

IN THE SUPREME COURT OF THE STATE OF NEVADA

FERRELLGAS, INC. a foreign
corporation,

Petitioner,

v.

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA IN AND FOR THE
COUNTY OF CLARK; THE
HONORABLE JOANNA S.
KISHNER, DISTRICT JUDGE,

and

JOSHUA GREEN, an individual,

Respondents.

CASE NO.

DISTRICT COURT CASE NO.

A-19-795381-C

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APPENDIX TO PETITION FOR WRIT OF MANDAMUS
(VOLUME 3)

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APPENDIX TO PETITION FOR WRIT OF MANDAMUS
VOLUME 1

NUMBER	DOCUMENT	BATES NUMBER
1	First Amended Complaint and Jury Demand	APP- 1-8
2	Defendants' Motion to Compel NRCP 35 Examination	APP-9-68
3	Joshua Green's Opposition to Defendants' Motion to Compel Rule 35 Examination	APP-69-204

VOLUME 2

NUMBER	DOCUMENT	BATES NUMBER
4	Defendants' Reply in Support of Motion to Compel Rule 35 Exam	APP- 205 -258
5	Recorder's Transcript of Hearing Re: Defendant's Motion to Compel NRCP 35 Examination – 11/19/20	APP- 259 - 280
6	Supplemental Briefing on Defendants' Motion to Compel Neuropsychological Rule 35 Examination	APP – 281- 407

VOLUME 3

NUMBER	DOCUMENT	BATES NUMBER
7	Defendants' Reply in Support of Motion to Compel Rule 35 Exam	APP- 408 - 477
8	Transcript of Proceedings Re: Further Proceedings: Scope of Examination/Whether A Neuropsychological Evaluation is Appropriate in this Case – 12/10/20	APP- 478 - 493
9	Discovery Commissioner's Report and Recommendations	APP- 494 – 500

VOLUME 4

NUMBER	DOCUMENT	BATES NUMBER
10	Defendants' Objection to Discovery Commissioner's Report and Recommendation E-Filed on 12/22/20	APP- 501 - 750

VOLUME 5

NUMBER	DOCUMENT	BATES NUMBER
10	Defendants' Objection to Discovery Commissioner's Report and Recommendation E-Filed on 12/22/20	APP- 751 - 1016

VOLUME 6

NUMBER	DOCUMENT	BATES NUMBER
11	Joshua Green's Reply to Defendant's Objection to Discovery Commissioner's Report and Recommendations	APP- 1017 – 1107
12	Second Amended Complaint	APP – 1108 – 1119
13	Discovery Commissioner's Report and Recommendations	APP – 1120 – 1125
14	Defendants' Supplement to Objection to Discovery Commissioner's Report and Recommendation E-Filed on 12/22/20	APP – 1126 – 1137
15	Transcript of the Proceedings – Defendants Ferrellgas' Motion for Leave to Amend Pleadings to Assert Crossclaims Against Defendant Carl J. Kleisner and Motion to File Third-Party Complaint Against Defendant Kleisner Employer – 1/28/21	APP – 1138 – 1176
16	Order Denying Defendants' Objections to Discovery Commissioner's Reports and Recommendations Dated December 22, 2020, and January 12, 2012; and Affirming as Modified the Discovery Commissioner's Reports and Recommendations Granting in Part and Denying in Part Defendants' Motion to Compel an NRCP 35 Exam	APP – 1177 - 1185

DATED this 26th day of March, 2021

/s/ Felicia Galati, Esq.

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DATED this 26th day of March, 2021.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of March, 2021, I sent via e-mail a true and correct copy of the above and foregoing **APPENDIX TO PETITION FOR WRIT OF MANDAMUS (VOLUME 3)** by electronic service through the Nevada Supreme Court's website, (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

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Attorneys for Plaintiff

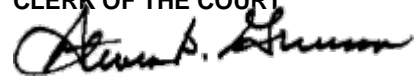
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Honorable Judge Joanna Kishner
Eighth Judicial District Court
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/s/ Erika Parker

An Employee of OLSON CANNON GORMLEY
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DISTRICT COURT

CLARK COUNTY, NEVADA

JOSHUA GREEN;

Plaintiff,

vs.

FERRELLGAS, INC. et al.,

Defendants.

AND RELATED ACTIONS

CASE NO.: A-19-795381-C
DEPT NO.: XXXI

**DEFENDANTS' REPLY IN
SUPPORT OF MOTION TO
COMPEL RULE 35 EXAM**

Hearing Date: December 10, 2020

Hearing Time: 10:00 a.m.

1 COME NOW, Defendants Ferrellgas, Inc. (“Ferrellgas”), Mario Gonzalez
2 (“Gonzalez”), and Carl Kleisner (“Kleisner”), by and through counsel of record, and hereby
3 file this Supplemental Brief in Support of Motion to Allow a Rule 35 examination.
4

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I. INTRODUCTION**

7 It is undisputed that Plaintiff has put his mental condition at issue, that Plaintiff concedes
8 Defendants are entitled to a psychological examination, and that Plaintiff alleges memory and
9 concentration issues.

10 Defendants do not believe the Discovery Commissioner authorized supplemental
11 briefing on the issue of the scope of the examination. Regardless, Plaintiff’s Supplemental
12 Brief is improper in that it seeks a determination from this Court as to the cause of Plaintiff’s
13 current mental condition. The Discovery Commissioner already found that loss of memory
14 and confusion are neurological issues and/or conditions that merit allowing a
15 Neuropsychological examination. Furthermore, Plaintiff’s Supplemental Brief seeks to deny
16 Defendants the opportunity to have an Independent Medical Examination to determine
17 Plaintiff’s mental condition, and the cause of any alleged injuries.

18
19 Defendants seek an Order compelling Plaintiff to attend a Rule 35 mental examination
20 because the parties agree that Plaintiff has put his mental condition at issue in this litigation,
21 but the parties could not reach an agreement to stipulate to the scope of the mental examination.

22 Defendants seek to conduct both a psychological and neuropsychological examination
23 of Plaintiff because even though Plaintiff claims that his neurological issues (loss of
24 concentration and memory issues) result from a psychological condition (PTSD), they are
25 nevertheless well-recognized neurological symptoms that warrant a neurological as well as
26 psychological examination as to their origin. The Parties met and conferred on this issue, and
27 Plaintiff could not provide sufficient assurance that this litigation did not include claims for
28

1 neurological issues. As such, Defendants could not withdraw their request to have a Rule 35
2 mental examination that covered both psychological and neuropsychological components.

3 Defendants are not medical experts and do not make any allegations regarding
4 Plaintiff's condition. Rather, Defendants seek a Rule 35 examination that encompasses the
5 purview of all allegations Plaintiff makes in this matter.
6

7 **II. ARGUMENT**

8 **A. Plaintiff Has Made His Mental Condition an Issue of the Case, Such that** 9 **Defendants Should be Allowed Both a Psychological and** 10 **Neuropsychological Examination**

11 Defendants seek to determine the status of Plaintiff's mental condition, and whether this
12 incident caused those conditions. Defendants seek a two-day neuropsychological examination
13 because their retained expert, Dr. Lewis Etcoff, has advised that the same is necessary to
14 evaluate Plaintiff's medical condition, and the assertions Plaintiff makes. Plaintiff's Rule 16
15 disclosures and recent medical records demonstrate Plaintiff alleges neuropsychological issues
16 in this case. Plaintiff asserts issues with attention and memory, and seeks to preclude
17 Defendants from evaluating any explanations other than the one proffered by Plaintiff's
18 counsel.

19 By way of specific example, Plaintiff's counsel identified Dr. Michael Elliott as having
20 evaluated Plaintiff for, *inter alia*, "difficulty focusing and following conversations/trains of
21 thought." *See Plaintiff's* 10th supplemental 16.1 disclosures attached hereto as Exhibit A; *See*
22 *also* Plaintiff's 12th supplemental 16.1 disclosures attached hereto as Exhibit B. Plaintiff's
23 counsel stated that Dr. Elliot's expected testimony will include diagnoses for (1) anxiety due to
24 known physiological condition; (2) generalized anxiety; and (3) encounter for ***screening for***
25 ***traumatic brain injury***. *Id* (emphasis added). Plaintiff's counsel identified that Dr. Elliot's
26 testimony will include Plaintiff's treatment plan including ***Formal neuropsychological testing,***
27 ***pending evaluation by a neurologist***. On September 16, 2020, Plaintiff advised Dr. Elliot that
28 he had accomplished his goal of making an appointment with a neurologist. *See* Exhibit B at
pg. 22 Bates Numbered Green 1244.

1 In short, Defendants have requested a psychological and neuropsychological mental
2 examination of Plaintiff because Plaintiff's papers and medical records raise those issues in this
3 case.

4 Defendants have requested Dr. Etcoff provide a more detailed explanation of the scope
5 of the neurological examination necessary to evaluate the nature and extent of Plaintiff's alleged
6 cognitive problems. Dr. Etcoff advised that the earliest his office can provide the requested
7 explanation is the morning of December 10, 2020. Defendants will provide the Discovery
8 Commissioner, and all counsel, the explanation upon receipt.

9 The Pleadings and Papers filed by Plaintiff, and signed by Plaintiff's counsel pursuant
10 to Rule 11, have multiple assertions regarding both psychological and neuropsychological
11 allegations. The Court should not preclude Defendants from conducting both a
12 neuropsychological and a psychological examination of Plaintiff.

13 Plaintiff acknowledges that he has put his mental condition at issue such that the Court
14 should Order a Rule 35 mental examination. However, Plaintiff improperly seeks to preclude
15 Defendants from conducting a full and fair evaluation of Plaintiff's condition.

16
17 **B. Determining Whether Plaintiff Has Memory Loss and Cognitive**
18 **Impairment and Whether Those Symptoms Are Caused by PTSD or**
19 **Something Else is The Reason Defendants Need to Conduct a Rule 35**
20 **Examination**

21 There is no dispute that Plaintiff alleges memory loss, difficulty with cognition, and
22 short-term memory issues. Defendants' seek a neuropsychological and psychological Rule 35
23 examination of Plaintiff to evaluate those allegations. Defendants have retained Dr. Etcoff to
24 evaluate Plaintiff's mental condition, through neuropsychological and psychological testing,
25 and opine as to what mental issues Plaintiff suffers from, and whether those issues are related
26 to the incident.

27 Plaintiff seeks to have this Court find that PTSD is the sole cause of the memory and
28 cognitive issues, which Plaintiff alleges in this case. The Court's inquiry should be limited to
whether Plaintiff claims memory and concentration issues as part of this case. If so, the Court

1 should Order a Rule 35 examination that allows for a full and fair evaluation of Plaintiff's
2 condition, and any underlying causes.

3 Finally, the Discovery Commissioner has already ruled Defendants can choose their
4 own Rule 35 Examiner, yet Plaintiff also improperly asks the Court to force Defendants to retain
5 a different expert.
6

7 **III. CONCLUSION**

8 The Parties agree that the Court should Order a Rule 35 examination. There is no
9 dispute that Plaintiff is alleging concentration and memory issues. As such, Defendants
10 respectfully request an Order allowing Dr. Etcoff to conduct a reasonable and necessary Rule
11 35 Examination on March 2 and 3, 2021 to evaluate Plaintiff's mental condition.
12

13 DATED this 11th day of December, 2020.

14 PYATT SILVESTRI

CARL KLEISNER

15 /s/ Steven M. Goldstein

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17 Nevada Bar No. 6318

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20 MARIO GONZALEZ

21 DENNET WINSPEAR, LLP

22 /s/ Gina G. Winspear

23 Gina G. Winspear, Esq.

24 Nevada Bar No. 5552

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1 **CERTIFICATE OF SERVICE**

2 On the 11th day of December, 2020, the undersigned, an employee of Baker Sterchi
3 Cowden & Rice, hereby served a true copy of **DEFENDANTS' SUPPLEMENTAL REPLY**
4 **IN SUPPORT OF MOTION TO COMPEL RULE 35 EXAM** to the parties listed below via
5 the EFP Program, pursuant to the Court's Electronic Filing Service Order (Administrative Order
6 14-2) effective June 1, 2014, and or mailed:
7

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11 Henderson, Nevada 89052
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19
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21 An Employee of
22 Baker Sterchi Cowden & Rice LLP
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28

Exhibit A



SUPPL

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Attorneys for Plaintiff,
Joshua Green

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

Joshua Green, an individual,

Plaintiff,
vs.

Ferrellgas, Inc., a foreign corporation;
Mario S. Gonzales, an individual; **Carl J. Kleisner**, an individual; Does I through XXX, inclusive and Roes Business Entities I through XXX, inclusive

Defendants.

Mario S. Gonzalez, an individual;

Cross-Claimant,
vs.

Ferrellgas, Inc., a foreign corporation;
Carl J. Kleisner, an individual; DOES 1 through 100 inclusive; and ROE Corporations 101 through 200;

Cross-Defendants.

Case No.: A-19-795381-C
Dept. No.: XXXI

**Joshua Green's Tenth
Supplemental Disclosures**

Mario S. Gonzalez, an individual;

Third-Party Plaintiff,

vs.

BBQ Guys Manufacturing, LLC dba Blaze Outdoor Products., a foreign corporation; **Home Depot USA, Inc.**, a foreign corporation; **KSUN Manufacturing**, a foreign corporation; Does 200 through 300 inclusive; and ROE Corporation 301 through 400;

Third-Party Defendants.

Ferrellgas, Inc., a foreign corporation;

Counter-Claimant,

vs.

Mario S. Gonzalez, an individual; DOES 1 through 100 inclusive; and ROE Corporations 101 through 200;

Counter-Defendants

Carl J. Kleisner, an individual;

Counter-Claimant,

vs.

Mario S. Gonzalez, an individual; DOES 1 through 100 inclusive; and ROE Corporations 101 through 200;

Counter-Defendants.

Plaintiff, Joshua Green, through his attorney of record, Matthew G. Pfau, Esq. of H & P LAW, hereby produces the following list of persons that are likely to have knowledge of the facts and circumstances of the instant action, and documents, data compilations, and tangible things that are in their and/or their counsel's possession, custody, or control pursuant to NRCP 16.1:

Supplemental/Amended information appears in bold.

Abandoned claims identified with ~~strike line~~.

**I.
Witnesses**

1. Joshua Green
c/o H & P LAW
8950 West Tropicana Avenue, Suite 1
Las Vegas, Nevada 89147
T: 702-598-4529; and
 2609 Centaurus Street
 Henderson, Nevada 89044
 T: 702-271-1791

Joshua Green is the Plaintiff in this case. He is expected to testify about the grill that exploded while he was using it. Joshua will testify about his experience using grills. Joshua will also testify about how these injuries have negatively affected his life and his damages.

1 2. Proper 30(b)(6) Representative for Ferrellgas, Inc.
 2 c/o OLSON, CANNON, GORMLEY, ANGULO & STROBERSKI
 3 9950 West Cheyenne Avenue
 4 Las Vegas, Nevada 89129
 5 T: 702-384-4012

6 The Proper 30(b)(6) Representative for Ferrellgas, Inc. will testify about their
 7 policies and procedures for installing and inspecting gas lines. They will also testify
 8 about their knowledge of this case and employee training, hiring, and management.

9 3. Mario S. Gonzales
 10 c/o PYATT SILVESTRI
 11 700 Bridger Avenue, Suite 600
 12 Las Vegas, Nevada 89101
 13 T: 702-477-0088

14 Mario Gonzales is the owned the home where the grill exploded on Joshua. Mr.
 15 Gonzales is expected to offer his testimony about his perspective of the explosion
 16 and the safety measures he took to prevent it. As Josh's close friend, Mario will also
 17 testify about any noticeable changes to Josh before and after the explosion.

18 4. Carl J. Kleisner
 19 c/o DENNETT WINSPEAR, LLP
 20 3301 North Buffalo Drive, Suite 195
 21 Las Vegas, Nevada 89129
 22 T: 702-839-1100

23 Carl J. Kleisner is the electrician that repaired the electrical lines at Mr. Gonzales's
 24 home a few days before the explosion. Mr. Kleisner is expected to testify about his
 25 experience as an electrician. He will also testify about liability.

26 5. Elad Bicer, MD
 27 Spring Valley Hospital Medical Center
 28 5400 South Rainbow Boulevard
 Las Vegas, Nevada 89118
 T: 702-853-3000

Elad Bicer, MD evaluated Joshua for emergency medical treatment immediately
 following the explosion. Dr. Bicer is expected to testify about his observations that
 Joshua arrived with burn "onset prior to arrival" with symptoms of "pain and
 redness." Dr. Bicer's testimony will include the following diagnosis:

- ICD10-CM – Burn;

After review, Dr. Bicer determined Joshua required care in a burn intensive unit.

Dr. Bicer requested Joshua be transferred to University Medical Center.

Dr. Bicer's testimony will be consistent with GREEN 01-85.

6. Elizabeth Sodomini, MD
UNLV Medicine
2040 West Charleston Boulevard, 3rd Floor
Las Vegas, Nevada 89102
T: 702-895-4928

Elizabeth Sodomini, MD provided burn treatment to Joshua in the weeks following the explosion. Dr. Sodomini is expected to testify about the following diagnoses:

- T21.22XA – Burn of second degree of abdominal wall, initial encounter;
- T22.212A – Burn of second degree of left forearm, initial encounter;
- T22.211A – Burn of second degree of right forearm, initial encounter;
- T23.202A – Burn of second degree of left hand, unspecified site, initial encounter;
- T23.201A – Burn of second degree of head, face, and neck, unspecified site, initial encounter;
- X04.XXA – Exposure to ignition of highly flammable material, initial encounter;

Dr. Sodomini will testify about the causation of these injuries. Her testimony will be consistent with GREEN 86-97.

7. Jon Petrick, DC
Las Vegas Pain Relief Center
2779 West Horizon Ridge Parkway, Suite 210
Henderson, Nevada 89052
T: 702-948-2520

Joshua presented to Jon Petrick, DC complaining of consistent pain. Dr. Petrick noted Joshua's "continuing pain and discomfort that can be described as sharp, burning, tightness, numbing or tingling, a loss of strength." Dr. Petrick stated Joshua "presented with second and third degree burns bilaterally on both arm to trunk, chest, and flanks." Dr. Petrick determined Joshua would benefit from "functional movement screen, nitric oxide release, active release techniques, chiropractic care, strength and conditioning, and performance training."

Dr. Petrick is expected to testify about the following diagnoses:

- T31.11 – Burns involving 10-19% of body surface with 10–19% third degree burns;
- T31.20 – Burns involving 20-29% of body surface with 0% to 9% third degree burns;

Dr. Petrick will testify about the causation of these diagnoses. His testimony will be consistent with GREEN 98–186.

8. Custodian of Records
Shadow Emergency Physicians, PLLC
PO Box 13917
Philadelphia, Pennsylvania 19101
T: 800-355-2470

The Custodian of Records will verify the authenticity of GREEN 187.

9. Custodian of Records
American Medical Response
7201 West Post Road
Las Vegas, Nevada 89113
T: 800-913-9106

The Custodian of Records will verify the authenticity of GREEN 188.

10. Laurence Green
2609 Centarus Street
Henderson, Nevada 89044
T: 516-524-1310

Laurence Green is Joshua's father. Laurence is expected to testify about Joshua's life before and after the explosion. He will testify about Joshua's injuries and how the negatively affected his life. Laurence is also expected to testify about how the explosion caused a financial strain to Joshua's life.

11. Shelia Green
2609 Centarus Street
Henderson, Nevada 89044
T: 516-524-2251

Shelia Green is Joshua's mother and is expected to testify about the noticeable changes in Joshua before and after the explosion. Shelia will testify about how the burns negatively affected Joshua's life and made his job as a chef more difficult.

12. Elizabeth Sodomini, MD
13. Paul J. Chestovich, MD
14. Amy Urban, MD
University Medical Center -
5400 South Rainbow Boulevard
Las Vegas, Nevada 89118
T: 702-853-3000

The medical team at University Medical Center evaluated Joshua after he was transferred from Spring Valley Hospital. Dr. Urban noted Joshua "sustained flame to burns to the face, b/l forearms, b/l palms" after "lifting the lid from a propane gas grill." These burns were described as to "approximately 18% second-degree burn surface area" with some "anterior abdomen and chest first-degree burns."

To treat his burns, the medical team at University Medical Center prescribed painkillers and admitted Joshua for ongoing wound care "by burn care nurses." The medical team at University Medical Center is expected to testify about the following diagnoses:

- Burn of multiple sites of upper limb;
- Partial thickness of burns of multiple sites;

The medical team at University Medical Center is expected to testify about the causation of these diagnoses. Their testimony will be consistent with GREEN 374-845.

15. Cyril Joseph, PA-C
Henderson Dermatology and Skin Center
2960 Saint Rose Parkway, Suite 120
Henderson, Nevada 89052
T: 702-558-5100

Physician Assistant Joseph is expected to offer testimony about the treatment he administered to Joshua after the grill explosion. Physician Assistant Joseph performed an examination "including the scalp (including hair inspection), head (including face), inspection of conjunctive lids, lips (but not teeth and gums), nose, right ear, left ear, chest, abdomen, back, right upper extremity, left axilla, right hand, and inspection and palpation of the digits and nails."

Physician Assistant Joseph noted Joshua had "paresthesia on both hands. Left is

1 worse than the right-hand area where patient has burns.” Physician Assistant
2 Joseph’s testimony will be consistent with GREEN 847-48.

3
4 16. Adam Sadie
5 6983 Casa Encantada Street
6 Las Vegas, Nevada 89118
7 T: 702-378-8408

8 Adam Sadie is Josh’s business partner. Adam is expected to offer testimony
9 about how Josh’s life was dramatically affected after the grill explosion. Adam will
10 testify about the difficulties Josh faced as a chef and how the burns make his job
11 more difficult.

12 17. Lauren Unger
13 130 East 18th Street 3M
14 New York, New York 10003
15 T: 516-768-1177

16 Lauren Unger is Josh’s close friend. Lauren is expected to offer her testimony
17 about the noticeable changes in Josh before and after the explosion. She will testify
18 about how Josh’s life was negatively impacted by the explosion.

19 18. Dave Goodman
20 5431 La Jolla Boulevard C
21 La Jolla, California 92307
22 T: 310-775-3601

23 Dave Goodman is Josh’s friend and is expected to testify about the changes in
24 Josh’s emotional, physical, and mental state since the explosion.

25 19. Andrea Schuman
26 422 Merrick Road
27 Rockville Center, New York 11570
28 T: 516-983-5794

Andrea Schuman is Josh’s family member. Andrea is expected to testify about

1 the negative changes in Josh after the explosion.

2
3 20. Jenn Gonzalez
4 5865 West Post Road
5 Las Vegas, Nevada 89118
6 T: 702-241-1937

7 Jenn Gonzalez was present during the barbeque explosion. Jenn is expected to
8 offer her testimony about her perspective of the explosion and the injuries Josh
9 sustained as a result.

10 21. Rabbi Motti
11 Chabad Jewish Center of Las Vegas and Southern Nevada
12 1261 Arville Street
13 Las Vegas, Nevada 89102
14 T: 702-683-0333

15 Rabbi Motti is Josh's Rabbi. He is expected to offer his testimony about the
16 noticeable changes to Josh before and after the explosion. Rabbi Motti will testify
17 about how Josh became more committed to his Jewish faith after the explosion.

18 22. Michael Elliott, Ph.D
19 Michael Elliott and Associates
20 1661 West Horizon Ridge Parkway, Suite 280
21 Henderson, Nevada 89012
22 T: 702-307-0133

23 Michael Elliott, Ph.D provided psychological treatment to Josh and is
24 expected to offer his testimony regarding his findings. On May 20, 2020, Dr.
25 Elliott evaluated Josh for "severe headaches since his accident, difficulty
26 focusing and following conversations/trains of thought" and "several difficulties
27 when using grills." Dr. Elliott noted Josh expressed "losing confidence in himself
28 and is concerned that he will not be able to continue his career."

Dr Elliott will testify about the following diagnoses:

- F06.4 – Anxiety disorder due to known physiological condition;
- F41.1 – Generalized anxiety disorder;
- Z13.850 – Encounter for screening for traumatic brain injury;

Dr. Elliott is expected to testify about the causation of these diagnoses. He
will also testify regarding Joshua's comprehensive treatment plan:

- 1 **1. It is recommended that Mr. Green continue to participate in coaching or**
- 2 **individual psychotherapy.**
- 3 **2. A medical examination for pharmacological intervention is**
- 4 **recommended for Mr. Green. A medicinal intervention may help to**
- 5 **alleviate emotional and attentional issues.**
- 6 **3. Green should consider participating in a Biofeedback/Heartmath**
- 7 **program. This program offers highly effective and practical solutions for**
- 8 **reducing stress, anxiety, depression and sleeplessness.**
- 9 **4. Due to the symptoms associated with PTSD, Mr. Green should consider**
- 10 **participating in Eye Movement Desensitization & Reprocessing (EMDR)**
- 11 **therapy. EMDR is a treatment designed to alleviate distress associated**
- 12 **with traumatic memories.**
- 13 **5. Formal neuropsychological testing is recommended, pending evaluation**
- 14 **by a neurologist and review of records.**
- 15 **6. A follow-up psychological evaluation is recommended in the next 3-6**
- 16 **months, as treatment progresses.**

17 **Dr. Elliott's testimony will be consistent with GREEN**

18

19 **II.**

20 **Documents**

- 21 1. Medical and billing records from Spring Valley Hospital, as GREEN 01-85;
- 22 2. Medical and billing records from UNLV Medicine, as GREEN 86-97;
- 23 3. Medical and billing records from Las Vegas Pain Relief Center, as GREEN 98-
- 24 186;
- 25 4. Billing records from Shadow Emergency Physicians, as GREEN 187;
- 26 5. Billing records from American Medical Response, as GREEN 188;
- 27 6. ~~Billing records from Gubler Family Dental, as GREEN 190;~~
- 28 7. Photographs from the inspection of Mario Gonzales's property and grill, as

- 1 GREEN 191–369;
- 2 8. Co-pay receipts to University Medical Center, as GREEN 370–73;
- 3 9. Medical and billing records from University Medical Center, as GREEN 374–45;
- 4 10. Photograph of Josh Green’s palms from burns, as GREEN 846;
- 5 11. Medical and billing records from Henderson Dermatology and Skin Center, as
- 6 GREEN 847–48;
- 7 12. Color photographs of Josh Green’s burns taken at University Medical Center,
- 8 as GREEN 849–888;
- 9 13. Sales summary report generated for Fries N’ Pies for August 2018, as GREEN
- 10 889–890;
- 11 14. Order details summary generated for Fries N’ Pies for August 2018, as GREEN
- 12 891–895;
- 13 15. Josh Green’s pay stubs for August 1, 2018 through September 28, 2018, as
- 14 GREEN 869–899;
- 15 16. Sales summary report generated for Fries N’ Pies for July 2019, as GREEN 900–
- 16 901;
- 17 17. Order details summary generated for Fries N’ Pies for July 2019, as GREEN
- 18 902–904;
- 19 18. Text messages between Josh Green and defendant, Mario Gonzalez between
- 20 May 18, 2018 and July 18, 2019;
- 21 19. Ferrellgas, Inc.’s System Check Form (SCF), outlining proper policies and
- 22 procedures for installations of customer tank sets, as GREEN 943–952;
- 23 20. Ferrellgas, Inc.’s Appliance Venting and Vent System Inspection policies and
- 24 procedures, as GREEN 953–965;
- 25 21. Ferrellgas, Inc.’s Product Installation Review (PIR), outlining inspection policies
- 26 and procedures at installed gas systems, as GREEN 966–1009;
- 27 22. Ferrellgas, Inc.’s Unsafe Condition Notice (Red Tag) policies and procedures for
- 28 customer gas systems, as GREEN 1010–1017;

- 1 23.Ferrellgas, Inc.'s Pilot Lighting Inspection policies and procedures, as GREEN
- 2 1018-1018;
- 3 24.Ferrellgas, Inc.'s Order details dated April 26, 2018, May 9, 2018, and
- 4 June 4, 2018, for the Gonzalez property, as GREEN 1020-1024;
- 5 25.Ferrellgas, Inc.'s Customer Call details for call made by defendant, Mario
- 6 Gonzalez dated June 13, 2018, as GREEN 1025-1029;
- 7 26.Clothing Josh was wearing during explosion (at our office for inspection);
- 8 27.Social media post regarding Industry Chef Battle, as GREEN 1030;
- 9 28.Social media post dated June 7, 2018, as GREEN 1031;
- 10 29.Clark County liquor license dated January 2020 – March 2020, as GREEN 1032;
- 11 30.Southern Nevada Health District 'Fries N' Pies' grade 'A', as GREEN 1033;
- 12 31.State of Nevada 'Fries N' Pies' sales tax permit, as GREEN 1034;
- 13 32.Text messages between Josh and Cardy Walchuck regarding explosion, as
- 14 GREEN 1035;
- 15 33.Text messages between Josh and Estevan regarding explosion, as GREEN 1036;
- 16 34.Text messages between Josh and Huge regarding explosion, as GREEN 1037;
- 17 35.Text messages between Josh and Kristy Maguire regarding explosion, as
- 18 GREEN 1038;
- 19 36.Text messages between Josh and Mike Imber regarding explosion, as GREEN
- 20 1039;
- 21 37.Text messages between Josh and Reed regarding explosion, as GREEN 1040-
- 22 1042;
- 23 38.Text messages between Josh and Ryan regarding explosion, as GREEN 1043-
- 24 1044;
- 25 39.Text messages between Josh and Taryn Torres regarding explosion, as GREEN
- 26 1045;
- 27 40.Propane Education and Research Council inspection protocol video (found at
- 28 <https://propane.com/safety/safety-articles/safety-minute-reviewing-inspection->

[results-with-customers/](#));

41. Text messages between Josh and Edo regarding explosion and injuries, as GREEN 1046;

42. Text messages between Josh and Adam Sadie regarding explosion and injuries, as GREEN 1047–1048;

43. Text messages between Josh and Aunt Carol regarding explosion and injuries, as GREEN 1049;

44. Text messages between Josh and Benny regarding explosion and injuries, as GREEN 1050;

45. Text messages between Josh and Cardy Walchuck regarding explosion and injuries, as GREEN 1051;

46. Text messages between Josh and Randy regarding explosion and injuries, as GREEN 1052;

47. Text messages between Josh and Dan Herschman regarding explosion and injuries, as GREEN 1053;

48. Text messages between Josh and Dan Goodman regarding explosion and injuries, as GREEN 1054;

49. Text messages between Josh and Dean Tsakanikis regarding explosion and injuries, as GREEN 1055;

50. Text messages between Josh and Eric Chef regarding explosion and injuries, as GREEN 1056;

51. Text messages between Josh and Mike Imber regarding explosion and injuries, as GREEN 1057;

52. Text messages between Josh and Reed regarding explosion and injuries, as GREEN 1058–1060;

53. Text messages between Josh and Zac Zito regarding explosion and injuries, as GREEN 1061–1062;

54. Executed Settlement Release between Josh Green and BBQ Guys, as GREEN

1063-1067;

55.Email exchange between Josh’s counsel and counsel for BBQ Guys dated March 10, 2020, as GREEN 1068-1069;

56.Email exchange between Josh’s counsel and counsel for BBQ Guys dated March 23, 2020, as GREEN 1070-1071;

57.Email exchange between Josh’s counsel and counsel for BBQ Guys dated March 31, 2020, as GREEN 1072;

58.Email exchange between Josh’s counsel and counsel for BBQ Guys dated May 21, 2020, as GREEN 1073-1074;

59.Medical and billing records from Michael Elliott and Associates, as GREEN 1075-1094; and

60.All documents identified by any other party in this case.

III.

Joshua Green’s Computation of Damages

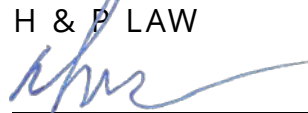
Pursuant to NRCP 16.1(a)(1)(C), below are the calculation of damages to date. Plaintiff reserves the right to supplement/amend her calculation as discovery continues.

Medical Provider	Dates of Service	Damage
American Medical Response	6/18/2018	\$1,232.06
Shadow Emergency Physicians	6/18/2018	\$2,071.00
Spring Valley Hospital	6/18/2018	\$7,281.00
University Medical Center – Burn Care Center	6/18/2018-9/6/2018	\$42,063.49
UNLV Medicine	6/20/2018-7/23/2018	\$832.00
Henderson Dermatology	6/19/2018	\$276.20
Las Vegas Pain Relief Center	6/26/2018-7/16/2018	\$532.00
Gubler Family Dental	8/13/2018-8/21/2018	\$1,626.94

Michael Elliott and Associates	5/20/2020-present	\$3,060.00
Out of Pocket Expenses		Damage
University Medical Center Co-Pay Receipts	6/25/2018, 6/27/2018 6/29/2018, 7/3/2018	\$140.00
Fries N' Pies Lost Revenue	July 2018	\$50,000.00 (estimated based off August 2018 & July 2019 sales)
Wage Loss	July 2018	\$4,434.16
Total Economic Damages		>\$56,114.69
Permanent Scarring		\$789,452.19
Pain and Suffering		\$3,891,234.45
Total Damages		>\$4,739,801.33

DATED this 4th day of September 2020.

H & P LAW


 Marjorie Hauf, Esq.
 Nevada Bar No.: 8111
 Matthew G. Pfau, Esq.
 Nevada Bar No.: 11439

Attorneys for Plaintiff,
Joshua Green

Certificate of Service

I hereby certify that on the 4th day of September 2020, service of the foregoing **Joshua Green's Tenth Supplemental Disclosures** was made by required electronic service to the following individuals:

Felicia Galati, Esq.
Nevada Bar No.: 007341
OLSON, CANNON, GORMLEY,
ANGULO & STROBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
T: 702-384-4012; and
Michael McMullen, Esq.
BAKER CANNON GORMLEY &
STOBERSKI
2400 Pershing Road, Suite 500
Kansas City, Missouri
T: 816-474-2121

Attorneys for Defendant,
Ferrellgas, Inc.

Gina Gilbert Winspear, Esq.
Nevada Bar No.: 005552
DENNETT WINSPEAR, LLP
3301 North Buffalo Drive, Suite 195
Las Vegas, Nevada 89129
T: 702-839-1100

Attorney for Defendant,
Carl J. Kleisner

Michael J. Nunez, Esq.
Nevada Bar. No.: 10703
Tyler N. Ure, Esq.
Nevada Bar No.: 011730
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Las Vegas, Nevada 89145

Attorneys for Defendant,
*BBQ Guys Manufacturing LLC dba Blaze
Outdoor Products*

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Las Vegas, Nevada 89101
Tel: 702-477-0088

Attorneys for Defendant,
Mario S. Gonzalez

Josh Cole Aicklen, Esq.
Nevada Bar No.: 007254
David B. Avakian, Esq.
Nevada Bar No.: 009502
LEWIS BRISBOIS BISGAARD &
SMITH LLP
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600
Las Vegas, Nevada 89118

Attorneys for Defendant,
Home Depot U.S.A., Inc.

Paul Hens
An Employee of H & P LAW

Michael Elliott and Associates

24800 Chrisanta Drive
Ste 120
Mission Viejo, CA 92691

Statement ID: 244344-87453546-PREVIEW		
Statement Date	Pay This Amount	Chart ID
09/04/2020	\$3,060.00	GRJO000002
SHOW AMOUNT PAID HERE:	\$	

H&P Law

2609 Centaurus Street
Henderson, NV 89044

MAKE CHECKS PAYABLE / REMIT TO:**Michael Elliott and Associates**

24800 Chrisanta Drive
Ste 120
Mission Viejo, CA 92691

For questions about billing, call (949) 951-7050. To pay by credit card, call (949) 951-7050.

You can also pay by credit card online at onpatient.com - If you don't have access, call (949) 951-7050 to request an account.

.....
Please detach and return top portion with your payment.

Patient: Joshua Green	Chart ID: GRJO000002	Statement ID: 244344-87453546-PREVIEW
Responsible Party: H&P Law		Responsible Party Phone: (702) 598-4529

Date of Service	Provider	Procedure	Mods	Charge	Adjmt	Ins. Paid	Pt Paid	Bal Due
5/15/2020 02:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
5/15/2020 02:00PM	Dr. Michael Elliott	96133 - NRPSYC TST EVAL PHYS/QHP EA	:::	\$1,440.00				\$1,440.00
Total:				\$1,800.00				\$1,800.00
5/20/2020 11:00AM	Dr. Michael Elliott	90791 - PSYCH DIAGNOSTIC EVALUATION	:::	\$540.00				\$540.00
Total:				\$540.00				\$540.00
7/01/2020 09:00AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
9/01/2020 12:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
Total:				\$360.00				\$360.00

Date of Service	Provider	Procedure	Mods	Charge	Adjmt	Ins. Paid	Pt Paid	Bal Due
9/02/2020 10:45AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00

Total Amount: **\$3,060.00**

For questions about billing, call (949) 951-7050. To pay by credit card, call (949) 951-7050.
You can also pay by credit card online at onpatient.com - If you don't have access, call (949) 951-7050 to request an account.
Accepted Credit Card(s): Visa, Mastercard, Discover, American Express

Michael Elliott and Associates, 24800 Chrisanta Drive Ste 120, Mission Viejo, CA 92691

Michael Elliott, Ph.D. & Associates
Licensed Psychologist # PSY 14280
24800 Chrisanta Dr. Suite 120, Mission Viejo, CA 92691
Scheduling: (949) 951-7050 / Fax: (949) 454-8650
1661 W Horizon Ridge Prkwy Suite 280, Henderson, NV 89012
Scheduling: (702) 307-0133 / Fax: (949) 454-8650
Records and Scheduling: Elliotttesting@hotmail.com

PATIENT INFORMATION

PATIENT NAME: Joshua Green
DOB: 2/12/1982
ADDRESS: 1609 Centaurus St.
CITY: Henderson NV ZIP: 89044
EMAIL chefgreen35@gmail.com of parent if minor
HOME PHONE: (702) 271-4791 CELL PHONE: () - of parent if minor

RESPONSIBLE PARTY FOR PAYMENT

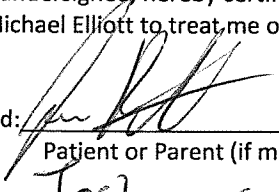
(if other than patient)

NAME: _____
RELATIONSHIP TO PATIENT: _____
DOB: ____/____/____ EMAIL ADDRESS _____
ADDRESS: _____
CITY: _____ ZIP: _____
HOME PHONE: () - CELL PHONE: () -

PAYMENT FOR SERVICES

It is understood and agreed upon that 1) I will be financially responsible for all services rendered to me or to my dependent. 2) In the event that my balance due becomes 30 days or more delinquent that a late fee of \$15.00 per month will be charged until the amount I owe is paid in full. 3) If my balance becomes 30 days past due I will be unable to schedule additional appointments until my balance is paid in full. 4) If the portion I owe becomes delinquent by 60 days or more my account may be turned over to collections and (or) legal remedies pursued. 5) Late or missed appointments will be charged in full unless 48 hours cancellation notice is given. 6) There will be a \$25.00 charge on returned checks.

I the undersigned, hereby certify that I understand and agree with the above stated and conditions and I consent for Dr. Michael Elliott to treat me or treat my minor child.

Signed:  Date: 5/15/20
Patient or Parent (if minor)
Joshua Green _____
(Print Name) (Relationship to Patient)

Michael Elliott, Ph.D. & Associates
Licensed Psychologist # PSY 14280
24800 Chrisanta Dr. Suite 120, Mission Viejo, CA 92691
Scheduling: (949) 951-7050 / Fax: (949) 454-8650
1661 W Horizon Ridge Prkwy Suite 280, Henderson, NV 89012
Scheduling: (702) 307-0133 / Fax: (949) 454-8650
Records and Scheduling: Elliotttesting@hotmail.com

AUTHORIZATION FOR RELEASE OF INFORMATION

I hereby authorize the release of information in the record(s) of:

Josh Green

between Michael Elliott, PhD & Associates and Matt Pfau

I further authorize Michael Elliott, PhD & Associates to communicate with the above named individual(s) and/or organization(s) in whatever responsible manner is necessary to gather information that may be useful in the facilitation of the assessment, treatment planning, and provision of services to:

Specific information to be released includes : _____

I have discussed with Michael Elliott & Associates the issues concerning the consent and the privacy and confidentiality of this information (such as possibilities of uncontrolled re-disclosure or misuse of the information). I understand that I have the right to inspect and copy any information authorized for release by me. I also have the right to revoke consent to future disclosure by indicating so in writing at any time.

Josh Green

Print Name

[Signature]
Signature

Relationship

5-15-20
Date

Witness Signature

Date

Michael Elliott & Associates

LIEN FOR PSYCHOLOGICAL/ASSESSMENT SERVICES

This Lien Agreement (the "Agreement") is entered into and effective as of the 5/15/20 of 2017 by and among Michael Elliott & Associates, a Licensed Psychologist and MFT office ("Provider"); Josh Green ("Patient-Client"); and Matthew Fay ("Attorney"). Provider, Patient-Client, and Attorney may each be referred to individually as a "Party" or collectively as the "Parties." NOW, THEREFORE, the Parties recognize and acknowledge the good and valuable consideration set forth herein, and agree that they are each bound by the terms and conditions set forth below:

1. Patient-Client hereby expressly authorizes Provider to provide Attorney, at reasonable intervals upon Attorney's request with complete reports of Patient-Client's medical conditions, care, and cost of treatment. Provider agrees to promptly furnish these reports.
2. In order to assure that Provider will be paid for medical services rendered and to secure its interest in any judgment or settlement award, Attorney and Patient-Client expressly authorize the placement of a lien on all Proceeds (the "Medical Lien") in an amount equal to (a) the total amount invoiced by Provider for medical services rendered to Patient-Client as of date on which the Proceeds are received by Attorney or Patient-Client (the "Receipt Date").

"Proceeds" shall be defined the amount awarded to Patient-Client as a result of any judgment, settlement, insurance or any other payment made to Patient-Client in any personal injury matter ("Claim").
3. Attorney and Patient-Client agree that the Lien shall attach on the Proceeds immediately upon receipt by Attorney or Patient-Client of any full or partial payment (the "Receipt Date"). Patient-Client hereby authorizes and directs Attorney to honor the Lien.
4. Patient-Client understands that this Agreement is made solely for Provider's additional protection and in consideration for Provider granting Patient-Client an extended grace period to pay for services rendered. Patient-Client and Attorney acknowledge and agree that this Lien in no way relieves Patient-Client of any obligation to pay Provider for medical services rendered. For the avoidance of doubt, Patient-Client shall be financially responsible for all services rendered and invoiced by Provider at its usual and customary rates to Attorney or Patient-Client, regardless of the outcome of any legal proceeding arising from the Claim and even if no complaint is ever filed on such Claim.
5. To the extent permitted under applicable law, Attorney and Patient-Client expressly agree that the rights and obligations set forth herein shall survive the defendant in any litigation, or any other party to this Agreement and survive and supersede any interpleader proceedings initiated by Attorney, Patient-Client, or any third party to this Agreement.
6. This Agreement is governed by, interpreted and construed by the laws of CA and / or NV in which the services have been rendered, without regard to conflict of laws principles. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which together shall constitute one and the same instrument.

In witness of these mutual obligations and responsibilities, this Agreement is entered into as of Effective Date set forth above.

Patient Signature: 

Date: 5/15/20

Attorney Signature: _____

Date: _____

Teletherapy Informed Consent Form

I Josh Green hereby consent to engaging in teletherapy via Skype, telephone or other electronic means with Dr. Michael Elliott, Ph.D. as part of my treatment.

I understand that "teletherapy" includes the practice of mental health care delivery, diagnosis, consultation, treatment, transfer of data, and education using interactive audio, video, or data communications.

I understand that teletherapy also involves the communication of my personal medical/mental health information, both orally and visually, through electronic means, to health care practitioners located in California or outside of California.

I understand that I have the following rights with respect to teletherapy:

(1) I have the right to withhold or withdraw consent at any time without affecting my right to future care or treatment. Should I do so, I will not risk the loss or withdrawal of treatment benefits to which I would otherwise be entitled.

(2) The laws that protect the confidentiality of my medical information also apply to teletherapy. As such, I understand that the information disclosed by me during the course of my therapy is generally confidential. However, there are both mandatory and permissive exceptions to confidentiality, including, but not limited to: reporting child, elder, and dependent adult abuse; expressed threats of violence towards an ascertainable victim; and where I make my mental or emotional state an issue in a legal proceeding. I also understand that the dissemination of any personally identifiable images or information from the telemedicine interaction to any other entities shall not occur without my written consent.

(3) I understand that I may benefit from teletherapy, but that results cannot be guaranteed or assured.

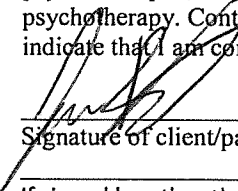
(4) I understand that I have a right to access my mental health information and copies of my mental health records in accordance with California and/or Nevada law.

(5) I also understand that there are inherent risks and consequences from teletherapy, including, but not limited to, the possibility, despite reasonable efforts on the part of my psychotherapist, that: the transmission of my information could be disrupted or distorted by technical failures; the transmission of my information or treatment could be interrupted or accessed by unauthorized persons; and/or the electronic storage of my medical information could be accessed by unauthorized persons.

(6) I understand that teletherapy based services and care may not be as complete as in-office services in some instances. I understand that if my psychotherapist believes I would be better served by another form of psychotherapeutic services (e.g. in-office services), I will be referred to in-office services when or as needed. If such services are not possible, due to distance or hardship, a psychotherapist who can provide such services will be referred.

(7) Finally, I understand that there are potential risks and benefits associated with any form of psychotherapy treatment, and that despite my efforts and the efforts of my psychotherapist, my condition may not immediately improve, and in some cases may even decline.

I have read and understand the information provided above. I will discuss any and all of my questions with Dr. Michael Elliott, my psychotherapist, and agree that I will be satisfied with the information I receive regarding Teletherapy or I will not continue with my psychotherapy. Continued sessions of psychotherapy with Dr. Michael Elliott or other providers of Michael Elliott & Associates indicate that I am comfortable, understand, and agree to the aspects of teletherapy.



Signature of client/parent/guardian/conservator

5/15/20

Date

If signed by other than client indicate relationship

Date

Michael Elliott, Ph.D. Licensed Psychologist PSY 14280 Skype #

24800 Chrisanta Dr. #120 Mission Viejo, CA 92691 / 1661 W Horizon Ridge Parkway Suite 280, Henderson, NV 89012

Office of Michael Elliott & Associates

NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW PSYCHOLOGICAL AND MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN OBTAIN ACCESS TO THIS INFORMATION.

PLEASE REVIEW IT CAREFULLY.

If you have any questions concerning this notice, please contact Michael Elliott, Ph.D. & Associates at the relevant office:

24800 Chrisanta Drive Suite 120, Mission Viejo, CA / (949) 951-7050
1661 W Horizon Ridge Parkway Suite 280, Henderson, NV, 89012 / (702) 307-0133

Who Will Follow This Notice

This notice describes the privacy information practices followed by our employees, staff and other office personnel. The practices described in this notice will also be followed by the staff you consult with by telephone (when your provider from our office is not available) who provide "call coverage" for your provider.

Your Health Information

This notice applies to the information and records we contain about your psychological well-being, treatment and services that you receive at this office.

We are required by law to provide you with this notice. It will tell you about the ways in which we may use and disclose health information about you and describes your rights and our obligations regarding the use and disclosure of that information.

How We May Use And Disclose Health Information About You

Treatment

We may use health information about you to provide you with psychological treatment or services. We may disclose health information about you to psychologists, psychiatrists, physicians, nurses, office staff and other health care personnel who are involved in providing health care services to you.

For instance, your health information may be shared with your primary care physician, medical specialists and members of your treatment team, mental health services providers to whom you are referred, and other similarly situated health care personnel involved in your treatment.

Different personnel in our office may share information about you and disclose information to people who do not work in our office in order to coordinate your care, such as consulting with psychiatrist. Family members and other health care providers may be part of your medical care external to this office and may require information about you that we have.

Payment

We may use and disclose health information about you so that treatment and services you receive at this office may be billed to you and payment may be collected from you, an insurance company or third party.

Health Care Operations

We may use and disclose health information about you in the course of operating the various business functions of our office. For example, we may use and/or disclose your health protected health information to evaluate the quality of psychological services provided to you; develop clinical guidelines; contact you with information about treatment alternatives or communications in connection with your case-management or care coordination; to review the qualifications and training of health care professionals; for medical review, legal services and auditing functions; and for general administrative activities such as customer services and data analysis.

Appointment Reminders

Unless you request that we contact you by other means, we are permitted to contact you regarding appointment reminders and other similar materials to you.

"As a courtesy to our clients, we may call your home, work, or cell phone, or we may email you, the day before your scheduled appointment to remind you of the appointment time. If you do not answer, we may leave a reminder message on your answering machine or with the person who answers the phone. No health information will be disclosed during this conversation or message other than the date and time of your scheduled appointment and a request to call our office if you need to cancel or reschedule your appointment."

Uses and Disclosures that Do Not Require Your Consent or Authorization

We may use and/or disclose your protected health information without your consent or authorization in the following circumstances:

- **Child Abuse.** We may disclose your protected health information (PHI) if disclosure is compelled by the California Child Abuse and Reporting Act. If we, in our professional capacity, observe or have reason to suspect that a child has been injured as a result of physical, mental or emotional abuse, neglect, sexual abuse or exposure to domestic violence, we must immediately report this information to a police or sheriff's department or social service or protective agency. If we have knowledge of or reasonably suspect that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, we may report this information to the above agencies.
- **Adult and Domestic Abuse.** We may disclose your PHI if disclosure is compelled by the California Elder/Dependent Adult Abuse Reporting Law. For instance, if we have reasonable cause to believe that an adult has been or is being abused, abandoned, abducted, isolated, neglected, financially exploited, or is in need of protective services, we must report this belief to the appropriate authorities as permitted or required by law.
- **Health Oversight Activities.** We may use and/or disclose your PHI to the California Board of Psychology, California Board of Behavioral Science Examiners, or other oversight agency if necessary for a proceeding before these boards. We may also use and or disclose your PHI in designated activities and functions including audits, civil, administrative, or criminal investigations, inspections, licensure or disciplinary actions, or civil, administrative, or criminal proceedings or actions.
- **Judicial and Administrative Proceedings.** We may use and/or disclose your PHI in response to an order of a court or administrative tribunal, a warrant, or subpoena duces tecum, discovery request, or other lawful process. If you are involved in a court proceeding and a request is made about the professional services that we have provided you, we must not release your information without 1) your written authorization or the authorization of your attorney or personal representative; 2) a court

order; or 3) a subpoena duces tecum (a subpoena to produce records) where the party seeking your records provides us with a showing that you or your attorney have been served with a copy of the subpoena, affidavit and the appropriate notice, and you have not notified us that you are bringing a motion in the court to quash (block) or modify the subpoena. The privilege does not apply when you are being evaluated for a third party or where the evaluation is court-ordered.

- *Relating to Decedents.* We may use and/or disclose your PHI if compelled or permitted, in the event of your death, to the coroner or medical examiner.
- *Marketing.* We may contact you to provide you with information about alternative treatments or other health-related benefits and services that may be of interest to you. For example, we may at times provide clients with information about workshops, services, or resources that we recommend or that may be of interest. It is not our policy to disclose any psychological personal health information for the purposes of notifying you about such activities and resources.
- *Research.* In certain circumstances, and under the supervision of an Internal Review Board, we may disclose your PHI to assist in medical/psychiatric research.
- *To Avert a Serious Threat to Health or Safety.* If we believe that there is a substantial likelihood that you have threatened an identifiable person or persons and that you are likely to act on that threat, or if we believe that you present an imminent risk of serious physical harm or death to yourself, we may use and/or disclose your PHI in order to avert a serious threat to health or safety.
- *Emergencies.* We may disclose your health information to notify or assist in notifying a family member, relative, or another person responsible for your care about your psychological or medical condition or in the event of an emergency or of your death.
- *U.S. Secretary of Health and Human Services.* We may disclose your PHI to the U.S. Secretary of Health and Human Services or the Office of Civil Rights if compelled to participate in an investigation or determination of our compliance with privacy, security, and transaction requirements under federal regulations.
- *For Specific Government Functions.* We may disclose your health information for military, national security, prisoner, and government benefit purposes. Similarly, we may disclose the PHI of inmates to correctional facilities in certain situations. Additionally, we may disclose your PHI, if required, for national security reasons.
- *When Required by Law.* We may use and/or disclose your PHI in other circumstances not described above when law specifically requires that we disclose this information.

Your Rights Regarding Your Protected Health Information (PHI)

The HIPAA Privacy Rule grants you each of the following rights:

- *Right to Receive Confidential Communication by Alternative Means and at Alternative Locations.* You have the right to choose how we send your PHI to you. We are obliged to agree to your request providing that we can give you the PHI in the format you requested without undue inconvenience.
- *The Right to View and Obtain Copies of Your PHI.* You have the right to view or obtain a copy of your PHI. Under federal law, however, you may not inspect or copy the following records: psychotherapy notes, information compiled in reasonable anticipation of, or use in, a civil, criminal, or administrative action or proceeding, and PHI that is subject to law that prohibits access to PHI. On your request, we will discuss with you the details of the request and approval/denial processes.

- *Right to Request Restrictions.* You have the right to request limits on certain uses and disclosures of your PHI. You have the right to ask that we limit how we use and disclose your PHI for the purpose of treatment, payment, or healthcare operations. However, we are not legally required to agree to restrictions you may request.
- *Right to Accounting.* You have the right to receive a list, or accounting, of the disclosures of your PHI we have made. The list will not include uses or disclosures to which you have already consented, those for treatment, payment or health care operations, those sent directly to you or your family, those made for law enforcement, corrections or national security purposes, or those disclosures made before April 15th 2003. Disclosure records are held for six years.
- *Right to Amend.* You have the right to request an amendment of your PHI for as long as the information is maintained in the record. If you believe that there is some error in your PHI or that important information has been omitted, it is your right to request that we correct the existing information or add the missing information.
- *Right to a Paper Copy.* You have the right to obtain a paper copy of this notice upon request, even if you have agreed to receive the notice electronically.

Psychotherapist's Duties

As mental health providers, we are charged with the following duties under HIPAA:

- We are required by law to maintain the privacy of PHI and to provide you with a notice of our legal duties and privacy practices with respect to PHI.
- We reserve the right to change the privacy policies and practices described in this notice. Unless, we notify you of such changes, we are required to abide by the terms currently in effect.

Questions and Complaints

If you have questions about this notice, disagree with a decision made about access to your records, or have other concerns about your privacy rights, you may contact **Michael Elliott, Ph.D. at (949) 951-7050.**

If you believe that we have violated your individual privacy rights, or if you object to a decision we made about access to your PHI, you are entitled to file a complaint by submitting a written complaint to **Michael Elliott, Ph.D., 24800 Chrisanta Drive #120 Mission Viejo, CA 92691.** Your written complaint must name the person or entity that is the subject of your complaint and describe the acts and/or omissions you believe to be in violation of the Privacy Rule or the provisions outlined in this Notice of Privacy Practices.

If you prefer or are unsatisfied with the manner in which this office handles your complaint, you may file your written complaint with the Secretary of the U.S. Department of Health and Human Services (Secretary):

- DHHS, Office of Civil Rights
200 Independence Avenue, S.W.
Washington, D.C. 20201

Any complaint you file must be received by us or filed with the Secretary within 180 days of when you knew, or should have known, the suspected act or omission occurred. We will take no retaliatory action against you if you make such complaints.

Consent and Authorization

The Health Insurance Portability and Accountability Act (HIPAA) is a new federal law that provides privacy protections and new patient rights with regard to the use and disclosure of your Protected Health Information. HIPAA allows health service providers to disclose Protected Health Information (PHI) from your records in order to provide you with treatment services, obtain payment for these services, and perform other professional activities known as "health care operations." HIPAA requires that we provide you with our Notice of Privacy Practices and obtain your authorization and consent to use and disclose your PHI for the purposes of treatment, payment and health care operations as described in the Notice of Privacy Practices.

We need your consent in order to provide you with health care services in accordance with our Notice of Privacy Practices. You have the right to review our Notice of Privacy Practices before signing this consent. We reserve the right to revise our Notice of Privacy Practices at any time. We always have our Notice of Privacy Practices posted in the office, and you may request a copy at any time.

You may revoke this consent at any time by submitting a written request for revocation of this consent and authorization to **Michael Elliott, Ph.D. relevant to either 24800 Chrisanta Dr. Suite 120 Mission Viejo, CA 92691 or 1661 W Horizon Ridge Parkway Suite 280, Henderson, Nevada 89012.** Such revocation will not affect any action taken in reliance on the consent prior to the revocation.

This consent is voluntary and you may refuse to sign it. However, we are permitted to refuse to provide health care services if this consent is not granted or we may terminate health care services and refer you to another service provider if the consent is later revoked.

By way of my signature, I provide Michael Elliott, Ph.D. & Associates with my authorization and consent to use and disclose my PHI for the purpose of treatment, payment and health care operations as described in this Notice of Privacy Practices.

Rosh Green
Client Name (PRINT)

[Signature]
Signature

5/15/20
Date

Client Name (PRINT)

Signature

Date

Client Name (PRINT)

Signature

Date

Client Name (PRINT)

Signature

Date

Michael Elliott and Associates

Patient: Joshua Green

Provider: Dr. Michael Elliott

Office: Henderson

DOB: 02/12/1982

Visit: 05/20/2020 11:00AM

Address: 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012

Sex: M

Chart: GRJO000002

Primary Payer ID:

Secondary Payer ID:

Chief Complaint: Initial Interview

History of Present Illness:

Joshua Green describes the location to be medial Patient reports severe headaches since his accident.

Difficulty focusing and following conversations/trains of thought. Patient states location as medial, radiating from the center of his head..

The quality of pain is described as aching, constant, sharp, radiating pain and a severity / intensity level of 4 out of 10 Severity varies depending on stress/exhaustion levels, mood..

This duration of the problem stated is as follows: symptoms are --, steady

Duration comments include: Duration is guided by the above mentioned factors. stress/exhaustion levels, mood.

Patient explains the timing/onset of signs/symptoms to be abrupt.

The patient states signs and symptoms occurred during physical exertion, during mental exertion, at work, with familial stress Patient reports he is unable to work his usual shifts of 8 to 10 hours as a Chef. He describes his previous romantic relationship as tumultuous and as part of the stressors that would aggravate his condition.

The signs and symptoms described exacerbate with movement

Modifying Factors Comments include: Patient describes chef duties as high stress and fast paced.

Associated symptoms include: headache

Assessment:

Patient was assessed in a 60 minute clinical interview to determine current and prior levels of functioning, impact on activities of daily living and to determine if further neuropsychological testing is required.

Mr. Green is a 38 year old Caucasian male who self describes as "Driven and hard working." He reports starting several restaurants throughout his career as a chef and is currently managing the kitchen for a new restaurant that he started last year. Besides the complex tasks involved in starting businesses and running a high volume kitchen, he has a history of being able to schedule workers, track and maintain inventories, as well as submit billing and paperwork to various vendors. Since Mr. Green's accident and injury, he has been unable to complete his work responsibilities in a timely and efficient manner. He reports struggling with constant headaches that are exacerbated while at work. He also reports difficulties with memory and following a train of thought, an essential skill in his line of work. Since his accident and injury, Mr. Green reports several difficulties when using grills. He states he is now "afraid" of grilling, and avoids the use of gas grills when possible, which is preventing him from taking full advantage of his chef and restaurateur skills. He stated he is losing confidence in himself, and is concerned that he will not be able to continue his career.

Mr. Green's symptoms and behaviors are consistent with patients that have suffered brain trauma through a blast injury. Memory loss, headaches, and the personality changes he describes are indicators of a possible

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 05/20/2020 11:00AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

traumatic brain injury. Though there are also several confounds that may be impacting his symptoms. Mr. Thompson has a diagnosed learning disability, he has a history of seizures, and he was in a major car accident in the past. Therefore, it is strongly recommended that Mr. Green be referred for an brain MRI to determine if he has lesions or anomalies that are consistent with traumatic brain injuries due to blast shockwaves. These results will help determine if Mr. Green should receive a full neuropsychological evaluation to then determine severity of injuries, impact on current and future levels of functioning, as well as to guide treatment recommendations and support services.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury

Plan:

REFERRALS: Brain MRI

Type	Code	Modifiers	Quantity	Description
CPT	90791		1.00 UN	PSYCH DIAGNOSTIC EVALUATION

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Visit:** 07/01/2020 9:00AM**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Sex:** M**Chart:** GRJO000002**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Cognitive and Emotional Deficits following accident on 6/18/2018**Subjective:**

Client shared that he is recovering gradually. He notes continued physical ailments including pain in his hands and chronic headaches. He reports having to have decreased his work load due to limited capacity after accident. He reports strong connection to his Rabbi and spirituality, as well as having received support from a shaman. Since accident he has made some progress emotionally and notes that he had changes his priorities to focus more on relationships. However, he reports that he still has flashbacks to the accident, especially whenever he sees flames. He also reports waves of depression which are very noticeable and cause him to withdraw from relationships and engagements temporarily. Further he reports difficulty with cognition and short term memory. Specifically he reports issues with recall and notes that he frequently loses his train of thought. He reports that attempts to manage symptoms through social support as well as through use of cannabis to manage pain and anxiety.

Objective:

At time of session, client had just awoken and appeared mildly disheveled, but the appointment was early in the day and this was not too abnormal. His attitude was calm and cooperative throughout session. He did not demonstrate any abnormal behaviors or psychomotor changes. His speech was WNL. Affect appeared mood congruent. Mood appeared euthymic, and at times mildly depressed. His thought processes appeared goal-directed and logical. He did not demonstrate any maladaptive or abnormal thought content. Perception seemed normal. Memory concentration appeared distractible, and congruent to his report of short term memory and cognitive impairment.

Assessment:

Assessment was provided via telehealth (video call) due to COVID 19 restrictions. Client presents with symptoms of anxiety, depression and trauma, including flashbacks. He reports difficulty with ADLs due to symptoms including impaired ability to work as well as impaired mood and relational functioning.

Type	Code	Description
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified
ICD-10-CM Condition	F41.9	Anxiety disorder, unspecified
ICD-10-CM Condition	R41.9	Unspecified symptoms and signs involving cognitive functions and awareness

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 07/01/2020 9:00AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Formal standardized neuropsychological testing may be indicated, pending review of records, due to indications of presence of traumatic brain injury.

Treatment for reported cognitive deficits is also recommended, as is ongoing coaching or CBT for post-traumatic stress injury. EMDR is also indicated.

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

Michael Elliott and Associates

Patient: Joshua Green

Provider: Dr. Michael Elliott

Office: Henderson

DOB: 02/12/1982

Visit: 09/01/2020 12:00PM

Address: 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012

Sex: M

Chart: GRJO000002

Primary Payer ID:

Secondary Payer ID:

Chief Complaint: Cognitive and Emotional Deficits following accident on 6/18/2018

History of Present Illness:

Patient reports severe headaches since his accident. Difficulty focusing and following conversations/trains of thought. Patient states location as medial, radiating from the center of his head. Severity varies depending on stress/exhaustion levels, mood. Duration seems to be guided by the stress/exhaustion levels, mood.

Patient reports he is unable to work his usual shifts of 8 to 10 hours as a Chef. He describes his previous romantic relationship as tumultuous and as part of the stressors that would aggravate his condition; he also describes symptoms as exacerbated by movement.

Med / Fam / Social History:

Joshua Green is a 38-year-old Jewish male. He did not indicate his race. He considers himself to be very devoutly religious.

He lives in an apartment and has lived there for less than a year. He lives with his wife.

When asked about his dietary habits, he indicated that his diet is not nutritious. He says he eats breakfast, lunch, and dinner.

In his spare time the patient enjoys team sports, individual sports, sporting events, movies, and television.

Developmental History:

At the time of his delivery he was premature. As a child the patient was somewhat happy and recalls that he was rarely ill. As a teenager he was somewhat happy and remembers being healthy. Before age 18 he had close friends with whom he could discuss nearly anything. He has more than one such friend now.

He is not aware of childhood problems with toilet training or with learning to sit up, crawl, stand, walk, talk, feed himself, or dress himself. He does, however, report a childhood problem with enuresis. He does not report any childhood fears or phobias. He remembers that before age 13 he frequently had accidents, was short-tempered, and was a show-off. He recalls lying frequently.

He does not report a history of being sexually molested, running away from home, having suicidal preoccupations, or attempting suicide as a child or teenager. He reports no unusual eating habits as a teenager.

He recalls physically maturing later than most of the boys he knew. He felt that he could discuss nothing about sex with his parents. He began dating at the age of 18 or younger. He usually dated less than once a month. He dated only one person and remembers that his parents did not comment upon the individual he dated. After

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Visit:** 09/01/2020 12:00PM**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Sex:** M**Chart:** GRJO000002**Primary Payer ID:****Secondary Payer ID:**

the first time he had heterosexual intercourse he reportedly felt happy and nervous. Currently, he enjoys sexual intercourse a great deal.

Family of Origin:

Patient was raised by his natural parents. He does not report having any brothers or sisters.

He reports that his mother loved him too much and gave him enough time and attention. He recalls that he could always talk to his mother about problems. He claims that his mother did not criticize him even when she should have. He reports that his mother always praised him for his accomplishments. She was reasonably strict and allowed him little freedom. His mother usually punished him when he misbehaved. To punish the patient psychologically, his mother would take away privileges.

He reports that his father loved him and gave him enough time and attention. He was always able to talk to his father about problems. He claims that his father accepted him but criticized him when necessary. He reports that his father occasionally praised him for his accomplishments. His father was very strict, although reasonable in some areas, and allowed him little freedom. Punishment always resulted when his father discovered that he had misbehaved. To punish the patient psychologically, his father would put him in "time-out".

Educational History:

He reports that his elementary school performance was about average, that he had problems learning to read and write, and that he was placed in special classes for students with learning problems. He denies having any serious behavioral problems in elementary school. In general, he greatly enjoyed elementary school and describes himself as being popular with most schoolmates.

In high school he received mostly B's but he was classified as learning disabled and was placed in special classes for students with learning problems. His extracurricular activities included athletics. He remembers having difficulty in high school because of serious illness. He reports no major antisocial behaviors in high school. The patient describes himself as being somewhat popular with other students and as being generally happy in high school.

The patient reports graduating from high school. He reports attending but not finishing college and a formal training school operated by an employer.

Marital History:

The patient reports his primary sexual orientation to be heterosexual. He is currently married and living with his wife. He reports being married only once. The patient has no children. He lists his partner's race as white, religion as Jewish, and gender as female. His partner has a college education and is not employed. He reports no problems in his relationship with his partner.

Occupational History / Financial Status:

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Visit:** 09/01/2020 12:00PM**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Sex:** M**Chart:** GRJO000002**Primary Payer ID:****Secondary Payer ID:**

The client is employed full-time and is paid a regular salary. He is employed in an industry other than those listed on the inventory. He indicated that the type of job he has is not listed on the inventory. He has had his present job for less than one year and reports being very happy with his work. He is not thinking about changing jobs at this time. Over the past year his household income has remained about the same and is more than sufficient to pay for basic necessities. However, he is experiencing money problems because of debt.

Legal History:

He has filed a lawsuit concerning personal injury. There are no charges currently pending against him.

Military History:

The client has never served in the United States military.

Symptom Screen:

The last physical examination the patient had was more than a year ago; he recalls having no problems at that time. The patient's last dental exam was within the last six months. He is currently having problems with his teeth. He reports having had surgery performed more than once. He believes that he is currently in good health. The patient reports that he is allergic to certain foods.

His family history includes cancer. His history includes epilepsy. He is near-sighted. His history also includes hemorrhoids and kidney stones.

The patient has recently had a problem with intolerance to heat. In addition, he has experienced numb/painful/discolored fingers. He reports urinary urgency.

The patient no longer drinks alcohol. No usual diagnostic signs of psychosocial impairment caused by alcohol use were reported.

He has used cannabis and currently uses it several times a week. He admits to using drugs nearly every day for a month or more. He reports no increase in drug tolerance. No usual diagnostic signs of psychosocial impairment caused by drug use were reported by him.

No episodes of depressed mood, diminished energy, loss of appetite, sleep disturbance, or suicidal ideation lasting two or more weeks were reported by the patient. He indicates that he has experienced repeated episodes of persistent elated mood and increased energy level accompanied by heavy spending and irritability. He does not report having experienced thought broadcasting, thought insertion, thought withdrawal, auditory distortions and hallucinations, grandiose beliefs, persecutory beliefs, or feelings of being controlled.

He has experienced more than four anxiety or panic attacks that were situation-specific. No phobias were mentioned. He denies having had unwanted, repetitive thoughts or having performed repetitive acts. He reports having experienced peculiar tastes in food or drink at least twice. He has experienced a highly stressful

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Visit:** 09/01/2020 12:00PM**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Sex:** M**Chart:** GRJO000002**Primary Payer ID:****Secondary Payer ID:**

situation with prolonged consequences including intrusive memories and avoidance of certain situations. His current sleep pattern is characterized by trouble falling asleep. He reports having used mental health services or counseling for a problem that was not primarily related to alcohol or drug use.

Assessment:

Assessment was provided via Telehealth and in person with patient due to COVID-19 protocol. Dates of service comprising this report include 5/15/20 and 5/20/20, as well as impressions from follow-up treatment sessions on 7/1/20 and 9/1/20.

Patient presented with complaints of cognitive and emotional deficits following accident. A formal psychological evaluation was performed which consisted of an initial interview, as well as the MMPI-2-RF, MCMI-IV, and P3.

Patient's scores on instruments yielded valid profiles on across all three instruments and indicate that Mr. Green gave his best effort. However, the instruments also suggest that Mr. Green may be underreporting his symptoms and that interpretation of his results may need to be modulated upward to more accurately reflect his present psychological functioning. Continued treatment and follow-up psychological testing is recommended to further analyze the severity of his stress injury.

Clinical interview and test data indicate that Mr. Green meets DSM-5 diagnostic criteria for: Unspecified Trauma and Stressor Related Disorder (F43.9); Anxiety Disorder, Unspecified (F41.9); Unspecified Mild Neurocognitive Disorder (R41.9).

Further evaluation and testing is required to rule out the present of Posttraumatic Stress Disorder (F43.1), as well as rule out Mild Neurocognitive Disorder due to Traumatic Brain Injury (G31.84). Formal neuropsychological testing is recommended to assess Mr. Green apparent cognitive deficits.

It is evident that Mr. Green has suffered a post-traumatic stress injury due to the accident. As a consequence, Mr. Green may require long-term support and be susceptible to further trauma as a result.

Type	Code	Description
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified
ICD-10-CM Condition	F41.9	Anxiety disorder, unspecified
ICD-10-CM Condition	R41.9	Unspecified symptoms and signs involving cognitive functions and awareness

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	July 1, 2020, 9 a.m.
Generalized anxiety disorder	10	F41.1		active	July 1, 2020, 9 a.m.

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 09/01/2020 12:00PM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Encounter for screening for traumatic brain injury	10	Z13.850		active	July 1, 2020, 9 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

1. It is recommended that Mr. Green continue to participate in coaching or individual psychotherapy.
2. A medical examination for pharmacological intervention is recommended for Mr. Green. A medicinal intervention may help to alleviate emotional and attentional issues.
3. Mr. Green should consider participating in a Biofeedback/Heartmath program. This program offers highly effective and practical solutions for reducing stress, anxiety, depression and sleeplessness.
4. Due to the symptoms associated with PTSD, Mr. Green should consider participating in Eye Movement Desensitization & Reprocessing (EMDR) therapy. EMDR is a treatment designed to alleviate distress associated with traumatic memories.
5. Formal neuropsychological testing is recommended, pending evaluation by a neurologist and review of records.
6. A follow-up psychological evaluation is recommended in the next 3-6 months, as treatment progresses.

REFERRALS: Brain MRI

Type	Code	Modifiers	Quantity	Description
CPT	96132		1.00 UN	NRPSYC TST EVAL PHYS/QHP 1ST

EXHIBIT B



SUPPL

Marjorie L. Hauf, Esq.
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Matthew G. Pfau, Esq.
Nevada Bar No.: 11439
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Attorneys for Plaintiff,
Joshua Green

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

Joshua Green, an individual,

Plaintiff,

vs.

Ferrellgas, Inc., a foreign corporation;
Mario S. Gonzales, an individual; **Carl J. Kleisner**, an individual; Does I through XXX, inclusive and Roes Business Entities I through XXX, inclusive

Defendants.

Mario S. Gonzalez, an individual;

Cross-Claimant,

vs.

Ferrellgas, Inc., a foreign corporation;
Carl J. Kleisner, an individual; DOES 1 through 100 inclusive; and ROE Corporations 101 through 200;

Cross-Defendants.

Case No.: A-19-795381-C
Dept. No.: XXXI

**Joshua Green's Twelfth
Supplemental Disclosures**

Mario S. Gonzalez, an individual;

Third-Party Plaintiff,

vs.

**BBQ Guys Manufacturing, LLC dba
Blaze Outdoor Products.**, a foreign
corporation; **Home Depot USA, Inc.**, a
foreign corporation; **KSUN
Manufacturing**, a foreign corporation;
Does 200 through 300 inclusive; and
ROE Corporation 301 through 400;

Third-Party Defendants.

Ferrellgas, Inc., a foreign corporation;

Counter-Claimant,

vs.

Mario S. Gonzalez, an individual; DOES
1 through 100 inclusive; and ROE
Corporations 101 through 200;

Counter-Defendants

Carl J. Kleisner, an individual;

Counter-Claimant,

vs.

Mario S. Gonzalez, an individual; DOES
1 through 100 inclusive; and ROE
Corporations 101 through 200;

Counter-Defendants.

Plaintiff, Joshua Green, through his attorney of record, Matthew G. Pfau, Esq. of H & P LAW, hereby produces the following list of persons that are likely to have knowledge of the facts and circumstances of the instant action, and documents, data compilations, and tangible things that are in their and/or their counsel's possession, custody, or control pursuant to NRCP 16.1:

Supplemental/Amended information appears in bold.

Abandoned claims identified with ~~strike line~~.

**I.
Witnesses**

1. Joshua Green
c/o H & P LAW
8950 West Tropicana Avenue, Suite 1
Las Vegas, Nevada 89147
T: 702-598-4529; and
2609 Centaurus Street
Henderson, Nevada 89044
T: 702-271-1791

Joshua Green is the Plaintiff in this case. He is expected to testify about the grill that exploded while he was using it. Joshua will testify about his experience using grills. Joshua will also testify about how these injuries have negatively affected his life and his damages.

2. Proper 30(b)(6) Representative for Ferrellgas, Inc.
c/o OLSON, CANNON, GORMLEY, ANGULO & STROBERSKI
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
T: 702-384-4012

The Proper 30(b)(6) Representative for Ferrellgas, Inc. will testify about their policies and procedures for installing and inspecting gas lines. They will also testify about their knowledge of this case and employee training, hiring, and management.

3. Mario S. Gonzales
c/o PYATT SILVESTRI
700 Bridger Avenue, Suite 600
Las Vegas, Nevada 89101
T: 702-477-0088

Mario Gonzales is the owned the home where the grill exploded on Joshua. Mr. Gonzales is expected to offer his testimony about his perspective of the explosion and the safety measures he took to prevent it. As Josh's close friend, Mario will also testify about any noticeable changes to Josh before and after the explosion.

4. Carl J. Kleisner
c/o DENNETT WINSPEAR, LLP
3301 North Buffalo Drive, Suite 195
Las Vegas, Nevada 89129
T: 702-839-1100

Carl J. Kleisner is the electrician that repaired the electrical lines at Mr. Gonzales's home a few days before the explosion. Mr. Kleisner is expected to testify about his experience as an electrician. He will also testify about liability.

5. Elad Bicer, MD
Spring Valley Hospital Medical Center
5400 South Rainbow Boulevard
Las Vegas, Nevada 89118
T: 702-853-3000

Elad Bicer, MD evaluated Joshua for emergency medical treatment immediately following the explosion. Dr. Bicer is expected to testify about his observations that Joshua arrived with burn "onset prior to arrival" with symptoms of "pain and redness." Dr. Bicer's testimony will include the following diagnosis:

- ICD10-CM – Burn;

After review, Dr. Bicer determined Joshua required care in a burn intensive unit.

Dr. Bicer requested Joshua be transferred to University Medical Center.

Dr. Bicer's testimony will be consistent with GREEN 01-85.

6. Elizabeth Sodomini, MD
UNLV Medicine
2040 West Charleston Boulevard, 3rd Floor
Las Vegas, Nevada 89102
T: 702-895-4928

Elizabeth Sodomini, MD provided burn treatment to Joshua in the weeks following the explosion. Dr. Sodomini is expected to testify about the following diagnoses:

- T21.22XA – Burn of second degree of abdominal wall, initial encounter;
- T22.212A – Burn of second degree of left forearm, initial encounter;
- T22.211A – Burn of second degree of right forearm, initial encounter;
- T23.202A – Burn of second degree of left hand, unspecified site, initial encounter;
- T23.201A – Burn of second degree of head, face, and neck, unspecified site, initial encounter;
- X04.XXA – Exposure to ignition of highly flammable material, initial encounter;

Dr. Sodomini will testify about the causation of these injuries. Her testimony will be consistent with GREEN 86-97.

7. Jon Petrick, DC
Las Vegas Pain Relief Center
2779 West Horizon Ridge Parkway, Suite 210
Henderson, Nevada 89052
T: 702-948-2520

Joshua presented to Jon Petrick, DC complaining of consistent pain. Dr. Petrick noted Joshua's "continuing pain and discomfort that can be described as sharp, burning, tightness, numbing or tingling, a loss of strength." Dr. Petrick stated Joshua "presented with second and third degree burns bilaterally on both arm to trunk, chest, and flanks." Dr. Petrick determined Joshua would benefit from "functional movement screen, nitric oxide release, active release techniques, chiropractic care, strength and conditioning, and performance training."

Dr. Petrick is expected to testify about the following diagnoses:

- T31.11 – Burns involving 10-19% of body surface with 10–19% third degree burns;
- T31.20 – Burns involving 20-29% of body surface with 0% to 9% third degree burns;

Dr. Petrick will testify about the causation of these diagnoses. His testimony will be consistent with GREEN 98–186.

8. Custodian of Records
Shadow Emergency Physicians, PLLC
PO Box 13917
Philadelphia, Pennsylvania 19101
T: 800-355-2470

The Custodian of Records will verify the authenticity of GREEN 187.

9. Custodian of Records
American Medical Response
7201 West Post Road
Las Vegas, Nevada 89113
T: 800-913-9106

The Custodian of Records will verify the authenticity of GREEN 188.

10. Laurence Green
2609 Centarus Street
Henderson, Nevada 89044
T: 516-524-1310

Laurence Green is Joshua's father. Laurence is expected to testify about Joshua's life before and after the explosion. He will testify about Joshua's injuries and how the negatively affected his life. Laurence is also expected to testify about how the explosion caused a financial strain to Joshua's life.

11. Shelia Green
2609 Centarus Street
Henderson, Nevada 89044
T: 516-524-2251

Shelia Green is Joshua's mother and is expected to testify about the noticeable changes in Joshua before and after the explosion. Shelia will testify about how the burns negatively affected Joshua's life and made his job as a chef more difficult.

12. Elizabeth Sodomini, MD
13. Paul J. Chestovich, MD
14. Amy Urban, MD
University Medical Center -
5400 South Rainbow Boulevard
Las Vegas, Nevada 89118
T: 702-853-3000

The medical team at University Medical Center evaluated Joshua after he was transferred from Spring Valley Hospital. Dr. Urban noted Joshua "sustained flame to burns to the face, b/l forearms, b/l palms" after "lifting the lid from a propane gas grill." These burns were described as to "approximately 18% second-degree burn surface area" with some "anterior abdomen and chest first-degree burns."

To treat his burns, the medical team at University Medical Center prescribed painkillers and admitted Joshua for ongoing wound care "by burn care nurses." The medical team at University Medical Center is expected to testify about the following diagnoses:

- Burn of multiple sites of upper limb;
- Partial thickness of burns of multiple sites;

The medical team at University Medical Center is expected to testify about the causation of these diagnoses. Their testimony will be consistent with GREEN 374-845.

15. Cyril Joseph, PA-C
Henderson Dermatology and Skin Center
2960 Saint Rose Parkway, Suite 120
Henderson, Nevada 89052
T: 702-558-5100

Physician Assistant Joseph is expected to offer testimony about the treatment he administered to Joshua after the grill explosion. Physician Assistant Joseph performed an examination "including the scalp (including hair inspection), head (including face), inspection of conjunctive lids, lips (but not teeth and gums), nose, right ear, left ear, chest, abdomen, back, right upper extremity, left axilla, right hand, and inspection and palpation of the digits and nails."

Physician Assistant Joseph noted Joshua had "paresthesia on both hands. Left is

1 worse than the right-hand area where patient has burns.” Physician Assistant
2 Joseph’s testimony will be consistent with GREEN 847-48.

3
4 16. Adam Sadie
5 6983 Casa Encantada Street
6 Las Vegas, Nevada 89118
7 T: 702-378-8408

8 Adam Sadie is Josh’s business partner. Adam is expected to offer testimony
9 about how Josh’s life was dramatically affected after the grill explosion. Adam will
10 testify about the difficulties Josh faced as a chef and how the burns make his job
11 more difficult.

12 17. Lauren Unger
13 130 East 18th Street 3M
14 New York, New York 10003
15 T: 516-768-1177

16 Lauren Unger is Josh’s close friend. Lauren is expected to offer her testimony
17 about the noticeable changes in Josh before and after the explosion. She will testify
18 about how Josh’s life was negatively impacted by the explosion.

19 18. Dave Goodman
20 5431 La Jolla Boulevard C
21 La Jolla, California 92307
22 T: 310-775-3601

23 Dave Goodman is Josh’s friend and is expected to testify about the changes in
24 Josh’s emotional, physical, and mental state since the explosion.

25 19. Andrea Schuman
26 422 Merrick Road
27 Rockville Center, New York 11570
28 T: 516-983-5794

Andrea Schuman is Josh’s family member. Andrea is expected to testify about

the negative changes in Josh after the explosion.

20. Jenn Gonzalez
5865 West Post Road
Las Vegas, Nevada 89118
T: 702-241-1937

Jenn Gonzalez was present during the barbeque explosion. Jenn is expected to offer her testimony about her perspective of the explosion and the injuries Josh sustained as a result.

21. Rabbi Motti
Chabad Jewish Center of Las Vegas and Southern Nevada
1261 Arville Street
Las Vegas, Nevada 89102
T: 702-683-0333

Rabbi Motti is Josh's Rabbi. He is expected to offer his testimony about the noticeable changes to Josh before and after the explosion. Rabbi Motti will testify about how Josh became more committed to his Jewish faith after the explosion.

22. Michael Elliott, Ph.D
Michael Elliott and Associates
1661 West Horizon Ridge Parkway, Suite 280
Henderson, Nevada 89012
T: 702-307-0133

Michael Elliott, Ph.D provided psychological treatment to Josh and is expected to offer his testimony regarding his findings. On May 20, 2020, Dr. Elliott evaluated Josh for "severe headaches since his accident, difficulty focusing and following conversations/trains of thought" and "several difficulties when using grills." Dr. Elliott noted Josh expressed "losing confidence in himself and is concerned that he will not be able to continue his career."

Dr Elliott will testify about the following diagnoses:

- F06.4 – Anxiety disorder due to known physiological condition;
- F41.1 – Generalized anxiety disorder;
- Z13.850 – Encounter for screening for traumatic brain injury;

Dr. Elliott is expected to testify about the causation of these diagnoses. He will also testify regarding Joshua's comprehensive treatment plan:

1. It is recommended that Mr. Green continue to participate in coaching or individual psychotherapy.
 2. A medical examination for pharmacological intervention is recommended for Mr. Green. A medicinal intervention may help to alleviate emotional and attentional issues.
 3. Green should consider participating in a Biofeedback/Heartmath program. This program offers highly effective and practical solutions for reducing stress, anxiety, depression and sleeplessness.
 4. Due to the symptoms associated with PTSD, Mr. Green should consider participating in Eye Movement Desensitization & Reprocessing (EMDR) therapy. EMDR is a treatment designed to alleviate distress associated with traumatic memories.
 5. Formal neuropsychological testing is recommended, pending evaluation by a neurologist and review of records.
 6. A follow-up psychological evaluation is recommended in the next 3-6 months, as treatment progresses.
- Dr. Elliott's testimony will be consistent with GREEN 1075-1094.

II.

Documents

1. Medical and billing records from Spring Valley Hospital, as GREEN 01-85;
2. Medical and billing records from UNLV Medicine, as GREEN 86-97;
3. Medical and billing records from Las Vegas Pain Relief Center, as GREEN 98-186;
4. Billing records from Shadow Emergency Physicians, as GREEN 187;
5. Billing records from American Medical Response, as GREEN 188;
- ~~6. Billing records from Gubler Family Dental, as GREEN 190;~~
7. Photographs from the inspection of Mario Gonzales's property and grill, as

- 1 GREEN 191–369;
- 2 8. Co-pay receipts to University Medical Center, as GREEN 370–73;
- 3 9. Medical and billing records from University Medical Center, as GREEN 374–45;
- 4 10. Photograph of Josh Green’s palms from burns, as GREEN 846;
- 5 11. Medical and billing records from Henderson Dermatology and Skin Center, as
- 6 GREEN 847–48;
- 7 12. Color photographs of Josh Green’s burns taken at University Medical Center,
- 8 as GREEN 849–888;
- 9 13. Sales summary report generated for Fries N’ Pies for August 2018, as GREEN
- 10 889–890;
- 11 14. Order details summary generated for Fries N’ Pies for August 2018, as GREEN
- 12 891–895;
- 13 15. Josh Green’s pay stubs for August 1, 2018 through September 28, 2018, as
- 14 GREEN 869–899;
- 15 16. Sales summary report generated for Fries N’ Pies for July 2019, as GREEN 900–
- 16 901;
- 17 17. Order details summary generated for Fries N’ Pies for July 2019, as GREEN
- 18 902–904;
- 19 18. Text messages between Josh Green and defendant, Mario Gonzalez between
- 20 May 18, 2018 and July 18, 2019;
- 21 19. Ferrellgas, Inc.’s System Check Form (SCF), outlining proper policies and
- 22 procedures for installations of customer tank sets, as GREEN 943–952;
- 23 20. Ferrellgas, Inc.’s Appliance Venting and Vent System Inspection policies and
- 24 procedures, as GREEN 953–965;
- 25 21. Ferrellgas, Inc.’s Product Installation Review (PIR), outlining inspection policies
- 26 and procedures at installed gas systems, as GREEN 966–1009;
- 27 22. Ferrellgas, Inc.’s Unsafe Condition Notice (Red Tag) policies and procedures for
- 28 customer gas systems, as GREEN 1010–1017;

- 1 23.Ferrellgas, Inc.'s Pilot Lighting Inspection policies and procedures, as GREEN
- 2 1018-1018;
- 3 24.Ferrellgas, Inc.'s Order details dated April 26, 2018, May 9, 2018, and
- 4 June 4, 2018, for the Gonzalez property, as GREEN 1020-1024;
- 5 25.Ferrellgas, Inc.'s Customer Call details for call made by defendant, Mario
- 6 Gonzalez dated June 13, 2018, as GREEN 1025-1029;
- 7 26.Clothing Josh was wearing during explosion (at our office for inspection);
- 8 27.Social media post regarding Industry Chef Battle, as GREEN 1030;
- 9 28.Social media post dated June 7, 2018, as GREEN 1031;
- 10 29.Clark County liquor license dated January 2020 – March 2020, as GREEN 1032;
- 11 30.Southern Nevada Health District 'Fries N' Pies' grade 'A', as GREEN 1033;
- 12 31.State of Nevada 'Fries N' Pies' sales tax permit, as GREEN 1034;
- 13 32.Text messages between Josh and Cardy Walchuck regarding explosion, as
- 14 GREEN 1035;
- 15 33.Text messages between Josh and Estevan regarding explosion, as GREEN 1036;
- 16 34.Text messages between Josh and Huge regarding explosion, as GREEN 1037;
- 17 35.Text messages between Josh and Kristy Maguire regarding explosion, as
- 18 GREEN 1038;
- 19 36.Text messages between Josh and Mike Imber regarding explosion, as GREEN
- 20 1039;
- 21 37.Text messages between Josh and Reed regarding explosion, as GREEN 1040-
- 22 1042;
- 23 38.Text messages between Josh and Ryan regarding explosion, as GREEN 1043-
- 24 1044;
- 25 39.Text messages between Josh and Taryn Torres regarding explosion, as GREEN
- 26 1045;
- 27 40.Propane Education and Research Council inspection protocol video (found at
- 28 <https://propane.com/safety/safety-articles/safety-minute-reviewing-inspection->

[results-with-customers/](#));

41.Text messages between Josh and Edo regarding explosion and injuries, as GREEN 1046;

42.Text messages between Josh and Adam Sadie regarding explosion and injuries, as GREEN 1047–1048;

43.Text messages between Josh and Aunt Carol regarding explosion and injuries, as GREEN 1049;

44.Text messages between Josh and Benny regarding explosion and injuries, as GREEN 1050;

45.Text messages between Josh and Cardy Walchuck regarding explosion and injuries, as GREEN 1051;

46.Text messages between Josh and Randy regarding explosion and injuries, as GREEN 1052;

47.Text messages between Josh and Dan Herschman regarding explosion and injuries, as GREEN 1053;

48.Text messages between Josh and Dan Goodman regarding explosion and injuries, as GREEN 1054;

49.Text messages between Josh and Dean Tsakanikis regarding explosion and injuries, as GREEN 1055;

50.Text messages between Josh and Eric Chef regarding explosion and injuries, as GREEN 1056;

51.Text messages between Josh and Mike Imber regarding explosion and injuries, as GREEN 1057;

52.Text messages between Josh and Reed regarding explosion and injuries, as GREEN 1058–1060;

53.Text messages between Josh and Zac Zito regarding explosion and injuries, as GREEN 1061–1062;

54.Executed Settlement Release between Josh Green and BBQ Guys, as GREEN

1063-1067;

55.Email exchange between Josh's counsel and counsel for BBQ Guys dated March 10, 2020, as GREEN 1068-1069;

56.Email exchange between Josh's counsel and counsel for BBQ Guys dated March 23, 2020, as GREEN 1070-1071;

57.Email exchange between Josh's counsel and counsel for BBQ Guys dated March 31, 2020, as GREEN 1072;

58.Email exchange between Josh's counsel and counsel for BBQ Guys dated May 21, 2020, as GREEN 1073-1074;

59.Medical and billing records from Michael Elliott and Associates, as GREEN 1075-1094;

60.Pictures from May 15, 2020 inspection of propane hose and Gonzalez property, as GREEN 1095-1238;

61.Supplemental medical and billing records from Michael Elliott and Associates, as GREEN 1239-1248;

62.Photos that depict scars on Josh's arms, abdomen, and hands, as GREEN 1249-1271; and

63.All documents identified by any other party in this case.

III.

Joshua Green's Computation of Damages

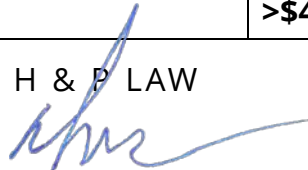
Pursuant to NRCP 16.1(a)(1)(C), below are the calculation of damages to date. Plaintiff reserves the right to supplement/amend her calculation as discovery continues.

Medical Provider	Dates of Service	Damage
American Medical Response	6/18/2018	\$1,232.06
Shadow Emergency Physicians	6/18/2018	\$2,071.00

Spring Valley Hospital	6/18/2018	\$7,281.00
University Medical Center - Burn Care Center	6/18/2018-9/6/2018	\$42,063.49
UNLV Medicine	6/20/2018-7/23/2018	\$832.00
Henderson Dermatology	6/19/2018	\$276.20
Las Vegas Pain Relief Center	6/26/2018-7/16/2018	\$532.00
Gubler Family Dental	8/13/2018-8/21/2018	\$1,626.94
Michael Elliott and Associates	5/20/2020-present	\$3,060.00
Out of Pocket Expenses		Damage
University Medical Center Co-Pay Receipts	6/25/2018, 6/27/2018 6/29/2018, 7/3/2018	\$140.00
Fries N' Pies Lost Revenue	July 2018	\$50,000.00 (estimated based off August 2018 & July 2019 sales)
Wage Loss	July 2018	\$4,434.16
Total Economic Damages		>\$56,114.69
Permanent Scarring		\$789,452.19
Pain and Suffering		\$3,891,234.45
Total Damages		>\$4,739,801.33

DATED this 17th day of November 2020.

H & P LAW


 Marjorie Hauf, Esq.
 Nevada Bar No.: 8111
 Matthew G. Pfau, Esq.
 Nevada Bar No.: 11439

Attorneys for Plaintiff,
Joshua Green

HP LAW

An Employee of H & P LAW

Michael Elliott and Associates

24800 Chrisanta Drive
Ste 120
Mission Viejo, CA 92691

Statement ID: 257673-87453546-PREVIEW		
Statement Date	Pay This Amount	Chart ID
11/09/2020	\$3,780.00	GRJO000002
SHOW AMOUNT PAID HERE:	\$	

H&P Law

2609 Centaurus Street
Henderson, NV 89044

MAKE CHECKS PAYABLE / REMIT TO:**Michael Elliott and Associates**

24800 Chrisanta Drive
Ste 120
Mission Viejo, CA 92691

For questions about billing, call (949) 951-7050. To pay by credit card, call (949) 951-7050.

You can also pay by credit card online at onpatient.com - If you don't have access, call (949) 951-7050 to request an account.

.....
Please detach and return top portion with your payment.

Patient: Joshua Green	Chart ID: GRJO000002	Statement ID: 257673-87453546-PREVIEW
Responsible Party: H&P Law		Responsible Party Phone: (702) 598-4529

Date of Service	Provider	Procedure	Mods	Charge	Adjmt	Ins. Paid	Pt Paid	Bal Due
5/15/2020 02:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
5/15/2020 02:00PM	Dr. Michael Elliott	96133 - NRPSYC TST EVAL PHYS/QHP EA	:::	\$1,440.00				\$1,440.00
Total:				\$1,800.00				\$1,800.00
5/20/2020 11:00AM	Dr. Michael Elliott	90791 - PSYCH DIAGNOSTIC EVALUATION	:::	\$540.00				\$540.00
Total:				\$540.00				\$540.00
7/01/2020 09:00AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
9/01/2020 12:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
Total:				\$360.00				\$360.00

Date of Service	Provider	Procedure	Mods	Charge	Adjmt	Ins. Paid	Pt Paid	Bal Due
9/02/2020 10:45AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
9/16/2020 10:15AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
10/07/2020 10:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
10/21/2020 10:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
11/04/2020 11:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
Total:				\$180.00				\$180.00
Total Amount: \$3,780.00								

For questions about billing, call (949) 951-7050. To pay by credit card, call (949) 951-7050.
You can also pay by credit card online at onpatient.com - If you don't have access, call (949) 951-7050 to request an account.
Accepted Credit Card(s): Visa, Mastercard, Discover, American Express

Michael Elliott and Associates, 24800 Chrisanta Drive Ste 120, Mission Viejo, CA 92691

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 09/02/2020 10:45AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Personal Injury**Subjective:**

Client shared about current symptoms including physiological, emotional and relational. He described having some flashbacks to personal injury accident, especially when he sees explosions on TV, or has to be near a barbecue at work. He shared about conflict with his wife related to his work schedule, and also explored his stress related to work. He reports working approximately 12 hour days and struggling with managing his time and self-care. Explored coping skills and scheduling strategies. He also set goal to schedule appointment with his neurologist which he has struggled to prioritize given his current work demands.

Objective:

Client presents with causal dress, and somewhat disheveled grooming. His attitude was cooperative throughout session. His speech was rapid but WNL. His affect was WNL, although typically flat. His mood was anxious, irritable and depressed. His thought process was goal directed. His thoughts were somewhat obsessive regarding work and economic concerns. No perceptual disturbances observed. He appeared oriented x4. Insight was fair.

Assessment:

Client presents with high anxiety related to work and recovery.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	Oct. 7, 2020, 10 a.m.
Generalized anxiety disorder	10	F41.1		active	Oct. 7, 2020, 10 a.m.
Encounter for screening for traumatic brain injury	10	Z13.850		active	Oct. 7, 2020, 10 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Continue with bi-weekly therapeutic coaching sessions to help meet recovery goals.

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 09/02/2020 10:45AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 09/16/2020 10:15AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Personal Injury**Subjective:**

Client shared that he was able to complete his goal of making appointment with his neurologist. He explored his current struggles/barriers including business and relational stress. He engaged with therapist to identify new goals and explore methods of prioritizing his time.

Objective:

Client presents with causal dress, and normal grooming. His attitude was cooperative throughout session. His speech was rapid but WNL. His affect was WNL, although typically flat. His mood was anxious and depressed. His thought process was goal directed. His thoughts were somewhat obsessive regarding work and economic concerns. No perceptual disturbances observed. He appeared oriented x4. Insight was fair.

Assessment:

Client presents with high anxiety related to work and recovery, especially related to past personal injuries.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	Oct. 7, 2020, 10 a.m.
Generalized anxiety disorder	10	F41.1		active	Oct. 7, 2020, 10 a.m.
Encounter for screening for traumatic brain injury	10	Z13.850		active	Oct. 7, 2020, 10 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Continue with bi-weekly therapeutic coaching sessions to help meet recovery goals.

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 10/07/2020 10:30AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Personal Injury**Subjective:**

Client explored increased demands on his schedule and demonstrated increased insight into how this is impacting him emotionally- especially related to increased irritability. He explored his fatigue around ongoing recovery efforts. He was able to identify positive progress as well, and identified strategies for delegating his workload. He shared that his emotion anxiety is impacting his physical health as well. Worked well with therapist to identify strategies for coping and self-care.

Objective:

Client presents with causal dress, and normal grooming. His attitude was cooperative throughout session. His speech was rapid but WNL. His affect was WNL, although typically flat. His mood was anxious. His thought process was goal directed. His thoughts were somewhat obsessive regarding work and economic concerns. No perceptual disturbances observed. He appeared oriented x4. Insight was fair.

Assessment:

Client presents with high anxiety related to work and recovery, especially related to past personal injuries.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	Oct. 7, 2020, 10 a.m.
Generalized anxiety disorder	10	F41.1		active	Oct. 7, 2020, 10 a.m.
Encounter for screening for traumatic brain injury	10	Z13.850		active	Oct. 7, 2020, 10 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Continue with bi-weekly therapeutic coaching sessions to help meet recovery goals.

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 10/21/2020 10:30AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Personal Injury**Subjective:**

Client shared about recent progress toward recovery goals including better prioritizing his time and delegating some of his work responsibilities. Client appeared in much better mood and shared about currently planning a belated wedding reception with his wife. Client explored goals of continuing his actions steps of time management and healthcare and shared about his plans to work on his spirituality, which helps him better manage his emotions.

Objective:

Client presents with causal dress, and normal grooming. His attitude was cooperative throughout session. His speech was rapid but WNL. His affect was mood congruent, although typically flat. His mood was euthymic to happy. His thought process was goal directed. His thoughts were somewhat obsessive regarding work and economic concerns. No perceptual disturbances observed. He appeared oriented x4. Insight was fair.

Assessment:

Client presents with moderate anxiety, demonstrating increased ability to prioritize his health and wellbeing compared with previous sessions.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified

Problems:

Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	Oct. 7, 2020, 10 a.m.
Generalized anxiety disorder	10	F41.1		active	Oct. 7, 2020, 10 a.m.
Encounter for screening for traumatic brain injury	10	Z13.850		active	Oct. 7, 2020, 10 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Continue with bi-weekly therapeutic coaching sessions to help meet recovery goals.

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 10/21/2020 10:30AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 11/04/2020 11:30AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:****Chief Complaint:** Personal Injury**Subjective:**

Client shared about continued progress toward his business and personal goals. He identified how is better managing his stress through making time for sleep and delegating responsibility when appropriate. He endorsed feeling increased motivation for changed recovery. He identified increased physical symptoms of headaches and explored possibility of making a doctors appointment to ensure his symptoms were not significant.

Objective:

Client presents with causal dress, and normal grooming. His attitude was cooperative throughout session. His speech was rapid but WNL. His affect was mood congruent, although typically flat. His mood was euthymic. His thought process was goal directed. His thoughts were somewhat obsessive regarding work and economic concerns. No perceptual disturbances observed. He appeared oriented x4. Insight was fair.

Assessment:

Client presents with moderate anxiety, demonstrating increased ability to prioritize his health and wellbeing compared with previous sessions.

Type	Code	Description
ICD-10-CM Condition	F06.4	Anxiety disorder due to known physiological condition
ICD-10-CM Condition	F41.1	Generalized anxiety disorder
ICD-10-CM Condition	Z13.850	Encounter for screening for traumatic brain injury
ICD-10-CM Condition	F43.9	Reaction to severe stress, unspecified

Problems:

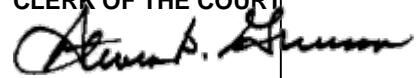
Description	ICD Ver.	ICD Dx Code	Snomed	Status	Diagnosed
Anxiety disorder due to known physiological condition	10	F06.4		active	Oct. 7, 2020, 10 a.m.
Generalized anxiety disorder	10	F41.1		active	Oct. 7, 2020, 10 a.m.
Encounter for screening for traumatic brain injury	10	Z13.850		active	Oct. 7, 2020, 10 a.m.
Anxiety disorder, unspecified	10	F41.9		active	Sept. 1, 2020, noon
Unspecified symptoms and signs involving cognitive functions and awareness	10	R41.9		active	Sept. 1, 2020, noon
Reaction to severe stress, unspecified	10	F43.9		active	July 1, 2020, 9 a.m.

Plan:

Continue with therapeutic coaching sessions to help meet recovery goals.

Michael Elliott and Associates**Patient:** Joshua Green**Provider:** Dr. Michael Elliott**Office:** Henderson**DOB:** 02/12/1982**Sex:** M**Visit:** 11/04/2020 11:30AM**Chart:** GRJO000002**Address:** 1661 W Horizon Ridge Parkway Suite 280,
Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

JOSHUA GREEN,

Plaintiff(s),

vs.

FERRELLGAS, INC.,

Defendant(s).

Case No. A-19-795381-C

DEPT. XXXI

BEFORE THE HONORABLE ERIN TRUMAN,
DISCOVERY COMMISSIONER

THURSDAY, DECEMBER 10, 2020

TRANSCRIPT OF PROCEEDINGS RE:
FURTHER PROCEEDINGS: SCOPE OF EXAMINATION/WHETHER A
NEUROPSYCHOLOGICAL EVALUATION IS APPROPRIATE IN THIS
CASE

[Via Audio Via BlueJeans]

(Appearances on page 2.)

RECORDED BY: FRANCESCA HAAK, COURT RECORDER

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APPEARANCES:

For the Plaintiff(s):	MATTHEW G. PFAU, ESQ.
For the Defendant(s), Counterclaimant, and Cross-Defendant, Carl J. Kleisner:	GINA GILBERT WINSPEAR, ESQ.
For the Defendant(s), Counterclaimant, and Cross-Defendant, Ferrellgas, Inc.:	GREGORIO V. SILVA, ESQ. FELICIA GALATI, ESQ.
For the Defendant(s), Counter Defendant, Cross-Claimant, and Third-Party Plaintiff, Mario S. Gonzales:	STEVEN M. GOLDSTEIN, ESQ.

1 **LAS VEGAS, NEVADA, THURSDAY, DECEMBER 10, 2020**

2 [Proceeding commenced at 11:54 a.m.]

3
4 DISCOVERY COMMISSIONER: Our final matter on for
5 hearing this morning is Joshua Green versus Ferrellgas. If I could
6 have counsel for the plaintiff identify him or herself, followed by
7 counsel for the defendant.

8 MR. PFAU: Good morning, Your Honor. Matt Pfau for the
9 plaintiff.

10 DISCOVERY COMMISSIONER: Good morning, Mr. Pfau.
11 How are you this morning?

12 MR. SILVA: Good morning, Your Honor. Gregorio Silva.
13 Sorry, go ahead, Felicia.

14 MS. GALATI: Good morning, Your Honor. Felicia Galati
15 appearing for Ferrellgas.

16 DISCOVERY COMMISSIONER: What is your last name,
17 counsel?

18 MS. GALATI: Galati, G-A-L-A-T-I.

19 DISCOVERY COMMISSIONER: Okay.

20 MS. GALATI: Yeah, thank you.

21 DISCOVERY COMMISSIONER: Okay. And you represent
22 Ferrellgas?

23 And again, if you could state your appearance, Mr. Silva?
24 You got cut off.

25 MR. SILVA: Yeah. Good morning, Your Honor. Gregorio

1 Silva, also on behalf of Ferrellgas.

2 DISCOVERY COMMISSIONER: Okay. All right. This is a
3 Motion to Compel a Rule 35 Examination.

4 MR. SILVA: Your Honor --

5 DISCOVERY COMMISSIONER: Oh, I'm sorry.

6 MR. SILVA: -- this is Defendant's joint motion and the
7 other defendant's counsel should be on the line.

8 MR. GOLDSTEIN: Yeah. Your Honor, Steve Goldstein
9 here for Defendant Gonzales.

10 MS. WINSPEAR: And Gina Winspear on behalf of
11 Defendant Carl Kleisner.

12 DISCOVERY COMMISSIONER: Okay. And Ms. Winspear,
13 you represent Mr. Kleisner?

14 MS. WINSPEAR: Correct.

15 DISCOVERY COMMISSIONER: Okay. All right. I
16 appreciate your patience this morning. I know this has been a very
17 long calendar. You were set at 10:00, we're now approaching noon.
18 So thank you for your patience.

19 This is Defendant's Motion to Compel a Rule 35
20 Examination. There are certain parameters that -- I think that the
21 parties have agreed in principle that both the physical and mental
22 examination of the plaintiff are warranted and appropriate in this
23 case, but there are certain parameters that could not be resolved
24 through the 2.34 -- or the EDCR 2.34 process; is that correct?

25 MR. SILVA: Your Honor, this matter was --

1 Gregorio Silva on behalf of Ferrellgas.

2 This matter was heard on November 19th. Your Honor
3 continued the hearing with regard to the scope of the examination
4 to today.

5 DISCOVERY COMMISSIONER: Right. Okay.

6 MR. PFAU: And, Your Honor, this is Matt Pfau also. So if I
7 could just respond quickly.

8 DISCOVERY COMMISSIONER: Sure.

9 MR. PFAU: You mentioned physical and mental
10 examination. It is still contested the scope of the examination, and
11 it's Plaintiff's position that a physical examination is not warranted
12 by Dr. Etcoff, because he is a psychological -- or a psychological --

13 DISCOVERY COMMISSIONER: But am I incorrect that
14 there was a separate physical examination?

15 MR. PFAU: Yes. There have not -- there has not been a
16 physical examination requested --

17 DISCOVERY COMMISSIONER: Oh, okay.

18 MR. PFAU: -- or noted. Yes.

19 DISCOVERY COMMISSIONER: All right. Then I misspoke.
20 I apologize.

21 All right. Okay. So what I think is still at issue is -- well,
22 why don't you tell me if you guys have been able to resolve
23 anything or what we -- what is -- further remains to address in this
24 matter?

25 MR. SILVA: Gregorio Silva on behalf of Ferrellgas.

1 I think the main [indiscernible; audio cut out] resolved is
2 whether or not Defendants get to do any neuropsychological
3 examination of Plaintiff based on his complaints of loss-of-memory,
4 concentration issues.

5 DISCOVERY COMMISSIONER: Okay. All right. And
6 anything you want to speak on as to that, Mr. Pfau?

7 MR. PFAU: Yes, Your Honor. Thank you.

8 So one of the things we requested in our last hearing was
9 an opportunity to brief this issue. Because, again, our -- Josh
10 Green, the plaintiff in this case, is suffering from PTSD and is
11 having memory and concentration issues as a result. The question
12 is what kind of testing is going to be done so that those types of
13 issues can be properly evaluated? And a neuropsychological
14 examination is not the proper type of examination to determine
15 whether or not he's properly suffering or is he actually suffering
16 from memory or concentration issues due to PTSD?

17 DISCOVERY COMMISSIONER: Right. And as I recall --

18 MR. PFAU: There was a question --

19 DISCOVERY COMMISSIONER: As I recall last time, it was
20 posed that if the plaintiff was willing to stipulate to remove
21 neurological conditions at issue in this litigation, then Mr. Silva
22 would withdraw the request for the neuropsych Rule 35 exam.
23 What happened with regard to that? I mean, it was not clear last
24 time we met which -- whether just a psychological or a neuropsych
25 was warranted in this case. If you want to withdraw the

1 neuropsych issues, then we can certainly limit it to that scope.

2 So where are we at with regard to that?

3 MR. PFAU: So this is Matt Pfau for the plaintiff.

4 We did discuss that, and I made it clear again, similar to
5 what I did in the hearing, that there are -- we are not claiming any
6 traumatic brain injury, that he is not going to see a neurologist, he
7 is not getting any testing related to a traumatic brain injury.

8 So the only injury we are claiming would be related to
9 PTSD. And any --

10 DISCOVERY COMMISSIONER: But you're also claiming
11 cognitive difficulties related to the PTSD?

12 MR. PFAU: Yes, Your Honor. And so -- that's why -- the
13 reason for the briefing. We provided a lot of medical journals and
14 articles that --

15 DISCOVERY COMMISSIONER: Right.

16 MR. PFAU: -- do correlate those two issues together. One
17 thing that I did do and there was a helpful affidavit just recently
18 served this morning, I asked the defense for the type of testing
19 they're proposing. Because I do agree that there is probably some
20 reasonable testing that needs to be done related to memory issues,
21 his concentration issues.

22 DISCOVERY COMMISSIONER: Sure.

23 MR. PFAU: But if they are neuropsychological in nature,
24 they're not, one, going to be -- not going to be within the proper
25 scope.

1 So I wanted to see what type of test they were proposing.
2 They did provide us some information, though helpful, not
3 specifically very clear, because they -- the affidavit stated there was
4 a face-to-face memory test battery, but not identifying what this test
5 actually is or what it's testing for. And also a computer-based
6 memory test. And if it's computer-based, there's got to be some
7 sort of a written examination, so just identify what that examination
8 is, so we can see if it's testing properly for memory or
9 concentration issues related to PTSD and not to a traumatic brain
10 injury.

11 Anyway, we just want to make sure that whatever tests
12 are performed --

13 DISCOVERY COMMISSIONER: Well, there's certainly --

14 MR. PFAU: -- are appropriate.

15 DISCOVERY COMMISSIONER: There may be some
16 overlap, Mr. Pfau, in what those need to be, under the
17 circumstances.

18 MR. PFAU: Yes, there --

19 DISCOVERY COMMISSIONER: Because you are claiming
20 cognitive difficulty related to the PTSD.

21 MR. PFAU: Yes, there may be some overlap. But what's
22 been identified so far hasn't identified whether there is overlap or if
23 they are purely just neuropsychological examinations. With the
24 exception of one that they did identify, the Minnesota Multiphasic
25 Personality Inventory, that test has nothing to do with PTSD. And it

1 is specifically a test to identify schizophrenia, social introversion,
2 hypochondria, depression, hysteria. It is not a test that would be
3 specifically related.

4 So Plaintiff's proposal is where -- I think we're getting
5 closer. I -- my goal, really, is just make sure that this is a properly
6 narrowly focused testing that's done. And if we can get some
7 additional information from the defense on the additional testing
8 they are proposing, I know that there is a call set up for us
9 sometime soon here, I just saw some e-mails on that just recently.
10 And possibly we can have some additional conversation.

11 But I guess my --

12 DISCOVERY COMMISSIONER: So are you asking for
13 more time to discuss this before I make a decision?

14 MR. PFAU: Yes, Your Honor, I am. Because, again, a
15 couple of days ago I asked for them for the testing. They did
16 provide some testing. I think we're getting closer. We just -- I just
17 want to evaluate what testing they're proposing and as long as
18 they're -- it's reasonably related to PTSD and we can show that,
19 then that's fine.

20 DISCOVERY COMMISSIONER: Okay. So who on behalf of
21 the defendants would like to address the request for additional time
22 to review the testing that is to be completed?

23 MR. SILVA: Your Honor, Gregorio Silva on behalf of
24 Defendant Ferrellgas.

25 So Plaintiff's counsel is saying that the memory and

1 concentration issues are only related to the PTSD, but that's not the
2 point of the independent medical examination. The independent
3 medical examination is to allow Defendants' doctor to fully evaluate
4 Plaintiff's mental condition, that he can come to his own
5 determination as to whether or not the plaintiff has these conditions
6 and whether or not they're related to the accident at issue in this
7 case.

8 I have discussed -- and I am not a medical doctor, so I
9 cannot, you know, tell you one way or another with any certainty
10 that these tests are the tests -- I'm sorry. I've discussed what
11 Plaintiff has put in his 16.1 disclosures, what's referenced in the
12 medical records that have been produced by Plaintiff with Dr. Etcoff
13 and these are the tests that Dr. Etcoff advises that need to be
14 completed to evaluate and examine Plaintiff's mental condition.

15 So I don't think discussing further really resolves
16 anything, because Plaintiff is trying to pigeonhole the Defense into
17 accepting that PTSD is the only possible cause of these allegations,
18 and Defendants are requesting the opportunity to examine
19 Plaintiff's mental condition so that they come to a determination on
20 their own as to what Plaintiff's --

21 DISCOVERY COMMISSIONER: So you're saying that there
22 may be an alternate reason for these alleged deficiencies?

23 MR. SILVA: Absolutely, Your Honor. Mr. Green testified
24 that he had a general life anxiety just immediately before this
25 incident. And he's -- his psychologist is claiming general anxiety

1 disorder as one of the items that he's going to be testifying
2 regarding and has evaluated Plaintiff for. So yes, there is a whole
3 lot of other things Joshua Green's life, other than this one incident,
4 that could have a relationship to his memory and concentration
5 [indiscernible; audio cut out], including his past -- you know, his
6 long medical history with epilepsy and using medical marijuana to
7 treat that. He was diagnosed with a learning condition. His medical
8 records with Dr. Elliott reflect that his financial condition, generally,
9 is a pretty big stressor on his life.

10 So yes, there are a lot of alternate possibilities that could
11 be the cause of this memory and concentration issue. And
12 Defendants need the opportunity to conduct a full valuation of
13 Plaintiff's mental condition [indiscernible; audio cut out]
14 examination of Plaintiff's mental condition to be able to make this
15 determination independent of what Plaintiff is trying to pigeonhole
16 this case to be.

17 DISCOVERY COMMISSIONER: All right. Under the
18 circumstances, Mr. Pfau, I agree with Mr. Silva's position. I think
19 that Dr. Etcoff, as an expert, should be allowed to do the testing that
20 he believes is proportional to understanding the current medical
21 status and mental status of this plaintiff. I think that he should be
22 able to inquire into the history of this plaintiff's medical history for
23 the last five years, and his medical history for the same conditions
24 and body parts for 10 years back, specifically, if they're
25 permanent-type injuries.

1 And as well as determine whether he has a history of any
2 mental diagnosis previous to this incident, as well, and whether or
3 not he's ever been diagnosed with any mental deficiencies or
4 cognitive defects.

5 I think whether or not you think Dr. Etkoff is the
6 appropriate expert to be able to perform this testing or render
7 opinions in this case is that's an issue for a *Hallmark* motion, a
8 Motion in Limine brought before the district court judge. So I don't
9 have a problem with Dr. Etkoff inquiring into the past medical
10 history, as long as it's within five years prior to the accident or if it's
11 a specific condition that preexisted or predated that time. I would
12 allow him to go back 10 years on those specific injuries or
13 conditions.

14 I think one issue that was still at -- one matter that still at
15 issue was the audio recording and the observer being present
16 during the examination under NRS 52.380. And I've said this many
17 times, there's a clear conflict between NRCP 35 and NRS 52.380.
18 But I think that under the circumstances of the status of the law in
19 the state of Nevada, I am going to follow NRS 52.380, because I do
20 think it affects a substantive right and substantive issues that
21 warrant protection of having the observer and the IO recorder in
22 place. I think there's good cause for that.

23 As far as the purported violation being commented on at a
24 time of trial, I think that that's better addressed -- that seems like an
25 advisory opinion. I think that's better addressed if there's actually

1 a -- something inappropriate or something that's a violation, if it
2 actually occurs. I think that that can also be handled, once the
3 reports are issued, by way of a Motion in Limine for determination
4 by the district court judge.

5 So I am going to grant the Motion to Compel the Rule 35
6 exam based on what's been stated, with the limitations that are in
7 place, as I've referenced. Anything anyone would like to add?

8 MR. SILVA: Your Honor, Gregorio Silva for Defendant
9 Ferrellgas.

10 But Dr. Etcoff has advised that he's willing to make
11 himself available for a teleconference with Plaintiff's counsel if we
12 feel that's necessary. So if Mr. Pfau believes that he needs further
13 information on what the tests are, then I would request that he, you
14 know, call my office and discuss scheduling. Whether or not
15 Defendants will agree or -- I guess, setting a teleconference with all
16 counsel and to discuss the issue of whether Defendants will agree
17 to allow him to have some of that conversation with Dr. Etcoff or,
18 you know, we can pass on the information that Mr. Pfau believes is
19 still needed.

20 DISCOVERY COMMISSIONER: Okay. And I think that's
21 certainly appropriate. And so the Motion to Compel the Rule 25
22 exam has been granted. If that conversation goes forward and
23 there is something that's raised that was not addressed at this
24 point, that Mr. Pfau needs to bring back before me on a Motion for
25 Protection, certainly we can -- if everyone can agree to that, I can

1 certainly hear that point as well.

2 MR. PFAU: Your Honor, this is Matt Pfau.

3 I would ask that if we can put in the order that the defense
4 clarifies these other points that -- they submitted an affidavit today,
5 there are some tests that were very vaguely described. We just add
6 to the order that they do provide me what the testing will be, so
7 that we can flush those issues out if -- and if there are any issues,
8 then we can address those.

9 DISCOVERY COMMISSIONER: Okay. I think that's
10 appropriate to add in there. I'm going to ask Mr. Silva to prepare
11 the report and recommendation. Please include that -- please
12 include the modification that Mr. Pfau has requested and circulate
13 that to all counsel for their review as to form and content.

14 MR. SILVA: Your Honor, may I address that last point of
15 Mr. Pfau's?

16 DISCOVERY COMMISSIONER: Is this Mr. Silva?

17 MR. SILVA: Gregorio Silva on behalf of Ferrellgas. Yes.

18 DISCOVERY COMMISSIONER: Yes, go ahead.

19 MR. SILVA: So I object to that, because it wasn't
20 something that Plaintiff ever put in his briefing. There may be a
21 reason that it makes sense to preclude Plaintiff's counsel from
22 knowing what these examinations are.

23 DISCOVERY COMMISSIONER: I think that -- I think it
24 appropriate, Mr. Silva, for Plaintiff's counsel to be given a list of the
25 testing that is anticipated during -- or that Dr. Etcoff intends to

1 conduct during the evaluation. I am going to allow the examination
2 to go forward. I am going to allow Dr. Etcoff to conduct a
3 neuropsychological evaluation. Dr. Etcoff needs to identify what he
4 envisions doing as part of his evaluation. That needs to be given to
5 Mr. Pfau at least two weeks prior to the examination. And then, if at
6 that point, other things are triggered that need to be addressed by
7 the Court, they can be brought back before me.

8 But I've already said that if Dr. Etcoff can indicate, well --
9 you know, a good-faith reason as to why he believes this testing is
10 necessary, you know, I'm certainly going -- in the absence of other
11 evidence, I'm going to defer to his expertise on the issue.

12 MR. SILVA: Thank you, Your Honor.

13 One point of clarification. We had submitted a previous
14 report and recommendation and there's been some e-mail
15 correspondence about setting a teleconference regarding that one
16 that was on the same motion before the continued hearing. You
17 want us to submit one report and recommendation for both the
18 November 19th hearing and today's hearing, or a separate --

19 DISCOVERY COMMISSIONER: Separate.

20 MR. SILVA: -- report and recommendation?

21 DISCOVERY COMMISSIONER: Separate. And if you need
22 a conference call on that, if you can't agree to the language as to
23 form and content, then you need to set a conference call up with
24 me through my office.

25 MR. SILVA: Thank you on that clarification.

1 DISCOVERY COMMISSIONER: Okay. Anything further,
2 counsel?

3 MR. PFAU: Nothing from Plaintiff, Your Honor. Thank
4 you for your time.

5 DISCOVERY COMMISSIONER: Thank you.

6 MR. SILVA: Gregorio Silva on behalf of Ferrellgas.

7 Nothing from Ferrellgas.

8 DISCOVERY COMMISSIONER: Ms. Galati?

9 MS. GALATI: No thank you, Your Honor.

10 DISCOVERY COMMISSIONER: Mr. Goldstein?

11 MR. GOLDSTEIN: No thank you, Your Honor. Happy
12 holidays.

13 DISCOVERY COMMISSIONER: Ms. Winspear?

14 Thank you.

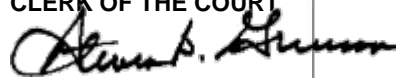
15 MS. WINSPEAR: No thank you. Thank you, Your Honor.
16 Happy holidays.

17 [Proceeding concluded at 12:12 p.m.]

18 ///

19
20 ATTEST: I do hereby certify that I have truly and correctly
21 transcribed the audio/video proceedings in the above-entitled case
22 to the best of my ability. Please note: Technical glitches which
23 resulted in distortion in the BlueJeans audio/video and/or audio
cutting out completely were experienced and are reflected in the
transcript.

24 
25 Shawna Ortega, CET *562



DCRR

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DISTRICT COURT

CLARK COUNTY, NEVADA

JOSHUA GREEN;

Plaintiff,

vs.

FERRELLGAS, INC. et al.,

Defendants.

CASE NO.: A-19-795381-C
DEPT NO.: XXXI

**Discovery Commissioner's Report and
Recommendations**

AND RELATED ACTIONS

DISCOVERY COMMISSIONER'S
REPORT and RECOMMENDATIONS

Date of Hearing: November 19, 2020

Time of Hearing: 9:00 a.m.

Attorney for Plaintiff: Matt Pfau of H & P LAW.

Attorneys for Defendant Ferrellgas, Inc.: Gregorio V. Silva, Esq. of BAKER STERCHI
COWDEN & RICE and Felicia Galati, Esq. of OLSON CANNON GORMLEY &
STOBERSKI

Attorney for Defendant Mario Gonzalez: Steven Goldstein, Esq. of PYATT SILVESTRI

Attorney for Defendant Carl Kleisner: Gina Winspear, Esq. of DENNETT WINSPEAR

Attorney for Plaintiff: Matthew Pfau, Esq. of H & P LAW

1. FINDINGS

1. Defendants filed a Motion to Compel a Rule 35 Exam.
2. Defendants seek an Order compelling Plaintiff to appear for a Rule 35 mental examination.
3. Plaintiff Joshua Green admits that he has made his mental condition an issue of this case since he is alleging suffering from PTSD as a result of the explosion.
4. Plaintiff Joshua Green requests that he be allowed to have an observer present and make an audio recording of any Rule 35 examination.
5. Nevada Rules of Civil Procedure 35 precludes an observer from attending a neuropsychological, psychological or psychiatric examination.
6. Nevada Rules of Civil Procedure 35 preclude any observer from interfering, obstructing, or participating in any Rule 35 examination.

1 7. Nevada Revised Statute 52.380 provides the right to have an observer attend a
2 mental or physical examination, but precludes an observer from participating in or disrupting
3 a mental or physical examination.
4

5 8. There is a clear conflict between the language of NRCP 35 and NRS 52.380.

6 9. The Court is tasked with reading NRCP 35 in conjunction with NRS 52.380.

7 10. The Court finds that under NRS 52.380 Plaintiff will be allowed to have an
8 observer present during any psychological or neuropsychological examination in this matter.
9

10 11. The Court finds that under NRS 52.380 Plaintiff will be allowed to make an
11 audio recording of any psychological or neuropsychological examination in this matter.
12

13 12. A Rule 35 mental examination regarding psychological issues or
14 neuropsychological issues is somewhat more involved than what would be allowed for a
15 physical examination.
16

17 13. Plaintiff has put his past mental and physical condition at issue in this litigation.
18

19 14. The Court will not limit Defendants' examiner from inquiring generally into
20 Plaintiff's pre-incident mental condition, but the examiner can only discuss treatment for
21 Plaintiff's mental health treatment for the five years prior to the incident.
22

23 15. The Court will not limit Defendants' examiner from inquiring generally into
24 Plaintiff's pre-incident physical condition.
25

26 16. The Court will not limit inquiries by Defendants' examiner into Plaintiff's
27 current conditions, symptoms, and complaints that are issue in this litigation.
28

 17. The Court will not preclude Defendants' examiner from inquiring if Plaintiff
has a past or current history of an inability to focus.

1 18. The Court will not preclude Defendants' examiner from inquiring if Plaintiff
2 has a history of memory issues.

3 19. The Court will not preclude Defendants' examiner from inquiring if Plaintiff
4 had any prior mental conditions.

5 20. The Court will not preclude Defendants' examiner from inquiring generally
6 about Plaintiff's life before the incident including education, work and training.

7 21. The Court will allow Defendants' examiner to ask questions that are
8 reasonably part of neuropsychological evaluation.
9

10 22. The Court will not allow Defendants' examiner to conduct a second deposition
11 regarding liability related to the incident.
12

13 23. With regard to the incident, the Court will allow Defendants' examiner to
14 question Plaintiff regarding what occurred on the day of the incident from the time of the flash
15 fire forward.
16

17 24. Plaintiff's counsel contends that Plaintiff is not claiming neuropsychological
18 injuries or a traumatic brain injury as a result of this incident.
19

20 25. Defendant argues that Plaintiff's Rule 16.1 disclosures and medical records do
21 not align with the contentions of Plaintiff's counsel regarding neurological injuries and a
22 traumatic brain injury allegation.
23

24 26. The Parties dispute what type of Rule 35 examination is warranted in this case.

25 27. If Plaintiff is claiming a loss of focus and memory loss, the Commissioner will
26 allow a neuropsychological examination.
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1 The Discovery Commissioner met with counsel and discussed the issues noted
2 above. Having reviewed the materials offered in support of this recommendation, she
3 hereby submits the above recommendations.

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5 DATED this 21st day of December 2020.



DISCOVERY COMMISSIONER

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7
8 Submitted by
9 BAKER STERCHI COWDEN & RICE

10 /s/ Gregorio V. Silva
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16 Approved as to form and content

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NOTICE

Pursuant to NRCP 16.3(c)(2), you are hereby notified that within fourteen (14) days after being served with a report any party may file and serve written objections to the recommendations. Written authorities may be filed with objections, but are not mandatory. If written authorities are filed, any other party may file and serve responding authorities within seven (7) days after being served with objections.

Objection time will expire on Jan 5th 2021 ~~2020~~.

A copy of the foregoing Discovery Commissioner's Report was:

Electronically filed and served counsel on Dec. 22nd, 2020, Pursuant to N.E.F.C.R. Rule 9.

By

Natilie Simonette
COMMISSIONER DESIGNEE

FELICIA GALATI, ESQ.