IN THE SUPREME COURT OF THE STATE OF NEVADA

CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation Appellant, v. BAHRAM YAHYAVI, an individual, Respondent.	)	Supreme Court No: 80107 District Court Case No: A718689
CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation Appellant, v. BAHRAM YAHYAVI, an individual, Respondent.	)	Supreme Court No: 80821

APPENDIX TO
APPELLANT'S OPENING BRIEF
VOLUME 1 of 12

Appeal from the Eighth Judicial District Court
Case No. A718689

HUTCHISON & STEFFEN, PLLC

Michael K. Wall (2098)
Peccole Professional Park
10080 Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorney for Appellant

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Doc No.	Description	Vol.	Bates Nos.
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2	Answer; filed 10/07/2015	1	AA000009-AA000012
3	Demand for Jury Trial; filed 10/07/2015	1	AA000013-AA000014
4	Mtn for an Order Terminating Automatic Stay; filed 10/25/2016	1	AA000015-AA000020
5	Order Granting Motion and Modifying Automatic Stay; filed 12/22/2016	1	AA000021-AA000022
6	Notice of Appearance; filed 02/21/2018	1	AA000024-AA000025
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11	Leggett Initial Report; dated 08/20/2018	1	AA000039-AA000054
12	Kirkendall Supplemental Report; dated 08/30/2018	1	AA000055-AA000067
13	Baker Supplemental Report; dated 12/03/2018	1	AA000068-AA000092
14	Leggett Transcript 1; conducted 12/05/2018	1	AA000093-AA000095
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17	OOJ to Defendant; served 01/18/2019	1	AA000120-AA000122
18	Leggett Transcript 2; conducted 05/09/2019	1	AA000123-AA000126
19	Baker Supplemental Report; dated 06/20/2019	1	AA000127-AA000137
20	Def. Trial Exhibit A. Southwest Medical Associates, Inc. Records; dated 10/25/2011	1	AA000138-AA000139
21	De-designation of expert Leggett; filed 09/20/2019	1	AA000140-AA000141
22	Plaintiff Motion for Sanctions; filed 09/26/2019	1	AA000142-AA000189
23	Jury Instructions	1	AA000190-AA000194
24	Verdict; filed 09/27/2019	1	AA000195
25	NEO of Judgment; filed 10/22/2019	1	AA000196-AA000200
26	Plaintiff Memo of Costs; filed 10/22/2019	1, 2	AA000201-AA000481
27	Plaintiff Motion for Attorney's Fees; filed 10/22/2019	3	AA000482-AA000542
28	NEO - Decision and Order; filed 11/05/2019	3	AA000543-AA000553
29	Defendant Motion Correct Reconsider Decision; filed 11/14/2019	3	AA000554-AA000564
30	Defendant Motion for New Trial; filed 11/18/2018	3	AA000565-AA000583
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52	Trial Transcript - Day 12; dated 09/24/2019	10	AA002297-AA002357
53	Trial Transcript - Day 13 - Part 1; dated 09/25/2019	11	AA002358-AA002459
54	Trial Transcript - Day 13 - Part 2; dated 09/25/2019	11	AA002460-AA002473
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35	Defendant Reply Motion New Trial; filed 01/22/2020	4	AA000911-AA000924
20	Def. Trial Exhibit A. Southwest Medical Associates, Inc. Records; dated 10/25/2011	1	AA000138-AA000139
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4	Mtn for an Order Terminating Automatic Stay; filed 10/25/2016	1	AA000015-AA000020
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38	NEO - Order Denying Def Motion to Correct or Reconsider; filed 03/04/2020	5	AA001006-AA001012
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5	Order Granting Motion and Modifying Automatic Stay; filed 12/22/2016	1	AA000021-AA000022
26	Plaintiff Memo of Costs; filed 10/22/2019	1, 2	AA000201-AA000481
27	Plaintiff Motion for Attorney's Fees; filed 10/22/2019	3	AA000482-AA000542
22	Plaintiff Motion for Sanctions; filed 09/26/2019	1	AA000142-AA000189
32	Plaintiff Opp Motion Correct or Reconsider Decision; filed 12/16/2019	4	AA000753-AA000763
34	Plaintiff Opp Motion New Trial; filed 01/10/2020	4	AA000780-AA000910
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51	Trial Transcript - Day 11; dated 09/23/2019	10	AA002168-AA002296
52	Trial Transcript - Day 12; dated 09/24/2019	10	AA002297-AA002357
53	Trial Transcript - Day 13 - Part 1; dated 09/25/2019	11	AA002358-AA002459
54	Trial Transcript - Day 13 - Part 2; dated 09/25/2019	11	AA002460-AA002473
55	Trial Transcript - Day 14; dated 09/26/2019	11	AA002474-AA002555
56	Trial Transcript - Day 15; dated 09/27/2019	11, 12	AA002556-AA002706
24	Verdict; filed 09/27/2019	1	AA000195

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this date the **APPENDIX TO APPELLANT'S OPENING BRIEF VOLUME 1 of 12** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Dennis M. Prince, Esq.
PRINCE LAW GROUP
10801 West Charleston Blvd. Ste. 560
Las Vegas, NV 89135
Tel: (702) 534-7600
Fax: (702) 534-7601

Attorney for Respondent Bahram Yahyavi

DATED this 12th day of August, 2020.

/s/ Kaylee Conradi

An employee of Hutchison & Steffen, PLLC

DISTRICT COURT CIVIL COVER SHEET

A-15-718689-C

..... County, Nevada

Case No. XXVIII

(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
BAHRAM YAHYAVI	CAPRITTI CONSTRUCTION CORP, INC. C/O DAVID ROCCHITO 1020 WIGWAM PARKWAY, Henderson NV 89072
Attorney (name/address/phone):	Attorney (name/address/phone):
MALIK W. AHMAD ESQ LAW OFFICE OF MALIK W AHMAD 8072 WEST SAHARA AVE, Suite A Las Vegas, NV 89117	Unknown (702) 547-1182

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property

Landlord/Tenant
- [ ] Unlawful Detainer
- [ ] Other Landlord/Tenant

Title to Property
- [ ] Judicial Foreclosure
- [ ] Other Title to Property

Other Real Property
- [ ] Condemnation/Eminent Domain
- [ ] Other Real Property

Torts

Negligence
- [x] Auto
- [ ] Premises Liability
- [ ] Other Negligence

Malpractice
- [ ] Medical/Dental
- [ ] Legal
- [ ] Accounting
- [ ] Other Malpractice

Other Torts
- [ ] Product Liability
- [ ] Intentional Misconduct
- [ ] Employment Tort
- [ ] Insurance Tort
- [ ] Other Tort

Probate

Probate *(select case type and estate value)*
- [ ] Summary Administration
- [ ] General Administration
- [ ] Special Administration
- [ ] Set Aside
- [ ] Trust/Conservatorship
- [ ] Other Probate

Estate Value
- [ ] Over $200,000
- [ ] Between $100,000 and $200,000
- [ ] Under $100,000 or Unknown
- [ ] Under $2,500

Construction Defect & Contract

Construction Defect
- [ ] Chapter 40
- [ ] Other Construction Defect

Contract Case
- [ ] Uniform Commercial Code
- [ ] Building and Construction
- [ ] Insurance Carrier
- [ ] Commercial Instrument
- [ ] Collection of Accounts
- [ ] Employment Contract
- [ ] Other Contract

Judicial Review/Appeal

Judicial Review
- [ ] Foreclosure Mediation Case
- [ ] Petition to Seal Records
- [ ] Mental Competency

Nevada State Agency Appeal
- [ ] Department of Motor Vehicle
- [ ] Worker's Compensation
- [ ] Other Nevada State Agency

Appeal Other
- [ ] Appeal from Lower Court
- [ ] Other Judicial Review/Appeal

Civil Writ

Civil Writ
- [ ] Writ of Habeas Corpus
- [ ] Writ of Mandamus
- [ ] Writ of Quo Warrant
- [ ] Writ of Prohibition
- [ ] Other Civil Writ

Other Civil Filing

Other Civil Filing
- [ ] Compromise of Minor's Claim
- [ ] Foreign Judgment
- [ ] Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

5/20/2015
Date

Signature of initiating party or representative

See other side for family-related case filings.

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CLERK OF THE COURT

COMP
MALIK W. AHMAD, ESQ.
Nevada State Bar No.: 10305
Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Ste. A
Las Vegas, Nevada 89117
Tel: 702.270.9100 | Fax: 702.233.9103
Email: malik@lasvegaslawgroup.com

Attorney for Plaintiff
Bahram Yahyavi

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual Plaintiff, vs. CAPRIATI CONSTRUCTION CORP, INC. a Nevada Corporation Defendant,	Case No.: A-15-718689-C Dept. No.: XXVIII **COMPLAINT FOR AUTO NEGLIGENCE AND PERSONAL INJURY** **JURY REQUESTED**

COMPLAINT

This is a civil action seeking monetary damages against CAPRIATI CONSTRUCTION CORPORATION, INC. ("Defendant or CCC") for committing acts or omissions of negligence against Plaintiff or someone employed by them during and in the course of their business or under their control and supervision.

COMES NOW BAHRAM YAHYAVI ("Plaintiff"), by and through his attorney, MALIK W. AHMAD, ESQ., OF THE LAW OFFICE OF MALIK W. AHMAD and sues CAPRIATI CONSTRUCTION CORPORATION, INC. ("Defendant"), and for reasons therefore states as follows:

//

//

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I.
JURISDICTION

Plaintiff is a citizen of the State of Nevada and Defendant is also a citizen of the State of Nevada. Defendant Capriati Construction Corp, Inc. is a business entity and a corporation incorporated in the state of Nevada and doing business as such. The matter in controversy happened in Nevada. As such, Nevada courts have jurisdiction in this matter. Also, Defendant resides in Las Vegas, Nevada.

II.
FACTS

1. Plaintiff is a 51 years male employed at the time of this accident.

2. On June 19, 2013, Plaintiff was driving a company owned vehicle when he collided with a fork lift when the forks were sticking out from a fork lift truck driven by Defendant or his employees.

3. While driving Defendant unexpectedly came in contact with a fork lift to Plaintiff's right of way with its forks lifted high in the upright position.

4. These higher and elevated forks smashed his windshield, hitting his head, body and general body.

5. Plaintiff was seriously injured and transported to UMC in an ambulance.

6. Later, he was transferred to Concentra Medical Center where he underwent medication management and physical therapy without any relief of his pain.

7. Plaintiff had serious injuries where an MRI of the cervical spine performed on October 1, 2013 which showed injuries of neck, cervical strain, cervical spondylosis, including upper extremity radicular symptoms, multilevel cervical degenerative disc diseases and disk osteophytes.

8. Plaintiff's vehicle was a total loss.

9. Plaintiff had seen innumerable physicians, conducted MRI's, and generally seen orthopedic surgeons.

10. Plaintiff's treatment has included both medications, as well as physical therapy.

11. Prior to this accident, Plaintiff had barely no or none pre-existing conditions.

12. Prior to this accident, Plaintiff had significant income producing abilities and had higher income.

13. On July 8, 2013, Plaintiff was diagnosed with cervical muscle strain, scapular muscle strain, and head injury.

14. On July 18, 2013, Plaintiff was diagnosed with cervical strain and a resolved scalp contusion/mild concussion.

15. On September 16, 2013, Plaintiff was diagnosed with neck pain, cervical strain, C6-7 auto fusion, cervical spondylosis, and greater than right upper extremity radicular symptoms.

16. That Plaintiff's pain includes cervical and thoracic strain.

17. That all the aforementioned injuries also had caused serious issues of sleeplessness.

18. That all of the aforementioned issues had seriously decreased his sexual activities.

19. That Plaintiff walks with tandem gait and sometimes with the assistance of a cane or walker.

20. His medical reports included significant aggravation of symptoms which also led him to go to emergency room where he was found to have high blood pressure.

21. There has been progressive increase in his neck pain, left arm pain, and numbness, as well as occipital and frontal headaches associated with these painful episodes.

22. It was also found by his orthopedic physicians and surgeon that he has spontaneous

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fusion at C6-7 including multilevel disk protrusions as C3-4, C4-5, C5-6, C6-7, C7-11, and T-1-2.

23. On the axial images, at C3-4, he has a broad-based disk protrusion as well as uncontrovertebrial joint hypertrophy resulting in bilateral neural foraminial stenosis.

24. That Plaintiff's employment history includes walking, lifting, bending, driving, sitting for long time, all of which has been significantly reduced after the accident in such regular human activities including walking, lifting, bending at the waist, driving, and other mobility actions.

25. That on the occasion in question the Defendant was negligent in the following particulars, among others, to-wit:

a) Failure to keep fork lift with its fork in the non erect position;

b) Failure to give full time and attention and under supervision or control;

c) Failure to keep a proper lookout;

d) Unreasonable operation or parking and station of a vehicle under existing conditions;

e) Reckless driving;

26. That the collision hereinabove stated was due to the sole negligence of Defendant without any contributory negligence whatsoever by the Plaintiff.

II.
FIRST CAUSE OF ACTION
Negligence

27. The Plaintiff adopts and incorporates all of the facts and allegations set forth above as if fully set forth herein.

28. That as a direct and proximate result of the aforesaid collision, the Plaintiff was suddenly thrown against the inside of the automobile, thereby causing the Plaintiff, to suffer severe pain and injury, including but not limited to, his head, both upper neck, lower neck,

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thoracic spine, mid-lumbar spine, and lower lumbar spine, all of which have caused her great pain and mental anguish.

31. That as a further direct and proximate result of the negligence of the Defendant, the Plaintiff has been forced to expend large sums of money for x-rays, for medicine, and for the treatment of the aforesaid injuries to herself.

32. That as a further direct and proximate result of the negligence of the Defendant, the Plaintiff was forced to lose time from his employment and has suffered a loss of wages for which she seeks remuneration.

WHEREFORE, the Plaintiff demands judgment against the Defendant, in the amount of Ten Thousand Dollars ($10,000.00) for damages, together with the costs of this action and such other relief as is deemed just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

1. Loss of occupancy, expenses for transportation;
2. Negligence;
3. Expenses for medical treatment and hospitalization;
4. Future expenses for medical treatment;
5. Loss of wages;
6. Future loss of wages and earning capacity;
7. Conscious pain and suffering;
8. Future conscious pain and suffering;
9. Permanent injuries to the affected parts;

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10. For pain and suffering; decrease of mobility, bending, lifting, walking, standing for long period of time, sitting and sleeplessness;

11. For decreased or no sexual activities;

12. For reasonable attorney fees according to proof;

13. For costs of suit herein incurred;

14. For such other and further relief as the court may deem proper.

The undersigned affirms that this pleading does not contain personal identifying information as defined in NRS 603A.040.

Dated this 20th day of May, 2015.

Respectfully submitted,

/s/ Malik W. Ahmad

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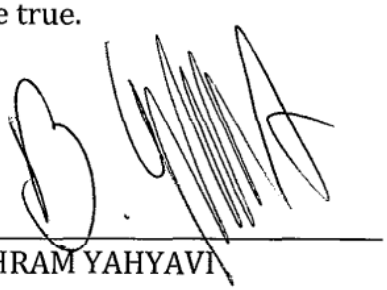
DECLARATION

STATE OF NEVADA
SS.
COUNTY OF CLARK

I BAHRAM YAHYAVI, being duly sworn, states; that I am the Affiant and am a Plaintiff in the above titled action; that I have read the forgoing Verified Complaint and know the contents thereof; that the same is true and correct to the best of my own knowledge as to all allegations and claims pertaining to them, except as to those matters therein stated on information and belief, and as to those matters they believe them to be true.

Dated this 20 TH day of MAY, 2015.



BAHRAM YAHYAVI

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual, Plaintiffs, —vs— CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendants.	Case No.: A-15-718689-C Dept. No.: XXVIII **DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendant CAPRIATI CONSTRUCTION CORP., INC., by and through its attorney, Mark J. Brown, Esq. of Law Offices of MELISSA P. HARRIS, as and for its Answer to Plaintiff's Complaint, admits, denies and alleges as follows:

1. Answering Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of Plaintiff's Complaint, Defendant is without sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained therein and, upon that ground, denies each and every allegation contained therein.

2. Answering Paragraphs 31 and 32 of Plaintiff's Complaint, Defendant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

This answering Defendant states that the allegations contained in the Complaint fail to state a cause of action against this Defendant upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

The liability, if any, of this answering Defendant must be reduced by the percentage of fault of others, including Plaintiff herein.

THIRD AFFIRMATIVE DEFENSE

It has been necessary for this answering Defendant to retain counsel to defend this action, and it is, therefore, entitled to an award of reasonable attorneys' fees.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate its damages, if any, in fact exists or were incurred, the existence of which is expressly denied.

FIFTH AFFIRMATIVE DEFENSE

Some of the foregoing Affirmative Defenses have been plead for purposes of non-waiver. This answering Defendant has not concluded discovery in this matter and specifically reserves the right to amend this Answer to include additional Affirmative Defenses if discovery warrants.

SIXTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of a third party over whom this answering Defendant had no control, nor the right, duty or obligation to control.

SEVENTH AFFIRMATIVE DEFENSE

This answering Defendant is not legally liable for Plaintiff's alleged injuries and/or damages, if any, because no act and/or omission on the part of this Defendant proximately and/or legally caused Plaintiff's claimed injuries and damages, as causation for the incident sued upon was that of an intervening and/or superseding nature.

EIGHTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P.11, all possible Affirmative Defenses may not have been raised herein as sufficient facts were not available after reasonable inquiry upon the filing of this Answer. Therefore, this answering Defendant reserves the right to amend its Answer or allege

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additional Affirmative Defenses if subsequent investigation so warrants.

NINTH AFFIRMATIVE DEFENSE

This matter is subject to Nevada's mandatory Arbitration Program.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to name a necessary party for full and adequate relief essential to this action.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to properly and timely effectuate service and this Complaint therefore must be dismissed.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff' actions against this answering Defendant are moot because Plaintiff's actions are barred by the applicable Statute of Limitations.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by way of this action as to this answering Defendant;
2. That this answering Defendant be reimbursed for attorneys' fees and costs necessarily incurred as a result of defending this action; and
3. Such other and further relief as this Court may deem just and proper.

DATED this 7 day of October, 2015.

Law Offices of MELISSA P. HARRIS

/s/ Mark J. Brown

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Attorney for Defendant,
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Offices of MELISSA P. HARRIS and that service of a true and correct copy of the above and foregoing was submitted on the 7 day of October 2015, to the following addressed parties by:

___ First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
___ Facsimile, pursuant to EDCR 7.26 (as amended)
_X_ Electronic Mail / Electronic Transmission
___ Hand Delivered to the addressee(s) indicated
___ Receipt of Copy of the foregoing on this ____ day of _____, 2015, acknowledged by, _____.

Mailk W Ahmad, Esq.
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Attorney for Plaintiff,
BAHRAM YAHYAVI

/s/ Joshua A. Montoya
An employee of Law Offices of
MELISSA P. HARRIS

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Mark.Brown@thehartford.com
Attorney for Defendant,
CAPRIATI CONSTRUCTION CORP., INC.

DISTRICT COURT
CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual, Plaintiff, —vs— CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendants.	Case No.: A-15-718689-C Dept. No.: XXVIII **DEFENDANT'S DEMAND FOR JURY TRIAL**

COMES NOW the Defendant, CAPRIATI CONSTRUCTION CORP., INC., by and through its attorney, Mark J. Brown, Esq. of Law Offices of MELISSA P. HARRIS, and demands a jury trial of all the issues in the above matter.

DATED this 7 day of October, 2015.

Law Offices of MELISSA P. HARRIS

/s/ Mark J. Brown
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Offices of MELISSA P. HARRIS and that service of a true and correct copy of the above and foregoing was submitted on the 7 day of October, 2015, to the following addressed parties by:

___ First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
___ Facsimile, pursuant to EDCR 7.26 (as amended)
_X_ Electronic Mail / Electronic Transmission
___ Hand Delivered to the addressee(s) indicated
___ Receipt of Copy of the foregoing on this _____ day of _____, 2012, acknowledged by, _____.

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Attorney for Plaintiff
BAHRAM YAHYAVI.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF LAS VEGAS, NEVADA

Debtor
CAPRIATI CONSTRUCTION CORP. INC
Debtor

CASE: 15-15722-abl

MOTION FOR AN ORDER TERMINATING THE AUTOMATIC STAY IMPOSED BY 11 U.S.C. § 362
Date: 11/30/2016
Time: 10:30 am

BAHRAM YAHYAVI, by and through his attorney MALIK AHMAD, Esq., of The Law Office of Malik W. Ahmad, respectfully submit this Motion for an Order Terminating the Automatic Stay imposed by 11 U.S.C. § 362.

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BACKGROUND & FACTS

1. On or about December 12, 2013, Debtor caused an automobile crash ("the Collision") and injured Bahram Yahyavi ("Plaintiff") for which Plaintiff filed civil litigation Case No. A-15-716532, in Clark County District Court ("the Civil Action"). A copy of the Civil Complaint is attached hereto as Exhibit 1.
2. On 10/07/2015, Capriati Construction Corp, Inc. ("Debtor") filed a voluntary petition under Chapter 11 of the United Stated Code ("Code") with the Bankruptcy Court for the District of Nevada ("Court").
3. Plaintiff was never informed of this bankruptcy either by the Debtor or his insurance as Plaintiff only came to know about this bankruptcy only few days ago.
4. The Debtor was insured with Hartford ("Hartford") at the time of the Collision and Hartford defended Debtor in the Civil Action. Exhibit No. 2.
5. Plaintiff is a 51 years male employed at the time of this accident.
6. On June 19, 2013, Plaintiff was driving a company owned vehicle when he collided with a fork lift when the forks were sticking out from a fork lift truck driven by Defendant or his employees.
7. The Defendant drove the forklift recklessly as to cause it to collide with the Plaintiff's vehicle.
8. These higher and elevated forks smashed his windshield, hitting his head, body and general body.
9. Plaintiff was seriously injured and transported to UMC in an ambulance.

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10. Later, Plaintiff was transferred to Concentra Medical Center where he underwent medication management and physical therapy without any relief of his pain.

10. Plaintiff had serious injuries where an MRI of the cervical spine performed on October 1, 2013 which showed injuries of neck, cervical strain, cervical spondylosis, including upper extremity radicular symptoms, multilevel cervical degenerative disc diseases and disk osteophytes.

PRELIMINARY STATEMENT

11. Plaintiff submit that he is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362 so as to permit him to have continue the civil action presently adjudicated in the Eighth District, Clark County, Nevada.

PLAINTIFF IS ENTITLED TO RELIEF FROM THE AUTOMATIC STAY FOR CAUSE TO CONTINUE AN ACTION AGAINST THE DEBTOR AND TO COMMENCE AND CONTINUE AN ACTION AGAINST THE DEBTOR'S INSURANCE CARRIER TO COLLECT FOR HIS DAMAGES FROM THE DEBTOR ARISING IN TORT.

12. Absent relief from the automatic stay, the Debtor's insurance carrier will be permitted to avoid its obligations to the Debtor and to Bahram Yahyavi. Bahram Yahyavi submit that this result constitutes "cause" for relief from the automatic stay as contemplated by 11 U.S.C. § 362(d)(1).

13. Collier on Bankruptcy discusses the effect of insurance coverage on the decision to lift or to modify the automatic stay:

> Lack of adequate protection and lack of equity are not the sole grounds for relief from the stay since section 362(d)(1) requires that the stay be vacated "for cause, including lack of adequate protection..."

> (*emphasis added*). Actions which are only remotely related to the case under title 11 or which involve the rights of third parties often will be permitted to proceed in another forum. Generally, proceedings in which the debtor is a fiduciary or which involve the post-petition activities of the debtor need not be stayed since they bear no real relationship to the purpose of the stay which is to protect the debtor and the estate from creditors. **Where the claim is one covered by insurance or indemnity, continuation of the action should be permitted since hardship to the debtor is likely to be outweighed by hardship to the plaintiff.** Finally, the liquidation of a claim may be more conveniently and speedily determined in another forum.

2 Collier on Bankruptcy, ¶ 362.07[3] (15th ed. 1980)(*footnotes omitted*)(*emphasis added*).

14. In *In re Mann*, 58 B.R.953 (Bankr. W.D.Va 1986), the court permitted the movant to continue her state court tort action against the debtor, who had received a discharge, in order to recover under the uninsured motorist clause of the movant's insurance policy. The court reasoned that the movant would not thereby be offending against the fresh start policy of the Bankruptcy Code because she would not be seeking to collect the debt as a personal liability of the debtor. *Id.*at 958. Moreover, were the court to prohibit the tort action from proceeding, it would unjustly enrich the insurer and deprive the movant of proceeds to which she was entitled under her insurance policy. *Id.*at 958-959. It would be inequitable to deny him recovery on his expected protection simply by virtue of the fact that the person's employer with whom he had a collision subsequently filed a petition with and was discharged by this Court. *In re Honosky,* 6 B.R. 667, 670(Bankr. S.D.W.Va 1980). *Id.at 959.* The court concluded

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that "the opportunity to litigate the issue of liability is a significant right which cannot be easily set aside despite the existence of these proceedings." *Id.*

The same reasoning applied in *In re White*, 73 B.R. 983 (Bankr.D.Colo. 1987), in which the court declared that the movant was entitled to proceed to judgment in her negligence lawsuit against the debtor in order to recover from the debtor's insurer. The court noted that as the debtor's insurer would fully cover all costs of defense and all potential liability, the lawsuit would not affect the assets of the debtor's estate. It also noted that disallowing the action would provide a windfall to the insurer, which had received a premium for providing insurance, and would deprive innocent personal injury claimants and general creditors of the estate of the benefits of the proceeds.

15. Other cases that have addresses this issue reaches the same conclusion with similar reasoning. *Rowe v. Ford Motor,* 34 B.R. 680(M.D.Ala. 1983)(lifting section 524 injunction to permit movant to bring personal injury suit against debtor in order to recover from movant's uninsured motorist insurer and from automobile manufacturer); *Elliott v. Hardison,* 25 B.R. 305 (E.D. Va 1982)(lifting automatic stay so as to allow movant to obtain personal injury judgment against debtor in order to recover under movant's uninsured motorist insurance); *Matter of McGaw,* 18 B.R. 140(Bankr. W.D.Wis 1982)(granting relief from stay and lifting section 524 injunction, thereby permitting movant to sue debtor for negligence in order to recover from debtor's employer and employer's insurer); *In re Honosky*, 6 B.R. 667 (Bankr. S.D.W.Va. 1980)(lifting the automatic stay to permit movant to sue debtor for negligence in order to recover from debtor's insurer). *See also* 3 Collier on Bankruptcy,¶ 524.01[3] p. 524-16(15th ed. 1988).

16. In the present case, Debtor's insurance carrier has an opportunity to settle this matter within the applicable liability limits of the Debtor's automobile policy. Thus, Bahram Yahyavi's right and ability to recover through the Debtor's insurance policy constitutes cause under 11 U.S.C. § 362(d)(1).

WHEREFORE, Bahram Yahyavi respectfully request that this Court grant this Motion for an Order terminating the Automatic Stay so as to permit Bahram Yahyavi to continue an action against the Debtor and to allow him to pursue the insurance carrier for collection of the claim.

DATED this 24th day of October, 2016

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BY: */s/Malik W. Ahmad*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of October 2016, I filed a true copy of Notice of Hearing by electronically filing an electronic copy via the ECF system of the United States Bankruptcy Court, District of Nevada to which opposing counsels and parties have equal access or via PACER.

Law Office of ERIC R. LARSEN
MARK J. BROWN, ESQ.
750 E. Warm Springs Road
Suite 320, Box 19
Las Vegas, Nevada 89119

/s/ Malik W. Ahmad
An employee

Honorable August B. Landis
United States Bankruptcy Judge

Entered on Docket
December 22, 2016

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

* * * * * *

In re:	Case No. 15-15722-abl
CAPRIATI CONSTRUCTION CORP. INC.,	Chapter 11
Debtor.	Hearing Date: December 21, 2016 Hearing Time: 1:30 p.m.

ORDER GRANTING MOTION AND MODIFYING AUTOMATIC STAY

On December 21, 2016, the Court conducted a hearing on a contested Motion For an Order Terminating the Automatic Stay Imposed By 11 U.S.C. § 362 ("Motion") (ECF No. 775).[1] The Motion was filed on behalf of Bahram Yahyavi ("Movant").

At the December 21, 2016, hearing, attorneys Malik W. Ahmad and David Sampson appeared on behalf of Movant. Attorney Brandy L. Brown appeared on behalf of debtor Capriati Construction Corp. Inc. ("Debtor"). Other appearances were noted on the record.

During the December 21, 2016, hearing, parties were given the opportunity to, and did, present argument regarding the issues raised by the Motion. After argument was completed, the Court issued its oral ruling.

To the extent that the Court made findings of fact and conclusions of law in the course

[1]In this Order all references to "ECF No." are to the numbers assigned to the documents filed in the above-captioned bankruptcy case as they appear on the docket maintained by the Clerk of the Court.

of its oral ruling on December 21, 2016, those findings of fact and conclusions of law are incorporated into this Order by this reference pursuant to FED. R. CIV. P. 52, made applicable in this contested matter pursuant to FED. R. BANKR. P. 9014(a) and (c) and 7052.

For the reasons stated on the record:

IT IS ORDERED that the Motion is **GRANTED**, and the automatic stay **is MODIFIED as follows:**

- The automatic stay is lifted only to the extent that the state court lawsuit[2] may proceed to establish the Debtor's liability, if any; percentage of fault, if any; and the amount of related damages; and
- A judgment may be entered in the State Court Lawsuit; but
- No collection actions attendant to entry of said judgment shall be taken by the plaintiff(s) in the State Court Lawsuit absent further Order of this Court.

IT IS FURTHER ORDERED that the automatic stay **is also modified, such that** the plaintiff(s) in the State Court Lawsuit may pursue insurance coverage under policies that may afford coverage for the Debtor's liability for the claims that underpin that State Court Lawsuit.

IT IS FURTHER ORDERED that the automatic stay shall otherwise remain in full force and effect to the extent permitted by the Bankruptcy Code.

Notice and copies sent to:

ALL PARTIES VIA BNC MAILING MATRIX

---

[2]Referenced in the Motion and related pleadings, as Clark County Eighth Judicial District Court Case No. A-15-716532 (the "State Court Lawsuit").

and SENT VIA BNC to:

LAW OFFICE OF MALIK W. AHMAD
8072 WEST SAHARA AVE., Ste. A
LAS VEGAS, NV 89117

# # #

NOTA
DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
EGLET PRINCE
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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual Plaintiff, vs. CAPRIATI CONSTRUCTION CORP, INC. a Nevada Corporation Defendants.	Case No.: A-15-718689-C Dept. No.: XXVIII **NOTICE OF APPEARANCE**

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE, that DENNIS M. PRINCE, ESQ. and TRACY A. EGLET, ESQ. of the law firm of EGLET PRINCE, hereby represent the Plaintiff, BAHRAM YAHYAVI, in the above-entitled action.

Please serve all notices, pleadings and papers on the undersigned counsel.

DATED 21st day of February, 2018.

EGLET PRINCE

#12505 F.A.

DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
Attorneys for Plaintiff

EGLET PRINCE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET PRINCE, and that on February 21, 2018, I caused the foregoing document entitled **NOTICE OF APPEARANCE** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
750 E. Warm Springs Road Suite 320, Box 19
Las Vegas, Nevada 89119
Attorney for Defendant

David F. Sampson, Esq.
LAW OFFICE OF DAVID SAMPSON
630 S. 3rd Street
Las Vegas, Nevada 89101
Former Attorney for Plaintiff

Bahram Yahyavi c/o Law Office of Malik W. Ahmad
8072 W. Sahara Ave., Ste. A
Las Vegas, Nevada 89117

An Employee of Eglet Prince

EGLET PRINCE

NOTC
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Mark.Brown@thehartford.com
Attorney for Defendant
CAPRIATI CONSTRUCTION CORP., INC.

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual

Plaintiffs,

—vs—

CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation

Defendants.

Case No.: A-15-718689-C
Dept. No.: XXVIII

NOTICE OF REFILING OF ANSWER PURSUANT TO COURT MINUTES OF OCTOBER 19, 2017

PLEASE TAKE NOTICE, Defendant hereby refiles its Answer pursuant to the Court Docket of the Minutes of the Hearing on October 19, 2017. Defense Counsel notes, however, per the Court transcript of the hearing, the refiling of the Answer was not specifically required by the stipulation of the parties or the Order of the Court.

DATED this 25th day of April, 2018.

Law Offices of ERIC R. LARSEN

/s/ Mark J. Brown
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Offices of ERIC R. LARSEN and that service of a true and correct copy of the above and foregoing was submitted on the 25 day of April, 2018, to the following addressed parties by:

___ First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
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_X_ Electronic Mail / Electronic Transmission
___ Hand Delivered to the addressee(s) indicated
___ Receipt of Copy of the foregoing on this _____ day of _____, 2018, acknowledged by, _____.

Mailk W Ahmad, Esq.
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/s/ Joshua A. Montoya
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CAPRIATI CONSTRUCTION CORP., INC.

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual,

Plaintiffs,

—vs—

CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation,

Defendants.

Case No.: A-15-718689-C
Dept. No.: XXVIII

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant CAPRIATI CONSTRUCTION CORP., INC., by and through its attorney, Mark J. Brown, Esq. of Law Offices of ERIC R. LARSEN, as and for its Answer to Plaintiff's Complaint, admits, denies and alleges as follows:

1. Answering Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of Plaintiff's Complaint, Defendant is without sufficient knowledge or information upon which to base a belief as to the truth of the allegations contained therein and, upon that ground, denies each and every allegation contained therein.

2. Answering Paragraphs 31 and 32 of Plaintiff's Complaint, Defendant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

This answering Defendant states that the allegations contained in the Complaint fail to state a cause of action against this Defendant upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

The liability, if any, of this answering Defendant must be reduced by the percentage of fault of others, including Plaintiff herein.

THIRD AFFIRMATIVE DEFENSE

It has been necessary for this answering Defendant to retain counsel to defend this action, and it is, therefore, entitled to an award of reasonable attorneys' fees.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate its damages, if any, in fact exists or were incurred, the existence of which is expressly denied.

FIFTH AFFIRMATIVE DEFENSE

Some of the foregoing Affirmative Defenses have been plead for purposes of non-waiver. This answering Defendant has not concluded discovery in this matter and specifically reserves the right to amend this Answer to include additional Affirmative Defenses if discovery warrants.

SIXTH AFFIRMATIVE DEFENSE

This answering Defendant alleges that the occurrence referred to in the Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the acts or omissions of a third party over whom this answering Defendant had no control, nor the right, duty or obligation to control.

SEVENTH AFFIRMATIVE DEFENSE

This answering Defendant is not legally liable for Plaintiff's alleged injuries and/or damages, if any, because no act and/or omission on the part of this Defendant proximately and/or legally caused Plaintiff's claimed injuries and damages, as causation for the incident sued upon was that of an intervening and/or superseding nature.

EIGHTH AFFIRMATIVE DEFENSE

Pursuant to N.R.C.P.11, all possible Affirmative Defenses may not have been raised herein as sufficient facts were not available after reasonable inquiry upon the filing of this Answer. Therefore, this answering Defendant reserves the right to amend its Answer or allege

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additional Affirmative Defenses if subsequent investigation so warrants.

NINTH AFFIRMATIVE DEFENSE

This matter is subject to Nevada's mandatory Arbitration Program.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to name a necessary party for full and adequate relief essential to this action.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to properly and timely effectuate service and this Complaint therefore must be dismissed.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff' actions against this answering Defendant are moot because Plaintiff's actions are barred by the applicable Statute of Limitations.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff takes nothing by way of this action as to this answering Defendant;
2. That this answering Defendant be reimbursed for attorneys' fees and costs necessarily incurred as a result of defending this action; and
3. Such other and further relief as this Court may deem just and proper.

DATED this 25th day of April, 2018.

Law Offices of ERIC R. LARSEN

/s/ Mark J. Brown

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Attorney for Defendant,
CAPRIATI CONSTRUCTION CORP., INC.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Law Offices of ERIC R. LARSEN and that service of a true and correct copy of the above and foregoing was submitted on the 25 day of April, 2018, to the following addressed parties by:

___ First Class Mail, postage prepaid from Las Vegas, NV pursuant to N.R.C.P. 5(b)
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___ Receipt of Copy of the foregoing on this _____ day of _____, 2018, acknowledged by, _____.

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FORENSIC ENGINEER

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July 3, 2018

Mr. Mark J. Brown
Senior Staff Attorney
Law Offices of Eric R. Larsen
Subsidiary of The Hartford Financial Services Group, Inc.
750 E. Warm Springs Rd., Ste. 320, Box 19
Las Vegas, NV 89119

Re: Bahram Yahyavi v. Capriati Construction Corp., Inc.
DOI: June 19, 2013

Dear Mr. Brown:

You have requested that I evaluate and opine on a two vehicle collision occurring on June 19, 2103 at approximately 10:25 A.M. on Sahara Avenue 2 feet north of the intersection of Glen Avenue.

As indicated in the State of Nevada Traffic Accident Report #LVMPD-130619-1450 authored by 5316 E. Grimmesey:

where: V1 = 2007 Forklift Truck driven by Joshua Adom Arbuckle

V2 = 2012 Dodge Charger 4-Door driven by Bahram Yahyavi

"V2 was travelling eastbound Sahara, West of the Y intersection at Glen in T2 of 2. V1 was a large construction forklift working on the S/W corner of Sahara/ Glen. This area has active construction in progress. The south side of Sahara has orange pylons lining the south shoulder which continues along to the south side of Glen. The shoulder line by the cones is 18 feet wide. There was a semi-truck with a flatbed trailer parked facing eastbound on Sahara, west of Glen.

In the closed shoulder, V2 was making a right turn along the cone pattern when it was struck by V1. V1 was travelling N/B from the sidewalk though the closed shoulder in front of the semi-truck. The forks of V1 were sticking out approximately 3 feet into T2 about 4 feet off the ground past the cone pattern. V1's forks stuck the right side of V2's windshield.

There were no pre-impact skid marks. V1 was moved prior to my arrival. W1 who is an inspector said he saw V1 driving into the roadway and said the forklift operator didn't see V2 coming. D2 was interviewed at UMC hospital. D2 said he was going east. And was going to turn onto Glen. When he saw the blades coming at him. D2 said the forklift wouldn't stop.

D1 said he was trying to go onto Sahara, to another part of the jobsite and he didn't see V2 coming. D1 was determined to be at fault in the accident and was cited for full attention to driving. D2 was transported for claimed injuries. The AIC was 2 N/S and 13 E/W determined by V1s post-impact tire marks. V1 and V2 were unregistered and did not have proof of insurance."

Presented below are my observations and opinions regarding

CURRICULUM VITAE
Attached

LIST OF VERBAL TESTIMONIES GIVEN IN PREVIOUS 10 YEARS
Attached

FEE SCHEDULE
Attached

DOCUMENTS REVIEWED

1. Retention Letter - June 25, 2018 (1 page).
2. State of Nevada Traffic Accident Report #LVMPD-130619-1450 authored by 5316 Eric Grimmesey (12 pages):
3. Las Vegas Fire and Rescue Pre-Hospital Care Report Summary (3 pages).
4. Deposition transcript of Bahram Yahyavi (62 pages).
5. UMC - reports and records regarding Bahram Yahyavi (23 pages).
6. Deposition transcript of Eric Grimmesey (47 pages).
7. Deposition transcript exhibits of Eric Grimmesey (11 Full page photo exhibits):
8. [43] Accident Scene color photographs.

PRELIMINARY OBSERVATIONS and OPINIONS

1. The State of Nevada Traffic Accident Report indicates that the Point of Rest (POR) of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi was seven feet past the Point of Impact (POI). At the Point of Impact, the Forklift's forks struck the windshield and the right side of the A-pillar. In fact, the forks reportedly initially penetrated into the vehicle travel compartment and penetrated approximately 3 inches past the initial strike into the windshield and exterior of the vehicle. Therefore, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi did not, in fact, travel 7 feet past the initial Point of Impact.

2. Both the passenger's-side A-pillar and the laminated windshield glass of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi are not load-bearing. As loud and violent as it may have appeared to the driver Bahram Yahyavi, the forks' striking, intercepting, or penetrating the A-pillar and laminated glass windshield components caused those components to break, but did not have any influence on the deceleration of the forward movement of the 3962-pound 2012 Dodge Charger.

3. In his deposition transcript (Page 40, Line 25), Bahram Yahyavi stated that he never did brake. However, if the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi traveled 7 feet past the A.I.C. (Area of Initial Contact – or POI), and with the A-pillar and windshield were not able to slow the moving vehicle, all deceleration of the 2012 Dodge Charger 4-Door would have had to be due to braking by the driver. That braking with or without tire friction marks, the deceleration of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have been between 0.55 and 0.70 G's. Without braking, the

forced deceleration of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi was substantially less.

4. In order to travel 7 feet past the POI, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have had to be travelling at a speed of 5.61 mph with no braking and rolling drivetrain resistance only (as Bahram Yahyavi states), or 12.12 mph with full braking . However, the 2012 Dodge Charger's traveling 7 feet past the POI necessitates the Forklift forks traveled through the entire travel compartment of that vehicle. Neither scenario is consistent with the post-collision position of the forks.

5. Despite the two major technical inconsistencies, at these levels of deceleration of (.55 to .70 or less), there are no possible hyperflexion mechanisms of injury. Without direct contact with the forks of other fixed object, it is unclear how Bahram Yahyavi could have experienced a traumatic head-strike injury or a deformed lower left rib with a possible separation from sternum. Depending on the three-dimensional geometry of the driver with respect to the travel compartment envelope, there can have been incidental direct contact of the knees with the lower dashboard. However this incidental level of contact is not consistent with the sudden changes of direction common in ACL tears. The small laceration inside Bahram Yahyavi's lower lip was most likely due to flying bits of crumbled laminated glass.

These preliminary opinions have been stated to a reasonable degree of Accident Reconstruction, Biomechanics, and Human Factors Engineering certainty.

Given the substantial levels of technical inconsistencies in the State of Nevada Traffic Accident Report and the deposition of Bahram Yahyavi, I request the opportunity to supplement or amend these preliminary observations and opinions on receipt of additional discovery material – specifically including medical reports and records. If you have any questions regarding these preliminary observations and opinions, please do not hesitate to contact me.

Sincerely,

John E. Baker (Signed electronically).

John E. Baker, Ph.D., P.E.

Kirkendall Consulting Group, LLC
1522 West Warm Springs Road, Henderson, NV 89014 • Telephone: 702-313-1560 • Fax: 702-313-1617

July 4, 2018

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Wilson Elser Moskowitz Edelman & Dicker, LLP
300 South 4th Street - 11th Floor
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RE: **Yahyavi, Bahram v. Capriati Construction Corp., et al.**
Clark County District Court Case No.: A-15-718689-C

Dear Mr. Kahn and Mr. Brown,

At your request, I am providing you with this report of my opinions concerning economic damages alleged by Mr. Yahyavi. The following sections of this report set forth my understanding of the background of this matter, the documents I have relied upon in arriving at my opinions and my analysis and opinions. Accompanying this report, you will find a copy of my current CV, fee schedule and my expert trial and deposition testimony listing.

Background

It is my understanding that Mr. Yahyavi is alleging injuries and economic damages relating to an Automobile/forklift accident which took place in Clark County, Nevada, on June 19, 2013. Economic damages alleged as of this writing include lost wages, future medical expenditures and future lost wages/earning capacity. At the time of the subject incident Mr. Yahyavi was employed as an Automobile Sales Manager. Subsequent to the subject incident Mr. Yahyavi returned to his pre-incident employment although the extent to which he continued to tork is not yet known.

Documents Reviewed

Documents utilized and/or reviewed by me in the preparation of my opinions in this matter include the documents noted below:

1. Independent Medical Evaluation Report by Howard Tung, MD, August 26, 2016
2. Complaint for Auto Negligence and Personal Injury

3. Defendants Answer to Plaintiff's Complaint
4. Defendants Designation of Expert Witness
5. Stipulation and Order to Extend Discovery Deadlines and Continue Trial
6. Review of Medical Records Report by John E Herr, M.D., September 7, 2016

Opinions

As noted above, Mr. Yahyavi has alleged damages in the forms of lost wages, future medical expenditures and future lost wages/earning capacity. Economic damages relating to lost earnings and benefits are generally calculated as the present value of the plaintiff's pre-incident earnings and benefits less the present value of the plaintiff's post-incident earnings and benefits. Economic damages relating future medical expenditures are generally calculated as the projected medical costs, discounted to present value. While Mr. Yahyavi has alleged these forms of economic damages, calculations of these damages utilizing generally accepted methodologies and evidentiary documentation do not appear in the documents received and reviewed as of the date of this report. In the event such calculations and related documentation are produced/provided, I reserve the right to update this report and comment as appropriate.

Damages

In his report dated August 26, 2016, Dr. Tung opined that "Cervical surgery is not recommended. Should surgery be contemplated or completed in the future, this would be unrelated to the subject motor vehicle accident and most substantially related to Mr. Yahyavi's pre-existing degenerative cervical spine disease/spondylolysis. Mr. Yahyavi is not disabled from work."[1] In his report dated September 7, 2016, Dr. Herr stated, "Assuming injury to the right knee on June 19, 2013, Mr. Yahyavi does not require any future healthcare for his right knee in association with June 19, 2013 incident."[2] To the extent Dr. Tung's and Dr. Herr's opinions are more likely than not, Mr. Yahyavi will have no future medical needs. Accordingly, it is my opinion that Mr. Yahyavi will suffer no economic damages relating to future medical expenditures as a result of the subject incident.

The above opinions are based upon analyses performed to date. I reserve the right to update this report based on information and/or events which may occur or become known to me in connection with the above referenced litigation proceedings. Such documentation and/or events may impact my analysis and that impact

[1] See Independent Medical Evaluation Report by Howard Tung, M.D., August 26, 2016, p. 14.
[2] See Review of Medical Records Report by John E. Herr, M.D., September 7, 2016, p. 7.

may be material. Thank you for the opportunity to serve you in this matter. If you have any questions concerning this report of my opinions, please call me.

Sincerely,

Digitally signed by Kevin B. Kirkendall, MBA, CPA-CGMA, CFE
DN: cn=Kevin B. Kirkendall, MBA, CPA-CGMA, CFE gn=Kevin B. Kirkendall, MBA, CPA-CGMA, CFE c=United States l=US o=Kirkendall Consulting Group, LLC e=Kevin@KirkendallConsulting.com
Reason: I am the author of this document
Location: Henderson, Nevada
Date: 2018-07-04 15:54-07:00

Kevin B. Kirkendall, MBA, CPA, CFE
Kirkendall Consulting Group, L.L.C.

FORENSIC DYNAMICS INC.
CONSULTING FORENSIC ENGINEERS & SCIENTISTS

OUR FILE: 1807.23

August 20, 2018

Eglet Prince
400 South 7th Street, #400
Las Vegas NV 89101

Attention: Tracy Eglet

RE: YAHYAVI v. Capriati Construction Corp.
M.V.A.: June 19, 2013
Case File No.: A-15_718689-C

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1. *Introduction & Instructions*

In July 2018 Forensic Dynamics Inc. commenced a technical investigation into motor vehicle collision involving a 2012 Dodge Charger and a forklift. The subject collision occurred on June 19, 2013 at approximately 10:25 am, at the intersection Glen Avenue and Sahara Avenue in Las Vegas, Nevada.

Specifically, the undersigned was instructed to review the provided materials, including a report prepared by Mr. John Baker, Ph.D., P.E. dated July 3, 2018 in order to comment on the methodologies and findings of the same.

The following is a rebuttal report, in letter format, regarding Mr. Baker's opinions.

1.1 Qualifications

The undersigned is responsible for the opinions expressed in this report. In brief, the author is a registered Professional Mechanical Engineer in the Province of British Columbia, the Province of Ontario, and a registered Engineer in the State of Arizona, and has been investigating and reconstructing motor vehicle collisions since 1985. The author's Curriculum Vitae may be reviewed in Appendix A.

2. *Provided Materials*

The following provided materials were reviewed and relied upon for the production of this letter:

1. Deposition Transcript (including exhibits) of Bahram Yahyavi dated May 3, 2016.
2. Deposition Transcript of Kevin Mackay dated May 24, 2016.
3. Deposition Transcript (including exhibits) of Sgt. Robert Stauffer dated May 18, 2018.
4. Deposition Transcript (including exhibits) of Eric Grimmesey dated June 20, 2018.
5. Forty-three (43) black and white photographs of the accident scene.
6. Defendant's Answers to Plaintiff's First Set of Interrogatories.
7. Defendant's Response to Plaintiff's Request for Admissions.
8. Defendant's Responses to Plaintiff's First Requests for Production of Documents.
9. Nineteen (19) color photographs of the incident location from client.
10. State of Nevada Traffic Accident Report #LVMPD-130619-1450.
11. Fourteen (14) color photographs of the incident.
12. Plaintiff's Answer to Defendant's First Set of Request for Production of Documents to Plaintiff.
13. Plaintiff's Reply to Defendant's First Set of Interrogatories to Plaintiff.
14. Plaintiff's Reply to Defendant's First Set of Admissions to Plaintiff.
15. Plaintiff's Reply to Defendant's Second Set of Interrogatories to Plaintiff.
16. Plaintiff's Answer to Defendant's Second Set of Request for Production of Documents to Plaintiff.
17. Plaintiff's Answer to Defendant's Third Set of Request for Production of Documents to Plaintiff.
18. Report of John E. Baker, P. Eng., dated July 3, 2018.
19. Additional thirty-eight (38) color photographs of accident scene.

20. Supplemental Records State of Nevada Traffic Accident Report #LVMPD-130619-1450.

21. LVMD – Communication Center Event Search.

3. *Background Assumptions & Investigation*

3.1 General Incident Scenario

On June 19, 2013, at approximately 10:25 am, Mr. Bahram Yahyavi was the operator of a 2012 Dodge Charger which was traveling northeast on Sahara Avenue and turning right onto Glen Avenue when his vehicle was impacted by a Taylor T-1200 forklift, which had been performing construction on Sahara Avenue.

3.2 Incident Scene

At the time of the collision, the regular traffic pattern at the intersection of Sahara Avenue and Glen Avenue had been altered as part of an ongoing construction project. In general, the intersection was a t-shaped intersection with Glen Avenue intersecting the eastbound side of Sahara Avenue (see Figure 1 (1)). Regularly, Glen Avenue would accommodate eastbound and westbound traffic with one lane for each direction of travel. Sahara Avenue accommodated nominally southwest-northwest traffic with three through lanes for each direction of travel; under regular circumstances a right turn lane would have been available for traffic intending to turn east onto Glen Avenue. At the time of the collision the right turn lane adjacent to the curb was closed as part of the construction project, with pylons and cones delineating the side of the lane. The right hand through lane of Sahara Avenue allowed traffic to turn eastbound onto Glen Avenue and at the time of the collision Glen Avenue was open to one-directional traffic only such that traffic would turn onto Glen Avenue in a clockwise curve and continue eastward.

The provided police scene photographs showed the roadway was dry at the time of the collision. The posted speed limit was 45 mph and there was no documentation of a reduced speed limit for the construction area.

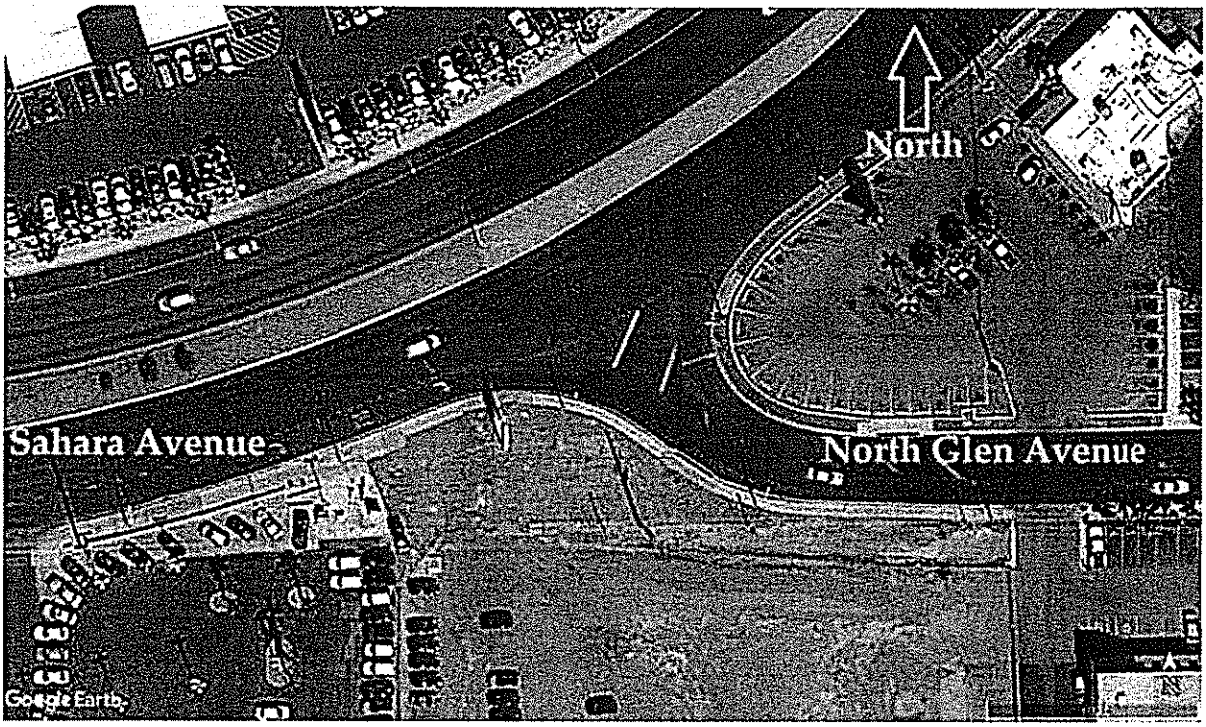


Figure 1: An annotated Google Earth aerial photograph depicting the general intersection area without construction detours (1).

The provided police scene photographs showed the Dodge Charger came to rest facing a southeast direction just north of the line of pylons which would have delineated the north side of the regular right turn or curb lane (see Figure 2).

The scene photographs showed the forklift at a final controlled rest position immediately south of the Dodge (see Figure 2). It is understood that the forklift operator reversed at some point, after initially coming to rest with the two vehicles in contact with each other. The provided scene photographs showed the forklift's rear steering tires were against the southern curb of Sahara Avenue at the final rest position (see Figure 3). The provided police report indicated the forks were at an elevation of 4 feet above the ground at the time of the collision. The provided photographs showed the forks were closed (i.e., drawn inward toward the center line of the vehicle) at the time the scene photographs were taken. In the undersigned's opinion, the forks were most likely raised and closed at the time of the collision.

Figure 2: A provided scene photograph showing the Forklift and Dodge's final rest positions relative to the blacked out road line which would have delineated the edge of the pre-construction curb lane.

Figure 3: A provided scene photograph showing the forklift's left rear tire at rest against the curb.

The provided scene photographs showed a pair of rotational tire marks directly in front of the forklift's left and right front tires at rest (see Figures 2 and 3). The police attributed the tire marks to the forklift and identified the tire marks as post-impact tire marks caused by forklift rotating in a clockwise direction after impact. The police further estimated the post-impact travel distance of the Dodge as being 7 feet based on an assumed initial contact point with the forklift's front tires being positioned over the two rotational tire marks.

The undersigned scrutinized the provided photographs and concluded that while the rotational tire marks were likely relatively recently made, they were NOT related to the subject collision. It was noted that the two rotational tire marks had distinctly different patterns. The tire mark in front of the left front dual tires had striations consistent with being made by a steering tire (i.e., a back tire on the forklift) and the tire mark closer to the right front dual tires had a dual lug pattern consistent with being made by dual front tires of the forklift (see Figure 4), although not necessarily the right fronts. It should also be noted that the forklift had a lifting capacity of 120,000 lbs (2); while it was not loaded at the time of the impact, forklifts generally weigh 1.5 times their capacity or more in order to be able to counter-balance their loads (3). In simple terms, the forklift may have generated the tire marks at any point while performing tight maneuvers within the blocked off curb lane. In the undersigned's opinion, the west-most tire mark would have been from the left front tire and the east-most tire mark would have been made by the left rear tire.

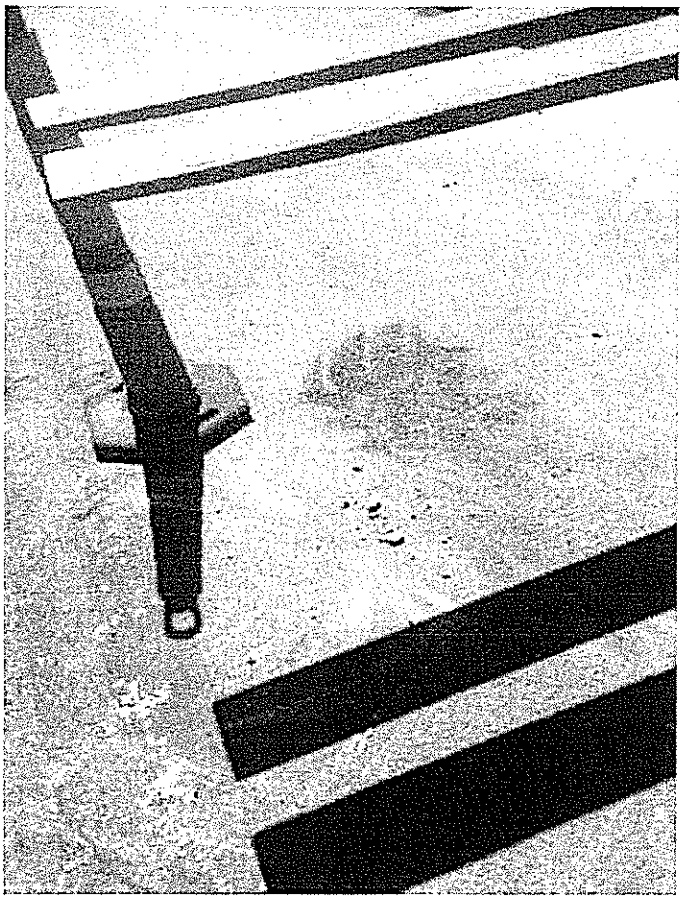


Figure 4: A provided scene photograph showing a close-up view of the tire mark generated from front dual wheels.

The undersigned was not provided with any witness evidence regarding the exact pre-impact operations of the forklift, however it was noted that east of the area of impact there were a number of large yellow crash barrels on pallets; these would most likely have been placed by the forklift as the crew was in the process of barricading the curb lane from the re-routing through lane that now accommodated right turning traffic. To further support this, it was noted that a large green Peterbilt flat deck truck was parked in the curb lane immediately west of the area of impact with black outriggers (side support legs) extended. The front bumper of this stationary Peterbilt truck was in close proximity to the west-most tire mark which exhibited steering tire striations. This truck would clearly have been present at the time of the collision and limited the available travel space of the forklift. It also would have restricted the Dodge from veering southward into the regular curb lane.

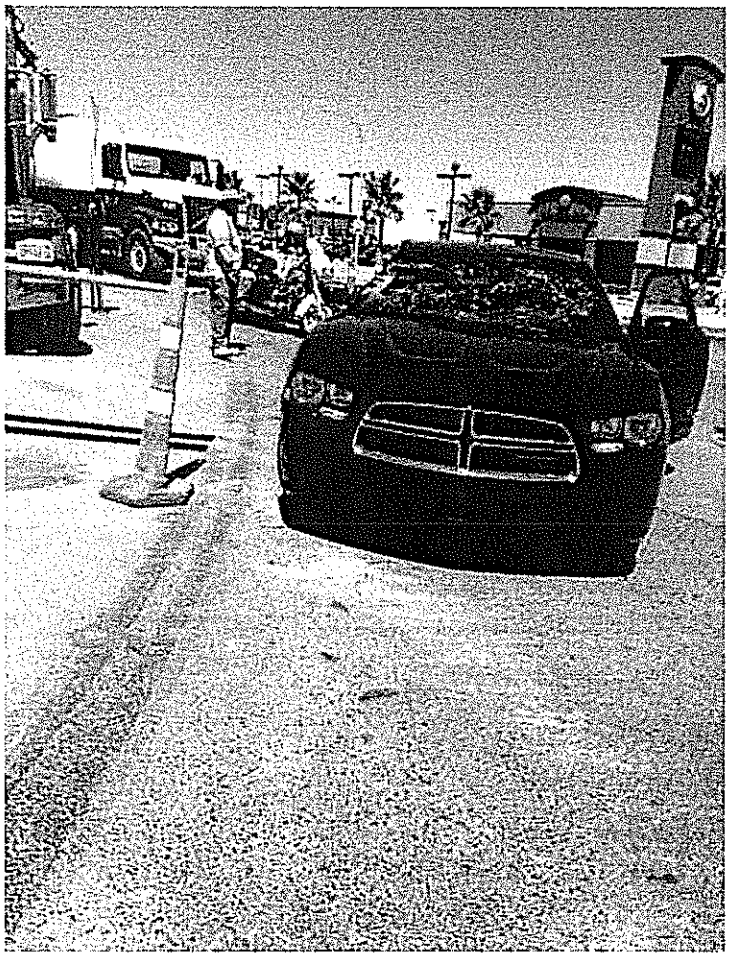


Figure 5: A provided scene photographs showing a frontal view of the Dodge at rest.

3.3 *2012 Dodge Charger Vehicle Damages*

Mr. Yahyavi's grey 2012 Dodge Charger sedan was not available for inspection at the time of this report; however, the damages sustained during the subject collision were well documented by the provided scene photographs and vehicle damage photographs. The Dodge's vehicle identification number (VIN) was 2C3CDXBG2CH211466.

The provided photographs showed the Dodge sustained direct contact damage to its right A-pillar and windshield. The right A-pillar was deformed, with a kink due to direct contact with the left fork, which caused a rearward and downward displacement. The right front corner of the roof was also buckled downward and there was induced deformation of the right front door which caused the laminated glass of the right front door's window to shatter. The front windshield had been penetrated and torn by the forks, with the tear in the laminated glass extending across the windshield toward the left A-pillar. The tear in the windshield terminated approximately 6 inches inbound from the left A-pillar. This was noted to be consistent the left fork of the forklift penetrating the windshield such that it would have intruded into the driver's occupant space.

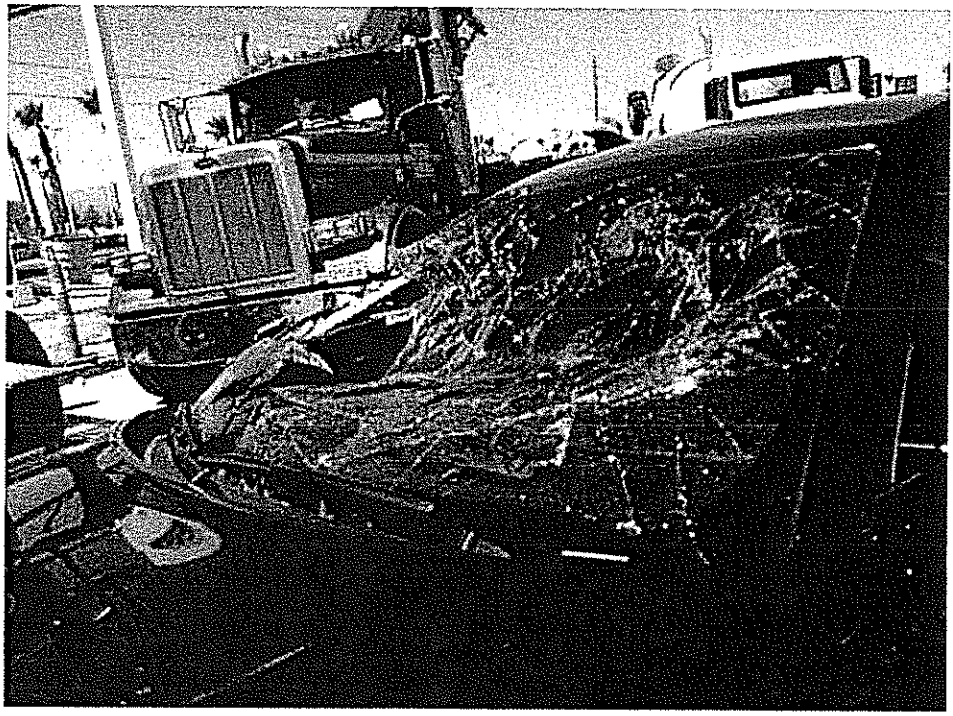


Figure 6: A provided scene photograph showing an oblique left front view of the damaged windshield.

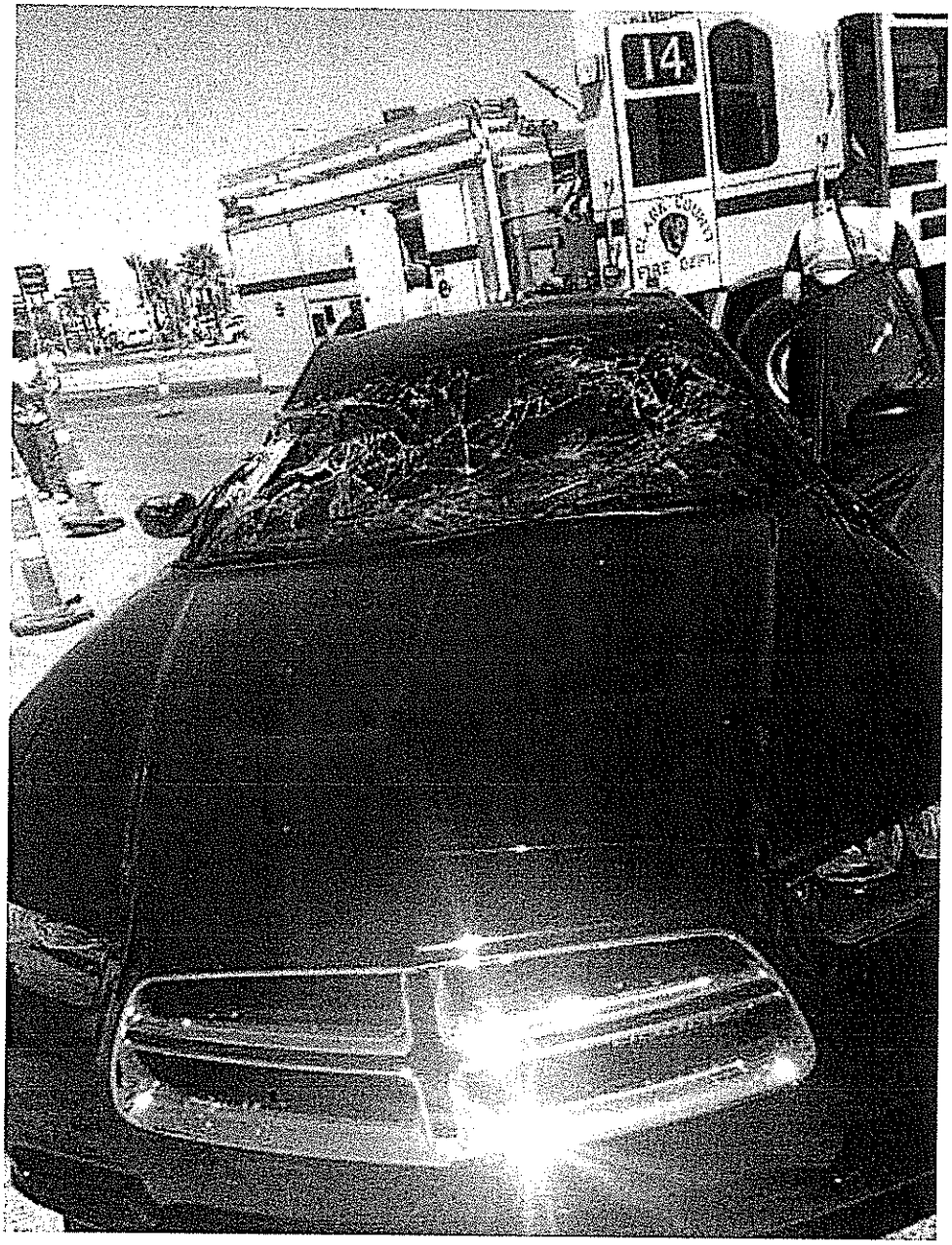


Figure 7: A provided scene photograph showing a frontal view of the damaged Dodge.

The driver's airbag did not deploy during the collision.

3.4 *Deposition Evidence of Bahram Yahyavi*

Mr. Yahyavi was the sales manager at Chapman Dodge on East Sahara and was traveling to another car lot with the Dodge, a vehicle which would have been for sale at the time. According to Mr. Yahyavi's deposition evidence from May 3, 2016, he had made his turn from Sahara to Glen Avenue and then all of a sudden his vehicle came to a halt, without him pushing the brakes. His vehicle "just stopped," and he saw the forks of the forklift inside the cabin of the vehicle. He stated the forks were initially in front of his face, about 8 inches from his face and neck area. He recalled that upon impact, his head went back and forth hitting the forks of the forklift. He recalled that his seatbelt did not tighten and his body subsequently slid downward on the seat, sliding under steering column. Mr. Yahyavi recalled that his right foot was still on the gas at the time of impact as he did not have an opportunity to brake. Mr. Yahyavi believed he blacked out for some duration of time following the impact and when he regained consciousness, somebody was holding his head.

It was noted that during his deposition, Mr. Yahyavi was not asked any questions regarding his travel speed at or prior to the moment of impact.

3.5 *Deposition Evidence of Kevin Mackey*

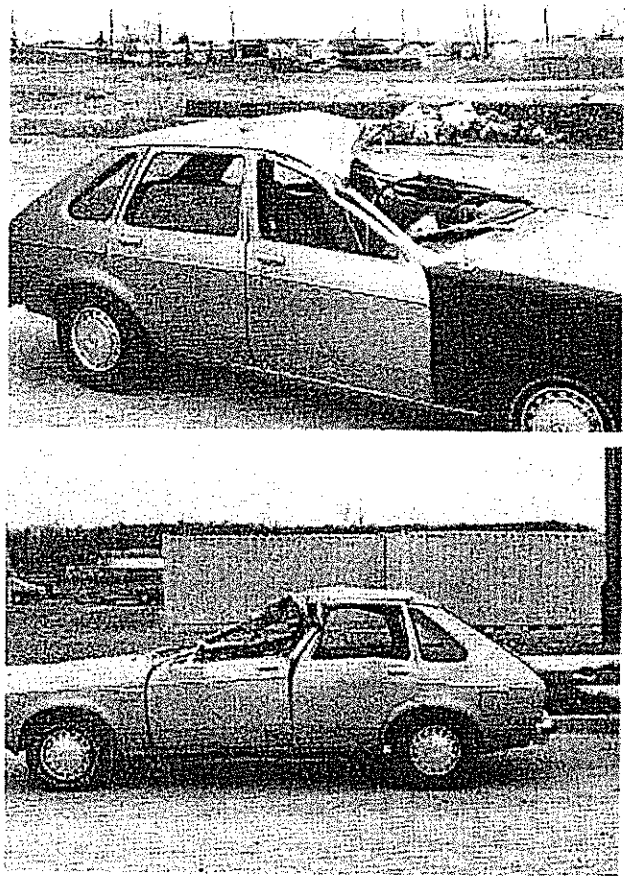
According to Mr. Mackey's deposition evidence from May 24, 2016, he was a co-working of Mr. Yahyavi's. He received a call informing him of the collision and proceeded to the scene. He observed the forks had penetrated the right front window and were still intruding into the driver's space at head level. He did not provide a statement to the police. Mr. Mackey indicated the view of the forklift driver would have been obscured by the stationary truck parked west of the collision area and he stated the collision would have been avoided, had the forklift operator not advanced into the travel lane.

4. *Review of Baker Report*

In paragraph number 1 of his Preliminary Observations and Opinions, Dr. Baker indicated he was sceptical of the post-impact travel distance of 7 feet documented by the investigating officers. The 7 feet measurement was estimated by Officer Grimmesey, who indicated during his deposition that it was an "eyeball measurement relative to the unrelated tire marks. Thus, the 7 feet of post-impact travel clearly would have been irrelevant and incorrect. It follows that any calculations based on the 7 foot estimation would be erroneous and based on flawed methodology.

In paragraph 2 of his Preliminary Observations and Opinions, Dr. Baker indicated the right side A-pillar and front windshield of the Dodge were not "Load-bearing." He went on to conclude the damages sustained to these structures would *"not have any influence on the deceleration of the forward movement of the 3962 -pound 2012 Dodge Charger."* This is an incorrect statement on the part of Dr. Baker. The A-pillars, windshield and roof of the Dodge Charger would all have been structural components, as they would be on any vehicle. As structural components, their deformation indicates energy absorption which would have been directly related to the impact speed of the Dodge, in the same manner the crush on a front bumper collision would absorb energy and be indicative of the severity of an impact. The crush sustained by a vehicle during a collision is directly related to the change in speed or delta-v experienced by a vehicle during a collision. The speed change or delta-v experienced by a vehicles is generally used to quantify the severity of an impact. In this case, while there is limited controlled crash testing available as reference points for the specific damage profile of the Dodge with crush concentrated at the right front A-pillar, there are numbers roof drop tests, rollover tests and heavy-vehicle under-ride tests all of which pertain to the energy absorption of the structures Dr. Baker suggested would not be relevant in this case.

For example, Figure 8 below shows a view of a vehicle which underwent underride testing with a commercial vehicle and at 28 mph (4). While this vehicle sustained much greater crush than the subject Dodge, the results of the testing confirm that contrary to Dr. Baker's opinion, the A-pillar, roof and windshield are all designed as structural members which absorb collision energy. In terms of the speed of the Dodge at impact, it was noted that the Dodge's front airbags did not deploy; taking into account an average speed change threshold of 16 mph for passenger vehicles (5), Mr. Yahyavi would certainly have been traveling at less than 16 mph at the time of impact. In the undersigned's opinion, the delta-v sustained by the Dodge would have been 10 mph or less.



'78 Chevette Before and After 28 mph (45 kmh) Impact

Figure 8: A photograph depicting damages sustained to front pillars, roof and windshield of sustained during a 28 mph crash test where the vehicle came to a stop under a semi-trailer after these structures absorbed the energy of the impact (4)..

It was noted that Dr. Baker also failed to take into account the significant mass disparity between the vehicles where the forklift would necessarily have weighed more than its 120,000 lbs capacity (3). This means it would have been more than 30 times heavier than the Dodge. The undersigned performed simulations using a collision simulation software package known as PC Crash (6) which confirmed the Dodge would not have caused the forklift to rotate, but rather the Dodge would have rotated slightly clockwise in response to the impact at its right front A-pillar, forward of the center of gravity, and its it's forward motion would indeed have been arrested by the forklift. With the Dodge's delta-v being 10 mph or less, Mr. Yahyavi would most likely have been traveling at 10 mph or less at the time of the collision.

In paragraphs 3 and 4 of his Preliminary Observations and Opinions, Dr. Baker provided opinions regarding the likely speed of the Dodge Charger based on the Dodge Charger traveling at the unrelated post-impact travel distance of 7 feet estimated by the police. He also erroneously assumed the impact with the forklift caused no delta-v for the Dodge. Dr. Baker calculated a speed range of 5.61 to 12.12 mph for the Dodge, depending on whether or not the Dodge traveled 7 feet to rest with Mr. Yahyavi actively braking (the maximum speed) or not braking.

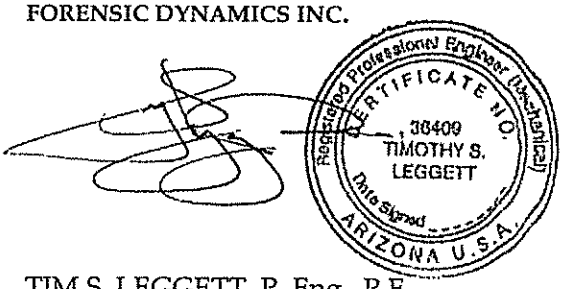
In paragraph 5 of his Preliminary Observations and Opinions, Dr. Baker went on to opine to provide Biomechanical opinions regarding a lack of injury mechanism for Mr. Yahyavi. Dr. Baker indicated there would have been no opportunity for direct contact with the forks of the forklift. The undersigned is nota Biomechanical expert; however, it is clear that Dr. Baker has misinterpreted the physical evidence, including the damage profile of the Dodge and post-impact dynamics of the collision. By failing to acknowledge that the forks penetrated the area of the driver's space directly in front of Mr. Yahyavi's head, Dr. Baker artificially removed the mechanism for head injury which clearly would have existed. In terms of the forks not making contact with the left side of Mr. Yahyavi's body, the undersigned agrees this likely was not the case; however, the potential for a left rib injury would certainly have been possible as Mr. Yahyavi's body slid down his seat and he was compressed under the steering column as he described.

The motion of Mr. Yahyavi's body would have been governed by Newtonian physics after the subject impact. As his vehicle experienced a rearward speed change, Mr. Yahyavi's body would have continued to move forward relative to his seat (i.e., directly toward the penetrating forklift forks). This forward motion to the seat would have occurred regardless of whether or not he was wearing his seatbelt as seatbelts allow the body to decelerate with a provided amount of slack; had the pre-tensioners failed to fire (similar to the airbags not deploying), Mr. Yahyavi's seatbelt would have provided sufficient slack for his head and upper body to travel back and forth due to equal and opposite impact forces between his head and the forks.

It is understood this is sufficient for your needs at this time. The undersigned reserves the right to augment his opinions, should additional information become available.

Yours very truly,

FORENSIC DYNAMICS INC.



TIM S. LEGGETT, P. Eng., P.E.
Accident Reconstruction Engineer

TSL:jg

5. *References*

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4. **Wakefield & Cothern.** Underride Vehicle Crush Damage. *Accident Reconstruction Journal.* November/December 1994.

5. **IIHS.** Airbags. [Online] http://www.iihs.org/iihs/topics/t/airbags/qanda.

6. **PC Crash 11.0.** ***Accident Simulation Software.*** **Linz, Autsria : s.n., 2017.**

Kirkendall Consulting Group, LLC
1522 West Warm Springs Road, Henderson, NV 89014 • Telephone: 702-313-1560 • Fax: 702-313-1617

August 30, 2018

David S. Kahn, Esq.
Wilson Elser Moskowitz Edelman & Dicker, LLP
300 South 4th Street - 11th Floor
Las Vegas, Nevada 89101-6014

RE: **Yahyavi, Bahram v. Capriati Construction Corp., et al.**
Clark County District Court Case No.: A-15-718689-C

Dear Mr. Kahn,

At your request I am providing you with this report of my opinions concerning economic damages alleged by Bahram Yahyavi. The following sections of this report set forth my understanding of the background of this matter, the documents I have relied upon in arriving at my opinions and my analysis and opinions. Accompanying this report, you will find a copy of my current CV, fee schedule and my expert trial and deposition testimony listing.

Background

It is my understanding that Mr. Yahyavi is alleging injuries and economic damages relating to an automobile/forklift accident which took place in Clark County, Nevada, on June 19, 2013. Economic damages alleged as of this writing include lost earnings and benefits, future medical expenditures and future lost earnings and benefits. At the time of the subject incident Mr. Yahyavi was employed as an Automobile Sales Manager. Subsequent to the subject incident Mr. Yahyavi returned to his pre-incident employment.

Documents Reviewed

Documents utilized and/or reviewed by me in the preparation of my opinions in this matter include the documents noted below:

1. Independent Medical Evaluation Report by Howard Tung, MD, August 26, 2016
2. Complaint for Auto Negligence and Personal Injury
3. Defendants Answer to Plaintiff's Complaint
4. Defendants Designation of Expert Witness
5. Stipulation and Order to Extend Discovery Deadlines and Continue Trial

6. Review of Medical Records report by John E Herr, M.D., September 7, 2016
7. Plaintiff's Expert Disclosure and Supplemental NRCP 16.1 Pre-Trial Disclosures
8. Comprehensive Medical Evaluation, David J. Oliveri, MD, April 24, 2018
9. Report on Present Value of Future Medical Costs, Terrence M. Clauretie, PhD, April 30, 2018
10. Vocational Assessment and Loss of Earnings Capacity Evaluation, Ira I. Spector, MS, CRC, May 21, 2018
11. Report on the Loss In Earning Capacity, Terrence M. Clauretie, Ph.D, May 23, 2018
12. Report of Stuart S. Kaplan, MD, FACS, April 12, 2018
13. Plaintiff's Responses To Defendant's Third Set Of Requests For Production of Documents
14. Preliminary Forensic Vocational Evaluation/Life Care Plan Rebuttal, Edward L. Bennett, MA, CRC, CDMS, July 3, 2018
15. Record Reviews
16. Report on Present Value of Future Medical Costs, Terrence M. Clauretie, Ph.D., June 14, 2018
17. Report on the Loss in the Value of Household Services, Terrence M. Clauretie, Ph.D., June 21, 2018
18. Comprehensive Medical Evaluation Subsequent Visit and First Supplemental Report, David J. Oliver, MD, June 26, 2018
19. Forensic Vocational Evaluation & Life Care Plan Rebuttal, Edward L. Bennett, MA, CRC, July 27, 2018
20. Review of Medical Records/Supplemental Report, Howard Tung, MD, August 2, 2018
21. U.S. Individual Income Tax Returns of Bahram Yahyavi, 2008 - 2017

Analyses

In a report dated May 23, 2018, Terrence M. Clauretie, Ph.D., opines that the present value of lost earnings and benefits to Mr. Yahyavi totaling $2,114,781. This figure is based upon the difference between pre-injury earnings and benefits of $2,386,459 and post-injury earnings and benefits of $271,678. Pre-incident earnings and benefits are based upon annual earnings and benefits of $184,178. This figure is comprised of annual earnings of $163,650 and employer-paid benefits totaling $20,528. The annual earnings figure is based upon Mr. Spector's opinion of pre-incident earning capacity for Mr. Yahyavi of $163,650. Post-incident earnings are based upon Mr. Spector's opinion that Mr. Yahyavi will only be able to work part-time and Dr. Clauretie's opinion that part-time is represented as half the 90th percentile earnings for a customer service representative of $24,815. Employer-paid benefits are calculated that the 7.5% of this annual earnings figure for total earnings and benefits of $26,676.

In his report Mr. Spector, referring to earnings for automobile sales persons, stated, "Mr. Yahyavi worked solely as an Automobile Salesman in 2009 through 2010. It is this rehabilitation counselor's understanding that the surveyed earnings for automobile sales persons do not reflect commissions earned and therefore are

not full and complete representations of what automobile sales persons earn annually. Using the automobile sales data income directly from Mr. Yahyavi's experienced and personal earnings history provides a more personally representative analysis of what his earning capacity would be in that position."[1] Given Mr. Spector's opinion, it is not clear why Dr. Clauretie chose to utilize 50% of the customer service representative earnings or $24,815 instead of 50% of Mr. Yahyavi's average annual earnings of $68,479. Had Dr. Clauretie utilized what appears, in Mr. Spector's opinion, to provide a more personally representative analysis of Mr. Yahyavi's earning capacity as an automobile salesperson, annual earnings utilized would have been $34,240 plus employer-paid benefits of $2,568. The 2009-2010 average provided by Mr. Spector was stated in nominal dollars. Utilization of nominal annual earnings (earnings not adjusted for inflation), results in an understatement of post-incident earnings and benefits and an overstatement of lost earnings and benefits. Mr. Yahyavi's average annual earnings for 2009 and 2010, stated in current dollars, is $75,755. Utilizing current dollars and employer-paid benefits of 7.5%, the correct annual earnings and benefits figure would be $41,793. This figure is $15,117 or 57% higher than the annual earnings and benefits figure utilized by Dr. Clauretie. To the extent Mr. Spector's opinions are more likely accurate than not, Dr. Clauretie has significantly overstated lost earnings and benefits to Mr. Yahyavi.

As noted previously, Mr. Spector opines that Mr. Yahyavi's pre-incident annual earning capacity is $163,650 based upon the 90th percentile average annual earnings for sales managers as reported by the Occupational Employment Survey. Reference to the sales manager job description indicates a number of responsibilities that arguably are not part of an automobile sales manager's position. Responsibilities such as "assigns sales territory to sales personnel", "analyzes sales statistics to formulate policy and to assist dealers in promoting sales", "directs product simplification and standardization to eliminate unprofitable items from sales line" and "may direct sales for manufacturer, retail store, wholesale house, jobber, or other establishment", indicates, at a minimum, that not all survey respondents were automobile sales managers. Given Mr. Spector's opinion concerning the components of a personally representative analysis of an individual's earning capacity and given the OES Sales Manager survey most likely is comprised of many non-automobile sales managers, it is not clear why Mr. Spector chooses to rely upon the OES in assessing Mr. Yahyavi's pre-incident annual earning capacity. It appears that Mr. Yahyavi's actual earnings data is a far better representation of his annual earning capacity. Mr. Yahyavi's average annual earnings, stated in 2018 dollars, is $141,503. Average annual earnings and benefits, including employer-paid benefits at 12.54% of annual earnings, are $159,246.

[1] Vocational Assessment and Loss of Earnings Capacity Evaluation, Ira I. Spector, MS, CRC, May 21, 2018

It appears that Mr. Yahyavi returned to work in May of 2018 as a counselor/advisor to AAII Holding, LLC. To the extent Mr. Yahyavi is earning an income in this position, such income would properly be deducted from the present value of pre-incident earnings and benefits.

In an additional report dated May 23, 2018, Dr. Clauretie opines that the value of Mr. Yahyavi's lost ability to perform household services is $94,491. This figure is calculated as the estimated pre-incident value of household services for a non-disabled male of Mr. Yahyavi's age, employment status (employed), marital status (not married), and presence of children in the home (none), of $267,148 less the estimated value of household services for a male with the same age, employment and familial characteristics and a severe mobility disability of $172,657. These figures are based, in part, upon data obtained from the American Time Use Survey ("ATUS"). The ATUS gathers data concerning time spent performing household services for employed and not employed men and women within certain age cohorts. Dr. Clauretie's pre-incident and post-incident figures of $267,148 and $172,657, respectively, are utilized as surrogates for Mr. Yahyavi's pre-incident and post-incident values of household services.

In his pre-injury and post-injury calculations Dr. Clauretie generalizes from statistical data to . Utilizing an equation derived by Joseph T. Crouse in his paper "The Impact of Disability on Household Services: Evidence From the American Time Use Survey" (Crouse), Dr. Clauretie predicts the number of minutes per day that Mr. Yahyavi will be able to perform household services with no disability and with a severe mobility disability, respectively. The difference between the pre-incident hours and post-incident hours per day that Dr. Clauretie estimates Mr. Yahyavi is no longer able to perform household services is ascribed a market value, adjusted for estimated growth, discounted to present value and imputed to Mr. Yahyavi as economic damages. For each year of Yahyavi's life expectancy from age 52 through age 80, Dr. Clauretie's model calculates a reduction in the hours per year Mr. Yahyavi is able to spend performing household services. In arriving at this figure Dr. Clauretie relies upon no independent medical and/or vocational opinion indicating that Mr. Yahyavi has a decreased ability to perform household services.

The key independent variable in the statistical model from which Dr. Clauretie obtains his household services data, is disability. In estimating the extent to which Mr. Yahyavi can no longer perform household services, Dr. Clauretie first determines or concludes that he has a severe mobility disability. Utilizing the equation from Crouse, Dr. Clauretie then calculates the estimated decrease in time performing household services noted above. Respondents to the ATUS are selected from respondents to the Current Population Survey ("CPS"). Crouse and ATUS then segregates/classifies individuals into "disability groups" based

upon their responses to the following questions from the American Community Survey ("ACS") and the CPS.[2]

1. Is this person deaf or does he/she have serious difficulty hearing?
2. Is this person blind or does he/she is serious difficulty seeing even when wearing glasses?
3. Because of a physical, mental or emotional condition, does this person have serious difficulty concentrating, remembering, or making decisions?
4. Does this person have serious difficulty walking or climbing stairs?
5. Does this person have difficulty dressing or bathing?
6. Because of a physical, mental, or emotional condition, does this person have difficulty doing errands alone such as visiting a Dr.'s office or shopping?

For purposes of the subject analysis, data relied upon by Dr. Clauretie regarding Mr. Yahyavi's "severe mobility disability" and its effect upon his ability to perform household services is taken from CPS/ATUS survey respondents who answered "yes" to question 4 and also "yes" to questions 1, 2 and or 3. No questions are asked of the CPS/ATUS respondents concerning the extent to which any difficulties affect their ability to perform household services. All that is known about the individual respondents is that they answered "yes" to the question concerning serious difficulty walking or climbing stairs. Generalization from data obtained from survey respondents about whom nothing is known concerning the extent to which any particular difficulties hinder their ability to perform household services, to a particular plaintiff about whom such data can be known is purely speculative. In other words, the CPS/ATUS data, cannot be utilized to obtain data relevant to Mr. Yahyavi because, by design, the CPS/ATUS surveys do not collect data concerning any specific disabilities of the survey respondents.

Obtaining particular facts about the plaintiff from medical and/or vocational experts concerning a decrease in the Plaintiff's ability to perform household services is required if an economist's estimates are to be based upon anything other than generalization, conjecture or assumption. Dr. Clauretie's methodology of generalizing from the statistical averages to Mr. Yahyavi allows for consideration of no variables other than age group, gender, marital status, employment status and the presence of children in the home and with reference to the post-incident calculations, disability status. Multiple other variables could have an effect upon a person's pre-incident and post-incident abilities and propensities to perform household services. Dr. Clauretie's methodology is founded upon generalization with no reference to any particular facts relating to Mr. Yahyavi. In fact, Dr. Clauretie's methodology does not allow for consideration of particular facts

[2] The Impact of Disability on Household Services: Evidence from the American Time Use Survey, Joseph T. Crouse, "The Rehabilitation Professional", 22 (4), p. 218 – 219

concerning Mr. Yahyavi's pre-incident and post-incident abilities to perform household services as it is based upon the implicit assumption that Mr. Yahyavi is average.

Dr. Clauretie's opinions, based upon the ATUS data, concerning the pre-incident and the post-incident values of household services would be exactly the same for any other person with the same age, gender, familial and employment status characteristics. Because the data utilized by Dr. Clauretie in calculating the pre-incident and post-incident values of Mr. Yahyavi's abilities to perform household services has no particular connection or relation to Mr. Yahyavi, that data is irrelevant for the estimation of damages to Mr. Yahyavi. Dr. Clauretie's methodology of generalizing from data which has no relation to the plaintiff is unreliable as it is based upon irrelevant data and does not allow for consideration of relevant data.

Dr. Clauretie's methodology requires the trier-of-fact to utilize the figure for a statistically average non-disabled male as the starting point or as the pre-incident value. Dr. Clauretie has no idea concerning how well or if at all this figure represents the plaintiff's particular situation and again, generalization from the statistically average male, absent evidence that Mr. Yahyavi is average, is speculative.

Consideration of particular facts with regard to the plaintiff is required of an expert if his opinion is to be considered relevant and reliable. The Nevada Supreme Court stated in Hallmark that "An expert's testimony will assist the trier-of-fact only when it is relevant and the product of reliable methodology." In determining whether an expert's opinion is based upon a reliable methodology the court in Hallmark stated, in part, that the opinion should be "(5) based more on particularized facts rather than assumption, conjecture or generalization." Dr. Clauretie's methodology is based upon the unfounded assumption that Mr. Yahyavi's pre-incident and post-incident abilities to perform household services are average. His methodology favors assumption, conjecture and generalization over consideration of any particular facts regarding Mr. Yahyavi and comparison of those facts to the statistical averages utilized in his calculations. In other words, Dr. Clauretie's methodology does not first establish that Mr. Yahyavi was an average male in terms of performing household services prior to the subject accident. Dr. Clauretie has failed to provide any evidence that his pre-incident or post-incident calculations of the value of household services are in any way relevant to the matter at hand.

In performing his calculations Dr. Clauretie relies upon data and a regression equation taken from the Crouse paper. As part of his regression analyses Crouse sets forth the R^2, otherwise known as the coefficient of correlation, for the cognitive, mobility, severe cognitive and severe mobility disability categories. Crouse's paper attempts to predict the extent to which an individuals' ability to perform household services will

decrease as the result of various disabilities classified as a "hearing", "vision", "cognitive", "mobility", "self-care", "going outside home", "severe cognitive" or "severe mobility." Utilizing certain variables Crouse attempts to estimate the decrease in minutes per day an individual will spend based upon his/her age, employment status, marital status and the presence of children under the age of 18 in the home. The R^2 statistic measures the extent to which these independent variables explain the variance or change in the dependent variable, disability. The lower the R^2, the less the variance in the dependent variable is explained by the independent variables. In this particular case the mobility R^2 figure is .0698. The meaning of this particular statistic is that only 6.98% of the variance in the dependent variable is explained by the independent variables noted above. The corollary to this is that 93.02% of any variance in minutes per day spent performing household services relates to other variables not considered by the Crouse model. The model upon which Dr. Clauretie bases his calculation of the plaintiff's decreased minutes per day performing household services is deeply flawed and extremely speculative.

This point is further developed by reference to the ATUS data utilized by Dr. Crouse. That data includes multiple additional variables which may have an effect on an individuals' propensity to perform household services. Specific variables for which data is available but not used by Dr. Crouse include education, employment status of a spouse, income, race and the number of children in the home. Failure to consider other relevant variables results in understatements or overstatements of time lost performing household services.

A significant flaw present in Dr. Crouse's analyses relates to the timing of the ATUS data collections. 50% of the ATUS data is collected on week-ends with the remaining 50% being collected on week-days. Dr. Crouse's analyses treat all days of the week as equal when more household services are performed on week-end days for employed individuals. Reliance upon Dr. Crouse's data results in a failure to account for more time spent performing household services on week-ends which leads to an overstatement of lost time relating to the "disabilities" sustained by the survey respondents

In his report Dr. Clauretie states that the basis for his household services damages calculations is the statistical analysis from the ATUS "…**AND** information from the report of Mr. Ira Spector, a vocational expert."[3] Dr. Clauretie is apparently making this statement due to past criticisms of his methodology wherein he has relied solely upon generalization from the ATUS data/analyses to injured plaintiff's in assessing the value of a decreased ability to perform household services. Specific criticisms and a criticism repeated here

[3] Report on the Loss in the Value of Household Services, Terrence M. Clauretie, Ph.D., June 21, 2018, p. 3.

is that Dr. Clauretie's calculations are based upon generalization from the ATUS and from representations made by the plaintiff concerning the amount of post-incident time he can no longer performing household services. Dr. Clauretie's opinions have no medical and/or vocational opinion concerning the extent to which any injuries impact the plaintiff's ability to perform household services. Mr. Spector does not opine concerning the impact of the subject incident on the plaintiff and instead notes Mr. Yahyavi's representation that "… He would require 4 -5 hours of household services assistance per week… .[4] In fact, Mr. Spector defers to medical practitioners when he says, "Although the identification and report of having difficulty while performing household services is reported and obtained directly from the examinee, this counselor defers to the physicians in this case to either support or not support the fact that the performance of the identified household service makes medical sense and are justified when considering the injuries and resulting symptomatologies sustained in the subject accident."[5] The only reference to household services in the reports of Drs. Herr, Tung, Kaplan or Oliveri is on page 4 of Dr. Oliveri's Future Medical Costs report wherein he. states, "Given his injury, Mr. Yahyavi may benefit from an assessment of his household chores and need for replacement services. I defer to an economist or similarly qualified expert to assess and calculate such." While this author is neither a medical or vocational expert, it does not appear that Dr. Oliveri's reference to household chores constitutes the type of support or lack of support concerning the performance of household services.

Dr. Clauretie has failed to base his analyses upon any evidence specific to Mr. Yahyavi indicating that the pre-incident calculation of the value of household services is in any way relevant to the matter at hand. Accordingly, any deduction therefrom in an attempt to value Mr. Yahyavi's alleged lost ability to perform household services cannot reasonably be relied upon. In a similar manner, Dr. Clauretie's post-incident value of household services has no independent object evidentiary foundation. Dr. Clauretie presents and relies upon no independent objective evidence that Mr. Yahyavi has a decreased ability to perform household services as a result of the subject incident.

Damages

In a report dated July 27, 2018, Edward L. Bennett, MA, CRC, stated, "In this counselor's view, nothing precludes plaintiff from returning to his usual and customary occupation of automobile sales representative/manager.[6] To the extent Mr. Bennett's opinion is more likely correct that not, Mr. Yahyavi's future post-incident annual earnings will not differ from his pre-incident annual earnings and benefits.

[4] Vocational Assessment and Loss of Earnings Capacity Evaluation, Ira I. Spector, MS, CRC, May 21, 2018, p. 17.
[5] Ibid.
[6] Forensic Vocational Evaluation & Life Care Plan Rebuttal, Edward L. Bennett, MA, CRC, July 27, 2018, p. 22.

Accordingly, it is my opinion that Mr. Yahyavi will suffer no future economic damages relating to lost earnings and benefits.

Concerning future medical expenditures Mr. Bennett stated, "Based upon contact with defense forensic medical experts, this counselor is still of the opinion that there are no future medical needs based on this instant case."[7] Assuming Mr. Bennett's opinions are more likely correct than not, Mr. Yahyavi will require no future medical expenditures as a result of the subject incident. Accordingly, it is my opinion that Mr. Yahyavi will suffer no economic damages relating to future medical expenditures as a result of the subject incident.

The above opinions are based upon analyses performed to date. I reserve the right to update this report based on information and/or events which may occur or become known to me in connection with the above referenced litigation proceedings. Such documentation and/or events may impact my analysis and that impact may be material. Thank you for the opportunity to serve you in this matter. If you have any questions concerning this report of my opinions, please call me.

Sincerely,

Digitally signed by Kevin B. Kirkendall, MBA, CPA-CGMA, CFE
DN: cn=Kevin B. Kirkendall, MBA, CPA-CGMA, CFE gn=Kevin B. Kirkendall, MBA, CPA-CGMA, CFE c=United States l=US o=Kirkendall Consulting Group, LLC e=Kevin@KirkendallConsulting.com
Reason: I am the author of this document
Location: Henderson, Nevada
Date: 2018-08-30 03:03-07:00

Kevin B. Kirkendall, MBA, CPA, CFE
Kirkendall Consulting Group, L.L.C.

[7] Ibid.

Appendix

Exhibit	Description
Exhibit A	Earnings Calculations
Exhibit B	Earnings and CPI Growth Rates

Yahyavi, Bahram v. Capriati Construction Corp., et al.
Personal Injury Economic Analysis
Earnings Calculations
Exhibit A

Note: The following analyses includes Mr. Yahyavi's annual earnings stated in 2018 doll and the calculation of various averages, stated in 2018 dollars.

Actual Earnings

	Per Tax Returns		
Year	Annual Earnings (1)	Historical CPI Growth Rates (2)	Stated in 2018 Dollars
2008	30,786	4.09%	34,352.52
2009	76,733	-0.67%	84,635.78
2010	60,225	2.07%	66,875.68
2011	101,703	3.56%	109,008.66
2012	156,355	2.10%	174,205.21
2013	105,863	1.37%	115,522.83
2014	123,683	1.50%	133,144.79
2015	97,509	-0.41%	103,417.21
2016	55,217	0.96%	58,803.77
2017	5,277	2.76%	5,566.35
2018	-	2.65%	-

Average Annual 2009 - 2010 Earnings	$	75,755.73
Average Annual 2008 - 2012 Earnings	$	93,815.57
Average Annual 2011 - 2012 Earnings	$	141,606.93
Average Annual 2015 - 2016 Earnings	$	81,110.49

Pre-Incident Overstatement

Spector Pre-incident Earning Capacity	$	163,650.00
Mr. Yahyavi's Average Annual Earnings: 2011 - 2012		141,606.93
Overstatement		22,043.07

Post-Incident Understatement

Spector Indicated Post-Incident Earning Capacity	$	37,877.86
Clauretie Calculated Post-Incident Earning Capacity		24,815.00
Understatement		13,062.86

Note:
(1) See the U.S. Individual Income Tax Returns of Bahram Yahyavi, 2008 - 2017.
(2) See Exhibit B.

Yahyavi, Bahram v. Capriati Construction Corp., et al.

Personal Injury Economic Analysis
Earnings & CPI Growth Rates
Exhibit B

Note: Historical growth rate are the average annual wage growth rates reported in the 2017 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. Growth rates for future periods are the estimated growth rates in the same report. Specifically, see the intermediate assumptions for the average annual wage in covered employment for the corresponding years, Table V.B1., Principal Economic and Assumptions.

Past Rates

Year	Wage Growth Rate	CPI
2002	0.68%	1.38%
2003	2.52%	2.22%
2004	4.69%	2.61%
2005	3.71%	3.52%
2006	4.74%	3.19%
2007	4.49%	2.88%
2008	2.41%	4.09%
2009	-1.59%	-0.67%
2010	2.58%	2.07%
2011	3.12%	3.56%
2012	3.35%	2.10%
2013	1.13%	1.37%
2014	3.44%	1.50%
2015	2.74%	-0.41%
2016	2.66%	0.96%

Future Rates

Year	Growth Rate	CPI	Year	Growth Rate	CPI
2017	4.86%	2.76%	2039	3.80%	2.60%
2018	4.82%	2.65%	2040	3.80%	2.60%
2019	4.46%	2.60%	2041	3.80%	2.60%
2020	4.28%	2.60%	2042	3.80%	2.60%
2021	4.23%	2.60%	2043	3.80%	2.60%
2022	4.07%	2.60%	2044	3.80%	2.60%
2023	3.98%	2.60%	2045	3.80%	2.60%
2024	4.04%	2.60%	2046	3.80%	2.60%
2025	3.93%	2.60%	2047	3.80%	2.60%
2026	3.89%	2.60%	2048	3.80%	2.60%
2027	3.89%	2.60%	2049	3.80%	2.60%
2028	3.89%	2.60%	2050	3.80%	2.60%
2029	3.89%	2.60%	2051	3.80%	2.60%
2030	3.89%	2.60%	2052	3.80%	2.60%
2031	3.80%	2.60%	2053	3.80%	2.60%
2032	3.80%	2.60%	2054	3.80%	2.60%
2033	3.80%	2.60%	2055	3.80%	2.60%
2034	3.80%	2.60%	2056	3.80%	2.60%
2035	3.80%	2.60%	2057	3.80%	2.60%
2036	3.80%	2.60%	2058	3.80%	2.60%
2037	3.80%	2.60%	2059	3.80%	2.60%
2038	3.80%	2.60%			

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Invoice Date: 8/30/2018
Due Date: 8/30/2018

Regarding: Yahyavi, Bahram v. Capriati Construction Corp., et al.
Invoice No: 05459

Services Rendered

Date	Staff	Description	Hours	Rate	Charges
7/05/2018	KA	Document processing	0.40	$ 75.00	$ 30.00
8/03/2018	KBK	Review of documents	0.50	$ 385.00	$ 192.50
8/14/2018	KA	Document processing	0.20	$ 75.00	$ 15.00
8/17/2018	KBK	Telephone call with client	0.10	$ 385.00	$ 38.50
8/21/2018	KA	Document processing	0.20	$ 75.00	$ 15.00
8/28/2018	KBK	Preparaton of report	4.90	$ 385.00	$ 1,886.50
8/29/2018	KBK	Completion of report	2.90	$ 385.00	$ 1,116.50
		Total Hours	9.20	Total Fees	$ 3,294.00

Total New Charges $ 3,294.00

This invoice is due and payable upon receipt. Please submit payment immediately. Thank you!

Kirkendall Consulting Group, L.L.C. Tax ID#: 88-0474902

John E. Baker, Ph.D., P.E.
FORENSIC ENGINEER

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December 3, 2018

Mr. Mark J. Brown
Senior Staff Attorney
Law Offices of Eric R. Larsen
Subsidiary of The Hartford Financial Services Group, Inc.
750 E. Warm Springs Rd., Ste. 320, Box 19
Las Vegas, NV 89119

Re: Bahram Yahyavi v. Capriati Construction Corp., Inc. - Supplemental Report
DOI: June 19, 2013

Dear Mr. Brown:

You have requested that I evaluate and opine on the additional discovery file material that have been provided (listed below). You have also requested that I opine on the rebuttal report produced by Tim S. Leggett, P. Eng. P.E. from Forensic Dynamics, Inc.

Presented below are my supplemental opinions regarding Tim S. Leggett, P. Eng. P.E.'s rebuttal report.

BACKGROUND

You will recall that the subject matter concerned a two vehicle collision occurring on June 19, 2103 at approximately 10:25 A.M. on Sahara Avenue 2 feet north of the intersection of Glen Avenue. As indicated in the State of Nevada Traffic Accident Report #LVMPD-130619-1450 authored by 5316 E. Grimmesey:

where: V1 = 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle; Mfg. Serial Number = SBB 34043

V2 = 2012 Dodge Charger 4-Door driven by Bahram Yahyavi; VIN = 2C3CDXBG2CH211466

"V2 was travelling eastbound Sahara, West of the Y intersection at Glen in T2 of 2. V1 was a large construction forklift working on the S/W corner of Sahara/ Glen. This area has active construction in progress. The south side of Sahara has orange pylons lining the south shoulder which continues along to the south side of Glen. The shoulder line by the cones is 18 feet wide. There was a semi-truck with a flatbed trailer parked facing eastbound on Sahara, west of Glen.

In the closed shoulder, V2 was making a right turn along the cone pattern when it was struck by V1. V1 was travelling N/B from the sidewalk though the closed shoulder in front of the semi-truck. The forks of V1 were sticking out approximately 3 feet into T2 about 4 feet off the ground past the cone pattern. V1's forks stuck the right side of V2's windshield.

There were no pre-impact skid marks. V1 was moved prior to my arrival. W1 who is an inspector said he saw V1 driving into the roadway and said the forklift operator didn't see V2 coming. D2 was interviewed at UMC hospital. D2 said he was going east. And was going to turn onto Glen. When he saw the blades coming at him. D2 said the forklift wouldn't stop.

D1 said he was trying to go onto Sahara, to another part of the jobsite and he didn't see V2 coming. D1 was determined to be at fault in the accident and was cited for full attention to driving. D2 was transported for claimed injuries. The AIC was 2 N/S and 13 E/W determined by V1s post-impact tire marks. V1 and V2 were unregistered and did not have proof of insurance."

DOCUMENTS CURRENTLY REVIEWED

1. Rebuttal Report by Tim S. Leggett, P. Eng. P.E. of Forensic Dynamics, Inc. (15 pages + 8 pages of CV attachments).
2. Deposition transcript of Sargeant Robert Stauffer (45 pages).
3. Deposition transcript of Ch2M Inspector Wade Langsev (57 pages).
4. Deposition transcript of Forklift Driver Joshua A. Arbuckle (174 pages).
5. Deposition Exhibits of Forklift Driver Joshua A. Arbuckle (8 pages of photographs).
6. Defendant's Ninth Supplement to Early Case Conference Production of Documents and Witness List (9 pages + 38 pages of color scene photographs).
7. Videotaped deposition of Job Site Inspector Wade Langsev (57 pages).

DOCUMENTS PREVIOUSLY REVIEWED

1. Retention Letter - June 25, 2018 (1 page).
2. State of Nevada Traffic Accident Report #LVMPD-130619-1450 authored by 5316 Eric Grimmesey (12 pages):
3. Las Vegas Fire and Rescue Pre-Hospital Care Report Summary (3 pages).
4. Deposition transcript of Bahram Yahyavi (89 pages).
5. UMC - reports and records regarding Bahram Yahyavi (23 pages).
6. Deposition transcript of Eric Grimmesey (47 pages).
7. Deposition transcript exhibits of Eric Grimmesey (11 Full page photo exhibits):
8. [43] Accident Scene color photographs.

LIST OF LEGGETT REBUTTAL OPINIONS

Tim S. Leggett, P. Eng. P.E.'s Rebuttal opinions to John E. Baker, Ph.D.., P.E.'s original report included the following:

1. *Tim S. Leggett, P. Eng. P.E.: "In paragraph number 1 of his Preliminary Observations and Opinions, Dr. Baker indicated he was sceptical of the post-impact travel distance of 7 feet documented by the investigating officers. The 7 feet measurement was estimated by Officer Grimmesey, who indicated during his deposition that it was an "eyeball measurement relative to the unrelated tire marks. Thus, the 7 feet of post-impact travel clearly would have been irrelevant and incorrect. It follows that any calculations based on the 7 foot estimation would be erroneous and based on flawed methodology."*

2. *Tim S. Leggett, P. Eng. P.E.: "In paragraph 2 of his Preliminary Observations and Opinions, Dr. Baker indicated the right side A-pillar and front windshield of the Dodge were not "Load-bearing." He went on to conclude the damages sustained to these structures would "not have any influence on the deceleration of the forward movement of the 3962 -pound 2012 Dodge Charger." This is an incorrect statement on the part of Dr. Baker. The A-pillars, windshield and roof of the Dodge Charger would all have been structural components, as they would be on any vehicle. As structural components, their deformation indicates energy absorption which would have been directly related to the impact speed of the Dodge, in the same manner the crush on a front bumper collision would absorb energy and be indicative of the severity of an impact. The crush sustained*

by a vehicle during a collision is directly related to the change in speed or delta-v experienced by a vehicle during a collision. The speed change or delta-v experienced by a vehicles is generally used to quantify the severity of an impact. In this case, while there is limited controlled crash testing available as reference points for the specific damage profile of the Dodge with crush concentrated at the right front A-pillar, there are numbers roof drop tests, rollover tests and heavy-vehicle under-ride tests all of which pertain to the energy absorption of the structures Dr. Baker suggested would not be relevant in this case."

3. **Most Significantly:**

Tim S. Leggett, P. Eng. P.E.: "For example, Figure 8 below shows a view of a vehicle which underwent underride testing with a commercial vehicle and at 28 mph (4). While this vehicle sustained much greater crush than the subject Dodge, the results of the testing confirm that contrary to Dr. Baker's opinion, the Apillar, roof and windshield are all designed as structural members which absorb collision energy. In terms of the speed of the Dodge at impact, it was noted that the Dodge's front airbags did not deploy; taking into account an average speed change threshold of 16 mph for passenger vehicles (5), Mr. Yahyavi would certainly have been traveling at less than 16 mph at the time of impact. In the undersigned's opinion, the delta-v sustained by the Dodge would have been 10 mph or less."

(Continued on following page ...)

Tim S. Leggett, P. Eng. P.E.: **Produced Exemplar Collision**

Figure 8: A photograph depicting damages sustained to front pillars, roof and windshield of sustained during a 28 mph crash test where the vehicle came to a stop under a semi-trailer after these structures absorbed the energy of the impact (4)..

4. *Tim S. Leggett, P. Eng. P.E.: "It was noted that Dr. Baker also failed to take into account the significant mass disparity between the vehicles where the forklift would necessarily have weighed more than its 120,000 lbs capacity (3). This means it would have been more than 30 times heavier than the Dodge. The undersigned performed simulations using a collision simulation software package known as PC Crash (6) which confirmed the Dodge would not have caused the forklift to rotate, but rather the Dodge would have rotated slightly clockwise in response to the impact at its right front A-pillar, forward of the center of gravity, and its it's forward motion would indeed have been arrested by the forklift. With the Dodge's delta-v being 10 mph or less, Mr. Yahyavi would most likely have been traveling at 10 mph or less at the time of the collision."*

5. *Tim S. Leggett, P. Eng. P.E.: "In paragraphs 3 and 4 of his Preliminary Observations and Opinions, Dr. Baker provided opinions regarding the likely speed of the Dodge Charger based on the Dodge Charger traveling at the unrelated post-impact travel distance of 7 feet estimated by the police. He also erroneously assumed the impact with the forklift caused no delta-v for the Dodge. Dr. Baker calculated a speed range of 5.61 to 12.12 mph for the Dodge, depending on whether or not the Dodge traveled 7 feet to rest with Mr. Yahyavi actively braking (the maximum speed) or not braking."*

6. *Tim S. Leggett, P. Eng. P.E.: "In paragraph 5 of his Preliminary Observations and Opinions, Dr. Baker went on to opine to provide Biomechanical opinions regarding a lack of injury mechanism for Mr. Yahyavi. Dr. Baker indicated there would have been no opportunity for direct contact with the forks of the forklift. The undersigned is nota Biomechanical expert; however, it is clear that Dr. Baker has misinterpreted the physical evidence, including the damage profile of the Dodge and post-impact dynamics of the collision. By failing to acknowledge that the forks penetrated the area of the driver's space directly in front of Mr. Yahyavi's head, Dr. Baker artificially removed the mechanism for head injury which clearly would have existed. In terms of the forks not making contact with the left side of Mr. Yahyavi's body, the undersigned agrees this likely was not the case; however, the potential for a left rib injury would certainly have been possible as Mr. Yahyavi's body slid down his seat and he was compressed under the steering column as he described."*

7. *Tim S. Leggett, P. Eng. P.E.: "The motion of Mr. Yahyavi's body would have been governed by Newtonian physics after the subject impact. As his vehicle experienced a rearward speed change, Mr. Yahyavi's body would have continued to move forward relative to his seat (i.e., directly toward the penetrating forklift forks). This forward*

motion to the seat would have occurred regardless of whether or not he was wearing his seatbelt as seatbelts allow the body to decelerate with a provided amount of slack; had the pre-tensioners failed to fire (similar to the airbags not deploying), Mr. Yahyavi's seatbelt would have provided sufficient slack for his head and upper body to travel back and forth due to equal and opposite impact forces between his head and the forks."

SUMMARY of LEGGETT's REBUTTAL OPINIONS

In his August 20, 2018 written report on the subject collision, Tim S. Leggett, P. Eng. P.E. has included the above-listed seven [7] paragraphs in rebuttal opposition to the preliminary opinions offered in John E. Baker, Ph.D., P.E.'s in the original July 3, 2018 report.

In fact, it was noted in these readings that there were three primary themes in Tim S. Leggett, P. Eng. P.E.'s seven rebuttal paragraphs. They included the following:

1. Tim S. Leggett, P. Eng. P.E.'s Rebuttal Theme 1:

   That there was a substantial instantaneous speed loss (i.e., Delta V) experienced by the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi when his right-side A-pillar and windshield struck the exposed ends of the forks on the front of the 2007 Forklift Truck driven by Joshua Adom Arbuckle.

2. Tim S. Leggett, P. Eng. P.E.'s Rebuttal Theme 2:

   The aforementioned substantial instantaneous speed loss (i.e., Delta V) experienced by the 2012 Dodge Charger 4-Door forcibly moved driver Bahram Yahyavi violently forward causing his tissues to be displaced out of their own elastic ranges causing injury.

3. Tim S. Leggett, P. Eng. P.E.'s Rebuttal Theme 3.

   That John E. Baker, Ph.D., P.E.'s original July 3, 2018 report relies on a police distance eyeball estimate, and is therefore flawed and incorrect.

BAKER REBUTTAL OBSERVATIONS and OPINIONS

1. In his rebuttal report, Tim S. Leggett, P. Eng. P.E. opined the following regarding the original report produced by John E. Baker, Ph.D., P.E.:

   Tim S. Leggett, P. Eng. P.E.: "In paragraphs 3 and 4 of his Preliminary Observations and Opinions, Dr. Baker provided opinions regarding the likely speed of the Dodge Charger based on the Dodge Charger traveling at the unrelated post-impact travel distance of 7 feet estimated by the police. He also erroneously assumed the impact with the forklift caused no delta-v for the Dodge. Dr. Baker calculated a speed range of 5.61 to 12.12 mph for the Dodge, depending on whether or not the Dodge traveled 7 feet to rest with Mr. Yahyavi actively braking (the maximum speed) or not braking."

   John E. Baker, Ph.D., P.E. Response:
   Tim S. Leggett, P. Eng. P.E. has mis-read and mis-cited the words of my previous original report. In fact, I have stated the exact opposite of Tim S. Leggett, P. Eng. P.E.'s citation. A more careful and objective reading of my previous preliminary written report will demonstrate that the following were previously written words:

   John E. Baker, Ph.D., P.E.: The State of Nevada Traffic Accident Report indicates that the Point of Rest (POR) of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi was seven feet past the Point of Impact (POI). At the Point of Impact, the Forklift's forks struck the windshield and the right side of the A-pillar. ***In fact, the forks reportedly initially penetrated into the vehicle travel compartment and penetrated approximately 3 inches past the initial strike into the windshield and exterior of the vehicle. Therefore, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi did not, in fact, travel 7 feet past the initial Point of Impact.***

   and...

   John E. Baker, Ph.D., P.E.: In order to travel 7 feet past the POI, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have had to be travelling at a speed of 5.61 mph with no braking and rolling drivetrain resistance only (as Bahram Yahyavi states), or 12.12 mph with full braking . However, the 2012 Dodge Charger's traveling 7 feet past the POI necessitates the Forklift forks traveled through the entire travel compartment of that vehicle. ***Neither scenario is consistent with the post-collision position of the forks.***

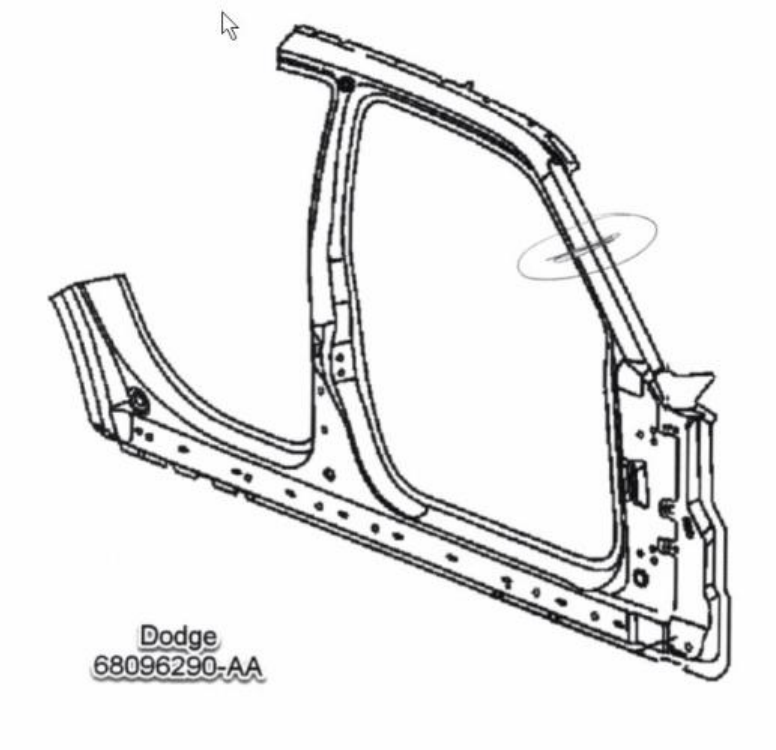
In layman's terms:

From physical evidence, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi cannot have possibly traveled 7 feet past the initial point of contact with the end of the fork on the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle.

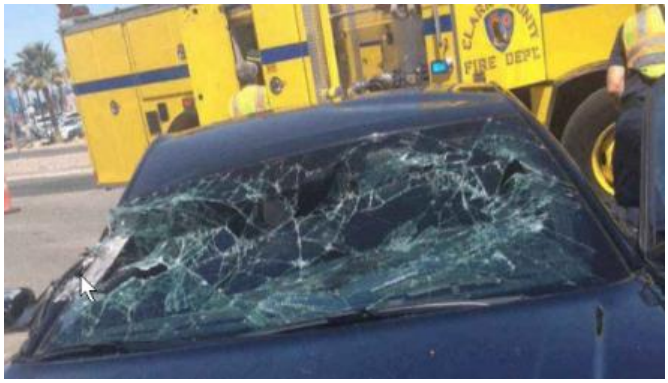
2. In his assessment of the damage to the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi, Tim S. Leggett, P. Eng. P.E. stated:

> *"The right A-pillar was deformed, with a kink due to direct contact with the left fork, which caused a rearward and downward displacement."*

In fact, I agree that the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi had a ***"...kink ..."*** in the right front passenger's side A-pillar – Dodge Part Number 68096290-AA after the collision with one of the two (2) 1 inch x 7 inch rectangular cross section ends of the forks on the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle.



I also agree with Tim S. Leggett, P. Eng. P.E.'s that the size, shape, one-piece nature, and metal material of this 68096290-AA Dodge part (See attached diagram below) – referred to as a "Panel. Body Side Aperature Outer Front Right" allowed force to be referred rearward from the ***"...kink ..."*** to the sheet metal roof causing modest referred bending. (See below).



3. In a line-by-line evaluation of Tim S. Leggett, P. Eng. P.E.'s 15-page report – including the seven rebuttal paragraphs specifically regarding John E. Baker, Ph.D., P.E.'s original report, it was also apparent that there was a technical foundation that he used for the foundation of his opinions in an attempt to justify a substantial collision deceleration of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi – and therefore a similarly-substantial, injury-provoking Delta V.

   In his rebuttal report Tim S. Leggett, P. Eng. P.E. vaguely described that Delta V as follows:

   > *"With the Dodge's delta-v being 10 mph or less, Mr. Yahyavi would most likely have been traveling at 10 mph or less at the time of the collision."*

   Tim S. Leggett, P. Eng. P.E.'s has offered this non-descriptive and vague assessment for the subject "Delta V being less than 10 mph" – despite the fact that Bahram Yahyavi's seat belt did not engage as a result of the collision, and that Bahram Yahyavi claims that he never applied the brakes. However, at no time does Tim S. Leggett, P. Eng. P.E. ever specify what his own evaluation of the Delta V in the subject collision actually IS – only that Baker is wrong, the collision speed and Delta V are both below 10 mph, and that Bahram Yahyavi without his seat belt could/should have been injured .

   In fact, I only agree with the two statements by Tim S. Leggett, P. Eng. P.E. regarding the fact that the impact speed and Delta V were less than 10 mph – in that 0, 1, and 2 mph are all less than 10 mph.

4. In forming the basis of his technical speed assessment and damage opinions and disagreements with John E. Baker, Ph.D., P.E., Tim S. Leggett, P. Eng. P.E. relied on a comparison of the subject collision and a December 1984 staged collision in which the A-pillar, glass windshield, and roof of a 1978 Chevrolet Chevette were all catastrophically destroyed. This destruction of this 1978 Chevrolet Chevette test vehicle occurred in a staged collision in which that vehicle was driven underneath **the middle of a 40-foot side frame rail of a 40-foot semi-trailer at a 65-degree angle.**

   Tim S. Leggett, P. Eng. P.E. has extracted this incredibly inappropriate damage comparison from an article located in the ***1994 Accident Reconstruction Journal*** entitled

"Underride Vehicle Crash Damage" by Bruce D. Wakefield and James E. Cothern, Volume 6, No.6, November/ December 1994 pages 34 to 38.

In that 1994 article, a crash study was conducted in 1984 by the Institute for Safety Analysis regarding semi-trailer under ride collisions. In those staged side under ride collisions, four 1970's vehicles were driven underneath the middle of a side rail of a 48,000-pound, 1972 Monon 40-foot box trailer. One of the four test vehicles was the 1978 Chevrolet Chevette that Tim S. Leggett, P. Eng. P.E.'s cites as a point of damage comparison for the subject collision. In that staged collision, as stated. the 1978 Chevrolet Chevette was driven at a speed of 28 mph underneath the middle of the side frame rail of 40-foot box semi-trailer at a 65-degree angle.

On the other hand, the subject collision involves direct compression damage by the ENDS of the two forks of the 2007 Forklift Truck driven by Joshua A. Arbuckle Arbuckle to an approximate maximum 3 to maximum 4 -inch width ***"...kink..."*** (Tim S. Leggett, P. Eng. P.E. written report) to the right side A-pillar and partially to the adjacent right-side door rim to a total maximum depth of approximately 2 to maximum 3 inches, and to the glass windshield of the 3962-pound curb weight, 2012 Dodge Charger 4-Door driven by Bahram Yahyavi.

Tim S. Leggett, P. Eng. P.E. has somehow also seen fit to compare that 1984 vehicle semi-trailer under ride staged collision to the subject collision involving the 2012 Dodge Charger 4-Door's collision into the distal ends of two forks on the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle . In fact, in that staged under ride collision, the 2112.4 pound curb weight 1978 Chevrolet Chevette sustained total damage to the drivers-side A-pillar was structurally destroyed – with damage extending rearward several feet and well into the B-pillar. There was also damage to the right side A-pillar which does not appear clearly, and the roof has been crumpled and displaced rearward several feet.

In fact, the contacting 40-foot long side rail surface in this 1984 staged under ride collision was surface was not remotely substantially-similar to the collision with two 1-inch by 7-inch rectangular cross-section fork ENDS spaced 3 inches apart – one of them striking only windshield glass which is designed to crumble. In fact, the vehicles, circumstance, nature, amount, and location of damage, contact surfaces, angle of approach, height of contact, level of penetration, and incoming approach speed of the 1978 Chevrolet Chevette staged 1984 collision that Tim S. Leggett, P. Eng. P.E. relied

on as the root basis for his 7 rebuttal opinions were not remotely substantially-similar to those in the subject collision. The use of this unlike staged collision to form the basis of an unknown Delta V is inappropriate.

For reference, the entire ***1994 Accident Reconstruction Journal*** article entitled *"Underride Vehicle Crash Damage"* by Bruce D. Wakefield and James E. Cothern, is included in its entirety in the Appendix.

(And notably, the conduct of these staged semi-trailer under ride collisions in 1984 and earlier were undoubtedly encouraged by the continued national notoriety of actress Jayne Mansfield's 1967 crash some years earlier. In that fatal collision at age 34, Jayne Mansfield's 1966 Buick Electra 225 crashed at high speed into the rear of a tractor-trailer that had slowed behind a truck spraying mosquito fogger shrouded in an insecticide fog.)

5. On page 42 Line 12 of Bahram Yahyavi's deposition transcript, Bahram Yahyavi testified that he had his seat belt on at the time of this collision. This was confirmed by Joshua A. Arbuckle on Page 170 Line 9 of his deposition transcript, and later in the Las Vegas Fire and Rescue Pre-Hospital Care Report Summary. Bahram Yahyavi's deposition testimony continued stating that as a result of the on the collision, that he went forward, hit his head, and then went underneath the vehicle [sic] and that his foot was kind of twisted under. He then clarified that his body went underneath the steering column, but that he stayed in his seat belt with his right foot on the gas pedal.

However, in Tim S. Leggett, P. Eng. P.E.'s justification of the existence of a higher speed loss and complex mechanisms of injury to Bahram Yahyavi's in the subject collision, he has apparently accepted the description of Bahram Yahyavi's ability to have his body travel forward underneath the steering column while still having his seat belt on.

> *"Potential for a left rib injury would certainly have been possible as Mr. Yahyavi's body slid down his seat and he was compressed under the steering column as he described."*

However, I do not agree with Tim S. Leggett, P. Eng. P.E.'s position which is technically and biomechanically invalid. If there were enough deceleration in the subject collision to cause an engagement of the shoulder belt's inertial locking mechanism – i.e., greater than 0.7 G's or at 22.54 f/s^2 – after a minor spool out and belt stretch, Bahram

Yahyavi's forward movement and sliding down the seat would have been restricted from travelling appreciably further. This engagement would have occurred at collision speeds at the inferred 5 and 10 mph.

Moreover, having a curb weight exceeding 100,000 pounds, the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle will not accept kinetic energy from the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi, and could be considered as a rigid barrier. However, it is only the 1-inch by 7-inch tapered distal ends of the two rigid forks – separated by 3 inches of space – that form the rigid barrier in this subject collision. The right fork end pierced through the windshield glass which is designed to crumble. This penetration would have had no effect on the forward speed of the approx. 4000-pound 2012 Dodge Charger 4-Door driven by Bahram Yahyavi. The left fork end kinked the exterior A-pillar. Given the rigidity of this fork surface, the time of kink penetration into the non-load bearing (i.e., non-frame level structure) A-pillar would have been between approximately 0.1 to 0.2 seconds. The shoulder belt would have engaged when the whole vehicle deceleration exceeded 0.7 G's. If the shoulder belt did not engage fully, it meant that the level of the collision speed was so low as to not exceed 0.70 G in deceleration. There would have therefore been minimal forced occupant movement.

Tim S. Leggett, P. Eng. P.E.'s apparently tries to have it both ways – i.e., that the Delta V was sufficient (under 10 mph) so that there was substantial forced movement by Bahram Yahyavi's head and body, but that his seat belt did not engage and allowed his body to move freely underneath the steering column. I disagree with these opinions.

Moreover, and consistent with my disagreement, Officer Robert Stauffer has testified in his deposition that Bahram Yahyavi was not incapacitated by the subject collision, and that the injury code "C" for Bahram Yahyavi's injuries as stated in the State of Nevada Traffic Accident Report are subject and that *"Claimed injuries are not visible injuries"* and, in fact, are subjective.

6. As previously stated, the aforementioned components are NON-load bearing in the Accident Reconstruction sense of the word – and with respect to the calculation of horizontal crush damage. These components do, in fact, help support the roof and enclose the glass windshield in place. However, by no means can the A-pillar be

considered to be rigidly bearing the weight of the 3962 pound 2012 Dodge Charger 4-Door plus occupant driver Bahram Yahyavi.

7. Notably, if the damaged A-pillar were at the same stiffness as the vehicle's front end of the Class 5 with A = 266.08 lb/inch and B = 108.92 lb/in^2 (where in reality it is only a small fraction of the front end stiffness), the Barrier Equivalent Velocity (BEV) of this direct contact damage to the A-Pillar would be only a maximum of 1.714 mph.

   However, if the damaged A-pillar were assigned a more realistic stiffness for the actual nature and type of component on the Class 5 with A = 137.00 lb/inch and B = 95.00 lb/in^2, then the Barrier Equivalent Velocity (BEV) of this direct contact damage to the A-Pillar would be only a maximum of 1.276 mph. This latter calculation is consistent with the ***"...kink ..."*** damage to the A-pillar and the referred (non-contact) bending damage to the roof.

8. In his written rebuttal report, Tim S. Leggett, P. Eng. P.E. made virtually no mention of the technical specifications of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle. In fact, the contacting surface of this fork lift were the two 1 inch by 7 inch ENDS of the two parallel 99-inch forks (heel to tip) placed approximately 3 inches apart. One of these fork ends the struck glass windshield. Again, the impact into the windshield glass did not affect or slow down, the speed of the 3962-pound 2012 Dodge Charger 4-Door driven by Bahram Yahyavi.

9. It may help understanding the lack of deceleration that the 2012 Dodge Charger 4-Door experienced as a result of its impact into the ends of two 1-inch x 7-inch steel surfaces that are separated by approximately 3 inches of space – one of which impacted a rolled, three-piece, sheet metal sheet metal tube and door rim, and the other into windshield glass – by envisioning the compression of these two fork ends into the two damaged surfaces and deciding whether the approx. 4000-pound 2012 Dodge Charger 4-Door driven by Bahram Yahyavi vehicle would actually move before the components failed and the demonstrated the damage seen in the subject collision.

OVERALL IMPRESSION

It should be obvious that merely poking a very rigid 1-inch by 7-inch solid steel rectangular cross-section tapered fork surface into a metal A-pillar forming a ***"... kink ..."*** , and also poking the other firm steel rectangular cross-section tapered fork surface located 3 inches away into wind shield glass designed to crumble into small pieces will have little to no effect on slowing or stopping the approximately 4000-pound (plus another approx. 200 pounds for occupant and fluids) 2012 Dodge Charger 4-Door driven by Bahram Yahyavi.

Accordingly, there would have been little to no forced motions or mechanisms of injury applied to driver occupant Bahram Yahyavi's head and body.

These supplemental opinions have been stated to a reasonable degree of Accident Reconstruction, Biomechanics, and Human Factors Engineering certainty. I request the opportunity to supplement or amend these preliminary observations and opinions on receipt of additional discovery material.

If you have any questions regarding these preliminary observations and opinions, please do not hesitate to contact me.

Sincerely,

John E. Baker (Signed electronically).

John E. Baker, Ph.D., P.E.

APPENDIX

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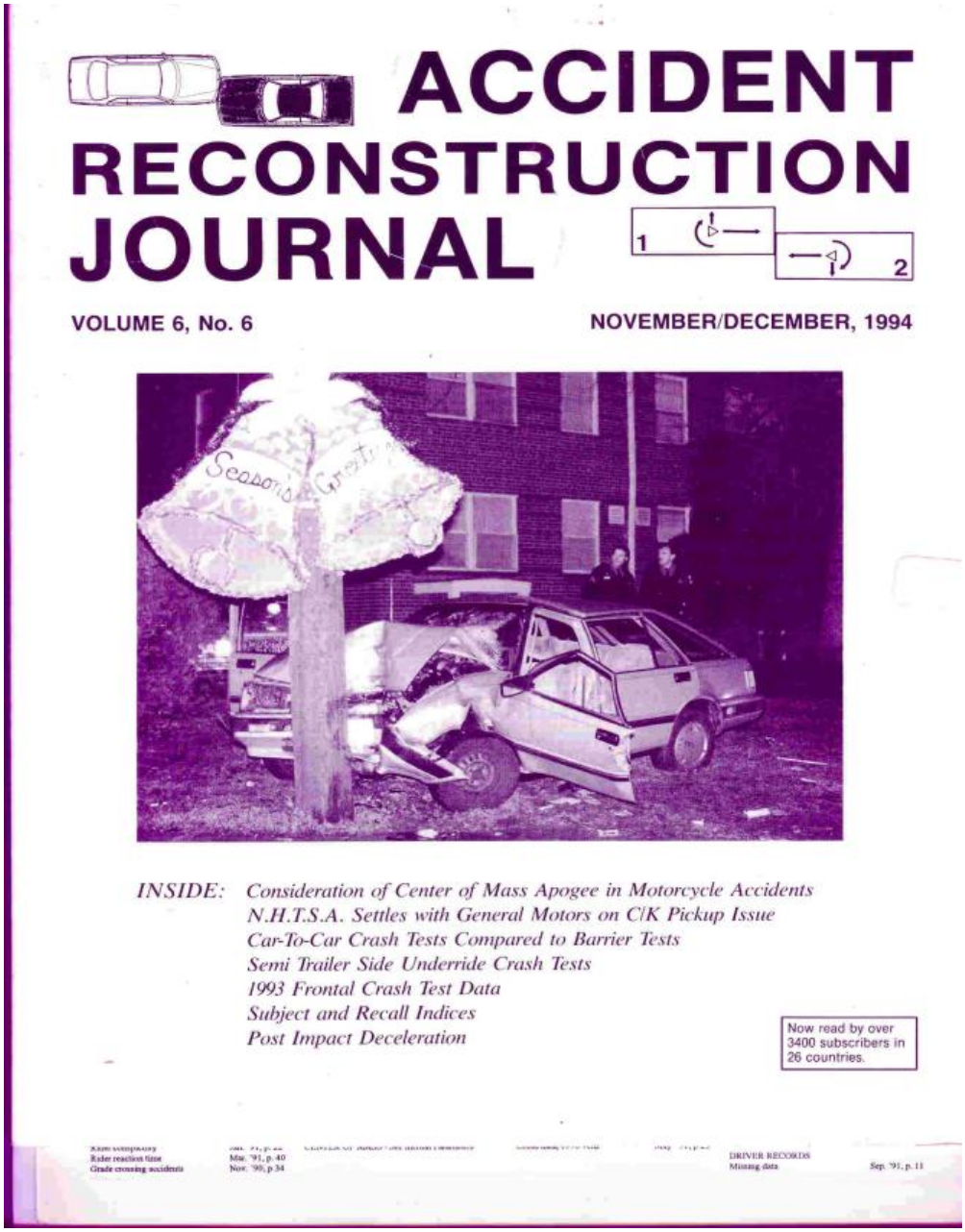
The article from which Tim S. Leggett, P. Eng. P.E.'s has made this inappropriate damage comparison was located in the *1994 Accident Reconstruction Journal* article entitled *"Underride Vehicle Crash Damage"* by Bruce D. Wakefield and James E. Cothern, Volume 6, No.6, November/ December 1994 pages 34 to 38.



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UNDERRIDE VEHICLE CRASH DAMAGE

by Bruce D. Wakefield and James E. Cothern

In order to demonstrate and quantify the damage severity of an underride collision at moderate speeds, The Instutute for Safety Analysis conducted four crash tests in December 1984 involving four seperate automobiles driven into the trailer portion of a combination vehicle which was stationary and and parked at nearly a right angle across the roadway. The tests were conducted at a local drag strip.

The test vehicles were:

Vehicle number one -- 1979 Chevrolet Chevette 4-door
Vehicle number two -- 1972 Toyota Corona Mark II 2-door hardtop
Vehicle number three -- 1978 Oldsmobile Cutlass Supreme 2-door
Vehicle number four -- 1978 Oldsmobile Cutlass Supreme 2-door

The stationary target unit, Vehicle number five, was an eighteen wheel semi-tractor trailer. The tractor was a Mack conventional and the trailer was 1972 Monon forty-foot box trailer. The trailer had a gross vehicle weight rating of 48,000 pounds, but was not loaded.

The impact area on Vehicle five was the driver side between the third and fourth axles. In this area, the trailer side was 46 inches from the ground, while the undercarriage structure was 43 inches from the ground. The impact angle between the vehicle longitudinal axes was approximately 65 degrees. The impact speeds were determined by the use of a calibrated Decati Elocctronics, Inc., radar gun.

During each of the tests, the top surfaces of the hood and/or front

Tractor-Trailer Target Vehicle at Test Configuration

'78 Chevette Before and After 28 mph (45 kmh) Impact

fenders on all four vehicles contacted the undercarriage of Vehicle five due to pitch up of the front ends during the intial phase of the collision. Each of the four bullet vehicles showed some deformation on the undercarriage structure as evidenced by the separation between the doors and rear quarter panels at the beltline. The two Oldsmobiles both left roadway gouges as the underside of their rear bumpers contacted the road during impact.

The precrash and post crash vehicle photographs show clearly the severity of intrusion experienced in low to moderate speed underride collisions. From an accident reconstruction standpoint, these four crash tests can serve as a useful tool in estimating similar underride collisions in which direct contact does not involve the automobile structure below the beltline and where the roof system is properly constructed.

Table One shows automobile dimensions and test data. Crush

'72 Toyota Corona After 28 mph (45 kmh) Impact

damage was measured at the roof at its junctions with the A-pillars. The semi-trailer experienced only superficial damage even after all four tests.

Table Two shows the calculations for the available crush energy, E_c, and the approximate energy dissipation for each inch of average rearward residual deformation, E_c/in. Further, if we treat Vehicle number five as a non-yielding barrier, i.e., it absorbs no energy, and include energy dissipation from ground contact during impact, A and B stiffness coefficients can be calculated. Subsequent testing showed that impacts of about 1 mph with the windshield header contacting a fixed barrier produced permanent vehicle damage.

Utilizing Cambell's formula:

$$V = b_0 + b_1 * C_{AVE} \quad \text{(for a non-yielding barrier)}$$

'79 Oldsmobile Cutlass Before and After 16 mph (26 kmh) Impact

TABLE ONE - Vehicle Dimensions and Test Results

	Veh. 1 Chevette	Veh. 2 Corona	Veh. 3 Cutlass	Veh. 4 Cutlass
Test Weight	2109 lbs. 957 kg.	2266 lbs. 1029 kg.	3457 lbs. 1568 kg.	3307 lbs. 1500 kg.
Beltline Height	36 inches 91 cm	37 inches 94 cm	36.75 inches 93 cm	36.75 inches 93 cm
Impact Speed	28 mph 41 ft/sec 45 kmh	28 mph 41 ft/sec 45 kmh	16 mph 23.5 ft/sec 26 kmh	27 mph 39.6 ft/sec 43 kmh
Damage Width	47 inches 119 cm	44 inches 112 cm	54 inches 137 cm	54 inches 137 cm
Roof Deformation				
At left A-pillar, C_1	30"/76 cm	47"/119 cm	44"/112 cm	62"/157 cm
At left A-pillar, C_2	12.6"/32 cm	32.3"/82 cm	6.5"/17 cm	62"/157 cm
Average	21.3"/54 cm	39.6"/101 cm	25.3"/64 cm	62"/157 cm

TABLE TWO - Energy Dissipated by Collisions

	Veh. 1 Chevette	Veh. 2 Corona	Veh. 3 Cutlass	Veh. 4 Cutlass
E_c	55055 ft*lb	59148 ft*lb	29645 ft*lb	80527 ft*lb
E_c per inch	2621 ft*lb/in	1494 ft*lb/in	1172 ft*lb/in	1299 ft*lb/in

and using $b_0 = 17.6$ in./sec, b_1 can be calculated from the data in Table One.

Once and are computed, the CRASH stiffness coefficients can then be calculated:

$$A = W * b_0 * b_1 / (g * L)$$

$$B = W * b_1^2 / (g * L)$$

Where: W = vehicle weight, pounds
g = gravitational constant, 386.4 in/sec^2
L = damage width, inches

The stiffness coefficients can be used in the EdCrash or LARM II computer programs to calculate to a reasonable degree underride energy dissipation. In as much as the underride crash information is not as broad-based as other crash configuations, so caution should be exercised when relating other vehicle types with those in this article.

Metric conversions were inserted by the editor.

The authors are interested in expanding their truck underride test data base and would like to hear from those persons who have done similar testing. Regular and high-speed videotape covering the crashes for the two Oldsmobiles as well as photographs of all four vehicles, are available. The authors may be contacted by writing The Institute for Safety Analysis, 7826 Airpark Drive, Gaithersburg, Maryland 20879, or by telephone at 301/948-0602.

'79 Oldsmobile Cutlass, Pre and Post Crash Left Side Views

'79 Oldsmobile Cutlass at Rest After 27 mph (43 kmh) Impact

PRELIMINARY OBSERVATIONS and OPINIONS - Previously Submitted by John E. Baker, Ph.D., P.E.'s

1. The State of Nevada Traffic Accident Report indicates that the Point of Rest (POR) of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi was seven feet past the Point of Impact (POI). At the Point of Impact, the Forklift's forks struck the windshield and the right side of the A-pillar. In fact, the forks reportedly initially penetrated into the vehicle travel compartment and penetrated approximately 3 inches past the initial strike into the windshield and exterior of the vehicle. Therefore, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi did not, in fact, travel 7 feet past the initial Point of Impact.

2. Both the passenger's-side A-pillar and the laminated windshield glass of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi are not load-bearing. As loud and violent as it may have appeared to the driver Bahram Yahyavi, the forks' striking, intercepting, or penetrating the A-pillar and laminated glass windshield components caused those components to break, but did not have any influence on the deceleration of the forward movement of the 3962-pound 2012 Dodge Charger.

3. In his deposition transcript (Page 40, Line 25), Bahram Yahyavi stated that he never did brake. However, if the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi traveled 7 feet past the A.I.C. (Area of Initial Contact – or POI), and with the A-pillar and windshield were not able to slow the moving vehicle, all deceleration of the 2012 Dodge Charger 4-Door would have had to be due to braking by the driver. That braking with or without tire friction marks, the deceleration of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have been between 0.55 and 0.70 G's. Without braking, the forced deceleration of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi was substantially less.

4. In order to travel 7 feet past the POI, the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have had to be travelling at a speed of 5.61 mph with no braking and rolling drive train resistance only (as Bahram Yahyavi states), or 12.12 mph with full braking . However, the 2012 Dodge Charger's traveling 7 feet past the POI necessitates the Forklift forks traveled through the entire travel compartment of that vehicle. Neither scenario is consistent with the post-collision position of the forks.

5. Despite the two major technical inconsistencies, at these levels of deceleration of (.55 to .70 or less), there are no possible hyper flexion mechanisms of injury. Without direct

contact with the forks of other fixed object, it is unclear how Bahram Yahyavi could have experienced a traumatic head-strike injury or a deformed lower left rib with a possible separation from sternum. Depending on the three-dimensional geometry of the driver with respect to the travel compartment envelope, there can have been incidental direct contact of the knees with the lower dashboard. However this incidental level of contact is not consistent with the sudden changes of direction common in ACL tears. The small laceration inside Bahram Yahyavi's lower lip was most likely due to flying bits of crumbled laminated glass.

Page:

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, Plaintiff,	)	
VS.	)	CASE NO: A-16-736895-C
	)	DEPT NO: XXXII
CAPRIATI CONSTRUCTION CORP., INC., a Nevada corporation, Defendant.	)	

THE ORAL DEPOSITION of EXPERT WITNESS, TIMOTHY LEGGETT, PE, and examined on behalf of the Defendant, pursuant to Stipulation and Notice to Take Deposition, on Wednesday, December 5, 2018, beginning at 11:00 a.m., at the office of Esquire Deposition Solutions, 3838 North Central Avenue, Suite 750, Phoenix, Arizona, before me,

ALBERT NARVAEZ
REGISTERED PROFESSIONAL REPORTER
ESQUIRE DEPOSITION SOLUTIONS

a Certified Court Reporter, in a certain cause now pending in the District Court of Clark County, Nevada, State of Nevada, wherein the parties are as hereinbefore indicated.

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

On Behalf of the Plaintiff, Bahram Yahyavi:

James Trummell, Esq.
Eglet Prince
400 South 7th Street, 4th Floor
Las Vegas, Nevada 89101

Page:

Q. Okay.
A. But I can tell you it's not -- there is a -- there is a -- there is a limit, and the limit is that the air bags didn't deploy. And so typically for this type of vehicle with a seat belted occupant the air bag would deploy at around 16 miles per hour. So we're not anywhere near that nor does the damage -- does the damage present as a 16 mile an hour Delta-V.
Q. Do you think it would -- they would deploy even without any impact to any of the sensors on the bumpers?
A. Yeah. That's sort of a fallacy. There are sensors in the bumpers or at least behind the bumper, but there is still a decelerometer device in the vehicle that is measuring the deceleration. And, you know, I have a lot of moose cases up north in the Rockies where the front bumper gets missed and the windshield gets annihilated and the air bags deploy. In fact, the air bags -- yeah, the air bags deploy based on the deceleration of the vehicle, not necessarily on a sensor. There are advanced sensors in the front bumper.
Q. Right.
A. Absolutely there are, but just because the

Page:
bumper gets missed doesn't mean that the air bags are not going to deploy.
Q. Okay. I guess what I'm asking you then is, you've given this in your report -- I'm looking at Page 12, but it's elsewhere as well I think -- you've given this a Delta-V of less than or equal to ten miles per hour, is that correct?
A. Right.
Q. And you've given it a mile per hour at time of accident or time of impact at less than 16 miles per hour, correct? You're saying the vehicle was traveling less than 16 miles per hour at the time it impacted the forklift?
A. No, I think that's a mischaracterization.
Q. Okay.
A. I'm saying it had to have been traveling less than 16 miles per hour because the air bag didn't deploy.
Q. Okay.
A. But I think that the Delta-V is just at or maybe slightly less than ten miles per hour which based on the formula means that the impact speed was probably at or around ten miles per hour.
Q. And, you know, sorry if I -- the technical stuff is hard for lawyers that aren't engineers.

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual,

Plaintiff,

vs. No. A-15-718689-C

CAPRIATI CONSTRUCTION CORP., INC., a Nevada corporation,

Defendant.
_____/

VIDEOTAPED DEPOSITION OF JOHN E. BAKER, Ph.D., PE

December 20, 2018

10:16 a.m.

300 South Fourth Street, Eleventh Floor

Las Vegas, Nevada

Reported by: Linda Horton Sprague, CCR 466

Job No. 30909

of going in order in your report.

So now if we go to number 2, then we kind of know, based on your opinion and testimony -- and I believe Mr. Leggett shares the same opinion with you -- that when the Dodge Charger -- the nearly 4,000-pound Dodge Charger collided with the forks of this forklift, that it virtually stopped in its tracks except for the deformation of the A-pillar and the windshield.

Is that your understanding?

A. No.

It's the crush penetration of the A-pillar. It's a couple of inches. That's about where it would have stopped. Right there. There might have been a rebound off of that. But the fork did not take kinetic energy from the Charger.

Q. Okay. So in number 2, you say that, basically, as loud and violent as this accident could have been, the A-pillar and the --

(Speaker phone ringing interruption.)

MR. KAHN: Just ignore it.

BY MR. TRUMMELL:

Q. -- windshield did not have any influence on the deceleration of the forward movement of the 3,962-pound 2012 Charger; correct, sir?

A. That's correct.

Q. So can you just -- I guess what I'm having a hard time understanding is we know we have this forklift. We know it's a rigid barrier. We know we have a 4,000-pound vehicle that's coming around the corner. Collides with this forklift. Stops in its tracks.

And the only thing that the forklift contacts is the top of the passenger side mirror, the A-pillar, and the windshield, as far as the --

A. Yes.

Q. -- contacts, as far the structure of the vehicle. I'm not talking about, you know, the occupants or my client itself. But the structure of the vehicle.

So I guess my question is, if the A-pillar, the rearview mirror -- or the side mirror, and the windshield did not have any influence on the deceleration of the vehicle, then how did it stop?

A. Well, it approaches -- this particular collision -- at a very low speed.

And I'll tell you how I know that now.

Q. Okay.

A. All right. If you take a close -- very close look -- and that's why I've blown this up

several times -- at the top of the mirror.

Q. And we're back to the Charger crush photos, Exhibit 5; correct?

A. Right.

Q. Okay. Go ahead.

A. You see a scrape mark on the top of the mirror.

Q. Uh-huh.

A. Then you see crush of the A-pillar, approximately -- yeah. I'd say it's probably six inches above that top surface of the mirror.

Q. Uh-huh.

A. All right. So given that, we've got the bottom surface of the fork on the mirror. And we've got the middle of that fork contacting the A-pillar. The distance there, in which there was no damage, is three to four inches. There's no damage. This is referred. This was pushed in. This was no longer a straight line.

This area that you see in a little bit of an enlargement, there's no contact. The contact's above an area in which the fork is elevated from the top of the mirror to the point of contact.

Q. You're talking about just on the A-pillar; correct?

A. Correct.
Q. Because there is damage -- observable damage on the windshield --
A. Correct.
Q. -- correct?
Okay.
A. So at that point, if the orientation in the photograph that I see that I have from Mr. Arbuckle is correct, my original feeling was that it was the ends and the tips of the forks that did the damage.
But if his diagram is correct, then it would be the side of the fork that did the damage and extended itself partially into the windshield.
Now, there's three or four different things to describe here with that statement.
Q. Okay. Well, let me ask you this first.
So in preparing this report -- because you had not had Mr. Arbuckle's testimony or his description -- is it safe to say that your opinions in this report, the July 3rd, 2018, report, your initial impression or opinion was that it was not the side of the forks that went into the windshield?
A. Correct.
I thought it would have been the ends of the fork.

one-and-three-quarters of it at that point, given the rest of the windshield.

What we see is that in the time that this vehicle proceeded forward from the contact of the top of the mirror to the contact with the A-pillar, the fork has had time to rise. Because it's rising.

Now, we know how fast the fork rises. We've seen -- all our life we've seen forks going up and down. In my opinion, it's about one foot a second is a typical rise.

Q. That's on a typical forklift?

A. Just every one I've seen goes up about one foot a second. Now, it may be more or less. It might be a little more.

But there is time to get this fork higher between the vehicle position -- in its -- its horizontal position -- between here and here (indicating) -- there is a horizontal distance.

In that travel of six inches, that fork went up. That would indicate the fork's travel and the vehicle's travel are not too far apart in their rate of speed.

Q. Okay.

A. Okay. So is that consistent with a ten-mile per hour velocity? It's not.

And the reason is because, if this were at ten-miles per hour, there would have been this scrape. And the damage to the A-pillar would have been lower without this area of no contact. There would have been no time to have the fork rise.

So given that, there would have been an impression into the A-pillar right at the same level as the top of the mirror.

And, again, if there were two inches, it would be where I'm drawing right now. That's where it would be.

But, instead, it's had time to go up. That means this vehicle's not proceeding very quickly. If it were, it would be lower.

Q. Okay.

A. And that's the basis of why I believe this is a very low speed collision.

Q. Okay. What speed?

A. It's at one- to two-miles an hour.

Q. Okay. So, then again, my question is what stopped the vehicle?

If you're saying that the A-pillar didn't really stop the vehicle, the windshield didn't stop the vehicle, what stopped the vehicle?

A. Well, no. It's the contact with the

FORENSIC DYNAMICS INC.
CONSULTING FORENSIC ENGINEERS & SCIENTISTS

OUR FILE: 1807.23

January 15, 2019

Eglet Prince
400 South 7th Street, #400
Las Vegas NV 89101

Attention: James Trummell

RE: YAHYAVI v. Capriati Construction Corp.
M.V.A.: June 19, 2013
Case File No.: A-15_718689-C

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1. *Introduction & Instructions*

In July 2018 Forensic Dynamics Inc. commenced a technical investigation into motor vehicle collision involving a 2012 Dodge Charger and a forklift. The subject collision occurred on June 19, 2013 at approximately 10:25 am, at the intersection Glen Avenue and Sahara Avenue in Las Vegas, Nevada wherein a Taylor forklift was crossing Glen Avenue with its forks raised when a the Yahyavi Dodge collided with the crossing forklift. As a result, Mr. Yahyavi claims to have been injured.

This report is further to my original report dated August 20, 2018. Originally my instructions were to review the provided materials, including a rebuttal report prepared by Mr. John Baker, Ph.D., P.E. dated July 3, 2018. The results of the undersigned's report dated August 20, 2018 will not be repeated here; however, subsequent to authoring my report you provided a rebuttal report completed by Mr. John Baker, Ph.D., P.E. dated December 3, 2018. Furthermore, you provided the deposition transcript of Dr. John Baker dated December 20, 2018.

The purpose of this supplemental report is to comment on the more recent observations of Dr. Baker.

1.1 Qualifications

The undersigned is responsible for the opinions expressed in this report. In brief, the author is a registered Professional Mechanical Engineer in the Province of British Columbia, the Province of Ontario, and a registered Engineer in the State of Arizona, and has been investigating and reconstructing motor vehicle collisions since 1985. The author's Curriculum Vitae may be reviewed in Appendix A.

2. Provided Materials

The following new materials were reviewed and relied upon for the production of this letter:

1. Rebuttal Report of Mr. John Baker, Ph.D., P.E. dated December 3, 2018.
2. Deposition Transcript of Mr. John Baker, Ph.D., P.E. dated December 20, 2018.

3. Discussion & Analysis

Firstly, both Dr. Baker and myself have erred in the description of the subject Taylor "Big Red" forklift. Figure 1 below is a photograph of the subject unit. The lettering on the side of the unit I considered to be "1200". As such, I determined that the subject model was a T1200, which would have been capable of lifting 120,000 lb. and thus, would have weighed as much as 180,000 lb.

A review of the Vehicle Identification Number (in particular in concert with discussion from Taylor) reveals that in fact the unit is actually a T200 Big Red. According to the Taylor literature, the T200 has a capacity of 20,000 lb. as would be expected for the model number and thus, according to the manufacturer would have weighed 33,500 lb. Nonetheless, as the Dodge would have weighed approximately 4000 lb., there is still a 8:1, or greater, mass ratio between the colliding vehicles. In simple terms, it matters not whether the Taylor forklift was 33,500 lb. or 120,000 lb. because it is sufficiently massive that it would have acted, as indicated in Dr. Baker's deposition, as an immovable barrier not capable of accepting kinetic energy.

At the root of the disagreement between Dr. Baker and myself is the question of impact severity. It is Dr. Baker's opinion that the Dodge was traveling at 1 – 2 mph and was stopped by the forklift's forks. In the undersigned's original report, my opinion was that the impact likely involved a speed (and a speed change) of less than 10 mph. Dr. Baker and I both agree that there was no post-impact movement on the part of the Dodge Charger. That is, the kinetic energy of the vehicle brought into the collision was arrested by striking the forks of the forklift and it did not have any separation velocity. Thus, in the absence of "bounce back" the impact speed should have equalled the speed change (i.e.: the vehicle would have been stopped upon impact and the

speed change would necessarily equal the impact speed). Dr. Baker confirmed in his deposition that the Yahyavi Dodge was not speeding and indeed was likely traveling at 1 – 2 mph down the street when impact was made. This would seem to the undersigned to be an unreasonable speed for a vehicle to be traveling at on North Glen Avenue regardless of whether there was a construction zone in place or not.

As indicated in the undersigned's original report, there is no crash test data that I was able to find which could be used to correlate the speed change experienced by the subject vehicle with the amount of crush sustained to the A-pillar. I attempted to demonstrate that the A-pillars have structural integrity by discussing an underride crash of a vehicle into the side of a tractor-trailer. Dr. Baker has indicated that this was an inappropriate comparison and so in an effort to further refine the likely speed of the subject Dodge upon contact, Forensic Dynamics Inc. conducted a crash test on January 9, 2019 in Las Vegas, Nevada.

Unfortunately, a Taylor T200 forklift could not be procured given the time constraints; however, a rather large and robust Telehandler with forklifts extended was procured. This was an Xtreme XR1245 model which weighed 28,200 lb. (See Figure 1 below).

Figure 1

Despite the similar, albeit slightly less mass, there were differences between the Telehandler used in the crash test and the subject Taylor. First, the point of contact on the forks of the Telehandler (i.e.: where it would have contacted the A-pillar) was approximately 11 ft. in front of the front axle of the subject unit. Figure 2 below is the subject Taylor T200 which demonstrates that in the accident this distance was probably closer to about 4 ft. or so.

Figure 2

The takeaway from the difference of the above is that there would have been a greater torque applied to the Telehandler as compared to the subject Taylor forklift, but the dynamics of the Dodge would have been very similar. In simple terms, due to the greater arm length applied by the force of the A-pillar from the Dodge strike (i.e.: the distance from the front axle of the Telehandler to the impact location) there would have been a greater propensity for the Telehandler to rotate clockwise as compared to the subject incident.

A 2007 Dodge Charger was purchased for the purposes of the subject crash test. This was an unblemished specimen with an operating motor capable of driving the vehicle. It contained ½ tank of fuel and the test driver weighed 185 lb. The vehicle was instrumented with a VBox and

numerous external and internal video recordings were captured. Figures 3 and 4 below are photographs of the surrogate Dodge.

Figure 3

Figure 4

It should be realized that the 2007 Dodge Charger is geometrically identical to the subject model year (2012) under review according to the sisters and clones directory from Scalia Engineering. As is evident in these photographs, there was no pre-existing damage to either the windshield or the A-pillars for the surrogate vehicle.

An attempt was made to collide the Dodge into the Telehandler forks at 2 mph, 10 mph and 15 mph. The actual impact speeds according to the VBox was in fact 2.4 mph, 9.1 mph and 14.7 mph.

For the 2.4 mph impact, the vehicle collided with the forks, which had been set at the same height as the subject forklift based on the damage sustained to the mirror and A-pillar. As a result of this impact (caused by simply pushing the Charger into the forklift at 2.4 mph), it was noted that the windshield fractured but no contact with either A-pillar occurred. Note, for the 2.4 mph test the driver's side A-pillar was the intended point of first contact. Figures 5 and 6 below clearly demonstrate that the sole damage associated with this impact was a shattered windshield with no mirror or A-pillar involvement.

Figure 5

Figure 6

The 9.1 mph strike was intentionally occasioned to result in initial contact at the right A-pillar (i.e.: on the opposite side of the vehicle as compared to the 2.4 mph test). In this test, the windshield was additionally damaged and there was a scuff and minor indentation along the leading edge of the A-pillar. The back edge of the A-pillar was not damaged; however, it was displaced slightly rearward such that it made contact with the leading edge of the passenger door. The crush at this region was estimated to be approximately 1". Notable is that the contact on the A-pillar was extensive in that initial contact was lower, whereas final contact was substantially higher. In simple terms, the forks of the Telehandler "rode up" the A-pillar as a result of the slope of the A-pillar itself. Also, it was determined that the Telehandler lifted slightly at its front axle and moved rightward approximately 4". Again, the rightward displacement is likely related to the additional distance between the force application and the front axles of the Telehandler unit. Clearly, the forks did rise up the A-pillar as a result of initial contact and yet the forks were not in the process of being raised while the impact took place. That is, the Charger underrode the forks and simultaneously the forks were lifted causing a deweighting of the front axle of the Telehandler.

Figure 7

Figure 8 below is an oblique photograph of the damage sustained during the 9.1 mph crash test. Figure 9 below is the subject Dodge Charger. Clearly, there is substantially greater crush of the entire A-pillar for the accident vehicle and similarly, the leading edge of the passenger door was dented rearward.

Figure 8

Figure 9

The maximum crush based on the leading edge of the door was estimated to be in the order of 3 – 4″for the accident vehicle. As discussed in my original report, there was additional denting caused by induced damage (at the right rear fender) to the subject Charger as a result of this contact (see Figure 9 below) and also at the left rear fender (see Figure 10 below). There was no such induced deformation in the rear portions of the Charger as a result of the 9.1 mph crash test.

Figure 10

Figure 11

Finally, a 14.7 mph crash test was completed. The intended location of initial contact was once again the right A-pillar. This test produced a rather surprising result. Unexpectedly, the forks of the Telehandler contacted the A-pillar at the appropriate location; however, the additional kinetic energy imparted by the increased speed of the Charger caused the front axle of the Telehandler to completely leave the ground and the forks, rather than penetrating further into the A-pillar, actually traveled over the Charger's roof causing damage and finally, contacting the rear window causing it to shatter. In essence, the Telehandler was lifted off the ground and the Charger, at 14.7 mph, simply drove underneath it.

Figures 12 and 13 demonstrate the damage sustained to the subject surrogate during this 14.7 mph crash test. Notably, the front axle of the Telehandler moved approximately 10" to the right as a result of the contact.

Figure 12

Figure 13

From the crash tests, it can be concluded that at low speed (2.4 mph) the A-pillar is not engaged and it is the windshield which slows the vehicle to a halt. From 9.1 mph, there is substantially less evidence of contact as compared to the subject vehicle (that is, simply the leading edge of the A-pillar is crushed, not the rear edge of the A-pillar or the leading edge of the door). The 14.7 mph crash test demonstrates that at this speed, substantial force is imparted to the Telehandler, which caused the 28,500 lb. unit to displace sideward. If the forks of the Telehandler indeed engaged the A-pillar, as is consistent with what occurred in the subject incident, and it had not rotated to the right, additional crush would have been occasioned to the vehicle. For example, if the Telehandler had been loaded with weight on its forks (i.e.: resisting the upward motion imparted by the force of the collision) additional damage would have been associated with the surrogate's A-pillar region.

Thus, the undersigned's re-evaluation of the subject collision dynamics as a result of the crash tests, the impact speed (and clearly the Delta-V, or speed change) of the subject collision was much greater than 9.1 mph and may have been as much as 14.7 mph or more. It is not physically possible for the subject vehicle to have sustained the damage it did while traversing at 1 – 2 mph as per Dr. Baker's reports.

It follows that with a crash test now having been performed, the undersigned is not needed to thoroughly analyze the report of Dr. Baker dated December 3, 2018 as the numbers contained therein are simply not consistent with the physical evidence.

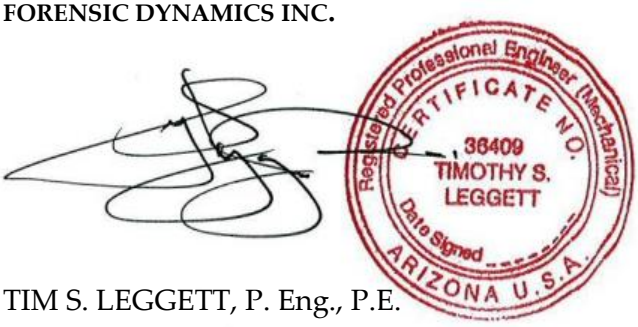
However, in his deposition Dr. Baker offered the new opinion that the Charger must have approached at slow speed because initial contact was to the middle of the mirror and final contact was much higher up the A-pillar. He concedes that he is not aware of the speed at which the forks travel while in the process of being raised but the speed of the Charger must have been relatively slow (in the order of 1 – 2mph) for the forks to have enough time to physically vertically rise. There are two considerations which Dr. Baker has failed to discuss as a result of the forks "climbing" up the A-pillar. First, as a result of contact with the A-pillar the Charger would have "submarined". That is, the suspension on the right side of the vehicle would have compressed, which would have tended to lower the body of the vehicle to allow the forks to contact somewhat higher. Secondly, and perhaps more importantly, it is clear that the angled slope of the A-pillar would have caused the forks to rise in a wedging fashion. It was for this reason that the damage traveled up the A-pillar and made additional contact at a higher level. In other words, the forks were not likely lifted while contact was made and thus, no comment can be made with respect to the approach speed of the Charger based on this.

On page 76 of Dr. Baker's deposition he indicated that the impact into the windshield glass did not affect or slow down the speed of the Charger. The crash tests completed by FDi have shown that indeed there is strength to the windshield and it was capable of slowing the vehicle to a halt from 2.4 mph without there being any residual damage to either A-pillars or other vehicle structures. Consequently, his statement on page 80 of his deposition where he indicated that all of the deceleration of the subject vehicle had to have been due to braking on the part of the driver of the Charger is incorrect. First, Mr. Yahyavi indicated he did not brake. Secondly, the crash tests demonstrate aptly that substantial deceleration of the vehicle takes place as a result of the interaction with the forks.

It is understood this is sufficient for your needs at this time. The undersigned reserves the right to augment his opinions, should additional information become available.

Yours very truly,

FORENSIC DYNAMICS INC.



TIM S. LEGGETT, P. Eng., P.E.
Accident Reconstruction Engineer

TSL:jg

APPENDIX A - Curriculum Vitae for Timothy S. Leggett, P. Eng., P.E.

Timothy S. Leggett, P. Eng., P.E.

CURRICULUM VITAE

RELEVANT EXPERIENCE:

- Experience in all aspects of accident reconstruction - winter road maintenance issues (see Addendum Curriculum Vitae), low-speed rear-end analysis including occupant kinematic response, speed determination, time-distance analysis, impact location, motor vehicle/pedestrian interactions, bullet/trajectory analysis, articulated vehicle assessments, bicycle reconstruction, slip and falls and failure analysis of products, structures and processes
- extensive personal and professional knowledge of seagoing vessels
- Occupant position determination, seat belt usage analysis, mechanical component failure causing motor vehicle accident, slip and fall analysis
- Qualified as an expert witness over 400 times in Provincial, Coroner, Justice, Supreme, Federal and Superior Courts of British Columbia, Yukon Territory, Ontario, Arizona, Oregon, Washington, California, New Mexico, Illinois, New York, Nevada and Oklahoma
- Approximately 5,000 accidents investigated and reconstructed

ACADEMIC QUALIFICATIONS:

- 1979 - 1981 Vanier College - Diploma of Pure and Applied Science
- 1981 - 1985 McGill University - Bachelor of Engineering, Mechanical
- 1988 University of North Florida - Special Problems in Accident Reconstruction
- 1990 University of Miami - Computer Assisted Accident Reconstruction
- 1996 - IPTM Pedestrian/bicycle accident investigation
- 1999 Society of Automotive Engineers - Accident Reconstruction, "State of the Art" Toptec
- 2000 Society of Automotive Engineers - "Heavy Vehicle Rollover" Toptec
- 2000 Transportation Research Board - Symposium on Snow Removal & Ice Control Technology
- 2000 University of Iowa - "Winter Road Maintenance" civil engineering graduate studies
- 2005 Advanced PC-Crash Course - Vancouver, BC
- 2008 CDR Technician and Data Analyst Certification
- numerous other lectures, presentations and short courses attended

PROFESSIONAL WORK EXPERIENCE:

- 1990 - Present Accident Reconstruction Engineer, Forensic Dynamics Inc. (principal)
- 1988 - 1990 Accident Reconstructionist, Forensic Dynamics Inc.
- 1985 - 1988 Accident Reconstructionist, Stanley Associates Engineering Ltd.

PROFESSIONAL ASSOCIATIONS:

- Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) - Professional Engineer (P. Eng.), Registration #17136
- State of Arizona Board of Technical Registration - Professional Engineer (P. E.), Registration #36409
- Association of Professional Engineers of Ontario (PEO) - Professional Engineer Registration # 100171696
- Society of Automotive Engineers (SAE) - Member

RESEARCH AND PUBLICATIONS

Publications

- "An Investigation into the Safety Aspects Related to Bunk Securement of B.C. Logging Trucks" - Funded by BC Ministry of Transportation and Highways

- "The Effect of Magnesium Chloride as an Anti-Icing Agent on Tire/Road Friction Co-Efficient", T.S. Leggett (Forensic Dynamics Inc.) and Cpl. E. Brewer (RCMP), March, 1999

- "Temperature and Humidity Effects on the Co-efficient of Friction Value After Application of Liquid Anti-Icing Chemicals", T.S. Leggett, September, 1999

- "Liquid anti-icing chemicals on Asphalt: Friction Trends", T.S. Leggett and G.D. Sdoutz (Forensic Dynamics Inc.), May, 2000

- "Friction Trends of Anti-Icing Chemicals on Tined Concrete", T.S. Leggett and G.D. Sdoutz (Forensic Dynamics Inc.), March, 2001

- "Laboratory Melting Performance Comparison: Rock Salt With and Without Pre-Wetting", C.A. Luker, B.C. Rokosh and T.S. Leggett (Forensic Dynamics Inc.) - Presented to the Transportation Research Board Sixth International Symposium on Snow Removal and Ice Control Technology, Spokane, WA, June 7, 2004

Inventions

- "Friction Sensor" - an in-road stationary friction testing device, with;
- "Flashing Digital Sign" indicating slippery road surface
- "The Cinch" Self-Tensioning Tie Down Safety System (patented)

(Revision 06/2018)

OOJ
DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
TRACY A. EGLET, ESQ.
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EGLET PRINCE
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IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual,

Plaintiff,

vs.

CAPRIATI CONSTRUCTION CORP, INC. a Nevada Corporation,

Defendants.

Case No.: A-15-718689-C
Dept. No.: XXVII

PLAINTIFF'S OFFER OF JUDGMENT TO DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.

EGLET PRINCE

TO: CAPRIATI CONSTRUCTION CORP., INC., *Defendants*;

TO: David S. Kahn, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker, LLP., Mark J. Brown, Esq., Law Offices of Eric R. Larsen., *Attorneys for Defendants;*

Pursuant to NRCP 68, Plaintiff BAHRAM YAHYAVI, hereby offers to accept judgment in the above-entitled matter against Defendants CAPRIATI CONSTRUCTION CORP., INC., in the sum of FOUR MILLION DOLLARS and 99/100 ($4,000,000.00), inclusive of costs of suit, attorneys' fees, and pre-judgment interest.

DATED this 17 day of January 2019.

Respectfully submitted:

EGLET PRINCE

DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
TRACY A. EGLET, ESQ.
Nevada Bar No. 6419
400 South 7th Street, 4th Floor
Las Vegas, Nevada 89101
Attorneys for Plaintiff

EGLET PRINCE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of EGLET PRINCE, and that on January 18, 2019, I caused the foregoing document entitled **PLAINTIFF'S OFFER OF JUDGMENT TO DEFENDANT CAPRIATI CONSTRUCTION CORP., INC.** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
750 E. Warm Springs Road, Suite 320, Box 19
Las Vegas, Nevada 89119

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300 South Fourth Street, 11th Floor
Las Vegas, Nevada 89101

An Employee of **EGLET PRINCE**

EGLET PRINCE

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI,

Plaintiff,

CASE NO. A-15-718689-C

vs.

DEPT. NO. XXVIII

CAPRIATI CONSTRUCTION CORP., INC., a Nevada corporation,

Defendant.

DEPOSITION OF TIMOTHY SCOTT LEGGETT, PE

VOLUME II

Taken on Thursday, May 9, 2019

At 9:39 a.m.

At 300 South Fourth Street
Eleventh Floor
Las Vegas, Nevada

Reported by: John L. Nagle, CCR 211

letters, FF, like Frank Frank, and my understanding is that means there was no event to trigger the data module.

A. Correct.

Q. Okay. So as far as the Bosch data on the crash test vehicle, you would agree with me that that provides no information that kind of supports your opinion other than we know there was no event triggered?

MR. TRUMMELL: Objection. Form.

THE WITNESS: Yeah. It doesn't help us one way or the other. Similarly, there was no data derived from the crash-tested vehicle because the airbags didn't deploy.

BY MR. KAHN:

Q. And let's look -- I premarked some things, so let's look at Exhibit 7.

I'm handing you what's already been premarked as 7. That's one page of, I think, a two-page item from one of your job file materials.

A. Yeah. It would have been a backup for my suggestion that -- we know what we're doing with the delta-V of less than 16 miles per hour because the airbag didn't deploy in the actual vehicle.

Q. So you would agree with me that if there's

expense, which is unusual, and some of the information I'm asking you, essentially, is resident with Mr. Terry and not with you.

In other words, you don't -- I'll stop there.

So when you discussed the test with Mr. Terry -- and I understand you were otherwise occupied -- what was discussed between you and Mr. Terry, personally?

A. Well, Mr. Terry was familiar with the case, and so I said to him, "We need to run three tests at the speed at which Dr. Baker opined that the impact took place at, which is a maximum of 2 miles per hour."

The speed that I say was probably the upper limit, which was 10 miles per hour.

And then finally, "Let's just, you know" -- "Since we've got everything out there and we're doing it, let's try to go for 15 miles per hour," which is, by the way, the maximum that the owner of the telehandler would permit him to do.

So I thought that the three tests would bracket all of the various opinions and conditions, basically.

Q. Let's talk about the telehandler a little bit because we haven't gotten into that yet.

reduces the speed and, hence, causes the damage of the Charger. So it's the A-pillar that's the most important here.

Q. Do you feel that any of your three accidents replicated the damage accurately that was found on the actual Yahyavi Charger?

A. No. But it's certainly bracketed. The 9.1 miles per hour was significantly less damage than what we have, so that means that the impact was north of 9.1.

And the 15 was probably not useful in any way, because it was a completely different interaction. It was an underride, as you know, so that doesn't provide any useful information.

So the only right side of the brackets, the right side of the goalpost, that we can use is that it was probably, not certainly, but probably less than the threshold for airbag deployment, which is 16 miles per hour.

So if you were to ask me my best guess, we know at 9.1, there wasn't anywhere near as much damage as we have, so we're probably dealing with somewhere north of 13, I would think, 13 miles per hour, but as I sit here today, the left goalpost is 9.1.

Q. And I'll try to kind of hurry through

John E. Baker, Ph.D., P.E.
FORENSIC ENGINEER

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June 20, 2019

Mr. Mark J. Brown
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Re: Bahram Yahyavi v. Capriati Construction Corp., Inc. - Supplemental Report
Preliminary Report of Findings during Staged Crash Tests on June 14, 2019

DOI: June 19, 2013

Dear Mr. Brown and Mr. Kahn:

You will recall that the subject matter concerned a two vehicle collision occurring on June 19, 2103 at approximately 10:25 A.M. on Sahara Avenue 2 feet north of the intersection of Glen Avenue.

In that subject collision, the front A-pillar and front windshield of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi (VIN = 2C3CDXBG2CH211466) struck the left front fork of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle (Mfg. Serial Number = SBB 34043). You are aware that the speed of the impact speed, the change of velocity of the 2012 Dodge Charger, and the mechanisms of Bahram Yahyavi's claimed injuries have all been in dispute.

In a effort to resolve that dispute, the Defendant Capriati Construction Company has utilized Calspan laboratories in Buffalo, New York to conduct a series of staged test crashes using exact exemplars of the 2012 Dodge Charger driven by Bahram Yahyavi and the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle.

I had to opportunity to travel to Buffalo New York and assist the Calspan engineers with the setup and arrangement of the vehicles and design of the test crashes, and to observe the results of the four test crashes.

You have requested that I report a summary of my observations and findings at the (four) recent staged test crashes conducted at the state-of-the-art Calspan crash laboratory, 4455 Genesee Street, Buffalo, New York 14225 on June 14, 2019 using two exemplar 2012 Dodge Charger vehicles and an exemplar Taylor "Big Red" T200.

At this writing on June 19, 2013, the videos and extensive collision data from the four staged collisions have not yet been received from the Calspan laboratories. On its receipt, I will provide a more-detailed followup supplemental report. In the meantime, the following report will serve as a preliminary list of my observations and opinions.

LABORATORY

Calspan is an independent crash test laboratory located in Buffalo, New York. Calspan has an ISO/IEC Standard 17025 certification. That is, the International Accreditation Service (IAS) accredits testing laboratories to ISO/IEC Standard 17025 and industry specific standards. This accreditation demonstrates to the marketplace and to regulators that the laboratories have met the IAS accreditation requirements and are periodically monitored for compliance. Calspan routinely crashes vehicles for the National Highway Transportation Safety Administration (NHTSA) and individual vehicle manufactures. The crash tests at Calspan were under the direction and supervision of Edward Dutton, Operations Manager - Crash Division.

GOAL of STAGED EXEMPLAR COLLISIONS

In these staged test collisions at Calspan laboratories, Instead, the intent was to design a staged crash test under laboratory precision controls that would replicate the DAMAGE to an exemplar 2012 Dodge Charger vehicle that was substantially similar to the actual damage to the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi. Our intent was NOT to pick a collision speed arbitrarily and then see what the resulting damage was. The reasoning was that if we match the Yahyavi collision DAMAGE exactly, we will see Yahyavi's true collision speed, Delta V, and opine on mechanisms of injury.

That is, the specified stated goal of the four staged collision at Calspan was to cause the 2012 Dodge Charger 4-Door **to collide into the left forklift blade of the 2007 Taylor "Big Red" T200 Forklift Truck in such a manner so as to replicate the crush damages seen in the post-collision photographs of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi.**

It was conveyed to the Calspan engineers in detail approximately two weeks prior to the day of the actual staged test collisions at Calspan laboratories in Buffalo NY that the top priority in the upcoming staged test collisions and re-creation of the Yahyavi collision was to be able to MATCH Yahyavi's Direct Contact A-Pillar Damage in its nature, size, and dimensions.

Notably, it was also emphasized to the Calspan engineers that to cause the direct contact damage (DCD) as seen in post-collision photographs of the exemplar 2012 Dodge Charger 4-Door driven by Bahram Yahyavi, there would have to be a similar penetration and **mutual engagement** of the exemplar left front fork blade of the 2007 Taylor "Big Red" T200 WITH the A-Pillar of the 2012 Dodge Charger.

That is, for one brief instant, those two colliding bodies would achieve a common velocity. From the nature of the damage to the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi, the damage to his vehicle was caused by a direct collision with mututal engagement with the left forklift blade into the 2012 Dodge Charger's right A-pillar and windshield. In the case of a collision with mutual engagement as with the subject Yahyavi collision, the amount of damage can be related to the speed of the collision, and conclusions can be drawn.

On the other hand, a **sideswipe** collision has no mutual engagement of the colliding vehicle bodies of matter. The colliding surfaces in a sideswipe collision do not ever attain a common velocity. In a sideswipe collision, one of the colliding surface runs along the other. As a result, there is no correlation between the speed of the sideswipe collision and the amount of damage.

In a sideswipe collision where one surfaces runs along the other, one can have the same damage at 40 mph that one has at 4 mph. In a sideswipe collision, the running damage is independent of the speed, and one absolutely cannot state opinions about collision speed with a sideswipe of the collision surfaces.

That crush damage in the post-collision photos demonstrated mutual engagement by the left for blade of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle into the A-Pillar of the Yahyavi 2012 Dodge Charger A-pillar. In fact, this collision was not a sideswipe or running collision of the fork blade up the surface of the A-pillar. Therefore, in this subject test collision, the 6 Calspan Engineers were specifically instructed to assist with a precise test crash design and arrangement that would precisely MATCH the Direct Contact Damage in the original post-collision photos of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi. The Calspan engineers were also instructed to enure that the left forklift blade of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle would engage with the inclined A-Pillar of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi, and not simply run along it without engagement.

METHODOLOGY

Calspan initially purchased two exemplar 2012 Dodge Chargers – both in excellent condition, and rented an exemplar 2007 Taylor "Big Red" T200 Forklift Truck from a large-forklift rental company in Philadelphia, PA.

Starting on June 14, 2019 at 8:30 AM, the two 2012 Dodge Charger exemplar vehicles – and the laboratory itself – were outfitted and with numerous internal and external video cameras and electronics so as to precisely monitor the speed of the staged collision impact, the crush damage to the 2012 Dodge Charger, the position and angle of the left forklift blade on the 2007 Taylor "Big Red" T200 Forklift Truck, and any post-collision movements of the two vehicles.

Given the impossibility of precisely timing the location of the contact of the rising forks (in vertical motion at the time of impact as per the deposition of Joshua A. Arbuckle) on the A-Pillar of the exemplar 2012 Dodge Charger, and the consideration of the finite number (i.e., two) vehicles to test crash, it was decided to keep the fork blades on the exemplar 2007 Taylor "Big Red" T200 Forklift Truck stationary at a set height at the time of crash impact. It was originally expected that there would be a total of two test crashes – one to each of the two vehicles.

PHOTOGRAPHS

On entry into the highly-secured Calspan labs, all of the lens on cameras were taped over and shut by Calspan Security so that they could not be used. That included my camera, cellular phone, tablet, and laptop computer camera. No photographs were taken by me. All photographs and videos were taken by Calspan.

OBSERVATIONS

Calspan Test Crash 1:

Setup: The exemplar 2012 Dodge Charger (White) speed, the angle of the Big Red forklift blade on contact, and the point of contact with the Big Red forklift blade were selected by Calspan engineers. Exemplar Dodge Charger #1 crashed into Taylor "Big Red" T200 at 10 mph and contact by fork blade with vehicle A-pillar at approximately 6 feet outward on the left fork blade at slight clockwise acute angle of the left fork lift blade .

Result: It was noted in the Calspan Test Crash 1 that the combination of the high 10 mph crash speed of the exemplar 2012 Dodge Charger speed, the angle of the left fork lift blade, and the point of impact into the left fork lift blade caused the left fork lift blade to rise run up and along the A-pillar and onto the roof of the vehicle.

In fact, from the post-collision photographs of the actual Yahyavi collision, there was no indication that the left fork lift blade ever contacted the roof of the 2012 Dodge Charger vehicle. Moreover, in this test crash, there was no engagement damage whatever of the left fork lift blade with the A-pillar as to cause the damage seen in the Yahyavi photographs. The sideswipe damage by the lifting left fork blade did not resemble that of the post-collision photographs of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi.

In addition, there was a slight clockwise rotation of the exemplar 2007 Taylor "Big Red" T200 Forklift Truck from the crash impact.

It was immediately apparent that the reason the 700-pound left fork lift blade was so easily lifted upward in the test crash due to the fact that it was incorrectly stuck in this test crash – i.e., near its thinnest, distal end – thereby facilitating a substantial lift torque of the blade around its supporting HINGE on the forklift support frame. It was therefore decided that the strike to the left fork blade had to realistically at a position closer to the body of the exemplar 2007 Taylor "Big Red" T200 Forklift Truck – thereby contacting a thicker part of the left fork lift blade and at

a point where there would be more penetration of the A-pillar and substantially less lifting torque around its mounting hinge. The speed would be kept the same – at 10 mph.

Calspan Test Crash 2:
Setup: The exemplar 2012 Dodge Charger (White) speed at 10 the angle of the Big Red forklift blade on contact, and the point of contact with the Big Red forklift blade were mutually selected as stated above. The exemplar Dodge Charger #1 crashed into exemplar Taylor "Big Red" T200 at 10 mph with contact by left fork blade with the vehicle's A-pillar at approximately 3 feet outward from left fork lift blade at slightly greater clockwise acute fork lift blade angle.

Results: The results in Crash 2 were almost identical to those in Crash 1. That is, the left fork lift blade of the exemplar 2007 Taylor "Big Red" T200 Forklift Truck ran up and along the inclined A-pillar (in a sideswipe) without ever mutually engaging with the A-Pillar and came to rest on the exemplar 2012 Dodge Charger roof.

The test crash did not cause the damage that was seen in the post-collision photos of 2012 Dodge Charger 4-Door driven by Bahram Yahyavi in the actual collision. It was by now apparent that there was just too much incoming collision speed and energy by the exemplar 2012 Dodge Charger – striking left for blade at a speed of 10 mph and causing it to ride up the A-pillar and rise vertically rotating about its mounting hinge on the frame. It was decided to cut the collision speed for the next test crash of the same exemplar 2012 Dodge Charger 4-Door (white) in half with a slightly greater clockwise acute angle.

Calspan Test Crash 3:
Setup: Exemplar Dodge Charger #1 (White) crash into Taylor "Big Red" T200 at 5 mph and contact by left fork blade by exemplar 2012 Dodge Charger at approximately 3 feet outward from the left fork blade at slightly greater clockwise acute angle.

Results: At this lower collision speed of 5 mph, the left fork blade of the exemplar 2007 Taylor "Big Red" T200 Forklift Truck did engage – and did not run up and off the A-pillar in a sideswipe – and caused similar penetration damage to the A-pillar of the exemplar 2012 Dodge Charger 4-Door but not the front window. It was decided that to get the A-pillar and windshield damage to be the same as in the original Yahyavi post-collision photographs, it was definite that less incoming collision speed was needed to keep the fork lift blade from rising up in a sideswipe with the A-Pillar – allowing an actual engagement of the left fork lift blade with the A-pillar. It was then decided that the final crash to the second exemplar vehicle would include a minor readjustment to a previous angle of the left fork blade at a slightly less clockwise acute angle.

Calspan Test Crash 4:
Setup: Exemplar Dodge Charger #2 (Red) crash into Taylor "Big Red" T200 at 5.5 mph and contact by fork blade with vehicle A-pillar at approximately 3 feet outward from left fork blade at slight/lesser clockwise acute angle.

Results: The final crash test results at Calspan demonstrated a clear mutual engagement of the left fork lift blade and substantially similar damage match of the A-pillar to the original Yahyavi 2012 Dodge Charger as shown in post collision photos. There was also substantially similar – but not identical damage – to the windshield and passenger's door edge and less referred damage bending to the roof. At this lower 5.5 mph collision speed, there was no running up of the left fork lift blade in a sideswipe along the inclined A-pillar of the exemplar 2012 Dodge Charger 4-Door. The penetration damage to the A-pillar of the exemplar 2012 Dodge Charger was substantially similar.

As stated, there was similar but not yet identical damage to the windshield, and there was limited damage to the passengers door edge where the A-pillar was struck. However, at this point, it was clear that matching the original damage of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would require a lower speed and would require a precise angle of the left fork blade.

The shape of the bunching of the sheet metal material at the damage location on the actual Yahyavi A-pillar on the 2012 Dodge Charger may well have been more precisely matched with an intentionally-rising (i.e., under power - not hinged) fork left blade. But these test crashes could not be performed with an intentionally-rising (under power) left fork lift blade without having a very large number of pilot crash test exemplar vehicles.

CONCLUSIONS

1. Matching the actual **mutual-engagement** (and not a left fork blade sideswipe) damages to the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi to the mutual-engagement damages to the exemplar 2012 Dodge Charger, it can be concluded that the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi crashed into the left fork blade of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle at a collision impact speed of approximately 5 mph.

2. However, because post-collision photos show evidence of tire friction marks that indicate rotations of the front tires of the 2007 Taylor "Big Red" T200 Forklift Truck driven by Joshua A. Arbuckle on a dusty roadway in a construction site– i.e., allowing of the forks to rotate (i.e., to give way) forward with the collision, the actual Delta V of the 2012 Dodge Charger 4-Door driven by Bahram Yahyavi would have been less than 5 mph impact speed.

   I will provide calculations of this Delta V in a subsequent followup written report.

These observations and opinions have been stated to a reasonable degree of Accident Reconstruction Engineering certainty. I request the opportunity to supplement or amend these preliminary observations and opinions on receipt of additional discovery material.

If you have any questions regarding these preliminary observations and opinions, please do not hesitate to contact me.

Sincerely,

John E. Baker (Signed electronically).

John E. Baker, Ph.D., P.E.

APPENDIX

CALSPAN Test Crash 4 at 5.5 mph

CALSPAN Test Crash 4 at 5.5 mph

Adult Medicine Progress Note

Southwest Medical Associates, Inc.
Southwest Medical Associates, Inc. P.O. Box 15645
Las Vegas, NV 89114-5645
(702) 877-8600

Patient:	BAHRAM YAHYAVI	MRN:	3995185
Address1:	[redacted]	DOB:	[redacted]
Address2:		Age:	56
City/ST Zip:			
		Home:	[redacted]
Encounter Date: Oct 25 2011 3:00PM		Work:	

Previsit Screen

No urinary loss of control - per patient. Current smoker and alcohol use social. No domestic violence. Compared to last year, how would you rate your physical health now? Same as last year.

Compared to last year, how would you rate your mental health now? Same as last year.

Do you regularly exercise or take part in physical exercise? N.

Health Screen

A lipid profile was performed 10.11. No glaucoma screening performed by an Eye Care Provider every 2 years.

No influenza immunization

Reason For Visit

49 year male presents to the clinic today, for F/U on labs.

Subjective

Patient presents for lab results. Also complains of neck pain for several years. He denies any history of neck surgery. No neck trauma. He has a well-healed surgical scar on the back of his head which is from a hair transplant.

Current Meds

Hydrochlorothiazide 25 MG Oral Tablet;TAKE 1 TABLET DAILY.; Rx
Triamcinolone Acetonide 0.1 % External Cream;APPLY SPARINGLY AND MASSAGE IN TWICE DAILY.; Rx.

Allergies

No Known Drug Allergies.

Vital Signs

Vital Signs Recorded by Stulo, Susan on October 25,2011 03:28 PM
O2 SATURATION O2SAT: O2 Saturation 96 ;
Height: 71 in, Weight: 207.125 lb, BMI: 29.00 , BSA: 2.14
BP: 137/85 mm Hg
Temp: 97.5 F
HR: 92 b/min ;
Resp: 16 r/min ;

Objective

GENERAL: WN, WD, WG and cooperative

NECK: Supple with full range of motion. There is mild paraspinal discomfort with palpation of the neck. No skin changes. No subcutaneous nodules noted. No palpable muscle spasms.

SKIN: Warm, dry, no lesions or rashes

NEURO: CN III - XII intact.

Adult Medicine Progress Note

Patient: BAHRAM YAHYAVI MRN: 3995185
Encounter: Oct 25 2011 3:00PM

Assessment

- Essential hypertriglyceridemia (272.1)
- Backache (724.5)

Plan

Backache -- will try naproxen. Patient states he has not taken anything for pain relief in the past. Will check a plain to the neck to look for arthritic changes.

Hypercholesterolemia -- will prescribe fenofibrate. He is to recheck his LFTs in one month, will check a direct LDL at that time as well. Follow-up with PCP in 3 months for a recheck of his cholesterol.

Orders

Naproxen 500 MG Oral Tablet;TAKE 1 TABLET EVERY 12 HOURS WITH FOOD AS NEEDED FOR PAIN; Qty60; R2; Rx.
99212 Est Pt Brief; Requested for: 25 Oct 2011.
HEPATIC FUNCTION PANEL 939; Requested for: 25 Oct 2011.
DIRECT LDL 6307; Patient Not Fasting; Patient Not Fasting; Requested for: 25 Oct 2011.
SPINE,CERVICAL,ROUTINE MIN 4 OR 5V *; Requested for: 25 Oct 2011.
Fenofibrate 160 MG Oral Tablet;TAKE 1 TABLET DAILY; Qty30; R2; Rx.

Signature

Electronically signed by : Susan Stulo ; 10/25/2011 3:29 PM PST.
Electronically signed by : Sharon King MD; 10/25/2011 3:42 PM PST.

NOTC
DENNIS M. PRINCE
Nevada Bar No. 5092
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Nevada Bar No. 12107
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Attorneys for Plaintiff
Bahram Yahyavi

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an Individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendant	CASE NO.: A-15-718689-C DEPT. NO.: XXVIII **PLAINTIFF'S NOTICE OF DE-DESIGNATION OF EXPERT WITNESS TIMOTHY LEGGETT, P.E.**

Plaintiff Bahram Yahyavi, by and through his undersigned attorneys of record, PRINCE LAW GROUP, hereby notifies the Court and parties in this action of his de-designation of Timothy Legget, P.E. as an expert in this matter.

Dated this 20th day of September, 2019.

PRINCE LAW GROUP

/s/ Dennis M. Prince

DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
Attorneys for Plaintiff
Bahram Yahyavi

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**, and that on the 20th day of September, 2019, I caused the foregoing document entitled **PLAINTIFF'S NOTICE OF DE-DESIGNATION OF EXPERT WITNESS TIMOTHY LEGGETT, P.E.** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as follows:

David S. Kahn, Esq.
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& DICKER LLP.
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Attorneys for Defendant
Capriati Construction Corp., Inc.

/s/ Lisa M. Lee

An Employee of Prince Law Group

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MOT
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DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an Individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendant	CASE NO.: A-15-718689-C DEPT. NO.: XXVIII **PLAINTIFF'S MOTION FOR SANCTIONS AGAINST DEFENDANT CAPRIATI CONSTRUCTION CORP., INC. FOR WILLFUL ATTORNEY MISCONDUCT**

Plaintiff Bahram Yahyavi, by and through his attorneys of record, Dennis M. Prince and Kevin T. Strong of PRINCE LAW GROUP, hereby submits his *Motion for Sanctions Against Defendant Capriati Construction Corp., Inc. for Willful Attorney Misconduct*.

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This Motion is based upon the pleadings and papers on file in this action, the Points and Authorities set forth herein, and any argument the court may entertain at the time of the hearing.

DATED this 26th day of September, 2019.

Respectfully Submitted,

PRINCE LAW GROUP

/s/ Dennis M. Prince
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Defendant Capriati Construction Corp., Inc.'s ("Defendant") attorney willfully elicited testimony regarding Defendant's bankruptcy from its safety manager, Clifford Goodrich:

> Q. Between the date of the accident and today, ***did anything major happen to your company?***
>
> A. Yes, we filed for reorganization in 2015.

See Day 13 Partial Trial Transcript, at 3:19-23 (emphasis added).

Defense counsel's question was clearly couched in a manner that shows he prepared his witness to refer to Defendant's bankruptcy. Defendant's counsel deliberately elicited this testimony to garner sympathy from the jury regarding Defendant's financial condition knowing full well that evidence of Defendant's liability insurance is inadmissible. Caselaw from around the country is clear that the introduction of wealth or poverty of any party is irrelevant to award damages in a personal injury matter. There was nothing that prevented defense counsel from requesting a bench conference with the Court, outside the presence of the jury, to confirm that he could elicit such testimony. All of

these facts, when considered together, establish the deliberate and willful nature of defense counsel's misconduct.

Defense counsel's conduct is even more egregious given that he elicited false testimony about the status of Defendant's bankruptcy. Contrary to the testimony presented to the jury, Defendant filed a motion with the bankruptcy court on February 6, 2018 requesting a final decree to close its Chapter 11 case because Defendant "was able to turn itself profitable" and paid all outstanding fees to its debtors. *See* 2/6/18 Motion for Final Decree, at p. 2, ¶¶ 4-6, attached as **Exhibit "1."** On March 26, 2018, ***nearly sixteen months before this trial began***, the bankruptcy court ***granted*** Defendant's Motion in its entirety. *See* 3/26/18 Notice of Entry of Order Granting Motion for Final Decree, attached as **Exhibit "2."** As a result of defense counsel's blatant disregard of the facts, the jury has now been left with the impression that Capriati's bankruptcy is still ongoing and that it has no ability to pay a judgment. This is unequivocally false.

As to the misconduct, Plaintiff requests this Court to admonish Defendant's counsel for willfully committing attorney misconduct by eliciting irrelevant evidence that will prejudice Plaintiff. *Gunderson v. D.R. Horton, Inc.*, 130 Nev. ___, 319 P.3d 606, 611-12 (2014). Plaintiff further requests this Court to provide the jury with a curative instruction informing the jury that Defendant has liability insurance to satisfy any verdict reached in this case. This is the only way to ensure that Plaintiff will overcome any prejudice suffered by defense counsel's express implication to this jury that Defendant does not have the ability to pay for any judgment rendered because of its bankruptcy.

In addition to the admonishment and curative instruction outlined above, Plaintiff requests this Court to strike Defendant's Answer in its entirety. Alternatively, Plaintiff requests this Court to impose the lesser sanction of striking Defendant's retained expert witnesses' testimony and evidence related thereto in their entirety. Under Nevada law, this Court possesses the inherent authority to impose sanctions for attorney misconduct during trial.

II.

LEGAL ARGUMENT

> When an attorney commits misconduct, and an opposing party objects, the district court should sustain the objection and admonish the jury and counsel, respectively, by advising the jury about the impropriety of counsel's conduct and reprimanding or cautioning counsel against such misconduct.

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Gunderson, 319 P.3d at 611.

An admonition is "any authoritative advice or caution from the court to the jury regarding their duty as jurors or the admissibility of evidence for consideration," or "[a] reprimand or cautionary statement addressed to counsel by a judge." *Id.* (*quoting Black's Law Dictionary* 55 (9th ed. 2009)).

A. <u>Defense Counsel's Willful Misconduct Warrants this Court's Admonishment to the Jury</u>

Pursuant to *Gunderson*, defense counsel's misconduct warrants an admonition from this Court. Defense counsel carefully chose to use the words "major" in asking Mr. Goodrich what happened to the Defendant. This language directly signaled Mr. Goodrich to talk about the bankruptcy. Defense counsel claimed he elicited testimony regarding the bankruptcy to somehow rebut Goodrich's earlier testimony about Defendant's failures to retain documents relevant to the subject collision, including an incident report or forklift operator Joshua Arbuckle's employment file. This is patently false. Defense counsel informed the Court directly, after he committed this misconduct, that he elicited the testimony to show that the company reduced its employees from 250 to 60. *See* Day 13 Partial Trial Transcript, at 7:20-25. He clearly did not frame his question in such a way to elicit a response in reference to the size of the company. However, even testimony related to the reduction in employees improperly signals to the jury that Defendant is in financial peri. Such testimony is not necessary to explain to the jury why certain records were not kept because Defendant continued to operate its business during the pendency of its Chapter 11 bankruptcy. "The legislative purpose of Chapter 11 is the speedy rehabilitation of financially troubled businesses." *In re Bryan*, 69 B.R. 421, 423 (Bankr. D. Mont. 1987) (*quoting In re 312 West 91st Street Co., Inc.*, 35 B.R. 346, 347 (Bankr. S.D.N.Y. 1983)). "[A] voluntary Chapter 11 debtor remains in possession of property of its bankruptcy estate and . . . has the rights, powers, and duties, of a bankruptcy trustee . . . ." *In re Cwnevada LLC*, 602 B.R. 717, 726 (Bankr. D. Nev. 2019). The mere existence of a Chapter 11 bankruptcy does not somehow suggest that the company is unable to retain documents, especially considering the operations remain ongoing. The irrelevance of the bankruptcy for this purpose is not even a close call. *See* Nev. Rev. Stat. 48.015 ("relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence").

Defense counsel also introduced testimony about Defendant's bankruptcy that is not even accurate because he implied that the bankruptcy was filed because of the subject collision and is still

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ongoing. This should come as no surprise to the Court given that defense counsel has repeatedly demonstrated throughout this trial his lack of any command over the facts of this case. On October 7, 2015, Defendant filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code. *See* 10/7/15 Voluntary Petition, attached as **Exhibit "3."** On February 6, 2018, Defendant filed a Motion for Final Decree Pursuant to 11 U.S.C. § 350 with the bankruptcy court. *See* **Exhibit "1."** Defendant informed the bankruptcy court of its financial stability that was regained during its reorganization plan:

> 4. Through the Plan, the Debtor ***was able to turn itself profitable***.
>
> . . .
>
> 6. In accordance with section 5.2 of the Plan, all fees payable pursuant to section 1930 of title 28 of the United States Bankruptcy Code (the "Trustee's Fees"), as determined by the Bankruptcy Court at the hearing on the Plan, ***were paid by the Debtors on or before the Effective Date.*** The Trustee's Fees continued to be paid to the Office of the United States Trustee ("UST") and the Debtor is current with their Trustee's Fees.
>
> **RELIEF REQUESTED**
>
> 7. ***By this Motion, the Debtor seeks entry of a final decree that closes its Chapter 11 Case, effectively as of the date of which the Court enters such final decree.***

See **Exhibit "1,"** at p. 2 (emphasis added).

On March 26, 2018, the bankruptcy court entered its Order granting Defendant's Motion for Final Decree Pursuant to 11 U.S.C. § 350. *See* **Exhibit "2."** During the nearly sixteen months before this trial began, Defendant's Chapter 11 bankruptcy ceased, which means that Defendant has remained profitable during that time period. This further underscores defense counsel's intent to deceive this jury about Defendant's inability to pay, which further proves the willfulness of his misconduct. Given that Plaintiff's counsel timely objected to the testimony when it was elicited, Plaintiff respectfully requests that this Court provide the following admonition to the jury before any further testimony is presented:

> Defendant Capriati Construction Corp., Inc., through its counsel, introduced testimony that the Defendant filed for bankruptcy after the collision on June 19, 2013. You are instructed to disregard the question and answer, which is hereby stricken from these proceedings. Defendant Capriati Construction Corp., Inc. is no longer in bankruptcy and is now profitable. You are further instructed not to consider whether the Defendant filed for

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> bankruptcy for any reason and it should have no effect on your verdict.
>
> Further, by seeking to introduce such irrelevant evidence, counsel for Defendant, Mr. Kahn, committed willful misconduct. Mr. Kahn is hereby reprimanded for his misconduct and admonished not to engage in any further misconduct.

See Plaintiff's proposed admonition, attached as **Exhibit "4."**

B. <u>A Curative Instruction Will Neutralize the Inevitable Prejudice Plaintiff Will Suffer if the Jury Mistakenly Believes Defendant is Financially Unable to Pay Any Judgment Entered</u>

"Curative instructions are a settled and necessary feature of our judicial process and one of the most important tools by which a court may remedy errors at trial." *State v. Harmon*, 956 P.2d 262, 271 (Utah 1998). Curative instructions that are appropriately prepared are "often sufficient to cure any prejudice from the jury hearing inadmissible evidence." *United States v. Blakeney*, 942 F.2d 1001, 1030 (6th Cir. 1991). To determine the effectiveness of a curative instruction, one must "weigh the forcefulness of the instruction and the conviction with which it was given against the degree of prejudice generated by the evidence." *United States v. Johnson*, 618 F.2d 60, 62 (9th Cir. 1980).

There is no dispute that defense counsel's deliberate introduction of testimonial evidence regarding Defendant's bankruptcy will inevitably prejudice Plaintiff at trial. The jury's view of Defendant is irreparably tainted because of its knowledge that Defendant filed bankruptcy and may be financially unable to pay a judgment. This could certainly lead the jury to disregard the evidence in the case and impose a monetary award that is inconsistent with the evidence presented in this case because the jury feels sympathy for Defendant. Of course, such sympathy is unwarranted and has no basis in fact because Defendant's bankruptcy has ceased and Defendant is, by all accounts, profitable.

Most importantly, defense counsel knows the law is well-established that a party's financial state is completely irrelevant to a jury's determination of damages to award in a personal injury matter. "[T]he law has long required that the rich man and the poor man stand before the jury as equals so that all parties receive a verdict unaffected by their economic status." *Samuels v. Torres*, 29 So. 3d 1193, 1196 (Fla. Ct. App. 2010). "When, as here, only compensatory damages are recoverable, the ***financial condition of the parties is irrelevant and often prejudicial as it appeals to the sympathy of the jury, which presumably will favor those least able to bear the loss***." *McHale v. W.D. Trucking, Inc.*, 39 N.E.2d 595, 610-11 (Ill. Ct. App. 2015) (emphasis added).

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> ***As a general rule, the financial status of the parties to a tort action for damages is immaterial and irrelevant*** to the question of liability ***or to the amount of damages that may be recoverable and consequently any reference to the poverty or wealth of either party to such a suit, if made in the presence of the jury trying the case, is usually regarded as an improper appeal to the sympathy or prejudice of the jury.***

Wilmoth v. Limestone Products Co., 255 S.W.2d 532, 534 (Tex. Ct. App. 1953) (emphasis added).

> ***Interjection of the wealth or poverty of any party has been consistently held by the courts to be irrelevant to the issue of compensatory damages in a personal injury case based on negligence, highly prejudicial because it diverts the jury from a fair assessment of damages, and a basis for reversal.***

Samuels, 29 So. 3d at 1196 (emphasis added); *see also, Lewis v. Hubert*, 532 S.W.2d 860, 866 (Mo. Ct. App. 1975) ("It is fundamental to our jurisprudence that rich and poor stand alike in our courts and that neither the wealth of one nor the poverty of the other shall be permitted to affect the administration of the law").

This same legal principle applies to corporations, like Defendant, as demonstrated by the parties' stipulated jury instruction regarding corporations:

> One of the parties in this case is a corporation. A corporation is entitled to the same fair and unprejudiced treatment as an individual would be under like circumstances, and you should decide the case with the same impartiality you would use in deciding a case between individuals.

See Nevada Pattern Jury Instructions, Civil 1.06.

Currently, the jury is under the mistaken impression that Defendant is bankrupt and lacks the finances to cover any verdict rendered. This will potentially garner sympathy from the jury because it may not want to inflict any further financial punishment to Defendant. In turn, the jury will disregard the medical evidence establishing Plaintiff's substantial damages that Defendant's negligence caused, which will clearly prejudice Plaintiff. The only way to cure this prejudice is for this Court to provide a curative instruction that informs the jury that Defendant is able to satisfy any verdict rendered because it has liability insurance. NRS 48.135 "does not require the exclusion of evidence of insurance against liability when it is relevant for another purpose, such as proof of agency, ownership or control, ***or bias or prejudice of a witness***" (emphasis added). Mr. Goodrich's testimony that the company is "filed for reorganization" indicates his prejudice against Plaintiff by implying to the jury that Defendant lacks the financial means to pay any damage award the jury issues to Plaintiff. It also implies that the subject collision and Plaintiff's personal injury lawsuit somehow played a role

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in Defendant's bankruptcy filing because the filing occurred in 2015, two years after the subject collision occurred. Therefore, Plaintiff respectfully requests that this Court use its discretion and provide the jury with the following curative instruction directly after its admonishment of defense counsel:

> Defendant Capriati Construction Corp., Inc. introduced evidence that after the June 19, 2013 collision, it filed for bankruptcy. You shall not consider that Defendant Capriati Construction Corp., Inc. filed bankruptcy for any purpose. Defendant Capriati Construction Corp., Inc. is no longer in bankruptcy and is now profitable. Plaintiff has the legal right to proceed with his claims against Defendant Capriati Construction Corp., Inc. in this case and recover damages as determined by you in accordance with these instructions.
>
> Further, Defendant has liability insurance to satisfy, in whole or in part, any verdict you may reach in this case.

See Plaintiff's proposed curative instruction, attached as **Exhibit "5."**

C. <u>In Addition to the Admonition and Curative Instruction, Defense Counsel's Willful Misconduct Justifies Case-Terminating Sanctions</u>

District courts have "inherent equitable powers to dismiss actions or enter default judgments for . . . abusive litigation practices." *Young v. Johnny Ribeiro Bldg.*, 106 Nev. 88, 92 (1990). District courts "have broad discretion to impose sanctions for professional misconduct at trial." *Emerson v. Eighth Judicial Dist. Court*, 127 Nev. 672, 680 (2011). "A trial judge is under a duty, in order to protect the integrity of the trial, to take prompt and affirmative action to stop . . . professional misconduct." *Young v. Ninth Judicial Dist. Court*, 107 Nev. 642, 818 P.2d 844, 846 (1991). The U.S. Supreme Court has recognized "the inherent power of a court to levy sanctions in response to abusive litigation practices." *Id.* at 847 (*citing Roadway Express v. Piper*, 447 U.S. 752, 100 S. Ct. 2455 (1980)) (*superseded by statute on other grounds*). "The power of a court over members of its bar is at least as great as its authority over litigants." *Id.* "Therefore, the district court may, on a party's motion or sua sponte, impose sanctions for professional misconduct at trial . . . ." *Lioce v. Cohen*, 124 Nev. 1, 26 (2008).

In *Young*, the Nevada Supreme Court identified several factors for the district court to consider when imposing a case-concluding sanction striking a defendant's answer:

> the degree of willfulness of the offending party, the extent to which the non-offending party would be prejudiced by a lesser sanction, the severity of the sanction of dismissal relative to the severity of

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> the [misconduct], whether any evidence has been irreparably lost, the feasibility and fairness of alternative, less severe sanctions . . . , the policy favoring adjudication on the merits, whether sanctions unfairly operate to penalize the party for the misconduct of his or her attorney, and the need to deter both the parties and future litigants from similar abuses.

Young, 106 Nev. at 93; *see also Rish v. Simao*, 132 Nev. ___, 368 P.3d 1203, 1210 (2018).

The relevant factors outlined above support a sanction from this Court to strike Defendant's Answer.

1. The degree of willfulness of the offending party

The willfulness of defense counsel's misconduct cannot reasonably be questioned. The first question he asked, as phrased, was deliberately designed to elicit testimony from Mr. Goodrich that the company filed for bankruptcy. In fact, defense counsel's notes that he relied upon during his examination of Mr. Goodrich refer to Defendant's "BK." *See* Defense counsel's notes, attached as **Exhibit "6."** These notes clearly show that defense counsel prepared Mr. Goodrich to refer to Defendant's bankruptcy during his testimony, a fact that this Court has already acknowledged:

> THE COURT: All right. We're taking our evening break. Will you tell them to come in at 10:00, because we're going to discuss this in the morning. I'm going to re-read *Gunderson* and decide on appropriate sanctions. I don't know. I just -- I -- to bring up a bankruptcy for no reason other than to somehow say that when they lost the documents its was excusable because they had a bankruptcy, it does -- I have to say, Mr. Kahn, it stretches your credulity, and I'm shocked.
>
> ***And I will say that, yes, he was clearly prepared to say we went through that. That wasn't, well, uh, no. That was -- all right***.

See Day 13 Partial Trial Transcript, at 13:5-13 (emphasis added).

Defense counsel has extensive trial experience and knows that referring to his client's bankruptcy for any purpose is irrelevant and will prejudice Plaintiff. Based on this degree of willfulness, case-terminating sanctions are warranted.

2. The extent to which the non-offending party would be prejudiced by a lesser sanction

Any lesser sanction other than the striking of Defendant's Answer will not adequately address the prejudice inflicted as a result of defense counsel's willful disclosure of Defendant's bankruptcy. There is now a distinct possibility that the jury will allow Defendant's financial status to dictate its verdict in lieu of the relevant and admissible evidence presented during the trial. This type of prejudice cannot be averted by merely instructing the jury to disregard the question and answer

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because it carries significant weight in relation to a contested issue of fact that the jury must decide. Defendant has now infected this trial with a factual issue that should not be presented to this jury, namely its ability to pay or satisfy a judgment. The most adequate way to address this prejudice is to strike Defendant's Answer because this will ensure that the jury will fairly evaluate the evidence and not return a verdict based on passion, prejudice, or sympathy to Defendant.

3. The severity of the sanction relative to the severity of the misconduct

The severity of the sanction striking Defendant's Answer is proportionate to Defense counsel's misconduct given the deliberate nature of the misconduct. Defense counsel claimed after he elicited testimony regarding the bankruptcy that he did so to address concerns that Defendant destroyed documents or lost documents. This is not credible at all and underscores just how deliberate his conduct was given that Defendant's ability to retain documents is unrelated to its bankruptcy. A company, like Defendant, that files for bankruptcy under Chapter 11, maintains business operations. Even if Defendant had to lay off workers, such evidence still fails to explain why the bankruptcy needed to be referenced to address Defendant's failure to maintain documents. Defense counsel could have elicited testimony explaining why documents were not retained without referring to the financial condition of the company. The fact that he failed to do so demonstrates that his ultimate goal was to reduce Defendant's financial responsibility for all of the harms and losses caused to Plaintiff. Defense counsel's egregious conduct warrants the severe sanction of striking Defendant's Answer.

4. The policy favoring adjudication on the merits

This factor also weighs in favor of striking Defendant's Answer because defense counsel willfully decided to not have this case decided on the merits. By referencing Defendant's bankruptcy, defense counsel attempted to undermine the fairness of trial by imploring the jury to decide this case on the basis of sympathy, ***not the relevant and admissible evidence presented***. On the other hand, Plaintiff has tried this case to the jury on the merits by introducing and referring to evidence that has already been admitted. Plaintiff stands to suffer the consequences of receiving an inadequate recovery for all the harms and losses suffered from Defendant's negligence. Without case-concluding sanctions, the distinct possibility remains that the jury will not return a verdict on the merits.

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5. Striking Defendant's answer does not unfairly operate to penalize Defendant for its attorney's misconduct

Defendant's preparation of the witness to deliberately testify about the bankruptcy actually shows that both counsel and Defendant collectively decided to present this evidence to the jury. This is not a situation where defense counsel acted on his own and without notice to Defendant, particularly because defense counsel's notes indicate that he directly addressed the bankruptcy with Goodrich. In turn, Goodrich agreed to reference the bankruptcy. Both Defendant and its counsel ignored the ramifications of referencing the bankruptcy because they simply wanted to undermine the jury's ability to return a fair and impartial verdict based on the evidence, not passion or prejudice.

6. Striking Defendant's answer will deter similar types of conduct

The fairness of the judicial process should not be compromised by tacitly allowing counsel for parties to refer to the relative wealth of the parties during a personal injury trial. A jury must fairly evaluate the evidence presented and return a verdict that redresses all the losses incurred, regardless of the financial positions of the parties. Assuming Defendant was a Fortune 500 company, its counsel certainly would have objected to Plaintiff's counsel referring to Defendant's great wealth to the jury. This is because any evidence about the wealth or financial condition of the parties only serves to distract a jury from carefully evaluating the evidence to determine the appropriate amount of compensation necessary to redress the harms suffered by the injury victim. All parties to tort cases must be reminded that deliberate attempts to secure a verdict that is not based on the evidence has significant consequences. Striking Defendant's Answer will achieve this result.

D. <u>Alternatively, Plaintiff Requests that This Court Impose the Lesser Sanction of Striking Defendant's Retained Experts' Respective Testimony and Opinions</u>

Defendant's willful misconduct directly impacts the amount of damages the jury will award to Plaintiff in this action. Defense counsel's reference to the bankruptcy was clearly designed to reduce any damage award that Plaintiff could recover from the jury in this action. Thus, it would be appropriate for this Court to strike Defendant's Retained Experts' Respective Testimony and Opinions. This will ensure that Defendant does not receive an overwhelming advantage by allowing the jury to consider its retained experts' opinions as well as its allegedly impaired financial condition. In turn, Plaintiff's damages suffered as a result of the subject collision will effectively be deemed admitted, which will reasonably address the possibility that the jury will reduce Plaintiff's damages

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due to the bankruptcy. Therefore, Plaintiff requests that this Court strike Defendant's retained experts' testimony and opinions as an alternative sanction should Defendant's Answer remain in effect.

III.

CONCLUSION

Based on the foregoing facts, law, and analysis, Plaintiff respectfully requests that this Court **GRANT** his Motion for Sanctions Against Defendant Capriati Construction Corp., Inc. for Attorney Misconduct.

DATED this 26th day of September, 2019.

Respectfully Submitted,

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Attorneys for Plaintiff
Bahram Yahyavi

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of **PRINCE LAW GROUP**, and that on the 26th day of September, 2019, I caused the foregoing document entitled **PLAINTIFF'S MOTION FOR SANCTIONS AGAINST DEFENDANT CAPRIATI CONSTRUCTION CORP., INC. FOR WILLFUL ATTORNEY MISCONDUCT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court E-Filing System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.

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EXHIBIT 1

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

*** * ***

In re: CAPRIATI CONSTRUCTION CORP. INC. Debtor.	Case No.: BK-15-15722-abl Chapter 11 Hearing Date: March 21, 2018 Hearing Time: 1:30pm

MOTION FOR FINAL DECREE PURSUANT TO 11 U.S.C. § 350, RULE 3022 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND RULE 3022 OF THE LOCAL RULES OF BANKRUPTCY PRACTICE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Capriati Construction Corp., Inc. the above-captioned Debtor and Debtor in possession (the Debtor), by and through its attorneys, KUNG & BROWN ("K&B"), files this motion (the "Motion") seeking a final decree pursuant to section 350 of 11 U.S.C. § 101, et seq. (the "Bankruptcy Code"), Rule 3022 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") to request their Chapter 11 Case be closed pursuant to a final decree. In support of the Motion, the Debtor respectfully represents as follows:

. . .

. . .

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JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157 (b) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL AND FACTURAL BACKGROUND

2. Debtor filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code, Case Number 15-15722 on October 7, 2015. Debtor continues to manage itself as Debtor-in-Possession.

3. On April 22, 2015, the Debtor filed its Third Amended Plan of Reorganization (the "Plan") and its related Amended Third Amended Disclosure Statement (the "Disclosure Statement"). By order dated May 13 2016, the Court approved the Disclosure Statement and solicitation of the acceptance of the Plan.

4. Through the Plan, the Debtor was able to turn itself profitable.

5. On December 5, 2016, this Court confirmed the Plan.

6. In accordance with section 5.2 of the Plan, all fees payable pursuant to section 1930 of title 28 of the United States Bankruptcy Code (the "Trustee's Fees"), as determined by the Bankruptcy Court at the hearing on the Plan, were paid by the Debtors on or before the Effective Date. The Trustee's Fees continued to be paid to the Office of the United States Trustee ("UST") and the Debtor is current with their Trustee's Fees.

RELIEF REQUESTED

7. By this Motion, the Debtor seeks entry of a final decree that closes its Chapter 11 Case, effective as of the date of which the Court enters such final decree.

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APPLICABLE AUTHORITY

8. Section 350(a) of the Bankruptcy Code provides that "after an estate is fully administered and the Court has discharged the Trustee, the court shall close the case". 11 U.S.C. § 350(a) Rule 3022 of the Bankruptcy Rules, pursuant to which section 350 is implemented, provides that "[a]fter an estate is fully administered in a Chapter 11 reorganization case, the Court, on its own motion of a party in interest, shall enter a final decree closing the case". Fed. R. Bank. P. 3022.

9. The Bankruptcy Code fails to define "fully administered". The Courts however, have looked to the following factors in deciding whether a final decree shall be issued:

- Whether the order confirming the plan had become final;
- Whether deposits required by the plan have been distributed;
- Whether the property proposed by the plan to be transferred has been transferred;
- Whether the Debtor of the successor of the Debtor under the plan has assumed the business of the management of the property dealt with by the plan;
- Whether payments under the plan have been commenced; and
- Whether all motions, contested matters, and adversary proceedings have been resolved.

1991 Advisory Comm. Note to Fed. R. Bankr. P. 3022 (the "Advisory Committee Note").

10. Although Courts should apply and weigh the factors set forth by the Advisory Committee Note no one factor is dispositive. *See, In Re Kliegl Bros.*, 238 B.R. 531 (Bankr. E.D.N.Y. 1999); and *In Re JMP-Newcor Intern., Inc.*, 225 B.R. 462 (Bankr. N.D. Ill. 1998). Rather, the six factors act as mere guidelines to aid a court in its determination. *See, In Re Mold Makers, Inc.*, 124 B.R. 766 (Bankr. N.D. Ill. 1990). Such a fluid formula has produced widely

varying results. "At one extreme, and estate could be fully administered, when a Chapter 11 Plan is confirmed and the estate is dissolved... [a]t the other extreme, an estate could be fully administered when all that is called under a plan occurs". *Id*.at 768.

11. In this case, a final decree, as requested herein, is appropriate in the Debtor's Chapter 11 Case.

12. The Confirmation Order is final and non-appealable. The Plan has been substantially consummated and the Debtor continues making payments under the Plan. (Moreover, all pending Motions are resolved, and there are no pending motions, or contested matters. There is a pending Adversary (16-01037-abl). However, pursuant to *In Re Valence Technology, Inc.*, No. 12-11580 (Bankr. W.D. Tex. 10/17/14) an Adversary can be pending while a final decree is entered. Accordingly, the right of Creditors will not be adversely affected by the closing of the Debtor's Chapter 11 Case).

13. Furthermore, the Debtor is incurring Trustee's Fees and will continue to incur such fees until their Chapter 11 Case is closed. Absent of an order closing the Debtor's Chapter 11 Case, the Debtor will be forced to incur the substantial and ongoing burden of paying Quarterly Fees to the United States Trustee. Entry of the final decree requested herein will avoid the considerable administrative costs and expense associated with maintaining the Debtor's Chapter 11 Plan.

. . .

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Las Vegas, Nevada 89101
Tel: (702) 382-0883 / Fax: (702) 382-2720

CONCLUSION

WHEREFORE, based on the foregoing, the Debtor respectfully requests that the Court Grant Debtor's Motion.

DATED this 6th day of February, 2018.

KUNG & BROWN

By: */s/ Brandy Brown, Esq.*
A.J. Kung, Esq.
Nevada Bar No. 7052
Brandy Brown, Esq.
Nevada Bar No. 9987
214 South Maryland Parkway
Las Vegas, Nevada 89101
Attorneys for Capriati Construction Corp. Inc.

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EXHIBIT 2

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bbrown@ajkunglaw.com
Counsel for Capriati Construction Corp. Inc.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

*** * ***

In re: CAPRIATI CONSTRUCTION CORP., INC., Debtor.	Case No.: 15-15722-abl Chapter 11

NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR FINAL DECREE PURSUANT TO 11 U.S.C. § 350, RULE 3022 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND RULE 3022 OF THE LOCAL RULES OF BANKRUPTCY PRACTICE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

PLEASE TAKE NOTICE that an Order Granting Motion for Final Decree Pursuant to 11 U.S.C. § 350, Rule 3022 of the Federal Rules of Bankruptcy Procedure and Rule 3022 of the Local Rules of Bankruptcy Practice of the United States District Court for the District of Nevada

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. . .

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Tel: (702) 382-0883 / Fax: (702) 382-2720

[Docket No. 1046] (herein after "Order") was entered in the above-referenced case on March 26, 2018.

A copy of said Order is attached as Exhibit "1".

DATED this 26th day of March, 2018.

KUNG & BROWN

By: /s/ Brandy L. Brown, Esq.
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EXHIBIT "1"

Honorable August B. Landis
United States Bankruptcy Judge

Entered on Docket
March 26, 2018

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

*** * ***

In re: CAPRIATI CONSTRUCTION CORP. INC. Debtor.	Case No.: BK-15-15722-abl Chapter 11 Hearing Date: March 21, 2018 Hearing Time: 1:30pm

ORDER GRANTING MOTION FOR FINAL DECREE PURSUANT TO 11 U.S.C. § 350, RULE 3022 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND RULE 3022 OF THE LOCAL RULES OF BANKRUPTCY PRACTICE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Debtor's Motion for Final Decree Pursuant to 11 U.S.C. § 350, Rule 3022 of the Federal Rules of Bankruptcy Procedure and Rule 3022 of the Local Rules of Bankruptcy Practice of the United States District Court for the District of Nevada having come on regularly for hearing at

the above stated date and time, counsel appearing on behalf of the Debtor, proper notice having been given, the Court having heard the representations of counsel, and having reviewed the Motion on file herein, good cause appearing therefor and the Court having stated its findings of fact and conclusions of law of the record at the hearing, which are incorporated herein by reference in accordance with Rule 52 of the Federal Rules of Civil Procedure, made applicable pursuant to Rule 9014 of the Federal Rules of Bankruptcy Procedure, concluding that the Debtor is entitled to the relief requested as a matter of law.

IT IS SO ORDERED that Debtor's Motion for Final Decree Pursuant to 11 U.S.C. § 350, Rule 3022 of the Federal Rules of Bankruptcy Procedure and Rule 3022 of the Local Rules of Bankruptcy Practice of the United States District Court for the District of Nevada is hereby GRANTED.

IT IS SO ORDERED.

Dated this 22nd day of March, 2018.

Respectfully Submitted By:

KUNG & BROWN

By: *Brandy Brown, Esq.*
A.J. Kung, Esq.
Nevada Bar No. 7052
Brandy Brown, Esq.
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Las Vegas, NV 89101
Attorneys for Capriati Construction Corp. Inc.

. . .

. . .

. . .

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In accordance with LR 9021, an attorney submitting this document certifies as follows:

___ The court has waived the requirement set forth in LR 9021(b)(1).

_X_ No party appeared at the hearing or filed an objection to the motion.

___ I have delivered a copy of this proposed order to all attorneys who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

___ I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

###

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Counsel for Capriati Construction Corp. Inc.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

*** * ***

In re: CAPRIATI CONSTRUCTION CORP., INC., Debtor.	Case No.: 15-15722-abl Chapter 11

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of March, 2018, I served a true and correct copy of the following: **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR FINAL DECREE PURSUANT TO 11 U.S.C. § 350, RULE 3022 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND RULE 3022 OF THE LOCAL RULES OF BANKRUPTCY PRACTICE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA**

__X__ **(VIA ELECTRONIC SERVICE)** Pursuant to Administrative Order 02-1 (Rev. 8-31-04) of the United States Bankruptcy Court for the Districts of Nevada, the above-referenced documents were electronically filed on the dates noted above and served through the Notice of Electronic Filing automatically generated by the Court.

MALIK W. AHMAD on behalf of Interested Party BAHRAM YAHYAVI
malik@lasvegaslawgroup.com, malik11397@aol.com

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OGONNA M. BROWN on behalf of Creditor VALLEY BANK OF NEVADA
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H STAN JOHNSON on behalf of Creditor SPER, INC
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LUCAS A. MESSENGER on behalf of Creditor FIDELITY AND DEPOSIT COMPANY OF MARYLAND
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JEFFREY G. SLOANE on behalf of Creditor FORD MOTOR CREDIT
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U.S. TRUSTEE - LV - 11
USTPRegion17.lv.ecf@usdoj.gov

JOSEPH G. WENT on behalf of Creditor JOHN DEERE CONSTRUCTION & FORESTRY COMPANY
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RYAN J. WORKS on behalf of Interested Party DAVID ROCCHIO
rworks@mcdonaldcarano.com, kkirn@mcdonaldcarano.com;
bgrubb@mcdonaldcarano.com

____ **(VIA UNITED STATES MAIL)** By depositing a copy of the above-referenced documents in the United States Mail, first class postage prepaid, addressed to all the parties listed below and on the attached service list, at their last known mailing addresses, on the date written above.

_____ **(VIA OVERNIGHT COURIER)** By depositing, a copy of the above-referenced document for priority overnight delivery via Federal Express, at a collection facility maintained for such purpose, addressed to the parties listed

below, at their last known delivery address.

_____ **(VIA FACSIMILE)** By facsimile Service transmission to the parties listed below, on the date written above.

_____ **(VIA EMAIL)** By electronic mail transmission to the following parties listed above and on the attached emails.

DATED this 26th day of March, 2018.

/s/ Jennifer Reedy
An Employee of Kung and Brown

KUNG & BROWN
214 South Maryland Parkway
Las Vegas, Nevada 89101
Tel: (702) 382-0883 / Fax: (702) 382-2720

EXHIBIT 3

B1 (Official Form 1)(04/13)

United States Bankruptcy Court
District of Nevada

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle):	Name of Joint Debtor (Spouse) (Last, First, Middle):
Capriati Construction Corp. Inc.	
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all) **05-0475007**	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): **1020 Wigwam Pkwy Henderson, NV** ZIP Code **89074**	Street Address of Joint Debtor (No. and Street, City, and State): ZIP Code
County of Residence or of the Principal Place of Business: **Clark**	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): ZIP Code	Mailing Address of Joint Debtor (if different from street address): ZIP Code
Location of Principal Assets of Business Debtor (if different from street address above):	

Type of Debtor (Form of Organization) (Check one box)

- ☐ Individual (includes Joint Debtors) *See Exhibit D on page 2 of this form.*
- ■ Corporation (includes LLC and LLP)
- ☐ Partnership
- ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.)

Nature of Business (Check one box)

- ☐ Health Care Business
- ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B)
- ☐ Railroad
- ☐ Stockbroker
- ☐ Commodity Broker
- ☐ Clearing Bank
- ■ Other

Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box)

- ☐ Chapter 7
- ☐ Chapter 9
- ■ Chapter 11
- ☐ Chapter 12
- ☐ Chapter 13
- ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding
- ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding

Chapter 15 Debtors

Country of debtor's center of main interests:

Each country in which a foreign proceeding by, regarding, or against debtor is pending:

Tax-Exempt Entity (Check box, if applicable)

- ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).

Nature of Debts (Check one box)

- ☐ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- ■ Debts are primarily business debts.

Filing Fee (Check one box)

- ■ Full Filing Fee attached
- ☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.
- ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.

Chapter 11 Debtors

Check one box:

- ☐ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
- ■ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).

Check if:

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,490,925 *(amount subject to adjustment on 4/01/16 and every three years thereafter).*

Check all applicable boxes:

- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).

Statistical/Administrative Information

- ■ Debtor estimates that funds will be available for distribution to unsecured creditors.
- ☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

THIS SPACE IS FOR COURT USE ONLY

Estimated Number of Creditors

■ 1-49	☐ 50-99	☐ 100-199	☐ 200-999	☐ 1,000-5,000	☐ 5,001-10,000	☐ 10,001-25,000	☐ 25,001-50,000	☐ 50,001-100,000	☐ OVER 100,000

Estimated Assets

■ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☐ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Estimated Liabilities

☐ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☐ $500,001 to $1 million	■ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Voluntary Petition *(This page must be completed and filed in every case)*	Name of Debtor(s): **Capriati Construction Corp. Inc.**

All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)

Location Where Filed: **- None -**	Case Number:	Date Filed:
Location Where Filed:	Case Number:	Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor: **- None -**	Case Number:	Date Filed:
District:	Relationship:	Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

X _____
Signature of Attorney for Debtor(s) (Date)

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

■ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☐ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

■ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Certification by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

_____
(Name of landlord that obtained judgment)

_____
(Address of landlord)

☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and

☐ Debtor has included with this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.

☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):
Capriati Construction Corp. Inc.

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Debtor

X _____
Signature of Joint Debtor

_____
Telephone Number (If not represented by attorney)

_____
Date

Signature of Attorney*

X **/s/ Brandy Brown**
Signature of Attorney for Debtor(s)

Brandy Brown 9987
Printed Name of Attorney for Debtor(s)

Kung & Brown
Firm Name

214 S. Maryland Pkwy
Las Vegas, NV 89101

Address

Email: bbrown@ajkunglaw.com
702-382-0883 Fax: 702-382-2720
Telephone Number

October 7, 2015
Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X **/s/ David Rocchio**
Signature of Authorized Individual

David Rocchio
Printed Name of Authorized Individual

President
Title of Authorized Individual

October 7, 2015
Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11. United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X _____
Signature of Foreign Representative

_____
Printed Name of Foreign Representative

_____
Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

_____
Printed Name and title, if any, of Bankruptcy Petition Preparer

_____
Social-Security number (If the bankrutpcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.)(Required by 11 U.S.C. § 110.)

_____
Address

X _____

_____
Date

Signature of bankruptcy petition preparer or officer, principal, responsible person,or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. §110; 18 U.S.C. §156.

B4 (Official Form 4) (12/07)

United States Bankruptcy Court
District of Nevada

In re **Capriati Construction Corp. Inc.** Debtor(s)

Case No.

Chapter **11**

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [*or* chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
84 Lumber PO Box 365 Eighty Four, PA 15330	**84 Lumber PO Box 365 Eighty Four, PA 15330**	**Trade Debt**		**65,464.79**
Ahern Rentals PO Box 271390 Las Vegas, NV 89127	**Ahern Rentals PO Box 271390 Las Vegas, NV 89127**	**Trade Debt**		**59,787.80**
Cal Portland Company PO Box 847409 Los Angeles, CA 90084	**Cal Portland Company PO Box 847409 Los Angeles, CA 90084**	**Trade Debt**		**590,403.20**
Caserta LLC 3097 E. Warm Springs Rd. #300 Las Vegas, NV 89120	**Caserta LLC 3097 E. Warm Springs Rd. #300 Las Vegas, NV 89120**	**Business debt**		**77,600.00**
Cashman Equipment PO Box 843397 Los Angeles, CA 90084	**Cashman Equipment PO Box 843397 Los Angeles, CA 90084**	**Trade Debt**		**99,834.66**
Diamond Concrete Cutting 80 Corporate Park Drive Las Vegas, NV 89118	**Diamond Concrete Cutting 80 Corporate Park Drive Las Vegas, NV 89118**	**Trade Debt**		**49,988.50**
Dispatch Transportation 14032 Santa Ana Avenue Fontana, CA 92337	**Dispatch Transportation 14032 Santa Ana Avenue Fontana, CA 92337**	**Trade Debt**		**77,147.29**
First Insurance Funding PO Box 66468 Chicago, IL 60666	**First Insurance Funding PO Box 66468 Chicago, IL 60666**	**Business Debt**		**65,056.95**
Horizontal Boring and Tunneling 505 S, River Ave. Exeter, NE 68351	**Horizontal Boring and Tunneling 505 S, River Ave. Exeter, NE 68351**	**Trade Debt**		**119,830.39**
Keller Paving and Landscaping 1820 Highway 2 Bypass East Minot, ND 58701	**Keller Paving and Landscaping 1820 Highway 2 Bypass East Minot, ND 58701**	**Trade Debt**		**1,196,146.14**
Las Vegas-Phoenix Post Tension 336 E. Country Club Dr. Henderson, NV 89015	**Las Vegas-Phoenix Post Tension 336 E. Country Club Dr. Henderson, NV 89015**	**Trade Debt**		**126,830.00**

B4 (Official Form 4) (12/07) - Cont.

In re **Capriati Construction Corp. Inc.** Case No. _____

Debtor(s)

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

(Continuation Sheet)

(1) *Name of creditor and complete mailing address including zip code*	(2) *Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted*	(3) *Nature of claim (trade debt, bank loan, government contract, etc.)*	(4) *Indicate if claim is contingent, unliquidated, disputed, or subject to setoff*	(5) *Amount of claim [if secured, also state value of security]*
Main Electric Construction 2626 Valley Street Minot, ND 58702	**Main Electric Construction 2626 Valley Street Minot, ND 58702**	**Trade Debt**		**331,268.40**
Patriot Lube PO Box 231059 Las Vegas, NV 89105	**Patriot Lube PO Box 231059 Las Vegas, NV 89105**	**Trade Debt**		**212,418.95**
RDO Trust PO Box 7160 Fargo, ND 58106	**RDO Trust PO Box 7160 Fargo, ND 58106**	**Trade Debt**		**111,111.96**
Reseco Insurance Advisors 7901 North 16th St. Ste 100 Phoenix, AZ 85020	**Reseco Insurance Advisors 7901 North 16th St. Ste 100 Phoenix, AZ 85020**	**Business Debt**		**71,453.86**
River City Petroleum 4870 E. Cartier Avenue Las Vegas, NV 89115	**River City Petroleum 4870 E. Cartier Avenue Las Vegas, NV 89115**	**Trade Debt**		**58,606.47**
Soil Tech Inc. 6420 S. Cameron #207 Las Vegas, NV 89118	**Soil Tech Inc. 6420 S. Cameron #207 Las Vegas, NV 89118**	**Trade Debt**		**52,647.45**
Sukut Equipment 4010 W. Chandler Santa Ana, CA 92704	**Sukut Equipment 4010 W. Chandler Santa Ana, CA 92704**	**Trade Debt**		**86,964.00**
Susan Frankewich 3210 W, Charleston Blvd, Bldg 4 Las Vegas, NV 89102	**Susan Frankewich 3210 W, Charleston Blvd, Bldg 4 Las Vegas, NV 89102**	**Trade Debt**		**110,381.42**

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, the President of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing list and that it is true and correct to the best of my information and belief.

Date **October 7, 2015** Signature **/s/ David Rocchio**
David Rocchio
President

Penalty for making a false statement or concealing property: Fine of up to $500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

Capriati Construction Corp. Inc.
1020 Wigwam Pkwy
Henderson, NV 89074

Brandy Brown
Kung & Brown
214 S. Maryland Pkwy
Las Vegas, NV 89101

84 Lumber
PO Box 365
Eighty Four, PA 15330

Ahern Rentals
PO Box 271390
Las Vegas, NV 89127

Cal Portland Company
PO Box 847409
Los Angeles, CA 90084

Caserta LLC
3097 E. Warm Springs Rd. #300
Las Vegas, NV 89120

Cashman Equipment
PO Box 843397
Los Angeles, CA 90084

Clark County Accessor
c/o Bankruptcy Clerk
500 S. Grand Central Pkwy.
Box 551401
Las Vegas, NV 89155

Clark County Treasurer
c/o Bankruptcy Clerk
500 S. Grand Central Parkway
PO Box 551220
Las Vegas, NV 89155

Dept. of Employment, Training, and Rehab
Employment Securit Division
Carson City, NV 89713

Diamond Concrete Cutting
80 Corporate Park Drive
Las Vegas, NV 89118

Dispatch Transportation
14032 Santa Ana Avenue
Fontana, CA 92337

First Insurance Funding
PO Box 66468
Chicago, IL 60666

Horizontal Boring and Tunneling
505 S, River Ave.
Exeter, NE 68351

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101

Keller Paving and Landscaping
1820 Highway 2 Bypass East
Minot, ND 58701

Las Vegas-Phoenix Post Tension
336 E. Country Club Dr.
Henderson, NV 89015

Main Electric Construction
2626 Valley Street
Minot, ND 58702

Nevada Department of Taxation
Bankruptcy Section
555 E. Washington Ave #1300
Las Vegas, NV 89101

Patriot Lube
PO Box 231059
Las Vegas, NV 89105

RDO Trust
PO Box 7160
Fargo, ND 58106

Reseco Insurance Advisors
7901 North 16th St. Ste 100
Phoenix, AZ 85020

River City Petroleum
4870 E. Cartier Avenue
Las Vegas, NV 89115

Soil Tech Inc.
6420 S. Cameron #207
Las Vegas, NV 89118

Sukut Equipment
4010 W. Chandler
Santa Ana, CA 92704

Susan Frankewich
3210 W, Charleston Blvd, Bldg 4
Las Vegas, NV 89102

United States Trustee
300 Las Vegas BLVD S. #4300
Las Vegas, NV 89101

United States Bankruptcy Court
District of Nevada

In re **Capriati Construction Corp. Inc.** Debtor(s)

Case No.

Chapter **11**

CORPORATE OWNERSHIP STATEMENT (RULE 7007.1)

Pursuant to Federal Rule of Bankruptcy Procedure 7007.1 and to enable the Judges to evaluate possible disqualification or recusal, the undersigned counsel for **Capriati Construction Corp. Inc.** in the above captioned action, certifies that the following is a (are) corporation(s), other than the debtor or a governmental unit, that directly or indirectly own(s) 10% or more of any class of the corporation's(s') equity interests, or states that there are no entities to report under FRBP 7007.1:

■None [*Check if applicable*]

October 7, 2015
Date

/s/ Brandy Brown
Brandy Brown 9987
Signature of Attorney or Litigant
Counsel for **Capriati Construction Corp. Inc.**

Kung & Brown
214 S. Maryland Pkwy
Las Vegas, NV 89101
702-382-0883 Fax:702-382-2720
bbrown@ajkunglaw.com

EXHIBIT 4

INSTRUCTION NO. _____

Defendant Capriati Construction Corp., Inc., through its counsel, introduced testimony that the Defendant filed for bankruptcy after the collision on June 19, 2013. You are instructed to disregard the question and the answer, which is hereby stricken from these proceedings. Defendant is no longer in bankruptcy and is now profitable. You are further instructed not to consider whether the Defendant filed for bankruptcy for any reason and it should have no effect on your verdict.

Further, by seeking to introduce such irrelevant evidence, counsel for Defendant, Mr. Kahn, committed willful misconduct. Mr. Kahn is hereby reprimanded for his misconduct and admonished not to engage in any further misconduct.

EXHIBIT 5

INSTRUCTION NO. _____

Defendant Capriati Construction Corp., Inc. introduced evidence that after the June 19, 2013 collision, it filed for bankruptcy. You shall not consider that Defendant Capriati Construction Corp., Inc. filed bankruptcy for any purpose. Defendant Capriati Construction Corp., Inc. is no longer in bankruptcy and is now profitable. Plaintiff has the legal right to proceed with his claims against Defendant Capriati Construction Corp., Inc. in this case and recover damages as determined by you in accordance with these instructions.

Further, Defendant has liability insurance to satisfy, in whole or part, any verdict you may reach in this case.

EXHIBIT 6

(LIFE

- BK
  ~250
  ↓
  ~60

— ON-THE-JOB TRAINING

— NO NEED FOR CERTIFICATION
  VERIFY EDUCABLE

— OK FOR ARBUCKLE TO DRIVE THAT DAY
  @ THAT SITE

— OK IF CEMENT TRUCK PRESENT @ TIME
  OF INCIDENT
  - DIDN'T TALK TO THE CEMENT TRUCK DRIVER

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC. a Nevada Corporation, Defendant.	Case No. A-15-718689-C Dept. No. XXVIII **JURY INSTRUCTIONS**

INSTRUCTION NO. 29

Defendant Capriati Construction Corp., Inc., through its counsel, introduced testimony that the Defendant filed for bankruptcy after the collision on June 19, 2013. You are instructed to disregard the question and the answer, which is hereby stricken from these proceedings. Defendant is no longer in bankruptcy and is now profitable. You are further instructed not to consider or discuss whether the Defendant filed for bankruptcy for any reason and it should have no effect on your verdict.

INSTRUCTION NO. 30

The Court has determined that counsel for Defendant Capriati Construction Corp., Inc., Mr. Kahn, committed willful misconduct during this trial. The Court has determined sanctions were appropriate against Defendant:

1. Defendant's Answer to the Complaint, which was read to you in this case, relating to liability for causing the June 19, 2013 collision is hereby stricken. Defendant Capriati Construction Corp., Inc. is solely liable for causing the June 19, 2013 collision.
2. As a further result of defense counsel's willful misconduct, the Court strikes all of Defendant's remaining witnesses, including the testimony of Defendant's employee, Clifford Goodrich.

INSTRUCTION NO. 31

You are instructed that Defendant's negligence was the sole cause of the subject June 19, 2013 collision as a matter of law. Further, Plaintiff was not at fault in any way for causing the June 19, 2013 collision as a matter of law.

You must determine the amount of damages proximately caused by Defendant's negligence in accordance with these instructions.

INSTRUCTION NO. 32

Plaintiff has the legal right to proceed with his claims against Defendant Capriati Construction Corp., Inc. in this case and recover damages as determined by you in accordance with these instructions.

Further, Defendant has liability insurance to satisfy, in whole or part, any verdict you may reach in this case.

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

SEP 27 2019 7:45 pm

BY: E. Vargas
E. VARGAS, DEPUTY

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC. a Nevada Corporation, Defendant.	Case No. A-15-718689-C Dept. No. XXVIII

VERDICT

We the jury in the above-entitled action, find for the Plaintiff and against the Defendant and assess the total amount of the Plaintiff's damages as follows:

Past medical and related expenses	$ 491,023.24
Future medical and related expenses	$ 529,260.00
Past loss of wages and earning capacity	$ 300,000.00
Future loss of wages and earning capacity	$ 1,550,000.00
Past pain, suffering, disability and loss of enjoyment of life	$ 500,000.00
Future pain, suffering, disability and loss of enjoyment of life	$ 2,500,000.00

DATED this 27 day of September, 2019.

Bryan Roark
FOREPERSON

A-15-718689-C
VER
Verdict
4866143

NJUD
DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
PRINCE LAW GROUP
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
P: (702) 534-7600
F: (702) 534-7601
Email: eservice@thedplg.com
Attorneys for Plaintiff
Bahram Yahyavi

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an Individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendant	CASE NO.: A-15-718689-C DEPT. NO.: XXVIII **NOTICE OF ENTRY OF JUDGMENT**

PLEASE TAKE NOTICE that the Judgment Upon the Jury Verdict was entered on October 18, 2019, a copy of which is attached hereto.

DATED this 22nd day of October, 2019.

PRINCE LAW GROUP

DENNIS M. PRINCE, ESQ.
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
Attorneys for Plaintiff
Bahram Yahyavi

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**, and that on the 22 day of October, 2019, I caused the foregoing document entitled **NOTICE OF ENTRY OF JUDGMENT** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as follows:

David S. Kahn, Esq.
WILSON,ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP.
300 South Fourth Street, 11th Floor
Las Vegas, NV 89101

Mark J. Brown, Esq.
LAW OFFICES OF ERIC R. LARSEN
750 E. Warm Springs Road
Suite 320, Box 19
Las Vegas, NV 89119

Attorneys for Defendant
Capriati Construction Corp., Inc.

An Employee of Prince Law Group

JGJV
DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
PRINCE LAW GROUP
8816 Spanish Ridge Ave.
Las Vegas, NV 89148
P: (702) 534-7600
F: (702) 534-7601
Email: eservice@thedplg.com
Attorneys for Plaintiff
Bahram Yahyavi

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an Individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendant	CASE NO.: A-15-718689-C DEPT. NO.: XXVIII **JUDGMENT UPON THE JURY VERDICT**

This action was brought to trial in front of Department XXVIII of the Eighth Judicial District Court, The Honorable Ronald J. Israel presiding, and the jury. The issues having been duly tried and the jury having duly rendered its verdict:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff BAHRAM YAHYAVI, has and recovers from Defendant CAPRIATI CONSTRUCTION CORP., INC., the following sums:

PAST DAMAGES:

Past Medical and Related Expenses:	$491,023.24
Past Loss of Wages and Earning Capacity:	+$300,000.00
Past Pain, Suffering, Disability, and Loss of Enjoyment of Life:	+$500,000.00
Total Past Damages:	**$1,291,023.24**

. . .

☐ Non-Jury Disposed After Trial Start ☐ Non-Jury Judgment Reached ☐ Transferred before Trial	☐ Jury Disposed After Trial Start ☑ Jury Verdict Reached ☐ Other - _____

FUTURE DAMAGES:

Future Medical and Related Expenses:	$529,260.00
Future Loss of Wages and Earning Capacity:	+$1,550,000.00
Future Pain, Suffering, Disability, and Loss of Enjoyment of Life:	+$2,500,000.00
Total Future Damages:	**$4,579,260.00**
TOTAL DAMAGES:	**$5,870,283.24**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's past damages in the amount of One Million, Two Hundred Ninety-One Thousand, Twenty-Three Dollars and 24/100 Cents ($1,291,023.24) shall bear prejudgment interest in accordance with *Lee v. Ball*, 121 Nev. 391, 395-96, 116 P.3d 64, 67 (2005) at the rate of 7.50% per annum from the date of service of the Summons and Complaint, August 20, 2015, through September 27, 2019, as follows:

PREJUDGMENT INTEREST:

August 20, 2015 THROUGH September 27, 2019 = (1500 days x $271.11 per day)	**$406,665.00**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment is subject to future amendment in accordance with this Court's ruling on any motion brought by Plaintiff for attorney's fees and costs accrued in the action, the amount of which will be determined by this Court at that time.

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Prince Law Group
8816 Spanish Ridge
Las Vegas, NV 89148

NOW, THEREFORE, Judgment upon the Jury Verdict in favor of Plaintiff BAHRAM YAHYAVI is hereby given for Six Million, Two Hundred Seventy-Six Thousand, Nine Hundred Forty-Eight Dollars and 24/100 Cents ($6,276,948.24) against Defendant CAPRIATI CONSTRUCTION CORP., INC., which shall bear post-judgment interest at the legal rate until satisfied, plus costs incurred as allowed by law.

DATED this 16 day of October, 2019.

DISTRICT COURT JUDGE
RONALD J. ISRAEL
A-15-718689-C

Respectfully Submitted,

PRINCE LAW GROUP

DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Attorneys for Plaintiff
Bahram Yahyavi

MEMC
DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
PRINCE LAW GROUP
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
Tel: (702) 534-7600
Fax: (702) 534-7601
Email: eservice@thedplg.com
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

BAHRAM YAHYAVI, an Individual, Plaintiff, vs. CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation, Defendant	CASE NO.: A-15-718689-C DEPT. NO.: XXVIII **PLAINTIFF'S MEMORANDUM OF COSTS AND DISBURSEMENTS**

Plaintiff Bahram Yahyavi, by and through his attorneys, PRINCE LAW GROUP hereby submits his Memorandum of Costs and Disbursements as follows:

1.	**Filing Fees** (COSTS0001-COSTS0002)	$	270.00
2.	**Service of process of Complaint and Summons** (COSTS000244)	$	110.00
3.	**E-Filing Fees** (COSTS00003-COSTS00020)		
	a. Eglet Prince (nka Eglet Adams) (94 filings @ $3.50ea.)	$	329.00
	b. Prince Law Group (27 filings @ $3.50ea.)	$	94.50

4.	**Witness Fees/Service of Process/Trial Subpoena Fees/COR Copy Fees** (COSTS000022-COSTS000053)		
	a. KC Investigations	$	951.00
	b. Las Vegas Process and Investigations	$	1,205.00
	c. Las Vegas Metropolitan Police Dept. Subpoena Fees	$	63.00
	d. Social Security Administration	$	148.00
	e. Clark County Public Works	$	60.00
5.	**Expert Witness Fees** (COSTS000054-COSTS000083)		
	a. Certified Vocational Rehabilitation	$	14,308.75
	b. Stuart Kaplan, M.D., Ltd.	$	26,500.00
	c. David Oliveri, M.D.	$	41,550.00
	d. Terrence Clauretie, Ph.D.	$	2,925.00
	e. Forensic Dynamics, Inc.	$	22,205.09
	f. Desert Orthopedic Center (Dr. Perry/Dr. Miao)	$	2,500.00
	g. Joseph Schifini, M.D.	$	10,600.00
	h. Las Vegas Neurosurgery, Orthopedics & Rehab	$	400.00
	i. John Baker Ph.D.	$	1,000.00
6.	**Photocopies/Printing/Scanning** (COSTS000084-COSTS000094)		
	a. In-house		
	Eglet Prince (nka Eglet Adams)	$	360.80
	Prince Law Group (6,471pgs @ .60 per pg.)	$	3,882.60
	b. Outside copy services		
	Eglet Prince (nka Eglet Adams)	$	1,583.47
	Prince Law Group	$	3,410.34

Prince Law Group
8816 Spanish Ridge
Las Vegas, NV 89148

7.	**Postage/Fax charges**		$	250.00
8.	**Runner/courier service** (COSTS000095-COSTS00099)			
	a.	Eglet Prince (nka Eglet Adams)	$	579.00
	b.	Legal Copy Cats and Delivery	$	115.00
9.	**Court reporter services** (COSTS0000100-COSTS000127)			
	a.	Esquire Deposition Services	$	2,546.20
	b.	Oasis Reporting	$	10,837.45
	c.	Litigation Services	$	1,548.40
	d.	Envision	$	650.00
	e.	Kristen Lunkwitz	$	562.34
10.	**Medical records, Medical billing and CORs** (COSTS000128-COSTS000233)			
	a.	Legal Retrieval Services	$	8,613.32
	b.	Las Vegas Surgery Center	$	67.93
	c.	MRO	$	1.86
	d.	Doc Request	$	27.65
	e.	Joseph J. Schifini, M.D.	$	70.24
11.	**Miscellaneous Expenses** (COSTS000234-COSTS000275)			
	a.	Record Reform	$	1,960.00
	b.	Exact Lien Resolution	$	500.00
	c.	Litigation Services – Trial Tech Support	$	22,345.00
	d.	Parking at Courthouse	$	123.00
	e.	Dinner for Jurors	$	140.60
	f.	The Record Exchange (trial transcripts)	$	1,710.65

DP LG
Prince Law Group
8816 Spanish Ridge
Las Vegas NV 89148

g.	Courier/Messenger service	$	115.00
h.	Malik Ahmad, Esq. (prior attorney costs minus Filing Fee and Service of Process outlined in numbers 1 and 2)	$	3,586.25
i.	Clark County Treasurer – filing fees	$	100.00
j.	Transcriber's bill	$	1,180.00
k.	JAMS Mediation Fees	$	6,082.92

TOTAL OF ALL COSTS INCURRED $198,169.36

DATED this 22 day October, 2019.

PRINCE LAW GROUP

DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
8816 Spanish Ridge Avenue
Las Vegas, NV 89148
Attorneys for Plaintiff

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

DENNIS M. PRINCE, ESQ. being duly sworn, states: that affiant is the attorney for the Plaintiffs, BIKRAM YAHYAVI, and has personal knowledge of the above costs and disbursements expended; that the items contained in the above memorandum are true and correct to the best of this affiant's knowledge and belief; and that the said disbursements have been necessarily incurred and paid in this action.

DENNIS M. PRINCE, ESQ.

SIGNED AND SWORN to before me this 24th day of October, 2019.

NOTARY PUBLIC

LISA M LEE
Notary Public, State of Nevada
Appointment No. 93-3776-1
My Appt. Expires July 09, 2021

Prince Law Group
8816 Spanish Ridge
Las Vegas, NV 89148

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employee of **PRINCE LAW GROUP**, and that on the 22nd day of October, 2019, I caused the foregoing document entitled **PLAINTIFF'S MEMORANDUM OF COSTS AND DISBURSEMENTS** to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules, as follows:

David S. Kahn, Esq.
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Attorneys for Defendant
Capriati Construction Corp., Inc.

An Employee of Prince Law Group

DPLG
Prince Law Group
8816 Spanish Ridge
Las Vegas, NV 89148

FILING FEES

Financial

Yahyavi, Bahram

Total Financial Assessment				$270.00
Total Payments and Credits				$270.00
5/20/2015	Transaction Assessment			$270.00
5/20/2015	Efile Payment	Receipt # 2015-53181-CCCLK	Yahyavi, Bahram	($270.00)

Capriati Construction Corp Inc

Total Financial Assessment				$223.00
Total Payments and Credits				$223.00
10/7/2015	Transaction Assessment			$223.00
10/7/2015	Efile Payment	Receipt # 2015-105488-CCCLK	Capriati Construction Corp Inc	($223.00)

E-FILING FEES

Eglet Law

Filing Status	Filing Code	Filing Type	Filing Description
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4595987 filed Monday, July 15, 2019 at 5:23 PM PST by Eglet Adams on behalf of Robert Adams			
Accepted	Notice of Attorney Li...	EFileAndServe	Notice of Attorney Lien
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4503508 filed Tuesday, June 25, 2019 at 4:58 PM PST by Eglet Adams on behalf of Robert Adams			
Accepted	Notice - NOTC (CIV)	EFileAndServe	Notice of Disassociation
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4503207 filed Tuesday, June 25, 2019 at 4:28 PM PST by Eglet Adams on behalf of Robert Adams			
Accepted	Notice of Change - N...	EFileAndServe	Notice of Change of Lead
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4503192 filed Tuesday, June 25, 2019 at 4:26 PM PST by Eglet Adams on behalf of Robert Adams			
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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4481981 filed Thursday, June 20, 2019 at 4:42 PM PST by Eglet Adams on behalf of James Trummel			
Accepted	Notice of Entry - NEO...	EFileAndServe	Notice of Entry of Order I
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4481885 filed Thursday, June 20, 2019 at 4:33 PM PST by Eglet Adams on behalf of James Trummel			
Accepted	Notice of Entry - NEO...	EFile	Notice of Entry of Order I
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4481171 filed Thursday, June 20, 2019 at 3:40 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Opposition to Motion...	EFileAndServe	Order Denying Defendant
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4345343 filed Thursday, May 23, 2019 at 4:00 PM PST by Eglet Adams on behalf of Thomas Beckom			

Accepted	Notice of Entry - NEO...	EFileAndServe	Notice of Entry Of Order I

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4344593 filed Thursday, May 23, 2019 at 2:58 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Order - ORDR (CIV)	EFileAndServe	Order Regarding Plaintiff

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4317397 filed Friday, May 17, 2019 at 7:51 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Motion in Limine - ML...	EFileAndServe	Motion in Limine No. 21 T

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4317372 filed Friday, May 17, 2019 at 7:16 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4316768 filed Friday, May 17, 2019 at 4:29 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Affidavit - AFFT (CIV)	EFileAndServe	Declaration of Thomas N.

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4279240 filed Friday, May 10, 2019 at 4:52 PM PST by Eglet Adams on behalf of Kevin Strong

Accepted	Opposition - OPPS (C...	EFileAndServe	Plaintiff's Opposition to D

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4203412 filed Thursday, April 25, 2019 at 4:04 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Notice of Entry - NEO...	EFileAndServe	Notice Of Entry Of Order

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4194216 filed Wednesday, April 24, 2019 at 12:09 PM PST by Eglet Adams on behalf of Thomas Bec

Accepted	Order - ORDR (CIV)	EFileAndServe	Order Denying Defendant

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4191226 filed Tuesday, April 23, 2019 at 8:33 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Reply - RPLY (CIV)	EFileAndServe	Reply In Support Of Plain

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4190034 filed Tuesday, April 23, 2019 at 4:01 PM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Order - ORDR (CIV)	EFileAndServe	Order Denying Defendant

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4152406 filed Tuesday, April 16, 2019 at 12:24 PM PST by Eglet Adams on behalf of Thomas Beckon

Accepted	Notice of Entry - NEO...	EFileAndServe	notice of entry of Stipulat

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4151621 filed Tuesday, April 16, 2019 at 11:26 AM PST by Eglet Adams on behalf of Thomas Beckom

Accepted	Stipulation and Order...	EFileAndServe	Stipulation and Order Re

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 4113260 filed Monday, April 8, 2019 at 5:10 PM PST by Eglet Adams on behalf of Thomas Beckom

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Version: 2018.1.7.8190

Filing Status	Filing Code	Filing Type	Filing Description
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4102279 filed Friday, April 5, 2019 at 12:33 PM PST by Eglet Adams on behalf of Thomas Beckom			
Accepted	Supplement - SUPPL ...	EFileAndServe	Plaintiff's Supplemental E
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4098704 filed Thursday, April 4, 2019 at 5:18 PM PST by Eglet Adams on behalf of Thomas Beckom			
Accepted	Stipulation and Order...	EFileAndServe	Stipulation And order Re
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4054730 filed Wednesday, March 27, 2019 at 1:30 PM PST by Eglet Adams on behalf of Thomas Bec			
Accepted	Motion - MOT (CIV)	EFileAndServe	Plaintiff's Motion To A Ju
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4006950 filed Monday, March 18, 2019 at 5:15 PM PST by Eglet Adams on behalf of Thomas Beckon			
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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 4006434 filed Monday, March 18, 2019 at 4:24 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Stipulation - STIP (CIV)	EFileAndServe	Stipulation And Order Re
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3978213 filed Tuesday, March 12, 2019 at 8:51 PM PST by Eglet Adams on behalf of Kevin Strong			
Accepted	Reply In Support - RI...	EFileAndServe	Plaintiff's Reply In Suppo
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3978209 filed Tuesday, March 12, 2019 at 8:46 PM PST by Eglet Adams on behalf of Kevin Strong			
Accepted	Reply In Support - RI...	EFileAndServe	Plaintiff's Reply In Suppo
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3978204 filed Tuesday, March 12, 2019 at 8:42 PM PST by Eglet Adams on behalf of Kevin Strong			

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978202 filed Tuesday, March 12, 2019 at 8:38 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978196 filed Tuesday, March 12, 2019 at 8:34 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978191 filed Tuesday, March 12, 2019 at 8:30 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978178 filed Tuesday, March 12, 2019 at 8:26 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978173 filed Tuesday, March 12, 2019 at 8:13 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978172 filed Tuesday, March 12, 2019 at 8:10 PM PST by Eglet Adams on behalf of Kevin Strong

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978166 filed Tuesday, March 12, 2019 at 8:00 PM PST by Eglet Adams on behalf of Kevin Strong

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Envelope # 3978162 filed Tuesday, March 12, 2019 at 7:54 PM PST by Eglet Adams on behalf of Kevin Strong

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Envelope # 3978161 filed Tuesday, March 12, 2019 at 7:57 PM PST by Eglet Adams on behalf of Kevin Strong

Accepted	Reply In Support - RI...	EFileAndServe	Plaintiff's Reply In Suppo

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3978158 filed Tuesday, March 12, 2019 at 7:50 PM PST by Eglet Adams on behalf of Kevin Strong

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
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Accepted	Stipulation and Order...	EFileAndServe	Stipulation And order To
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3901007 filed Tuesday, February 26, 2019 at 8:34 AM PST by Eglet Adams on behalf of Kevin Strong			
Accepted	Opposition - OPPS (C...	EFileAndServe	Plaintiff's Opposition to D
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900460 filed Monday, February 25, 2019 at 10:28 PM PST by Eglet Adams on behalf of Thomas Bec			
Accepted	Opposition - OPPS (C...	EFileAndServe	Limited Opposition To De
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900455 filed Monday, February 25, 2019 at 10:15 PM PST by Eglet Adams on behalf of Thomas Bec			
Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900448 filed Monday, February 25, 2019 at 9:58 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900443 filed Monday, February 25, 2019 at 9:44 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900430 filed Monday, February 25, 2019 at 9:25 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Opposition - OPPS (C...	EFileAndServe	Notice Of Nonopposition
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3900408 filed Monday, February 25, 2019 at 8:53 PM PST by Eglet Adams on behalf of Thomas Beck			

Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3900400 filed Monday, February 25, 2019 at 8:39 PM PST by Eglet Adams on behalf of Thomas Beck

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3900396 filed Monday, February 25, 2019 at 8:25 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Opposition - OPPS (C...	EFileAndServe	Plaintiff's Opposition Def

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3900385 filed Monday, February 25, 2019 at 8:10 PM PST by Eglet Adams on behalf of Thomas Beck

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

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Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3900300 filed Monday, February 25, 2019 at 7:03 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Opposition - OPPS (C...	EFileAndServe	Opposition To Defendant

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3899805 filed Monday, February 25, 2019 at 4:59 PM PST by Eglet Adams on behalf of Thomas Beck

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3878959 filed Wednesday, February 20, 2019 at 3:25 PM PST by Eglet Adams on behalf of Thomas E

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Envelope # 3837152 filed Tuesday, February 12, 2019 at 9:05 AM PST by Eglet Adams on behalf of Thomas Becl

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Envelope # 3823872 filed Friday, February 8, 2019 at 10:47 AM PST by Eglet Adams on behalf of Thomas Becko

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3776852 filed Wednesday, January 30, 2019 at 11:31 AM PST by Eglet Adams on behalf of Thomas E

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1 2 3 4 5 20 items per page

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Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3767256 filed Monday, January 28, 2019 at 9:27 PM PST by Eglet Adams on behalf of Dennis Prince			
Accepted	Pre-trial Memorandu...	EFileAndServe	Supplement to Plaintiff's
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3767247 filed Monday, January 28, 2019 at 9:15 PM PST by Eglet Adams on behalf of Dennis Prince			
Accepted	Pre-Trial Disclosure - ...	EFileAndServe	Supplement to Plaintiff's
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3757693 filed Friday, January 25, 2019 at 2:48 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Notice of Entry - NEO...	EFileAndServe	Notice Of Entry Of Order
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3737341 filed Tuesday, January 22, 2019 at 5:18 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Order - ORDR (CIV)	EFileAndServe	Order Granting MOtion F
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3727893 filed Friday, January 18, 2019 at 5:36 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Motion - MOT (CIV)	EFileAndServe	Motion For Order Shorter
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3727839 filed Friday, January 18, 2019 at 5:27 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3727741 filed Friday, January 18, 2019 at 5:05 PM PST by Eglet Adams on behalf of Thomas Beckon			
Accepted	Affidavit - AFFT (CIV)	EFileAndServe	Declaration Of Thomas N
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3633154 filed Friday, December 28, 2018 at 9:02 PM PST by Eglet Adams on behalf of Thomas Beck			

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633147 filed Friday, December 28, 2018 at 8:32 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633144 filed Friday, December 28, 2018 at 8:22 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Declaration - DECL (...	EFileAndServe	Declaration of Thomas N.

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633141 filed Friday, December 28, 2018 at 8:12 PM PST by Eglet Adams on behalf of Thomas Beck

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633135 filed Friday, December 28, 2018 at 7:58 PM PST by Eglet Adams on behalf of Thomas Beck

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▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633129 filed Friday, December 28, 2018 at 7:43 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633125 filed Friday, December 28, 2018 at 7:33 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633118 filed Friday, December 28, 2018 at 7:05 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633106 filed Friday, December 28, 2018 at 6:45 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion in Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633091 filed Friday, December 28, 2018 at 6:29 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633079 filed Friday, December 28, 2018 at 6:15 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633068 filed Friday, December 28, 2018 at 6:06 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3633054 filed Friday, December 28, 2018 at 5:54 PM PST by Eglet Adams on behalf of Thomas Beck

Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir

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Filing Status	Filing Code	Filing Type	Filing Description
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3633045 filed Friday, December 28, 2018 at 5:49 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3633022 filed Friday, December 28, 2018 at 5:41 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3632998 filed Friday, December 28, 2018 at 5:31 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3632951 filed Friday, December 28, 2018 at 5:21 PM PST by Eglet Adams on behalf of Thomas Beck			
Accepted	Motion in Limine - ML...	EFileAndServe	Plaintiff's Motion In Limir
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3604051 filed Thursday, December 20, 2018 at 1:35 PM PST by Eglet Adams on behalf of Thomas B			
Accepted	Discovery Commissi...	EFileAndServe	Discovery Commissioner
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3391426 filed Friday, November 2, 2018 at 3:17 PM PST by Eglet Adams on behalf of Thomas Becko			
Accepted	Reply in Support - RI...	EFileAndServe	Reply in Suppoert of the
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3266897 filed Monday, October 8, 2018 at 6:38 PM PST by Eglet Adams on behalf of James Trumme			
Accepted	Motion - MOT (CIV)	EFileAndServe	Plaintiff's Motion To Exte
▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio			
Envelope # 3124137 filed Monday, September 10, 2018 at 11:12 AM PST by Eglet Adams on behalf of Tracy Egle			

Accepted	Notice of Entry of Or...	EFileAndServe	Notice of Entry of Stipula

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 3069286 filed Tuesday, August 28, 2018 at 1:28 PM PST by Eglet Adams on behalf of Tracy Eglet

Accepted	Stipulation and Order...	EFileAndServe	Stipulation and Order to I

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 2970769 filed Wednesday, August 8, 2018 at 3:39 PM PST by Eglet Adams on behalf of Tracy Eglet

Accepted	Notice of Entry - NEO...	EFileAndServe	Notice of Entry of Stipula

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 2955443 filed Monday, August 6, 2018 at 1:49 PM PST by Eglet Adams on behalf of Tracy Eglet

Accepted	Stipulation and Order...	EFileAndServe	Stipulation and Order to I

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 2320729 filed Friday, March 23, 2018 at 10:50 AM PST by Eglet Adams on behalf of Kevin Strong

Accepted	Notice of Entry of Sti...	EFileAndServe	Notice of Entry of Stipula

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 2314837 filed Thursday, March 22, 2018 at 12:02 PM PST by Eglet Adams on behalf of Tracy Eglet

Accepted	Stipulation and Order...	EFileAndServe	Stipulation and Order to I

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Constructio

Envelope # 2170176 filed Wednesday, February 21, 2018 at 11:51 AM PST by Eglet Adams on behalf of Dennis F

Accepted	Notice of Appearance...	EFileAndServe	Notice of Appearance

Filtered by My Firm, Accepted, Envelope or Case # A-15-718689-C, 2/1/2018-7/31/2019

Filing History

Filing Status	Filing Code	Filing Type	Filing Description	Clier
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4965523 filed Thursday, September 26, 2019 at 7:59 AM PST by Dennis Prince				
Accepted	Motion - MOT (CIV)	EFileAndServe	Motion for Sanctions Against D...	1000
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4943921 filed Monday, September 23, 2019 at 8:13 AM PST by Dennis Prince				
Accepted	Reply in Support - RI...	EFileAndServe	Plaintiff's Reply in Support of T...	
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4938920 filed Friday, September 20, 2019 at 11:13 AM PST by Dennis Prince				
Accepted	Notice - NOTC (CIV)	EFileAndServe	Plaintiff's Notice of De-Designa...	1000
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4936740 filed Thursday, September 19, 2019 at 6:21 PM PST by Dennis Prince				
Accepted	Trial Brief - TB (CIV)	EFileAndServe	Plaintiff's Trial Brief for Curativ...	
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4912368 filed Monday, September 16, 2019 at 2:51 PM PST by Dennis Prince				
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena	
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4910611 filed Monday, September 16, 2019 at 12:16 PM PST by Dennis Prince				
Accepted	Opposition - OPPS (C...	EFileAndServe	Plaintiff's Opposition to Defend...	
Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I				
Envelope # 4910497 filed Monday, September 16, 2019 at 11:56 AM PST by Dennis Prince				
Accepted	Trial Brief - TB (CIV)	EFileAndServe	Plaintiff's Trial Brief to Exclude...	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4887866 filed Wednesday, September 11, 2019 at 10:26 AM PST by Dennis Prince

Accepted	**Trial Subpoena - TSU...**	**EFileAndServe**	**Trial Subpoena**	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4876209 filed Monday, September 9, 2019 at 3:06 PM PST by Dennis Prince

Accepted	**Trial Subpoena - TSU...**	**EFileAndServe**	**Trial Subpoena**	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4871791 filed Monday, September 9, 2019 at 9:15 AM PST by Dennis Prince

Accepted	**Opposition - OPPS (C...**	**EFileAndServe**	**Plaintiff's Opposition to Defend...**	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4870099 filed Friday, September 6, 2019 at 5:05 PM PST by Dennis Prince

Accepted	**Opposition - OPPS (C...**	**EFileAndServe**	**Plaintiff's Opposition to Defend...**	**1000**

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4866233 filed Friday, September 6, 2019 at 11:47 AM PST by Dennis Prince

Accepted	**Trial Brief - TB (CIV)**	**EFileAndServe**	**Trial Brief to Exclude All Faceb...**	**1000**

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4859366 filed Thursday, September 5, 2019 at 12:10 PM PST by Dennis Prince

Accepted	**Trial Brief - TB (CIV)**	**EFileAndServe**	**Plaintiff's Trial Brief to Exclude...**	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4850199 filed Wednesday, September 4, 2019 at 9:24 AM PST by Dennis Prince

Accepted	**Trial Subpoena - TSU...**	**EFileAndServe**	**Trial Subpoena**	
Accepted	**Trial Subpoena - TSU...**	**EFileAndServe**	**Trial Subpoena**	
Accepted	**Trial Subpoena - TSU...**	**EFileAndServe**	**Trial Subpoena**	

▼ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, [

Envelope # 4835452 filed Friday, August 30, 2019 at 10:07 AM PST by Dennis Prince

Accepted	**Trial Brief - TB (CIV)**	**EFileAndServe**	**Plaintiff's Trial Brief to Limit De...**	**1000**

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I

Envelope # 4829779 filed Thursday, August 29, 2019 at 2:48 PM PST by Dennis Prince

Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena
Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I

Envelope # 4815293 filed Tuesday, August 27, 2019 at 2:56 PM PST by Dennis Prince

Accepted	Pre-trial Memorandu...	EFileAndServe	Plaintiff's Second Supplement ...

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I

Envelope # 4805936 filed Monday, August 26, 2019 at 11:47 AM PST by Dennis Prince

Accepted	Reply in Support - RI...	EFileAndServe	Plaintiff's Reply in Support of t...

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I

Envelope # 4793349 filed Thursday, August 22, 2019 at 2:12 PM PST by Dennis Prince

Accepted	Trial Subpoena - TSU...	EFileAndServe	Trial Subpoena

▾ Case # A-15-718689-C - Bahram Yahyavi, Plaintiff(s)vs.Capriati Construction Corp Inc, I

Envelope # 4790058 filed Thursday, August 22, 2019 at 9:35 AM PST by Dennis Prince

Accepted	Notice of Entry of Or...	EFileAndServe	Notice of Entry of Order Granti...

1 2 20 items per page 1 - 20 of 27 items

Filtered by My Firm, Accepted, Envelope or Case # A-15-718689-C, 7/1/2019-9/30/2019

Version: 2018.1.7.8190

WITNESS/SUBPOENA FEES

KC INVESTIGATIONS, LLC
1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
4/24/2018	6601

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
04/23/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED SUBPOENA DUCES TECUM TO THE COR FOR LAS VEGAS FIRE AND RESCUE, COR AFFIDAVIT, COR AFFIDAVIT-NO RECORDS AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION (PHI) AND NOTICE TO TAKE THE DEPOSITION OF THE COR FOR LAS VEGAS FIRE AND RESCUE TO COR FOR LAS VEGAS FIRE AND RESCUE WITH LISA BEISEL (RECODS) AT 500 N. CASINO CENTER BLVD., LAS VEGAS, NV 89101.	70.00

Thank you for your business.

Total $70.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
5/7/2018	6656

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: CRYSTAL

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
05/02/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED DEPOSITION SUBPOENA FOR LAS VEGAS METROPOLITAN POLICE DEPARTMENT DETECTIVE ERIC GRIMMESEY BADGE NO. 5316, NOTICE OF TAKING THE VIDEOTAPED DEPOSITION OF LAS VEGAS METROPOLITAN POLICE DEPARTMENT DETECTIVE ERIC GRIMMESEY BADGE NO. 5316, STATE OF NEVADA TRAFFIC ACCIDENT REPORT AND WITNESS FEE CHECK FOR DETECTIVE ERIC GRIMMESEY BADGE NO. 5316 TO DETECTIVE ERIC GRIMMESEY BADGE NO. 5316 AT 5880 CAMERON ST., LAS VEGAS, NV 89118.	70.00
COST	WITNESS FEE CHECK	32.00

Thank you for your business.

Total $102.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
6/13/2018	6843

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
06/12/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED DEPOSITION SUBPOENA, SECOND AMENDED NOTICE OF TAKING VIDEOTAPED DEPOSITION , STATE OF NEVADA TRAFFIC ACCIDENT REPORT, AND WITNESS FEE CHECK TO DETECTIVE ERIC GRIMMESEY AT 5880 CAMERON ST., LAS VEGAS, NV 89118.--RUSH	95.00
COST	WITNESS FEE CHECK	32.00

Thank you for your business.

Total $127.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
7/5/2018	6965

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: CRYSTAL

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
06/27/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED SUBPOENA DUCES TECUM, COR AFFIDAVIT AND NOTICE OF TAKING THE DEPOSITION TO COR FOR LAS VEGAS METROPOLITAN POLICE DEPARTMENT.	70.00

Thank you for your business.

Total $70.00

KC INVESTIGATIONS, LLC
1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
7/25/2018	7082

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
07/24/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED DEPOSITION SUBPOENA FOR JOSHUA ADOM ARBUCKLE, NOTICE OF TAKING THE VIDEOTAPED DEPOSITION OF JOSHUA ADOM ARBUCKLE AND WITNESS FEE CHECK TO JOSHUA ADOM ARBUCKLE WITH REBECCA ARBUCKLE (WIFE) AT 7324 WANDERING ST., LAS VEGAS, NV 89131.	70.00
COST	WITNESS FEE CHECK	26.00

Thank you for your business.

Total $96.00

AA000233

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
10/1/2018	7427

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
09/27/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED SUBPOENA DUCES TECUM TO THE CUSTODIAN OF RECORDS FOR CHAPMAN LAS VEGAS DODGE, EXHIBIT 'A', EXHIBIT "B" AND NOTICE OF TAKING DEPOSITION OF CUSTODIAN OF RECORDS FOR CHAPMAN LAS VEGAS DODGE WITH ARACELY TAREJO (RECEPTIONIST) AT 375 E. SAHARA AVE., LAS VEGAS, NV 89104.	70.00

Thank you for your business.

Total $70.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
10/4/2018	7441

Bill To	Client
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE	BAHRAM YAHYAVI

Date Served	Terms	Server
10/02/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED SUBPOENA DUCES TECUM TO THE CUSTODIAN OF RECORDS FOR THE CLARK COUNTY DEPARTMENT OF PUBLIC WORKS, EXHIBIT A, EXHIBIT B, AND NOTICE OF TAKING DEPOSITION OF THE CUSTODIAN OF RECORDS FOR THE CLARK DEPARTMENT OF PUBLIC WORKS WITH DAPHNE CLARK (RECORDS SUPERVISOR) AT 500 S. GRAND CENTRAL PKWY. 2ND FLOOR, LAS VEGAS, NV 89106.	70.00

Thank you for your business.

Total $70.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
10/17/2018	7511

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
10/10/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED SUBPOENA DUCES TECUM TO THE CUSTODIAN OF RECORDS FOR CH2M HILL, EXHIBIT "A", EXHIBIT "B", NOTICE OF TAKING THE DEPOSITION OF THE CUSTODIAN OF RECORDS FOR CH2M HILL TO COR CH2M HILL THROUGH REGISTERED AGENT THE CORPORATION TRUST COMPANY OF NEVADA WITH ASHLEI KLEIN FLYNN AT 701 S CARSON ST. #200, CARSON CITY, NV 89701.	130.00

Thank you for your business.

Total $130.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
12/20/2018	7789

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: CRYSTAL

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
	Due on receipt	

Item	Description	Amount
ATTEMPT SERVICE	ATTEMPTED TO SERVE DEPOSITION SUBPOENA FOR DOUGLAS GOSS, NOTICE OF TAKING THE VIDEOTAPED DEPOSITION AND WITNESS FEE CHECK TO DOUGLAS GOSS AT 1575 W. WARM SPRINGS RD. #1111, HENDERSON, NV 89014.--LOCK BOX ON DOOR, EMPTY INSIDE.--RUSH.	95.00

Thank you for your business.

Total $95.00

KC INVESTIGATIONS, LLC

1148 S. MARYLAND PKWY
LAS VEGAS, NV 89104
PHONE# 702-474-4102
FAX# 702-474-4137

Invoice

Date	Invoice #
1/2/2019	7811

Bill To
EGLET PRINCE 400 SOUTH 7TH ST. BOX 1 STE. 400 LAS VEGAS, NV 89101 ATTN: NICOLE

Client
BAHRAM YAHYAVI

Date Served	Terms	Server
12/27/18	Due on receipt	JR

Item	Description	Amount
SERVE	SERVED DEPOSITION SUBPOENA FOR JAY GUTSTEIN, EXHIBIT "A", NOTICE OF TAKING THE VIDEOTAPED DEPOSITION OF GUTSTEIN AND WITNESS FEE CHECK TO JAY GUTSTEIN WITH REINA SCHOESSLER (HUMAN RESOURCES) AT 1020 W. WIGWAM PKWY., HENDERSON, NV 89074.--RUSH	95.00
COST	WITNESS FEE CHECK	26.00

Thank you for your business.

Total $121.00

LV Process and Investigations, LLC

License #2039 10829 Whipple Crest Ave.
Las Vegas, NV 89166
Phone: 702-592-3283 Fax: 702-446-8118
47-3771459

Invoice # 6026

Client Info:	Invoice Info:
Prince Law Group - ATTN: Amy Ebinger 8816 Spanish Ridge Ave. Las Vegas, NV 89148	Client Ref # Job # 6026 Invoice Date: 9/3/2019 Client ID: PLG

Case Info:

Court Name: District Court
Court Division: Dept. No.: XXVII
Case # A-15-718689-C

Plaintiff:
BAHRAM YAHYAVI, an Individual,
-versus-
Defendant:
CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation,

Service Info:

Serve To: Kevin Mackey
Service: PERSONAL
Date: 09/12/2019 Time: 10:49 AM
Date: 09/03/2019 Time: 11:40 AM
Location:
8030 RAFAEL RIVERA WAY
Las Vegas, NV 89113

Qty:	Description	Unit Price:	Line Amount:
1	1st Address - 2564 East Amberwood Dr. Phoenix, AZ 85084	$100.00	$100.00
1	Skip Trace	$45.00	$45.00
1	2nd Address - 7152 Manolo St. Las Vegas, NV 89113	$55.00	$55.00
1	3rd Address - 8030 RAFAEL RIVERA WAY Las Vegas, NV 89113	$55.00	$55.00
		Sub Total	$255.00
		Amount Paid to Date	$0.00
		TOTAL	$255.00

AA000239

LV Process and Investigations, LLC

License #2039 7121 Eyebright St
Las Vegas, NV 89131
Phone: 702-592-3283 Fax: 702-446-8118
47-3771459

Invoice # 6027

Client Info:	Invoice Info:
Prince Law Group 8816 Spanish Ridge Ave. Las Vegas, NV 89148	Client Ref # Job # 6027 Invoice Date: 8/22/2019 Client ID: PLG

Case Info:

Court Name: District Court
Court Division: Dept. No.: XXVII
Case # A-15-718689-C

Plaintiff:
BAHRAM YAHYAVI, an Individual,
-versus-
Defendant:
CAPRIATI CONSTRUCTION CORP., INC., a Nevada Corporation,

Service Info:

Serve To: Wade Langsev
Service: PERSONAL
Date: 08/17/2019 Time: 12:31 PM

Location:
6932 Singing Dunes Lane
Las Vegas, NV 89145

Qty:	Description	Unit Price:	Line Amount:
1	**1st Address - 6932 Singing Dunes Lane Las Vegas, NV 89145**	$55.00	$55.00
1	**1st Address - 6932 Singing Dunes Lane Las Vegas, NV 89145**	$55.00	$55.00
		Sub Total	**$110.00**
		Amount Paid to Date	**$0.00**
		TOTAL	**$110.00**