024); (b) dozens of security/safety incidents (see Plaintiff's Trial Exhibit No. 15, 15-022, an Incident Report designated at the very top 2013-04253, denoting many security incidents during the 2013 calendar year).

1 131/93 Owners Corp., supra, 240 AD2d 301(issues of maintenance, control, notice, or dangerous
2 condition which may have permitted discovery of reports of post accident repairs, held not to be
3 present in this case).

4 The issues of knowledge of dangerous condition, maintenance, control, notice—these go
5 to the heart of Plaintiff's case.

6 **3. Plaintiff, at a Minimum, Should be Allowed to Reference the Dearth of Maintenance**
7 **and Safety Records, and Should be Allowed to Reference the Safety Records in their**
8 **Entirety**

9 It should be noted that the subject escalator is 40 years old, Plaintiff sought all of the
10 Safety Records, and, only small portions of that history have been produced. See, e.g., Plaintiff's
11 **Trial Exhibit No. 2**, which purports to cover a five-year time period but fails to include entries
12 for multiple years.

13 To the extent Defendants object to Plaintiff introducing evidence of active concealment
14 and spoliation of records, Plaintiff should—at a minimum—*be allowed to reference the dearth*
15 *of maintenance and safety records* in Plaintiff's possession/evidence.

16 Plaintiff should also be allowed to use the unredacted versions of the Safety Records into
17 evidence. Both the State Inspector and the Third-Party Inspector (who reviews the machine log
18 records), and former TKE employee Larry Panero, in addition to the deposition excerpts from
19 current TKE employee Christopher Dutcher, are expected to testify to these documents. Such
20 individuals need not be the actual creators of such records, as these exhibits are Business
21 Records in every sense and exceptions to the hearsay rule.

22 Respectfully Submitted by:

23 **IQBAL LAW PLLC**

24 By: /s/ Mohamed A. Iqbal, Jr.

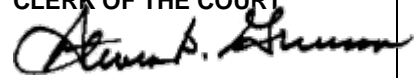
25 Mohamed A. Iqbal, Jr. (NSB #10623)

26 Christopher Mathews (NSB #10674)

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Attorney for Plaintiff



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Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual; Plaintiff, vs. GNL, CORP., a Nevada corporation; THYSSENKRUPP ELEVATOR CORP., a foreign corporation; Defendants.	Case No.: A-16-739887-C Dept. No.: XXXI PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #2, REGARDING: SELECT MEDICAL BILLS FROM PLAINTIFF'S TRIAL EXHIBIT NO. 30
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Pursuant to Rule 7.27, Plaintiff Joe Brown ("*Plaintiff*"), by and through his counsel of record, hereby respectfully submits Plaintiff's Civil Trial Memoranda #2, regarding select medical bills from Plaintiff's Trial Exhibit No. 30.

I. Events following the Morning Trial Session on Friday, December 13

At the end of the trial day on Friday, Defendants objected on several grounds when Plaintiff sought to introduce select portions of Plaintiff's Trial Exhibit No. 30, Plaintiff's medical bills, through Plaintiff's daughter, care-taker, and medical power-of-attorney Shalanda Mollett. Undersigned counsel respectfully apologizes to the Court and to all counsel for, first, the brief delay in the presence of the jury, and second, the overzealous reaction when Defendants moved for an admonishment. Mrs. Mollett's direct examination continues today.

Undersigned counsel, in a lapse, failed to mention **two** key details:

(1) Plaintiff—in continuing efforts to efficiently conclude Plaintiff's case in chief—raised the issue of Defendants stipulating to at least a portion of Plaintiff's medical bills on several occasions. Indeed, Plaintiff raised the issue with GNL's prior counsel Ms. McLeod, who was not opposed to such stipulation, and Plaintiff raised the issue with GNL's current counsel, Mr.

1 Roberts. Given the timing of the Legal Aid Center of Southern Nevada's Pro Bono Luncheon,
2 the morning session, outside the presence of the Jury, concluded at approximately 11:15 a.m.
3 Plaintiff was informed by GNL's counsel Mr. Roberts that Defendants intended to seek to pause
4 Plaintiff's case-in-chief and call their expert witness (Dr. Bassewitz) out of turn and order, at
5 1:30 pm. Undersigned counsel had been informed of this on Thursday evening and was
6 positioned to strongly oppose. Mr. Roberts provided additional reasons he was made aware of
7 after communicating the original intention to Plaintiff on Thursday evening—if Dr. Bassewitz
8 was forced to testify on Monday, December 16, several surgeries would have to be rescheduled,
9 and several Las Vegas residents would be forced to pay additional deductibles and/or other
10 expenses. This news immediately changed the equation for Plaintiff and all parties came to an
11 agreement with respect to allowing Dr. Bassewitz to testify at 1:30 pm (his direct examination
12 began at 2:48 pm with questioning from GNL's counsel Mr. Smith). During the lunch-hour
13 discussion, undersigned counsel again raised the issue of a stipulation regarding the medical
14 bills. Mr. Roberts indicated that GNL would not be opposed to a stipulation. Ms. Mastrangelo's
15 only comment was that Defendants' doctor had a chronological point after which his opinion was
16 Mr. Brown's medical services/bills did not relate to the fall from the subject escalator.
17 Undersigned counsel was duped by the lunch time representations when Defendants sought to
18 have Dr. Bassewitz testify, given the unexpected objections closer to the end of the trial day.

19 (2) Plaintiff sourced the medical bills from Defendant GNL's own discovery production,
20 which was accompanied by declarations from custodians of records from each of the relevant
21 medical providers/hospitals. This makes the foundation objections baseless, in light of *Bank of*
22 *America v. Orr*, 285 F.3d 764 (9th Cir. 2002).¹ The custodian of records' attestations also

23
24 ¹ In *Orr v. Bank of America*, 285 F.3d 764 (9th Cir. 2002), the court addressed, inter alia, whether
25 the district court abused its discretion in excluding certain exhibits at the summary judgment juncture for
26 want of proper authentication as to one party when the other party properly authenticated the exhibits and
27 relied upon it in its summary judgment motion. The court held that "when a document has been
28 authenticated by a party, the requirement of authenticity is satisfied as to that document with regards to all
parties, subject to the right of any party to present evidence to the ultimate factfinder disputing its
authenticity." *Orr*, 285 F.3d at 776 (citations omitted). In so holding, the court recognized "that an
inquiry into authenticity concerns the genuineness of an item of evidence, not its admissibility." *Id.*
Despite concluding that the two exhibits at issue were authenticated as to all parties, the court nonetheless
determined that the district court did not abuse its discretion in excluding them based on hearsay. *Id.* at

1 resolve any foundation concerns. Plaintiff will bring to the Court Defendants' own production
2 and the attestations of the custodians of records.

3 **II. The Medical Records are Business Records and Not Hearsay**

4 NRS 51.135 (record of regularly conducted activity) provides "[a] memorandum, report,
5 record or compilation of data, in any form, of acts, events, conditions, opinions or diagnoses,
6 made at or near the time by, or from information transmitted by, a person with knowledge, all in
7 the course of a regularly conducted activity, as shown by the testimony or affidavit of the
8 custodian *or other qualified person*, is not inadmissible under the hearsay rule *unless* the source
9 of information or the method or circumstances of preparation indicate lack of trustworthiness."
10 NRS 51.135 (emphasis added).

11 All of the conditions and requirements of NRS 51.135 are met here, and the medical
12 records Plaintiff seeks to introduce fit within the definition of business records.

13 **III. The Court's Concerns about Personal Knowledge and Lay Person Testimony**

14 The Court raised a concern about Mrs. Mollett's personal knowledge, based on her
15 testimony at the end of the day on Friday, December 13; there was also a concern about lay
16 person testimony.

17 Mrs. Mollett's direct testimony has been spread over multiple days (for various reasons)
18 and, taken in totality, it clearly demonstrates personal knowledge:

19 Dec 6, 2019

20 (309 pm) Starts talking about taking Plaintiff to doctors and alternating with her mother,
Nettie Brown, Plaintiff's wife;

21 (312 pm) Took Plaintiff to VA and PT herself (not able to go inside)

22 (313 pm) Drove Plaintiff to appts maybe 4x during 1 month, her and Nettie were primary
care takers

23 (315 pm) Had no other hospital bills in 2015, besides accident-related bills

24 (317 pm) Became Plaintiff's medical POA after the December 2016 stroke

25 (318 pm) Receives Plaintiff's mail at her house, checks the mail, has permission to open
the mail, actually opens the mail, had permission to open mail even before they moved in, the
26 bills are related to the fall from the subject escalator, and Mrs. Mollett saw bills from Sunrise
Hospital (and Plaintiff himself testified to waking up at Sunrise Hospital and being there for a
few days)

27
28 778-79. *Orr* has been cited with approval by Nevada courts, primarily district courts, for the limited
proposition that only admissible evidence may be considered in ruling on a summary judgment motion.

1 (319 pm) Mrs. Mollett does not remember the total amount of bills
2 (321 pm) Mrs. Mollett has seen Exhibit 30 before, as part of Plaintiff's medical records

3 Dec 10, 2019

4 (416 pm) Mrs. Mollett testifies again to taking Plaintiff to medical appointments and
5 being his medical POA

6 (418 pm) Mrs. Mollett is aware of Plaintiff's condition and appointments when her
7 mother takes him to appointments, and Mrs. Mollett reviewed bills and records

8 Dec 13, 2019

9 There was substantial additional testimony from Mrs. Mollett during the afternoon direct
10 examination, and Plaintiff awaits the discs to confirm. Plaintiff has a reasonable basis to believe
11 that Mrs. Mollett testified to keeping Plaintiff's medical bills in one place and reviewing them

12 In addition, Mrs. Mollett may offer testimony regarding Plaintiff's medical records and
13 bills under Nevada law, despite being a lay person. See *Paul v. Imperial Palace*, 908 P.2d 226,
14 230 (Nev. 1995). In *Imperial Palace*, the court concluded, among other things, that lay
15 testimony on causation was proper where the lay witness's opinion was rationally based on her
16 perceptions and was helpful to the jury. There, the witness heard the victim's foot slip, saw the
17 end of the victim's fall, and then saw oil on the rug where the victim fell. Here, Mrs. Mollett
18 was at the Golden Nugget Laughlin when Plaintiff suffered his injury, was at Western Medical—
19 the first hospital—was aware of Plaintiff being airlifted, traveled to and was aware of Plaintiff's
20 treatment at Sunrise Hospital in Las Vegas, and was intimately involved in Plaintiff's care, as
21 evidenced by her appointment as Plaintiff's medical power of attorney.

22 Causation is also established by the dates of the services associated with each of the
23 medical bills (*see, e.g., Exhibit 30-209*, associated with medical services rendered on May 13,
24 2015; *30-002*, associated with medical services rendered between May 13 and May 15, 2015; *30-*
25 *005*, associated with medical services rendered at Sunrise on May 13 and May 14, 2015).

26 **IV. Plaintiff's Intention, to the Extent Defendants want to Prolong this Exercise**

27 Plaintiff will call Plaintiff Joe Brown to further testify regarding his medical bills (Mr.
28 Brown has already testified very briefly to his medical bills).

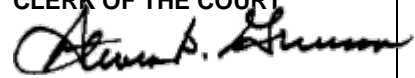
Respectfully Submitted by:

IQBAL LAW PLLC

By: /s/ Mohamed A. Iqbal, Jr.

Mohamed A. Iqbal, Jr. (NSB #10623)

Attorney for Plaintiff



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Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual; Plaintiff, vs. GNL, CORP., a Nevada corporation; THYSSENKRUPP ELEVATOR CORP., a foreign corporation; Defendants.	Case No.: A-16-739887-C Dept. No.: XXXI PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #3, REGARDING: DEPOSITION EXCERPTS TO BE READ INTO THE RECORD
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Pursuant to Rule 7.27, Plaintiff Joe Brown ("Plaintiff"), by and through his counsel of record, hereby respectfully submits Plaintiff's Civil Trial Memoranda #3, regarding the deposition excerpts to be read into the record. The reading of the deposition excerpts should take approximately 90 minutes or less.

I. DON HARTMANN (JANUARY 24, 2018)

Attached hereto at **Tab 1** is the compilation of excerpts from Don Hartmann's 1st deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
17:8-27:11
28:19-29:17
30:7-31:11
32:22-34:3
40:23-41:1
42:7-22

PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

65:3-12
65:18-23
75:6-11
76:10-77:22
90:10-25
104:21-107:2
116:5-118:3
123:24-124:9
128:16-129:7
131:15-21
166:11-14
168:18-169:1
184:16-185:4
185:18-23 (potentially deferred)
195:13-23
220:18-20; 221:1-5; 221:7-10
222:11-223:4
223:13-225:2
248:18-249:20

II. DON HARTMANN (MAY 17, 2019)

Attached hereto at **Tab 2** is the compilation of excerpts from Don Hartmann's 2nd deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
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48:8-10
76:6-12

102:24-103:7
107:8-108:4
132:1-134:12

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Attached hereto at **Tab 3** is the compilation of excerpts from Christopher Dutcher's deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
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15:11-16
16:21-17:13
18:12-23
19:2-20:1
20:18-23:10
23:17-19; 23:24-24:6
25:3-19
26:9-22
26:25-27:15
30:15-31:9
32:24-33:17
34:13-38:1
40:15-43:5
43:14-18
45:16-18

1	47:5-17
2	51:3-52:9
3	52:19-56:16
4	57:1-11
5	60:12-20
6	61:5-64:16
7	66:8-12
8	69:2-9
9	70:2-25
10	76:3-11; 76:15-24; 77:5-7;
11	77:14-16; 77:23-79:6
12	80:13-82:20
13	83:17-88:19
14	89:21-91:23
15	93:14-16
16	96:3-16; 96:20-97:24
17	98:22-99:2
18	99:21-102:16
19	112:17-114:3
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The Court has deferred ruling(s) on, or not yet reached for ruling, the following excerpt nos. (Plaintiff went through and removed all “Out & No Waiver” excerpts impacted by the Court’s rulings at Trial and during discovery):

PLAINTIFF’S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

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174:12-19	Court has yet to rule
175:2-176:25	Court has yet to rule
178:9-19	Court has yet to rule
181:23-182:9	Court has yet to rule
182:21-25	Court has yet to rule
191:20-23	Court has yet to rule
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IV. DAVIS TURNER (OCTOBER 19, 2018)

Plaintiff, during the initial EDCR 2.67 conference, requested from TKE permission to call Mr. Turner as a live witness at trial. TKE rejected the request, and indicated the futility of a subpoena given Mr. Turner's California residency. Plaintiff indicated at that time that Plaintiff intended to have Turner Excerpts read into the record. TKE disagreed. On October 8, 2019, TKE objected to Plaintiff reading into the record excerpts of Davis Turner's October 19, 2018 deposition. There was no caselaw support for TKE's objections, which are baseless.

Plaintiff is entitled under NRCp 32 to read into the record Mr. Turner's deposition excerpts, given his California residency, Defendants' prior efforts to conceal his investigation of the subject escalator, and—most importantly—Nevada law.¹

¹ See NRS 51.055(1)(d) for Nevada's definition of unavailability.

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Attached hereto at **Tab 4** is the compilation of excerpts from Davis Turner's deposition Plaintiff intends and shall seek to read into the record. Below is a table with the list of transcript portions:

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10	56:3-7	No sign barring canes

11	63:25-64:8 and 64:16-65:22	Code requires record keeping; Dutcher's record keeping
12	67:16-68:13	Discussion regarding Dutcher's keeping of only 40% of the records
13	68:14-69:7	Unaware of incomplete records
14	90:16-24	No report detrimental to client in 22 years
15	100:17-101:11	Replaces cracks
22	149:14-24	Exhibit 7, logs ²
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24	159:25-161:6	Lack of records was concerning
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Respectfully Submitted by:

IQBAL LAW PLLC

By: /s/ Mohamed A. Iqbal, Jr.

Mohamed A. Iqbal, Jr. (NSB #10623)

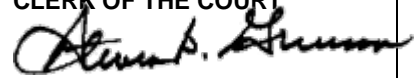
Christopher Mathews (NSB #10674)

101 Convention Center Dr., Suite 1175

Las Vegas, Nevada 89109

Attorney for Plaintiff

² Plaintiff's proposed trial exhibit no. 1.



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Christopher Mathews (NSB #10674)

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Las Vegas, Nevada 89109

1-(702) 750-2950 (Tel); 1-(702) 825-2841 (V-Fax)

info@ilawlv.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOE N. BROWN, an individual;

Plaintiff,

vs.

GNL, CORP., a Nevada corporation;
THYSSENKRUPP ELEVATOR CORP., a
foreign corporation;

Defendants.

Case No.: A-16-739887-C

Dept. No.: XXXI

**PLAINTIFF'S EDCR 7.27 CIVIL TRIAL
MEMORANDUM #3, REGARDING:
DEPOSITION EXCERPTS TO BE READ
INTO THE RECORD**

Pursuant to Rule 7.27, Plaintiff Joe Brown ("Plaintiff"), by and through his counsel of record, hereby respectfully submits Plaintiff's Civil Trial Memoranda #3, regarding the deposition excerpts to be read into the record. The reading of the deposition excerpts should take approximately 90 minutes or less.

I. DON HARTMANN (JANUARY 24, 2018)

Attached hereto at **Tab 1** is the compilation of excerpts from Don Hartmann's 1st deposition to be read into the record. Below is a table with the list of transcript portions:

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30:7-31:11
32:22-34:3
40:23-41:1
42:7-22

PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

1 of 7

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65:3-12
65:18-23
75:6-11
76:10-77:22
90:10-25
104:21-107:2
116:5-118:3
123:24-124:9
128:16-129:7
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168:18-169:1
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185:18-23 (potentially deferred)
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222:11-223:4
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248:18-249:20

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Attached hereto at **Tab 2** is the compilation of excerpts from Don Hartmann's 2nd deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
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48:8-10
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6	61:5-64:16
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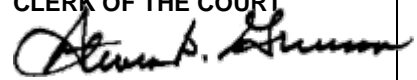
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Las Vegas, Nevada 89109

Attorney for Plaintiff

² Plaintiff's proposed trial exhibit no. 1.



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Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

1 of 7

JNB03262

65:3-12
65:18-23
75:6-11
76:10-77:22
90:10-25
104:21-107:2
116:5-118:3
123:24-124:9
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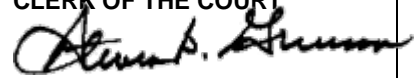
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PLAINTIFF'S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

1 of 7

JNB03269

65:3-12
65:18-23
75:6-11
76:10-77:22
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104:21-107:2
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248:18-249:20

II. DON HARTMANN (MAY 17, 2019)

Attached hereto at **Tab 2** is the compilation of excerpts from Don Hartmann's 2nd deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
27:5-18
48:8-10
76:6-12

102:24-103:7
107:8-108:4
132:1-134:12

III. CHRISTOPHER DUTCHER (MAY 14, 2018)

Attached hereto at **Tab 3** is the compilation of excerpts from Christopher Dutcher's deposition to be read into the record. Below is a table with the list of transcript portions:

Transcript Portion (page:lines)
4:3-6
6:18-12:1
12:23-25
13:18-14:4
15:11-16
16:21-17:13
18:12-23
19:2-20:1
20:18-23:10
23:17-19; 23:24-24:6
25:3-19
26:9-22
26:25-27:15
30:15-31:9
32:24-33:17
34:13-38:1
40:15-43:5
43:14-18
45:16-18

1	47:5-17
2	51:3-52:9
3	52:19-56:16
4	57:1-11
5	60:12-20
6	61:5-64:16
7	66:8-12
8	69:2-9
9	70:2-25
10	76:3-11; 76:15-24; 77:5-7;
11	77:14-16; 77:23-79:6
12	80:13-82:20
13	83:17-88:19
14	89:21-91:23
15	93:14-16
16	96:3-16; 96:20-97:24
17	98:22-99:2
18	99:21-102:16
19	112:17-114:3
20	119:6-21; 120:2-121:1
21	125:24-126:5
22	130:16-23 (Court may revisit)
23	131:5-12 (Court may revisit)
24	163:15-164:11

The Court has deferred ruling(s) on, or not yet reached for ruling, the following excerpt nos. (Plaintiff went through and removed all “Out & No Waiver” excerpts impacted by the Court’s rulings at Trial and during discovery):

PLAINTIFF’S EDCR 7.27 CIVIL TRIAL MEMORANDUM #1

Transcript Portion (page:lines)	New/unresolved Issues (prior objections not repeated)
136:3-138:25; 139:7-22	Court is deferring
141:7-142:4	Court is deferring
164:18-169:11	Court has yet to rule
170:7-15; 170:20-171:16	Court has yet to rule
174:12-19	Court has yet to rule
175:2-176:25	Court has yet to rule
178:9-19	Court has yet to rule
181:23-182:9	Court has yet to rule
182:21-25	Court has yet to rule
191:20-23	Court has yet to rule
194:7-198:20	Court has yet to rule
199:3-201:9	Court has yet to rule
202:19-205:11	Court has yet to rule

IV. DAVIS TURNER (OCTOBER 19, 2018)

Plaintiff, during the initial EDCR 2.67 conference, requested from TKE permission to call Mr. Turner as a live witness at trial. TKE rejected the request, and indicated the futility of a subpoena given Mr. Turner's California residency. Plaintiff indicated at that time that Plaintiff intended to have Turner Excerpts read into the record. TKE disagreed. On October 8, 2019, TKE objected to Plaintiff reading into the record excerpts of Davis Turner's October 19, 2018 deposition. There was no caselaw support for TKE's objections, which are baseless.

Plaintiff is entitled under NRCp 32 to read into the record Mr. Turner's deposition excerpts, given his California residency, Defendants' prior efforts to conceal his investigation of the subject escalator, and—most importantly—Nevada law.¹

¹ See NRS 51.055(1)(d) for Nevada's definition of unavailability.

In *Yamaha Motor Co., U.S.A. v. Arnoult*, 955 P.2d 661 (Nev. 1998), the Nevada Supreme Court explained the standard for admission of deposition testimony of non-party witnesses, under NRCP 32(a), at trial:

This rule [concerning] unavailability of the witness is subject to the underlying purpose of the judicial system to promote fairness and, thus, ensure that the battlefield remains level. In fulfilling this obligation, the trial court has broad discretion to conduct trial so as to protect the rights of both parties, including the responsibility to eliminate secrets and surprises. Accordingly, the trial court's rulings concerning the admission of depositions pursuant to NRCP 32 will not be disturbed absent an abuse of discretion.

Arnoult, 955 P.2d at 670 (brackets, quotation marks and emphasis omitted). There, the Court affirmed the district court's refusal to allow the use of deposition transcripts of the appellant's expert witness at trial because of certain discovery problems and the appellant's late designation of the witness as an expert. *Id.* at 671. The instant case is distinguishable from *Arnoult*, because Plaintiff has not committed any discovery abuses and merely seeks to introduce at trial the deposition testimony of defense witnesses who are unavailable as their attendance cannot be secured by a subpoena. Additionally, Mr. Turner resides outside of Nevada or more than 100 miles from Las Vegas. *See* NRCP 32(a)(4)(B), (D), (E); *see also* NRCP 45(c)(3)(A)(ii) ("On timely motion, the court that issued a subpoena must quash or modify the subpoena if it . . . requires a person to travel to a place more than 100 miles from the place where that person resides, is employed, or regularly transacts business in person, unless the person is commanded to attend trial within Nevada[.]").

Attached hereto at **Tab 4** is the compilation of excerpts from Davis Turner's deposition Plaintiff intends and shall seek to read into the record. Below is a table with the list of transcript portions:

Excerpt No.	Transcript Portion (page:lines)	Regarding
5	16:23-17:6	Saw no need to examine actual steps involved in the incident during the Inspection
7	40:2-20	Did not review the Logbook during the Inspection
10	56:3-7	No sign barring canes

11	63:25-64:8 and 64:16-65:22	Code requires record keeping; Dutcher's record keeping
12	67:16-68:13	Discussion regarding Dutcher's keeping of only 40% of the records
13	68:14-69:7	Unaware of incomplete records
14	90:16-24	No report detrimental to client in 22 years
15	100:17-101:11	Replaces cracks
22	149:14-24	Exhibit 7, logs ²
23	156:7-157:3	Incomplete maintenance records and State has to ensure these tests are done
24	159:25-161:6	Lack of records was concerning
25	169:5-10 and 170:24-171:3	Last clean-down was 2012
27	177:2-16	Steps covered in excessive lint / dirty
28	179:5-16	Hard to see cracks with so much filth

Respectfully Submitted by:

IQBAL LAW PLLC

By: /s/ Mohamed A. Iqbal, Jr.

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Christopher Mathews (NSB #10674)

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Attorney for Plaintiff

² Plaintiff's proposed trial exhibit no. 1.

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3 JOE N. BROWN, an individual,)
and his Wife, NETTIE J.)
4 BROWN, an individual,)
5 Plaintiffs,)
6 vs.) CASE NO.: A-16-739887-C
7 LANDRY'S, INC., a foreign)
corporation; GOLDEN NUGGET,)
8 INC., a Nevada corporation,)
d/b/a GOLDEN NUGGET LAUGHLIN;)
9 GNL CORP.; DOE INDIVIDUALS)
1-100; ROE BUSINESS ENTITIES)
10 1-100,)
11 Defendants.)
12 AND ASSOCIATED CASES)
13

14
15 VIDEOTAPED DEPOSITION OF DON HARTMANN
16 DIRECTOR OF FACILITIES
GOLDEN NUGGET LAUGHLIN

17 VOLUME I - PAGES 1 THROUGH 259

18
19 Taken on Wednesday, January 24, 2018
At 10:15 a.m.

20
21 At 2300 South Casino Drive, Gold Room
Laughlin, Nevada

22

23

24

25 REPORTED BY: JEAN DAHLBERG, RPR, CCR NO. 759, CSR 11715

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Also Present:

Mary Claire Al-Sanjakli, Mr. Iqbal's assistant
Irina VanDePol, videographer

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I N D E X

WITNESS:	PAGE
DON HARTMANN	
Examination by Mr. Iqbal	5
Examination by Ms. Mastrangelo	255

E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Defendant GNL Corp.'s Responses to Plaintiffs' First Set of Request for Production of Documents (6 pages)	133
Exhibit 2	Defendant ThyssenKrupp Elevator Corporation's Second Supplement to Early Case Conference List of Witnesses and Production of Documents (98 pages)	151
Exhibit 3	**CONFIDENTIAL** **FOR ATTORNEYS' EYES ONLY** Defendants'/Third-Party Plaintiffs' Twelfth Supplemental List of Witnesses and Documents Pursuant to NRCP 16.1 Disclosure (90 pages)	252

1 Q. Got it. How long did you --
2 **A. Tom Summer was the owner of the company, and I**
3 **think he's long gone as well.**
4 Q. How many years did you work for the crop-dusting
5 company?
6 **A. Off and on for a year.**
7 Q. Okay.
8 **A. It wasn't steady. Used to load his planes for**
9 **him.**
10 Q. Got it. And -- and your work history after
11 that?
12 **A. I was actually going to build a shop in**
13 **Fort Mohave, and that didn't work out. I was actually**
14 **going to open an automotive service in Mohave Valley, in**
15 **Fort Mohave, and I actually ended up coming to this**
16 **property.**
17 Q. So you tried to start your own business. Did
18 you try that for a couple months or a year or --
19 **A. Just a few months, yeah.**
20 Q. And you applied for a job with Golden Nugget?
21 **A. I did.**
22 Q. Okay.
23 **A. It wasn't Golden Nugget at that time.**
24 Q. Okay. What was the name?
25 **A. Nevada Club, Del Webb.**

Page 16

1 Q. What job did you apply for?
2 **A. Maintenance.**
3 Q. Okay. And roughly what year would you say that
4 is?
5 **A. '82.**
6 Q. '82?
7 **A. '82. Yeah.**
8 Q. Okay. And so you've been with this property
9 since 1982?
10 **A. Uh-huh.**
11 Q. Wow.
12 MS. McLEOD: Is that a yes?
13 THE WITNESS: Yes.
14 BY MR. IQBAL:
15 Q. That's a lot. That's a long time.
16 How long have you been Director of Facilities?
17 **A. In 1991, I believe was Director of Engineering,**
18 **and I'm trying to -- I can't remember when they promoted**
19 **me to Director of Facilities, what year.**
20 Q. Okay.
21 **A. That could be discovered in my employment file,**
22 **I'm sure.**
23 Q. When -- so let's talk about the -- this casino
24 just in general. So it was the Nevada Club when you
25 joined in '82 with maintenance?

Page 17

1 **A. Uh-huh.**
2 Q. What was it next? Did it turn into the Nugget,
3 or was there another entity before that?
4 **A. No. It turned into the Golden Nugget,**
5 **October 1st, 1988.**
6 Q. Okay. Was it bought?
7 **A. Yes.**
8 Q. Okay. But your job duties continued; your job
9 continued?
10 **A. Yes.**
11 Q. Okay. Let's first talk about -- so let me back
12 up a second. Right now you're the Director of
13 Facilities, you used to be the Director of Engineering,
14 and before that you were maintenance. Were there any
15 other job titles that you've held in that --
16 **A. Yes.**
17 Q. -- succession?
18 **A. Yes.**
19 Q. Okay. Which ones?
20 **A. Chief Engineer, Assistant Chief Engineer,**
21 **supervisor.**
22 Q. And that was all before Director of Engineering?
23 **A. Correct.**
24 Q. Okay. Got it. So between '82 and '91, you had
25 at least, let's say, three or four promotions?

Page 18

1 **A. Uh-huh. Yes.**
2 Q. Okay. Now, when you first joined in '82 and you
3 were maintenance, did you have a specific scope of
4 duties? Were you assigned to one part of the casino, or
5 please just sort of elaborate on your initial scope of
6 duties?
7 **A. No. My original duties when I started on the**
8 **property was basically cleaning operations and**
9 **shampooing carpets, and those types of jobs.**
10 Q. Okay. And then when you became an Assistant
11 Chief Engineer, how did your duties change?
12 **A. Well, I was actually pulled from the maintenance**
13 **department and then -- you know, by the -- one of the**
14 **Assistant Chiefs in engineering. They didn't call it**
15 **engineering in those days; they called it outside**
16 **maintenance -- because I knew how to -- I knew how to**
17 **lay block, concrete block.**
18 Q. Uh-huh.
19 **A. They found out I knew how to do that, so they**
20 **brought me on for a short term, saw what I could do, and**
21 **then offered me a position in engineering, which was,**
22 **again, outside maintenance at what time.**
23 Q. Got it. And do you remember when they sort
24 of -- you say you started in '82, and when they saw that
25 you had some --

Page 19

1 **A. That would have been the latter part of '82.**
2 Q. Okay. So fairly quickly, you got off the
3 shampooing of the carpets and things like that?
4 **A. Yeah. They realized I was capable of other --**
5 **other abilities. I had other abilities that they**
6 **wanted, so they offered me a position.**
7 Q. Okay. So with outside maintenance, initially
8 you were laying down block and doing some other
9 construction-related stuff more?
10 **A. Uh-huh. Yes.**
11 Q. Can you expand on the other duties that you had?
12 **A. Pretty much anything to do with facilities:**
13 **Plumbing, sewage systems. We used to process our own**
14 **sewage, so we used to work in the sewage plant. Because**
15 **our parking lot on the west side of the property**
16 **actually was a sewer plant --**
17 Q. Okay.
18 **A. -- so we worked there. Anything to do with**
19 **facilities.**
20 Q. Got it. And then internally, they -- they
21 promoted you to Assistant Chief and then Chief and then
22 Supervisor, and then Director of Engineering?
23 **A. Yes.**
24 Q. Okay. How did your duties expand when you went
25 from just being in the engineering department to, say,

Page 20

1 Assistant Chief or Chief Engineer?
2 **A. Well, you know, you had growing accountabilities**
3 **each time you step up; you know, your accountabilities**
4 **become greater.**
5 Q. Right.
6 **A. Pretty much you'll have maybe a section where**
7 **you're accountable for the carpenters and the plumbers,**
8 **and then as you grow in your abilities, then they would**
9 **give you additional accountabilities over time.**
10 Q. Got it.
11 **A. So as you ascended, you took on additional**
12 **accountabilities.**
13 Q. Got it. Makes sense. Now, when did you start
14 working with the escalators and elevators on the
15 property?
16 MS. MASTRANGELO: Object to the form, assumes
17 facts.
18 THE WITNESS: Well, in what position?
19 BY MR. IQBAL:
20 Q. Let's say when you made the move in '82 to
21 outside maintenance in the engineering department.
22 **A. Not -- it wouldn't have any accountability for**
23 **that type of machinery.**
24 Q. Okay. How about as an Assistant Chief Engineer?
25 **A. You would be accountable for making a phone call**

Page 21

1 **if a unit was down to the contractor --**
2 Q. Okay.
3 **A. -- that had those accountabilities.**
4 Q. Okay. And then as Chief Engineer?
5 **A. Pretty much the same.**
6 Q. Okay. So your -- your work with or your
7 association with the two escalators in this casino
8 started when you became an Assistant Chief Engineer and
9 just expanded after that; correct?
10 **A. Correct.**
11 Q. And how many escalators are in this property?
12 **A. Two.**
13 Q. Two. All right. Let me guess, one going up and
14 one going down?
15 **A. Yes.**
16 Q. Are they both in the same area?
17 **A. Yes.**
18 Q. How many elevators in this property?
19 **A. Four in the parking garage, four in the hotel,**
20 **one on the casino floor, and one on the north entry.**
21 Q. Okay. Are both escalators serviced or
22 maintained by ThyssenKrupp?
23 **A. Today?**
24 Q. Yes.
25 **A. Yes.**

Page 22

1 Q. Okay. So previously there was another servicer?
2 **A. Yes.**
3 Q. Okay. And what was the identity of that
4 servicer?
5 **A. That would have been Dover Elevator, which**
6 **eventually was absorbed by ThyssenKrupp.**
7 Q. Okay. Now, if you know -- if you don't know,
8 it's fine. But do you have any recollection of what
9 year that happened when Dover Elevator was absorbed by
10 ThyssenKrupp, in your personal knowledge?
11 **A. An exact year, no.**
12 Q. Roughly?
13 **A. Late '80s, early '90s.**
14 Q. Okay. Now, as you're moving up the ladder,
15 we've talked about the maintenance department and then
16 outside maintenance and the engineering. Are those the
17 divisions that exists today?
18 **A. No.**
19 Q. Okay. What are the divisions that exist today?
20 **A. Today, the maintenance department is**
21 **environmental services, EVS --**
22 Q. Okay.
23 **A. -- and then the engineering department.**
24 Q. So two departments?
25 **A. Correct. And there is a third, because we have**

Page 23

1 a horticulture department as well.
2 (Reporter clarification.)
3 THE WITNESS: Horticulture, or landscaping,
4 depending on --
5 BY MR. IQBAL:
6 Q. Now, when did that departmental change from the
7 maintenance department and outside maintenance, when did
8 that shift to maintenance department, EVS, engineering
9 department, and horticulture department?
10 A. That change occurred, I believe, when we became
11 the Golden Nugget. We went from Del Webb's Nevada Club
12 to the ownership of the Golden Nugget under Steve Wynn.
13 Q. And that was in '88; right?
14 A. Correct.
15 Q. Okay. All right. And so you've been Director
16 of Facilities for quite some time now?
17 A. A few years, yes.
18 Q. Okay. It looks like it could have been anytime
19 in the early '90s to today; correct?
20 A. Correct.
21 Q. Okay. What are the current scope of your duties
22 and responsibilities as Director of Facilities?
23 A. Well, I'm accountable for the physical plant for
24 the property. In other words, flooring, walls,
25 infrastructure -- meaning gas, water, electric,

Page 24

1 generators, backup battery systems, air-conditioning,
2 refrigeration, kitchens, grounds -- pretty much
3 everything that you can see and touch, I'm accountable
4 for.
5 Q. The buck stops with you?
6 A. Well, the buck doesn't stop with me. In other
7 words, I have a hierarchy --
8 Q. Okay.
9 A. -- that I report to.
10 Q. Okay.
11 A. But my accountabilities are for the physical
12 plant, yes.
13 Q. Absolutely. So these three departments -- the
14 horticulture department, engineering department, and
15 EVS -- do the heads of those departments report to you?
16 A. No.
17 Q. Okay.
18 A. Just the engineering department and
19 horticulture.
20 Q. Okay. And so would it be the Director of
21 Engineering who reports to you?
22 A. Well, I don't have a Director of Engineering.
23 Q. Okay. All right. So what is the title of the
24 person who does report to you from the engineering
25 department?

Page 25

1 A. Supervisors.
2 Q. Okay. So how many supervisors do you have in
3 the engineering department?
4 A. Two.
5 Q. And overall, how many people are in the
6 engineering department underneath those two supervisors?
7 A. 14. It varies, but 14.
8 Q. Okay. And as you mentioned from your duties
9 when you were in the engineering department, these 14
10 folks would be responsible for, among other things, the
11 escalators and the elevators; correct?
12 A. No.
13 Q. No? What are they responsible for?
14 A. The grounds and the facility.
15 Q. Okay. Is anyone assigned to, or does anyone
16 have direct responsibility, for the up and down
17 escalators and the elevators?
18 A. Can you rephrase that?
19 Q. Sure. Is anyone who works under you responsible
20 for, from time to time, checking the escalators,
21 checking the elevators -- if there's a problem,
22 responding to that -- stopping the elevator or stopping
23 the escalator, or if the -- if, say, the cleaning staff
24 needs to clean an elevator, who's responsible for going
25 and stopping the elevator so the cleaning staff can

Page 26

1 clean it?
2 A. Okay.
3 MS. McLEOD: Objection to form. Compound.
4 BY MR. IQBAL:
5 Q. Go ahead. If you -- if you understand what I
6 just said, you can answer.
7 A. Regarding the cleaning of the elevator -- let's
8 say the cab -- or the cleaning of the steps of the
9 escalator, that would be done by the EVS department --
10 Q. Okay.
11 A. -- and under their supervision.
12 Q. Okay. All right. All right. We'll go through
13 it step by step.
14 So you said the supervisors from the engineering
15 department report to you, and also someone from the
16 horticulture department reports to you?
17 A. Yes.
18 Q. And who is that?
19 A. It would be Keith Cottom.
20 Q. Okay. And what's Keith's position?
21 A. He's a supervisor.
22 Q. Supervisor, okay. And how many people in the
23 horticulture department?
24 A. Two.
25 Q. Okay. And so you said EVS doesn't report to

Page 27

1 you?
2 **A. They do not.**
3 Q. They do not. Are you responsible for the EVS
4 department in any way?
5 **A. I am not.**
6 Q. So their budgets, hiring, all of that, you have
7 no responsibility for?
8 **A. Correct.**
9 Q. Okay. So when we say Director of Facilities, we
10 mean, you know, the engineering department, all the
11 folks reporting to you there, and the horticulture
12 department, all the folks -- the two folks reporting to
13 you there?
14 **A. Correct.**
15 Q. So you're responsible for roughly 16 to 18
16 people who either report to you or who are below you in
17 the hierarchy?
18 **A. Correct.**
19 Q. Okay. All right. Now, let's talk about who you
20 report to. Who's your immediate supervisor?
21 **A. Alan Trantina.**
22 Q. Can you spell the last name, please?
23 **A. Yeah. It's T-r-a-n-t-i-n-a.**
24 Q. And what is Alan's position?
25 **A. Vice president and general manager.**

Page 28

1 Q. Is Alan the general manager of the Golden Nugget
2 Laughlin?
3 **A. Yes.**
4 Q. Okay. And how long has Alan worked with the
5 Golden Nugget?
6 **A. Approximately?**
7 Q. Yeah.
8 **A. Two years, nine months.**
9 Q. And before Alan, who was your previous direct
10 supervisor?
11 **A. Nicholas Polcino.**
12 Q. Can you spell the last name, please?
13 **A. P-o-l-c-i-a-n-o (sic). And I believe that's Jr.**
14 Q. And how long was Nicholas with the Golden
15 Nugget?
16 **A. Again, these are not accurate dates, but**
17 **approximately three years.**
18 Q. And I appreciate, you know, if you don't know
19 and if you're giving an approximation, I appreciate you
20 telling me that. Thank you.
21 So now we have six -- approximately six years,
22 slightly under six years. Before Nicholas, who was
23 the -- your direct supervisor?
24 **A. Mike Shure, S-h-u-r-e.**
25 Q. Okay. And how long was Mike your direct

Page 29

1 supervisor?
2 **A. I believe Mike was here approximately one year.**
3 Q. All right. Now, is your interaction up in the
4 hierarchy limited to the vice president and general
5 manager, or do you talk to other superiors above the
6 general manager?
7 **A. I talked to people above and below, because I**
8 **also report to Vice President of Facilities in**
9 **Las Vegas.**
10 Q. And who is that?
11 **A. Clint Belka.**
12 Q. Okay. So on the corporate side, it's Alan. But
13 really with facilities, you also report to Clint?
14 **A. And I also report to corporate as well.**
15 Q. Okay. And who do you report to there?
16 **A. Chris McComas.**
17 Q. Can you spell the last name?
18 **A. M-c-C-o-m-a-s.**
19 Q. And what is Chris' title?
20 **A. He is corporate facilities, Director of Hotel --**
21 **Hotels, I believe. Again, don't hold me to the accurate**
22 **title.**
23 Q. No problem.
24 **A. It's approximate.**
25 Q. No problem at all.

Page 30

1 Now Director of Hotels for Golden Nugget or
2 Landry's or --
3 **A. Landry's.**
4 Q. Now, Clint, VP of Facilities in Las Vegas for
5 Golden Nugget or for Landry's?
6 **A. Golden Nugget.**
7 Q. Clint's been around for a while; right? How
8 many years has he worked?
9 **A. Over ten, I believe.**
10 Q. Okay. And how about Chris?
11 **A. Approximately three years, maybe longer.**
12 Q. Okay. If there's a technical issue with the
13 facilities, if an accident occurs involving something on
14 the -- in the facility, who do you inform?
15 MS. McLEOD: Objection; form, assumes facts.
16 BY MR. IQBAL:
17 Q. You can answer.
18 **A. I wouldn't be involved with accidents --**
19 Q. Okay.
20 **A. -- or injuries unless it was directly -- I had**
21 **direct involvement.**
22 Q. Okay.
23 **A. Those issues would be reported to security --**
24 Q. Okay.
25 **A. -- and surveillance.**

Page 31

1 Q. Okay.
2 **A. And they would take appropriate action as deemed**
3 **necessary or required.**
4 Q. Got it. So who's the head of Security and
5 Surveillance?
6 **A. That would be Jackie Komashka. And that -- she**
7 **would be the head of security.**
8 Q. Got it. Can you spell her last name, please?
9 **A. Give me one second here.**
10 **K-o-m-a-s-c-h-k-a, Jacqueline.**
11 Q. Got it. So I'm just giving you a hypothetical.
12 Let's say someone gets hurt on the down escalator or the
13 up escalator today. That would be reported to Jackie,
14 and then it would be Jackie's responsibility to report
15 it to Alan and Clint and Chris?
16 MS. McLEOD: Objection, assumes facts.
17 You can answer. Sorry.
18 THE WITNESS: That's okay. I'm just taking a
19 moment.
20 So can you ask that question again, please?
21 BY MR. IQBAL:
22 **Q. Sure. All right. Let's say hypothetically I'm**
23 **a clumsy idiot, I fall off the escalator, the down**
24 **escalator. Presumably security will come over and help**
25 **me. Who do they report the incident to?**

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1 **A. They would immediately report it -- well, first**
2 **of all, they're going to observe the situation. If**
3 **someone is injured, they're going to take appropriate**
4 **action by calling for 9-1-1 for outside emergency help.**
5 Q. Okay.
6 **A. So before they do any upward reporting, the**
7 **procedure would be to take whatever action was deemed**
8 **necessary to help the patron or employee. Due diligence**
9 **and care comes first. The escalator, elevator, whatever**
10 **the piece of equipment was, would be immediately shut**
11 **down. The State inspector would be called --**
12 Q. Okay.
13 **A. -- as required by State law. That piece of**
14 **machinery would be kept shut off until the State**
15 **inspector arrived to inspect it.**
16 Q. Okay.
17 **A. And then to answer your question, security would**
18 **then do a complete report.**
19 Q. Okay.
20 **A. Surveillance would also take whatever recordings**
21 **they had of that incident --**
22 Q. Uh-huh.
23 **A. -- and retain it as part of the report.**
24 Q. Okay.
25 **A. So if it did happen on an escalator or an**

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1 **elevator, ThyssenKrupp would also be called.**
2 Q. Okay. And security would obviously tell you?
3 **A. Correct.**
4 Q. Okay.
5 **A. Or one of my supervisors.**
6 Q. Okay. So you or one of your supervisors, would
7 you be notified before the shutdown?
8 **A. No.**
9 Q. Okay. That's automatic?
10 **A. That's automatic.**
11 Q. Okay. Would you or one of your supervisors be
12 notified before the State inspector is contacted?
13 **A. I would be notified probably simultaneously.**
14 Q. Okay.
15 **A. In other words, when the calls start going out,**
16 **they would call the State inspector first.**
17 Q. Okay.
18 **A. And then at some point I would either receive an**
19 **e-mail, or my supervisors or both would be called, to**
20 **advise them for the reason that the unit was shut down.**
21 Q. Got it. Those supervisors who would be called,
22 what are the current supervisors? What are their names?
23 **A. Keith Cottom or Erick Kiesling.**
24 Q. And I'm sorry to hear. What's Erick's last
25 name, if you could spell that?

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1 **A. Kiesling. It's K-i-e-s-l-i-n-g.**
2 Q. Okay. And how long has Erick been a supervisor?
3 **A. A little less than a year.**
4 Q. Okay. Did he work here before he was a
5 supervisor?
6 **A. No.**
7 Q. Okay. Where did he come from?
8 **A. Oregon.**
9 Q. Okay. But he had sufficient experience, so you
10 said we're going to make him a supervisor?
11 **A. Uh-huh.**
12 Q. Okay.
13 MS. McLEOD: Is that a yes?
14 THE WITNESS: Yes.
15 BY MR. IQBAL:
16 Q. Do you know roughly how much experience Erick
17 has had with facilities or --
18 **A. Well, he worked facilities for a prison in**
19 **Oregon. I don't know exactly what city. It would be in**
20 **our records. But, yes, he's got a fairly extensive**
21 **background in facilities.**
22 Q. Got it. And the other one you mentioned is
23 named Keith?
24 **A. Keith Cottom.**
25 Q. C-o- --

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1 A. Well, we have ThyssenKrupp who is contracted to
2 maintain our equipment.
3 Q. Uh-huh.
4 A. So between ThyssenKrupp and, you know, our State
5 inspector, if the State inspector came in and made an
6 observation, then we would comply or consider, depending
7 on the equipment.
8 But basically I don't make that determination.
9 I always go to the expert.
10 Q. Okay. And with escalators and elevators, that
11 would be ThyssenKrupp or the State inspectors?
12 A. Well, ThyssenKrupp would make the
13 recommendations. The State inspector would be, you
14 know, if they wrote you up for an NOV, that would be
15 something that you would have to comply with. That's a
16 compliance issue.
17 Q. Got it. Who do you deal with primarily at
18 ThyssenKrupp?
19 A. Well, depends. They've changed the personnel in
20 the last couple years. People have moved up or moved
21 around. Scott Olsen is one of them. Paul Hamrick,
22 Larry Panaro.
23 Q. Uh-huh. So if ThyssenKrupp makes a
24 recommendation on an elevator or an escalator, do you
25 take that recommendation seriously?

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1 A. Yes.
2 Q. Okay. In your experience, when such
3 recommendations are made, do you put those
4 recommendations into your capital budget request?
5 A. Are we speaking -- can you rephrase that?
6 Q. Sure. Generally speaking -- we're not talking
7 about any specific incidents -- okay? -- you testified
8 just now that you rely on the experts. And when it
9 comes to the elevators and the escalators, you're
10 talking about ThyssenKrupp; correct?
11 A. Correct.
12 Q. Okay. So generally speaking, when ThyssenKrupp
13 makes a recommendation -- let me ask it this way: When
14 ThyssenKrupp makes a recommendation, as they've had --
15 as they've made recommendations in the past, what
16 percentage of those recommendations do you end up
17 putting into the capital budget request?
18 A. Well, if it's from a salesman's point of view --
19 in other words, if it's a sales guy that's presenting me
20 with his recommendation, then I have to take it as he's
21 trying to sell me something.
22 And if this was coming from a mechanical
23 superintendent that maintains the elevators and
24 escalators and says that I have an issue, then I would
25 take that different than I would taken from a salesman

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1 trying to sell me an upgrade on the equipment that is
2 not required. Do you understand the difference?
3 Q. Absolutely. Absolutely. So if it's someone on
4 the ground like ThyssenKrupp's engineer, Chris,
5 saying --
6 A. Service technician.
7 Q. -- service technician, saying this needs to be
8 changed -- and I'm just generally speaking. I'm not
9 talking about any specific problem. If a service
10 technician from ThyssenKrupp came to you or told you or
11 your people, This needs to be changed with a specific
12 piece of equipment, you're going to put that into the
13 capital budget request?
14 A. No. I'm going to take action on it immediately.
15 Q. Okay.
16 A. Because if they bring me an issue -- an
17 immediate issue of something broken down, machinery not
18 running --
19 Q. Okay.
20 A. -- I'm going to take immediate action --
21 Q. Okay.
22 A. -- now.
23 Q. And we'll get to the immediate action stuff.
24 I'm just speaking within the context of the capital
25 budget request.

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1 Do the service technicians ever raise
2 recommendations not associated with an immediate issue
3 or accident, but just something that needs to be
4 replaced?
5 A. Normally, that would come from a salesman.
6 Q. Okay.
7 A. They would contact their office if they had an
8 opinion about something -- excuse me -- and the salesman
9 would call me.
10 Q. Okay.
11 A. If an elevator or escalator is down and it
12 needed parts, then, yes, I would take immediate action,
13 because I need my equipment up and running. I'm running
14 a facility that runs 24/7, so it's important that our
15 machinery continues to operate and run.
16 Q. Got it. Got it.
17 A. As long as it's safe and we don't have any
18 issues.
19 Q. Okay. So you have your capital budget requests,
20 and then separate from that there's an understanding
21 from your higher ups that if there are immediate issues,
22 you may require additional funds; correct?
23 A. Correct. I mean, we have a contract with
24 ThyssenKrupp, elevators to maintain and service our
25 elevators and escalators.

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<p>1 ThyssenKrupp, are they typically by e-mail or phone or 2 meetings? 3 A. If it's sales, it could be phone, it could be in 4 person, or it could be by e-mail as well. 5 Q. All right. 6 A. If it is repair, generally it's voice, and then 7 I may send a follow-up e-mail just to confirm a 8 conversation or that I requested it; but it's not every 9 time, but I try to do an e-mail chain -- 10 Q. Okay. 11 A. -- so that I could always reference back. 12 Memory being what it is, sometimes it's beneficial to 13 have an e-mail chain so you can, Oh, yeah, that's what I 14 did or this is when I did it. Does that make sense? 15 Q. Yes. Yes. So you have two escalators in 16 operation, the up and the down escalator; correct? 17 A. Yes. 18 Q. Okay. What is the typical working life for an 19 escalator? 20 A. I'm not -- 21 MS. McLEOD: Objection; calls for speculation. 22 BY MR. IQBAL: 23 Q. You can go ahead and answer. 24 A. Okay. I'm not an expert on that subject, so I 25 would have to refer to ThyssenKrupp --</p> <p>Page 64</p>	<p>1 from Dover; correct? 2 A. I don't know if you want to look at takeover. 3 They actually absorbed that company at some point, I 4 believe, in the '80s. 5 Q. Okay. 6 A. So we never ceased service, if that's what 7 you're asking me. 8 Q. Right. Right. So in the last 30 years or so, 9 it's been ThyssenKrupp servicing the escalators and 10 elevators; correct? 11 A. No. It was Montgomery Elevator. 12 Q. Okay. And then it -- 13 A. And then it became Dover and then ThyssenKrupp. 14 From my memory serves me correctly, the Montgomery 15 Elevator -- Escalator, rather -- technician retired, and 16 I don't believe they wanted to service this area. I 17 could be incorrect on that, but that's my recollection. 18 Q. That's fine. But roughly in the last two or 19 three decades it's been ThyssenKrupp? 20 A. Yes. 21 Q. Okay. And when ThyssenKrupp took over the 22 maintenance, was there any testing or analysis done to 23 determine any hidden problems? 24 A. I can't answer that. 25 Q. All right.</p> <p>Page 66</p>
<p>1 Q. Okay. 2 A. -- or the State inspector. 3 Q. Okay. In your experience of working here since 4 the '80s, has either escalator been replaced? 5 A. No. 6 Q. Okay. The down escalator, when was that 7 originally constructed, if you know? 8 A. I don't know specifically, because it was on 9 property before I arrived. But I believe it was put in 10 in 1979 -- 11 Q. Okay. All right. And I understand -- 12 A. -- by Montgomery -- Montgomery Elevator. 13 Q. Got it. I understand that's -- your 14 approximating here -- 15 A. Yes. 16 Q. -- and we're not going to hold you to that. 17 A. I don't know a definitive date, no. 18 Q. But in the 30-plus years that you've been here, 19 that down escalator has not been replaced; correct? 20 A. Correct. 21 Q. Okay. And that -- the down escalator and the up 22 escalator operate 24/7; correct? 23 A. Yes. 24 Q. Okay. And at a certain point ThyssenKrupp took 25 over the maintenance and servicing of that escalator</p> <p>Page 65</p>	<p>1 A. What I can tell you is that every year, you 2 know, we have an annual inspection and, in order to get 3 our operational permits, those inspections have to be 4 performed. 5 Q. And who does the annual inspection? 6 A. A third-party inspector comes in and performs 7 that function and then issues the appropriate report to 8 the State, and then the State issues the permit. 9 Now, the State used to do all of the 10 inspections, and I don't know -- I believe they just 11 became overwhelmed, understaffed. That's my 12 understanding. I don't know that to be a fact, but 13 that's my understanding. 14 So, you know, we had a third-party inspector 15 certified to come in and inspect the cars, elevators. 16 Because over a period of years, you have to perform load 17 tests on your elevators and that type of thing, so -- 18 Q. Do you review any maintenance records or 19 maintenance reports from ThyssenKrupp examinations or 20 inspections of the escalator? 21 A. If it has to do with a breakdown of some type, 22 then, yes, that's brought to my attention. And they 23 immediately, you know, again, go through purchasing, 24 issue a purchase order, get it authorized, and then the 25 work is performed.</p> <p>Page 67</p>

1 Q. Okay.
2 A. -- because we had to transport him.
3 Q. Okay.
4 A. So it was immediately shut down. ThyssenKrupp
5 came out, the State inspector came out, inspected it,
6 and I believe they okayed it and it was turned back on.
7 Q. Okay. Do you recall roughly what year that was
8 when the employee got hurt?
9 A. Oh. I'm just going to guess at 2012.
10 Q. 2012, okay. And so there's no difference
11 between -- you just mentioned the procedure. There's no
12 difference between an employee or a customer of the
13 Nugget gets hurt, ThyssenKrupp is called, the State
14 inspector comes out, the process is the same; correct?
15 A. It's State law.
16 Q. Okay.
17 A. That's State law. It's not our law, it's not
18 our procedures at all. It's prescribed by the State.
19 It's, like, yeah, we're mandated to call. Anytime
20 anybody's transported --
21 Q. Yeah.
22 A. -- we have to shut it down and call.
23 Q. When you mean "transported," taken to the
24 hospital?
25 A. Uh-huh.

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1 Q. Okay. If it's an incident or injury that
2 doesn't involve someone going to the hospital, what is
3 the procedure then?
4 A. Well, security would evaluate that person, take
5 a report -- unless they refused. You know, people can
6 refuse and walk off.
7 Q. Right.
8 A. But the procedure is for them to do their due
9 diligence, offer first aid and care always, and then
10 provide a report, if they're willing to stop and stay
11 and provide that information.
12 Q. Got it. So and you mentioned earlier that's not
13 really your area. That's Jackie's area?
14 A. Correct.
15 Q. Okay. So Jackie would have more knowledge --
16 actually, more direct knowledge than you about incidents
17 involving the escalator and injuries?
18 A. Well, again, I'm going to receive an e-mail or a
19 phone call --
20 Q. Right.
21 A. -- that the escalator is shut down and for what
22 reason.
23 Q. Right.
24 A. They may not get into particulars, Tell me what
25 happened exactly --

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1 Q. Right.
2 A. -- but generally when they tell me -- you know,
3 because they would tell me if we had some kind of a
4 mechanical issue --
5 Q. Right.
6 A. -- you know, this was due to an accident.
7 That's usually what I'll -- and that's the extent of the
8 information that I'll receive.
9 Q. Okay.
10 A. There was an accident on the escalator, the
11 State inspector's been called. They'll tell me about
12 approximately what time that inspector's going to
13 arrive. ThyssenKrupp is called. You know, and
14 generally the State inspector and the ThyssenKrupp
15 technician will meet, inspect, have a discussion, and
16 then make a decision -- the State inspector would make
17 the decision on, Okay, you're okay to turn it back on.
18 Q. And you're not involved in that?
19 A. I'm not involved in that process, other than to
20 notify, you know, ThyssenKrupp. But most of the time,
21 security will automatically -- or the engineer on duty
22 will automatically call ThyssenKrupp. Security may call
23 that engineer and say, Hey, we need you to call, or they
24 may call.
25 Q. Okay.

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1 A. And then I'm notified at some point, fairly
2 quickly, that there was an incident. This is the reason
3 the escalator's down. Because right after, generally
4 I'll receive a call from the vice president and general
5 manager, What's going on?
6 Q. Okay. And you don't read those incident
7 reports?
8 A. I do not.
9 Q. Okay. Do you have access to those incident
10 reports?
11 A. I do not.
12 Q. Okay. Jackie would have access to those
13 incident reports?
14 A. Correct.
15 Q. Okay.
16 A. Yeah. Because that's not my expertise. So that
17 would be -- that would be handled by security and
18 surveillance.
19 Q. Okay. Once you're notified of an incident
20 involving the escalators and you get the call from the
21 general manager, what steps do you take or what
22 procedures do you take?
23 A. Well, again, I'm going to rely on the experts.
24 I'm going to wait whether -- you know, my general
25 manager -- it doesn't matter -- I'm going to wait for

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<p>1 ThyssenKrupp and the State inspector to make that 2 decision, no matter who calls me. It could be the owner 3 of the company, and I would have the same response, "No, 4 sir, we cannot turn that equipment on until the State 5 inspector says it's okay." 6 Q. Got it. Got it. Okay. That's clear. 7 Now, you talked about the incident reports, 8 which you don't have access to. 9 A. No. 10 Q. When you get notice of an incident or an issue, 11 or when you get notice of the escalator being down, do 12 you generate a separate report or e-mail or 13 communication with -- within the facilities department? 14 A. No. Like I said, I might -- or may do a 15 follow-up e-mail with whoever I'm coordinating with at 16 ThyssenKrupp which, you know, might be Paul Hamrick -- I 17 don't even know if Paul's there anymore. Scott Olsen, I 18 believe, is still there. But I would get ahold of the 19 superintendent for the mechanical unit, whoever their 20 head of mechanical was, and have a conversation with 21 them, or I'd actually be talking to the field tech who 22 would be on property most likely. 23 If I was here on property and advised that 24 there's an issue, I would leave my office, meet with the 25 technician, have a discussion. If it involved a State</p> <p>Page 76</p>	<p>1 A. -- our contract with our professionals. 2 Q. Right. So outside of, say, a purchase order 3 that may ensue after an incident, outside of that you 4 generally don't have written reports, because you're 5 communicating, you're talking to people? 6 A. Well, ThyssenKrupp will have the reports. 7 They'll generate a report for their office, and then 8 they'll maintain those maintenance records -- 9 Q. Right. 10 A. -- you know, to show that, yes, Chris was here 11 at this time, this date, he did this, this, this, and 12 this. 13 Q. Got it. 14 A. So their records may not always reflect what I 15 have -- 16 Q. Right. 17 A. -- because it's coming from their field 18 technician. 19 Q. Right. Right. 20 A. And I may not even get to speak to him, 21 depending on the situation. I may be off property, it 22 may be 2 o'clock in the morning and I didn't get a 23 chance to physically talk to him. But I am advised 24 either through e-mail or phone call that, look, there 25 was an incident -- this happened, this happened -- and</p> <p>Page 78</p>
<p>1 inspector, of course then I would rely on him. If it 2 didn't, then I would have a discussion with the 3 technician from Thyssen, who would be the escalator -- 4 their escalator technician, because there is a 5 difference, and he would advise me if there was any 6 issues. 7 And then if it was simple enough, I would just 8 tell him to take action; if it was something serious and 9 we had to shut the unit down, then, of course, I have to 10 get my vice president and general manager involved, 11 advise him that I'm going to be ordering or spending 12 X amount of dollars to have this repaired, generate a 13 purchase order, which would then go through our system, 14 get authorized. 15 They would be notified, they would get a copy of 16 the PO, and the work would progress. 17 Q. Got it. That makes sense. So is it fair to 18 say, when you're notified you're going to try and solve 19 the problem, but you don't generate an independent 20 report? 21 A. Correct. I'm the facilitator. I'm trying to 22 get the equipment back up, if at all possible. 23 Q. Got it. Got it. 24 A. Under the safety guidelines and under -- 25 Q. Got it.</p> <p>Page 77</p>	<p>1 then I do a follow-up voice conversation or e-mail to -- 2 so that, I guess, would be my report. 3 Q. Right. 4 A. What I would keep on file would be an e-mail 5 based type thing. 6 Q. Got it. But nothing formal or separate? 7 A. Nothing formal, no. 8 Q. Okay. Got it. 9 A. Because security would report all that. They 10 would have record of the whole situation; I mean, from 11 the person's name, height, eye color, weight, everything 12 about them, when it happened. They would coordinate 13 with surveillance for film. So that whole package would 14 be stored or put into their system somehow. 15 Q. Into the incident report? 16 A. Correct. 17 Q. Which you don't have access to? 18 A. I don't have access to. 19 Q. Got it. Okay. And do you review the reports 20 that ThyssenKrupp generates, the maintenance reports 21 after an incident, the service reports after an 22 incident? 23 A. I get service reports, yes, from them; and I do 24 review them, yes. 25 Q. Okay. And do you keep those on your -- on your</p> <p>Page 79</p>

1 **A. I would be informed after the fact.**
2 Q. Okay. And you would be informed after the fact
3 how?
4 **A. By e-mail or voice.**
5 Q. Okay. All right.
6 **A. Or both.**
7 Q. Do your supervisors review any of the safety
8 reports or maintenance reports generated by Thyssen?
9 **A. No.**
10 Q. Okay. They rely on your understanding or your
11 summary of those reports; correct?
12 **A. Well, because they're new and I haven't had the**
13 **opportunity or time to train them regarding those**
14 **issues, I take that accountability at this particular**
15 **time. In a future time, they will be trained so that**
16 **they can act in my stead, if I'm not here and they are,**
17 **to make a phone call to the experts and have those**
18 **decisions or discussions with ThyssenKrupp.**
19 Q. Got it. That's fair. Now, and I understand
20 you're not privy to the incident reports and you're not
21 the director of security. But in your personal
22 knowledge, do you know if there is a procedure or a
23 written process that Jackie or her people follow when
24 there's an incident?
25 **A. I would say yes. I'm making an assumption. But**
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1 **I know that they have policies and procedures in place**
2 **for those types of incidents on the floor. Anywhere**
3 **that they're in the property, yes, they're going to have**
4 **a policy and procedure regarding that.**
5 Q. Okay.
6 **A. I don't know what the number of that policy and**
7 **procedure is, you know, don't know what they call it,**
8 **but I know that they -- they're pretty strict about**
9 **their policies and procedures.**
10 Q. That's fine. That's fine. I appreciate that.
11 Now, again, you're not the head of Security --
12 **A. I am not.**
13 Q. -- so this is in your personal knowledge, if you
14 know: Does Jackie review every incident report?
15 MS. McLEOD: Objection; calls for speculation.
16 THE WITNESS: I don't know that.
17 BY MR. IQBAL:
18 Q. Okay. Okay. Do you review and respond to every
19 safety concern that ThyssenKrupp raises, if they raise
20 it in an e-mail or in person or --
21 **A. If it's directed at me and I'm aware of it, yes,**
22 **I'm going to be the facilitator. I'm going to be the**
23 **one to raise the red flag, bring it forward, have**
24 **discussions with my people I report to, advise them of**
25 **the situation and take action.**
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1 Q. Got it. The servicer, the technician assigned
2 from ThyssenKrupp, are they assigned to specific
3 escalators?
4 **A. (Witness nods head.)**
5 Q. Is that a yes?
6 **A. Yes. Yes, it is.**
7 Q. And is there a different service technician
8 assigned to the elevators?
9 **A. Yes.**
10 Q. Okay. Who is -- in your knowledge, who is
11 assigned to the escalators?
12 **A. Chris Dutcher.**
13 Q. Okay. And how long has Chris been assigned to
14 the escalators?
15 **A. Again, this is a guess. I would say ten years.**
16 Q. Ten years, okay. And I think you've made it
17 clear, you're the primary contact for Thyssen if they
18 either have a safety issue or a sales proposal regarding
19 the elevators and escalators; is that fair to say?
20 **A. Yes and no. Because they could actually set an**
21 **appointment with my vice president and general manager**
22 **to provide a presentation, if he accepted that**
23 **appointment. And, again, you know, he is my report --**
24 Q. Got it. Got it. Got it.
25 **A. -- so he has the ability to do that.**
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1 Q. That's on the sales side. On the servicing
2 side --
3 **A. But even on the servicing side, if I was not on**
4 **property and he was contacted directly --**
5 Q. Uh-huh.
6 **A. -- then he absolutely could make that decision.**
7 Q. Absolutely.
8 **A. And may -- and, again, I don't know this as**
9 **fact, but, you know, I know that he would -- he would**
10 **make a decision if it was based upon -- if he was**
11 **contacted directly --**
12 Q. Okay.
13 **A. -- and given a -- given a problem or an issue,**
14 **that he would take action immediately.**
15 Q. And would he then tell you about that when you
16 came back on --
17 **A. Yes.**
18 Q. -- property?
19 **A. Yes. Or I would receive a text, e-mail or**
20 **voice --**
21 Q. Got it.
22 **A. -- telling me that, you know, he had something**
23 **done by ThyssenKrupp.**
24 Q. Got it. So it's fair to say, if you're on
25 property and you're involved, Thyssen is going to
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1 Q. Okay. Were you instructed to -- have you ever
2 been instructed to look through and produce maintenance
3 reports from ThyssenKrupp?
4 **A. No.**
5 Q. Have you ever been instructed in this case to
6 review the notices of violation from the State and
7 produce those?
8 **A. No.**
9 Q. Okay. So basically you were told a very limited
10 e-mail search about 30, 45 days ago and a limited e-mail
11 search yesterday, but no other searches, and you haven't
12 been asked for any other documents?
13 **A. And yesterday, I did that on my own.**
14 Q. Okay. "Yesterday," the e-mail searches?
15 **A. Correct.**
16 Q. Correct. No, and you explained that very --
17 very clearly. I'm talking about notices of violation.
18 You've never been asked to review or produce notices of
19 violation to counsel; correct?
20 **A. Correct.**
21 Q. And the annual safety -- what do we call them,
22 the annual safety inspection reports that are issued by
23 the State?
24 **A. Yeah. It's an actual requirement by the State**
25 **that all escalators and elevators have to be inspected**

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1 **on an annual basis in order to receive an operating**
2 **permit --**
3 Q. Okay.
4 **A. -- and without that permit, then you can't**
5 **operate the equipment.**
6 Q. Okay.
7 **A. So, in other words, the State is basically**
8 **validating that, you know, this equipment is in good**
9 **proper working condition; otherwise, they wouldn't issue**
10 **the permit --**
11 Q. Got it. Got it.
12 **A. -- and you wouldn't be operating.**
13 Q. Yep. That annual report, how many pages is it,
14 generally, from year to year?
15 **A. Well, it's a specific report for each elevator**
16 **and each escalator --**
17 Q. Okay.
18 **A. -- up and down.**
19 Q. Right.
20 **A. And then your -- I have cable-drawn cars and I**
21 **have hydraulic cars. So, you know, they're a little bit**
22 **different in the report. I mean, it's all the same as**
23 **far as, you know, it's an elevator --**
24 Q. Right.
25 **A. -- but there's different types of elevators,**

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1 **just like there's different types of escalators, so --**
2 Q. All right. How many pages, generally, is the
3 specific safety inspection report regarding the
4 escalator, the down escalator?
5 **A. It's probably a double-sided page, I would**
6 **think, if I remember correctly.**
7 Q. All right.
8 **A. But there's a series of things that they**
9 **inspect. And then, again, they have to provide that**
10 **report to the State. The State reviews it and, based on**
11 **that report, is whether they issue that permit or don't**
12 **issue that permit.**
13 Q. So it's a back and forth process?
14 **A. It is a back and forth process.**
15 Q. With the State?
16 **A. Yes.**
17 Q. Okay.
18 **A. So it's not up to me --**
19 Q. Right.
20 **A. -- and it's not up to anybody on this property.**
21 Q. Right.
22 **A. Yes, we own the equipment, but the State is**
23 **actually in control of it.**
24 Q. Okay. And those documents would be with you;
25 correct?

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1 **A. We would have copies, but the State would also**
2 **have records as well.**
3 Q. Right. But if anyone at Golden Nugget is going
4 to have the back and forth with the State and the annual
5 inspection reports, it would be you; correct?
6 **A. Yeah. Either that, or my third-party inspector**
7 **would keep records as well.**
8 Q. Right. Right. Have you ever been asked to
9 produce or print and scan those State inspection reports
10 and the back and forth with the State --
11 **A. No.**
12 Q. -- regarding the escalator?
13 **A. No.**
14 Q. No. Okay. And when I say "escalator," I'm
15 talking just about the down escalator?
16 **A. Okay. Not the up?**
17 Q. Not the up.
18 **A. Okay.**
19 Q. Okay. So have you ever been asked to produce
20 the back and forth or the ThyssenKrupp maintenance
21 reports that you get and you maintain?
22 **A. No.**
23 Q. No. No one's ever asked you for those?
24 **A. No.**
25 Q. Okay. So we're going to go through some -- some

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1 A. -- but there was an incident somewhere in the
2 '90s where we had an accident of some type, and the
3 inspector couldn't be here because he was either out of
4 town or hunting or -- there was an issue, I remember.
5 Q. Right. Okay. There are a bunch of e-mails --
6 and we'll get into them in detail -- talking about the
7 steps being either cracked with some of them critical
8 and needing to be replaced ASAP.
9 A. Uh-huh.
10 Q. Do you recall just generally those discussions?
11 A. I do.
12 Q. Okay, great. And it appears that these
13 discussions took place in 2012 and then 2015, around the
14 time after that --
15 A. Yeah. Because there were several -- there were
16 several reports over time -- because the incident in
17 2012, I believe I had four or five steps that I used to
18 keep in stock for the escalator, because if they needed
19 to replace like a step plate or something like that, I
20 would have them pull the whole step instead of keeping
21 the escalator down.
22 So the mechanic would pull the step and replace
23 it with one of the steps that I had. So I believe my
24 recollection was, when those five steps -- when I was
25 notified that they were cracked and they were critical,

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1 I believe told them to take what I had in stock. I
2 think I had three in my upstairs elevator room, and I
3 had two downstairs in my parking garage, elevator
4 equipment room. So that made the total of five, and I
5 think that's how we replaced those five.
6 And then I think we put in a request -- I'm
7 gonna say -- and, again, you can't hold me to this --
8 but, if I remember, we made a request to corporate,
9 because I think the number was 40 steps, if I remember
10 correctly, total. And I think we ended up purchasing 40
11 steps. But I believe we took care of the five that were
12 identified as being critical.
13 Now, here's my thought on that. You know, we
14 were never told to shut that equipment down. We were
15 just told that, Hey -- by a salesman -- Hey, you've got
16 a situation --
17 Q. Right. Right.
18 A. -- you know, we deem this to be critical.
19 Q. Right.
20 A. And it's not that we gave it any less weight,
21 because we paid attention --
22 Q. Right.
23 A. -- and we took action.
24 Q. Right.
25 A. But my -- and, again, I'm not a professional;

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1 this is just my opinion -- that if it was critical and
2 it was a damage to the property, that we should have
3 been instructed to shut that equipment down.
4 Q. Okay.
5 A. So, and we were never told that. We were just
6 told that in an e-mail that that's -- we deem these to
7 be critical. They need to be changed.
8 Q. Right.
9 A. So I believe the appropriate action that I took
10 at that time was to get those five steps replaced
11 immediately, and then we ordered the 40.
12 Q. Got it.
13 A. And then a couple years later -- two or three
14 later -- then I get identified again that, Hey, you've
15 got some cracks on your up escalator, which kind of
16 shocked me. Not that that can't occur, but I was kind
17 of in shock over it.
18 Q. Right. No, and I appreciate that.
19 A. Here we are at three years later and I've got
20 more cracks?
21 Q. I appreciate that --
22 A. So --
23 Q. -- regarding the up escalator. But on the down
24 escalator -- excuse me -- the replacement steps that you
25 have standing by --

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1 A. They were brand-new.
2 Q. Right.
3 -- those steps, are they from the same
4 manufacturer of the rest --
5 A. Well, there's only one manufacturer that I'm
6 aware of, which is KONE.
7 Q. Okay. All right.
8 A. Because that's an obsolete --
9 Q. Yep.
10 A. -- escalator. And I don't know that to be the
11 truth, but I believe somewhere in my research that that
12 escalator was no longer being built, and KONE
13 manufactured a replacement step for that, which met all
14 the original factory specs but was better, improved, and
15 less prone to cracking.
16 Q. Right. And what do you base that on?
17 A. I think I did a little bit of research when it
18 all came around --
19 Q. Okay.
20 A. -- because I was curious as to -- you know, had
21 other properties had this happen. So I think I just
22 went online. I Googled it, I think.
23 Q. Okay. So the -- and I appreciate you have a lot
24 of information. I just want to make the record clean,
25 so I'll wait for your answer to finish; but if you could

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<p>1 let the question form fully.</p> <p>2 The replacement steps which were new, as you</p> <p>3 just testified that were sort of waiting, were made by</p> <p>4 the same company that made the regular steps for the</p> <p>5 escalator?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And in your personal opinion, based on</p> <p>8 some research that you did, the replacement steps were</p> <p>9 actually better quality than the steps that were already</p> <p>10 in the escalator?</p> <p>11 A. I don't know that they were -- yeah, I made that</p> <p>12 statement. Again, I'm not a professional, but I would</p> <p>13 think that if KONE manufactured it, that they would have</p> <p>14 taken care of that problem with the cracking.</p> <p>15 Q. Okay. Why did you only have four or five? Why</p> <p>16 didn't you have --</p> <p>17 A. Well --</p> <p>18 Q. Hold on.</p> <p>19 Why did you have four or five steps in, let's</p> <p>20 say, reserve? Why not have 40 to sort of replace all of</p> <p>21 the steps?</p> <p>22 A. Well, I maintain inventory on this property, so</p> <p>23 if I do have an incident or need a repair, I try to be</p> <p>24 prepared -- excuse me -- for events that I think might</p> <p>25 occur, may occur. You know, I keep spare trim</p> <p style="text-align: right;">Page 120</p>	<p>1 actually what made him fall.</p> <p>2 Q. In the '90s?</p> <p>3 A. In the '90s.</p> <p>4 Q. Got it.</p> <p>5 A. Because the car immediately because of safety --</p> <p>6 there's safety switches --</p> <p>7 Q. Right.</p> <p>8 A. -- on the escalator on the sides and on the</p> <p>9 combs --</p> <p>10 Q. Right.</p> <p>11 A. -- and when they had a crash like that -- I call</p> <p>12 it a crash. It's not really technically a crash, but</p> <p>13 it's a crash to me -- the car stops. Well, if you've</p> <p>14 got full momentum and you're a stationary object,</p> <p>15 gravity works.</p> <p>16 Q. Got it.</p> <p>17 A. So --</p> <p>18 Q. When you said in your opinion regarding the</p> <p>19 e-mail about these need to be replaced, you said, In my</p> <p>20 opinion, if it was a real issue -- and correct me if I'm</p> <p>21 wrong -- if it was a real issue, we should have been</p> <p>22 directed to shut down the escalator?</p> <p>23 A. That's just my opinion.</p> <p>24 Q. Okay. Who --</p> <p>25 A. Now, we took action. I mean, we took action,</p> <p style="text-align: right;">Page 122</p>
<p>1 mouldings, I keep spare motors, I keep spare gear</p> <p>2 drives, I keep spare, you know, fan blades --</p> <p>3 Q. Uh-huh.</p> <p>4 A. -- and these are all to help maintain the</p> <p>5 property and keep it running.</p> <p>6 So the reason why I purchased extra steps, was I</p> <p>7 wasn't aware that there was cracking or anything like</p> <p>8 that going on. I bought the extra steps because, like I</p> <p>9 said, there would be a top plate -- those stair treads</p> <p>10 are screwed to the stairs.</p> <p>11 And if you get somebody, like back in the day</p> <p>12 when we had coin, people would drop a bucket of coins on</p> <p>13 the escalator. It would break the combs up, damage the</p> <p>14 top plates. So here I am, I have to shut my escalator</p> <p>15 down for maybe weeks if I don't have spare stairs.</p> <p>16 Q. Got it.</p> <p>17 A. So that was the reason why I purchased those</p> <p>18 extra stairs because, in years past -- and that may be</p> <p>19 one of the incidents that occurred actually, when we had</p> <p>20 to shut it down for 36 hours -- a gentleman dropped --</p> <p>21 and I can't be positive -- but he had a coin cup full of</p> <p>22 quarters, and he lost his balance and he dropped --</p> <p>23 dropped them down into the machine. And they got to the</p> <p>24 bottom of the escalator, they're tumbling down the</p> <p>25 escalator, got jammed up in the comb, and I think that's</p> <p style="text-align: right;">Page 121</p>	<p>1 and ThyssenKrupp came out and replaced the steps.</p> <p>2 Q. Okay.</p> <p>3 A. All I'm making the point is, is if it was</p> <p>4 critical, shouldn't we have been told to shut that down?</p> <p>5 Q. Now, who would have told you to shut that down?</p> <p>6 A. Well, I would think that a State inspector --</p> <p>7 Q. Okay.</p> <p>8 A. -- not ThyssenKrupp, but a State inspector.</p> <p>9 Q. Okay. If ThyssenKrupp told you hypothetically,</p> <p>10 This is a real --</p> <p>11 A. No. No. No. I believe that it was critical.</p> <p>12 Q. -- critical --</p> <p>13 Right. Right.</p> <p>14 A. I didn't disbelieve him. I'm just -- I'm making</p> <p>15 an opinion.</p> <p>16 Q. No. And I appreciate that. But hypothetically,</p> <p>17 if ThyssenKrupp said, This escalator needs to be shut</p> <p>18 down, would you shut it down?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And hypothetically, if Thyssen said these</p> <p>21 steps are critical and need to be replaced ASAP, you</p> <p>22 would replace them ASAP?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. In your mind, when someone says ASAP in</p> <p>25 an e-mail and it's regarding a down escalator that the</p> <p style="text-align: right;">Page 123</p>

<p>1 public is riding, and your third-party servicer says, 2 This is a major problem, these steps need to be 3 replaced, in your mind, what is a reasonable period of 4 time to replace those steps within? 5 MS. McLEOD: Objection to form, compound. 6 BY MR. IQBAL: 7 Q. You can answer. 8 A. Okay. I remember the incident, and I remember 9 taking action immediately. 10 Q. Yeah, I guess that's not my question, so let me 11 clarify it. 12 If, in a hypothetical situation -- we're not 13 talking about real life -- okay? -- we're not talking 14 about the incident -- in a hypothetical situation, you 15 have a down escalator and your third-party servicer, 16 whether it's Otis or Thyssen or whoever -- says X number 17 of steps are critical and need to be replaced ASAP. In 18 your mind in that hypothetical situation -- and I'm just 19 looking for a period of time here -- what is a 20 reasonable period of time to take to replace those X 21 number of steps? 22 MS. McLEOD: Same objection. 23 BY MR. IQBAL: 24 Q. You can answer. 25 A. Okay. Again, I'm trying to recall. I had steps</p> <p>Page 124</p>	<p>1 Q. -- hypothetical. If someone says, You need to 2 replace the steps, is a one-week turnaround time 3 reasonable when someone says ASAP? 4 A. Well, again, I can't make that determination 5 because I am not the professional. I'm the facilitator. 6 Q. Right. 7 A. So as soon as they tell me I've got an issue, 8 I'm going to take it upstairs and I'm going to take 9 immediate action. 10 Q. Okay. 11 A. In other words, I may even go and generate a 12 requisition for a PO so that I can push it and get it 13 authorized -- 14 Q. Right. 15 A. -- because I've got to get a signature. 16 Q. Right. 17 A. I'm not allowed -- you know, I can't authorize a 18 \$20,000 purchase or anything of that. 19 Q. Right. 20 A. It has to be authorized, so -- 21 Q. Got it. 22 A. -- I have to take it down my chain of command as 23 fast as I can. 24 Q. No, I understand that. But when you say 25 "immediate action," you want to act either --</p> <p>Page 126</p>
<p>1 in stock. 2 Q. Right. Right. 3 A. And I believe ThyssenKrupp took immediate 4 action -- 5 Q. Right. 6 A. -- based on that e-mail to get them installed. 7 Q. Right. I'm not asking -- 8 A. Now -- 9 Q. -- I'm not asking you -- 10 A. Now, if I didn't have the steps -- if I did not 11 have the steps and I had to order them -- you know, and 12 KONE, I don't believe, stocks those steps. I can't 13 answer that. But I know that when we ordered the steps 14 for the replacement, it took a considerable amount of 15 time to get them. 16 Q. Right. 17 A. So I don't know if they had to manufacture them. 18 Q. Right. 19 A. Probably so in today's market, because I know 20 it's changed from years past. I could order something 21 and get it in two days. Now I order a compressor and I 22 get told eight weeks. 23 Q. Right. I'm not asking about a specific 24 situation. I'm just saying -- 25 A. No, you're being hypothetical.</p> <p>Page 125</p>	<p>1 A. Well, I'm immediately going to go and generate 2 what paperwork I need to generate to make that happen -- 3 Q. Right. 4 A. -- and to get it done -- 5 Q. So -- 6 A. -- within -- within the constraints of a 7 corporate structure. 8 Q. That's great. So when you say "immediate 9 action," you're thinking in terms of hours and days; 10 correct? 11 A. Yes. 12 Q. Thank you. All right. 13 A. Yes. 14 Q. That's all I needed there. 15 Now, the steps -- the cracks were an issue in 16 2012 and 2015; correct? 17 A. Uh-huh, yes. To my knowledge. This is what I 18 was told. 19 Q. Absolutely. Were they an issue in 2013? 20 A. Not to my knowledge. 21 Q. Okay. How about 2014? 22 A. Not to my knowledge. 23 Q. Okay. Did you have any e-mails with Thyssen 24 about the down escalator outside of 2012 and 2015? 25 A. I'm sure I did.</p> <p>Page 127</p>

1 Q. Okay.
2 **A. I mean --**
3 Q. It's a pretty frequent topic?
4 **A. I can't be specific, but it's a frequent topic.**
5 Q. Okay. Okay. So would you say that you had
6 e-mail correspondence with Thyssen at least once every
7 month or two months regarding the escalator?
8 **A. Absolutely.**
9 Q. Okay. Since 2010, when your e-mails started?
10 **A. Oh, yeah. Absolutely.**
11 Q. Okay. And would you say you continued to have
12 e-mail correspondence with Thyssen regarding the
13 escalator once every month or two months at least,
14 today?
15 **A. This is an assumption, but I would say yes.**
16 Q. Okay. So given that it was the down escalator
17 and there have been issues with the steps, it has been a
18 topic of frequent conversation with Thyssen?
19 **A. Well, it might not necessarily be specific to**
20 **the steps. It may be a comb plate that's broken --**
21 Q. Right.
22 **A. -- top plate screws that are loose. I know we**
23 **had to replace a transmission on it -- not replace it;**
24 **rebuild it. The bearings went out. Handrails came**
25 **loose.**

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1 Q. Right.
2 **A. You know, these are typical P&M-type issues that**
3 **occur, so not everything was revolved around the steps.**
4 Q. Got it.
5 **A. Rollers -- you know, the steps have rollers. I**
6 **know that I've replaced -- and again I'm going by**
7 **memory -- about 20 rollers on the down escalator.**
8 Q. Okay.
9 **A. They wear out over time.**
10 Q. Right, over time. What time period are we
11 talking about?
12 **A. Well, the escalator is 30-plus years old. So,**
13 **you know, it's going to be an ongoing preventative**
14 **maintenance thing.**
15 Q. Okay.
16 **A. In other words, when they come in and do the**
17 **inspections, they get down in the pit. I don't know if**
18 **you're familiar with the mechanical operation of an**
19 **escalator.**
20 Q. Yes.
21 **A. They get down in the pit, they pull the control**
22 **panel up and out, which controls the drive and the**
23 **motor, start, stop, safety, all that sort of thing.**
24 Q. Right.
25 **A. They usually pull the pit door, pull the**

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1 controls out, climb down in the pit, check the chains,
2 check the rollers, look at the overall condition, look
3 at the steps, make sure that we don't have seals that
4 are leaking on drives because the gear boxes are full of
5 oil.
6 Q. Right.
7 **A. So, you know, again, they do a pretty**
8 **comprehensive inspection monthly, because it is a moving**
9 **piece of equipment that runs seven days a week, 24 hours**
10 **a day. I mean, you don't run your car 24/7 and never do**
11 **anything to it. So --**
12 Q. Right.
13 **A. -- there's a lot of maintenance involved with an**
14 **escalator, probably more than most machinery --**
15 Q. Yeah.
16 **A. -- unless you were in a production facility with**
17 **conveyors. I mean, basically that's what it is. It's a**
18 **conveyor system.**
19 Q. Right.
20 **A. It conveys people. So, yes. And that's the**
21 **reason for the e-mail chains, is because I'm going to be**
22 **in correspondence with them. You know, if there's an**
23 **issue, somebody complains, you get on the escalator,**
24 **it's a customer, "Hey, that thing's squealing or**
25 **squeaking," or "Hey, I hear a scraping noise," yeah, I'm**

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1 immediately going to get on the phone, call
2 ThyssenKrupp, and they're going to send a tech out.
3 Q. Got it. How often do you get complaints about
4 the down escalator, Hey, it's squeaking or --
5 **A. It's hard to say. There's no consistency to it.**
6 Q. Right.
7 **A. It could be because somebody dropped a hairbrush**
8 **down there or a comb --**
9 Q. Right.
10 **A. -- coins. I've had people take their flip-flops**
11 **off and actually watched them get eaten in the combs.**
12 Q. Right. Right.
13 **A. They get to the bottom of the escalator, and**
14 **boom, they're gone. It eats them.**
15 Q. Yeah. And so Thyssen does a monthly inspection
16 of the down escalator?
17 **A. They're -- they're -- they're in here a lot. I**
18 **mean, they're in here an awful lot.**
19 Q. Okay.
20 **A. So to say monthly, I'd say they're here**
21 **sometimes weekly --**
22 Q. Right. Right.
23 **A. -- depending on the situation and how many times**
24 **I call them.**
25 Q. Got it. Got it. So and we've talked about the

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<p>1 Q. Yeah.</p> <p>2 A. If it didn't meet specs, yes.</p> <p>3 Q. Okay.</p> <p>4 A. Any time a State inspector comes in and you have</p> <p>5 a deficient item, it's an NOV. So they're not</p> <p>6 requesting it. It's mandatory. So it's not a request.</p> <p>7 You know, difference in the building code shall -- you</p> <p>8 know, using the word "shall" -- is mandatory, so --</p> <p>9 Q. Do you recall how you were made aware of the</p> <p>10 incident?</p> <p>11 A. I remember the NOV, receiving the NOV from the</p> <p>12 State telling me that the step chain -- you know, and I</p> <p>13 don't know exactly how he worded it, but it didn't meet</p> <p>14 code. It was out of compliance somehow. Loose, too</p> <p>15 much play. Again, I'm not an expert on chains. I'm</p> <p>16 going by what the State inspector is telling me.</p> <p>17 So obviously when ThyssenKrupp came in, they</p> <p>18 either performed measurements, whether that be using a</p> <p>19 micrometer or whatever tools they use in their trade,</p> <p>20 they made a decision to change the step chain instead of</p> <p>21 just tightening it or making an adjustment on the rope.</p> <p>22 Because they have -- they can adjust those chains.</p> <p>23 So that technician in the field must have</p> <p>24 determined that either there's too much play or there's</p> <p>25 some type of an issue, and changed it.</p> <p style="text-align: right;">Page 164</p>	<p>1 MS. MASTRANGELO: Object to the form.</p> <p>2 Go ahead.</p> <p>3 THE WITNESS: They would have to have the State</p> <p>4 inspector come back out to sign off on the violation --</p> <p>5 BY MR. IQBAL:</p> <p>6 Q. Okay.</p> <p>7 A. -- within that 30-day time period. Because, you</p> <p>8 know, generally they give you -- you know, if you're not</p> <p>9 given that 30-day time period, it's pretty much you're</p> <p>10 shut down.</p> <p>11 Q. Okay. Aside from ThyssenKrupp, do any of your</p> <p>12 folks inspect the escalator after the chain is replaced?</p> <p>13 A. No. No. There would be no purpose in that</p> <p>14 because we're not experts. ThyssenKrupp is.</p> <p>15 Q. Okay.</p> <p>16 A. I can tell you it's a chain.</p> <p>17 Q. And ThyssenKrupp would be responsible for any</p> <p>18 inspections between the State inspector's visits;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So if you go to the very next page, sir,</p> <p>22 there are four incidents listed on this page. The one</p> <p>23 at the bottom has an incident date of November 19th,</p> <p>24 2015. Do you see that, sir?</p> <p>25 A. Uh-huh, I do.</p> <p style="text-align: right;">Page 166</p>
<p>1 Q. Okay.</p> <p>2 A. So that wouldn't be a decision I would make.</p> <p>3 That would be a decision that they would make.</p> <p>4 Q. Got it. And the write-up reference here, you</p> <p>5 would have those; correct?</p> <p>6 A. I should have it in my e-mail chain.</p> <p>7 Q. Okay. Has anyone asked you to produce those</p> <p>8 write-ups?</p> <p>9 A. No.</p> <p>10 MS. McLEOD: Off the record, please.</p> <p>11 THE VIDEOGRAPHER: Do you want to go off the</p> <p>12 record?</p> <p>13 MR. IQBAL: Yeah.</p> <p>14 THE VIDEOGRAPHER: We're going off the record,</p> <p>15 and the time is 3:12 p.m.</p> <p>16 (Discussion held off the record.)</p> <p>17 THE VIDEOGRAPHER: Back on?</p> <p>18 MR. IQBAL: Yep.</p> <p>19 THE VIDEOGRAPHER: We're back on the record and</p> <p>20 the time is 3:12 p.m.</p> <p>21 BY MR. IQBAL:</p> <p>22 Q. So after this replacement, it would be</p> <p>23 ThyssenKrupp's responsibility to make sure everything's</p> <p>24 going well with the escalator?</p> <p>25 A. Well --</p> <p style="text-align: right;">Page 165</p>	<p>1 Q. Okay. And in terms of resolution, it says,</p> <p>2 quote, "Spoke with Don Hartmann about proposals," close</p> <p>3 quote. Do you have independent knowledge or awareness,</p> <p>4 or do you remember that conversation?</p> <p>5 A. I don't know what it was specifically about, you</p> <p>6 know, what the proposal was. Like I said, I speak with</p> <p>7 the techs quite often. If I see them on the floor doing</p> <p>8 P&M, I might walk up and -- you know, it might be -- you</p> <p>9 know, I don't know exactly what he was doing at that</p> <p>10 particular time. It says, you know, preventative</p> <p>11 maintenance.</p> <p>12 Q. Okay.</p> <p>13 A. So I don't know what proposal he was speaking</p> <p>14 about.</p> <p>15 Q. Okay. Now, it says: Platinum Premier full</p> <p>16 maint 24 hours CBS included escalator.</p> <p>17 What's that referring to?</p> <p>18 A. Well, the Platinum Premier full maintenance,</p> <p>19 basically we can call them 24 hours a day. Now, there</p> <p>20 are some things that are still billable on that</p> <p>21 contract, you know, that may fall outside the scope of</p> <p>22 the contract. The CBS denotation, I don't know what</p> <p>23 that means. It says CBS included in escalator. It</p> <p>24 escapes me at this particular moment what the CBS stands</p> <p>25 for.</p> <p style="text-align: right;">Page 167</p>

1 But we do have the Platinum Premium full
2 maintenance contract, which is 24 hours a day, seven
3 days a week. I know that I do have to pay overtime on
4 certain occasions -- you know, holidays, you know, like
5 Christmas, New Year's, those types of things, I think we
6 pay overtime. But we never hesitate to call if we have
7 an issue, and they never hesitated to respond, so --
8 Q. In your personal knowledge, the whole time that
9 you've been here and the whole time ThyssenKrupp has
10 been the servicer, have you had the same plan?
11 A. To my knowledge, yes.
12 Q. Okay. Also on that seventh page, we have an
13 incident from -- it's not --
14 A. Does it say -- oh, yeah, it does say.
15 Q. What are you referring to, sir?
16 A. I'm just moving up the page from the date of
17 11/19/2015 --
18 Q. Uh-huh.
19 A. -- up to 5/14 of 2014.
20 Q. Okay.
21 A. It looks like we had a damaged escalator gear
22 box, and that looks like the down escalator. And that
23 might have been what we were talking about at the bottom
24 of the page on the proposal.
25 Q. Right. But that's from May of 2014 --

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1 A. Yeah, that's true.
2 Q. -- and the proposal is from --
3 A. 11, yeah, November.
4 Q. Of 2015?
5 A. Yeah. I'm just looking at it.
6 Q. On the next page, Page 7, there is -- at the
7 very top incident, there are five incidents referenced
8 here. The very top of the page there is a 10/19/2015?
9 A. Uh-huh.
10 Q. Do you see that?
11 A. Yes.
12 Q. Okay, good. We're on the same page. And it
13 says in the "Resolution" area, quote: As per Don's
14 request, I checked step rollers, close quote.
15 Do you have any independent personal knowledge
16 of this incident?
17 A. That particular incident, I think I had a
18 conversation with Chris. I think some of the step
19 rollers were making noise, and I think I asked him to
20 inspect it. And I -- and this, I could be wrong, but I
21 remember, I think we replaced, like, 20 step rollers --
22 Q. Okay.
23 A. -- that he inspected. Again, it may be a
24 different time, but I remember the conversation about
25 step rollers making a little bit of noise, nothing big,

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1 you know. But I'm very conscious about any noise on
2 that piece of equipment because, you know, it runs 7/24.
3 So when it starts making noise, I start getting
4 concerned.
5 Q. Right. When he says here, as per Don's request,
6 it's okay to assume that's you; right?
7 A. Oh, yeah, that's me.
8 Q. Okay.
9 A. Yeah. I'm at the pit. And I can tell you what
10 I'm doing. I'm standing there at the pit with him,
11 having a conversation, and he recorded that
12 conversation.
13 Q. Okay.
14 A. Rightfully so, and that's what he should be
15 doing.
16 Q. Right. Do you have any independent knowledge of
17 how you were made aware of the step roller issue?
18 A. Well, it was on my request. So I probably rode
19 the escalator down to the restaurant, doing my
20 inspections -- you know, a property walkthrough, because
21 I do a property walkthrough of the restaurants, the
22 facility, outside rounds -- to make sure the property is
23 safe and to see if there's any issues on the property I
24 need to address. So I do that quite often.
25 I walk with the general manager every Thursday,

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1 entire property with an entourage, and to identify
2 anything that's wrong on this property. So that's done
3 every week.
4 Q. During any of your weekly walks with the general
5 manager, have you pointed out issues or concerns with
6 the down escalator?
7 A. I haven't, no. Not with him.
8 Q. Okay.
9 A. Not on our walkthroughs, because I've never had
10 an incidence where there was a noise or it was squeaking
11 or the belts were loose or whatever.
12 Q. Okay.
13 A. He would more than likely address it with me
14 before I addressed it with him. I mean, he's pretty
15 critical about the property, so --
16 Q. Okay.
17 A. I mean, I have a little mark on the door, and
18 it's to be painted, so --
19 Q. Got it.
20 A. -- he's very critical.
21 Q. And you said "not with him." Are there other
22 folks that you've brought that --
23 A. Well, my engineers are all trained to visually
24 inspect the property.
25 Q. Right. Right. I'm sorry. Let me finish the

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1 install?
2 **A. No.**
3 Q. No? Okay.
4 **A. No. Because they're the factory authorized**
5 **supplier.**
6 Q. Got it. Got it.
7 **A. It's not a -- it's as OEM as you can get.**
8 Q. Okay. What does "OEM" mean?
9 **A. Original equipment manufacturer.**
10 Q. Okay. So when it says here, quote: Per the
11 attached document from the OEM, this type of step is
12 prone to develop cracks which can cause a serious safety
13 issue for the riding public -- and then they go on to
14 say the existing steps are obsolete and a new thru-axle
15 step is recommended as the replacement.
16 What is a "thru-axle step"?
17 **A. The thru-axle step is exactly that. If you have**
18 **a step -- almost looks like a pyramid -- there's an axle**
19 **that goes through that step and it has rollers on each**
20 **side, that actually, when that step is set down into**
21 **that chain rack and is driven by the chain, those**
22 **rollers ride on a set of guides. And they're not a**
23 **propellant, because the chain is what drives it. The**
24 **rollers is what keeps that step -- and again, I'm not an**
25 **expert -- but it keeps the step level and flat all the**

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1 **way across, so that it's not doing this (indicating).**
2 **It's sitting level the whole time that this step is**
3 **riding around. So even though you're going downhill or**
4 **you're going uphill, it's keeping that step level.**
5 Q. Got it. So, again, we know you're not an
6 expert, but in your personal experience and knowledge,
7 would you say the thru-axle steps are safer than the
8 existing steps at that time?
9 **A. Well, the manufacturer says so.**
10 Q. Okay.
11 **A. Again, I'm not a structural engineer.**
12 Q. Right.
13 **A. So I have to depend on the manufacturer that**
14 **they're building a safer step than what was originally**
15 **put into that piece of equipment --**
16 Q. Right.
17 **A. -- obviously because they identified a problem.**
18 Q. If a manufacturer makes a statement, for
19 example, that the thru-axle step is safer, you're going
20 to accept that because they're the manufacturer;
21 correct?
22 **A. They're the expert and they're the manufacturer,**
23 **yes.**
24 Q. Okay. It says in the next sentence: During our
25 inspection we identified that over 30 steps have cracks.

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1 **A. Uh-huh.**
2 Q. And then they underline the next part:
3 Therefore, because a significant amount of your steps
4 already have cracks and the others are prone to
5 cracking, we are recommending replacement of all the
6 steps, 118 steps on both escalators.
7 **A. Uh-huh.**
8 Q. Did the Nugget end up replacing all 118 steps?
9 **A. Memory is terrible, going back over all those**
10 **years. But I know that we did the five, then we did 20,**
11 **then we did 40. And then we bought, I want to say, an**
12 **additional 58. I could be wrong about that.**
13 Q. That's pretty good. You've thrown out some
14 numbers. But in your recollection, you have no
15 recollection of actually replacing all 118 steps at
16 once; correct?
17 **A. Not at one time, no. Over a period of time.**
18 Q. Right. But it's safe to say you've never
19 replaced all 118 steps at one time?
20 **A. At one time.**
21 Q. That's correct?
22 **A. That's correct.**
23 Q. Okay. So you got this bid from Thyssen, and
24 then you went to KONE because they were cheaper?
25 **A. I believe I sent this forward to my corporate**

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1 **facilities director for his comment.**
2 Q. Uh-huh.
3 **A. And his comment back to me in an e-mail was, We**
4 **have replaced these steps at other properties, and if we**
5 **go directly to KONE we can get them for X.**
6 Q. Okay.
7 **A. And I, at that particular point, proceeded to**
8 **generate a requisition for the purchase of those steps**
9 **directly from KONE. And then once we got word back from**
10 **the manufacturer that, yes, they would manufacture them**
11 **and sell them to us directly, then they placed that**
12 **order.**
13 **We have, I believe, a commercial contract with**
14 **KONE in some way. I don't know -- I'm not privy to that**
15 **information.**
16 Q. That's fine.
17 **A. I just know that KONE is one of our suppliers,**
18 **whether that's because we put escalators or elevators in**
19 **other properties. We own multiple properties in this**
20 **corporation so --**
21 Q. Right.
22 **A. -- they have a relationship with KONE. And I**
23 **believe that's what I was directed to do was to order**
24 **them directly from KONE. When they came in, touch base**
25 **with ThyssenKrupp, which I did. Issued a purchase order**

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1 Q. They wouldn't have done it out of the blue;
2 right? They would have had to get some indication from
3 you to then give you a second repair order for a much
4 smaller invoice?
5 **A. Yes.**
6 MS. MASTRANGELO: I'll just object to the
7 "smaller invoice," that's a whole different scope of
8 work. Objection.
9 BY MR. IQBAL:
10 Q. But Thyssen would have had to hear from you
11 before issuing the second repair order; correct?
12 **A. Yeah. They wouldn't have gone ahead without**
13 **getting a purchase order.**
14 Q. Okay. And as you sit here today, do you recall
15 reading this document at the time?
16 **A. Yes, I do.**
17 Q. Okay. And do you recall seeing the safety
18 matter underlined with the asterisks?
19 **A. Yes.**
20 Q. And whenever you receive something like that
21 with safety matter or critical issue, that's going to be
22 important to you; correct?
23 **A. Absolutely.**
24 Q. Okay. At this point after getting two repair
25 orders talking about the existing steps being obsolete,

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1 were you of the mind, or had you concluded, that the
2 steps were obsolete?
3 **A. Well, I can't make that determination. The**
4 **factory made that determination.**
5 Q. Right. And you agreed with the factory?
6 **A. Absolutely.**
7 Q. Okay. Right after the "we will replace all the
8 step," it says, quote, "We will salvage enough older
9 un-cracked steps to be able to install these into the
10 'Up' escalator unit where cracked steps have been
11 identified," close quote. They wouldn't have written
12 that unless you had given them some kind of indication;
13 correct?
14 **A. Clint may have had a conversation with them as**
15 **well.**
16 Q. Okay.
17 **A. Because, you know, he -- he was the VP. So I**
18 **know that I generated a requisition for the steps. That**
19 **I remember.**
20 Q. Okay.
21 **A. And I remember having the conversation about**
22 **utilizing steps that were not damaged, that were not**
23 **considered cracked or in any way a safety issue. And**
24 **this was a determination that ThyssenKrupp, I'm sure,**
25 **from memory, also developed as well, saying, you know,**

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1 **they're still in good shape, they're not cracked, we**
2 **don't identify these as being a safety matter, and they**
3 **agreed that they could be reused.**
4 Q. Okay.
5 **A. So from a cost standpoint, you know, we're going**
6 **to do what's right and we're going to do our due**
7 **diligence, but we're not going to throw money out the**
8 **window either.**
9 Q. Right. Did you personally, you yourself, agree
10 with the recommendation to replace the steps with the
11 new thru-axle step?
12 MS. McLEOD: Objection; calls for expert
13 opinion.
14 BY MR. IQBAL:
15 Q. I'm asking in your personal knowledge.
16 **A. Yeah, I'm not an expert, so --**
17 Q. I understand. But you are the Director of
18 Facilities.
19 In your personal opinion, did you agree with the
20 recommendation to replace the steps with the new
21 thru-axle steps?
22 MS. McLEOD: Same objection.
23 THE WITNESS: Well, the manufacturer identified
24 that this was the OEM replacement available to us, so I
25 had no opinion. You know, I'm going with their

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1 expertise. They're the manufacturer. ThyssenKrupp is
2 an expert. I'm not an expert in escalators in any way,
3 manner, shape, or form. Again, my job is to facilitate
4 repair and upkeep of the property.
5 BY MR. IQBAL:
6 Q. Understood.
7 **A. Yeah.**
8 Q. So if a manufacturer makes a recommendation, you
9 personally think, as you're not --
10 **A. Well, I had no other options.**
11 Q. Right. And let me finish the question. I'm
12 sorry.
13 **If the manufacturer makes a recommendation, in**
14 **your personal knowledge not being the expert, would you**
15 **agree with the recommendations that a manufacturer made?**
16 **MS. McLEOD: Object to form.**
17 **THE WITNESS: I would have to say no, that I**
18 **wouldn't object --**
19 **BY MR. IQBAL:**
20 **Q. You mean --**
21 **A. -- because they're --**
22 **Q. -- you would agree with their recommendation?**
23 **A. Yes.**
24 Q. Okay. Did you communicate your agreement with
25 their recommendation to your higher-ups in this

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1 Q. Okay. So if they miss something, that means you
2 miss something?
3 **A. Correct.**
4 Q. Unless you catch it on your independent
5 walk-throughs and inspections; correct?
6 **A. Well, let me back up. Like I said earlier, we**
7 **have an annual inspection by a third-party inspection**
8 **company --**
9 Q. Right.
10 **A. -- and the State, whenever we have an accident,**
11 **comes in and inspects as well. So when you're talking**
12 **about it, you're talking about three different entities**
13 **missing that. If it was to be missed -- and I just**
14 **can't believe that three different separate groups of**
15 **people would miss it --**
16 Q. Got it.
17 **A. -- if there was an issue.**
18 **Q. Okay. Thyssen, we've already discussed. We've**
19 **already discussed the State. Who's this third-party**
20 **entity that comes and does inspections?**
21 THE WITNESS: Do you have that card?
22 MS. McLEOD: I'm sorry?
23 THE WITNESS: Do you have that card that I gave
24 you?
25 MS. McLEOD: I do.

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1 THE WITNESS: It's Sierra.
2 BY MR. IQBAL:
3 Q. Sierra?
4 **A. I just want to make sure I give you the proper**
5 **name.**
6 MS. MASTRANGELO: It's High Sierra.
7 THE WITNESS: Uh-huh, High Sierra.
8 BY MR. IQBAL:
9 Q. High Sierra --
10 **A. -- inspections.**
11 MS. McLEOD: Counsel, I was provided with the
12 information earlier. Can I provide it to the witness so
13 he can answer your question --
14 MR. IQBAL: Sure.
15 MS. McLEOD: -- or do you want him to go off his
16 memory?
17 MR. IQBAL: Sure, you can provide the --
18 MS. MASTRANGELO: I think you actually produced
19 that already, because I saw it somewhere.
20 BY MR. IQBAL:
21 Q. Okay. So when did you give this to counsel,
22 this information with High Sierra Elevator Inspections
23 on it?
24 **A. Today.**
25 Q. Today? Okay. Before the deposition?

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1 **A. Yes.**
2 Q. Did you provide counsel with any other
3 information?
4 **A. No.**
5 Q. Okay. How did this come up?
6 **A. Just me going through my e-mails and happened**
7 **upon that, and remembered that besides the State and**
8 **besides ThyssenKrupp, annually they come through and**
9 **perform our annual inspections in order for us to**
10 **receive a permit.**
11 **Q. Got it. So High Sierra comes once a year?**
12 **A. Once a year.**
13 **Q. And no more?**
14 **A. And no more.**
15 **Q. Okay. And do they come at a specific --**
16 **A. They come before our permits are due.**
17 **Q. Okay. So when is that, generally?**
18 **A. Towards the end of the year.**
19 **Q. Okay.**
20 **A. Sometimes November, December. We just have to**
21 **have everything inspected now. It depends on -- and**
22 **ThyssenKrupp, I believe it's every five years we have to**
23 **have our elevators weight tested, so they come in and**
24 **they actually do a load test on them.**
25 **And then that third-party inspector gets into**

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1 **the escalator and inspects those as well. So anything**
2 **to do with elevators and escalators, they perform**
3 **third-party inspection and provide a written report to**
4 **the State and, I believe, ThyssenKrupp and to us.**
5 MS. McLEOD: Counsel, that's my only copy, just
6 before you make any notes that you can't take back.
7 MR. IQBAL: Absolutely. Do you mind if I just
8 take a picture right now?
9 MS. McLEOD: I do not. I just didn't want you
10 to put any work product on there and then have to hand
11 it back to me.
12 BY MR. IQBAL:
13 **Q. So, Mr. Hartmann, the High Sierra folks, how**
14 **long do their annual inspections take?**
15 **A. It could be days.**
16 **Q. With respect to --**
17 **A. It could be one day; it could be several days.**
18 **Just depends on --**
19 **Q. With respect to the down escalator, how long do**
20 **their inspections generally take?**
21 **A. Well, they'll be here with Chris Dutcher, the**
22 **escalator technician. So it could be as long as a day,**
23 **just for the escalators --**
24 **Q. Okay.**
25 **A. -- because they'll go through and pull the --**

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1 pull the panels on them and inspect the rails, the
2 chains, the rollers --
3 Q. Okay.
4 A. -- you know.
5 Q. And you get a copy of High Sierra's annual
6 report --
7 A. Yeah. If there's any.
8 Q. I'm sorry. I'm sorry. Let me finish. Sorry.
9 So you get a copy of High Sierra's annual
10 inspection report every year; correct?
11 A. Correct.
12 Q. Okay. And part of that inspection report
13 involves the inspection of the down escalator; correct?
14 A. Correct.
15 Q. Okay. And do you read that report?
16 A. I do.
17 Q. Okay. Typically, do they approve the status of
18 the down escalator every year?
19 A. Yes.
20 Q. Do they ever identify problems in each of the
21 annual safety inspection reports?
22 A. They've identified cables on the -- on our
23 cable-drawn parking garage elevators, demarcation
24 lights, and things of that sort. But yes.
25 Q. Okay. Have they identified problems with the

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1 down escalator?
2 A. Not in my memory.
3 Q. Okay. Has anyone asked you to produce the
4 annual reports from High Sierra?
5 A. No.
6 Q. But you have those?
7 A. I do.
8 Q. And if anyone at Nugget higher up, or anyone
9 from the outside, wanted to get the High Sierra annual
10 reports from anyone at Nugget, they would come to you;
11 correct?
12 A. Correct.
13 Q. Nugget Laughlin?
14 A. Correct.
15 Q. Okay. So there is an e-mail that starts -- if
16 you scroll through, there are a bunch of work orders,
17 and around Page 70 you'll get to an e-mail that, at the
18 very top, it's from Larry. And it's dated October 31,
19 2017.
20 MS. McLEOD: Start from the back. It's easier
21 to find.
22 THE WITNESS: Thank you.
23 MS. MASTRANGELO: I think many or all are that
24 date, October 31. That's when they were copied for me.
25 It was for production.

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1 MS. McLEOD: Counsel, are you done with that
2 paper?
3 MR. IQBAL: I am.
4 THE WITNESS: Okay. I'm on that.
5 BY MR. IQBAL:
6 Q. If you -- well, yeah, and as Rebecca just said,
7 there are a couple of copies of a growing e-mail chain.
8 So the first set of e-mails, it has at the top Tuesday,
9 October 31, 2017 --
10 A. Uh-huh.
11 Q. -- 11:41 a.m. Do you see that?
12 MS. McLEOD: 11:41.
13 BY MR. IQBAL:
14 Q. At the very top from --
15 A. I see 11:46.
16 Q. Okay. Yeah, stay on that. Stay on that. We're
17 good with that. That's the one. Yeah, 11:46, that's
18 the next one. So we're still in Exhibit 2. We're
19 approximately 75, 76 page range of Thyssen's Second
20 Supplemental Disclosures.
21 Let's just, to clarify here, the top e-mail is
22 from Larry to Scott, and it says 11:46 a.m. on
23 October 31st, 2017. Do you see that? You shouldn't be
24 in the way back. You should be kind of in the middle.
25 MS. MASTRANGELO: There's more than one with

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1 11:46, then.
2 THE WITNESS: Yeah. Because the one I'm looking
3 at says October 31st, 2017, at 11:46 a.m. from Larry
4 Panaro.
5 BY MR. IQBAL:
6 Q. Yeah. And it should say, "FYI, this was after
7 the property bought the steps directly from KONE."
8 A. 11:45.
9 MS. MASTRANGELO: I don't think they're in exact
10 order.
11 MS. McLEOD: Can I help?
12 THE WITNESS: Is that it?
13 MS. McLEOD: No. If you give me the exhibit, I
14 think I can find it for you.
15 THE WITNESS: Do you want this part, or do you
16 want more?
17 MS. McLEOD: No, I want that part.
18 THE WITNESS: You want this part. There you go.
19 Because I'm definitely having issues here.
20 MS. MASTRANGELO: It's after 11:41 and before
21 11:33, for some reason.
22 MS. McLEOD: All right.
23 THE WITNESS: Thank you.
24 MS. McLEOD: October 31st, 2017, 11:46 a.m.
25 "FYI, this was after the property bought the steps

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<p>1 Q. So these were backup steps? These weren't new 2 steps? 3 A. No, they're new. But they were bought as 4 spares. 5 Q. Okay. 6 A. That's what I mean by backup. They're spares. 7 Q. Got it. Do you know when you ended up reading 8 the e-mail, the June 6 -- the June 16th, 2015 e-mail 9 from Larry where he references Chris Dutcher's concern? 10 Do you think you read it that day or -- 11 A. Don't remember. I don't recall. 12 Q. Okay. Whenever you read it, would you agree 13 with the statement in there from your position as 14 Director of Facilities, because Chris Dutcher is 15 standing behind that statement? 16 A. Well, sure. I have a sense of trust with Chris, 17 yes. 18 Q. Okay. So as of whenever you read the June 19 e-mail, because it says in here Chris Dutcher, you know, 20 and it says, "As we discussed, this is a safety matter 21 for the riding public," you would agree with that 22 statement in there? 23 A. Well, I would agree that, again, the escalator 24 was operational, approved by the State of Nevada -- 25 Q. Okay.</p> <p>Page 248</p>	<p>1 keep pushing this forward so we can get those steps 2 replaced. 3 Q. Right. And that was in June. But then it took 4 a follow-up e-mail before you -- 5 A. Again, I don't have the authorization to spend 6 \$89,000. 7 Q. Understood. 8 A. I have to wait for approval. Once that approval 9 is received and I'm told to move forward, then I 10 generate a requisition, we order the steps, the steps 11 arrive, we installed them. 12 Q. Understood. Understood. But my question is -- 13 A. That's the process. 14 Q. My question is this: Do you need to get 15 approval before responding to Larry's e-mail? 16 MS. McLEOD: Objection; argumentative. Object 17 to form. 18 BY MR. IQBAL: 19 Q. It's a yes-or-no question. 20 A. Yes. 21 Q. You need to get approval before you respond to 22 Larry's e-mail? 23 A. Well, no. No. No. No. 24 Q. Okay. That was my only question there. So let 25 me ask this: If the State has not shut down your</p> <p>Page 250</p>
<p>1 A. -- to operate. So, you know, I have to take 2 weight with the State. If the State says it's okay to 3 run, I'm going to run the escalator. 4 Q. Okay. So at that -- 5 A. If the State came to me and said, Hey, Don, that 6 escalator's got cracked steps, you need to shut it down 7 and not run it anymore, it would have been shut down 8 immediately and not turned on again until we had new 9 steps installed. 10 That's not what I was told. I told it was a 11 safety matter. You have critical cracks. 12 Q. Right. 13 A. Nobody told me to shut it down. Nobody told me 14 I had imminent danger, that I would injure anyone or 15 that there would be any type of injuries. That the 16 escalator, by the State, was approved to operate. 17 Q. Right. 18 A. If anything else other than that would have been 19 stated, that escalator would have been shut down 20 immediately. 21 Q. Got you. So when you read, quote, "As we 22 discussed, this is a safety matter for the riding 23 public," close quote, what's your immediate thought when 24 you read that sentence? 25 A. My immediate response to that is that I need to</p> <p>Page 249</p>	<p>1 escalator, but ThyssenKrupp says there's a serious 2 safety issue, you're going to give weight to what the 3 State thinks? 4 A. I'm going to give weight to what they both tell 5 me, including my third-party inspector. 6 Q. Okay. 7 A. So, again, as Director of Facilities, I am going 8 to take that information and I'm going to have 9 conversations with my authority, which is my general 10 manager, and discuss with our corporate office which 11 direction we need to go and when this can be funded. 12 Q. Okay. 13 A. I cannot arbitrarily just go out and make that 14 decision and make a call without authorization. 15 Q. Right. Right. When the e-mail referenced to 16 avoid any further damage and/or incidents, do you have 17 an understanding to what that was referring to, damage 18 and/or other incidents? 19 A. I don't. I don't. 20 Q. Okay. At the time you read the e-mail, did you 21 have a reaction to that? 22 A. No. 23 Q. Okay. Now, here you get the e-mail from Larry 24 on June 16th. He follows up with you again on 25 August 5th. You respond right away. Between June 16th,</p> <p>Page 251</p>

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DISTRICT COURT
CLARK COUNTY, NEVADA

JOE N. BROWN, an individual,)
and his Wife, NETTIE J. BROWN,)
an individual,)
Plaintiffs,)
vs.)Case No. A-16-739887-C
Dept. No. XXXI
LANDRY'S, INC., a foreign)
corporation; GOLDEN NUGGET,)
INC., a Nevada corporation,)
d/b/a GOLDEN NUGGET LAUGHLIN;)
GNL CORP.; DOE INDIVIDUALS)
1-100; ROE BUSINESS ENTITIES)
1-100,)
Defendants.)
AND ASSOCIATED CASES)

DEPOSITION OF DON HARTMANN
Taken on Friday, May 17, 2019
By a Certified Court Reporter
At 9:18 a.m.
At 1170 Hancock Road
Bullhead City, Arizona

Reported by: Carla N. Bywaters, CCR 866
Job No. 40906



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22

23 * * * * *

24

25



1 I N D E X

2 WITNESS PAGE

3 DON HARTMANN

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7

8 E X H I B I T S

9 EXHIBIT DESCRIPTION MARKED

10 Plaintiffs'

11	Exhibit 1	May 27, 2015, E-mail, Dutcher to Olsen	8
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	Exhibit 2	1/24/2018 Videotaped Deposition Transcript of Don Hartmann	13
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14	Exhibit 3	5/1/2010-12/31/2015 Account History Report	16
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	Exhibit 4	October 31, 2017, E-mail Chain, Panaro to Olsen	17
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17	Exhibit 5	June 9, 2015, E-mail, Dutcher to Panaro	39
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18

	Exhibit 6	June 25, 2015, E-mail Chain, Hartmann to Panaro, JNB_002262-266	48
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19

20	Exhibit 7	October 31, 2017, E-mail Chain, Panaro to Olsen	52
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21

	Exhibit 8	October 6, 2015, E-mail, Dutcher to Panaro	57
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22

23	Exhibit 9	October 8, 2015, E-mail Chain, Panaro to Dutcher	62
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24

	Exhibit 10	November 1, 2015, ThyssenKrupp Elevator Repair Order	94
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25



<p>1 authorize ThyssenKrupp to install the 40 old style steps 2 in 2012? 3 A I can't be specific, because I don't have a 4 purchase order in front of me. 5 Q And I understand. We've established that you 6 don't have a purchase order in front of you. I'm just 7 asking, as you sit here today, based on your memory. If 8 you don't remember, you don't remember. But the 9 question is, and let me get it out, to your knowledge, 10 sitting here today, did anyone at Golden Nugget 11 authorize ThyssenKrupp to install 40 old style steps as 12 described by Mr. Dutcher in his e-mail to Mr. Olsen? 13 A It's possible. 14 Q And do you know who the person would have been 15 who would have authorized that? 16 A It would have gone up the corporate chain for 17 approvals. 18 Q Okay. Do you know who was ultimately 19 responsible for approving or not approving decisions at 20 corporate? 21 A No, I don't. 22 Q Okay. So it wasn't Clint? 23 A No, Clint didn't have that authority. 24 Q Was it Alan? 25 A Alan didn't have that authority, I don't</p> <p>Page 24</p>	<p>1 with the replacement of the 40 steps? 2 A Probably -- and this is just surmising that 3 they would have talked about when and how -- 4 Q Okay. 5 A -- it would be moved forward. 6 Q Okay. Do you know the result of that talk that 7 they had? 8 A No. 9 Q No. So you don't recall if the steps were 10 actually replaced in 2012? 11 A I don't. Again, the purchase order would 12 provide that information. 13 Q Okay. So we have Dutcher's e-mail to Olsen -- 14 MR. IQBAL: That was Exhibit 1, correct? 15 (Discussion held off the record.) 16 BY MR. IQBAL: 17 Q Okay. That was from 2015 where he tells Olsen 18 there are 40 old style steps that need to be replaced in 19 2015. And we have the 2012 e-mail here talking about 20 replacing the 40 old style steps? 21 A Okay. 22 Q Okay. So, based on that, do you believe 23 ThyssenKrupp actually did replace those 40 old style 24 steps with the new thru axle steps? 25 MS. McLEOD: Objection. Calls for speculation.</p> <p>Page 26</p>
<p>1 believe. 2 Q Okay. So it was someone at corporate? 3 A Yeah. It would be a corporate facilities' 4 probably decision. 5 Q Okay. Do you believe that in 2012 that the old 6 style steps on the down escalator were all being 7 replaced with new thru axle steps? 8 A I don't remember. 9 Q Okay. Do you recall this recommendation from 10 ThyssenKrupp to replace? 11 A I remember a recommendation. As to a specific 12 date, I can't provide that. 13 Q Okay. Well, we have the recommendation here 14 from Larry to Clint copying you, and the recommendation 15 is made to replace the 40 old style steps. That's what 16 it says, right? 17 A Yeah, obviously. 18 Q Okay. 19 A But, again, it's a recommendation. 20 Q Right. You don't know what happened to that 21 recommendation? 22 A I know it was talked about. 23 Q Who talked about it? 24 A Alan Trantina. I believe, Corporate. 25 Q Okay. And do you recall what they talked about</p> <p>Page 25</p>	<p>1 MS. MASTRANGELO: Join. 2 THE WITNESS: Again, without a purchase order, 3 I can't give you specific times or dates. 4 BY MR. IQBAL: 5 Q I understand. So I'm just asking you based on 6 the universe of these two e-mails that we have, and I 7 think we can get through this fairly quickly, and maybe 8 I need to ask a better question. So we have the 9 Exhibit 4, the e-mail from Larry to Nugget including you 10 on October 2nd, 2012, with this option being replacing 11 the 40 old style steps. 12 And then we have, two and a half years later, 13 Chris Dutcher saying those 40 old style fabricated steps 14 should be replaced. They're still there two and a half 15 years later; is that correct? 16 A By the documentation you have, yes. 17 Q Do you have any idea why it wasn't replaced? 18 A No. 19 Q So, based on the e-mails that we have, sitting 20 here today, you don't believe ThyssenKrupp actually did 21 replace those 40 old style steps, correct? 22 MS. McLEOD: Objection. Calls for speculation. 23 Asked and answered. 24 MS. MASTRANGELO: Join. 25 THE WITNESS: Again, I don't have a purchase</p> <p>Page 27</p>



<p>1 A -- it's in his opinion that it was ASAP.</p> <p>2 Q Okay.</p> <p>3 A If it was a danger to the riding public, he</p> <p>4 would have said to me, "Don, I recommend that you shut</p> <p>5 this unit down and that we call the State immediately</p> <p>6 and have a State Inspector come out and shut this unit</p> <p>7 down." That never happened. That was never presented.</p> <p>8 Q Gotcha. I'm going to have this marked as</p> <p>9 Exhibit 6.</p> <p>10 (Exhibit 6 was marked for identification.)</p> <p>11 Q This is a series of back and forth e-mails. If</p> <p>12 you go to the third page, at the bottom, it's going to</p> <p>13 have JNB 002264.</p> <p>14 A Got it.</p> <p>15 Q Do you see where Panaro tells you "As we</p> <p>16 discussed, this is a safety matter for the riding</p> <p>17 public. There are currently 40 steps showing signs of</p> <p>18 cracking, and five of the 40 are critical. At this</p> <p>19 time, we recommend replacing the 40 steps; however, the</p> <p>20 five steps need to be addressed ASAP." Do you see that?</p> <p>21 A I do.</p> <p>22 Q And you previously testified that you take such</p> <p>23 recommendations, when you see that language seriously?</p> <p>24 A I'm going to take it forward.</p> <p>25 Q Okay. Is your testimony consistent that you</p> <p>Page 48</p>	<p>1 A Through e-mail.</p> <p>2 Q Through e-mail, okay. When you say our</p> <p>3 corporate offices, who would you e-mail?</p> <p>4 A I'm trying to think. It probably would have</p> <p>5 been Andy. I can't even remember his last name.</p> <p>6 Q Do you recall Andy's e-mail address?</p> <p>7 A I don't.</p> <p>8 Q When you say "I have sent the information to</p> <p>9 our corporate offices," does that trigger --</p> <p>10 A It could have been through purchase order, too.</p> <p>11 Q Okay. But --</p> <p>12 A In our request for purchase.</p> <p>13 Q But you would send those along by e-mail?</p> <p>14 A Well, Purchasing would send those along. Those</p> <p>15 would be forwarded by Purchasing. In other words, in</p> <p>16 the chain, I would receive the information. I take the</p> <p>17 information and forward it to my General Manager, have a</p> <p>18 discussion with the General Manager. The General</p> <p>19 Manager would tell me to move forward.</p> <p>20 We would generate a request for a purchase</p> <p>21 order. The purchase order would then be forwarded to</p> <p>22 the corporate offices for review, and then decision</p> <p>23 making, based on what they wanted to accomplish or get</p> <p>24 done, and then a purchase order would be issued, and</p> <p>25 then, you know, the vendor would comply.</p> <p>Page 50</p>
<p>1 would take this kind of recommendation seriously?</p> <p>2 A I would definitely pay attention to it, yes.</p> <p>3 Q Okay. And so we're still talking about the 40</p> <p>4 steps.</p> <p>5 A So that was June 16th, 2015.</p> <p>6 Q Right.</p> <p>7 A The service order says on 5/28 of 2015.</p> <p>8 Q That's when he talked to you.</p> <p>9 A Uh-huh.</p> <p>10 Q So he brought it to your attention 5/28, then</p> <p>11 ThyssenKrupp bought it to your knowledge, again, through</p> <p>12 Panaro's e-mail on June 16th. And then you can see --</p> <p>13 A Yeah. It says "It was great catching up with</p> <p>14 you last week. Per our conversation and your</p> <p>15 conversations with Chris Dutcher, attached are the</p> <p>16 proposals to replace the damaged, cracked escalator</p> <p>17 steps on the down unit.</p> <p>18 Q Right. And then he follows up with you on June</p> <p>19 25th. That's on the first page. Do you see that?</p> <p>20 A On the first page?</p> <p>21 Q First page, at the bottom.</p> <p>22 A Yeah. And I say "I have sent the information</p> <p>23 to our corporate offices for their review and approval."</p> <p>24 Q Okay. How would you send the information to</p> <p>25 the corporate offices?</p> <p>Page 49</p>	<p>1 Q Got it. I just want to clarify, and that was</p> <p>2 helpful for giving me context. I want to clarify when</p> <p>3 you say "I have sent the information to our corporate</p> <p>4 offices." That may have been you forwarding this</p> <p>5 information --</p> <p>6 A I may have --</p> <p>7 Q -- to the General Manager?</p> <p>8 A I may have forwarded the e-mails.</p> <p>9 Q Okay. But, typically, when you were sending</p> <p>10 information, it could have been you. It could have been</p> <p>11 the Purchasing Department, but that information was sent</p> <p>12 by e-mail?</p> <p>13 A But, again, I would have been the contact. I</p> <p>14 would have been the one in conversation with Larry</p> <p>15 Panaro or Scott Olsen or Chris, more than likely, or one</p> <p>16 of my subordinates. And then we would have moved that</p> <p>17 information forward. Whether I was there or not there,</p> <p>18 some type of action would have been taken.</p> <p>19 Q Gotcha. And when you say moved that</p> <p>20 information forward, you're saying you would have</p> <p>21 e-mailed it to the corporate offices?</p> <p>22 A More than likely, yes.</p> <p>23 Q Okay. Is there any other way that you gave</p> <p>24 them information? Did you send --</p> <p>25 A Pick up the phone, cell phone.</p> <p>Page 51</p>



<p>1 Q Okay. And so when you receive an e-mail, 2 importance high, and talking about safety issues, you 3 tend to read those e-mails, correct? 4 A Yeah. I would have read that e-mail and, 5 again, taken it forward. 6 Q And so at that time, reading the e-mail, you 7 would have become aware of the OEM at least by October 8 of 2012, correct? 9 A So it says. 10 Q And you have no reason to believe that you 11 didn't read the e-mail? 12 A Correct. 13 Q Okay. And when you say "move it forward," 14 whenever you got this kind of information, for example, 15 these are old style steps, they're prone to cracking 16 according to the manufacturer, and you say you would 17 move it forward, you would inform Corporate? 18 A I would inform my General Manager, and then he 19 would make the decision, "Well, we need to get ahold of 20 Corporate and advise them and make them aware." 21 Q Is it fair to say, then, that when you got this 22 October 2nd e-mail -- well, actually, Clint got it, you 23 were copied, and they were discussing the cracked steps? 24 A Obviously, they went around me, for whatever 25 reason.</p> <p>Page 76</p>	<p>1 Q So this, the dollar amount on the October 2nd 2 e-mail Repair Order was \$62,214? 3 A Well, I don't know that to be a fact, but -- 4 Q Right. 5 A -- I would have, on initial contact from 6 ThyssenKrupp, I would have involved the General Manager, 7 made him aware that they're saying that we have an 8 issue. Then he would provide me with direction as to 9 which way he wanted to go, you know, either bring it to 10 Corporate or let's move forward. 11 But, obviously, when we received the proposal 12 based on the monetary amount, I'm sure that he asked me 13 to send that to Corporate for approval. 14 Q Right. So sitting here today, knowing your 15 typical procedures, if you receive something about a 16 serious issue, and it's got a request or an option for 17 \$62,000, in your standard operating procedure, you would 18 forward that along to Corporate? 19 A I would. 20 Q Okay. You wouldn't sit on it for a couple 21 months, would you? 22 A No. 23 Q Would you forward it along to Corporate 24 immediately? 25 A No. Again, as I stated, I would take that</p> <p>Page 78</p>
<p>1 Q Right. 2 A Somebody decided to go to Las Vegas and report 3 to him, instead of bringing it to me directly. So I 4 don't know who made that decision or why or for what 5 reason, but that's what was done. 6 Q Right. And, typically, Thyssen would come to 7 you on a Laughlin matter? 8 A Typically, yeah. Typically, yes. 9 Q But it's safe to say, as of October of 2012, 10 when they're talking about replacing the steps and the 11 OEM document, that you were made aware, and then you 12 made Golden Nugget Corporate aware, correct? 13 A As far as I know, yes. 14 Q Okay. And that was your standard procedure -- 15 A Yeah. 16 Q -- if someone -- 17 A Uh-huh. 18 Q Hold on. That was your standard procedure when 19 someone brought up a safety issue or something serious, 20 correct? 21 A Anything to do with the property that had to do 22 with requiring anything over a certain dollar amount 23 would be brought forward. 24 Q And you would do that kind of automatically? 25 A Automatically.</p> <p>Page 77</p>	<p>1 information to the General Manager, advise him of a 2 recommendation by our vendor. 3 Q Okay. All right. And would they come back and 4 have -- would the General Manager come back and have a 5 conversation with you, or would they typically e-mail 6 you? 7 A We had weekly meetings at the Golden Nugget, a 8 board meeting weekly. So more than likely, as they went 9 around the table to the different directors, my issues 10 would be presented in a face to face. 11 Q Gotcha. So there was a board meeting just at 12 Nugget Laughlin, or for all of Nugget? 13 A No, just for Nugget Laughlin. 14 Q Okay. Those board meetings happened weekly? 15 A Weekly. 16 Q And you would raise issues with facilities 17 during those meetings? 18 A Correct. In other words, if I had presented an 19 issue -- 20 Q Right. 21 A -- regarding safety, whatever it happened to 22 be, the facility, whatever happened to be going on with 23 the facility at the time would be presented directly to 24 the General Manager outside the board meeting. Then 25 when we went to the board meeting, that issue or topic</p> <p>Page 79</p>



1 THE WITNESS: Not specifically, no.
2 BY MR. IQBAL:
3 Q Okay. What do you remember?
4 **A I remember 40 steps at one time being replaced.**
5 **I can't give you exact times and dates, but I know that,**
6 **eventually, those were replaced.**
7 Q Right. But as of November 1st, 2015, based on
8 this --
9 **A Again, I can't be specific.**
10 Q I understand. Let me get my question out,
11 though. Based on this Repair Order, which you don't
12 have a basis to think it's false, right?
13 **A No.**
14 Q Okay. Based on this Repair Order, as of
15 November 1st, 2015, those 40 steps had not been replaced
16 by this time, correct?
17 **A Based on this, you're correct.**
18 Q Okay. Do you have any other evidence that they
19 were replaced before this time?
20 **A All I can remember is that we did, over time,**
21 **we had replaced steps due to rollers, to step chains**
22 **being stretched, handrails being stretched and requiring**
23 **replacement. For me, it's kind of like it's all blended**
24 **together.**
25 Q I understand because an issue is an issue for

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1 you regardless --
2 **A For me --**
3 Q -- of what it is?
4 **A -- I'm going to take action, given the**
5 **appropriate ability and given the authority to do it,**
6 **I'm going to act. I'm a facilitator. I'm going to**
7 **facilitate on what I'm provided permission to do.**
8 Q I got you.
9 **A In other words, I have a higher-up that I**
10 **answer to. If they tell me, I can do it, I do it.**
11 Q I understand.
12 **A If I can't do it, I'll present my issues, raise**
13 **my hand and say, "Hey, I disagree," make it a matter of**
14 **my record that I disagree with whatever you're saying, I**
15 **think this action should be taken for whatever reason,**
16 **it's tabled, and then we move on.**
17 Q Okay. You're discussing a scenario where you
18 would disagree with the board decision to not take
19 action. Did that ever happen with the escalator?
20 **A No.**
21 Q No?
22 **A No.**
23 Q So every proposal that you brought to the
24 board, regarding the down escalator, that action was
25 taken?

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1 **A Eventually, yes.**
2 Q Okay. But, sitting here today -- and I'm not
3 talking about replacing rollers or step chains or
4 whatever -- I'm talking about replacing the "existing
5 damaged and obsolete escalator steps," those 40 steps,
6 sitting here today, you don't recall when they were
7 actually replaced?
8 **A Not exact dates and times, I know that they**
9 **were replaced.**
10 Q Based on the Repair Order that we have in front
11 of us, they weren't replaced by November 1 --
12 (Simultaneous speakers.)
13 MS. MASTRANGELO: Objection. Asked and
14 answered several times.
15 BY MR. IQBAL:
16 Q Is that what it looks like?
17 **A It's what it looks like. I mean, again, I**
18 **don't have a purchase order in front of me --**
19 Q Right.
20 **A -- with a schedule and time, because Purchasing**
21 **would do that. They would authorize a purchase order,**
22 **and then the work would be authorized, and a date would**
23 **be set, and it would be completed.**
24 Q Gotcha. And here it says that -- well, let me
25 ask it to you this way: Who at the Nugget made the

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1 decision to obtain the replacement steps directly from
2 KONE instead of relying on ThyssenKrupp?
3 **A That would have been Chris McComas at**
4 **corporate.**
5 Q Do you recall any discussions that led to that
6 decision?
7 **A Well, it would have been due to cost.**
8 Q Okay. To save money?
9 **A When we can go -- when we can go and buy**
10 **direct, we would go and buy direct no matter what.**
11 Q Okay. So your cost going to KONE directly was
12 cheaper than getting the steps through Thyssen?
13 **A I don't have that information, but -- because I**
14 **don't have a purchase order in front of me. But,**
15 **obviously, that -- and, again, this is hypothetical, as**
16 **a business -- I'm a businessman -- if I can go and buy a**
17 **piece of equipment cheaper than buying it through a**
18 **vendor, that's what I'm going to do.**
19 Q Okay. That's what you assume happened here?
20 **A I'm not going to assume anything, because,**
21 **again, I don't have the documentation in front of me.**
22 Q Right. But based on your personal knowledge --
23 **A Based on my experience, that's more than likely**
24 **what occurred.**
25 Q For the cost savings?

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1 **A For the cost savings.**
2 Q Do you know how much the cost savings was here?
3 **A I have no idea.**
4 Q And you said Chris Mc --
5 **A McComas.**
6 Q -- Chris McComas --
7 **A Uh-huh.**
8 Q -- made the decision to go?
9 **A Well, he wouldn't have personally made the**
10 **decision. It would have gone up to our financial**
11 **department. In other words, he's the Director of**
12 **Facilities for corporate, and he oversees many different**
13 **properties.**
14 Q Okay.
15 **A So, again, the lineage would have gone me to**
16 **the GM, from the GM probably to the corporate facilities**
17 **guy. He would then take it to the finance guy, finance**
18 **guy would sign it and turn it over to the Purchasing**
19 **Department, and a purchasing order would have been**
20 **issued to the vendor.**
21 **The vendor would act on it whether it took six**
22 **weeks or 10 weeks, whatever it takes to manufacture**
23 **those steps. They would have been delivered to the**
24 **property, and at that time, some type of schedule would**
25 **have been set with the vendor to perform the**

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1 **installation, because it's specialized work.**
2 Q Where does Chris fit in? Was he the --
3 **A He's the technician.**
4 Q No, no, no. I'm sorry. Chris McComas.
5 **A Are you talking about Chris McComas?**
6 Q Yeah.
7 **A He is a corporate facilities director.**
8 Q Okay. So it would go from you to, say, Alan,
9 the GM --
10 **A To Alan.**
11 Q -- and then to Chris McComas?
12 **A He would be consulted, and then he would say,**
13 **"Well, why are we doing this? Why don't we do this," as**
14 **a business decision.**
15 Q Gotcha. So this decision to replace the steps
16 by buying directly from KONE, did you agree with the
17 decision to buy directly from KONE?
18 **A It's not my decision to agree with or disagree**
19 **with.**
20 Q Okay. When you brought these issues up with
21 Alan or Chris, did they ask you your thoughts or your
22 perspective?
23 **A No, no. They wouldn't, because it's basically**
24 **a Purchasing decision. You know, if you've got a**
25 **\$90,000 invoice, and you can do the same job for**

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1 **\$40,000, wouldn't you do the job for \$40,000?**
2 Q Right. So you didn't disagree with the
3 decision to go buy the replacement steps --
4 **A I wasn't part of that decision-making process.**
5 Q Were you aware of it?
6 **A I may have been.**
7 Q You don't recall?
8 **A I don't recall.**
9 Q All right. At that time, if they made you
10 aware, would you have agreed with it?
11 **A Absolutely. Sure, anything to -- that's part**
12 **of business.**
13 Q Yeah. Was it just price or was there other
14 reasons of not, you know, for example, trusting
15 ThyssenKrupp to do it?
16 **A No, no. There was not a trust issue with**
17 **ThyssenKrupp. You know, we're a business, so we're in**
18 **the business of going out and getting multiple bids for**
19 **anything that the company purchases. I mean, that's**
20 **just prudent business.**
21 Q Yeah. Did it trouble you when Chris Dutcher
22 told you years after you thought the steps had been
23 replaced that there were still 40 obsolete steps?
24 MS. MASTRANGELO: Object to the form.
25 MS. McLEOD: Calls for speculation.

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1 THE WITNESS: Again, without precise
2 documentation as to when that occurred, I can't really
3 answer that honestly.
4 BY MR. IQBAL:
5 Q Yeah. I'm not asking for --
6 **A I'm being hypothetical when I give you an**
7 **answer.**
8 **Q I understand. I'm not asking about dates. I**
9 **know you're not a robot. You're not going to remember**
10 **every single thing that happens every day. I'm just**
11 **saying you testified previously about being shocked when**
12 **you found out about the cracks in 2015. I'm just asking**
13 **you, in your personal knowledge based on what you**
14 **remember sitting here today, do you remember being upset**
15 **or concerned when you found out about the --**
16 **A I was probably surprised. That's why I used**
17 **the word "shock." I was like, "Really? I got more**
18 **cracked steps after I just got done" -- and, again,**
19 **hypothetical -- "installed steps a year, six months,**
20 **eight months, two years ago, and now, all of a sudden,**
21 **I've got cracked steps again?" And my shock and**
22 **surprise would have been, "Why didn't we catch this?"**
23 **Maybe -- and, again, that's hypothetical, but**
24 **that would have been my common sense gut feeling at the**
25 **time that that occurred, when he would say to me, "Hey,**

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<p>1 you've got five more cracked steps." My question to him</p> <p>2 is, "How did this happen?" You know, when, why, where?</p> <p>3 "What's going on? I need some history here. I need to</p> <p>4 know what's going on. Why is this happening?"</p> <p>5 Q Okay. And you don't recall the specific</p> <p>6 conversation with Chris?</p> <p>7 A No.</p> <p>8 Q All right. I'm just going to wrap up with some</p> <p>9 questions. Before I do that, I just want to get just a</p> <p>10 couple of e-mail communication issues out of the way.</p> <p>11 You state in this August 28th, 2013, e-mail to Larry, "I</p> <p>12 have signed the quote for the repairs to the hotel west</p> <p>13 side service elevator and faxed back to you." Did you</p> <p>14 use fax with ThyssenKrupp?</p> <p>15 A It depended on if it had to be something that</p> <p>16 was an emergency that had to be expedited, then, more</p> <p>17 than likely, I would fax it, especially when it had to</p> <p>18 do with a signature.</p> <p>19 Q Okay. So this would have been typical, then,</p> <p>20 you signing a quote for the repairs and faxing it back?</p> <p>21 A If it was something that had to be done</p> <p>22 immediately, if we had a breakdown, I would probably</p> <p>23 consult with the GM, ask his permission to go ahead and</p> <p>24 sign it and forward it on a fax. Because, otherwise, I</p> <p>25 would have had to wait for some type of authorization</p> <p>Page 108</p>	<p>1 just because I'm stating that I signed authorization,</p> <p>2 and if I get called up and he said, "Who gave you</p> <p>3 permission to do this?" I would have a document that I</p> <p>4 could refer back to and say, "Well, I did have a phone</p> <p>5 conversation with you, Alan. You did approve this. You</p> <p>6 allowed me to accept."</p> <p>7 Q Yeah. You're pointing to the August 28th,</p> <p>8 2013, e-mail, but I'm talking about the fax itself.</p> <p>9 A No, I wouldn't have kept the fax.</p> <p>10 Q You would have destroyed that?</p> <p>11 A Yeah.</p> <p>12 Q Did you do that every January during the annual</p> <p>13 or just did you --</p> <p>14 A No. After I was done with the fax, once it was</p> <p>15 sent out, I had an e-mail to back it up, so I would have</p> <p>16 just destroyed the fax.</p> <p>17 Q Did you destroy faxes when you didn't have an</p> <p>18 e-mail to back it up?</p> <p>19 A I didn't keep all that. I just didn't keep</p> <p>20 paper, unless it was state or federal or building.</p> <p>21 Q So unless it was like --</p> <p>22 A Once again, the State.</p> <p>23 Q Unless it was the authorities, unless it was</p> <p>24 the State Inspector, unless it was like an underground</p> <p>25 anything, you wouldn't keep --</p> <p>Page 110</p>
<p>1 through Purchasing or the chain of command, so there was</p> <p>2 instances where I would call to seek approval to sign</p> <p>3 off on a proposal to get work done.</p> <p>4 Q Right. I'm just handing this to you for your</p> <p>5 refreshing your recollection. We don't need to enter it</p> <p>6 as an exhibit. We have enough exhibits, but it just</p> <p>7 says on the top, "Good afternoon. I have signed the</p> <p>8 quote for the repairs and" --</p> <p>9 A Yeah. This had to do with parts, yes.</p> <p>10 Q -- and faxed back to you"?</p> <p>11 A Yep.</p> <p>12 Q So, at your time to Golden Nugget, you did send</p> <p>13 faxes to Thyssen here and there?</p> <p>14 A Here and there, yeah. It wasn't typical. This</p> <p>15 had to do with Elevator S7. It would have been the west</p> <p>16 side hotel elevator, which would have been -- anything</p> <p>17 in the hotel would have been something that we would</p> <p>18 have tried to act on immediately, because it impacts the</p> <p>19 customer.</p> <p>20 Q Right. So did anyone ever ask you to save or</p> <p>21 hold on to your faxes to ThyssenKrupp?</p> <p>22 A No.</p> <p>23 Q Did you keep all of your faxes to ThyssenKrupp</p> <p>24 in a folder?</p> <p>25 A If it to do with something like this, probably,</p> <p>Page 109</p>	<p>1 A Anything that I approved, I would want a e-mail</p> <p>2 chain --</p> <p>3 Q Okay.</p> <p>4 A -- so that I could back it up. If I was</p> <p>5 brought up in front of the GM and said, "Hey, who told</p> <p>6 you you could do this? Who gave you authority to order</p> <p>7 this or do this? I don't remember this," then I could</p> <p>8 show them the purchase order and show them the e-mail</p> <p>9 and say, "Yeah. We did have a conversation. You were</p> <p>10 back in Connecticut or New York or whatever, and I</p> <p>11 called you on the phone at 2:00 in the morning, and you</p> <p>12 said, "Yeah, go ahead and sign it. We need it. Get it</p> <p>13 done" --</p> <p>14 Q Right.</p> <p>15 A -- that type of thing.</p> <p>16 Q Those are the e-mails, and you would keep those</p> <p>17 e-mails?</p> <p>18 A It would be in the system. I don't think any</p> <p>19 of the e-mails, to my knowledge, are destroyed.</p> <p>20 Q Okay. You never deleted any e-mails?</p> <p>21 A No.</p> <p>22 Q Okay.</p> <p>23 A No.</p> <p>24 Q Did you delete any e-mails that you sent?</p> <p>25 A No.</p> <p>Page 111</p>



1 clear. The escalator, and specifically the down
2 escalator at Golden Nugget, that was manufactured by
3 Montgomery?
4 **A Correct. To the best of my knowledge, yes.**
5 **Q** And as long as Golden Nugget has employed you,
6 that escalator has been maintained by ThyssenKrupp, and
7 before it, its predecessor Dover?
8 **A Correct.**
9 **Q** Okay. In 2015, before Mr. Brown fell in May of
10 2015, I'm assuming that escalator had a valid operating
11 permit from the --
12 **A Every year.**
13 **Q** -- State of Nevada?
14 **A Every single year, and that's my whole point,**
15 **not to --**
16 **Q** Go ahead.
17 **A I'm expanding, because like I said, I knew the**
18 **State Inspector very well, and if he had -- they were in**
19 **that machine all the time, and any time we had an**
20 **accident, we shut down. They would come out from Las**
21 **Vegas, inspect the machine for safety, specify that it's**
22 **safe to turn on, and they would direct us, "Go ahead and**
23 **turn it back on. The machine is safe."**
24 **Q** And those state inspections that occurred, you
25 would discuss the findings with the State Inspector

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1 afterward?
2 **A Oh, absolutely.**
3 **Q** Okay. And did that State Inspector, or any of
4 the state personnel, ever tell you "There's cracks in
5 the steps, and we're going to shut this down"?
6 **A Never.**
7 **Q** Did they ever tell you it was unsafe?
8 **A Never.**
9 **Q** We have some records in evidence indicating
10 that about three weeks prior to Mr. Brown's fall, the
11 State inspected. It would be your testimony that it was
12 given a clean bill of health?
13 **A Yes.**
14 **Q** Okay. You have testified, you know, that
15 things, mechanical things, like escalators, are going to
16 have problems from time to time just by the nature of
17 them being --
18 **A A machine.**
19 **Q** -- mechanical?
20 **A Yeah.**
21 **Q** Would you say overall that that escalator ran
22 pretty well, though?
23 **A Yes.**
24 **MR. IQBAL: Objection. Vague. Calls for**
25 **expert opinion.**

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1 **BY MS. MASTRANGELO:**
2 **Q** Were you satisfied with the level of service
3 you were getting from ThyssenKrupp?
4 **A I was.**
5 **Q** Did you consider Chris Dutcher a good and
6 knowledge mechanic or escalator technician?
7 **A I had no reason to call into question his**
8 **abilities.**
9 **Q** And if there were any issues with the escalator
10 equipment, did Chris Dutcher and ThyssenKrupp, were they
11 responsive addressing any concerns?
12 **A To my knowledge, yes.**
13 **Q** The KONE bulletin that's been referred to
14 several times today, do you know if you received that
15 directly from KONE or only through ThyssenKrupp?
16 **A Only through ThyssenKrupp to my knowledge.**
17 **Q** Did the Golden Nugget ever hire High Sierra
18 Elevator or any consulting company to sort of audit the
19 work and make sure ThyssenKrupp was doing what it's
20 supposed to be doing?
21 **A We had a third-party inspection company come in**
22 **to come behind ThyssenKrupp and inspect. Before the**
23 **State Inspector or after the State Inspector would make**
24 **any notations, demarcation lights, loose hand belts,**
25 **step chain, indexing of the steps, demarcation lights,**

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1 **painting of the steps at the bottom of the threshold to**
2 **make sure there's differentiation between the step and**
3 **the actual landing plate, that was all done and kept up.**
4 **You know, and it should be public knowledge**
5 **from the State itself, those records should be**
6 **obtainable from the State by anybody.**
7 **Q** So at least, periodically, the Golden Nugget
8 had, it sounds like, three different sets of experts
9 looking at this equipment, High Sierra, your independent
10 consultant; ThyssenKrupp, your maintenance company; and
11 the State of Nevada being the authority and having
12 jurisdiction?
13 **A That's correct.**
14 **Q** That proposal, real quick -- and this is my
15 last question -- the November 1, 2015.
16 **A What exhibit is that?**
17 **Q** No. 10, sir.
18 **A Okay.**
19 **Q** That's the proposal for the 40 steps in
20 November of 2015. Just prior to getting this proposal
21 according to some other e-mails, and I can show them to
22 you, you had informed ThyssenKrupp that Golden Nugget
23 actually purchased the replacement steps directly from
24 KONE's company?
25 **A Yes.**

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1 DISTRICT COURT
CLARK COUNTY, NEVADA
2 -----x
JOE N. BROWN, an individual, and
3 his Wife, NETTIE J. BROWN, an individual,
4 Plaintiffs,
Case No.: A-16-739887-C
5 -against- Dept. No.: XXXI
6 LANDRY'S, INC., a foreign corporation;
GOLDEN NUGGET, INC., a Nevada
7 corporation, d/b/a GOLDEN NUGGET
LAUGHLIN; GNL, CORP.; DOE INDIVIDUALS
8 1-100; ROE BUSINESS ENTITIES 1-100,
Defendants.

9 -----x
AND ASSOCIATED CASES
10 -----x

11 May 14, 2018
12 10:07 a.m.

13
14 Deposition of CHRIS DUTCHER, held at the offices of
15 ThyssenKrupp, 519 8th Avenue, 6th Floor, New York, New York,
16 pursuant to Notice, before Renate Reid, Registered Professional
17 Reporter and Notary Public of the State of New York.

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

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Chris Dutcher - 5/14/2018
Joe N. Brown, et al. vs. Landry's, Inc., et al.

1 VIDEOGRAPHER: Good morning. This is the
2 videographer speaking. My name is Kevin Marth,
3 here on behalf of Depo International. Today's
4 date is May 14, 2018, and the time is
5 10:07 a.m.
6 We are at 519 8th Avenue, in New York,
7 New York, to take the video deposition of
8 Mr. Chris Dutcher in the matter of Joe N.
9 Brown, et al., versus Landry's, Inc., et al.,
10 in the District Court for Clark County, Nevada.
11 At this time, would counsel please
12 identify themselves for the record.
13 MR. IQBAL: Hi. Mohamed Iqbal, on behalf
14 of the plaintiffs.
15 MS. MASTRANGELO: Rebecca Mastrangelo, for
16 ThyssenKrupp Elevator.
17 MS. MCLEOD: On the phone, Alexandra
18 Mcleod, from Grant & Associates, on behalf of
19 GNL, GNI, and Landry's.
20 VIDEOGRAPHER: Our court reporter today is
21 Ms. Renate Reid, who will now swear in the
22 witness, and you may proceed.
23 C H R I S D U T C H E R, called as a
24 witness, having been first duly sworn by the Notary
25 Public, was examined and testified as follows:

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1 EXAMINATION BY
2 MR. IQBAL:
3 Q. Sir, can you please state your name and
4 spell your last name for the record.
5 A. My name is Christopher Michael Dutcher,
6 D-u-t-c-h-e-r.
7 Q. Thank you, Mr. Dutcher.
8 I'm just going to go through a few
9 deposition preliminaries with you right now.
10 You just took an oath. It would be the
11 same oath that you would take in a -- in a court
12 of law and if you were sitting in front of a -- a
13 judge and a jury. And so you'd have the same
14 obligation to tell the truth.
15 Do you understand?
16 A. Yes.
17 Q. The court reporter is writing
18 everything down that we are going to say; and so
19 it's going to be helpful for her, and it will
20 probably make things go faster, if I wait for your
21 entire answer before asking the next question and
22 if you could wait for my full question before --
23 before answering, yourself.
24 Does that seem fair?
25 A. Yes.

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1 Q. Okay. And because -- well, we do have
2 the -- the video here, but because everything is
3 being written down, if we could get yes-or-no
4 answers, to the extent that they're applicable,
5 versus a head nod or -- or other kind of
6 expressions.
7 Does that seem fair?
8 A. Yes.
9 Q. Okay. Now, Alexandra is on the phone;
10 Rebecca is here in person. They may object. And
11 once they state the basis of the objection, the
12 objection itself, you can then go ahead and answer
13 the question. The only time you wouldn't answer
14 the question is if your counsel tells you
15 directly, don't answer that.
16 Does that seem fair, and is that clear?
17 A. Yes.
18 Q. Okay. If you don't understand a
19 question that I've asked you, perfectly
20 reasonable. Please ask me -- or tell me that you
21 don't understand or for me to repeat the question.
22 If you go ahead and answer a question, I'm going
23 to assume that you understood the question.
24 Does that seem fair?
25 A. Yes.

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1 Q. Okay. Now, is there any reason, as
2 you're sitting here today, that would prevent you
3 from telling truthful testimony? Are you on any
4 medication or have had any alcoholic drinks or
5 anything that would prevent you from testifying
6 truthfully here today?
7 A. None that would prevent me.
8 Q. Okay. Great.
9 And finally, if you would like a break --
10 it's perfectly fine -- at any time, just say, can
11 we take a break. The only thing that I would ask
12 is, if there is a question pending, then let's --
13 let's get an answer to that question, and then we
14 can take a break.
15 Does that seem fair?
16 A. Yes.
17 Q. Okay. Great.
18 Mr. Dutcher, who is your employer?
19 A. ThyssenKrupp Elevator.
20 Q. Okay. And when did you start working
21 for ThyssenKrupp?
22 A. Initially --
23 Q. Yes.
24 A. -- or in Vegas?
25 Q. Initially.

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1 **A. Initially, I started working for**
2 **ThyssenKrupp in September 5, 2003.**
3 Q. And before you started working with
4 ThyssenKrupp in 2003, did you get any
5 certification or any training or education in
6 working on escalators and elevators?
7 **A. In 2003 is when I first joined the**
8 **union, and that's when my training commenced --**
9 Q. Okay.
10 **A. -- as an apprentice.**
11 Q. Okay.
12 **A. So I have on-the-job training and**
13 **certification training from National Elevator**
14 **Program.**
15 Q. Okay. And so you joined Thyssen, and
16 your training started when you -- when you joined?
17 **A. The exact day.**
18 Q. Okay. Okay. How long did that
19 training take?
20 **A. Training was four years of schooling**
21 **and four years of on-the-job training.**
22 Q. Okay. And is that --
23 **A. I -- I used an additional year, as I**
24 **didn't pass the mechanics exam the first time.**
25 Q. Okay. Okay. So when did you -- when

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1 did you first take the mechanics exam?
2 **A. It would have been 2007.**
3 Q. Okay. And so between 2003 and 2007 --
4 (Interruption)
5 BY MR. IQBAL:
6 Q. Between 2003 and 2007, you had
7 on-the-job training, you said?
8 **A. Yes.**
9 Q. Can you explain that?
10 **A. Yes. I was working with a construction**
11 **mechanic that would explain how to work on the**
12 **elevators and escalators, and we'd learn from them**
13 **while we were on the job.**
14 Q. Okay. And you -- you passed the
15 mechanic's exam in 2007, correct?
16 **A. 2008.**
17 Q. 2008.
18 And from 2008 until today, what
19 percentage of your work is associated with
20 escalators and what percentage is associated with
21 elevators?
22 **A. 80% escalators and 20% elevators.**
23 Q. Is that typical for mechanics, or do
24 you have a specialization in escalators?
25 **A. I have a specialization in escalators.**

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1 Q. Okay. Okay. And am I correct to
2 assume that most of the -- the moving machines are
3 elevators versus escalators?
4 **A. Mostly.**
5 Q. Okay. And when you started working for
6 Thyssen in 2003, what location was that?
7 **A. It was Los Angeles.**
8 Q. And your four years of training between
9 '03 and '07, was that also in Los Angeles?
10 **A. There were three years in Los Angeles**
11 **that were construction and modernization. I moved**
12 **to Vegas in 2006, and I worked for KONE Elevator**
13 **and was trained in escalators and moving walkways.**
14 Q. Okay. So from '03 to '06, you worked
15 for Thyssen --
16 **A. Yes.**
17 Q. -- in -- in L.A.?
18 **A. In L.A.**
19 Q. Okay. And then you moved to Las Vegas,
20 and you worked for KONE?
21 **A. KONE, at McCarran Airport.**
22 Q. Got it.
23 And were you with KONE when you passed
24 the mechanic's exam in 2008?
25 **A. Yes.**

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1 Q. Okay. And when you were with KONE
2 between '06 and '08, was that exclusively at
3 McCarran Airport?
4 **A. Yes.**
5 Q. Okay. And how long did you stay with
6 KONE?
7 **A. I'd say two years and a few months.**
8 Q. Okay. And so in 2010, did you go back
9 to Thyssen?
10 **A. Yes.**
11 Q. Okay. And with Thyssen, in 2010, what
12 was the first location you were assigned to?
13 **A. Laughlin, Nevada.**
14 Q. And how long did you work in Laughlin?
15 **A. Up until right before Presidents' Day**
16 **weekend.**
17 Q. Presidents' Day weekend of --
18 **A. This year.**
19 Q. -- of 2018?
20 **A. So -- yes. So I worked from 2010, of**
21 **June, until this year.**
22 Q. And during the approximately eight-year
23 stretch in Laughlin, what -- what customer
24 locations did you work at?
25 **A. I worked at the -- you're talking about**

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1 the casinos, hotels?
2 Q. Yes.
3 A. Riverside Resort --
4 Q. Okay.
5 A. -- Edgewater --
6 Q. Okay.
7 A. -- Colorado Belle --
8 Q. Okay.
9 A. -- Golden Nugget, Pioneer, the mall,
10 Tropicana Express, River Palms, and the Avi.
11 Q. Okay. And so from Laughlin, then, this
12 Presidents' Day weekend you were reassigned to New
13 York City, or did you request a move?
14 A. I requested to be moved.
15 Q. Okay. Any particular reason?
16 A. My wife was born and raised in Long
17 Island, so we moved closer to her family --
18 Q. Okay.
19 A. -- and the heat was getting to me.
20 Q. Got you. Understood.
21 And so is it fair to say, between June of
22 2010 and February of 2018, the Golden Nugget
23 Laughlin was part of your geographical area?
24 A. Yes.
25 Q. Okay.

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1 A. The escalators, specifically.
2 Q. Got it.
3 Were you assigned to the elevators at
4 Golden Nugget Laughlin?
5 A. I was for a time; but when I first came
6 to Laughlin, I was assigned all the escalators.
7 Q. Okay. Okay. And the assignment to the
8 elevators was only a portion of these eight years,
9 correct?
10 A. Yes.
11 Q. And then --
12 A. It was after two years -- after I was
13 there for about two years --
14 Q. Okay.
15 A. -- I was assigned elevators.
16 Q. Okay. And -- and so around 2012, you
17 were assigned to the elevators; and were you
18 assigned to those elevators from 2012 until 2018?
19 A. Um-hum.
20 Q. Is that a yes?
21 A. Yes.
22 Q. Thank you.
23 What's your current work e-mail address
24 with ThyssenKrupp?
25 A. Christopher.Dutcher@tkelevator.net.

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1 Q. And what date did you start using that
2 specific work e-mail address?
3 A. I don't know the exact date.
4 Q. Is it fair to presume that it would
5 have been in 2010, when you were hired?
6 A. At that time, we didn't have
7 smartphones, so it was difficult to be on an
8 e-mail server.
9 Q. Okay. Do you recall when you got a
10 smartphone from Thyssen?
11 A. I don't recall the exact date.
12 Q. Okay. A rough estimation.
13 Was it a couple of years after you -- you
14 joined --
15 A. Yes.
16 Q. -- back -- you joined back --
17 A. It was one to two years after.
18 Q. Okay. And so roughly around 2011 or
19 2012, you received a smartphone from ThyssenKrupp?
20 A. Yes.
21 Q. And that was a work phone?
22 A. Yes.
23 Q. And you were assigned that e-mail
24 address at that time?
25 A. Yes.

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1 Q. So for approximately one to two years
2 after you joined, you didn't have an e-mail
3 address?
4 A. I don't believe so.
5 Q. Okay. Outside of this
6 Christopher.Dutcher@tke.net -- outside of this
7 address, have you used any other work e-mail
8 addresses with ThyssenKrupp?
9 A. No.
10 Q. Who is your current supervisor?
11 A. Current supervisor?
12 Q. Yes.
13 A. Ted Mazola.
14 Q. Can you spell the last name?
15 A. I'll have to look at my phone.
16 Q. No problem. No problem. That's --
17 that's okay. That's okay.
18 Who -- who was your supervisor when you
19 were assigned to Laughlin between 2010 and 2018?
20 A. I believe it was Scott Olsen at the
21 time, but we went through a few supervisors during
22 that period.
23 Q. So for most of this eight-year period
24 when you were assigned to Laughlin, your direct
25 supervisor was Scott Olsen, yes?

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1 **A. Most of it.**
2 Q. That's -- that's correct?
3 **A. Yes.**
4 Q. Okay. Do you recall the names of other
5 supervisors, before Scott?
6 **A. Jim MacDavid.**
7 Q. Okay. And then?
8 **A. Paul Hamrick.**
9 Q. Anyone else?
10 **A. That's it.**
11 Q. Okay. So did you just have one
12 supervisor at any one time?
13 **A. It was mostly Scott Olsen for the eight**
14 **years, but there were periods of one -- one year**
15 **it was Jim MacDavid, and another year it was Paul**
16 **Hamrick.**
17 Q. Okay. Was -- has Scott been with
18 Thyssen that entire eight-year stretch?
19 **A. Yes.**
20 Q. Okay. Is he still currently employed
21 by Thyssen?
22 **A. Yes.**
23 Q. Okay. Do you still keep in touch with
24 the -- the folks you worked with in Laughlin?
25 **A. Once in a while.**

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1 Q. Okay. And Scott, Jim, and Paul, what
2 was their geographic location?
3 **A. Where they worked or where they -- what**
4 **office they're out of?**
5 Q. Yes.
6 **A. They're out of the Las Vegas office.**
7 Q. Okay. And they were -- they were
8 located in the Las Vegas office, but they had
9 responsibility for the Laughlin area?
10 **A. Yes.**
11 Q. Okay. Did they have responsibility for
12 any other areas outside of Las Vegas and Laughlin?
13 **A. I'm unsure which ones.**
14 Q. Okay. Okay. And so when you joined
15 Thyssen in June of 2010 again, you started
16 performing work at the Laughlin Nugget?
17 **A. Yes.**
18 Q. Okay. And at that time you were a
19 ThyssenKrupp employee, correct?
20 **A. Yes.**
21 Q. Okay. Now, what did your work at the
22 Laughlin Nugget entail?
23 **A. You mean during the whole time or --**
24 **Q. When you started?**
25 **A. When I started, it was service, mostly.**

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1 **Q. Service.**
2 **Now, when you say "service," does that**
3 **include inspections, repair, and cleaning of the**
4 **escalators?**
5 **A. I would do all the above.**
6 **Q. Okay. Anything else, outside of those**
7 **three?**
8 **A. I think that's the brunt of it.**
9 **Q. Okay. Okay. So maintaining the**
10 **escalators, cleaning the escalators if necessary,**
11 **repairing them if necessary, and also inspecting**
12 **the escalators?**
13 **A. Yes.**
14 **Q. Would that -- is it fair to say that**
15 **those four things that I mentioned are within the**
16 **scope of service?**
17 **A. They're in different fields.**
18 **Q. Okay.**
19 **A. Service and maintenance are the same.**
20 **Q. Okay.**
21 **A. Repair is in a different spectrum.**
22 **Q. Okay. And so when you started working**
23 **in 2010, it was service and maintenance?**
24 **A. Service and maintenance.**
25 **Q. Okay.**

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1 **A. And if a repair was necessary, they**
2 **put -- they had me do that as well. Usually**
3 **another mechanic, though --**
4 **Q. Okay.**
5 **A. -- to assist.**
6 **Q. So when you started, it was service and**
7 **maintenance.**
8 **And you just testified that if a repair**
9 **was necessary, then you would do that as well, but**
10 **you would get assistance from another mechanic?**
11 **A. Yes.**
12 **Q. Okay. Was that company policy, that if**
13 **a repair was happening, that more than one**
14 **mechanic needed to be present?**
15 **A. Mechanic or an apprentice. And it's**
16 **also union policy.**
17 **Q. Okay. So at least two folks?**
18 **A. Yes.**
19 **Q. For repair?**
20 **A. For a repair.**
21 **Q. Okay. But service and maintenance, it**
22 **could be one person?**
23 **A. Yes, sir.**
24 **Q. Okay. And that's Thyssen policy and**
25 **union policy?**

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1 **A. And union policy.**
2 Q. Okay. And so your -- your work
3 included inspect -- inspecting and servicing the
4 escalators at Laughlin Nugget, correct?
5 **A. Yes.**
6 Q. And so you're familiar with the down
7 escalator and the up escalator at Laughlin Nugget,
8 correct?
9 **A. Yes.**
10 Q. Okay. During this time between 2010
11 and 2018, did anyone else's work include
12 inspecting the escalators there?
13 **A. For the inspections?**
14 Q. Yes.
15 **A. There were probably a couple, at least**
16 **one or two people --**
17 Q. Okay.
18 **A. -- mechanics, besides myself, that**
19 **would inspect it --**
20 Q. Okay.
21 **A. -- if I was on vacation or tied up.**
22 Q. Got it. Got it.
23 So, to be clear, that eight-year period,
24 you weren't the only mechanic for Thyssen assigned
25 to the Laughlin area, correct?

Page 19

1 **A. There were other mechanics.**
2 Q. Okay. So during your time, can you --
3 can you tell us who the other mechanics were?
4 **A. That worked on various routes or --**
5 Q. In Laughlin.
6 **A. It was -- when I first went down there,**
7 **it was Keith Ritterhouse --**
8 Q. Okay.
9 **A. -- Kenneth Carr.**
10 Q. Okay.
11 **A. Also Jim Moran and Jason Thompson.**
12 Q. Now, Keith, Kenneth, Jim, and Jason,
13 four other mechanics that you mentioned, did --
14 were any of those four assigned specifically to
15 the Laughlin Nugget?
16 **A. To the elevators.**
17 Q. To the elevators. Okay.
18 As you sit here today, can you recall
19 anyone else who was assigned to the escalators at
20 Laughlin Nugget?
21 **A. Just myself, during that period.**
22 Q. Okay. And when we say "that period,"
23 we're talking about 2010 to 2018, correct?
24 **A. Yes.**
25 Q. Okay. So you were the -- you were the

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1 guy with respect to the down escalator and the up
2 escalator at Laughlin Nugget for those
3 approximately eight years?
4 **A. Yes.**
5 Q. Okay. Now, when you would do
6 inspections or service and maintenance, or even
7 repairs of the Laughlin Nugget escalators, did you
8 take any notes or photographs or make any drawings
9 as part of your work?
10 **A. Usually no drawings.**
11 Q. Okay.
12 **A. Sometimes a photograph, but they're**
13 **probably lost at this point. And for writing down**
14 **my time, I write it in the -- in the phone, what**
15 **we could, because it would only give you a little**
16 **bit of information that you could write in there,**
17 **about three sentences.**
18 Q. Okay. And into your phone?
19 **A. Into the -- the phone which was for our**
20 **time --**
21 Q. Got it.
22 **A. -- or a PDA.**
23 Q. Okay. So you used your -- your
24 smartphone to -- to log your time in.
25 Was there a specific program on the

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1 smartphone that allowed you to log your time in?
2 **A. Yes.**
3 Q. What's the name of that program?
4 **A. It's TK Smart.**
5 Q. Does TK Smart allow for any additional
6 information gathering, beyond just when you
7 started and when you ended?
8 **A. Yes, about two sentences long.**
9 Q. Okay. And what were those -- what was
10 that space for?
11 **A. If we wanted to add a description for**
12 **additional information.**
13 Q. Any notes or anything that you wanted
14 to -- to record, you would put into TK Smart?
15 **A. Yes, if we had time.**
16 Q. Okay. What do you mean, if we have
17 time?
18 **A. If I was too busy with a lot of calls,**
19 **I would just write "Preventative Maintenance" and**
20 **move on.**
21 Q. Okay. And if you had time, would you
22 then go into further detail?
23 **A. Sometimes.**
24 Q. Okay. What -- what factors would you
25 consider that made you either write more detail or

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1 write less?
2 **A. If there was more hours on the job,**
3 **that I spent more than two hours, I'd write a**
4 **little bit more so my supervisor could allot for**
5 **what I was doing.**
6 Q. Okay. Okay. And so, typically, taking
7 your testimony just now, if it was a shorter visit
8 or inspection or maintenance, then you wouldn't
9 provide as much detail?
10 **A. Yes.**
11 Q. Okay. And you -- you just mentioned
12 your supervisor.
13 Were your notes reviewed -- your notes on
14 TK Smart -- were your notes reviewed by your
15 supervisor from time to time?
16 **A. I'm not sure.**
17 Q. Okay. Have you ever gotten feedback on
18 the notes that you put into the TK Smart system?
19 **A. Not known.**
20 Q. Okay. And you mentioned that you got
21 the smartphone a year or two into your Thyssen
22 work -- work experience starting in 2010.
23 How did you take notes before that time?
24 **A. When I first was down there in 2010, we**
25 **had a PDA, which was not technically advanced. I**

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1 **don't even remember how to use the thing. Then we**
2 **got a new -- within a year and a half to two**
3 **years, we got a new device, which -- I don't**
4 **remember what it's called. We would have TK Smart**
5 **program in there, which did e-mail and**
6 **information.**
7 Q. Okay. The -- the PDA that you
8 initially got, did that also have TK Smart on
9 there?
10 **A. I don't remember.**
11 Q. Okay. But did it have note-taking
12 ability?
13 **A. Possibly.**
14 Q. Okay. And you mentioned that sometimes
15 you would take photos, but then they -- they are
16 probably lost now.
17 What do you mean by that?
18 **A. It would be photos with my own camera,**
19 **and it was years ago.**
20 Q. Okay. Okay. Now, when -- when you
21 decided to take photos with your own camera, what
22 factors would make you do that?
23 **A. If we needed information off of the**
24 **gearbox, some information for the parts that we**
25 **needed.**

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1 Q. Okay.
2 **A. That would be about it.**
3 Q. Okay. And your habit, from time to
4 time, of taking photographs, was that from 2010 to
5 2018?
6 **A. Yes.**
7 Q. Okay. And did you save those
8 photographs?
9 **A. No.**
10 Q. Okay. How long would they stay on your
11 personal phone?
12 **A. They would stay on there until I found**
13 **the company that made the part and ordered it --**
14 Q. Okay.
15 **A. -- and delete it right away.**
16 Q. Okay. And your work smartphone didn't
17 have the capacity to take photographs?
18 **A. It did, but the photos were terrible,**
19 **so we didn't use them.**
20 Q. Got it. Okay.
21 Now -- so you took photos from time to
22 time on your personal phone; and then, aside from
23 that, you took notes for longer jobs on your TK
24 Smart program, correct?
25 **A. Yes.**

Page 25

1 Q. Is that -- is that a fair general
2 statement of your note taking and photograph
3 taking?
4 **A. Yes.**
5 Q. Okay. Do you know if your notes on
6 TK Smart are preserved forever or deleted at some
7 point?
8 **A. I'm not sure of the exact extent.**
9 Q. Okay. On your smart device, your
10 smartphone that you received from Thyssen, can you
11 pull back your -- your notes from 2014, 2015? Can
12 you search in TK Smart notes from -- taken from
13 several years ago?
14 **A. I can search, but I can only search**
15 **back in the current year.**
16 Q. In the current year?
17 **A. Or within a year.**
18 Q. Okay. And why can't you search back
19 more than a current -- the current year?
20 **A. I have no idea.**
21 Q. Okay. Is that company policy?
22 **A. It must be.**
23 Q. Okay.
24 **A. I have never questioned it.**
25 Q. Okay. If you need to find your notes

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1 from a few years back, what do you do?
2 **A. Sometimes you can refer to the**
3 **machine-room logs.**
4 Q. Machine room logs. Okay.
5 And where are those located?
6 **A. They're usually near the escalators.**
7 Q. Got it.
8 So at the different casinos, there are
9 machine rooms, and there are logs at those machine
10 rooms? Is that fair to say?
11 **A. Usually.**
12 Q. Okay. How about the Golden Nugget
13 Laughlin?
14 **A. I know there were some there when I**
15 **left.**
16 Q. Okay. Okay. So if you have to search
17 for your notes before the -- the current calendar
18 year, one place that you can go is the
19 machine-room logs, yes?
20 **A. Yes.**
21 Q. Okay. Any other place that you can go?
22 **A. No.**
23 Q. Okay. And -- and just to be clear,
24 after that year, do your notes disappear, or are
25 they just inaccessible to you?

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1 **A. You mean on the device?**
2 Q. Yes.
3 **A. Inaccessible.**
4 Q. Inaccessible.
5 **A. And, usually, I don't refer back to it.**
6 Q. Okay. Okay. Besides the smartphone
7 device that you have, do you have a company
8 laptop?
9 **A. Not anymore.**
10 Q. Okay. So you did have a company
11 laptop?
12 **A. So I did, but no notes were put in**
13 **there.**
14 Q. Okay. What period of time did you have
15 the company laptop?
16 **A. 2010 to a week before Presidents' Day**
17 **weekend, this year.**
18 Q. Okay. So, basically, the entire time
19 you were at Laughlin, you had the company laptop?
20 **A. Yes.**
21 Q. Is that a yes?
22 **A. Yes.**
23 Q. Okay. What did you use your company
24 laptop for?
25 **A. For troubleshooting elevators.**

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1 Q. And troubleshooting escalators, or just
2 elevators?
3 **A. Just elevators.**
4 Q. Okay. And so you would use the laptop
5 to do searches and to -- to find out different
6 information?
7 **A. You could plug it into certain --**
8 **certain elevators to find the fault codes or**
9 **issues with the unit.**
10 Q. Okay.
11 **A. But certain elevators weren't too old**
12 **to use that technology.**
13 Q. Got it.
14 So your laptop was specifically for
15 elevators?
16 **A. Yes.**
17 Q. So if you were on a job at Godden
18 Nugget Laughlin, dealing with the escalators,
19 would you take your laptop along?
20 **A. No.**
21 Q. Okay. You would take your smartphone?
22 **A. Yes.**
23 Q. Okay. And you would put notes on there
24 if it was a significant enough visit, correct?
25 **A. Yes.**

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1 Q. Okay. So what -- what did -- aside
2 from the -- the TK Smart program on your phone,
3 what did you do to make sure you didn't forget
4 what you saw during an inspection or service?
5 **A. I just remember it in my head or take**
6 **care of it as necessary.**
7 Q. Okay. Now, you -- you mentioned that
8 you were the only one assigned over the eight
9 years to the escalators.
10 To your knowledge, did anybody else take
11 any notes or photographs or make any drawings as
12 part of inspecting the escalators for
13 ThyssenKrupp?
14 **A. No.**
15 Q. Okay. I just -- I want to ask a
16 process question; but before I get to that, you
17 used your smart device to send e-mails to
18 supervisors?
19 **A. Yes.**
20 Q. Okay. Would you send e-mails to your
21 supervisors regarding the Laughlin escalators?
22 **A. From time to time.**
23 Q. Okay. Okay. And is it possible for
24 you to search your e-mail sent box and inbox back
25 five, six years?

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1 **A. Not currently.**
2 Q. Why not?
3 **A. I'm not sure. I've gotten several new**
4 **devices with the same e-mail, but it -- all that**
5 **information doesn't come onto the smartphone after**
6 **you relogged in.**
7 Q. Okay. Okay. So did you receive a new
8 device when you came to New York?
9 **A. Yes.**
10 Q. Okay. Do you know where your -- first,
11 let me ask this: How many -- how many smartphones
12 have you had with Thyssen since 2011 or 2012,
13 whenever you first got the smartphone?
14 **A. Oh, I've had -- this is my second**
15 **iPhone, smartphone.**
16 Q. Okay.
17 **A. And the device we used to do our time**
18 **on was called the CN50, which sent e-mails. That**
19 **was the other smart device that I had.**
20 Q. Okay. So when you say this is your
21 second iPhone that you've had, you had a --
22 previously, you had an iPhone?
23 **A. Previously had one, in Las Vegas.**
24 Q. Okay. And when you say "Las Vegas" --
25 **A. I mean Laughlin.**

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1 Q. You mean Laughlin.
2 And your -- your first iPhone before
3 that -- you had a CN50?
4 **A. Before that, I had a CN50.**
5 Q. Okay. And so your -- your first iPhone
6 was exclusively Laughlin, correct?
7 **A. Yes.**
8 Q. Okay. And that iPhone -- how many
9 years, just roughly, did you have that iPhone?
10 **A. I think, three, if I --**
11 Q. Okay.
12 **A. -- recall.**
13 Q. And when you had that iPhone, you could
14 search your inbox and your sent box of e-mails,
15 correct?
16 **A. Yes.**
17 Q. Okay. Did you ever delete e-mails that
18 you either received or sent?
19 **A. Maybe some that I received. But they**
20 **were not necessary to Laughlin.**
21 Q. Okay.
22 **A. That was just general information.**
23 Q. Got it.
24 Is it fair to say that if you received an
25 e-mail from a supervisor or from anyone regarding

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1 the up or down escalators at Laughlin, that you
2 wouldn't delete them?
3 **A. Yes.**
4 Q. Okay. And did you maintain that same
5 policy with the CN50?
6 **A. Yes.**
7 Q. Okay. Do you know where your --
8 your -- your Laughlin iPhone is today?
9 **A. Not currently. But I know I gave the**
10 **devices to Scott Olsen --**
11 Q. Okay.
12 **A. -- before I left.**
13 Q. And so, with your current device, the
14 second iPhone that you received when you came to
15 New York, you are incapable of reviewing any
16 e-mails prior to February 2018; is that correct?
17 **A. Yes.**
18 Q. Yes?
19 **A. Yes.**
20 Q. Okay. So if I asked you now, if we
21 were sitting going through your -- your e-mails,
22 you wouldn't have any from Laughlin, correct?
23 **A. Not on my device.**
24 Q. Okay. Where else would your e-mails be
25 accessible?

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1 **A. What's that?**
2 Q. Where -- where else, besides the -- the
3 two iPhones, and before that the CN50 -- where
4 else would your e-mails be accessible?
5 **A. Possibly in the Cloud.**
6 Q. In the Cloud?
7 **A. ThyssenKrupp's information center,**
8 **possibly.**
9 Q. Got it. Got it.
10 **A. But I don't know anything about that,**
11 **really.**
12 Q. Understood. Understood.
13 Are you aware of any company policies
14 regarding preserving e-mails or deleting e-mails?
15 **A. No.**
16 Q. Okay. All right. So what -- if there
17 were any repairs or maintenance that you felt
18 needed to be performed at the Laughlin Nugget, who
19 had the authority to okay the work?
20 **A. My supervisor.**
21 Q. Okay. So Scott Olsen, and before that
22 Jim, and before that --
23 **A. Yes, but if it was something that the**
24 **building needed to pay for, it would be on them.**
25 Q. Okay.

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1 **A. You'd have to wait on their**
2 **authorization.**
3 Q. Got it.
4 So if it was something that the
5 customer -- the casino had to pay for, did you
6 need two authorizations, then? Did you need one
7 from Scott and then one from the casino operator?
8 **A. I'm sure it would go through the sales**
9 **department, so I'm not sure how all that works.**
10 Q. Okay. Okay. But if it was something
11 that Thyssen was going to just do because it
12 wasn't something that the customer had to pay for,
13 the only authorization that you would need then is
14 from your supervisor?
15 **A. Yes.**
16 Q. Okay. And when it was something that
17 Thyssen was responsible for, were there any limits
18 to Scott's authority in terms of the type of work
19 or the dollar value of the work that he could
20 authorize?
21 **A. I'm not sure of the contract.**
22 Q. Okay. Okay. So were you clear on --
23 when you worked on the Laughlin escalators, were
24 you clear on what Thyssen was responsible for and
25 what the casino had to approve?

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1 **A. Not entirely.**
2 Q. Okay. What was your understanding?
3 **A. My understanding were, maintenance**
4 **items were covered; but other than that, like, if**
5 **they needed to replace steps or step chain, that**
6 **would be on the building, because it's a huge**
7 **expense.**
8 Q. Okay. So your understanding was,
9 anything that involved maintenance, you would get
10 Scott's approval and then you would go ahead and
11 do the maintenance?
12 **A. Yes.**
13 Q. Okay. How would you seek his approval?
14 Would it be a phone call, an e-mail, a text
15 message? How would you communicate?
16 **A. A phone call.**
17 Q. A phone call. Okay.
18 Do you ever send him e-mails requesting
19 authorization, or was it always by phone?
20 **A. Always by phone --**
21 Q. Okay.
22 **A. -- because it's quicker.**
23 Q. Okay. Outside of your phone calls to
24 Scott, was there any other record of the requests
25 that you made to Scott to authorize maintenance?

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1 **A. Not for maintenance.**
2 Q. Okay. All right. So if there was a
3 repair that was needed, would you first alert
4 Scott, or would you alert the -- the casino owner?
5 **A. It depended on the repair.**
6 Q. Okay. Can you -- can you discuss that
7 further?
8 **A. Yeah. If it needed -- if the gear box**
9 **needed to be changed or we needed to change oil or**
10 **motor bearings, I would call my supervisor or the**
11 **repair supervisor, and I would -- I'd get it**
12 **okayed through them and then schedule it with the**
13 **building.**
14 Q. Okay. And other repairs, you would
15 directly deal with the Nugget?
16 **A. Other repairs that were a huge expense,**
17 **I would have to deal with my salesman and have him**
18 **deal with the Nugget.**
19 Q. Got it. Okay.
20 **A. So I would deal with Larry Panaro, is**
21 **his name.**
22 Q. Got it.
23 So if it was a smaller repair, it would
24 go through Scott; and if it was a larger repair,
25 it would have to go through sales and Larry?

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1 **A. Yes.**
2 Q. Okay. Was was there a dollar figure
3 separating the -- the lower-cost stuff that went
4 through Scott and the higher-cost stuff that went
5 through Larry?
6 **A. Not an exact dollar amount.**
7 Q. Okay. You just kind of knew?
8 **A. Yes.**
9 Q. Okay. Just roughly, was it \$5,000, was
10 it \$10,000, when things got kicked up to Larry?
11 MS. MASTRANGELO: Calls for speculation.
12 You can answer.
13 **A. I don't know -- there wasn't a dollar**
14 **amount in my -- in my head.**
15 BY MR. IQBAL:
16 Q. Okay. Okay. You just intuitively
17 knew, when you were looking at a repair, okay, I
18 need to talk to Scott about this, or this needs to
19 go through Larry and sales, correct?
20 **A. Yes.**
21 Q. Okay. Is that a yes?
22 **A. Yes.**
23 Q. Okay. So work -- repair work that went
24 through Scott, was there documentation of that?
25 **A. I'm sure it's documented somewhere.**

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1 Q. Okay. Okay. But you're -- you're --
2 you're not exactly clear of -- of what kind of
3 written documentation there would be with Scott
4 and Thyssen?
5 **A. I'm not privy to that knowledge.**
6 Q. Okay. Okay. And work that went
7 through sales and Larry Panaro, would that require
8 a written work order?
9 **A. I'm sure it required a written work**
10 **order as well as a -- as an agreement that the**
11 **customer would sign on --**
12 Q. Okay.
13 **A. -- which is normally how business is**
14 **done.**
15 Q. Okay. So stuff that went through
16 Scott, did that also require a work order?
17 **A. We're talking about, like, a work order**
18 **that's written, or are we talking about something**
19 **on my device?**
20 Q. Some -- something that's on your
21 device.
22 **A. On my device, I wouldn't need a work --**
23 **I'd get it on my phone for maintenance every**
24 **month.**
25 Q. Okay.

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1 **A. And if the customer called and**
2 **complained about something, it would come on the**
3 **device as well.**
4 Q. Okay.
5 **A. But I usually wouldn't need approval**
6 **for that.**
7 Q. Because it was a -- a smaller job?
8 **A. Yes.**
9 Q. Okay. But anything that was a -- a
10 repair would have to go through Larry and then
11 would be evidenced by a work order?
12 **A. Yes.**
13 Q. Okay. Did you prepare work orders?
14 **A. What do you mean?**
15 **Q. Did you -- when a repair was necessary**
16 **at Nugget Laughlin and it was substantial enough**
17 **that it had to go through the sales department and**
18 **Larry, if the customer approved it, then a work**
19 **order would be generated, correct?**
20 **A. Yes.**
21 Q. Okay. Did you generate the work order?
22 **A. No. It would be through the office.**
23 Q. Through the office.
24 And when you say "the office," you mean
25 Larry's office or Scott's office?

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1 **A. Someone at ThyssenKrupp Las Vegas --**
2 **Q. Okay.**
3 **A. -- would generate a repair ticket.**
4 **Q. A repair ticket. Okay.**
5 **Was a repair ticket generated for every**
6 **repair or only certain-size repairs and up?**
7 **A. Only certain-size repairs and up.**
8 **Q. Okay. Roughly, what size repair**
9 **resulted in a ticket?**
10 **A. Probably anything -- just depended on**
11 **the job. But, say, a gearbox; that was --**
12 **generated a ticket, because that was in excess of**
13 **\$5,000, probably.**
14 **Q. Okay. Okay. So, in your mind, just as**
15 **an approximation -- we're not going to -- you're**
16 **not a robot and we're not asking for any specifics**
17 **here -- but in your mind, approximately, if**
18 **something was \$5,000 or more, like a gearbox or**
19 **any repair more complicated than that, that would**
20 **result in a repair ticket?**
21 **A. Yes.**
22 **Q. Okay. And any repair below that, or**
23 **any maintenance below that, did not result in a**
24 **repair ticket?**
25 **A. Yes.**

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1 Q. Okay. So for anything below that,
2 the -- the evidence would be in your TK Smart
3 notes and your e-mails back and forth with your
4 supervisor, correct?
5 **A. Can you --**
6 **Q. Yeah.**
7 **A. -- say it again.**
8 **Q. Yeah.**
9 **So anything below a repair ticket, any**
10 **repair or any maintenance below the threshold of**
11 **generating a repair ticket, the evidence of that**
12 **would be on your TK Smart program?**
13 **A. Mainly.**
14 **Q. Mainly.**
15 **And where else would it be located?**
16 **A. It would be at sometimes where I would**
17 **visit the job sporadically and observe the**
18 **escalators. Let's say, twice a week I'd go get a**
19 **coffee down at Starbucks, which was at the bottom**
20 **of the lower level of the escalators. And I'd**
21 **visually inspect the units from the outside for a**
22 **safety standpoint.**
23 **Q. Okay. And --**
24 **A. But it wouldn't be marked in time,**
25 **because it was just getting a coffee.**

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1 Q. Got it. Got it.
2 And that -- that kind of inspection
3 and any -- any maintenance wouldn't necessarily
4 result in a repair ticket?
5 A. No, not at all.
6 Q. Okay. All right. So do you know
7 who -- who generates the repair tickets?
8 A. Not currently.
9 Q. Okay. When you worked at Laughlin,
10 who -- who generated the repair tickets?
11 A. I believe it was the repair supervisor.
12 He would request it, but I don't know who he
13 requested it from.
14 Q. Okay. And during your time at Laughlin
15 Nugget, who was the repair supervisor?
16 A. Paul Hamrick.
17 Q. Was Paul there the entire eight years?
18 A. No.
19 Q. Okay. So Paul was both your supervisor
20 and also the repair supervisor?
21 A. He changed positions a few times.
22 Q. Okay. Okay. And was Scott Olsen a
23 repair supervisor?
24 A. No. Just service.
25 Q. Just service. Okay.

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1 And so ThyssenKrupp's Las Vegas office
2 was -- was not involved when it was in Las Vegas,
3 correct?
4 A. Yes.
5 Q. Okay. Did that office have Paul and
6 Scott and Jim located there?
7 A. Yes.
8 Q. Okay. Did it also have Larry Panaro?
9 A. Yes, it did.
10 Q. Okay. And Larry was on the sales side?
11 A. Yes.
12 Q. Okay. And was Larry there the entire
13 eight years that you were assigned to Laughlin?
14 A. Not the entire.
15 Q. Okay. Is Larry currently there?
16 A. No, I don't believe so.
17 Q. Okay. What portion of the eight years
18 was Larry at -- assigned to -- to the -- the sales
19 department at Las Vegas?
20 A. From when -- when I arrived in 2010 to
21 at least 2016.
22 Q. Okay. Who replaced Larry?
23 A. Jason Dobson is the current salesman
24 for Laughlin.
25 Q. And so, at any given time, there was

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1 only one sales person for -- assigned to Laughlin?
2 A. I'm not sure.
3 Q. Okay.
4 A. That's who I mainly dealt with, though.
5 Q. Got it.
6 And when you say "mainly," do you recall
7 dealing with anybody else besides Larry or Jason?
8 A. Not at that time. I may have dealt
9 with somebody else, if they were on vacation.
10 Q. Okay.
11 A. But it was mainly them.
12 Q. Okay. Now, the repair tickets that
13 were generated -- and let's go with Paul Hamrick,
14 because he was the repair supervisor.
15 A. Sure.
16 Q. So a repair ticket would be generated.
17 And would that be in physical form?
18 A. It would be on the device.
19 Q. It would be on the device. Okay.
20 So you would receive the repair ticket on
21 your device?
22 A. Yes, usually.
23 Q. Okay. Usually.
24 What other form would you receive it?
25 A. It would only be on the device, but

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1 sometimes we -- yes, it was on the device.
2 Q. Okay. Sometimes you --
3 A. Sometimes they wouldn't send a repair
4 ticket, and we have to manually enter the time.
5 Q. Got it.
6 You'd have to generate the repair ticket
7 yourself on your -- on your --
8 A. We'd enter it --
9 Q. So if you didn't get a repair ticket,
10 would you manually generate a repair ticket on
11 your device?
12 A. It wouldn't be called -- it wasn't
13 called a -- a repair ticket on the device. We'd
14 have to generate a manual ticket, is what it would
15 be called.
16 Q. Got it.
17 A. And we'd write it -- write it up as no
18 repair. The office may have fixed it later. I
19 don't know.
20 Q. Got it.
21 And a -- the repair tickets that you
22 received on your -- your smartphone, did you ever
23 delete them?
24 A. Well, the tickets, we would -- we would
25 put our time and information in there, and it

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<p>1 was -- it would get sent to the office.</p> <p>2 Q. Okay. So, then, they were no longer</p> <p>3 accessible on your phone?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So the repair tickets were only</p> <p>6 for the smaller jobs?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And then, for larger repairs,</p> <p>9 what was the process?</p> <p>10 A. It'd be a repair ticket as well, but</p> <p>11 we'd have to get a customer signature.</p> <p>12 Q. Okay. And would the customer sign on</p> <p>13 your smartphone?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So this was also on -- a</p> <p>16 capacity of the TK Smart system?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So with a larger repair, Larry</p> <p>19 and Jason would be involved, from the sales</p> <p>20 department, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And presumably, they would -- in your</p> <p>23 personal knowledge, they would get the customer's</p> <p>24 approval?</p> <p>25 A. Yes.</p> <p>Page 47</p>	<p>1 Q. -- for a larger job, would a work order</p> <p>2 then be generated?</p> <p>3 A. Say, if the customer signed something</p> <p>4 from me or signed it from the sales side?</p> <p>5 Q. Signed it from the sales side.</p> <p>6 A. It would be generated to us.</p> <p>7 Q. Okay. So you would also receive the</p> <p>8 work order?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So for a large job, you would</p> <p>11 have a repair ticket, and you would have a work</p> <p>12 order?</p> <p>13 A. Just a repair ticket.</p> <p>14 Q. Just a repair ticket. Okay.</p> <p>15 But then you would also see the work</p> <p>16 order regarding a larger job?</p> <p>17 A. I wouldn't see it personally.</p> <p>18 Q. Okay.</p> <p>19 A. We would just be told what needed to be</p> <p>20 done.</p> <p>21 Q. Got it.</p> <p>22 So work orders, not your department, not</p> <p>23 your scope; they were with Larry and Jason?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Could you access work orders on</p> <p>Page 49</p>
<p>1 Q. Okay. Did you ever directly seek the</p> <p>2 customer's approval on larger repairs?</p> <p>3 A. I would speak with the customer and let</p> <p>4 them know how I felt on the -- on my position in</p> <p>5 standpoint of certain things, and let them know</p> <p>6 what needed to be done, and direct them to the</p> <p>7 office.</p> <p>8 Q. Got it. Okay.</p> <p>9 And you would direct them to Larry and</p> <p>10 Jason, or Scott?</p> <p>11 A. Larry and Jason.</p> <p>12 Q. Larry and Jason.</p> <p>13 For the larger jobs?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Once, let's say, a repair ticket</p> <p>16 is -- is signed by the customer --</p> <p>17 A. Um-hum.</p> <p>18 Q. -- that gets sent back to the office,</p> <p>19 correct?</p> <p>20 A. I believe so.</p> <p>21 Q. Okay. And then a work order would be</p> <p>22 generated?</p> <p>23 A. Say it again?</p> <p>24 Q. After the repair ticket is generated --</p> <p>25 A. Um-hum.</p> <p>Page 48</p>	<p>1 your smartphone?</p> <p>2 A. No.</p> <p>3 Q. Okay. So you could only access the</p> <p>4 repair tickets?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So a repair ticket is generated,</p> <p>7 you fill out the information; or if you don't get</p> <p>8 a repair ticket, then you would manually enter the</p> <p>9 information for a repair ticket, and then you</p> <p>10 would go ahead and do the job?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. When you finished the job, what</p> <p>13 sort of documentation was required to -- to verify</p> <p>14 completion?</p> <p>15 A. We normally would write it in our</p> <p>16 ticket that we finished the job --</p> <p>17 Q. Okay.</p> <p>18 A. -- and write it in the log books that</p> <p>19 we finished a repair.</p> <p>20 Q. Okay. Okay. So -- so the repair</p> <p>21 ticket, it kind of is -- is important and exists</p> <p>22 the entire time, from the beginning of when you</p> <p>23 notice a problem to when the job is finished. And</p> <p>24 then you would put notes into your TK Smart</p> <p>25 program to sort of complete the repair ticket.</p> <p>Page 50</p>

1 Is that fair to say?
2 **A. Say it again.**
3 Q. So you would -- you -- let's -- let's
4 say a repair ticket is generated for a service
5 issue at Laughlin Nugget. You get the repair
6 ticket on your phone.
7 And once you finish that specific service
8 issue, you would put the details into that
9 specific repair ticket, correct?
10 **A. Yes.**
11 Q. Okay. And then, after that point, when
12 you finish the job, do you have anything to do
13 with that specific repair ticket that you sent
14 back?
15 **A. Not afterwards.**
16 Q. Okay. Okay. And at a point later,
17 let's say a couple of months later, could you
18 access those repair tickets?
19 **A. For up to a year.**
20 Q. For up to a year.
21 And at the same time that you filled out
22 completion of a job on the repair ticket, you'd
23 also note it in the machine-room log?
24 **A. Yes.**
25 Q. Okay. That machine-room log, for --

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1 let's -- let's take Laughlin Nugget.
2 That machine-room log, was that
3 ThyssenKrupp property, or was that Golden Nugget
4 property?
5 **A. I'm not sure whose property it is.**
6 Q. Okay. Did you always have access to
7 that log whenever you needed it?
8 **A. Yes. We had the logs. We wrote the**
9 **logs.**
10 Q. Okay.
11 **A. They said ThyssenKrupp on them. We**
12 **left them in the machine.**
13 (Reporter asks for clarification.)
14 THE WITNESS: They say ThyssenKrupp
15 Elevator all over them, ThyssenKrupp Elevator
16 escalator log number. We write the year, date,
17 unit.
18 BY MR. IQBAL:
19 Q. Okay. So when you would -- you -- you
20 mentioned, like, you know, fifteen -- ten minutes
21 ago, sometimes buying a coffee and going and
22 visually inspecting.
23 When you would do a simple visual
24 inspection like that, would you put that into the
25 logbook?

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1 **A. No.**
2 Q. Okay. When would you put things into
3 the logbook?
4 **A. When I did maintenance or repair.**
5 Q. When you did inspections, would you put
6 that into the logbook?
7 **A. You mean yearly inspections?**
8 Q. Yes.
9 **A. Yes, with a state inspector.**
10 Q. Was it required that yearly inspections
11 have a state inspector along?
12 **A. Yes. It was a third-party inspector**
13 **that inspected the unit every year that I was**
14 **there.**
15 Q. Okay. And so that would go into the
16 logbook?
17 **A. Yes. And the inspector also had a**
18 **sticker that he would put on the logbook**
19 **stating -- verifying that he was there as well.**
20 Q. Now, that logbook is for maintenance or
21 repair and also the yearly inspections, correct?
22 **A. Yes.**
23 Q. Other types of service, would that go
24 into the logbook?
25 **A. Yes.**

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1 Q. Can you give me examples?
2 **A. Other than just maintaining it? No.**
3 Q. Okay. But when you would go for
4 routine maintenance, that would go into the
5 logbook?
6 **A. Yes, if I filled it out.**
7 Q. Okay. And -- and outside of, like, the
8 simple buying a coffee and visually inspecting it,
9 if you did any more than that with respect to the
10 escalators, did you put that information into the
11 logbook?
12 **A. Sometimes I put the information in, but**
13 **sometimes I didn't have enough time.**
14 Q. Got it. Okay.
15 So the completeness of the logbook and
16 different entries depended on how much time you
17 had?
18 **A. Yes.**
19 Q. Okay. And so when you were pressed for
20 time, entries didn't go into the logbook?
21 **A. Correct.**
22 Q. Okay. And when you were pressed for
23 time, entries also didn't go into the TK Smart
24 system, correct?
25 **A. Yes.**

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1 Q. Okay. Would you then go back later and
2 fill in that information into the logbook?
3 A. Yeah. I probably didn't even remember
4 what it said.
5 Q. Okay. So that -- if you were pressed
6 for time, then there was no record made on the
7 TK Smart system, and there was no logbook entry.
8 There -- there would just be nothing,
9 then?
10 A. Yes.
11 Q. Okay. And you -- you never went back
12 and add -- filled in that information?
13 A. No.
14 Q. Okay. So the repair ticket gets filled
15 out -- under normal circumstances, when you have
16 time, the repair ticket gets filled out, and then
17 you sign the logbook.
18 A. Um-hum.
19 Q. Is that the extent of the documentation
20 with respect to any repair or --
21 A. Yes.
22 Q. -- servicing? Yes?
23 A. Yes.
24 Q. Okay. Would you send e-mails regarding
25 what you saw or what you did?

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1 A. Not normally.
2 Q. Okay. You said "not normally."
3 When would you?
4 A. If there were issues with -- with the
5 unit, like the gearbox, possibly. If there were
6 issues pertaining to the age of the steps, the age
7 of the escalator, I would send that in an e-mail.
8 Q. Okay. And who would you e-mail?
9 A. I would e-mail Larry Panaro.
10 Q. And did you, from time to time, between
11 2010 and 2018, e-mail Larry regarding the down
12 escalator?
13 A. Yes.
14 Q. Okay. Because you had concerns about
15 the down escalator?
16 A. There were some concerns.
17 Q. Okay. And -- we'll get to those. But
18 I -- I'm just talking process now.
19 And not -- not just with Laughlin Nugget;
20 with all of the casinos?
21 A. Multiple places.
22 Q. Yes, multiple places.
23 If you had a concern about an escalator,
24 you would then e-mail Larry Panaro?
25 A. Yes.

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1 Q. Okay. Would you also e-mail Scott
2 Olsen?
3 A. Yes.
4 Q. Okay. So would you send one e-mail to
5 both of them, or would you e-mail them separately?
6 A. Most of the time, it'd be to both of
7 them.
8 Q. Okay. Okay. And so e-mails, you
9 reserved for situations when you were concerned
10 about the machine?
11 A. Yes.
12 Q. Okay. And you did that, typically,
13 from time to time, for different casinos?
14 A. Depending on the situation.
15 Q. Okay. And you -- as you sit here, you
16 recall that you did that from time to time for
17 the -- the down escalators at -- at Golden Nugget
18 Laughlin, correct?
19 A. Yes.
20 Q. Okay. Outside of the -- the logbooks
21 in the machine rooms at the different casinos, did
22 ThyssenKrupp keep any other records in the machine
23 rooms?
24 A. Not normally.
25 Q. Okay. When you say "not normally," can

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1 you give an example of an unusual situation where
2 other records may be kept?
3 A. We usually only fill out the
4 machine-room logs; but if there's a repeat issue
5 with an elevator, we may write it down. But I
6 didn't do that.
7 Q. Okay. When you say "we may write it
8 down," where would that be written down?
9 A. On a piece of paper somewhere.
10 Q. Okay. Okay. But -- and you just
11 testified that you didn't do that?
12 A. No.
13 Q. And why not?
14 A. I -- it was for -- mostly for
15 troubleshooting, fall codes --
16 Q. Okay.
17 A. -- on elevators.
18 Q. So -- okay. So the machine rooms had
19 these logs.
20 In your personal knowledge, back at the
21 Thyssen office in Las Vegas --
22 A. Um-hum.
23 Q. -- is there a place where they keep all
24 the repair tickets and work orders associated with
25 these different machines?

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1 **A. I don't know.**
2 Q. You don't know. Okay.
3 Did you ever spend any time in the
4 Las Vegas office?
5 **A. Only for safety training.**
6 Q. Okay. So outside of safety training,
7 you never had occasion to go to the Las Vegas
8 office?
9 **A. Not normally.**
10 Q. Okay. Okay. When would you go?
11 **A. Only if I needed parts.**
12 Q. Got it. Okay.
13 **A. And safety training.**
14 Q. Got it. Okay.
15 So Larry and the sales folks were located
16 in Las Vegas, and also Scott and Paul and Jim,
17 your supervisors?
18 **A. Yes.**
19 Q. Okay. And what -- what's the -- the
20 address of the Las Vegas office?
21 **A. I don't know the exact address.**
22 Q. Okay. Do you know the rough location?
23 **A. I could look in my phone, if that's**
24 **what you need.**
25 Q. Okay. No, no, no. And -- anything

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1 that we need, we can go through Rebecca.
2 **A. I believe the first address was on Ali**
3 **Baba --**
4 Q. Okay. All right.
5 **A. -- during that time period.**
6 Q. Got it.
7 To your knowledge, the -- the folks in
8 the Las Vegas office, did they do any -- any --
9 anything official with either the repair tickets
10 or the work orders, that you're aware of?
11 **A. I don't know.**
12 Q. Okay. As far as you're concerned,
13 everything that you did was in the form of a
14 repair ticket?
15 **A. Yes.**
16 Q. Okay. And that was on your device?
17 **A. Yes.**
18 Q. Okay. And also, the -- the
19 machine-room logs?
20 **A. Yes.**
21 Q. Okay. Did you ever, outside of the
22 laptop -- which was just for elevators, correct?
23 **A. Yes.**
24 Q. -- and your smartphone, which -- which
25 you used starting in 2011 or 2012, and the

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1 machine-room logs, did you keep any other notes or
2 information about -- about your different --
3 different machines that you're responsible for?
4 **A. No.**
5 Q. Okay. Now, when a customer authorized
6 a repair, did you see any documentation from that
7 customer with their authorization?
8 **A. No.**
9 Q. Okay. You simply got the go-ahead
10 to -- to do the work, correct?
11 **A. Yes.**
12 Q. Okay. How did you receive that
13 go-ahead?
14 **A. We usually get a phone call.**
15 Q. Okay. Okay. That customer
16 authorization, was that also reflected in your
17 repair tickets?
18 **A. No.**
19 Q. Okay. Okay. And you said you usually
20 got a phone call.
21 What other means did you receive
22 notice -- okay, they approved?
23 **A. Possibly in an e-mail, from time to**
24 **time.**
25 THE REPORTER: I'm sorry --

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1 **A. In an e-mail from time to time. But**
2 **95% of the time, it was a phone call scheduling us**
3 **to come down and repair.**
4 BY MR. IQBAL:
5 Q. Okay. If -- and that 5% that was
6 associated with e-mail, was that for the larger
7 jobs?
8 **A. Yes.**
9 Q. Okay. So, in your recollection as you
10 sit here today, do you recall seeing any e-mails
11 for larger jobs at the -- the Laughlin Nugget?
12 **A. No.**
13 Q. Okay. The Laughlin Nugget -- who --
14 who are the employees that you -- you -- you
15 worked with or talked with most frequently there?
16 **A. Don Hartmann.**
17 Q. Okay. Anyone else?
18 **A. He was the main guy.**
19 Q. Okay. And in your recollection, what
20 was Don's position?
21 **A. I believe he was the lead engineer.**
22 Q. I -- I'm going to represent that,
23 during a deposition, he said he was the director
24 of facilities.
25 Does that seem right to you?

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1 A. Yeah, it does.
2 Q. Okay.
3 A. It's been a while.
4 Q. No worries.
5 And you said Don was the main guy.
6 Anyone else that you interacted with?
7 A. Don't remember their names, but we
8 would just tell them that the unit is back in
9 service. Anything serious, we would talk to Don
10 Hartmann personally.
11 Q. Okay. So if a -- if a serious issue
12 came up during an -- an inspection or when you're
13 servicing or maintaining the escalators at
14 Laughlin Nugget, would you talk to either Scott or
15 Larry first, or would you go and talk to Don?
16 A. I would talk to Scott first --
17 Q. Okay.
18 A. -- or Larry --
19 Q. Okay.
20 A. -- and then talk to Don Hartmann.
21 Q. Okay. And did you do that with every
22 serious issue that came up?
23 A. The serious issues, yes.
24 Q. Okay. Issues that were not as serious,
25 did you have a need or occasion to talk with

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1 Golden Nugget folks?
2 A. If it wasn't serious, I would let Don
3 know what I did on the escalator so he was aware.
4 Q. Okay. And how would you let Don know?
5 A. I'd either call him or see him
6 personally.
7 Q. Okay. Did you ever send Don e-mails?
8 A. I think I sent him one e-mail, saying
9 that I was servicing his escalator.
10 Q. Okay. So in eight years, you probably
11 just sent a -- a handful of e-mails to him or just
12 one?
13 A. Maybe a handful.
14 Q. Okay. Did Don Hartmann ever send
15 e-mails to you?
16 A. I think he sent one.
17 Q. Okay.
18 A. It may have said, okay, thanks.
19 Q. Okay. Did you receive e-mails from any
20 other Golden Nugget personnel?
21 A. No.
22 Q. Do you -- if I said the name Clint
23 Bekla, does that -- Belka, does that ring a bell?
24 A. Not really.
25 Q. Okay. Did you deal with a Richard

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1 Smith at Golden Nugget?
2 A. Possibly.
3 Q. Okay. Do you recall receiving any
4 e-mails from Richard Smith?
5 A. No.
6 Q. Do you recall sending any e-mails to
7 Richard Smith?
8 A. No.
9 Q. And Jackie Kamacha (phonetic),
10 do you -- does that name ring a bell?
11 A. Not off the top of my head.
12 Q. Okay.
13 A. There was a lot of engineers in each
14 building.
15 Q. Got it.
16 A. I usually associate with people's
17 faces, except for, like, Don Hartmann or the other
18 directors of facilities.
19 Q. Got it. Okay.
20 A. They know my name, but I just don't
21 really know theirs.
22 Q. Yeah.
23 So the machine-room logs -- we -- we
24 talked extensively about, you know, your work on
25 the escalators and then putting notes there when

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1 you had time.
2 Did the logs also include information
3 about elevators at the Nugget?
4 A. Not the escalator logs.
5 Q. Okay. So there are separate logs for
6 the escalators and elevators?
7 A. Yes.
8 Q. Okay. So given that you were the only
9 one assigned between 2010 and 2018, the entries
10 into the machine-room log for the escalator had
11 only your entries in it, correct?
12 A. For maintenance only.
13 Q. For maintenance only.
14 A. There might have been trouble calls
15 where other people have written in there, or
16 repairs as well.
17 Q. Got it. Okay. Okay.
18 When there were trouble calls and
19 repairs, who else would work on the -- the
20 Laughlin escalators?
21 A. For trouble calls, it could have been
22 any of the names that I gave you earlier.
23 Q. Okay.
24 A. But it usually wouldn't be during the
25 time of my work hours. It would be overtime or if

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1 **I was on vacation.**
2 Q. Okay. So if you were on vacation, who
3 would take your role of doing the inspections,
4 looking at the service, and making entries into
5 the machine-room logs?
6 **A. Well, usually, I take vacation for less**
7 **than a week, so it wasn't necessary. For**
8 **inspections, I would -- I would schedule around**
9 **it, so I would be there for the inspection.**
10 Q. Got it. Got it.
11 Did -- do you recall at any time having
12 someone enter information into the logbook when
13 you weren't there?
14 **A. Possibly one person.**
15 Q. And their name?
16 **A. For -- he did an inspection for me. I**
17 **don't remember his name.**
18 Q. Okay.
19 MR. IQBAL: Let's -- let's take a break
20 now.
21 VIDEOGRAPHER: This marks the end of media
22 number 1. We're going off the record at
23 11:19 a.m.
24 (Recess taken.)
25 VIDEOGRAPHER: This marks the start of

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1 media number 2. We're back on the record at
2 11:44 a.m.
3 CONTINUED EXAMINATION
4 BY MR. IQBAL:
5 Q. Thank you, Mr. Dutcher. I just want to
6 remind you, you're still under oath.
7 **A. Yes.**
8 Q. Okay. During the break, did you talk
9 to anyone about your testimony?
10 **A. No.**
11 Q. Okay. All right. And just -- just
12 going back, we talked about the fact that the --
13 the TK Smart program gives you, you know, two
14 lines or a couple of sentences' space to -- to put
15 in notes.
16 What would you do if you had to write
17 more than two lines or more than the space that
18 was allotted?
19 **A. You could write it in the machine-room**
20 **log.**
21 Q. Got it. Okay. And on occasion, did
22 you have more than two lines to write or you
23 wanted to -- to -- to put in more than the TK
24 Smart system allotted?
25 **A. It was on occasion, but it wasn't**

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1 **necessary.**
2 Q. Okay. All right. During your training
3 with Thyssen, your safety training, did you get
4 any training on records keeping?
5 **A. No.**
6 Q. Okay. Did you get any training on
7 records keeping from either Larry or Scott or
8 Paul?
9 **A. No.**
10 Q. Did you have any training on the
11 TK Smart device?
12 **A. Yes.**
13 Q. Who -- who gave you that training?
14 **A. Someone in the office.**
15 Q. Okay. And did they go through the
16 whole process of how to enter data and then what
17 happens to it?
18 **A. Just how to enter data.**
19 Q. Okay. Now, at the Laughlin Nugget, you
20 said that you -- you worked most frequently
21 with -- with Don Hartmann; that's correct?
22 **A. Yes.**
23 Q. Okay. And so your interactions with
24 Don, were they mainly you informing Don of -- of
25 something specific with the escalators?

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1 **A. It would go both ways.**
2 Q. Okay. So Don would also either call
3 you or talk to you on the floor about different
4 issues with the escalator?
5 **A. Yes.**
6 Q. Okay. And if Don approached you, would
7 you take notes of what he said or what the
8 conversation with him was?
9 **A. I would take notes in my head, and I**
10 **would call my supervisor if it was necessary.**
11 Q. Okay. And when would it be necessary?
12 **A. If it was a big project.**
13 Q. Okay. Okay. And did you -- you said
14 you'd take notes in your head.
15 Did you put any of those conversations
16 that you had with Don into the TK Smart system?
17 **A. No.**
18 Q. Okay. That was more for the repair
19 tickets and Thyssen internal --
20 **A. Internal things.**
21 Q. Okay. Now, we -- we discussed
22 previously that -- that you did send and receive
23 some -- some work e-mails regarding your work at
24 the Laughlin Nugget, correct?
25 **A. Yes.**

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1 Q. Okay. So on your tablet, you -- you
2 have access to all the calls that were made
3 regarding the escalator?
4 **A. No, not all of them; just the accident**
5 **report.**
6 Q. Okay. Okay. So when you say "tablet,"
7 you mean your smartphone device?
8 **A. This iPad (indicating).**
9 Q. Okay. Okay. So we've been talking
10 about the --
11 **A. This is my personal iPad.**
12 Q. Got it. Got it.
13 So your -- your ThyssenKrupp smartphone
14 is your second iPhone now; but in -- in Laughlin,
15 it was your first iPhone following the CS50,
16 correct?
17 **A. CN50, yes.**
18 Q. CN50. Okay.
19 This -- and you're pointing to your --
20 your personal iPad?
21 **A. Yes.**
22 Q. Okay. And so do you have work-related
23 information on your personal iPad?
24 **A. Just in an e-mail.**
25 Q. So -- so you have your work e-mail that

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1 comes to your personal iPad?
2 **A. No. Not my work e-mail, no.**
3 Q. Okay. Okay. How -- how can you
4 access -- how do you access digital calls or the
5 history of digital calls on your iPad?
6 **A. I was sent a digital file.**
7 Q. Okay. And that digital file came from
8 someone at Thyssen?
9 **A. From Rebecca. You have the same**
10 **information there you're holding.**
11 Q. Got it.
12 MS. MASTRANGELO: He's talking about that
13 account report.
14 MR. IQBAL: Okay. Okay.
15 BY MR. IQBAL:
16 Q. So the account reports have both the
17 information entered into the TK Smart system and
18 also calls that were made?
19 **A. Possibly.**
20 Q. Okay. Okay. So you looked at the
21 account history report, and you also looked at an
22 accident report that you -- you -- you did
23 associated with the -- the Nugget --
24 **A. Yes.**
25 Q. Okay. And outside of these two things,

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1 did you review anything else?
2 **A. No.**
3 Q. Okay. All right. Well, let's -- let's
4 jump into this.
5 **MR. IQBAL: I am handing to the court**
6 **reporter what is going to be marked as**
7 **Exhibit 1.**
8 **I have a copy for you, Rebecca.**
9 **Alex, it's going to be -- I -- I sent you**
10 **the two -- I sent you the -- the -- the two**
11 **attachments.**
12 **MS. MCLEOD: I -- I received those. Thank**
13 **you.**
14 **MR. IQBAL: Yeah. And I -- I'm going to be**
15 **asking questions on the account history report,**
16 **which starts with the Bates number JNB 002013.**
17 MS. MCLEOD: 013, you said, again?
18 MR. IQBAL: Yep. Yep.
19 MS. MCLEOD: Okay. Thank you.
20 (Exhibit 1, Account History Report, was
21 marked for identification.)
22 BY MR. IQBAL:
23 Q. Mr. Dutcher, I'm going to represent
24 that this account history report was run
25 October 30, 2017, and we received it as part of

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1 production from Rebecca November 6, 2017. And
2 it's Thyssen's second supplemental. It has our
3 Bates numbering on there, but I'm going to
4 represent that this report came from your counsel.
5 Why don't you take a -- a quick look
6 through it -- it's about 10, 15 pages -- before I
7 start asking questions.
8 MS. MASTRANGELO: You don't have to read
9 the whole thing. Just look through it.
10 **A. (Witness reviews document.)**
11 BY MR. IQBAL:
12 Q. Does it look familiar?
13 **A. Some of it.**
14 Q. Okay. All right. Well, on -- on that
15 first page, it's denoted JNB 002013.
16 Do you see that on the right --
17 **A. Yes.**
18 Q. -- top right?
19 **A. Yes.**
20 Q. Okay. Great. So we're on -- we're on
21 page 1 of the account history report.
22 Can you just tell us, generally, what
23 information is contained in this document?
24 **A. On this first page?**
25 Q. Yes.

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1 **A. Annual escalator testing.**
2 Q. Okay. And then, on the second page, at
3 the top left, it says "Callback"?
4 **A. Yes.**
5 Q. And what is this, generally?
6 **A. It's callbacks, is what it says.**
7 Q. All right. And so outside of those
8 times when you were rushing because you didn't
9 have time, everything that you would have noted in
10 the TK Smart would be in here?
11 **A. Say it again.**
12 Q. So you -- you testified that if you
13 were -- if you didn't have time, you wouldn't put
14 information into the TK Smart system, correct?
15 **A. Yes.**
16 Q. And -- and if you didn't have time, you
17 also wouldn't put information into the machine
18 logbook, correct?
19 **A. Yes.**
20 Q. Okay. So outside of those times when
21 you -- you were -- you -- you -- you didn't have
22 time, everything else would be in here?
23 **A. All the stuff that I inputted would be**
24 **in here.**
25 Q. Okay. All right. Now, what percentage
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1 of the time were you just jammed and didn't have
2 an opportunity to either enter stuff into the
3 TK Smart system or the logbook?
4 **A. I don't know the exact number.**
5 Q. Can you give a rough estimation?
6 **A. I would say 60% of the time.**
7 Q. 60% of the time, you were too busy?
8 **A. Yes.**
9 Q. Okay. When you say too busy, was that
10 because you had several locations and jobs to go
11 to?
12 **A. Yes.**
13 Q. Okay. So is it fair to say that this
14 account history only represents roughly 40% of
15 the -- the work that you did?
16 **A. Yes.**
17 Q. Okay. And the other 60% is not
18 recorded anywhere?
19 **A. Yes.**
20 Q. How long does it take to put an entry
21 into the TK Smart system?
22 **A. Sometimes could be 15 minutes, and**
23 **sometimes it could be an hour, depending on if the**
24 **device is functioning properly.**
25 Q. Okay. It would take an hour sometimes
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1 to put in two sentences?
2 **A. Yes, back at that time. The device**
3 **would crash, it would spin, it wouldn't connect to**
4 **the Internet.**
5 Q. Okay. Okay. And so the quickest
6 amount of time would usually be 15 minutes?
7 **A. Yes.**
8 Q. Because of the device issues?
9 **A. Yes.**
10 Q. Did you ever bring up the issues that
11 the device was having with your superiors?
12 **A. It would be brought up monthly.**
13 Q. And did they do anything?
14 **A. I'm not sure if they did anything or**
15 **not.**
16 Q. Okay. Did they replace the device?
17 **A. After a while, we went to a new system.**
18 Q. A -- a new TK Smart system?
19 **A. Which is the iPhone with the TK Smart.**
20 Q. Got it.
21 **A. It's so much quicker.**
22 Q. Got it.
23 So the iPhone, you had for the majority
24 of your -- your time at Laughlin, correct?
25 **A. Yes.**
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1 Q. And when you had the iPhone, how long
2 would it take to make an entry into the TK Smart
3 system?
4 **A. Five to ten minutes.**
5 Q. Okay. When you had the iPhone, did the
6 TK Smart system still crash?
7 **A. Not as much, no.**
8 Q. Okay. But the answer is yes?
9 **A. Yes.**
10 Q. Okay. So if you -- so this actual
11 document, did you have a role in -- outside of
12 your entries, did you have a role in creating this
13 report?
14 **A. What do you mean, outside of my**
15 **entries.**
16 Q. So you put in entries at different
17 times --
18 **A. Sure.**
19 Q. -- which we can see, correct?
20 **A. Right.**
21 Q. But in terms of actually printing this
22 history report out, did you do that?
23 **A. No.**
24 Q. Okay.
25 **A. I have no access to that.**
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1 Q. Got it. Okay.
2 This would be something that either Scott
3 or Paul did?
4 **A. Somebody in the office.**
5 Q. Got it. Okay.
6 So it could be Scott or Paul or Larry;
7 you don't know?
8 **A. Or it could be an account**
9 **administrator; so, no.**
10 Q. Got it. Okay. All right.
11 So the first page has the heading "Annual
12 Safety Test."
13 Does -- does that mean that Thyssen
14 performed a safety test on the escalators every
15 year?
16 **A. Yes.**
17 Q. Okay. What does the -- the annual
18 safety test involve?
19 **A. Well, first, the state inspector has to**
20 **be there, or a third-party inspector. Usually,**
21 **when he gets there, we have to barricade the**
22 **escalator, remove the deck plates, take a minimum**
23 **of one step out, check all the safety switches in**
24 **the unit, check the brake torque, and make sure**
25 **the power -- when you turn the power off, it, you**

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1 **know, doesn't run either.**
2 Q. Okay.
3 **A. There's multiple safety switches in**
4 **each escalator, so depending on the age of the**
5 **unit depends on how many switches there are to**
6 **test.**
7 Q. Okay. The more new a unit is, does it
8 have more switches?
9 **A. Yes.**
10 Q. Okay. And this was a older model,
11 correct?
12 **A. Yes, it is.**
13 Q. How old was the model?
14 **A. I believe it was put in, in '79 or '80.**
15 Q. Okay. So when you were working on
16 it -- I mean, last year, it was 37, 38 years old,
17 correct?
18 **A. Yes.**
19 Q. Okay. Is that typical?
20 **A. For an escalator to run that long?**
21 **Q. Yes.**
22 **A. In today's day, yes.**
23 **Q. Okay.**
24 **A. Macy's -- Macy's, in this town, has**
25 **escalators that are almost 100 years old.**

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1 Q. Okay. But outside of Macy's?
2 **A. There's escalators that run that --**
3 **that age all the time.**
4 Q. Okay. All right. How long does the
5 annual safety test take?
6 **A. Around two hours.**
7 Q. Two hours. Okay.
8 And you said a minimum of one step.
9 When you do annual safety inspections,
10 how many steps do you usually remove?
11 **A. One.**
12 Q. One? Okay.
13 Because that's the minimum?
14 **A. Yes. You have to look inside. You**
15 **have to test the brake. You can't access the**
16 **brake without a step out.**
17 Q. Right. Would you ever take more than
18 one step out?
19 **A. If the inspector desired.**
20 Q. Did -- in your recollection, did the
21 inspector ever desire more than one step out at
22 the Laughlin --
23 **A. No.**
24 Q. Okay. So we have the dates here. If
25 you look at the top, this report is from May 1,

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1 2010, to December 31, 2015.
2 Do you see that at the top?
3 **A. Yes.**
4 Q. Okay. So it looks like the -- the --
5 the first -- the -- the first entry appears under
6 Annual Safety Test. The -- it appears that the
7 inspection was July 14, 2014.
8 Do you see that?
9 **A. Yes.**
10 Q. Okay. Does that show that the annual
11 safety inspection was performed on the down
12 escalator at the Laughlin Nugget on that date?
13 **A. According to this piece of paper, it**
14 **does.**
15 Q. Okay. And you wouldn't have any reason
16 to -- to believe that your entries were inaccurate
17 or incorrect, right?
18 **A. No. There may be some entries that**
19 **aren't here -- I don't know why -- but I know**
20 **there was a safety test performed every year at**
21 **that job site.**
22 Q. And it says -- under Assigned to, for
23 the first one, in July 14, 2014, it says assigned
24 to you.
25 What does that mean?

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1 **A. You mean on the first page?**
2 Q. On the first page, at the top, right
3 next to "Incident Date July 14, 2014," it says,
4 "Assigned to Christopher N. Dutcher."
5 **A. It means the ticket was assigned to me**
6 **to perform the safety test.**
7 Q. Okay. So does -- does that mean -- can
8 we assume that you -- you performed that safety
9 test?
10 **A. Yes.**
11 Q. Okay. And below that -- actually, on
12 the -- the same date, it says July 14, 2014, and
13 it says Kathleen E. Clendenen?
14 **A. Uh-huh.**
15 Q. Who -- who is that?
16 **A. She was another person that was helping**
17 **me inspect the escalator -- another individual**
18 **inspecting the escalator with me. Normally, it's**
19 **performed by two individuals --**
20 Q. Got it.
21 **A. -- just like a repair --**
22 Q. Got it. Okay.
23 **A. -- because I can't physically turn the**
24 **key switch and test the switches at the same time.**
25 Q. Got it. Okay.

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1 And when we look under what -- what is
2 assigned to you, that -- that very first entry,
3 under Resolution, it says, "Perform annual
4 internal inspections with Kathy C. and Bill
5 Shaefer"?
6 **A. Yes.**
7 Q. So Kathy, you -- you just testified,
8 was -- was with you and did the inspection with
9 you.
10 Who is Bill Shaefer?
11 **A. He's the third-party inspector.**
12 Q. Okay. So there were three of you on
13 that day, July 14, 2014, correct?
14 **A. Yes.**
15 Q. And -- I'm sorry. Go ahead.
16 **A. It's always witnessed by an inspector.**
17 Q. Right. And you said it's either got to
18 be a state inspector or a third-party inspector?
19 **A. Correct.**
20 Q. Okay. And -- and then it's -- so
21 Kathleen worked with you at Thyssen?
22 **A. Yes.**
23 Q. Okay. And what -- what was her job
24 title? Was it also mechanic?
25 **A. At that time, I believe it was.**

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1 Q. Okay.
2 **A. But I'm not sure.**
3 Q. Okay. So the two of you were
4 coworkers?
5 **A. Yes.**
6 Q. Okay. And was it typical for you and
7 Kathleen, since two folks are needed, to -- to
8 inspect the different escalators at the different
9 locations that were under your charge?
10 **A. Yes. Normally, they send me a**
11 **different person each time.**
12 Q. Okay. So this time it was Kathleen,
13 but it -- it can be --
14 **A. -- random.**
15 Q. Random. Okay.
16 Is that company policy?
17 **A. To be random?**
18 Q. Yes.
19 **A. No. It's just whoever is available.**
20 Q. Got it. Okay. All right.
21 So the -- the next entry, the final entry
22 on this page, appears to be for an annual
23 inspection on July 16, 2013.
24 Do you see that?
25 **A. Yes.**

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1 Q. Okay. And under Assigned to, it has
2 your name.
3 Do you see that?
4 **A. Yes.**
5 Q. Okay. Can we safely assume that you
6 performed the inspection on July 16, 2013?
7 **A. Yes.**
8 Q. Okay. There -- there don't appear to
9 be any entries for the annual safety tests in 2015
10 or in 2012, 2011, or 2010.
11 Why not?
12 **A. I don't know why they're not on here,**
13 **but they were done.**
14 Q. They were done?
15 **A. Yes.**
16 Q. Okay. And when they were done, you
17 would enter the information onto the TK Smart
18 device?
19 **A. Yes.**
20 Q. And we see the evidence of that with
21 the -- the two entries, one for the 2014 and one
22 for 2013, correct?
23 **A. Um-hum. Yes.**
24 Q. So the entries for 2015, 2012, 2011,
25 and 2010, they should also be on here, correct?

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1 A. They should, but they may be under
2 another ticket.
3 Q. Under another ticket?
4 Can you -- can you explain?
5 A. Because this says "Under annual safety
6 tests."
7 Q. Right.
8 A. At that time, they didn't -- they may
9 have not had the annual safety test spot where you
10 can click, so it may have been just under a manual
11 ticket, or they may have sent us a repair ticket.
12 Q. Okay. But the annual safety test
13 should be done every year, correct?
14 A. Yes.
15 Q. Okay. And, to your knowledge, given
16 that you were assigned to the Laughlin Nugget
17 between 2010 and 2018, did you perform an annual
18 safety test every year?
19 A. Yes.
20 Q. Okay. And every year that you
21 performed an annual safety test, you put it
22 under -- you put it into the TK Smart?
23 A. Yes.
24 Q. Okay.
25 MS. MASTRANGELO: Well, just for the

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1 record -- I don't want to interrupt you, but
2 this report only runs from December of '12
3 through May of '15, because the 2010 and 2011
4 were on a different program that he talked
5 about, which are not accessible. So that's
6 just for your information.
7 MR. IQBAL: Yes, because the -- the start
8 date says May 1, 2010.
9 MS. MASTRANGELO: Yes. And they weren't
10 using this program in 2010 and '11, so nothing
11 showed up for it.
12 MR. IQBAL: Okay.
13 MS. MASTRANGELO: And I've not been able to
14 get the prior records from the other program.
15 MR. IQBAL: Okay. Okay.
16 BY MR. IQBAL:
17 Q. But 2015 should -- you were using the
18 new program, correct?
19 A. Yes.
20 Q. Okay. So the 2015 should be here.
21 But your -- your explanation is that,
22 possibly, it could be under another ticket?
23 A. Yes.
24 Q. Okay. Is there any way to -- to access
25 your notes for the annual safety tests done in

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1 2015?
2 A. I'm not sure. I cannot access them
3 personally.
4 Q. Okay. How about 2010 and 2011, when
5 you were using the other system?
6 A. No. As she just said, we can't access
7 that.
8 Q. Okay. And no one can access them?
9 A. I don't know.
10 Q. Okay. All right. Okay.
11 I'm going to -- we -- we'll get back to
12 this, but I'm going to give you the -- the second
13 exhibit here.
14 MR. IQBAL: I'm handing to the court
15 reporter what is going to be marked as
16 Exhibit 2.
17 (Exhibit 2, e-mails Bates-numbered
18 JNB 002187 to 002190 and JNB 002196 to
19 002197, was marked for identification.)
20 MR. IQBAL: And, Alex, it's the other
21 attachment.
22 MS. MCLEOD: The second one?
23 MR. IQBAL: Yes.
24 MS. MCLEOD: Thank you.
25 MS. IQBAL: Okay.

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1 BY MR. IQBAL:
2 Q. Sir, I'm going to represent to you that
3 these e-mails in here were produced by counsel for
4 Laughlin Nugget.
5 A. Okay.
6 Q. They have our Bates numbering on them.
7 I think they were subsequently Bates numbered by
8 the -- the Laughlin parties, but these have our --
9 our Bates numbers on them.
10 So if you take a look at the JNB 2187,
11 which is the first page, and JNB 2188, which is
12 the second page, looks like an e-mail exchange.
13 Now, we've -- we've -- we've talked about
14 Scott Olsen and Larry Panaro and Don Hartmann, and
15 you testified that you're aware of and you know
16 all three of those gentlemen.
17 As you look at these e-mail addresses for
18 Scott and Larry, do they look right, on page 1?
19 A. Yes.
20 Q. Okay. And as you look at the
21 dhartman@goldennugget.com, does that also appear
22 correct?
23 A. Yes.
24 Q. Okay. So when we look at the -- the
25 forwarded e-mail, there is a reference -- and I --

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1 I -- I'm speaking of what is under the original
2 message on page 1 -- and the e-mail that starts,
3 "Hello, Don."
4 Do you see that?
5 **A. Yes.**
6 Q. Okay. And it says -- on line 1 of that
7 e-mail, it says, "I spoke with" -- quote, I spoke
8 with Chris, our escalator mechanic, today, close
9 quote. And it goes on.
10 Are -- are they referring to you?
11 **A. It appears to be so.**
12 Q. Okay. Do you know of any escalator
13 mechanic -- any other escalator mechanic who would
14 have worked at the Nugget at that time, named
15 Chris?
16 **A. No.**
17 Q. Okay. Now, the e-mail indicates that
18 you replaced 26 rollers on the up escalator
19 sometime in the prior week.
20 Do you recall replacing about that number
21 of rollers on the up escalator at the Laughlin
22 Nugget at that time?
23 **A. Let me look at it for a second.**
24 Q. Sure. Take your time.
25 **A. (Witness reviews document.) Yes.**

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1 Q. Did that in fact happen?
2 **A. Yes.**
3 Q. Okay. And with reference to an
4 escalator, what is a roller?
5 **A. Rollers are on the steps themselves.**
6 Q. Okay.
7 **A. There's one at the -- at the lower end**
8 **of the -- of the step, which is the step trail way**
9 **(phonetic) rollers; and there's step chain rollers**
10 **as well --**
11 Q. Okay.
12 **A. -- two different sets.**
13 Q. Okay.
14 **A. They wear out over time, and it's**
15 **normal for them to go bad, just like your car**
16 **tires.**
17 Q. Got it.
18 And so -- you -- you -- you -- you
19 almost -- almost gave the answer there, but let --
20 let me just ask you: Why would a roller need to
21 be replaced?
22 **A. If it was worn, if there's pieces**
23 **missing out of it.**
24 Q. Okay. And what issues could be caused
25 if rollers aren't replaced?

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1 **A. If they're not replaced?**
2 Q. Yes.
3 **A. The unit could ride rough; the unit**
4 **could crash, make a lot of noise.**
5 Q. Could the unit be shaky?
6 **A. If a roller wasn't replaced?**
7 Q. Yes.
8 **A. Possibly.**
9 Q. Okay. If a roller isn't replaced,
10 could it pose a safety issue?
11 **A. Yes.**
12 Q. How so?
13 **A. If a roller isn't replaced and the step**
14 **rocks back and forth, it can create an issue.**
15 Q. Okay. And what does the fact that
16 26 rollers needed to be replaced all at one
17 time -- what does that mean?
18 **A. It means the age of the unit -- it was**
19 **aging. The step rollers, they looked like they**
20 **needed wear -- they had wear, and I was in the**
21 **unit, so I decided to replace them. I may have**
22 **found a few that were bad, but decided to go upon**
23 **it myself and look at more rollers on the unit,**
24 **replace what was necessary.**
25 Q. Okay.

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1 **A. -- replace what was necessary.**
2 Q. Got it.
3 And -- and the e-mail indicates that you
4 didn't see a need to replace any other rollers,
5 quote, at the time?
6 **A. It means that all the other rollers**
7 **looked in good shape.**
8 Q. Okay. How many rollers are there on --
9 on an escalator -- on one escalator?
10 **A. Depending on how many steps are on the**
11 **escalator, say -- let's just say a baseline of**
12 **60 steps, possibly, in that unit, or more. Sixty**
13 **times four; so 240.**
14 Q. Okay. I -- I believe there is 48 to 50
15 steps on these --
16 **A. I think there's 57.**
17 Q. Fifty-seven. Okay.
18 Do you think, or do you know?
19 **A. I think. It's been a while.**
20 Q. Okay. Okay. I -- I think that -- that
21 number is right.
22 So if there are 57 steps, that's one way,
23 right?
24 **A. Yes.**
25 Q. Okay. So 57 steps on the down

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1 escalator, 57 steps on the up escalator?
2 **A. Correct.**
3 Q. Okay. And so the down escalator, which
4 is the problem escalator at -- at issue in this
5 case, would that then have 228 rollers?
6 **A. Sure.**
7 Q. Because it's 57 times 4?
8 **A. Yes.**
9 Q. Okay. And so out of the 228, you did
10 an inspection, and you looked, and you saw the
11 need to replace 26 of them?
12 **A. On the up unit? Yes.**
13 Q. On the up unit. Okay.
14 Did you look at the other 202 rollers?
15 **A. Are you talking about on the up unit?**
16 Q. Yes.
17 **A. Yes.**
18 Q. Okay. And they didn't need replacing
19 at the time?
20 **A. No.**
21 Q. Okay. Now, the e-mail says some of the
22 up escalator rollers are okay, but it doesn't say
23 anything at all about the down roller -- down
24 escalator rollers.
25 Do you know why there was no mention of

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1 the down escalator?
2 **A. Maybe that was the escalator that was**
3 **an issue at hand.**
4 Q. Okay. Do you recall if you looked at
5 the down-escalator rollers at that time?
6 **A. Let me look at the e-mail. Not -- I**
7 **don't recall, on that date.**
8 Q. Okay.
9 **A. I can recall another date, if you'd**
10 **like.**
11 Q. Yeah. What other date is that?
12 **A. Refer to Exhibit 1 --**
13 Q. Okay.
14 **A. -- second page; right before the**
15 **incident, which would be 5/7/2015.**
16 Q. Yes.
17 **A. They said the handrail was squeaking --**
18 Q. Um-hum.
19 **A. -- which it wasn't. It was actually**
20 **the steps themselves were making a little noise.**
21 **So it says "Down escalator" for Resolution.**
22 **You see that?**
23 Q. Yes.
24 **A. "Acquired grease gun, greased and**
25 **searched for new step rollers, greased all**

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1 **step-chain roller assemblies that take grease,**
2 **observed operation, and returned to service,"**
3 **which means every roller on the entire escalator**
4 **had the grease Zerk on the step chain end of it.**
5 **There's two Zerks every single step, so I greased**
6 **every step, observed every roller on the step**
7 **itself and on the chain itself as well, which was**
8 **just days before the accident.**
9 Q. Got it. And it -- it says here, you
10 searched for new step rollers.
11 Did you not find any?
12 **A. Yes, I did.**
13 Q. You did?
14 **A. But I put it in that I searched for**
15 **them because it took a little bit of time to get**
16 **them --**
17 Q. Okay.
18 **A. -- on the job, because there are**
19 **supplies in multiple places.**
20 Q. Okay. But you didn't put in new step
21 rollers?
22 **A. If it says I searched for them, I**
23 **probably replaced a few.**
24 Q. Okay. But it doesn't say on here that
25 you replaced them?

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1 **A. Not on that sheet, no.**
2 Q. Okay. Where else would it say it?
3 **A. Nowhere, probably.**
4 Q. Okay. Would that -- do you think that
5 would have been important to put in that you
6 replaced some step rollers?
7 **A. Possibility. But if it says I**
8 **inspected and properly greased all step-chain**
9 **roller assemblies, I looked at every roller on the**
10 **unit.**
11 Q. Okay. So if you search for step
12 rollers and you can't find them at the facility,
13 then the second-best thing is to apply the grease,
14 which you did?
15 **A. Apply the grease, yes, and find rollers**
16 **at another facility.**
17 Q. Got it. Okay.
18 **A. There's a main -- there's a lot of**
19 **escalators with the same model. We have parts**
20 **spread all over town.**
21 Q. Okay. All right.
22 **A. Or in my vehicle.**
23 Q. All right. Okay. All right. So on
24 the next page, 2188, there's an e-mail from Don
25 to -- to Scott on -- on a Sunday; that's

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1 **A. In two thousand what?**
2 BY MR. IQBAL:
3 Q. In 2010.
4 **A. I'd have to look.**
5 Q. Take your time.
6 **A. (Witness reviews document.)**
7 MS. MASTRANGELO: That's not going to help.
8 MR. IQBAL: What's that?
9 MS. MASTRANGELO: They don't go back to
10 2010, the letters we talked about a minute ago.
11 MR. IQBAL: Right, right.
12 BY MR. IQBAL:
13 Q. So at least on this accident history
14 report, because it -- it doesn't go back to 2010,
15 there -- there wouldn't be any indication that
16 the -- the rollers on the down escalator were
17 examined on this report, correct?
18 **A. According to what?**
19 Q. According to this report.
20 This report wouldn't have any inspection
21 that occurred in 2010, correct?
22 **A. According to this report or this report**
23 **(indicating)?**
24 Q. The accident history report.
25 **A. The accident themselves, now?**

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1 Q. So the question is, because this
2 account history report doesn't go back to 2010, it
3 wouldn't show any inspection of the down escalator
4 rollers in 2010, correct?
5 **A. If it doesn't go back that far, yes.**
6 **But if the other one was having issues with**
7 **crashes, the down one, I can guarantee, was**
8 **checked as well.**
9 Q. Okay. Okay. But we don't -- we -- we
10 just don't have --
11 **A. There's no written documentation --**
12 Q. Okay.
13 **A. -- at this point, in front of us.**
14 Q. Okay. Okay.
15 **A. For at least in 2010. But in 2015, it**
16 **shows that I looked at the step rollers.**
17 Q. Right. Right. So you -- you -- you
18 said, if there's an issue with the up-escalator
19 rollers, then you -- you guarantee that you would
20 have looked at the -- the down?
21 **A. Yes.**
22 Q. Okay. Was that --
23 **A. And, likewise, if there was an issue**
24 **with the down escalator, with the rollers, the**
25 **steps, I would look at the up unit as well.**

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1 Q. Okay. Is that company policy?
2 **A. I don't know if it's company policy,**
3 **but that's what I do.**
4 Q. Okay. Okay.
5 **A. Because if one engine's having a**
6 **problem, you can guarantee the other one probably**
7 **is.**
8 Q. Okay. Okay.
9 **A. Because there's age -- you know, if you**
10 **got one set of tires in the front of your car, the**
11 **back ones are probably gone.**
12 Q. Yes. Okay. All right.
13 And is that something that you did
14 typically from 2010 to 2018?
15 **A. Yes. I would check the step rollers,**
16 **make sure nothing was coming loose --**
17 Q. Okay.
18 **A. -- make sure the steps are good.**
19 Q. So we were just talking about the
20 26 rollers that were replaced on the -- on the up
21 escalator.
22 And you're -- you're -- you're say --
23 you're testifying that if you had that kind of an
24 issue, even the specific issue of the 26 rollers
25 that were replaced on the up escalator, you would

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1 have absolutely checked the down escalator as
2 well?
3 **A. Yes.**
4 Q. Okay. All right. Let's go to
5 Exhibit 2. And we're going to go to the very
6 back. We're going to navigate using the -- the
7 numbers at the bottom, JNB 2196, which is the
8 second-to-last page, and the last page, 2197.
9 Let me know when you're there.
10 **A. Yes.**
11 Q. Okay. So if you look at the -- the
12 two pages, it looks like a back-and -- an e-mail
13 chain between Larry and -- Larry sending one
14 e-mail and then Don Hartmann responding.
15 Do you see that?
16 **A. Yes. At the top, there's Don Hartmann;**
17 **at the bottom, there's Larry?**
18 Q. Yes. Okay.
19 **A. Yes.**
20 Q. All right. So on the second page --
21 this is in Larry's -- Larry's e-mail. It was sent
22 to Clint, who I'll represent is a VP at -- at
23 Golden Nugget. It -- there -- there's a reference
24 to a -- a state NOV.
25 What's an NOV?

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1 that if approximately one-third of the steps are
2 cracked on a particular unit, then all of the
3 steps should be replaced, closed quote.
4 Do you see that?
5 **A. Yes.**
6 **Q. What can cause escalator steps to**
7 **crack?**
8 **A. Do you have the piece of paper**
9 **regarding the KONE step cracks?**
10 **Q. Yes (handing).**
11 **MS. MASTRANGELO: No. I have it if you**
12 **want to use it. He's talking about the OEM --**
13 **A. It's a known condition --**
14 **MS. MASTRANGELO: -- product bulletin.**
15 **A. -- of a Montgomery escalator, that**
16 **their stairs will crack.**
17 **BY MR. IQBAL:**
18 **Q. You just said it -- it's a known**
19 **condition?**
20 **A. It's a known condition by the**
21 **manufacturer that built the escalator.**
22 **Q. Okay.**
23 **MS. MASTRANGELO: You can use this if you**
24 **want it. I don't want to show it to him if you**
25 **don't want him to see it.**

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1 **MR. IQBAL: Okay.**
2 **A. But I can explain it?**
3 **BY MR. IQBAL:**
4 **Q. Sure. Please do.**
5 **A. On those-style steps, they were welded**
6 **at the corners of the bottom, so there's no flex**
7 **to the steps. So over time, they generate cracks,**
8 **and they get cracks on the -- on the -- on the**
9 **bottom on the base, they get a crack that runs**
10 **down this way (indicating) that it can go a**
11 **certain -- I think it's an inch -- inch or so,**
12 **inch and a quarter, and you can drill a hole in it**
13 **to stop the crack. And they say it could still**
14 **run like that, KONE does.**
15 **And then -- but they also can generate**
16 **cracks on the sides, because they have three bolts**
17 **where they hook up under the side of the axles.**
18 **And over time, if those crack, you have to throw**
19 **the steps away immediately.**
20 **Q. Okay.**
21 **A. It's like A called type B step cracks.**
22 **Q. Okay. KONE says you can still run if**
23 **you drill a hole?**
24 **A. If you drill a hole, and if -- if it's**
25 **a certain measurement. If it's beyond the**

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1 **measurement, you have to replace the steps.**
2 **Q. Do you agree with KONE?**
3 **A. I don't like looking at cracks in the**
4 **steps myself.**
5 **Q. Okay.**
6 **A. It appears to be a resolution, as --**
7 **there's a lot of steps out there under the same**
8 **condition.**
9 **Q. Okay. But you would disagree with the**
10 **KONE position that you can still use a step if you**
11 **drill through it?**
12 **A. I would agree that you can use it as**
13 **long as it stops the crack.**
14 **Q. Okay. But you personally don't like**
15 **that approach?**
16 **A. Who wants a crack in anything?**
17 **Q. Okay. So your personal position is, if**
18 **there are cracks in a step, then you would replace**
19 **it?**
20 **A. I at least recommend it to the**
21 **manufacturer -- or to the owner that we should**
22 **replace it anytime; like, it -- it is safe, but it**
23 **needs to be replaced in due time.**
24 **Q. Okay. If a crack is slightly larger,**
25 **then, would you still say the step is safe?**

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1 **A. If it's slightly larger than what's**
2 **explained in the KONE information pamphlet, it**
3 **needs to be replaced immediately.**
4 **Q. Okay. All right. So this -- this**
5 **statement from -- from Larry, "I spoke with the**
6 **manufacturer's representative" -- that would be**
7 **KONE, because the steps on this specific down**
8 **escalator were KONE steps, correct?**
9 **A. Yes.**
10 **Q. And, as you testified, they were the**
11 **welded steps, correct?**
12 **A. Yes.**
13 **Q. And these welded steps have a known**
14 **history of cracking, correct?**
15 **A. Yes.**
16 **Q. Okay.**
17 **A. The unit also did have several other**
18 **steps that had -- did have the newer-style**
19 **two-axle steps in the unit.**
20 **Q. Right. But it -- it -- it had -- it --**
21 **it had --**
22 **A. Some. But mostly the welded units.**
23 **Q. Got it.**
24 **So just to be clear, that at this time,**
25 **most of the steps in the down escalator were the**

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<p>1 older welded KONE steps that had the known 2 cracking problem, correct? 3 A. Yes. 4 Q. Okay. Now, do you agree with Larry's 5 statement here -- well, let me -- let me pull this 6 back. 7 Do you agree with the manufacturer's 8 representative, which we discussed as KONE -- do 9 you agree with the -- the recommendation that if 10 approximately one-third of the steps are cracked 11 on a particular unit, that all of the steps should 12 be replaced? Do you agree with that statement? 13 A. Yes. 14 Q. Why? 15 A. Because the other steps are going to 16 start cracking soon as well if there's a known 17 problem. 18 Q. Okay. And for you, that one-third is 19 the -- is the magic ratio, or is it one-fourth; 20 like, how many steps need to be cracked on an 21 escalator before you recommend that the entire -- 22 all the steps be -- be replaced? 23 A. I don't have a magic number. 24 Q. Okay. If you see -- say, on the 25 57 steps, here, if you saw five cracked steps,</p> <p>Page 123</p>	<p>1 Q. Got it. 2 And as we talked about before, this would 3 have been generated in the office by somebody? 4 A. Yes. 5 Q. Okay. But in terms of the We 6 inspected, quote/unquote -- under "Safety matter," 7 the, quote/unquote, We inspected, on that first 8 line, that would be you, right? You would have 9 been involved? 10 A. "We" means ThyssenKrupp -- 11 Q. Right. 12 A. -- so it would be me. 13 Q. It would be you. Okay. 14 And so it -- it says here, "Per the NOV 15 dated August 17, 2012, and August 18, 2012." 16 Does that mean two notices of violation 17 or one? 18 A. It says "Item 2," so I'm thinking it's 19 one. But it was over a two-day period, possibly. 20 Q. Okay. 21 A. Unless you have the NOV in front of us, 22 you know, it's hard to tell. 23 Q. Got it. Got it. 24 What is "OEM" on that second line? 25 A. "Original equipment manufacturer."</p> <p>Page 125</p>
<p>1 would you recommend that those five be replaced, 2 or would you recommend that all 57 be replaced? 3 A. At least those five, and inspect the 4 rest. 5 Q. Okay. Okay. But you would agree with 6 the statement and the recommendation here that if 7 approximately one-third of the steps are cracked, 8 then all the steps should be replaced, because you 9 could have other problems come up? 10 A. Yes, if the manufacturer recommends it. 11 Q. Okay. All right. Now we're going to 12 go back to -- we're going to go back to Exhibit 1. 13 And, again, using the Bates numbers as our guide, 14 let's go to JNB 002034. 15 A. What was it? 16 Q. 002034. 17 A. Is that in Exhibit 1 or 2? 18 Q. Exhibit 1. 19 A. (Witness reviews document.) Got it. 20 Q. Did you have any part to play in 21 preparing this report? 22 A. I believe I inspected the steps. 23 Q. Okay. 24 A. But I didn't write the information in 25 here.</p> <p>Page 124</p>	<p>1 Q. That would be KONE? 2 A. That appears to be, yes. 3 Q. Yes. And the -- the bulletin is the 4 product bulletin? 5 A. From KONE. 6 Q. Okay. Got it. 7 And it says here, quote, Per the attached 8 document from the OEM, this type of step is prone 9 to develop cracks, which can cause a serious 10 safety issue for the riding passengers, close 11 quote. 12 Do you see that? 13 A. Yes. 14 Q. Do you agree with that assessment? 15 A. Yes. 16 Q. Okay. Did you communicate your 17 concerns after the inspection to Scott Olsen or -- 18 and/or Larry? 19 A. Yes, and -- as well as Don Hartmann. 20 Q. You also told Don about this? 21 A. Yes. 22 Q. Okay. And you recommended that the -- 23 the steps be replaced immediately? 24 A. Not immediately, but I recommended they 25 needed replacement, as it says here.</p> <p>Page 126</p>

<p>1 Q. Okay. So at the time that this repair</p> <p>2 order was generated in September 12th, you had</p> <p>3 just finished an inspection following a notice of</p> <p>4 violation, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And in your inspection, you identified</p> <p>7 that more than 30 steps have cracks, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And 30 out of 57 is -- I'm sorry -- 30</p> <p>10 out of 118 -- and he identifies that -- or whoever</p> <p>11 wrote the report -- the report identifies, quote,</p> <p>12 A significant amount of your steps already have</p> <p>13 cracks, close quote.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Would you agree that the 30 out of the</p> <p>17 118 constitutes a significant amount?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And you also agree with the</p> <p>20 recommendation that all of the steps, all 118, be</p> <p>21 replaced?</p> <p>22 A. Yes.</p> <p>23 Q. And, in fact, you originally made the</p> <p>24 recommendation, and then that ended up in the</p> <p>25 report, because you did the inspection?</p> <p style="text-align: right;">Page 127</p>	<p>1 Q. Okay.</p> <p>2 MR. IQBAL: Can we -- we only have one</p> <p>3 copy, but we can --</p> <p>4 MS. MASTRANGELO: -- have it.</p> <p>5 MR. IQBAL: Okay. We can just introduce</p> <p>6 this as Exhibit 3.</p> <p>7 (Exhibit 3, KONE Product Bulletin, was</p> <p>8 marked for identification.)</p> <p>9 MR. IQBAL: And -- and, Alex, it's the --</p> <p>10 the KONE product bulletin, and Rebecca had it.</p> <p>11 I didn't -- I didn't have it in my -- in my</p> <p>12 exhibits. So --</p> <p>13 MS. MCLEOD: Okay.</p> <p>14 MR. IQBAL: I'll --</p> <p>15 MS. MCLEOD: Thank you.</p> <p>16 MR. IQBAL: Yeah. I'll send you a -- a</p> <p>17 copy.</p> <p>18 MS. MASTRANGELO: It's been produced at</p> <p>19 this time?</p> <p>20 MR. IQBAL: Yes.</p> <p>21 BY MR. IQBAL:</p> <p>22 Q. So if you turn over to JNB 002037 -- do</p> <p>23 you see that?</p> <p>24 A. Yes.</p> <p>25 Q. So that appears to be another repair</p> <p style="text-align: right;">Page 129</p>
<p>1 A. Yes.</p> <p>2 Q. Is that a yes?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So how -- how can a cracked</p> <p>5 escalator step cause a serious issue to the riding</p> <p>6 public?</p> <p>7 A. I can speculate?</p> <p>8 Q. Yes.</p> <p>9 A. If it's larger than the cracks</p> <p>10 explained in that exhibit, or we'll say the OEM</p> <p>11 information, it -- it can crack all the way</p> <p>12 through, and the step can break itself in half --</p> <p>13 Q. Okay.</p> <p>14 A. -- to my imagination. I've never seen</p> <p>15 it personally happen.</p> <p>16 Q. Okay.</p> <p>17 A. But it's just physics.</p> <p>18 Q. If you have cracked steps, can that</p> <p>19 lead to a shaky ride?</p> <p>20 A. Not normally.</p> <p>21 Q. Not normally, but --</p> <p>22 A. I'll say no.</p> <p>23 Q. Okay. Why -- why did you originally</p> <p>24 say "not normally"?</p> <p>25 A. I don't know.</p> <p style="text-align: right;">Page 128</p>	<p>1 order, correct? I -- I'm -- I'm looking in 2037,</p> <p>2 at the bottom.</p> <p>3 A. Oh.</p> <p>4 Q. It's -- it's still the first exhibit,</p> <p>5 so it's in your left hand.</p> <p>6 A. 37, not 27?</p> <p>7 Q. Yes. Sorry.</p> <p>8 A. All right.</p> <p>9 Q. So if we compare 002037 to 002034, just</p> <p>10 a couple of pages before that -- we were just on</p> <p>11 34.</p> <p>12 A. Is that the one we were just looking</p> <p>13 at?</p> <p>14 Q. Yes. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. So the one we were looking at from</p> <p>17 September 12th had a quote of \$89,916.</p> <p>18 A. Um-hum.</p> <p>19 Q. And that was to replace all 118 steps,</p> <p>20 correct?</p> <p>21 A. It appears.</p> <p>22 Q. Yes?</p> <p>23 A. Yes.</p> <p>24 Q. And, in fact, you made the</p> <p>25 recommendation, and agree with the repair order</p> <p style="text-align: right;">Page 130</p>

1 dated September 12th, recommending replacement of
2 all the steps on both escalators, all 118 steps,
3 correct?
4 **A. Yes, to start fresh.**
5 **Q. Right. But then, when we turn to**
6 **002037, the quote is for 62,214; so it's a reduced**
7 **quote. And here -- this is a -- a quote: "We are**
8 **proposing as option 2 the following: We shall**
9 **replace all of the steps, 58 steps, on the down**
10 **escalator unit," close quote.**
11 **Do you see that?**
12 **A. Yes.**
13 **Q. So why the difference between the two**
14 **repair orders?**
15 **A. I don't generate the repair orders, so**
16 **I don't know.**
17 **Q. Okay. So in the first one, in**
18 **September, the recommendation was to replace all**
19 **of the steps in both units; and then, in this one,**
20 **it was to replace all of the steps in the down**
21 **escalator, right?**
22 **A. Yes.**
23 **Q. Okay. Was that -- did you ever on**
24 **occasion have the Nugget Laughlin reject a repair**
25 **order or ask for the amount to be reduced?**

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1 **A. Not to me personally, but possibly to**
2 **the office.**
3 **Q. Okay. And it says here, We will --**
4 **quote, We will salvage enough older uncracked**
5 **steps to be able to install these in the up**
6 **escalator unit where cracked steps have been**
7 **identified. Additionally, as part of this**
8 **proposal, we shall perform the step/skirt indexing**
9 **adjustments on both escalators in order to be**
10 **compliant with the state NOV.**
11 **Do you see that?**
12 **A. Yes.**
13 **Q. So, apparently, the notice of violation**
14 **with the step/skirt indexing impacted both**
15 **escalators?**
16 **A. For the state index testing, yes.**
17 **Q. Okay. So of the two repair orders --**
18 **A. Um-hum.**
19 **Q. -- the one that calls for replacing all**
20 **of the steps, and then this one on October 2nd,**
21 **calling for replacing all of the steps on the**
22 **down, if it was up to you, which -- which one of**
23 **these repair orders results in a safer situation?**
24 **A. A safer situation?**
25 **Q. Yes.**

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1 **A. They would both be -- it would be safe**
2 **if there's no cracks in -- in -- in the steps that**
3 **are replaced in the up unit.**
4 **Q. Right.**
5 **A. But, eventually, they probably will**
6 **crack, according to the manufacturer.**
7 **Q. Right. Is it better to replace the old**
8 **steps with new steps or use recycled steps,**
9 **generally?**
10 **A. Companies do it all the time. They**
11 **use -- apparently use both.**
12 **Q. Right. Right. No, that's not my**
13 **question, though.**
14 **My question is, is it safer to replace**
15 **old steps with new steps or recycled steps?**
16 **MS. MASTRANGELO: Objection, foundation.**
17 **MS. MCLEOD: Objection, calls for**
18 **speculation, expert opinion.**
19 **A. They're equally as safe.**
20 **BY MR. IQBAL:**
21 **Q. So your general opinion is that**
22 **recycled steps are as safe as new steps?**
23 **A. If there's no cracks in them, yes.**
24 **Q. Okay.**
25 **A. Most the -- most of the steps they're**

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1 **talking about are actually not the welded-style**
2 **steps. In the down unit, there was -- there was a**
3 **portion of the steps that had the thru-axle steps,**
4 **so they were -- I believe the office and the**
5 **Nugget were looking to put the steps that were**
6 **newer into the other unit --**
7 **Q. Okay.**
8 **A. -- with the thru axles that won't crack**
9 **at all.**
10 **Q. Okay. So, then, why make the**
11 **recommendation -- because you did the inspection**
12 **and you made the recommendation to replace all**
13 **118 steps.**
14 **Why would you make that recommendation if**
15 **it's just as safe to replace half of them?**
16 **A. It's easier to replace with brand-new**
17 **stuff that's cleaner. Nobody wants to work on**
18 **dirty equipment. So if you replace steps that are**
19 **brand-new, it's much easier, and also, you get new**
20 **steps.**
21 **Q. So you made the recommendation to**
22 **replace all of the steps first because it's easier**
23 **to work on new steps?**
24 **A. Yes. They come out quicker.**
25 **Q. Okay. There was no safety component**

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1 whatsoever in you recommending all 118 steps?
2 **A. (No response.)**
3 Q. In other words, Chris, did you make the
4 recommendation to replace all 118 steps just
5 because it would be easier for you to work on
6 them, or did you make the recommendation based on
7 a safety concern?
8 **A. Both.**
9 Q. Both. Okay.
10 So -- because it says "Safety Concern" on
11 that first repair order from September?
12 **A. Yes. And, most likely, the reason that**
13 **it says safety matter is so that they get the**
14 **customer's approval to sign it as well.**
15 Q. Okay. So sometimes "Safety Concern"
16 will be put on work orders just to get the
17 customer to sign?
18 **A. Possibly. I don't know. I'm not a**
19 **salesman.**
20 Q. Right. But we have two repair orders.
21 **A. I know. I didn't generate the second**
22 **repair order. I don't generate repair orders.**
23 Q. I understand. I understand.
24 **A. The office was probably trying to give**
25 **them a different avenue to look at. I don't know.**

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1 Q. Right. Right. I -- let's not worry
2 about the repair order.
3 It talks about the inspections, which --
4 you did the inspections, and you recommended that
5 all 118 steps be replaced, correct?
6 **A. Yes.**
7 Q. Okay. And you did that for two
8 reasons, as you just testified, correct?
9 **A. Yes.**
10 Q. Okay. One of them is that it's easier
11 for you to work on new steps, and it's cleaner;
12 and then the other reason is for safety, correct?
13 **A. Yes.**
14 Q. Okay.
15 **A. And, as well, when you're replacing all**
16 **new steps as well, you're getting all new rollers,**
17 **so you're starting out fresh, so you don't have**
18 **any of the roller problems as well.**
19 Q. Okay. So back to my original question.
20 Of the two repair orders, the repair
21 order where 118 steps are replaced, results in a
22 safer situation than where only 57 steps are
23 replaced, in your experience, correct?
24 MS. MCLEOD: Objection, calls for
25 speculation and expert opinion.

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1 **A. I'm not an expert on safety. I can't**
2 **answer that.**
3 BY MR. IQBAL:
4 Q. Right. But you just said that when you
5 get new steps, you also have new rollers, correct?
6 **A. Yes. So it would be safer, in turn.**
7 Q. Okay. So replacing all 118 steps would
8 be safer than just replacing 57, correct?
9 **A. Yes.**
10 Q. Okay. And the difference in the two
11 repair orders, if you take a look -- I don't -- I
12 want to make sure that my math is right -- is
13 89,900 versus 62,200, roughly.
14 Did I read that right?
15 **A. Yes.**
16 Q. Okay. So it's a difference of \$27,700,
17 approximately?
18 **A. Yes.**
19 Q. Okay. And when you make
20 recommendations for replacement, you're doing that
21 for, as you said, ease of working on the machine
22 and also safety, correct?
23 **A. Yes.**
24 Q. And you wouldn't make any
25 recommendations just to inflate an invoice,

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1 correct?
2 **A. No. It doesn't help me at all.**
3 Q. Right. So the only recommendations
4 that you would make would be recommendations that
5 you think are necessary, correct?
6 **A. Necessary.**
7 Q. Okay. Do you know, looking at the
8 account history, what actually happened to this
9 issue in 2012, if the steps were replaced?
10 **A. All the steps? There were -- I know**
11 **there was a few steps replaced, but --**
12 Q. In 2012?
13 **A. Yes. But not all of them.**
14 Q. Was -- do you recall if all 57 in the
15 down escalator were replaced?
16 **A. No.**
17 Q. You don't recall?
18 **A. They weren't replaced.**
19 Q. They were not replaced?
20 **A. No.**
21 Q. Okay. Do you know why they weren't
22 replaced?
23 **A. Not to my knowledge. I know they were**
24 **offered from the salesmen. From that point, I**
25 **don't know.**

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1 Q. So if they were offered from Thyssen,
2 then it was probably Nugget who said no?
3 **A. Yes. We usually like doing work for**
4 **money.**
5 Q. What's that?
6 **A. We usually like doing work for money.**
7 Q. Right. Right. So the folks saying no
8 to the repair orders would have been Nugget,
9 correct?
10 **A. To my knowledge, yes.**
11 Q. Okay. And they said no to even the
12 second repair order, that recommended replacing
13 the 58 steps, correct?
14 **A. It doesn't appear to be signed, so,**
15 **yes.**
16 Q. They said no?
17 **A. Yes, they said no.**
18 Q. Okay. So they said no to replacing all
19 118 steps in the first repair order, and they said
20 no to replacing the 57 steps in this October 2nd
21 repair order, correct?
22 **A. Yes, at that time. Yes.**
23 Q. Okay. Can you find for me on the
24 account -- and -- and after this, we can take a
25 break, because we need to do a media change. But

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1 this -- I have this one last question.
2 Can you find for me the 2012 or 2013 --
3 because this was in October -- the entry that
4 shows the replacement of the steps in either 2012
5 or 2013?
6 **A. How many steps are you talking about?**
7 Q. Well, can you find any entry for any
8 replacement of any number of steps in 2012 or
9 2013? Would that be on-site repair, right? That
10 would be under the on-site repair section?
11 **A. Possibly.**
12 MS. MASTRANGELO: I think, if you start at
13 the back and move forward, because they're
14 time-based, but backwards. So the 2012 will be
15 at the very end of that section of exhibit.
16 **A. Right there. 12/5/12 -- 2012.**
17 BY MR. IQBAL:
18 Q. What page are you on?
19 **A. It will be JNB 002029. The top entry.**
20 Q. Yes. So this happened December 5, 2012,
21 correct?
22 **A. That's what it says here.**
23 Q. Okay. And, in your recollection, a few
24 steps were replaced, correct?
25 **A. Yes.**

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1 Q. Okay. So --
2 **A. As well -- as well as a clean-down was**
3 **done too.**
4 Q. Right. Right. I'm just talking about
5 the replacement of the steps.
6 **A. Sure.**
7 Q. So we have the repair order from
8 September 12, 2012, recommending the replacement
9 of 114 steps; we have the October 2nd repair order
10 with an option for replacing 57 steps; and then we
11 have the actual work being done in December of
12 2005 with replacing a few steps, in your
13 recollection?
14 **A. Yes.**
15 Q. Okay. So between September 12th, or
16 whenever the issue first arose, and December 5,
17 people were using that escalator with cracked
18 steps?
19 **A. Yes.**
20 Q. And as is written, it -- that's --
21 that's a safety issue, right?
22 **A. Well, as outlined in Exhibit 3, KONE**
23 **says it's okay.**
24 Q. Right. No, that's not what I'm asking.
25 But in your repair orders, that -- that's

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1 a safety issue, right?
2 **A. I believed it was.**
3 Q. You did personally?
4 **A. Yes.**
5 Q. Okay.
6 MR. IQBAL: Should we take a break? Let's
7 go off the record.
8 VIDEOGRAPHER: This marks the end of media
9 number 2. We're going off the record at
10 1:13 p.m.
11 (Recess taken.)

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1 A. So it was after.
2 BY MR. IQBAL:
3 Q. It was after.
4 It was during --
5 A. We identified the cracked steps
6 after --
7 Q. After.
8 A. -- the incident.
9 Q. After the incident.
10 Either 5/27 or 5/28, correct?
11 A. Yes.
12 Q. Not during the inspection with the
13 state inspector on the 25th, correct?
14 A. Correct.
15 Q. So going back to 2014, the middle
16 entry, dated 5/12/2015, what does, if you know,
17 "UNOC" mean?
18 A. Unoccupied.
19 Q. Unoccupied.
20 What does that -- what does that mean?
21 A. Normally, they shouldn't have wrote it
22 in here; but normally it's for an elevator, like,
23 if someone is trapped inside an elevator, or if an
24 elevator shut down, they'll say unoccupied. If
25 it's occupied, it's a higher response, a quicker

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1 response time.
2 Q. Okay.
3 A. But this shouldn't be written in here.
4 Q. Because it has, right before there --
5 A. It's an escalator.
6 Q. Well, and the person fell and was hurt,
7 right? So we know it was occupied?
8 A. Well, they normally don't write -- I
9 don't know why they wrote that.
10 Q. That shouldn't be here?
11 A. Yes.
12 Q. Okay. Do you know who Stanley Voss is?
13 A. I believe he works at the Golden
14 Nugget.
15 Q. Okay.
16 A. Usually, if it's a caller, it's from
17 the Golden Nugget.
18 Q. Okay. The entry for this incident
19 doesn't state that -- that you looked at the
20 security footage.
21 Why not?
22 A. This is when I arrived on-site. The
23 inspector wasn't going to arrive till the next
24 day, so I came in the second day with him to
25 review it together. Normally, they won't let me

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1 view the security footage unless the state
2 inspector is with me.
3 Q. Got you.
4 So you --
5 A. It was their policy at the time.
6 Q. Got it.
7 So you inspected this the next day, on
8 the 13th?
9 A. The next day. I just put barricades
10 around it and inspected it the next day --
11 Q. Okay.
12 A. -- because the state inspector asked if
13 we -- always, if we can leave it as it is --
14 Q. Got it.
15 A. -- the unit.
16 Q. So when you put barricades, that
17 doesn't necessarily mean you're going to open up
18 the unit; sometimes, even for a visual inspection,
19 you'll put up barricades?
20 A. Yes. Just put up barricades so nobody
21 would walk down the escalator --
22 Q. Got it.
23 A. -- have another incident.
24 Q. This incident on May 12th states, under
25 Resolution, "Guest went to hospital."

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1 Do you see that?
2 A. Yes.
3 Q. And it also says "Accident" right
4 before that.
5 Do you see that?
6 A. Yes, I do.
7 Q. Is this what you understood happened?
8 A. I understood that there was an incident
9 on the escalator, and the guest went to the
10 hospital.
11 Q. Okay.
12 A. At that point, that's all I knew.
13 Q. Who told you that?
14 A. The -- the caller. Person fell, was
15 hurt.
16 Q. Got it.
17 A. In the description.
18 Q. Okay.
19 A. That's all I know.
20 Q. So when they typically call after an
21 incident -- something happens, someone goes to the
22 hospital -- do they call you directly, or do they
23 call the Las Vegas office?
24 A. They'll call the Las Vegas office if
25 it's open; if not, they'll call the after-hours

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1 line --
2 Q. Okay.
3 A. -- which -- it's eight-something p.m.,
4 so it was after hours.
5 Q. And does the after-hours line go to
6 you?
7 A. They'll call us.
8 Q. Okay.
9 A. It's an answering service --
10 Q. Got it.
11 A. -- that writes up all this
12 information --
13 Q. Got it. Okay.
14 A. -- at least in the description.
15 Q. And so the answering service is a
16 ThyssenKrupp answering service?
17 A. Yes.
18 Q. Okay. And so the after-hours answering
19 service folks will call that.
20 And then, does the answering service send
21 you a text, or does it just automatically forward
22 the call to you?
23 A. They'll call me direct --
24 Q. Okay.
25 A. -- the answering service, to tell us

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1 something happened.
2 Q. Got it.
3 So you didn't actually speak with the
4 caller; you spoke with the answering service?
5 A. Yes.
6 Q. Okay. And they relayed to you that the
7 guest went to hospital and that there was an
8 accident?
9 A. Yes.
10 Q. And then you put it here in your
11 TK Smart application?
12 A. When they relayed that they had an
13 accident, I went to the Nugget, thinking the
14 inspector was showing up --
15 Q. Got it.
16 A. -- at the same time.
17 Q. Okay.
18 A. They said he could be there the next
19 day, so I went home.
20 Q. Did you shut down the escalator?
21 A. It was already off --
22 Q. Okay.
23 A. -- but I put barricades around it.
24 Q. Okay. And so the escalator stayed
25 nonfunctioning until the next day?

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1 A. Correct.
2 Q. Because -- why?
3 A. After this -- after there's an
4 accident, the state inspector requires it before
5 someone inspects it from the state.
6 Q. Got it.
7 So even a third-party inspector can't
8 restart an escalator, correct?
9 A. After an accident? No.
10 Q. It has to be the state inspector?
11 A. It has to be the state.
12 Q. Okay. Did you receive any further
13 information about the May 12th incident?
14 A. The next day.
15 Q. Okay. From whom?
16 A. From security.
17 Q. Do you recall who you spoke to,
18 specifically?
19 A. Not specifically.
20 Q. Did you speak to one security guard or
21 several?
22 A. It was one to get to -- to go into the
23 security footage area.
24 Q. Okay.
25 A. But the state inspector did most of the

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1 talking.
2 Q. Okay.
3 A. The information's in the accident
4 report --
5 Q. Okay.
6 A. -- that I have somewhere here.
7 Q. Did you -- were you made aware that, as
8 a result of that incident, the injured person
9 stated that he couldn't feel his legs?
10 A. No.
11 Q. Were you made aware that, during that
12 incident, the injured person's neck was broken?
13 A. No.
14 Q. Did you know that, ever?
15 A. Not at that time.
16 Q. Okay. When did you find out that the
17 injured person on May 12th broke his neck?
18 A. Recently.
19 Q. Recently. Okay.
20 You didn't find that out from the Nugget
21 or the state inspector?
22 A. No. They don't relay that kind of
23 information.
24 Q. Okay. Okay. So --
25 A. Other properties may, but their

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1 security policy -- they don't tell us any of that.
2 Q. The Nugget --
3 A. It's their policy. They typically
4 don't tell us what happened to the individual.
5 Q. Okay. And other properties will tell
6 you?
7 A. Yes.
8 Q. Okay. Is that -- is that atypical? Is
9 that unusual, that the Nugget doesn't tell you
10 what happened?
11 A. In comparison with the other places,
12 yes.
13 Q. So how recently did you find out that
14 the individual on -- on the May 12th incident
15 broke his neck?
16 A. About a week ago.
17 Q. Okay. And you found that out from
18 counsel?
19 A. Yes.
20 Q. So the fourth entry from this page
21 shows that you greased all step chain roller
22 assemblies that take grease.
23 What does that mean?
24 MS. MASTRANGELO: You're talking about the
25 5/7?

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1 MR. IQBAL: Yes, from 5/7. Sorry. It's on
2 2014.
3 A. Yes. I was just seeing if there was a
4 picture. I guess not.
5 On the ends of the rollers on the
6 old-style steps, they have -- they have a roller
7 with a flange. They have three bolts so you can
8 bolt the step. On that -- those-style flanges
9 with the roller, it has a Zerk fitting, so you can
10 add grease to it over time.
11 BY MR. IQBAL:
12 Q. Okay.
13 A. So on every single step, on either
14 side, there's a grease fitting, on the older-style
15 assemblies. So I greased every single step flange
16 on the unit, all the way around, so all 57
17 steps --
18 Q. Okay.
19 A. -- which -- also, I visually inspected
20 all the rollers.
21 Q. And during that time, you -- you
22 greased all 57 steps?
23 A. There were some steps that were the
24 thru-axle type, so it wasn't all; but I can't give
25 you an exact number.

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1 Q. Okay. It says, "Grease all step-chain
2 roller assemblies."
3 That's what you were just talking about?
4 A. Yes. That's why I said all.
5 Q. Okay. At -- at that time, would you
6 have been able to notice cracks in any of the four
7 cracked steps that you found at the end of May?
8 A. I wasn't specifically looking for the
9 cracks at that time.
10 Q. All right.
11 A. I was just looking at the rollers.
12 Q. Okay. So you just looked at the
13 rollers?
14 A. Just the rollers.
15 Q. So, at that time, you didn't notice any
16 cracking?
17 A. No.
18 Q. Is it your belief that the cracks in
19 the steps on the down escalator were formed
20 sometime between May 7th and May 12th?
21 A. Of?
22 MS. MCLEOD: Objection, calls for
23 speculation.
24 BY MR. IQBAL:
25 Q. Of 2015.

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1 So you went out there May 7, 2015,
2 correct?
3 A. Yes.
4 Q. And you were just looking at the
5 rollers?
6 A. Yes.
7 Q. Okay. And then, at the end of May, as
8 we established, sometime around May 27th, you
9 discussed the cracked steps with Don Hartmann,
10 correct?
11 A. Yes.
12 Q. Okay. So is it your personal belief,
13 based on the fact that for eight years you were
14 the one inspecting and handling the down escalator
15 and the up escalator at the Nugget for Thyssen --
16 is it your belief that the cracks in the steps on
17 the down escalator were formed sometime between
18 May 7, 2015, and May 12, 2015?
19 A. No.
20 MS. MCLEOD: Same objection; also,
21 argumentative.
22 THE REPORTER: Also what?
23 MR. IQBAL: Argumentative.
24 BY MR. IQBAL:
25 Q. You said no, right?

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1 **A. Right.**
2 Q. So given your almost ten years of
3 experience now, is it your belief that the cracks
4 formed sometime before May 7, 2015?
5 **A. Yes.**
6 Q. Okay. The last entry on this page
7 shows that you were called -- before we get to
8 that -- I'm sorry -- let's go back to May 7th.
9 The description says, "The down esc handrail
10 squeaking too much." And it says, "Caller, Don."
11 Is it safe to assume that was Don
12 Hartmann?
13 **A. It was.**
14 Q. Okay.
15 **A. And he believed the handrail was making**
16 **a squeaking sound.**
17 Q. And when you got there, you disagreed
18 with that assessment, correct?
19 **A. Correct.**
20 Q. And, in your belief, it was the step
21 rollers, and they needed grease?
22 **A. Yes.**
23 Q. Okay. And you applied the grease?
24 **A. I did.**
25 Q. Okay. So just two weeks before that,

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1 on April 24, 2015, it looks like there was a
2 caller, Peggy.
3 Do you -- do you know who Peggy is?
4 **A. Yes.**
5 Q. Who is Peggy?
6 **A. She was a engineer at the Golden**
7 **Nugget.**
8 Q. Okay. Do you know -- do you recall her
9 last name?
10 **A. No.**
11 Q. Okay. And the down escalator was not
12 working.
13 Do you see that?
14 **A. Yes.**
15 Q. Okay. And when you got there -- well,
16 let me step back.
17 When they called you, the down escalator
18 was not working, correct?
19 **A. Correct.**
20 Q. And they reported that it was not
21 restarting, correct?
22 **A. Yes.**
23 Q. But when you arrived, the unit was
24 running?
25 **A. Yes.**

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1 Q. What, specifically, was wrong with the
2 down escalator that day?
3 **A. Well, if the unit was running on**
4 **arrival, anything can be wrong. Someone could**
5 **have hit the stop switch or a handrailing or --**
6 Q. Okay.
7 **A. -- and just shut the unit down. Kids**
8 **mess around on those units all the time,**
9 **especially during that period of time.**
10 Q. Okay.
11 **A. It was, like, spring break or something**
12 **like that.**
13 Q. When you got there and you saw that the
14 unit was running, did you talk to anyone about why
15 the unit was running but when they called you it
16 wasn't running?
17 **A. Yes. I called Peggy, I'm sure.**
18 Q. Okay. And what -- what did she say?
19 **A. I don't recall.**
20 Q. Okay.
21 **A. But I usually speak to someone in the**
22 **building.**
23 Q. Okay. So every time you go -- every
24 time you went to the Nugget during that eight-year
25 stretch when you were assigned those escalators,

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1 anytime you went into the building, you would --
2 you would talk to someone at Nugget?
3 **A. Yes. I'd either run into an engineer**
4 **or I'd call somebody.**
5 Q. Okay. Even if you were doing simple
6 visual inspections and grabbing a coffee?
7 **A. Yes. They'd usually meet me at**
8 **Starbucks.**
9 Q. Okay. Do you know what, specifically,
10 Nugget did to the down escalator to make it start
11 running again?
12 **A. They probably turned the key.**
13 Q. Okay. But you don't know?
14 **A. No.**
15 Q. You're just speculating?
16 **A. At this point, yes.**
17 Q. Okay.
18 **A. If it wasn't running, now it is, they**
19 **had to turn it on somehow.**
20 Q. Right. So the incident that happened
21 May 25th, two weeks after the incident at issue in
22 this case, do you know how that person was injured
23 on the 25th?
24 **A. I don't recall.**
25 Q. You reviewed the security footage

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1 though, correct?
2 **A. Yes, at that point.**
3 Q. Do you recall if they fell or --
4 **A. They fell down a unit and lost their**
5 **balance; I know that.**
6 Q. Okay.
7 **A. It's a usual occurrence in Laughlin --**
8 Q. Okay.
9 **A. -- not just at the Golden Nugget.**
10 Q. Right. And are you aware that, the day
11 after, the state shut it down because of a loose
12 step chain?
13 **A. Where is that?**
14 Q. No, I'm just asking you, are -- are you
15 aware?
16 **A. They didn't shut it off. I can tell**
17 **you that.**
18 MS. MCLEOD: Objection, assumes facts not
19 in evidence.
20 BY MR. IQBAL:
21 Q. Are you aware that, the next day, there
22 was a notice of violation, and the --
23 **A. Yes.**
24 Q. Yes?
25 **A. Yes.**

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1 Q. Are you aware that that violation was
2 associated with a loose step chain?
3 **A. Yes.**
4 Q. Okay.
5 **A. Stretched step chain --**
6 Q. Stressed.
7 **A. -- not loose.**
8 Q. Okay. What is a stressed step chain?
9 **A. Stretched.**
10 Q. Stretched?
11 MS. MASTRANGELO: Stretched.
12 BY MR. IQBAL:
13 Q. Stretched.
14 **A. It's when the chain, over time,**
15 **stretches out.**
16 Q. Okay.
17 **A. It gets to a point where it's too**
18 **stretched and can create issues.**
19 Q. What issues can it create?
20 **A. It can create larger gaps. And you can**
21 **almost put your finger in it if it gets really**
22 **big. But it wasn't to that point. But there are**
23 **three spots in the escalator that actually had a**
24 **larger gap than normal.**
25 Q. Okay. It still resulted in a

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1 violation, however, correct?
2 **A. Yes.**
3 Q. Okay. In your experience, can a loose
4 step chain lead to shaky steps?
5 **A. No.**
6 Q. Why?
7 **A. Because the steps -- the step chain**
8 **is -- even though it's stretched, it's still**
9 **pulled at the same tension as a normal step**
10 **chain --**
11 Q. Okay.
12 **A. -- so it would all come down the**
13 **same -- the same way.**
14 Q. Okay. So a loose step chain can result
15 in larger gaps?
16 **A. Yes.**
17 Q. And then you'd have to do the -- that
18 index testing, correct?
19 **A. Yes, you'd have to do that.**
20 Q. Okay. On -- if you turn to JNB 002016,
21 at the top -- do you see that?
22 **A. Yes.**
23 **Q. The incident date from January 13,**
24 **2013?**
25 **A. Um-hum. Yes, I do.**

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1 **Q. And it says, "Down esc keeps shutting**
2 **down. It runs for a while, then esc/d when you**
3 **restart."**
4 **What does that mean?**
5 **THE REPORTER: When you what? When you --**
6 **MR. IQBAL: When you restart.**
7 **A. I think they're trying to say, is that**
8 **after it shuts down, they'll do a restart, and it**
9 **shuts down shortly thereafter.**
10 BY MR. IQBAL:
11 Q. And "svc," right after that, stands for
12 "service"?
13 **A. Yes.**
14 Q. What does "o.t." mean?
15 **A. "Overtime."**
16 Q. Service on overtime asap?
17 **A. Yes, as soon as possible.**
18 Q. Because this is a safety issue?
19 **A. No. It's because they wanted their**
20 **escalator running.**
21 **Q. Okay. If an escalator keeps shutting**
22 **down and restarting, is that a potential safety**
23 **issue?**
24 **A. If it keeps shutting down? Depends if**
25 **someone's on the escalator.**

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1 you recommended full replacement of all the steps?
2 **A. When it says about proposals, yes.**
3 Q. Okay. And what happened to your
4 recommendations?
5 **A. It was just a recommendation.**
6 Q. Okay.
7 **A. I don't know where it went from there.**
8 **Obviously, it -- maybe they followed up with it at**
9 **one point.**
10 Q. But they didn't follow up with it while
11 you worked there?
12 **A. They did, after the step chain got**
13 **replaced.**
14 Q. Right. But the step chain got replaced
15 in June of 2015?
16 **A. In June. Yes.**
17 Q. Right. And the steps weren't replaced
18 anytime in 2015, correct?
19 **A. According to the information, correct.**
20 **Q. Okay. So at least up until 2015, your**
21 **recommendation that all 114 steps be replaced**
22 **wasn't actually accepted, correct?**
23 **A. Correct.**
24 Q. Do you recall when in 2016 the steps
25 were replaced?

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1 **A. I don't remember.**
2 Q. Okay. And it was only a portion,
3 correct? All 114 steps have never been replaced,
4 correct?
5 **A. All of them, no. But it was all the**
6 **ones that were the older steel-welded steps.**
7 Q. Is that your recollection, or --
8 **A. My recollection.**
9 Q. Okay. Are you sure?
10 **A. Yes.**
11 Q. Okay. But from 2012, that
12 September 12th recommendation from you to replace
13 all 114 steps, all the way through 2018,
14 Presidents' Day, your recommendation to replace
15 all 114 steps -- that recommendation, in and of
16 itself, was never taken up, correct?
17 **A. Yes.**
18 MR. IQBAL: I have no further questions at
19 this point.
20 MS. MASTRANGELO: Alex?
21 MS. MCLEOD: I do have a few questions.
22 Do you need a break, or do you want to
23 just go straight through?
24 MR. IQBAL: If you just have a few
25 questions, then, let's take a break, and we'll

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1 call you in, I don't know, ten minutes.
2 Is that good with everyone?
3 Yeah, we'll call you in ten minutes.
4 MS. MCLEOD: Okay. Talk to you then.
5 MR. IQBAL: Thanks. Bye.
6 VIDEOGRAPHER: This marks the end of media
7 number three. We're going off the record at
8 3:10 p.m.
9 (Recess taken.)
10 VIDEOGRAPHER: This marks the start of disk
11 number 4. We are going back on the record at
12 3:16 p.m.
13 EXAMINATION BY
14 MS. MCLEOD:
15 Q. Good afternoon, Mr. Dutcher.
16 Can you hear me okay on the phone?
17 **A. Yes. I just wish you were here.**
18 Q. I'm sorry?
19 **A. Can you hear me? Hello.**
20 Q. I think so. You just cut out a little
21 bit when I asked you if you could hear me all
22 right.
23 So if we have any trouble like that
24 during the questions, or you don't hear my
25 complete question, please stop me at any time.

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1 **A. Okay.**
2 Q. I represent the Golden Nugget law firm,
3 as well all of the other defendants in the case.
4 I just have a few follow-up questions for you.
5 All right?
6 **A. All right.**
7 **Q. Okay. In general, in your work, what**
8 **factors do you use to determine whether an**
9 **escalator can be returned to service after**
10 **maintenance or repair?**
11 **A. After maintenance or repair, we make --**
12 **we always have to make sure that all the steps are**
13 **in the unit, all the steps are functioning as**
14 **properly. Normally -- we call that normally**
15 **operating condition. Make sure all the steps are**
16 **going the same speed as the handrails and that all**
17 **the comb plates are there, and nothing is out of**
18 **the normal, for safety's sake.**
19 Q. So if the unit is returned for service,
20 in your opinion, is it safe for use by the public?
21 **A. Yes.**
22 Q. Or in the case of an accident where
23 someone is transported, the return to service is
24 not your call; it's left up to the state
25 inspector; is that correct?

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1 **A. That is correct.**
2 Q. From the documents that you reviewed in
3 conjunction with the questions from counsel
4 already today, you were present at the May 13,
5 2015, inspection after Mr. Brown's incident,
6 correct?
7 **A. Yes.**
8 Q. To your knowledge, was the down
9 escalator in need of any repair or have any
10 outstanding notices of violation that were not
11 addressed as of the time of Mr. Brown's incident
12 on May 12, 2015?
13 **A. Will you ask the question again?**
14 Q. Sure.
15 To your knowledge, was the down escalator
16 in need of any repair or have any outstanding
17 notices of violation that were not addressed as of
18 the time of Mr. Brown's accident on May 12, 2015?
19 **A. No.**
20 Q. In fact, you were out there checking
21 the escalators five days earlier with that report
22 of the squeaky handrail, correct?
23 **A. Correct.**
24 Q. For the inspection that you attended
25 alongside the state inspector on May 13, 2015,

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1 what was the result of that inspection?
2 **A. With Mr. Robertson? Was that the**
3 **inspector?**
4 Q. I believe so, yes.
5 **A. The result was, he found that the**
6 **escalator was safe to return to service at that**
7 **point.**
8 Q. So what is your role during that
9 inspection? Are you also inspecting side by side,
10 or are you in more of an observer position?
11 **A. Observer and inspecting side by side,**
12 **from the company's standpoint; but we have to let**
13 **the state do -- direct us on what to look at.**
14 Q. Understood.
15 To your knowledge, was any notice of
16 violation issued in conjunction with the May 13,
17 2015, inspection?
18 **A. No.**
19 Q. To your knowledge, did the inspector
20 find any issues with the escalator that day?
21 **A. No.**
22 Q. Did you personally find any issues with
23 the escalator that day?
24 **A. No.**
25 Q. In your opinion, was there an escalator

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1 malfunction on May 12, 2015?
2 MR. IQBAL: Objection, calls for expert
3 testimony, and the witness has already
4 testified that he's not a safety expert.
5 MS. MASTRANGELO: I disagree with that
6 objection, but you can go ahead and answer
7 despite it.
8 **A. Ask the question again, please.**
9 BY MS. MCLEOD:
10 Q. In your opinion, was there an escalator
11 malfunction on May 12, 2015?
12 MR. IQBAL: Objection -- same objection,
13 and calls for speculation.
14 **A. No.**
15 BY MS. MCLEOD:
16 Q. Do you know if the state inspector
17 determined the cause of the guest's fall on
18 May 12, 2015?
19 MR. IQBAL: Objection, calls for
20 speculation.
21 **A. I believe, after reviewing the video,**
22 **he said that the victim stepped between the steps**
23 **as he got on the escalator, so he wasn't on just**
24 **one step; he was on two. He grabbed the left**
25 **handrail. As soon as it went down over the upper**

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1 **curve, he proceeded to fall down the unit.**
2 Q. Did you agree with the inspector's
3 assessment?
4 **A. Yes.**
5 Q. You've been asked already a lot of
6 questions about the step replacements on the
7 escalators between the 2012 recommendations and
8 the 2015 recommendations.
9 My question is, assuming that the -- all
10 of the steps on the down escalator were replaced
11 in 2012, would it be usual or unusual for those
12 steps to be cracked in 2015?
13 **A. I'm unsure if they were all replaced in**
14 **2012. I don't recall that happening.**
15 Q. Assume, hypothetically, for purposes of
16 my question, that they were.
17 **A. Assume they were replaced in 2012?**
18 Q. Correct.
19 **A. In that short amount of time, they**
20 **shouldn't crack.**
21 MS. MCLEOD: Thank you, sir, for your time
22 today. I appreciate it. I have no further
23 questions.
24 MS. MASTRANGELO: I just have a couple of
25 questions.

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1 EXAMINATION BY
2 MS. MASTRANGELO:
3 Q. Chris, how frequently were you in the
4 Golden Nugget Laughlin building between, say, 2012
5 and 2016?
6 A. A minimum of twice a month.
7 Q. And you said also, earlier, that a
8 couple times a week, you used to go to the
9 Starbucks that's downstairs at the Golden Nugget?
10 A. Yes.
11 Q. Was that the only Starbucks that was in
12 Laughlin at that time?
13 A. Yes.
14 Q. And so you -- sounds like, by that, you
15 were in the building usually more than twice a
16 month.
17 A. Probably. I had a coffee habit.
18 Q. And when you went to get a Starbucks,
19 did you usually take the down escalator to get
20 downstairs to the coffee shop?
21 A. Yes.
22 Q. And tell us what type of inspection you
23 would be doing at that time.
24 A. At that time, I'd do a visual
25 inspection to make sure the handrails were in the

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1 same speed as the steps, make sure the steps
2 aren't shaky, nothing is loose, the comb plates
3 have all their teeth, so nobody could be injured.
4 Q. Each time that you were in the
5 building, whether you were there for coffee or to
6 look at something else, would you always ride the
7 escalators?
8 A. Yes.
9 Q. And what other kind of things -- strike
10 that.
11 The examination, the visual inspection
12 you mentioned, where you would ride the escalator
13 and make sure the handrails were good, make sure
14 the steps weren't shaky -- is all that considered
15 preventative maintenance?
16 A. Yes.
17 Q. What other types of things are
18 considered preventative maintenance on an
19 escalator?
20 A. Visually inspecting the steps, opening
21 and cleaning the pits, oiling the step chains,
22 cleaning the interior of the unit.
23 Q. Now, there are some things in your
24 maintenance callback and repair entries that are
25 logged under Maintenance, some things are logged

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1 under Repair, some things are logged under
2 Callbacks, and they seem to sort of intermix.
3 How do you decide whether you're going to
4 put your entry under Maintenance or Repair or
5 Callback, or does it matter?
6 A. It didn't really matter to me, as long
7 as I had my eight hours for the day. It's -- my
8 time was allotted. As long as I got paid, I would
9 just put it any ticket.
10 Q. There was one entry that counsel
11 referred you to look at earlier, and looks like
12 it's 5/28/15, which is on page 2022.
13 Do you see that?
14 A. Yes.
15 Q. And your resolution there, relative to
16 down escalator, was custom -- "Customer relations
17 with Don Hartmann about cracked steps and worn
18 step chain," and you logged two hours for that
19 entry.
20 Do you see that?
21 A. Yes.
22 Q. Do you really think you spent two hours
23 talking to Don Hartmann about these issues?
24 A. No. I'm sure I observed the unit.
25 Q. Okay. Would that be part of your

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1 preventative maintenance also?
2 A. Yes.
3 Q. And, in fact, you have that logged
4 under Preventative Maintenance; is that right?
5 A. Yes.
6 Q. The callbacks that are listed as
7 callbacks on this account history report, are
8 those things that are generated by the building
9 calling the 800 number or calling your office
10 directly?
11 A. By the building.
12 Q. Okay. What if -- have there ever been
13 situations where you're in the Golden Nugget doing
14 something on an escalator, and an employee of the
15 Golden Nugget would come up to you and mention
16 some elevators acting up or the other escalator or
17 something else?
18 A. I'd look into each situation.
19 Q. Do you recall that both of these
20 escalators were inspected every year by the State
21 of Nevada or a third-party inspector on behalf of
22 the state?
23 A. Yes.
24 Q. When the state inspector or the
25 third-party inspector is doing an internal

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1 inspection of the escalator, what exactly does
2 that mean?
3 **A. Normally, after we put the barricades**
4 **up, we take all the decking covers off so we can**
5 **pull the controller out, we can get into the unit,**
6 **take a step out, check all the safety switches in**
7 **the pit, the unit, the upper pit, check the**
8 **controller, make sure there isn't any jumpers, and**
9 **check the break torque as well.**
10 Q. And would there be any way that a state
11 inspector could do that type of internal
12 inspection without an employee of ThyssenKrupp
13 being there to provide him access?
14 **A. No.**
15 Q. Okay. The very last time that you
16 inspected this down unit before Mr. Brown's fall
17 was on May 7, 2015. We've discussed that entry a
18 couple of times already, but I'd just like you to
19 look at it again. And that's on page 2014.
20 Do you see that?
21 **A. What's the date?**
22 Q. May 7, 2015.
23 **A. Yes.**
24 Q. Okay. So May 7, 2015 -- so about five
25 days before Mr. Brown's fall, you were at the

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1 Golden Nugget, and you made this entry.
2 Did you ride the escalator on that
3 occasion?
4 **A. Of course, several times.**
5 Q. And did you do a visual inspection?
6 **A. Yes. And I checked all the steps as**
7 **well.**
8 Q. Okay. So did you open it up and remove
9 a step to look underneath also?
10 **A. No.**
11 Q. Okay. What -- in addition to just
12 riding it and visually looking at it, what other
13 type of inspection did you do where you would have
14 been able to look at these step-chain roller
15 assemblies?
16 **A. I was able to look around -- look --**
17 **after opening the lower pit, I was able to get in**
18 **and look at the step-chain rollers. And if -- if**
19 **I look around the side, then I can see the steps**
20 **as well.**
21 Q. Okay. So you don't have to remove a
22 step, but you do open the lower pit to be able to
23 look at this stuff?
24 **A. Yes.**
25 Q. Okay. On that date, May 7, 2015, did

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1 you find that any of the steps were shaky?
2 **A. No.**
3 Q. Did you find that the handrail was
4 running in sync with the steps?
5 **A. Yes.**
6 Q. Did you find anything abnormal about
7 the riding of the escalator?
8 **A. No.**
9 Q. And did you look at the step chain at
10 that time?
11 **A. Yes.**
12 Q. All right.
13 MS. MASTRANGELO: I don't have any other
14 questions.
15 FURTHER EXAMINATION
16 BY MR. IQBAL:
17 Q. Mr. Dutcher, I should -- I should be
18 done fair -- fairly quickly over here.
19 The inspection on the 13th, that was
20 purely a -- a visual inspection that the state
21 inspector did, correct?
22 **A. Yes.**
23 Q. Okay. And when you would go for coffee
24 at Starbucks, were you on the clock?
25 **A. Sometimes it'd be before the clock,**

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1 **sometimes on the clock.**
2 Q. Okay. But when you would just go
3 because of your coffee habit and you weren't
4 working, you would just ride it down once and then
5 once back up, correct?
6 **A. Yes.**
7 Q. Okay. And you testified earlier that
8 when you greased all the step-chain rollers, you
9 were just looking at those and you didn't actually
10 check for cracks in the steps, correct?
11 **A. Yes.**
12 Q. All right. Now, if you turn to
13 JNB 002017, we have June 8, 2015, two separate
14 entries.
15 Do you see that?
16 **A. Yes.**
17 Q. How come your name is not on either one
18 of those entries?
19 **A. At that time, I was busy doing service**
20 **elsewhere; and they had a repair crew available,**
21 **so they sent them down.**
22 Q. So your knowledge of the replacement of
23 the bad step chain comes from just what we're
24 looking at here today, not your personal
25 knowledge, correct?

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<p style="text-align: right;">Page 13</p> <p>1 Q Got you. Do you recall specifics or even general 2 themes of the conversation when you met with this 3 individual at the inspection? 4 A No, I really didn't have any conversation with 5 him. He was talking mostly to Ms. McCleod and 6 Ms. Mastrangelo, and I was just within earshot. I don't 7 recall what the conversation was about. I was 8 concentrating on the work that I had to do. 9 Q Got you. All right. Let me just ask in 10 general -- actually, let me close that section so we don't 11 have to go back. Between your retention in July of 2017 12 and today, have you had any conversations or 13 communications with any ThyssenKrupp employees or 14 personnel or agents besides Rebecca? 15 A Not with regard to this case, but I have had 16 occasion to meet ThyssenKrupp personnel on other occasions 17 for other reasons. So I have had conversations with 18 ThyssenKrupp people at code meetings or industry meetings 19 we've had. 20 Q Have you discussed with any of those individuals 21 this case? 22 A No. 23 Q Have you discussed with any of those individuals 24 this specific escalator? 25 A No.</p>	<p style="text-align: right;">Page 15</p> <p>1 Laughlin between 2010 and 2018. Is that your 2 understanding? 3 A Generally, yes. 4 Q Okay. So there were two mechanics from 5 ThyssenKrupp at the inspection and Rebecca and Alex and 6 then one Golden Nugget individual who seemed like a 7 supervisor with a tie? 8 A Yes. 9 Q Anybody else? 10 A Me. 11 Q Okay. What conversations did you have with 12 Mr. Dutcher at the inspection? 13 A Primarily I wanted to gain access to different 14 portions of the elevator -- escalator. I'm sorry. So we 15 discussed the sequence of events for my inspection, what 16 kind of assistance I would need from him in gaining access 17 to those component parts. I asked him -- I believe we 18 talked about how long he had been there maintaining it. 19 He mentioned a few years. I don't know if he said the 20 2010 number or not. I think that's pretty much what it 21 was. We just talked about my inspection and what I wanted 22 to do and how he could help me, and he agreed to do 23 whatever I needed done. 24 Q Gotcha. You talked about different component 25 parts. What parts of the escalator in question did you</p>
<p style="text-align: right;">Page 14</p> <p>1 Q Okay. Just generally, what was the nature of the 2 conversations with the ThyssenKrupp people that you met at 3 the code meetings and things like that? 4 A I received a call from one of their engineers 5 about some proposed code regulations that we were 6 preparing with regard to escalators, and it had to do with 7 the establishment of safety integrity levels for 8 programable electronic equipment that is to be used on 9 escalators. They have an interest in getting that 10 particular proposal finished so they can use some 11 equipment that won't violate any code rules. 12 Q Okay. Gotcha. All right. So no conversations 13 with any Thyssen folks outside of Rebecca with regards to 14 this case. Correct? 15 A That's correct. Mr. Dutcher and I spoke during 16 the inspection in November of 2017. He was the mechanic 17 that was on the site to assist me during my inspection. 18 Q Okay. So Mr. Dutcher was there in person? 19 A Yes. 20 Q Who else was there in person during the 21 inspection? 22 A There was another gentleman, another ThyssenKrupp 23 technician. I don't recall what his name was. 24 Q Okay. But from his deposition Dutcher says that 25 he was the main mechanic assigned to Golden Nugget</p>	<p style="text-align: right;">Page 16</p> <p>1 examine or inspect? 2 A I did what you've heard referred to as an 3 external inspection of the escalator, visually examined 4 things like the handrail, the steps, floor plates, 5 clearances between the step and the skirt, the 6 balustrading in between, the condition of the steps. I 7 took some measurements, which consisted of the speed of 8 the escalator, speed of the handrails. I didn't measure 9 the rise. I think that was the external portion. 10 For the internal portion I asked Mr. Dutcher 11 to remove some of the steps so that I could gain access to 12 the inside of the escalator. He removed the floor plate 13 at the lower landing which covers the working mechanisms 14 down there and we removed the floor plate at the upper 15 landing to get access to the controller and the workings 16 at the upper landing. 17 With some steps removed we could move the 18 space around so I could look inside the escalator and look 19 at the condition of tracks, rollers, handrail drives, the 20 motor, the brake, the other components that are inside. 21 Q Okay. How many steps did Mr. Dutcher remove? 22 A Two. 23 Q Did you go to the garage and inspect the steps 24 that were removed from the escalator and that were 25 actually on the escalator during the incident?</p>

Page 17

1 A No.

2 Q Were you aware that the actual steps that were

3 involved in the incident were packed up and in the garage?

4 A I believe somebody mentioned it to me.

5 Q Okay. You didn't want to see those steps?

6 A I saw no need.

7 Q How long was that inspection?

8 A About two hours. Just over two hours.

9 Q Did you take notes?

10 A Yes.

11 Q Are those notes here?

12 A I have them. If you can read Sanskrit, I'll dig

13 them out.

14 Q That's fine. At a certain point I'll look

15 through your file.

16 A Thank you.

17 Q We'll be efficient there. No need to dive into

18 them right now.

19 A I don't know many people who can read Sanskrit,

20 so I'm kind of honored.

21 Q I'm terrible with languages except that one.

22 A I have trouble with one language. Greek. It's

23 all Greek to me.

24 Q Let me ask you about inspections in general. You

25 mentioned it was a two-hour inspection. Is that typical

Page 18

1 when you are retained as an expert witness and you go and

2 examine these different machines?

3 A It's typical for me because I have certain things

4 I need to do. Often I'm asked how long is this inspection

5 going to be because they want to know when and if the

6 unit, either elevator or escalator, will be out of

7 service. So I give them a ballpark two hours. I find

8 that's held pretty true for what I need by the time I

9 finish doing the measurements, the observation, taking

10 photographs, looking at the internal workings of the

11 escalator, reviewing any paperwork, such as wiring

12 diagrams that might be available, looking inside the

13 controller to the equipment and doing an inventory of

14 safety devices that would be on the unit.

15 Q For escalators typically do you go through this

16 same sequence of observations, taking measurements,

17 looking at the internal workings, doing the inventory of

18 the safety measures and looking at the controller?

19 A Yes.

20 Q Now, you made a comment two hours is typical for

21 you. Why did you say that?

22 A Some people take longer and some people don't

23 take as long. It depends on their familiarity with the

24 type of equipment that we look at.

25 Q Got it. Are you familiar with this KONE brand of

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1 escalator that is in the Golden Nugget?

2 A I am, yes.

3 Q How many matters or cases that you've been

4 involved with have involved this type of KONE escalator?

5 A This particular model?

6 Q This model, yes.

7 A Over a hundred. That's over the 22-year period

8 I've been doing this.

9 Q So you're very familiar with this model of

10 escalator?

11 A I'm familiar with it. I don't know if I would

12 put "very" with it because they all have different

13 variations as we look at them.

14 Q That's fair. Why is it important to do the

15 observations, the measurements, the internal workings and

16 look at the inventory of safety measures?

17 A It's important, first of all, to visit the site

18 to get a layout of the environment, what is it like, where

19 are things located, how is the escalator -- what does it

20 look like, what are the surroundings. Mostly I look at

21 the floor area. In the Golden Nugget there is carpeting

22 at the upper landing, which tends to lead to a buildup of

23 lint and dirt inside the escalators as people track it in.

24 Other office buildings that would have an escalator or a

25 department store might not have carpet. It would be tile

Page 20

1 or Terrazzo, and they tend to not gather as much dirt. In

2 casinos you find things like \$10,000 chips and things like

3 that down in the workings. I'm kidding. I'd retire if I

4 found any of those. It's strange the things you find

5 inside the escalator that people drop, coins, dirt, dust.

6 A lot of different things. So that's for the

7 environmental surroundings and the atmosphere that the

8 escalator works in.

9 The external portion is, again, to get an

10 idea of the condition and the dimensions of the external

11 workings, the speed of the handrail, the condition of the

12 handrail and how that speed of the handrail relates to the

13 speed of the steps. They are supposed to be substantially

14 the same, the step speed. I also measure the stopping

15 distance on the escalator when the brake is engaged. Not

16 an issue in this case, but I do that, anyway, because I

17 want to get a condition of how the escalator might be

18 maintained and if the stopping distance is within

19 allowable code requirements.

20 On the external portion I look for tripping

21 hazards, ledges and so on around the floor plate that may

22 cause some tripping conditions and then the relationship

23 of the steps as they move through the escalator at the

24 curves, the flat portions and what we call the incline and

25 transitions from horizontal to incline.

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1 inspections I attempt to look at the logbook and any
2 records that happen to be on the site that are available
3 either in the machine room or someplace in close proximity
4 to the equipment.
5 Q Okay. In what instances do you not get a chance
6 to look at the logbook during your inspection?
7 A Let's clarify what a logbook is. What do you
8 mean by a "logbook"?
9 Q You tell me what comes to your mind when I say
10 "logbook."
11 A It's called a check chart and maybe a repair
12 record that might be kept on the job site. A check chart
13 is -- I think of it as a reminder for the mechanic who is
14 doing the job about certain tasks that have to be
15 performed during certain periods of time, monthly, weekly,
16 semi annually, so on. As those tasks are done by the
17 mechanic, he checks off it's done and he will initial that
18 particular work was done. That's a check chart or a
19 logbook.
20 Typically along with that is a repair or
21 callback log where the repairs are made to the equipment,
22 a note is made that certain work was done and the initials
23 of the mechanic, and then when there is a callback -- in
24 the olden days before electronic communications, if there
25 was a callback or a callout, an unscheduled call for

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1 service on the escalator or elevator, they would make a
2 note of the fact they were there on a callback and the
3 nature of the work that they performed to rectify whatever
4 problem there might be. Many times you see the initials
5 again, the ROA, running on arrival. No problem found is
6 NPF. They have all kinds of initials and stuff. So you
7 see that many times. But that's the logbook that I
8 envisioned when you said logbook.
9 Q It's a check chart and a repair record?
10 A Repair and callback record.
11 Q Repair and callback record. Okay.
12 A My second request.
13 Q Yes.
14 A A brief break.
15 MR. IQBAL: Absolutely, sir. Let's do it.
16 (Recess taken.)
17 BY MR. IQBAL:
18 Q Mr. Turner, did you have any conversations with
19 anyone during the break?
20 A No.
21 Q Now, you said over time it became that you are
22 also Golden Nugget's expert in this case. Is that typical
23 in your experience for you to represent the servicer of
24 the equipment and the owner?
25 A It's atypical. No, it's not typical.

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1 Q Okay. Why is it atypical?
2 A The owner will generally get their own expert
3 that may have a different area of expertise in a field
4 other than elevators or escalators, but they will border
5 over into what the other does with regard to caring for
6 his property, the escalator or elevator, whatever it might
7 be. There is a different expertise, if you will, if you
8 are talking about ownership as opposed to the technical
9 aspects of the equipment.
10 Q Gotcha. You say it's atypical. How many times
11 have you represented both the owner and the servicer in
12 the same case?
13 A Maybe a dozen over 20 years.
14 Q Do you have any issue with that or are you okay
15 with representing both parties?
16 A The issue just comes down to the billing.
17 Q Here there are no issues with respect to billing?
18 A There haven't been, no.
19 Q I was asking you your perception of the word
20 "logbook" when I say logbook. You said it's the check
21 chart and the repair record and the callback record. Is
22 that correct?
23 A Yes.
24 Q When I say "logbook," does anything else come to
25 mind?

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1 A No.
2 Q Okay. And so I was asking that in a general
3 sense. In this case during that November 2017 inspection,
4 did you review the logbook?
5 A I did not.
6 Q Is there a reason why you didn't review it?
7 A I don't recall seeing it anywhere.
8 Q Did you ask for the logbook?
9 A I did not, no.
10 Q Did you specifically ask for either the check
11 chart or the repair records or the callback records?
12 A I did not, no.
13 Q Is there any reason why you didn't?
14 A Yes. My assumption at the time was -- and I know
15 we shouldn't assume things -- was that I would get the
16 maintenance records from Ms. Mastrangelo eventually and it
17 would contain the necessary -- that information as to
18 callbacks, the repairs, the preventive maintenance tasks
19 and the other items that typically would be contained in
20 the logbook.
21 Q Okay. Did you receive that information?
22 A I did, yes.
23 Q When did you receive it?
24 A There were some documents that I received in May
25 of 2018 along with -- it's on the CD with the transcripts

<p style="text-align: right;">Page 53</p> <p>1 incident reports from incidents -- injury incidents</p> <p>2 occurring between 2010 and 2015?</p> <p>3 A Yes.</p> <p>4 Q What is that recollection based on?</p> <p>5 A That recollection is based on the fact that the</p> <p>6 information that I received on November 21 -- I actually</p> <p>7 received it December 1st -- contained a cover letter</p> <p>8 saying with regard to the matter referenced above, please</p> <p>9 find enclosed some additional documents recently produced</p> <p>10 by Golden Nugget Laughlin. It contains defendants' third</p> <p>11 party 9th supplemental list of witnesses and documents</p> <p>12 pursuant to NRCP 16.1 disclosure and in it are various</p> <p>13 records from the State of Nevada Mechanical Compliance</p> <p>14 Section and a series of incident reports beginning</p> <p>15 April of 2010 and the last one is dated around 5/26/13.</p> <p>16 That's a submitted date.</p> <p>17 Q Did you receive any incident reports from</p> <p>18 incidents in 2014?</p> <p>19 A I don't believe so, no. These are all, if I</p> <p>20 might clarify, incident reports apparently prepared by the</p> <p>21 Golden Nugget. There is a cover letter that says</p> <p>22 documents produced by Golden Nugget.</p> <p>23 Q Gotcha. Now, going back to Exhibit 1, your</p> <p>24 initial report, not the rebuttal, I want to just ask you a</p> <p>25 couple questions on your initial report. On page 3 at the</p>	<p style="text-align: right;">Page 55</p> <p>1 mentioned, even though it wasn't recommended that they</p> <p>2 take it, just that that's where the restaurant was.</p> <p>3 Q Right. So if the valet -- and they parked in</p> <p>4 valet and then they asked the valet where is Bubba Gump</p> <p>5 and the valet said go straight through the casino and use</p> <p>6 the escalator to take it down. If you were in the</p> <p>7 position of the valet, would you have made the same</p> <p>8 recommendation?</p> <p>9 A I don't know. I don't know what the</p> <p>10 circumstances were around that. If they were out of the</p> <p>11 car and I saw the condition of Mr. Brown with his cane --</p> <p>12 I don't know what the valet saw or what registered in his</p> <p>13 mind to say that. Had I seen Mr. Brown's condition, I</p> <p>14 would have suggested to use the elevator.</p> <p>15 Q And when you say "condition," you mean using a</p> <p>16 cane?</p> <p>17 A Using a cane.</p> <p>18 Q Is it your general recommendation that people</p> <p>19 using canes not use an escalator?</p> <p>20 A It's my general opinion that they should either</p> <p>21 not use the escalator or receive assistance from somebody</p> <p>22 in their party in ambulating on the escalator so that they</p> <p>23 could become stable if it's necessary.</p> <p>24 Q What is your opinion based on?</p> <p>25 A Based on my experience of working on many, many</p>
<p style="text-align: right;">Page 54</p> <p>1 top you have a statement, "Mr. Brown elected to utilize</p> <p>2 the subject escalator as opposed to using the nearby</p> <p>3 elevator approximately 75 feet from the escalator. See</p> <p>4 Exhibit B." Do you see that, sir?</p> <p>5 A Yes.</p> <p>6 Q Are you aware that multiple individuals in the</p> <p>7 party testified to being directed to use the escalator by</p> <p>8 the valet?</p> <p>9 A I don't recall that, no. Keep in mind that I do</p> <p>10 not have any deposition testimony of other people in the</p> <p>11 party other than Mr. and Mrs. Brown.</p> <p>12 Q Correct. And Ms. Brown took the steps?</p> <p>13 A Yes. There were two Ms. Browns, I think, one</p> <p>14 related and one not.</p> <p>15 Q Ms. Nettie Brown took the steps, his wife, and</p> <p>16 you'll see the deposition transcripts. But would you have</p> <p>17 wanted Mr. Brown to take the elevator?</p> <p>18 A I would have suggested that he take the elevator.</p> <p>19 I think that whoever said to use the elevator -- I don't</p> <p>20 know the whole context of what went on. I wasn't there.</p> <p>21 But if somebody were to ask me offhand where is the</p> <p>22 restaurant, I would say it's at the bottom of the</p> <p>23 escalator, and they can take that any way they want,</p> <p>24 either use the escalator or go some other way. I imagine</p> <p>25 what they would do is use the escalator because that was</p>	<p style="text-align: right;">Page 56</p> <p>1 accidents and reviewing many, many others and reading</p> <p>2 about them.</p> <p>3 Q Okay. Did this specific escalator have a sign</p> <p>4 barring people who use canes from using it?</p> <p>5 A No.</p> <p>6 Q Does any escalator have that sign?</p> <p>7 A No.</p> <p>8 Q The escalators that you are aware of?</p> <p>9 A That's correct. I believe we've had difficulty</p> <p>10 with the Department of Justice and discrimination when we</p> <p>11 say no wheelchairs, no canes because they think we're</p> <p>12 discriminating by not allowing people with disabilities to</p> <p>13 use the escalators when they think they are perfectly</p> <p>14 capable of doing that. While we've discussed it at our</p> <p>15 code meetings to develop signs in such a manner, we've</p> <p>16 been barred from doing it in the interest of equality and</p> <p>17 being politically correct.</p> <p>18 Q Got it. When you turn to page 6, 6.4.2, at the</p> <p>19 bottom of that paragraph -- at the end of the paragraph</p> <p>20 you cite Chris Dutcher's first report of alleged incident,</p> <p>21 which you've shown me. Do you recall that, sir?</p> <p>22 A Yes.</p> <p>23 Q Do you recall the statement in that report</p> <p>24 that -- you don't have any basis where that statement came</p> <p>25 from from Mr. Dutcher. Correct?</p>

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1 Q Do you have a copy of Mr. Dutcher's deposition
2 transcript?
3 A I do not, no.
4 MR. IQBAL: Let's go off the record really quick.
5 (Recess taken.)
6 MR. IQBAL: Thank you for making that copy. I
7 appreciate it. I'm going to ask that Mr. Dutcher's
8 deposition transcript be marked as Exhibit 3. I'm going
9 to hand the copy to Mr. Turner.
10 THE WITNESS: Thank you.
11 (Exhibit 3 was marked for identification by the
12 court reporter.)
13 BY MR. IQBAL:
14 Q Just to make sure that we pick up where we left
15 off, I was asking you, sir, about your original report and
16 section 6 regarding the preventive maintenance statement
17 that you made. You base that statement not just on the
18 contract, but also the Thyssen account history where
19 Mr. Dutcher would put preventive maintenance. Correct?
20 A Yes.
21 Q So if you can take Exhibit 3 and turn to page 20
22 and 21. Now, when I reference the page numbers, it's
23 going to be the internal page numbers within the condensed
24 copy. It's not going to be the page number at the very
25 bottom right.

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1 A That's good because it doesn't show up too well.
2 Q Okay. So if you'll turn within Exhibit 3 to
3 pages 20 and 21. Actually, it's page 19, 20, 21 and 22.
4 Let me know when you're there.
5 A I'm there.
6 Q Just to confirm, if you look at page 20, line
7 22 -- and you can just read to yourself starting at
8 page 20, line 22, up to page 21, line 4. Mr. Dutcher
9 testified that he was the person assigned to the down
10 escalator and the up escalator at the Laughlin Nugget for
11 approximately those eight years. Do you see that, sir?
12 A Yes.
13 Q Does that comport with your recollection of
14 looking at the records?
15 A Yeah. The time frame might be a little bit
16 different. Yes, it does.
17 Q So on page 22 do you see lines 18 to 20? That's
18 an answer.
19 A On page 22?
20 Q Yes, sir. Same page. I'll quote. "If I was too
21 busy with a lot of calls, I would just write 'Preventative
22 Maintenance' and move on." Do you see that?
23 A Yes, I do.
24 Q Now, if you can turn to -- this is just context
25 and foundation for my question. But if you can turn to

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1 page 55. Again, that's the deposition transcript page 55.
2 A I'm there.
3 Q Lines 5 through 12. "Question, Okay. So that --
4 if you were pressed for time, then there was no record
5 made on the TK Smart system and there was no logbook
6 entry. There would just be nothing, then?" "Answer,
7 Yes."
8 A Yes.
9 Q And then do you see below that another question,
10 "Okay. And you -- you never went back and add -- filled
11 in that information?" Answer, "No." Do you see that,
12 sir?
13 A I do.
14 Q And then the last portion before I ask you the
15 question is on page 80 within the deposition. Let me know
16 when you're there.
17 A I'm there.
18 Q Lines 13 to 19. I'm going to read. "Question,
19 Okay. Is it fair to say that this account history only
20 represents roughly 40 percent of the -- the work that you
21 did?" "Answer, Yes." "Question, Okay. And the other
22 60 percent is not recorded anywhere?" "Answer, Yes." Do
23 you see that?
24 A Yes, I do.
25 Q Okay. In the three places that I referenced you

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1 starting with page 22, is it fair to say that according to
2 his testimony, when Mr. Dutcher was too busy, that he
3 would just write "Preventive Maintenance" if he wrote
4 anything at all?
5 A If that's what he said, that's what he did.
6 Q Based on his testimony, he said that 60 percent
7 of the work wasn't recorded anywhere. Do you see that?
8 A Yes.
9 Q Okay. The code requires accurate recordkeeping.
10 Correct?
11 A It does, yes.
12 Q Based on the testimony that you see here, would
13 you say that Mr. Dutcher kept accurate records?
14 A They weren't complete, but they might have been
15 accurate.
16 Q Based on what you read here and his testimony,
17 his admission that 60 percent of his work he did not put
18 anywhere, he didn't put in his ThyssenKrupp phone, the
19 Smart system and he didn't put it in the logbook, is that
20 problematic for you?
21 A Most of the time, yes.
22 Q Let me step back. The code requires that any
23 work that is done on a machine be recorded. Correct?
24 A Yes.
25 Q In his testimony he indicates that over

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1 50 percent, the majority of the time that he did work, it
2 was not recorded anywhere. Correct?
3 A That's correct.
4 Q If you were the ThyssenKrupp supervisor in charge
5 of Mr. Dutcher, would you have a problem with him
6 recording only 40 percent of the work that he did?
7 A Not after I spoke to him about it and had him
8 correct it. Before that I would have a problem with it.
9 Q Why would you have a problem with it?
10 A Because we need to keep not only accurate but
11 complete records. Not only because the code says so, but
12 because we need to know what is done on that escalator. A
13 lot of it has to do with multiple technicians working on
14 the equipment for one reason or another. That when
15 somebody other than Mr. Dutcher, if you will, goes to do
16 some work on it, be it a callback or a repair or just
17 routine maintenance while he's on vacation, they should
18 have a good feeling for what work has been done either so
19 they can catch up on what has not been done and not
20 duplicate work that has been done. But one of the
21 examples -- that's one of the examples. That's the kind
22 of problems I would have with it.
23 Q So he testified that he would just write
24 "Preventive Maintenance" when he didn't have time to put
25 in an entry.

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1 A If he wrote "Preventive Maintenance," that's
2 satisfactory.
3 Q Is that satisfactory for whatever activity he did
4 on the machine?
5 A No. If he does preventive maintenance, they
6 write "Preventive Maintenance." It's just a routine type
7 thing. I think you've heard some testimony about visual
8 inspections and looking at the outside. Basically, you
9 don't take the equipment apart every time you do an
10 inspection. Some of the basic maintenance functions are
11 visual inspection. You might squirt oil on something or
12 clean something off with a rag or turn a screw. An entry
13 of "preventive maintenance" is satisfactory.
14 Q Does it concern you that Mr. Dutcher during the
15 eight years he was the primary mechanic assigned to the
16 Golden Nugget only wrote down 40 percent of the work that
17 he did?
18 A Yes.
19 Q Does it concern you that ThyssenKrupp's account
20 history that is based on Mr. Dutcher's input may be
21 inaccurate or incomplete to such a degree?
22 A That's compound. It may not be inaccurate, but
23 it would be incomplete.
24 Q Does that concern you?
25 A Yes.

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1 Q Why?
2 A Because I want to know what work was done for
3 reasons I gave earlier.
4 Q Does it concern you that no supervisor or
5 individual at ThyssenKrupp corrected this behavior?
6 A I saw no records at all indicating that
7 Mr. Dutcher was ever spoken to about correcting that
8 shortcoming. So I don't know if they did or did not speak
9 to him about it.
10 Q If this shortcoming was in place for eight years
11 and no one spoke to Mr. Dutcher about his incomplete
12 recordkeeping, would that concern you?
13 MS. MASTRANGELO: Object to the form, foundation.
14 THE WITNESS: Hypothetically, yes.
15 BY MR. IQBAL:
16 Q Okay. You indicated that it wouldn't be a
17 problem after you spoke to him. What would you tell him
18 if you found that up to 60 percent of the work on this
19 escalator was not written in the logbook or was not
20 transmitted to Thyssen? What would you tell Mr. Dutcher?
21 A I would begin by saying how do you account for
22 being paid for the 60 percent of the work that you're not
23 logging. It's got to be logged someplace to account for
24 his time. So somewhere -- there has got to be a log
25 someplace. So he is either falsifying some records

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1 someplace else to get paid for his 40 hours or he's not
2 getting paid for just the time that he logs. So on a
3 ticket someplace is his time that he spends somewhere so
4 he can get paid for the week. I think that might wake him
5 up to the fact that we need to know what is done on these
6 escalators and elevators he's responsible for as well as
7 all the other elevators that he does.
8 Q Okay. Would you tell him to log in somewhere all
9 of the activity that he conducted?
10 A Yes.
11 Q If he did not, what would you do?
12 A I think it's good reason for termination or
13 suspension.
14 Q Were you aware of the incompleteness that he
15 testified to when you put your initial report together?
16 A No.
17 Q Were you aware of the incompleteness of the
18 ThyssenKrupp account record when you put together your
19 rebuttal report?
20 A It didn't jump out at me, no.
21 Q I'll represent that Mr. Dutcher was deposed on
22 May 14th, 2018. Rebecca was there. I was there. We went
23 to New York because he has been transferred to New York.
24 I'll represent that the deposition transcript came out in
25 early June or at the very end of May. So based on your

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1 recollection and the dates that are in the document
2 sitting in front of you, is it more likely than not that
3 his incomplete recordkeeping did not make it into your
4 rebuttal report?
5 A It did not, no.
6 Q It did not?
7 A No.
8 Q If you'll turn to page 57. Actually, let me ask
9 you this. You are going to know your report better than
10 me. Where in your initial report did you talk about the
11 preventive maintenance?
12 A 6.32.
13 Q See, I told you. 6.54?
14 A 6.54. That happens when you guess. You can't
15 guess. You have to know.
16 Q Would you make any changes to that statement on
17 preventive maintenance?
18 A No.
19 Q Would you make any changes to your references to
20 the ThyssenKrupp account history?
21 A Reference where?
22 Q So you relied on the ThyssenKrupp account history
23 when you did your original report. Correct?
24 A Yes.
25 Q Based on Mr. Dutcher's testimony that up to

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1 60 percent of the work that he did was recorded nowhere
2 and certainly not in the account history, would you make a
3 reference regarding the incompleteness of the account
4 history in your report?
5 A If I had a chance to go over it again in more
6 detail, I might.
7 Q But you're not sure?
8 A I haven't looked at it in great detail again yet.
9 Q Now, if you turn to page 57 in Dutcher's
10 deposition, there is a question that is asked on line 8
11 through 10. "Question, Okay. Okay. And so e-mails you
12 reserved for situations when you were concerned about the
13 machine?" "Answer, Yes." Feel free to read, if you want,
14 the full context for my question which I'm about to ask.
15 Feel free to read starting at the bottom of page 56, line
16 23, and you can read through the end of 57. I don't want
17 to ask the question until you have a complete
18 understanding of the context. Go ahead and read that and
19 let me know when you're done.
20 A Okay. Go ahead.
21 Q So here it appears that, based on this testimony
22 under oath by Mr. Dutcher, he would e-mail Larry Panaro
23 and Scott Olsen when he had concerns about the machine.
24 Does that seem a fair assessment?
25 A That's what he said, yes.

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1 Q Is that typical in the industry?
2 MS. MASTRANGELO: Object to the form.
3 THE WITNESS: I don't know if e-mailing is
4 appropriate. Usually a verbal conversation with your
5 supervisor and/or Mr. Panaro, who is a sales
6 representative, I believe -- verbal conversation or notes
7 on time tickets or notes someplace. E-mail -- I don't
8 know if that would be appropriate.
9 BY MR. IQBAL:
10 Q Why would e-mail not be appropriate?
11 A It may not be possible. You need something, I
12 think, more official than an e-mail. I never saw any
13 records of Mr. Dutcher sending any e-mails to somebody.
14 Most of it was Mr. Panaro to Mr. Hartmann about he spoke
15 with Mr. Dutcher and so on and so forth.
16 Q I'm aware of those e-mails. They were in
17 ThyssenKrupp's second supplemental. I also agree with you
18 that we don't see any e-mails from Mr. Dutcher. In your
19 recollection, you don't recall any e-mails from
20 Mr. Dutcher to Mr. Olsen or Panaro. Correct?
21 A I don't recall any, no.
22 Q Do you recall seeing or reviewing at any time
23 since July of 2017 any internal ThyssenKrupp e-mails?
24 A I believe I saw some between -- internal
25 ThyssenKrupp only. I was going to say between

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1 ThyssenKrupp and KONE Spares was internal regarding
2 ordering materials. But I don't recall seeing any
3 internal e-mails on ThyssenKrupp, no.
4 Q He testified here that he sent e-mails, but you
5 don't recall seeing any?
6 A I haven't seen any.
7 Q So in terms of recording either maintenance or
8 inspection, servicing or repair of a machine, what kind of
9 records do you expect? And if there are differences with
10 each of those categories, please explain.
11 A Differences where? If you're going to do some
12 work on a machine, you want to record what you did.
13 Callback, preventive maintenance, repair, cleaning,
14 observing, whatever it might be. If it's just routine
15 preventive maintenance, you log the time and you know you
16 did some routines. It's not the best answer, but it's an
17 answer. So he did a visual inspection, everything seemed
18 to be in order, that's preventive maintenance. Again, he
19 might have tightened a screw, cleaned something, measured
20 something, whatever it might be. You don't need to be
21 that detailed, although it does help if somebody else
22 follows you in there and they know what you've done.
23 Q Gotcha. So if you are doing some routine, and
24 the example you gave was tightening a screw, it's okay to
25 put "preventive maintenance"? It's not the best, but it's

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1 with them about where the sensitive parts are in the case
2 and where the responsibility would lie.
3 Q Okay. You are talking about jurisdictions where
4 a report isn't required?
5 A Correct.
6 Q So let's take a situation where you are in a
7 jurisdiction that requires a report and you run into one
8 of these 5 to 10 percent times where you find that your
9 own client that retained you was, to use your word,
10 responsible. What do you do then when a report is
11 required?
12 A I talk to them before the report is due.
13 Q Okay. What do you tell them?
14 A I tell them they've got some issues here that you
15 need to be prepared to address because they are very risky
16 and you've got some liability and responsibility, and you
17 decide what you want to do. I don't tell them what they
18 should do. One time I told a client what he should do and
19 he did it. I went out and looked at the equipment. I saw
20 a fault there that was a problem. I said get your
21 checkbook out and get this settled early. It's that
22 simple. I told him what the problem was.
23 Q So in jurisdictions that require reports, you
24 find something problematic for your client, the service
25 company, you make sure to communicate that to them

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1 verbally before the report is due. Correct?
2 A Yes.
3 Q And in those situations typically do you tell
4 them to settle?
5 A Typically, no. I just did once. One time I did
6 that.
7 Q Have you ever reached the stage where an expert
8 report was due and it was one of those situations where
9 your service company client was responsible?
10 A No. Most of my work is California. Reports are
11 not required. Many times my clients shun reports. We
12 could do one -- nothing in the law says or rules of
13 evidence say you have to do a report or you're not allowed
14 to do a report. But in California it doesn't say
15 anything, and they try to shy away from it.
16 Q Gotcha. So in all of your years of practice as
17 an expert witness, 22 years -- right --
18 A Yes.
19 Q -- and hundreds and hundreds of cases --
20 correct --
21 A Yes.
22 Q -- have you ever written a report that has
23 conclusions detrimental to your client?
24 A No.
25 MR. IQBAL: Okay. Oh, my gosh. I'm sorry. We

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1 were supposed to stop at 12:30. I was reading my clock
2 wrong. I apologize. It's almost 1:00. Sorry, Alex.
3 Let's go off the record.
4 (Recess taken.)
5 BY MR. IQBAL:
6 Q Mr. Turner, thanks again for coming in for the
7 depo. I appreciate the time that you are taking to answer
8 these questions.
9 A Sure.
10 Q During the break did you have any conversations
11 with anyone?
12 A Rebecca and I spoke a little bit about cases,
13 other cases, and stuff like that.
14 Q Did you speak about this case?
15 A No.
16 Q Did you speak about your testimony this morning?
17 A I just asked how I was doing. She said fine.
18 Q Anything else?
19 A No.
20 Q So you were speaking about other cases. Are you
21 working with Rebecca on other cases?
22 A I have some, yeah. But we didn't talk about
23 those.
24 Q How many other cases do you have with Rebecca?
25 A Two others, I believe.

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1 Q Are those two other cases representing
2 ThyssenKrupp?
3 A I'm not sure. One is Otis. The other one I'm
4 not sure.
5 Q How many matters have you worked on with Rebecca
6 or her firm?
7 A I believe I answered that already. It's got to
8 be over the years a dozen.
9 Q Okay. I just want to do a check to clarify that
10 we have an accurate record of what is here and what is not
11 here. So Exhibit 2, your document inventory, when you
12 highlighted 2.0, is that -- does that highlight mean that
13 you don't have 2.0, 2.1, 2.1.1, 2.1.2 or does it just
14 reflect you don't have 2.0?
15 A Everything under that category, 2.0 and whatever
16 the subgroups are.
17 Q You don't have those?
18 A I don't have those, no.
19 Q Do you have 5.0 with you?
20 A I do. That's the correspondence received dated
21 11/21/17 and received on 12/1/17.
22 Q Okay. It's fair to say that the first pile under
23 there from July 17, 2017, has everything from 1.1 to 1.8?
24 A Yes.
25 Q And you have that with you?

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1 hand?

2 A All but three.

3 Q All but three?

4 A There were three I took with my iPhone that I did

5 not print out on that, but they are on the CD. There were

6 three short videos that I took. They are on the CD, but I

7 couldn't print out a video.

8 Q Is this the only copy of the CD that you have?

9 A Yes.

10 Q I don't want to take it since it's you're only

11 copy.

12 A I have them on my computer.

13 MS. MASTRANGELO: He made that for you.

14 THE WITNESS: I made that for you.

15 BY MR. IQBAL:

16 Q Great. Thank you. Here you go. I kept them in

17 order. So if you would go to Mr. Dutcher's deposition,

18 which is Exhibit 3, and turn to page 126 in the

19 deposition. Let me know when you're there. It's going to

20 be pages 123 to 126.

21 A I'm there.

22 Q There is a discussion on page 126 regarding KONE

23 steps that are prone to develop cracks from the OEM. Do

24 you see that between lines 3 and 11?

25 A I do, yes.

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1 Q Okay. So what is an OEM?

2 A Original equipment manufacturer.

3 Q Are you familiar with the KONE welded steps that

4 he is referring to that are prone to develop cracks?

5 A I believe so, yes.

6 Q Is it fair to say that it is a known

7 characteristic in the industry that KONE welded steps are

8 prone to cracks?

9 A Repeat the question.

10 Q Yes. Is it fair to say that the industry

11 considers the welded KONE steps as being prone to cracks?

12 A That's different that the first time you asked.

13 Q Yeah.

14 A The industry is generally knowledgeable some of

15 the KONE steps are prone to develop cracks, yes.

16 Q Would those be the welded steps?

17 A Yes.

18 Q Okay. Newer through axle steps, are they as

19 prone to cracks as the welded steps?

20 A No.

21 Q Why is that?

22 A Technically because the through axle step was

23 designed to absorb the torque or the twisting forces of

24 the flange that held the rollers on the outside of the

25 step as it goes through the upper curve, which is where a

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1 torque is exerted and causes what is referred to as the

2 B cracks in the side of the step. So because the through

3 axle absorbs that, it's not absorbed by the side of the

4 step, so those cracks do not appear then on the new,

5 quote, through axle steps.

6 Q Gotcha. So is it correct to say there are Type A

7 cracks and Type B cracks?

8 A There are, yes.

9 Q What is the difference between the two kind of

10 cracks?

11 A Primarily the difference is where they appear.

12 The B cracks appear on the side of the step where a flange

13 is mounted with some bolts that holds a wheel that then

14 attaches to the step chain, which is what drives the

15 escalator around.

16 The A cracks appear in the corner. You

17 can't say the leading or trailing edge because you can

18 reverse the steps and they go the other way. But in the

19 corner of the step where there is prone to be some

20 twisting action as a result of just going through the

21 motion on the escalator, and because of the welding

22 process that they used, it caused what they call a stress

23 riser to appear at that point that would manifest itself

24 not on every step but just on some -- would manifest

25 itself as the steps went through their operation on the

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1 escalator. And when that stress was relieved by cracking,

2 it could be repaired by reinforcing then that end of the

3 step so they didn't have a requirement to replace the step

4 if the A crack appeared to make a repair, and then you

5 could keep the step in service.

6 Q And you would do that by drilling a screw in?

7 A No. There was actually a band that was supposed

8 to be put on it to reenforce it. Drilling a hole was to

9 stop the B cracks from spreading. You might be familiar

10 with a crack in the windshield of your car. The way they

11 keep the crack from spreading is to drill a little hole at

12 the end of the crack so at that hole all the stressors are

13 absorbed through a smooth surface rather than have the

14 crack, which is a sharp surface, try to fight the stresses

15 in the window. In this case it was the stresses in the

16 side of the step.

17 Q Okay. So which one of these steps is known to be

18 critical and needing replacement right away?

19 A The ones with the B cracks.

20 Q If you are inspecting an escalator and you see

21 B cracks, what is your recommendation?

22 A Replace the step.

23 Q In what time frame?

24 A As soon as you can. I should point out that when

25 that crack appears, that KONE actually had in their policy

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1 or procedure to prevent the cracks from getting any bigger

2 you could drill a hole in the side of that, much as you

3 would do on the glass issue. It would keep the crack from

4 getting worse, but it wouldn't heal it. And because there

5 was no -- there is a structural failure of the step when

6 the crack appears, but the step doesn't fall apart or

7 distort. So it just keeps operating and you don't even

8 know it's there unless the step were to go through some

9 additional forces that would cause a portion of it to fall

10 apart or break or do something, in which case you would

11 start getting movement of the step that wasn't warranted.

12 Q Okay. If you have B cracks on an escalator, what

13 can happen?

14 A If it's just a crack and it doesn't get any

15 worse, nothing will happen. They just keep working, as I

16 said. They keep going.

17 Q What if the B crack gets worse? What can happen?

18 A The step could deform or a portion break off or

19 the chain wheel would break off and the step could sink

20 down and then cause what we call a step wreck or a pileup.

21 There would be serious damage to the escalator.

22 Q Okay. In such a situation where you mentioned

23 serious damage to the escalator, could that also happen to

24 anybody who happened to be on that step at that time?

25 A They would be what I like to call collateral

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1 damage.

2 Q So if a step is deformed, then whoever is

3 standing on it, there is a possibility that individual

4 would also be hurt?

5 A If it's deformed enough to cause a step wreck and

6 have the steps pile up and actually damage the whole step

7 or series of steps and the cone plates at the end where

8 they would be damaged, if there was somebody on that step,

9 they could become injured, yes.

10 Q So turning to page 141 and 142 of Mr. Dutcher's

11 deposition transcript. Let me know when you're there.

12 A I'm there.

13 Q There are some questions about a repair order on

14 September 12, 2012, recommending a replacement of

15 114 steps and then an October 2nd repair order with an

16 option for replacing 57 steps. And then there was some --

17 a few steps replaced in December. Do you see that?

18 A Yes, I do.

19 Q Okay. I'm going to hand you chunks -- hopefully

20 chunks so we can go through this quickly because these are

21 not Bates numbered. We should have brought our copies.

22 I'm going to hand you what can be marked as Exhibit 4.

23 It's going to be two work orders, one from September 12,

24 2012, and one from October 2nd, 2012. I'll mark these as

25 Exhibit 4 and hand them to you. Here you go, sir.

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1 (Exhibit 4 was marked for identification by the

2 court reporter.)

3 BY MR. IQBAL:

4 Q Let's start with the September 12, 2012. Do you

5 see where it says "Safety Matter" and it's underlined and

6 it's got stars before and after?

7 A The asterisks before and after, yes.

8 Q Do you see where it says at the end of that

9 paragraph, "Therefore, because a significant amount of

10 your steps already have cracks and the others are prone to

11 cracking, we are recommending replacement of all of the

12 steps on both escalators." Do you see that?

13 A Yes, I do.

14 Q When you see a document such as this that says

15 "Safety Matter" and that has a recommendation underlined

16 for replacement of all of the steps, what is your

17 immediate response to that?

18 A It sounds relatively serious and I would want to

19 look further into it and find out what the safety matter

20 is, for one, and what the nature of the matter is, the

21 nature of the damage. Prone to cracking. Come and

22 explain that to me. What do you mean prone to cracking?

23 Look into it and then, based on what I learn, to take some

24 action on it.

25 Q Would this be something you would look into right

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1 away?

2 A Yes.

3 Q Why?

4 A Because of the way it's written. It seemed to be

5 a fairly important issue at the time.

6 Q All right. And then if you turn to the next

7 repair order from October 2nd, 2012. Let me know when

8 you're there.

9 A All right. October 2, 2012.

10 Q So roughly three weeks later. Is that fair to

11 say?

12 A 20 days.

13 Q This repair order also has "Safety Matter" with

14 asterisks and underlined. Correct?

15 A Yes.

16 Q It has some underlined lines there. Do you see

17 that?

18 A Yes.

19 Q It looks like, "Therefore, we are proposing an

20 option to the following. We shall replace all the steps,

21 58 steps, on the down escalator unit. We will salvage

22 enough older uncracked steps to be able to install these

23 in the up escalator unit when cracked steps have been

24 identified. Additionally, as part of this proposal we

25 shall perform the step skirt indexing adjustments on both

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1 A Asked and answered. No.
2 Q Okay.
3 MS. MASTRANGELO: I was going to say that, but I
4 didn't want to be a jerk.
5 THE WITNESS: I'll be a jerk. I was waiting for
6 that chance. I'm sorry.
7 MR. IQBAL: No problem. Thank you for your
8 patience. I appreciate it. I'm going the hand you what
9 has been marked -- what will be marked as Exhibit 7.
10 Alex, Exhibit 7 is GNL 002095 to 2122.
11 MS. MCLEOD: Thank you.
12 (Exhibit 7 was marked for identification by the
13 court reporter.)
14 BY MR. IQBAL:
15 Q Mr. Turner, this Exhibit 7 looks like copies from
16 a logbook. But you tell me what you have in your hand or
17 what it looks like.
18 A These appear to be the maintenance logs based on
19 our previous definition of the logs which are comprised of
20 check charts, callback sheets, test logs, rope and repair
21 or repair and callback logs for the No. 2 escalator
22 designated 1993 by the state for the years 2011 through
23 2017. Either part or in whole it appears as Exhibit C to
24 Ms. Swett's deposition.
25 Q Okay. And you separated it out by a couple of

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1 pages. Now, is that each different entry or each
2 different year?
3 A Each year, 2017, 2016, 2015, 2014 -- are you
4 following me?
5 Q I'm with you.
6 A -- 2013, 2012, and 2011.
7 Q Okay. I just need one, and I can ask you
8 questions based on that. Thank you, sir. So here is the
9 first one for 2011.
10 A Yes, sir.
11 Q If you look at the third page, it says "Escalator
12 Maintenance Tasks." Do you see that, sir?
13 A Yes.
14 Q Now, are these markings at the top different
15 dates?
16 A Yes.
17 Q Okay.
18 A Let me look to make sure. They appear to be
19 dates, yes. Some of the entries are initials of CMD. I
20 guess that is Mr. Dutcher.
21 Q Correct. So places where the number should go
22 for dates, on some of the entries he just put his
23 initials?
24 A Yes.
25 Q Can you tell what dates those entries were made

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1 if it's just his initials?
2 A No.
3 Q Does that seem inconsistent to you, that some of
4 the entries he had the dates and then some of the entries
5 he just had his initials?
6 A There are dates written down below in a row
7 marked "Date."
8 Q Okay.
9 A It actually asks for the name or initials here
10 and for the first year starting, and on the front page he
11 didn't write it here. But these are dates seven, eight
12 and nine.
13 Q Gotcha. So based on the logs here, there was no
14 maintenance after September 2011 for that year?
15 A There are no entries made.
16 Q There are no entries made after September?
17 A That's correct.
18 Q Okay. Let's move to 2012. In 2012 can you go to
19 that same page, sir, the third page.
20 A Yes, I have it.
21 Q How many entries does he make for the year 2012?
22 A There are a lot of entries, but they are only for
23 three different dates. It does not look like
24 Mr. Dutcher's signature. I don't know why.
25 Q What are the three dates identified?

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1 A Identified as July 18, August 29, and December 7.
2 Q Okay. So the maintenance logs only have three
3 dates from 2012 and they are all in the second half of the
4 year?
5 A Yes.
6 Q Do the maintenance logs for 2012 show any
7 activity in the first half of the year?
8 A Not that I can see.
9 Q Just keeping count, in 2011 there were no entries
10 after September, and then in 2012 there were no entries
11 for the first six months. Correct?
12 A Apparently, yes.
13 Q How about 2013? What dates do you see for 2013,
14 sir?
15 A There are entries made in January, February,
16 June, July, November and December.
17 Q So there are several months missing from 2013?
18 A Yes.
19 MS. MASTRANGELO: Object to the form.
20 THE WITNESS: Actually, the months aren't
21 missing. The entries are missing. Something about
22 months, they keep happening whether you want them to or
23 not. I'm sorry.
24 BY MR. IQBAL:
25 Q No. That's very good. I like it. So there are

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1 multiple entries missing. Based on what has been produced
2 by Golden Nugget, there are entries missing from 2011,
3 2012 and 2013. Correct?
4 A Yes.
5 Q How about 2014? So it looks like for 2014 there
6 were only three entries. Can you take a look and confirm
7 my suspicion?
8 A Again, consistent with a previous answer I gave,
9 there are several entries, but only for three months, as
10 indicated here. Those months are July, October and
11 November.
12 Q That's 2013. So we are missing entries at least
13 associated with dates for the first six months of 2013.
14 Correct?
15 MS. MASTRANGELO: I'll object. That is not the
16 complete maintenance record. But for that document he can
17 answer.
18 THE WITNESS: For this document there are no
19 entries made for the first six months, that's correct.
20 BY MR. IQBAL:
21 Q And 2015. Thank you. I'm going to hand you
22 2015, sir. I'll try to not make the same mistake. Golden
23 Nugget 2113. There looks to be one, two, three, four,
24 five, six, seven, eight, nine sets of entries. Can you
25 confirm that for me?

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1 A There are entries here that are identified by
2 dates for May, June, July and September, I believe. He
3 might have one out of place. It looks like a 10. So
4 October. But, yes, nine of 12 months contain multiple
5 entries.
6 Q But in terms of actual identified dates, it's
7 less than nine. Correct?
8 A Yes.
9 Q How many actual dates does he identify?
10 A Four.
11 Q Four is a lot less than 12. Right?
12 A Last time I looked.
13 Q Based on just this production, what was
14 produced -- before we get to the last two years, let me
15 just ask you. Based on what was produced by Golden
16 Nugget, what I'm holding in my hand appears to be
17 incomplete. Yes or no?
18 MS. MASTRANGELO: Object to the form. It
19 mischaracterizes the evidence and the totality of the
20 records. Go ahead.
21 THE WITNESS: The form itself appears to be
22 incomplete, yes.
23 BY MR. IQBAL:
24 Q So the documents I have in my hand which are part
25 of Exhibit 7 appear to be incomplete?

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1 MS. MASTRANGELO: Same objection.
2 THE WITNESS: These documents, yes.
3 BY MR. IQBAL:
4 Q These documents are --
5 A Are incomplete.
6 Q Thank you. Okay. And then 2016?
7 A 2016. Page GNL 002117 has multiple entries for
8 six of 12 months. The months identified are January,
9 February, March, April, May and June that contain entries.
10 The other months do not contain entries.
11 Q So based on what you are holding in your hand
12 that was produced to us, does it look incomplete on its
13 face?
14 MS. MASTRANGELO: Same objections.
15 THE WITNESS: The document itself is not
16 complete, correct.
17 BY MR. IQBAL:
18 Q Thank you. A quick question. On the second page
19 is the escalator test log?
20 A Yes, sir.
21 Q For 2016 the escalator test log, which is
22 GNL 2116, is completely empty?
23 A That's correct.
24 Q Should it be empty?
25 A There should be entries for any tests that were

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1 conducted during the year 2016, and there are none.
2 Q So based on what was produced to us, it doesn't
3 show any testing done in 2016?
4 A It shows there are no entries made in this
5 document for 2016 under the category of escalator test
6 log.
7 Q Okay. Is there testing that should be done every
8 year?
9 A Yes.
10 Q So there should be, but there aren't any entries
11 in the escalator test log. Correct?
12 A There are no entries.
13 Q And there should be entries?
14 A If a test was done, there should be entries.
15 It's up to the state to ensure those tests are done during
16 an internal inspection of the escalator.
17 Q Gotcha. And then turning quickly to 2015,
18 page 2, the escalator test log for 2015, there are no
19 entries. Correct?
20 A Correct, there are no entries.
21 Q Can you identify the Bates number, sir?
22 A The Bates number is GNL 002112.
23 Q So it's basically an empty form. Correct?
24 A Other than the preprinted entries that are there,
25 nobody has completed anything. Everything is preprinted

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1 for labels and titles and areas and so on.
2 Q Right.
3 A There are no entries made on it.
4 Q Okay. It appears -- and correct me if I'm
5 wrong -- the records for 2011 show an entry in the
6 escalator test log. Is that correct?
7 A Yes. There are indications in the last column
8 about different tests that were done and the fact that it
9 was certified. That's in the last column with the
10 circles.
11 Q Got you. So for 2011 there was some input into
12 the escalator test log, and we just went through a couple
13 of years where there was absolutely no input. Correct?
14 A That's correct.
15 Q All right. How about what you are holding in
16 your hand?
17 A I'm holding 2017 test logs and pages that we have
18 been discussing, page 3, Bates No. GNL 002121.
19 Q Okay.
20 A It shows multiple entries in four different
21 months on this sheet. Those months are January, April,
22 June and September.
23 Q So it's missing entries for several months.
24 Correct?
25 A There are just no entries.

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1 Q So that's yes?
2 MS. MASTRANGELO: That was 2017?
3 THE WITNESS: I don't know about missing. They
4 might be someplace else.
5 BY MR. IQBAL:
6 Q Got you. Based on what you had in your hand,
7 there were no entries for several months?
8 A Correct.
9 Q But here on page 3, GNL 2121, we actually have
10 page 3 filled out?
11 A I just read that one to you. 2121, there are
12 four months that I said were January, April, June and
13 September.
14 Q Right. My fault. The escalator test log,
15 page 2, there are actually entries for 2017?
16 A Yes, there are for various tests.
17 Q Okay. So having looked at these records which
18 were produced to us recently -- I'll represent it was the
19 18th supplement from Golden Nugget -- when you see some
20 years escalator test logs with entries and handwriting and
21 then some years with escalator test logs completely blank
22 of any input, what is your reaction?
23 MS. MASTRANGELO: Object to the form.
24 THE WITNESS: I don't know if I have one. I said
25 I would like to see some entries on there. But, as

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1 indicated, they might be someplace else. We talked
2 earlier about the fact they've gone electronic with it,
3 and then if some people are old school, like myself, we do
4 a belts and suspenders approach and you enter the
5 electronic entry and have your manual test logs that you
6 use if that's what you're used to doing.
7 BY MR. IQBAL:
8 Q Right. That would make sense chronologically if
9 you had entries through a certain year and then you
10 started having blanks. Correct? Here the blanks are
11 sporadic. Yes?
12 A Yes.
13 Q That's yes?
14 A Yes. "Yes" is yes.
15 Q That would be concerning to you?
16 MS. MASTRANGELO: Object to the form.
17 THE WITNESS: No.
18 BY MR. IQBAL:
19 Q It's not concerning if there are no records of
20 tests that have been done?
21 MS. MASTRANGELO: Object to the form and
22 mischaracterizes the evidence.
23 THE WITNESS: No.
24 BY MR. IQBAL:
25 Q Okay. Does it concern you that there was

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1 inconsistent input by Mr. Dutcher in these logs that I'm
2 holding in my hand, Exhibit 7, produced by Golden Nugget?
3 A I don't know that the input was inconsistent as
4 much as it was sporadic.
5 Q Does it concern you that the input was, to use
6 your word, sporadic?
7 A Somewhat, yeah.
8 Q Somewhat?
9 A Somewhat.
10 Q Can you explain why it's somewhat of a concern?
11 A As I talked earlier, it's nice to have some
12 consistency in the manner in which work is done. It's
13 nice to have complete and accurate records. The
14 information in there, I have no way of knowing if it's
15 accurate, but I know it's not complete as far as those
16 particular records are concerned. But there are other
17 records, namely the account activities, whatever the form
18 was called.
19 Q The account history?
20 A Account history, yes. Thank you.
21 Q Right. But you do recall when Mr. Dutcher
22 testified that up to 60 percent of what he did didn't even
23 make it into the logs or the account history. Correct?
24 A Right.
25 Q And that was concerning to you?

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1 A It is. You know, he said it's about 60 percent.
2 I gave you some percentages of my breakdown of my work. I
3 think about the philosopher who said 42.7 percent of all
4 statistics are made up on the spot. So take them for what
5 they are worth, and it gives you a general idea what it
6 was.
7 Q Right. Out of Exhibit 7 I'm going to hand you
8 the record we have in front of us for 2014, so GNL 2107 to
9 GNL 2110. If you could take a look at the last page,
10 2110, for me, sir.
11 A Yes.
12 Q Is there anything inputted into the top section
13 of "Escalator Repair Log"?
14 A It's the repair log of the -- the maintenance log
15 from 2014 for the No. 2 escalator. There is nothing in
16 the upper section called "Escalator Repair Log."
17 Q Okay. And then in the bottom section is there an
18 entry?
19 A There is an entry dated October 28th. It was
20 made apparently at 12:30.
21 Q Okay. What does it say?
22 A "Wobbly steps." And then the resolution was --
23 it appears to be bad trail rollers, two steps, and then
24 names and initial Chris slash somebody else.
25 Q Now, if you take a look at the account history

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1 report, page 6 -- and we're on Exhibit 5.
2 A Yes. Thank you. Page 6.
3 Q Okay. At the top it has "On Site Repair." Do
4 you see that?
5 A Yes, I do.
6 Q And then there are two entries, both for
7 May 2014, regarding a gear box.
8 A One is a gear box on the No. 2 down, yes.
9 Q What is the other?
10 A The other one is another one, damage to escalator
11 gear box No. 2 down.
12 Q Okay. And then if you turn to page 5, eight days
13 after that, it appears that there was an installation.
14 Does it say "Move and install damaged escalator gear box"
15 at the bottom?
16 A "Remove and install damaged escalator gear box."
17 "Nugget remove." He wrote it as one word, but it's
18 "remove."
19 Q Got you. Are we to presume that he installed a
20 damaged gear box?
21 A If you take this on its face, yes, but that's not
22 what he did.
23 Q And you are basing that just on common sense.
24 Correct?
25 A A little bit of that and knowing he has two

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1 options, either remove and replace or remove, have
2 repaired and return it after it's repaired.
3 Q Gotcha. What does the gear box do?
4 A The gear box takes the revolutions per minute or
5 the output from the electric motor and both reduces the
6 speed of the revolutions and the torque or the power
7 needed to move the escalator down to a speed where the
8 escalator steps can move at 90 feet per minute rather than
9 rotate at the motor speed, which is about 1200 RPMs. So
10 the gear box just converts the speed and the torque from
11 the motor into what is usable to run the escalator.
12 Q Got you. So it's pretty critical to running the
13 escalator?
14 A Yes.
15 Q What can damage a gear box?
16 A Wear and tear, lack of lubrication. Just mostly
17 age, wear and tear.
18 Q Do you think that's what happened here?
19 A I don't know what happened here. I didn't see
20 the internals of it and how they determined what the
21 damage was.
22 Q Okay. So for 2015, the year in question where we
23 had the subject injury which we're all here about today,
24 that starts GNL 2111. This is Exhibit 7 again. Is there
25 anything written on the escalator test log for 2015?

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1 A Firstly, you've handed me two logs, one for 2015
2 and one for 2016. I'm going to return 2016 to you. Is
3 that okay?
4 Q Absolutely. Thank you.
5 A Thank you. Your question again, please.
6 Q Sure. So you have the records for 2015 in your
7 hand from Exhibit 7. Could you identify first the Bates
8 numbers that we're dealing with?
9 A We're dealing with Bates numbers GNL 002111
10 through GNL 002114.
11 Q Thank you, sir. On the second page is the
12 escalator test log for 2015. Is there any input on that
13 page?
14 MS. MASTRANGELO: Asked and answered.
15 THE WITNESS: No.
16 BY MR. IQBAL:
17 Q Is there any input on the last page for the
18 escalator repair log or the service request?
19 A Yes.
20 Q Let's put those together and hand them to the
21 reporter.
22 A Bear with me just a second.
23 Q Sure. Thank you, Mr. Turner, for putting those
24 in order. Now, we talked about the term "clean-down" this
25 morning before lunch. You testified that it's a

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1 clean-down involves cleaning everything. Right?

2 A Yes.

3 Q Including each and every step. Correct?

4 A Yes.

5 Q And based on the record, the account history that

6 we have here, the only clean-down that is in this

7 electronically issued account history report is for 2012.

8 Correct?

9 A There is only one recorded in here, yes, that I

10 see.

11 Q Where did you see cleaning, by the way?

12 A There were two entries for cleaning the pit areas

13 and so on. I need a break, if I could.

14 MR. IQBAL: Sure. Absolutely.

15 (Recess taken.)

16 BY MR. IQBAL:

17 Q Mr. Turner, I see that you are looking through

18 Exhibit 5, the account history. So going back to my

19 question, after the 2012 entries, which we saw several

20 entries for clean-downs -- correct?

21 A Yes.

22 Q -- do you see any entries for clean-downs after

23 December 7, 2012?

24 A For the term "clean-down," I see no entries after

25 that.

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1 Q Now, on page 14 there is a cleaned upper and

2 lower pits and turnarounds in the middle of the page from

3 June 26, 2013. Do you see that?

4 A Yes.

5 Q Is it fair to say the cleaning of the upper and

6 lower pits and turnarounds, the cleaning of the motor and

7 gear box and the checking of the switches, the oiling of

8 the step chains and the returning to service took two

9 hours and 15 minutes altogether?

10 A Apparently, yes.

11 Q Okay. So the cleaning portion of whatever was

12 done that day in terms of preventive maintenance was all

13 included within the two hours and 15 minutes?

14 A Yes.

15 Q So it's not possible to do a clean-down in that

16 short of a time. Correct?

17 A You can do part of a clean-down in that time.

18 You clean -- it's not a clean-down, per se. It's one of

19 those -- I might add to that it's one of those where we

20 don't have to take the escalator out of service for an

21 extended period of time, clear with the owner of the

22 equipment it's going to be down and it can be done within

23 two hours and it's not an inconvenience for the clientele.

24 Q Got that. Gotcha. Based on the term that we've

25 been using, quote, unquote, clean-down, meaning every part

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1 of the escalator being cleaned, we don't have anything

2 after that December 2012 date. Correct?

3 A That's correct.

4 Q And you testified this morning that inspections

5 are important because you get to see the environment, see

6 if there is carpet where the escalator starts. Do you

7 recall that?

8 A Yes, I do.

9 Q Do you recall testifying that where you have

10 carpet, you can have more debris enter the escalator

11 because of the lint and the stuff coming off the carpet?

12 A Yes.

13 Q So is it fair to say that a carpet surface

14 leading to an escalator is going to require more

15 clean-down of that escalator versus a stone surface

16 leading to an escalator?

17 A When you use the term "clean-down," meaning

18 clean-down, the annual comprehensive clean-down, or just

19 cleaning?

20 Q Just cleaning.

21 A Because I pointed out just cleaning in a couple

22 of places where they clean the upper and lower landing

23 pits and it's a two-and-a-half-hour entry, so on and so

24 forth. It may require a little bit more of that,

25 especially on the entrance to the escalator, be it upper

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1 or lower, that has a carpet floor.

2 Q So carpet flooring versus a marble flooring may

3 put more dirt into the escalator and require more cleaning

4 than an escalator with a stone surface?

5 A Generally, yes. I don't call it dirt. I call it

6 debris, lint, stuff like that.

7 Q So carpet can lead to more debris than other

8 surfaces. Correct?

9 A Yes.

10 Q In the case of the Nugget down escalator which

11 you inspected, there is carpet. Correct?

12 A At the upper landing, yes.

13 Q And at the bottom landing what is the surface?

14 A The lower landing is also carpet.

15 Q Okay. So you identified for me on page 14 a

16 cleaning of the upper and lower pits.

17 A Yes.

18 Q And so that is in June of 2013. We have the

19 clean-down in December of 2012. Are there any other

20 records of any cleaning?

21 A Page 11, second from the bottom, November 18,

22 2014. "Cleaned upper and lower pits. Replaced pit pads."

23 Remember there was a discussion about pit pads? Ms. Swett

24 talked about them. They are intended to absorb any oil or

25 lubricants that might collect. Remove two steps,

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1 A Yes.

2 Q Based on your review of these first five photos,

3 what kind of condition do those steps appear to be in?

4 A The steps themselves just appear to be covered in

5 an excessive amount of lint.

6 Q Why do you say "excessive"?

7 A Because it looks like a lot of lint. That's the

8 best adjective I could think of.

9 Q Gotcha. Would you call those steps dirty?

10 A Yes.

11 Q Do those steps show any evidence of recent

12 cleaning?

13 A No, not really.

14 Q If you opened up an escalator and saw steps that

15 looked like that, what would your reaction be?

16 A They should be cleaned.

17 Q Okay. If you opened up an escalator and saw

18 steps like that, would you think that a cleaning was long

19 overdue?

20 A It was due. I don't know when the last one was

21 unless I look at the records. That's why we need complete

22 records and accurate records.

23 Q Based on what we have in front of us in

24 Exhibit 5, there is no evidence of any cleaning after

25 2014. Correct?

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1 A Other than the minor routine cleaning that we

2 talked about and the other two issues.

3 Q Right. I'm not talking clean-down. I'm saying

4 any cleaning.

5 A Any cleaning? Whatever the date was. The last

6 testimony is there on the record. I don't recall what

7 dates.

8 Q Are these steps in an acceptable condition for

9 you?

10 MS. MASTRANGELO: Object to the form. Being in a

11 box?

12 THE WITNESS: Acceptable for what? If they are

13 going to be used on the escalator, they should be cleaned.

14 If the other side of it is cleaned and they are in one

15 piece and they are functional, then they can be used.

16 BY MR. IQBAL:

17 Q Okay. If the other side is also filthy?

18 A The upper side?

19 Q Yes.

20 A That should definitely be cleaned.

21 Q If you have that much lint, is it then difficult

22 to see cracks?

23 A No.

24 Q No?

25 A No. You wipe it and you look. It's easy.

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1 Q Understood. And you made a wiping motion with

2 your arm, meaning that you wipe the lint off and then you

3 would be able to see cracks. Correct?

4 A If you wipe it, yes.

5 Q If you don't wipe it and a step looks like that

6 and there is a layer of thick lint, is it possible to see

7 cracks?

8 A It's possible. Not probable.

9 Q Not probable. Okay. So it is easier to see

10 cracks after you have wiped away that layer of lint.

11 Correct?

12 A Yes.

13 Q And if that layer of lint is maintained and gets

14 thicker and thicker, then it would be more difficult to

15 observe cracks. Correct?

16 A That's correct.

17 Q Let's keep flipping. Really they are not in any

18 particular order. So you can keep flipping. You can keep

19 going.

20 A I can't identify what part of the step that is.

21 Q No problem at all. Can you identify what part of

22 the step that is?

23 A Yes. This is the riser. We call it the riser.

24 This is a trailer wheel here and this is an axle.

25 Q Okay. Just for the record, what page is that?

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1 This is 1, 2, 3, 4, 5, 6 -- so on page 7 you identified --

2 thank you, sir. On page 7 you identified the riser?

3 A Yes. And the trailer wheel and the trailer wheel

4 axle.

5 Q And what is on the axle?

6 A Lint and dust.

7 Q Based on your expertise, would you say that step

8 on page 7 needs cleaning?

9 A The same as the other ones. Same answer.

10 Q Yes?

11 A Yes.

12 Q Okay. How about page 8?

13 A Page 8 is, again, the underside of the step. I

14 can identify a trailer wheel, an axle and parts of the

15 tread, which is the top horizontal surface of the step.

16 Q Okay.

17 A I believe.

18 Q Based on that page 8, does it look like that step

19 needs cleaning?

20 A Yes.

21 Q All right. No. 9 -- I believe that's part of the

22 actual inspection of the actual escalator itself. You can

23 flip that. You can see the carpet. That's page 10.

24 A Do you mind if I mark these?

25 Q No. Please go ahead.