

**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

Electronically Filed  
Mar 26 2021 04:27 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPENDIX TO PETITION FOR WRIT OF MANDAMUS**  
**(VOLUME 5)**

FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
OLSON CANNON GORMLEY  
& STOBERSKI  
9950 West Cheyenne Avenue  
Las Vegas, NV 89129

and

MICHAEL C. MCMULLEN, ESQ.  
Missouri Bar No. 33211  
GREGORIO V. SILVA, ESQ.  
Nevada No. 13583  
BAKER, STERCHI, COWDEN  
& RICE, LLC  
2400 Pershing Road, Suite 500  
Kansas City, MO 64108  
Attorneys for Petitioner FERRELLGAS, INC.

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JAMES P.C. SILVESTRI, ESQ.  
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STEVEN M. GOLDSTEIN, ESQ.  
Nevada Bar No. 6318  
701 Bridger Avenue, Suite 600  
Las Vegas, Nevada 89101  
Attorneys for MARIO GONZALEZ

**APPENDIX TO PETITION FOR WRIT OF MANDAMUS**  
**VOLUME 1**

<b>NUMBER</b>	<b>DOCUMENT</b>	<b>BATES NUMBER</b>
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**

<b>NUMBER</b>	<b>DOCUMENT</b>	<b>BATES NUMBER</b>
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**

<b>NUMBER</b>	<b>DOCUMENT</b>	<b>BATES NUMBER</b>
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**

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

### **VOLUME 5**

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

**VOLUME 6**

<b>NUMBER</b>	<b>DOCUMENT</b>	<b>BATES NUMBER</b>
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.*

\_\_\_\_\_  
FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
OLSON CANNON GORMLEY &  
STOBERSKI  
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Las Vegas, NV 89129  
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and  
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[mmcmullen@bscr-law.com](mailto:mmcmullen@bscr-law.com)  
Attorneys for Petitioner  
FERRELLGAS, INC.

DATED this 26th day of March, 2021.

*/s/ Gina Gilbert Winspear, Esq.*

---

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Nevada Bar No.: 005552  
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Attorneys for Defendant  
CARL J. KLEISNER

DATED this 26<sup>th</sup> day of March, 2021.

*/s/ Steven M. Goldstein, Esq.*

---

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Steven M. Goldstein, Esq.  
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[sgoldstein@pyattsilvestri.com](mailto:sgoldstein@pyattsilvestri.com)  
Attorneys for Defendant  
MARIO S. GONZALEZ

## **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 5)** 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:

Matthew G. Pfau, Esq.  
Marjorie L. Hauf, Esq.  
H&P LAW  
8950 W. Tropicana Avd., #1  
Las Vegas, NV 89147  
[mpfau@courtroomproven.com](mailto:mpfau@courtroomproven.com)  
[mhauf@courtroomproven.com](mailto:mhauf@courtroomproven.com)  
Attorneys for Plaintiff

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Attorneys for Defendant,  
CARL J. KLEISNER

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[sgoldstein@pyattsilvestri.com](mailto:sgoldstein@pyattsilvestri.com)  
Attorneys for Defendant,  
MARIO S. GONZALEZ

Honorable Judge Joanna Kishner  
Eighth Judicial District Court  
Department 31  
200 Lewis Avenue  
Las Vegas, NV 89155

*/s/ Erika Parker*

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An Employee of OLSON CANNON GORMLEY  
& STOBERSKI

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**

## 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; 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

<b>Michael Elliott and Associates</b>	<b>5/20/2020-present</b>	<b>\$3,060.00</b>
<b>Out of Pocket Expenses</b>		<b>Damage</b>
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
<b>Total Economic Damages</b>		<b>&gt;\$56,114.69</b>
<b>Permanent Scarring</b>		<b>\$789,452.19</b>
Pain and Suffering		<b>\$3,891,234.45</b>
<b>Total Damages</b>		<b>&gt;\$4,739,801.33</b>

DATED this 4th day of September 2020.

H & P LAW

*Marjorie Hauf*  
 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  
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T: 702-384-4012; and  
Michael McMullen, Esq.  
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STOBERSKI  
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Attorneys for Defendant,  
*Ferrellgas, Inc.*

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Nevada Bar No.: 005552  
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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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*BBQ Guys Manufacturing LLC dba Blaze  
Outdoor Products*

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Josh Cole Aicklen, Esq.  
Nevada Bar No.: 007254  
David B. Avakian, Esq.  
Nevada Bar No.: 009502  
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SMITH LLP  
6385 South Rainbow Boulevard, Suite  
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
<b>SHOW AMOUNT PAID HERE:</b>	<b>\$</b>	

**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.

<b>Patient:</b> Joshua Green	<b>Chart ID:</b> GRJO000002	<b>Statement ID:</b> 244344-87453546-PREVIEW
<b>Responsible Party:</b> H&P Law		<b>Responsible Party Phone:</b> (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
<b>Total:</b>				<b>\$1,800.00</b>				<b>\$1,800.00</b>
5/20/2020 11:00AM	Dr. Michael Elliott	90791 - PSYCH DIAGNOSTIC EVALUATION	:::	\$540.00				\$540.00
<b>Total:</b>				<b>\$540.00</b>				<b>\$540.00</b>
7/01/2020 09:00AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
9/01/2020 12:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
<b>Total:</b>				<b>\$360.00</b>				<b>\$360.00</b>

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
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>

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](http://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**

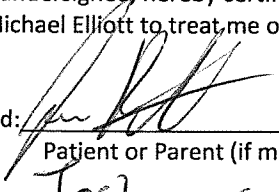
(if other than patient)

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

Relationship

Date

Witness Signature

Date

5-15-20

Michael Elliott & Associates

LIEN FOR PSYCHOLOGICAL/ASSESSMENT SERVICES

This Lien Agreement (the "Agreement") is entered into and effective as of the        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]  
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 15<sup>th</sup> 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:**

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**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**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:**

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:**

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**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

**In the Matter Of:**  
A-19-795381-C  
GREEN  
vs  
FERRELLGAS, INC. et al.

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**Videotaped Deposition Of:**  
*JOSHUA GREEN, VOLUME II*  
*June 29, 2020*

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702-805-4800  
scheduling@envision.legal

<p style="text-align: right;">Page 279</p> <p>1 Whereupon,</p> <p>2 JOSHUA GREEN,</p> <p>3 having been sworn to testify to the truth, the whole</p> <p>4 truth, and nothing but the truth, was examined and</p> <p>5 testified under oath as follows:</p> <p>6</p> <p>7 EXAMINATION</p> <p>8 BY MR. McMULLEN:</p> <p>9 Q. Good morning.</p> <p>10 A. Good morning.</p> <p>11 Q. How are you, Josh?</p> <p>12 A. Good.</p> <p>13 Q. How are you feeling today?</p> <p>14 A. Good. Itchy hands, but good.</p> <p>15 Q. Do you feel like you can complete your</p> <p>16 deposition today? And by that I mean, is there</p> <p>17 anything that might interfere with your ability to</p> <p>18 do so?</p> <p>19 A. No.</p> <p>20 Q. So you do feel like you can continue?</p> <p>21 A. Yes. I can continue.</p> <p>22 Q. All right. Thanks.</p> <p>23 I just have a few things and then I'm</p> <p>24 going to pass the witness to other counsel.</p> <p>25 Last time we talked about your work</p>	<p style="text-align: right;">Page 281</p> <p>1 to any learning disability problems?</p> <p>2 A. No.</p> <p>3 Q. You testified that the first six months</p> <p>4 after the accident that your mother helped with you</p> <p>5 with daily activities such as eating, bathing, and</p> <p>6 driving while your hands and arms were healing; is</p> <p>7 that true?</p> <p>8 A. Yes.</p> <p>9 Q. You testified by October '18 -- sorry, by</p> <p>10 October of 2018, that by then you were able to</p> <p>11 return to work full time as a chef cooking in the</p> <p>12 kitchen; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And did that include using gas grills in</p> <p>15 the kitchen?</p> <p>16 A. I haven't used a gas grill or a propane</p> <p>17 grill since the accident.</p> <p>18 Q. You've not used any gas grill at all</p> <p>19 since the time of the accident?</p> <p>20 A. No.</p> <p>21 Q. And that gets into psychological issues</p> <p>22 where you are fearful of using a gas grill; is that</p> <p>23 right?</p> <p>24 A. Yes. It happened once. It can happen</p> <p>25 again.</p>
<p style="text-align: right;">Page 280</p> <p>1 issues, and you testified that long before this</p> <p>2 grill accident, you had epileptic seizures. I</p> <p>3 think you said those began when you were working at</p> <p>4 SkinnyFATS; is that right?</p> <p>5 A. It began before that, but yes.</p> <p>6 Q. And you testified at least initially that</p> <p>7 the seizures reduced your work hours, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then if I understand, once you</p> <p>10 treated those seizures with medical marijuana, it</p> <p>11 has been several years since you've had any</p> <p>12 seizures; is that true?</p> <p>13 A. Yes.</p> <p>14 Q. So am I correct that you no longer have</p> <p>15 any reduction in your work hours due to seizures?</p> <p>16 A. Yes.</p> <p>17 Q. You also testified about at a very young</p> <p>18 age, at least at that time, a learning disability;</p> <p>19 is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Are there any current continuing issues</p> <p>22 that you relate to that learning disability that</p> <p>23 interfere with your work?</p> <p>24 A. No.</p> <p>25 Q. So there's no reduction in work hours due</p>	<p style="text-align: right;">Page 282</p> <p>1 Q. Other than the psychological issue which</p> <p>2 I'll get into in a moment, according to your prior</p> <p>3 testimony, the only remaining problem that you're</p> <p>4 facing that you relate to the accident is</p> <p>5 temperature extremes on your hands; is that true?</p> <p>6 A. Yes.</p> <p>7 Q. So let's talk about the psychological</p> <p>8 issue briefly.</p> <p>9 You testified last time that -- that was</p> <p>10 May 18, I believe, that the Friday before we</p> <p>11 started your deposition, which would be May 15,</p> <p>12 that you saw a -- is it psychologist or</p> <p>13 psychiatrist?</p> <p>14 A. Psychologist.</p> <p>15 Q. Is that Michael Elliott?</p> <p>16 A. Yes.</p> <p>17 Q. You saw psychologist Michael Elliott for</p> <p>18 an evaluation on May 15?</p> <p>19 A. Yes.</p> <p>20 Q. Have you heard from him on the results of</p> <p>21 his evaluation?</p> <p>22 A. Yes. I have another appointment with him</p> <p>23 on July 1st.</p> <p>24 Q. Can you tell us what results he reported</p> <p>25 to you from his evaluation?</p>

<p style="text-align: right;">Page 283</p> <p>1 A. We didn't really go into too much of it.  2 They said we were going to go over stuff on the  3 1st. Just told me that I had -- from his findings,  4 that I -- that I have PTSD on the situation, and  5 that, you know, me working on grills or anything  6 that has to do with potential fire, it definitely  7 has a play on it.  8 And, I mean, his whole thing is that he  9 definitely thinks that there's trauma due to the  10 incident.  11 Q. Did he specifically diagnose you with  12 PTSD as a result of this grill accident?  13 A. I mean, he told me that he feels that it  14 can and then that's why they're doing more tests  15 and they're doing more -- that's why we're having  16 more meetings and more sessions.  17 Q. So if I understand, is his evaluation  18 continuing or has he completed his --  19 A. No. It's continuing.  20 Q. So at this point he said it's a  21 possibility that you have PTSD from this accident  22 but that more evaluation is needed; is that true?  23 A. Yes, and going more into a detailed  24 psychological session, and that's what we're going  25 on July 1st.</p>	<p style="text-align: right;">Page 285</p> <p>1 A. No.  2 Q. Do you know what future tests he has in  3 mind?  4 A. No.  5 Q. But some kind of testing you understand  6 is slated for the next visit?  7 A. Yes.  8 Q. And that's on July 1?  9 A. Yes.  10 Q. Did you get any paperwork from him, any  11 kind of report or test results from when you saw  12 him on May 15?  13 A. I believe everything was given to my  14 lawyer.  15 Q. Okay. Have you seen it?  16 A. No.  17 Q. Forgive me if I covered this before.  18 Had you ever been diagnosed with PTSD  19 before this accident?  20 A. No.  21 Q. Have you ever had any traumatic event  22 before this accident that required any kind of  23 professional care?  24 A. No. I mean, I had a bad car accident,  25 but I never had -- you know, I never had anything</p>
<p style="text-align: right;">Page 284</p> <p>1 Q. Did you do any testing on May 15 with  2 Michael Elliott?  3 A. Yes.  4 Q. What kind of testing?  5 A. I went in front of a computer and  6 answered a bunch of questions.  7 Q. Do you happen to know the name of that  8 test, what it's called?  9 A. No. I think it was like a Pearson's test  10 or some straightforward test.  11 Q. Do you recall how many questions were  12 involved?  13 A. Like 200. I don't even -- it was a lot.  14 Q. How long did it take?  15 A. Like two and a half hours, two hours.  16 Q. Was it a multiple choice or an essay  17 type?  18 A. Multiple choice.  19 Q. So you're given a question and then you  20 have, what, three or four possible answers and you  21 pick one of those?  22 A. Yes.  23 Q. Do you recall any other type of testing  24 that you took on May 15 when you saw Michael  25 Elliott for psychological evaluation?</p>	<p style="text-align: right;">Page 286</p> <p>1 from it.  2 Q. You were seeing Lauren Unger, a shaman in  3 Miami?  4 A. Mm-hmm.  5 Q. And what specifically were you seeing her  6 for?  7 A. I was seeing her for -- I've had a lot of  8 businesses and I was, you know, taken advantage of  9 in a couple ways. And I saw her because I was  10 super negative in my life and saw a lot of things  11 going in a negative spiral. So I went to her to  12 fix -- to fix things and going into a better  13 direction, positive and -- you know, kind of fix my  14 life in different ways.  15 Q. And that had to do in part, I think, from  16 what you testified before, with what happened with  17 Green Gourmet and SkinnyFATS?  18 A. Yes.  19 Q. That was a negative impact?  20 A. Yes.  21 Q. Psychologically?  22 A. Yes. I mean, everything.  23 Q. Right.  24 Do you feel that you had recovered from  25 that negative psychological impact, what happened</p>

<p style="text-align: right;">Page 287</p> <p>1 with those businesses, before this accident 2 happened?</p> <p>3 A. Yes. Because I -- I mean, after going to 4 her, I felt that I was a different -- I was a 5 different person, and I just felt in a more 6 positive attitude towards things and not as 7 negative.</p> <p>8 Q. By the way, I'm sure I'm mistaken, but 9 Lauren Unger is not now your wife? Is it a 10 different Lauren?</p> <p>11 A. Yes.</p> <p>12 Q. Lauren Unger is still in Miami somewhere?</p> <p>13 A. Yes. I still talk to her.</p> <p>14 Q. How often do you talk to her?</p> <p>15 A. Whenever I need to, but usually like 16 once -- I touch base once every two weeks.</p> <p>17 Q. What do you talk about generally?</p> <p>18 A. Just what's going on, my well-being, how 19 I'm doing, how, you know, my path is going.</p> <p>20 Q. Do you talk to Lauren Unger specifically 21 about your psychological issues from this accident?</p> <p>22 A. I mean, we've had discussions about it, 23 yes.</p> <p>24 Q. Is she someone that provides therapy for 25 you on that?</p>	<p style="text-align: right;">Page 289</p> <p>1 relevant. It is relevant. It's privileged because 2 it is a treating person, a person providing medical 3 treatment or psychological treatment. So for that 4 reason, it is subject to the patient privilege.</p> <p>5 MR. McMULLEN: In Nevada is the privilege 6 not waived once the plaintiff puts the condition in 7 issue? That's been my experience.</p> <p>8 MR. PFAU: No, it's not waived. It's not 9 waived as it relates to communications.</p> <p>10 MR. McMULLEN: So if I had medical 11 records or some notes that she made when she 12 provides therapy to him, clearly those would be 13 discoverable and I could ask him about those.</p> <p>14 MR. PFAU: Certainly.</p> <p>15 MR. McMULLEN: And that's along the lines 16 what I'm asking now, whether she's provided him any 17 assistance or help, advice, with his psychological 18 issues.</p> <p>19 MR. PFAU: Okay. That's fine.</p> <p>20 BY MR. McMULLEN:</p> <p>21 Q. Has Lauren Unger provided you with any 22 care, therapy-type care, in relation to this 23 accident?</p> <p>24 A. Just like I said before, just normal -- 25 just conversations and we talk about -- we do talk</p>
<p style="text-align: right;">Page 288</p> <p>1 A. I mean, she gives me the advice from 2 her -- from her side, and, you know, it's not 3 really -- I wouldn't say "therapy," but it's more 4 of talks and conversations of making myself better.</p> <p>5 Q. Is that the main reason you still have 6 contact with her, or are you mainly talking about 7 other things?</p> <p>8 A. I mean, we talk about everything. I 9 mean, we have conversations about this accident, 10 about everything.</p> <p>11 Q. You talk to her about your general 12 well-being?</p> <p>13 A. Yes.</p> <p>14 Q. Has she given you any advice regarding 15 your psychological issues from this accident?</p> <p>16 MR. PFAU: I'm going to object to the 17 question as it calls for privileged communications. 18 He can answer as long as it's not related to 19 anything she may have said to him.</p> <p>20 MR. McMULLEN: I'm not sure I understand 21 the nature of the privilege. He's put his 22 psychological condition at issue, so if he's 23 getting any kind of professional care, that's now 24 become relevant.</p> <p>25 MR. PFAU: It's not that it's not</p>	<p style="text-align: right;">Page 290</p> <p>1 about the incident. We talk about what happened, 2 how I'm doing, and you know, the situation -- how 3 I'm handling it, how I'm going through it. And 4 that's really the basis of it.</p> <p>5 Q. In the course of the care or therapy that 6 Lauren Unger has provided you, has she given you 7 any specific advice to help with your psychological 8 issues?</p> <p>9 A. No. She just said to go to a more 10 detailed psychological treatment and that's why I 11 went to Michael Elliott.</p> <p>12 Q. I see.</p> <p>13 A. The conversations that we have are more 14 of a -- about my attitude, my ways of how I'm 15 dealing with all the situations that come into my 16 life, and how I'm making my life better.</p> <p>17 Q. How is your attitude and outlook now? 18 How would you describe your psychological state?</p> <p>19 A. I mean, everything -- it's been good, 20 but, I mean, a lot of -- like I said before, a lot 21 of this incident just made me -- hindered a lot of 22 things that I would have done before.</p> <p>23 I was -- I never was ever in fear of 24 equipment. Now I have fear of equipment. I have 25 fear of grills. I mean, I -- you know, I do cook</p>

<p style="text-align: right;">Page 343</p> <p>1 Thank you very much.</p> <p>2 MR. PFAU: I don't have any questions.</p> <p>3 Are we all done?</p> <p>4 MR. McMULLEN: I think so.</p> <p>5 MR. PFAU: Okay.</p> <p>6 MR. McMULLEN: Do we have the usual</p> <p>7 stipulations? What do you want to do?</p> <p>8 MR. PFAU: To read and sign, you mean?</p> <p>9 MR. McMULLEN: Right.</p> <p>10 MR. PFAU: Yeah. We can waive the read</p> <p>11 and sign for Josh.</p> <p>12 MR. McMULLEN: Very good. Thank you.</p> <p>13 MR. PFAU: Thanks.</p> <p>14 THE VIDEOGRAPHER: This concludes today's</p> <p>15 deposition of Joshua Green. The time is</p> <p>16 approximately 9:54 a.m. We're off the record.</p> <p>17 (Whereupon, the deposition was concluded</p> <p>18 at 9:54 a.m. this date.)</p> <p>19 * * * * *</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 345</p> <p>1</p> <p>2 IN WITNESS THEREOF, I have hereunto set my hand</p> <p>3 in my office in the County of Clark, State of Nevada,</p> <p>4 this 12th day of July, 2020.</p> <p>5</p> <p>6 </p> <p>7</p> <p>8 Monice K. Campbell, CCR No. 312</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 344</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF NEVADA )</p> <p>3 ) SS:</p> <p>4 COUNTY OF CLARK )</p> <p>5</p> <p>6 I, Monice K. Campbell, a duly</p> <p>7 commissioned and licensed court reporter, Clark</p> <p>8 County, State of Nevada, do hereby certify: That I</p> <p>9 reported the taking of the deposition of the</p> <p>10 witness, JOSHUA GREEN, commencing on MONDAY, JUNE</p> <p>11 29, 2020, at 8:38 a.m.;</p> <p>12</p> <p>13 That prior to being examined, the witness</p> <p>14 was, by me, duly sworn to testify to the truth.</p> <p>15 That I thereafter transcribed my said shorthand</p> <p>16 notes into typewriting and that the typewritten</p> <p>17 transcript of said deposition is a complete, true,</p> <p>18 and accurate transcription of said shorthand notes.</p> <p>19</p> <p>20 I further certify that I am not a relative or</p> <p>21 employee of an attorney or counsel or any of the</p> <p>22 parties, nor a relative or employee of an attorney or</p> <p>23 counsel involved in said action, nor a person</p> <p>24 financially interested in the action; that a request</p> <p>25 ([X] has not) been made to review the transcript.</p>	



# **EXHIBIT E**

A-19-795381-C      Joshua Green, Plaintiff(s)  
vs.  
Ferrellgas, Inc., Defendant(s)

November 19, 2020      09:00 AM      Defendant's Motion to Compel NRCP 35 Examination

HEARD BY:      Truman, Erin      COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Lott, Jennifer

RECORDER:      Haak, Francesca

REPORTER:

PARTIES PRESENT:

Felicia Galati	Attorney for Counter Claimant, Cross Defendant, Defendant
Gina Gilbert Winspear	Attorney for Counter Claimant, Cross Defendant, Defendant
Gregorio Silva, ESQ	Attorney for Counter Claimant, Cross Defendant, Defendant
Matthew Pfau	Attorney for Plaintiff
Steven M. Goldstein	Attorney for Counter Defendant, Cross Claimant, Defendant, Third Party Plaintiff

### JOURNAL ENTRIES

Mr. Silva stated counsel agree a Rule 35 examination is appropriate, but the scope is at issue. Commissioner advised counsel the Court will determine if an expert is appropriate. Commissioner will allow Deft to choose their own Rule 35 Examiner unless good cause is shown. Commissioner stated there is a clear dispute between NRCP 35 and NRS 52.380. COMMISSIONER RECOMMENDED, based on the Statute, audio recording is allowed, and an observer is allowed at the Rule 35 examination pursuant to NRS 52.380.

Arguments by counsel. COMMISSIONER RECOMMENDED, motion GRANTED, and scope of the Rule 35 examination is GRANTED IN PART and DENIED IN PART; any prior mental health conditions at issue in this case are appropriate areas of inquiry; a general overview of what happened is allowed; what occurred before the explosion, or how the explosion occurred are Not Allowed. Commissioner allowed how the explosion affected Plaintiff's body. Colloquy. If Plaintiff is claiming a loss of focus and memory loss, Commissioner will allow a neuro-psychological examination. Commissioner stated it is not clear what is being alleged, and what is being withdrawn. Mr. Pfau is not planning to make a claim for a traumatic brain injury. Commissioner stated Defts cannot put Plaintiff's claims at issue. Mr. Silva stated if Plaintiff will Stipulate to remove neurological conditions at issue in the litigation, and there are no claims, then Mr. Silva will withdraw the Request for a neuro-psychological Rule 35 examination.

Commissioner stated it is not clear what type of Rule 35 examination is warranted in this case. Ms. Winspear agreed with Mr. Silva. If Plaintiff wants to withdraw neuro-psychological issues, Mr. Goldstein agreed to reflect that in the scope of the Rule 35 examination. COMMISSIONER RECOMMENDED, Further Proceedings SET in two weeks on the scope of the Rule 35 examination, and whether a neuro-psychological evaluation is appropriate in this case. Mr. Pfau stated additional briefing may be needed. If counsel can resolve the issues by

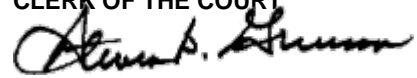
Stipulation, Commissioner advised counsel to contact the Discovery office, and vacate the Hearing.

Mr. Silva to prepare the Report and Recommendations, and counsel to approve as to form and content. Comply with Administrative Order 20-10, and submit the DCRR to [DiscoveryInbox@clarkcountycourts.us](mailto:DiscoveryInbox@clarkcountycourts.us). A proper report must be timely submitted within 14 days of the hearing. Otherwise, counsel will pay a contribution.

12-10-2020 10:00 a.m.

Further Proceedings: Scope of the Rule 35 examination, and whether a neurological evaluation is appropriate in this case

# **EXHIBIT F**



1 **SB**

2 Marjorie L. Hauf, Esq.  
3 Nevada Bar No.: 8111  
4 Matthew G. Pfau, Esq.  
5 Nevada Bar No.: 11439  
6 H&P LAW  
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8 Las Vegas, NV 89147  
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12 mpfau@courtroomproven.com

13 Attorneys for Plaintiff,  
14 *Joshua Green*

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 \* \* \*

18 **Joshua Green**, an individual,

19 Plaintiff,

20 vs.

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

26 Defendants.

27 **Mario S. Gonzalez**, an individual;

28 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

**Supplemental Briefing on Defendants'  
Motion to Compel Neuropsychological  
Rule 35 Examination**

Discovery Hearing date: December 10, 2020

Hearing time: 10:00 a.m.



**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, files this Supplemental Briefing on Defendants' Motion to Compel Neuropsychological Rule 35 Examination. This motion is based on the following memorandum of points and authorities, the papers, and pleadings on file with this Court, and the oral argument of the parties.

DATED this 7th day of December 2020.

H & P LAW

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

Attorneys for Plaintiff,  
*Joshua Green*

## MEMORANDUM OF POINTS AND AUTHORITIES

### I.

#### Introduction

Defendants in this matter allege Plaintiff, Joshua Green, cannot experience issues with memory loss and concentration sans traumatic brain injury. This argument is folly, and disregards clinically supported observations that Post Traumatic Stress Disorder causes memory loss and cognitive dysfunction. Specifically, psychologists have recorded decreased hippocampal function, often as a response to block out flashbacks to the traumatic event.

In Plaintiff, Joshua Green's case, his body was engulfed with flames after opening Defendant, Mario Gonzalez's grill. Josh, at 5'8, remembers these flames surpassing

the height of his entire body.<sup>1</sup> His shoes, pants, and shirt were scorched from blaze, rendering them useless.<sup>2</sup> And, the explosion replicated a bomb—reverberating through the neighborhood like a warzone.<sup>3</sup>

Since this horrific experience, Josh—a professional chef—has been afraid to use propane grills.<sup>4</sup> When exposed to fire or flames, the memories of the June 2018 explosion are awoken:<sup>5</sup>

Mr. McMullen: Do you have any PTSD symptoms, in your opinion, other than what you've told me? Are you fearful of using propane?

Josh Green: Yep. I mean. I'm fearful of using propane. I'm fearful of using grills. **I'm afraid of fire.** I mean, I went to O, a show at the Bellagio, with my boss, and I was sitting there and there was guy on fire and I was like, 'Oh look. It's me.' You know, anything that I see that has to do with a guy on fire or, you know, any of that, it brings back *memories*. And that's the biggest thing, is that it's always -- I'm always being -- you know, I'm always remembering the situation because it was so **dramatic** and the fact that I was in the hospital for a while. I was in a lot of treatment with them ripping off my bandages and just like the whole process was extremely *emotional* and devastating to everything that I've done after the accident.

After nearly two years of suffering with depression and debilitating flashbacks, Josh presented to Michael Elliott, Ph.D for the first time on May 20, 2020. Dr. Elliott evaluated Josh for "severe headaches," "stress," "exhaustion" and a generalized fear of using grills and propane.<sup>6</sup> During a follow up appointment on July 1st, Dr. Elliott noted Josh continued to experience "flashbacks to the accident, especially whenever he sees flames," noticeable "waves of depression...[that] cause him to withdraw from relationships," and "anxiety."<sup>7</sup> Dr. Elliott has since diagnosed Josh with traumatic stress disorder, generalized anxiety, and reaction to severe stress.<sup>8</sup> While Dr. Elliott

<sup>1</sup> See Deposition transcript of Plaintiff, Joshua Green Volume I at 123:12–21, as Exhibit 1.

<sup>2</sup> *Id.* at 123:23–24.

<sup>3</sup> *Id.* at 122:24–123:11 and Video footage of explosion, provided on through email as Exhibit 2.

<sup>4</sup> Exhibit 1 at 52:20–53:16.

<sup>5</sup> See Deposition transcript of Plaintiff, Joshua Green Volume II at 298:10–299:3, as Exhibit 3.

<sup>6</sup> See Michael Elliott, Ph.D and Associates medical records at GREEN 1086–1087, as Exhibit 4.

<sup>7</sup> *Id.* at GREEN 1088.

<sup>8</sup> *Id.* at GREEN 1247.



1 does recognize Josh suffers from mild cognitive impairment, he also notes Josh “has  
2 a history of seizures” and was in “a major car accident in the past.”<sup>9</sup> This history is  
3 something Josh has acknowledged since the beginning of this litigation,<sup>10</sup> but also  
4 asserts he has not experienced any depression, stress, or anxiety as a result.<sup>11</sup>

5 Defendants’ filed a Motion to Compel a Neuropsychological Rule 35 Examination  
6 of Josh.<sup>12</sup> Because Josh is *not* treating with a neuropsychologist and his symptoms  
7 are PTSD related, a neuropsychological examination is not appropriate. A  
8 neuropsychological examination would subject Josh to two *full* days of testing with  
9 neuropsychologist, Lewis Etcoff, Ph.D. Further, and perhaps most importantly,  
10 Plaintiff is **not asserting a traumatic brain injury**. Josh is aware his epilepsy and  
11 car accident 15 years ago will inevitably complicate any potential brain injury.  
12 Defendants are not permitted to raise claims on Josh’s behalf. Josh will not, however,  
13 withdraw a claim for posttraumatic stress, depression, anxiety, or any cognitive  
14 impairment that occurred because of such.

## 16 II.

### 17 Law and Argument

#### 19 A. Memory loss and cognitive impairment are clinically recognizable 20 consequences of Posttraumatic Stress Disorder.

21 Kristin W. Samuelson, Ph.D explores memory function and abnormalities in “Post-  
22 traumatic stress disorder and declarative function: a review.” Dr. Samuelson, a  
23 prominent research psychologist and faculty member at the University of Colorado,  
24 argues “memory disturbances are predominant in the presentation of post-  
25 traumatic stress disorder (PTSD)” and are in fact, part of the diagnostic criteria in

26 <sup>9</sup> *Id.* at GREEN 1087.

27 <sup>10</sup> Exhibit 1 at 38:19–20.

28 <sup>11</sup> *Id.* at 44:11–52:19.

<sup>12</sup> See Defs. Motions to Compel.

patients.<sup>13</sup> Dr. Samuelson states because PTSD patients re-experience their traumatic events in the form of “intrusive memories,” they overcorrect, leading to “everyday memory problems” as well.<sup>14</sup> PTSD patients suffer typically with “learning phases” of memory, specifically verbal memory and retaining new information.<sup>15</sup>

To support this theory, psychologists performed analysis on adults with “PTSD related to combat, childhood abuse, rape, political violence, and the Holocaust.”<sup>16</sup> These studies also involved a control group, with noticeable verbal and visual memory deficits occurring in PTSD patients than in groups unexposed to trauma.<sup>17</sup> Specifically, psychologists noted a “stronger memory impairment in war veteran groups compared with civilian groups.”<sup>18</sup>

Additionally, psychologists recognize increased memory dysfunction in PTSD patients with childhood learning disabilities or other pre-existing genetic factors.<sup>19</sup> These patients developed worsening “working memory, processing speed, and verbal intelligence” than those without pre-existing;<sup>20</sup> however, memory function in patients with pre-existing was significantly deteriorated than pre-trauma.<sup>21</sup> Essentially, all findings support a subtle, albeit noticeable, change in memory function before and after trauma.<sup>22</sup>

Josh’s symptomology undeniably aligns with the memory loss outlined in Dr. Samuelson’s article. Josh’s body was consumed in fire during a massive explosion—a warlike trauma. And, since the explosion, he experiences flashbacks, difficulty with

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<sup>13</sup> See, Samuelson, Kristin W. “Post-Traumatic Stress Disorder and Declarative Memory Functioning: a Review.” *Dialogues of Clinical Neuroscience* 13, no. 3 (2011): 346–51., attached as Exhibit 5.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

cognition, and short-term memory.<sup>23</sup> Specifically, Josh struggles with tasks he could ordinarily handle before the explosion, including running a high volume kitchen, scheduling workers, tracking and maintaining inventory, and submitting paperwork to vendors.<sup>24</sup> Josh also has a documented history of a minor learning disability<sup>25</sup> and epilepsy<sup>26</sup>—pre-existing factors **proven** to exacerbate memory issues in PTSD patients.

Similarly, *The British Journal of Psychiatry* examined decreased cognitive function and memory in PTSD patients.<sup>27</sup> Jennifer Wild, Ph.D—Oxford’s leading clinical psychologist on PTSD—and Ruben C. Gur, Ph.D performed testing memory and attention testing on 23 PTSD patients.<sup>28</sup> Dr. Wild and Dr. Gur established the “PTSD-persistent group had poorer-performance on immediate and delayed verbal recall” compared to non-trauma victims.<sup>29</sup> PTSD patients also appear to experience “difficulty sustaining attention.”<sup>30</sup> Further, and perhaps most concerning, Doctors Wild and Gur determined that PTSD patients with memory issues have constrained recovery.<sup>31</sup> Meaning, PTSD patients that experience memory loss will have either no chance, or a lessened chance, of recovering from their symptoms.

Again, these clinical findings support Josh’s experiences since the explosion. Although Josh was diagnosed with a mild learning disability as a child, it did not hinder him from becoming successful, being social, or managing his emotions. Josh did not experience any such debilitating symptoms until *after* the June 18, 2018 explosion at the Gonzalez property. And, because he had never dealt with this

<sup>23</sup> Exhibit 4 at GREEN 1088.

<sup>24</sup> *Id.* at GREEN 1086.

<sup>25</sup> Exhibit 4 at GREEN 1087 and Exhibit 1 at 13:3–15:1.

<sup>26</sup> Exhibit 4 at GREEN 1087 and Exhibit 1 at 39:3–9.

<sup>27</sup> See Wild, Jennifer, and Ruben C. Gur. “Verbal Memory and Treatment Response in Post-Traumatic Stress Disorder.” *The British Journal of Psychiatry* 193 (2008): 254–55., as Exhibit 6. b

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

before, he waited to seek treatment. Josh decided in May 2020 “it was time to get some more doctor help,” prompting him to visit Dr. Elliott.<sup>32</sup> This is clearly representative of a PTSD patient with delayed recovery.

**B. Given Josh’s symptoms, a Neuropsychological Rule 35 Exam is harassing and improper.**

Plaintiff’s counsel has already agreed to subject Josh to two separate Rule 35 exams—one physical<sup>33</sup> and one mental. Defendants want to conduct a Neuropsychological Rule 35 Exam over two full days,<sup>34</sup> with neuropsychological testing. Even with his own treating physician, Josh has not undergone *any* neuropsychological treatment. As discussed above, Josh is aware of his history of epilepsy and a major car crash will complicate any potential traumatic brain injury. In lieu of opening that door to the Defense, Josh has waived any claim that the blast caused a traumatic brain injury.

Further, Defendants’ insistence on a Neuropsychological Rule 35 is nothing more than an attempt to harass and belittle the Plaintiff. Defendants have already subjected Josh to over eight hours of depositions and dozens of intrusive discovery requests. While Josh understands this is par for the course in litigation, he has been forthcoming with all his issues and has timely supplemented all disclosures. It is illogical for Defendants to push a neuropsychological issue when it simply does not exist. Josh has PTSD. PTSD causes attention and memory problems. A psychological Rule 35 Exam will be sufficient to determine this.

<sup>32</sup> Exhibit 3 at 341:4–12.

<sup>33</sup> Inexplicably, Defendants have not yet proposed an examiner for a physical Rule 35 or any parameters.

<sup>34</sup> See Defs. Reply in Support “Defendants respectfully request an Order allowing Dr. Etcoff to conduct a Rule 35 examination on March 2 and 3, 2021...”

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III.

Conclusion

Plaintiff does not dispute Rule 35 Examinations are proper given the damages in this case, however, Defendants chose a wholly inappropriate examiner for the psychological Rule 35—neuropsychologist Dr. Lewis Etcoff. Clinically correlation supports that PTSD can lead to memory loss and cognitive impairment. As such, Plaintiff respectfully request this Court determine Defendants are permitted to conduct a psychological Rule 35 Exam, not neuropsychological.

DATED this 7th day of December 2020.

H & P LAW



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**Certificate of Service**

I hereby certify that on the 7th day of December 2020, service of the foregoing **Supplemental Briefing on Defendants' Motion to Compel Neuropsychological Rule 35 Examination** was made by required electronic service to the following individuals:

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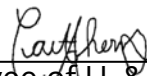
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# EXHIBIT “1”

**In the Matter Of:**  
A-19-795381-C  
GREEN  
vs  
FERRELLGAS, INC. et al.

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**Videotaped Deposition Of:**  
*JOSHUA GREEN, VOLUME I*  
*May 18, 2020*

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702-805-4800  
scheduling@envision.legal



DISTRICT COURT

CLARK COUNTY, NEVADA

JOSHUA GREEN, an )  
individual, )  
 )  
Plaintiff, ) Case No.: A-19-795381-C  
 ) Dept. No.: C  
vs. )  
 )  
FERRELLGAS, INC., a foreign )  
corporation; MARIO S. )  
GONZALEZ, an individual; )  
CARL J. KLEISNER, an )  
individual; DOES I through )  
XXX, inclusive, and ROES )  
BUSINESS ENTITIES I through )  
XXX, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_)  
 )  
AND ALL RELATED ACTIONS. )  
\_\_\_\_\_)

VOLUME I

VIDEOTAPED DEPOSITION OF JOSHUA GREEN

LAS VEGAS, NEVADA

MONDAY, MAY 18, 2020

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 4446

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VIDEOTAPED DEPOSITION OF JOSHUA GREEN, held at  
Envision Legal Solutions, located at 700 South 3rd  
Street, Las Vegas, Nevada, on Monday, May 18, 2020,  
at 9:36 a.m., before Monice K. Campbell, Certified  
Court Reporter, in and for the State of Nevada.

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JORDAN LEADS, VIDEOGRAPHER

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I N D E X

JOSHUA GREEN

Examination By Mr. McMullen

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E X H I B I T S

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<p style="text-align: right;">Page 6</p> <p>1                               * * * * *</p> <p>2               LAS VEGAS, NEVADA; MONDAY, MAY 18, 2020</p> <p>3                               9:36 A.M.</p> <p>4                               * * * * *</p> <p>5               THE VIDEOGRAPHER: This begins the</p> <p>6 video-recorded deposition of Joshua Green for the</p> <p>7 matter entitled Joshua Green versus Ferrellgas,</p> <p>8 Incorporated, Case Number A-19-795381-C. We're at</p> <p>9 700 South Third Street, Las Vegas, Nevada.</p> <p>10              Today's date is Monday, May 18, 2020,</p> <p>11 and the time is approximately 9:36 a.m.</p> <p>12              I am the videographer, Jordan Leads. The</p> <p>13 court reporter is Monice Campbell with Envision.</p> <p>14              Will counsel please identify yourselves</p> <p>15 and then the reporter will administer the oath.</p> <p>16              MR. McMULLEN: I'm Mike McMullen for</p> <p>17 Ferrellgas.</p> <p>18              MR. AVAKIAN: David Avakian for</p> <p>19 Home Depot.</p> <p>20              MR. GOLDSTEIN: Steven Goldstein for</p> <p>21 Mario Gonzalez.</p> <p>22              MS. WINSPEAR: Gina Winspear for</p> <p>23 Defendant Kleisner.</p> <p>24              MR. PFAU: Matt Pfau for the plaintiff,</p> <p>25 Joshua Green.</p>	<p style="text-align: right;">Page 8</p> <p>1                               It's important we don't talk at the same</p> <p>2 time, so if you'll wait until I'm done with my</p> <p>3 question before you answer, I'll try to wait until</p> <p>4 you're done with the last answer before a new</p> <p>5 question because the court reporter is taking it</p> <p>6 down. It makes it easier for her.</p> <p>7                               Since we're across the table from one</p> <p>8 another, I can tell when you nod and shake the</p> <p>9 head, which is just fine, but we also need an</p> <p>10 audible response. Also, a yes or no is better than</p> <p>11 an uh-uh or uh-huh.</p> <p>12                              Understood?</p> <p>13              A.    Yes, sir.</p> <p>14              Q.    Is there any reason, whether it be</p> <p>15 mental, physical, emotional, or medication-related,</p> <p>16 anything at all that you can think of that might</p> <p>17 interfere with your ability to understand and</p> <p>18 answer my questions today?</p> <p>19              A.    No.</p> <p>20              Q.    If you need to take a break, that's fine.</p> <p>21 We will do that.</p> <p>22                              So we're here to talk about an</p> <p>23 unfortunate accident on June 18 of 2018 and the</p> <p>24 lawsuit you have pending in Clark County District</p> <p>25 Court.</p>
<p style="text-align: right;">Page 7</p> <p>1 Whereupon,</p> <p>2                               JOSHUA GREEN,</p> <p>3 having been sworn to testify to the truth, the whole</p> <p>4 truth, and nothing but the truth, was examined and</p> <p>5 testified under oath as follows:</p> <p>6</p> <p>7                              EXAMINATION</p> <p>8 BY MR. McMULLEN:</p> <p>9              Q.    Good morning.</p> <p>10             A.    Good morning.</p> <p>11             Q.    Please state your name, please.</p> <p>12             A.    Joshua Ross Green.</p> <p>13             Q.    May I call you Josh?</p> <p>14             A.    Yes.</p> <p>15             Q.    Josh, my name is Mike McMullen. I'm a</p> <p>16 lawyer from Kansas City. I represent Ferrellgas.</p> <p>17                    Have you ever been in a deposition</p> <p>18 before, a setting like this with lawyers asking</p> <p>19 questions?</p> <p>20             A.    No.</p> <p>21             Q.    Let me try to give you a few ground</p> <p>22 rules. I'm going to ask you questions and I don't</p> <p>23 want you to answer any question that you don't</p> <p>24 understand. So if it's unclear for any reason,</p> <p>25 tell me and I'll try to rephrase.</p>	<p style="text-align: right;">Page 9</p> <p>1                              Let me say first that regardless of how</p> <p>2 this happened or who's at fault, I'm personally</p> <p>3 sorry that you were injured, and I intend to be</p> <p>4 respectful during the deposition. But I hope you</p> <p>5 understand that I have to do the job for my client,</p> <p>6 so please don't take my questions personally and</p> <p>7 I'll be as respectful as possible.</p> <p>8              A.    Yes.</p> <p>9              Q.    My purpose here is to get the facts and</p> <p>10 your best testimony as to what happened, talk about</p> <p>11 your injuries and your recovery, and explore the</p> <p>12 basis for your claims.</p> <p>13                    If after you've answered a question,</p> <p>14 sometime later you think, "Oh, I forgot something</p> <p>15 else," or you want to change your answer, that's</p> <p>16 fine. I want to get your best testimony.</p> <p>17                    If you don't remember something, just</p> <p>18 tell me you don't remember. And I'm not here to</p> <p>19 grill you or ask you to guess or speculate. Just</p> <p>20 tell the truth. Do the best you can.</p> <p>21                    Okay so far?</p> <p>22              A.    Yes.</p> <p>23              Q.    All right. Now, you've already responded</p> <p>24 to interrogatories. Do you remember that, written</p> <p>25 questions? Your lawyer probably helped you.</p>

Page 10	Page 12
<p>1 A. Yes.</p> <p>2 Q. And that will shorten things and I'll</p> <p>3 refer to those.</p> <p>4 Did you do anything to prepare for your</p> <p>5 deposition today?</p> <p>6 A. No. Just -- I just talked to my lawyer.</p> <p>7 Q. Don't ever tell me anything you talked</p> <p>8 about --</p> <p>9 A. Okay.</p> <p>10 Q. -- because that's privileged.</p> <p>11 Did you do anything besides meet with</p> <p>12 Mr. Pfau?</p> <p>13 A. No.</p> <p>14 Q. Let's start with some background</p> <p>15 information.</p> <p>16 I know your birth date. February 12,</p> <p>17 1982, in Manhasset, New York?</p> <p>18 A. Yes.</p> <p>19 Q. You currently reside at</p> <p>20 2609 Centaurus Street?</p> <p>21 A. Yes.</p> <p>22 Q. In Henderson, Nevada?</p> <p>23 A. Yes.</p> <p>24 Q. How long have you lived there?</p> <p>25 A. I lived there six months after the</p>	<p>1 A. Yes.</p> <p>2 Q. What do they do?</p> <p>3 A. My father is a second-grade teacher and</p> <p>4 my mother doesn't do anything -- or stays at home.</p> <p>5 Q. Don't put that on the record.</p> <p>6 A. She's a stay-at-home wife, mom, whatever.</p> <p>7 Disability.</p> <p>8 Q. How long have they lived in Henderson?</p> <p>9 A. Twelve years, I believe.</p> <p>10 Q. Do you keep in touch with them?</p> <p>11 A. Yes.</p> <p>12 Q. How often do you see them?</p> <p>13 A. Before the Coronavirus, I saw them once a</p> <p>14 week, usually every Sunday. I would make it a</p> <p>15 point to see them every Sunday.</p> <p>16 Q. And I imagine you intend to do that when</p> <p>17 the pandemic has passed?</p> <p>18 A. Yes.</p> <p>19 Q. Do you believe you're fairly close to</p> <p>20 your parents?</p> <p>21 A. Yes. I'm very close to my parents.</p> <p>22 Q. I imagine you have spoken to them about</p> <p>23 this accident?</p> <p>24 A. Yes.</p> <p>25 Q. And about how you're doing?</p>
Page 11	Page 13
<p>1 accident and then I moved for about six months and</p> <p>2 then I went back. So I've been there about four</p> <p>3 months.</p> <p>4 Q. So you lived there during the six months</p> <p>5 before the accident?</p> <p>6 A. No. After the accident.</p> <p>7 Q. After.</p> <p>8 A. Like before -- before and in between the</p> <p>9 accident, and then when I -- then I stayed there in</p> <p>10 between -- so I started there. Because I was in</p> <p>11 Miami. So I came back from Miami. I went to my</p> <p>12 parents' house.</p> <p>13 And then when I went to my parents'</p> <p>14 house, I was there. And then during this accident</p> <p>15 I was also living there. After the accident I</p> <p>16 stayed there, and then I moved into my business</p> <p>17 partner's house because it was closer to my work.</p> <p>18 Q. Your parents are Laurence and Sheila?</p> <p>19 A. Yes.</p> <p>20 Q. They live in Henderson?</p> <p>21 A. Yes.</p> <p>22 Q. I see. So let's start at the beginning</p> <p>23 here and try to move forward.</p> <p>24 Your parents are still living and they</p> <p>25 live in Henderson?</p>	<p>1 A. Yes.</p> <p>2 Q. Do you have any siblings?</p> <p>3 A. No. Only child. My mom couldn't have</p> <p>4 any more kids after me because I was premature. I</p> <p>5 was 4 pounds 9 ounces when I was born, and</p> <p>6 that's -- that was a lot -- due to that, I had a</p> <p>7 learning disability and was in the resource room</p> <p>8 and a lot of other stuff. My parents were told</p> <p>9 when I was four years old that I would never read,</p> <p>10 write, be able to function as a normal kid. And</p> <p>11 that was totally wrong.</p> <p>12 Q. So at the time you were born, they</p> <p>13 anticipated a learning disability but, in fact,</p> <p>14 that didn't happen?</p> <p>15 A. No. I did have -- when I grew up, in</p> <p>16 elementary school I was in a learning disability</p> <p>17 group where I was learning -- a disabled room or</p> <p>18 whatever you -- resource room. And then in high</p> <p>19 school, I had one period that I went to a resource</p> <p>20 room.</p> <p>21 Q. What's the nature of the learning</p> <p>22 disability?</p> <p>23 A. Reading and writing, understanding the --</p> <p>24 understanding reading, writing, and getting out</p> <p>25 what I am thinking.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. So that was an issue, that you had 2 special classes in elementary school and high 3 school? 4 A. Yes. 5 Q. Do you still have that type of 6 disability? 7 A. I mean, I'll always have that disability 8 but I've overcome it to the point -- especially me 9 being a chef, it doesn't -- I don't really have to 10 read, write, do a lot of that stuff. But I also, 11 you know, take -- my artistic abilities have come 12 out with being a chef. 13 Q. Are you able to read and write? 14 A. Yes. 15 Q. Is it just that you may not read or write 16 as quickly as someone else? 17 A. Yeah, read, write, as quickly as somebody 18 else, or reading something and not understanding 19 what I'm reading compared to other individuals. 20 Q. So you're able to read and write; it's 21 just slower? 22 A. Yes. 23 Q. And you can understand if you take your 24 time -- 25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 activities? 2 A. Yes. 3 And sleeping would bother me because, you 4 know, it was all the way up my arms and my hands 5 and I had bandages wrapped around, and it was just 6 like every time I moved, every time I did 7 something, it would pull from the bandages. I 8 mean, excruciating pain. 9 Q. So she helped you with bandage changes? 10 A. Mm-hmm. 11 Q. She helped with you eating? 12 A. Yes. 13 Q. What else did she help you with? 14 A. Washing my body. 15 Q. Bathing? 16 A. Yeah. I mean, anything -- mostly 17 driving, which -- driving. I mean, mostly anything 18 that I needed to use my hands. Sometimes couldn't 19 pick up the phone, so she would either hold the 20 phone or put it on speaker or something to that 21 effect. 22 Q. So she helped you with your recovery 23 period for some months? 24 A. Yes. 25 Q. How long?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. -- and read it carefully? 2 Have your parents assisted you in any way 3 with your recovery? 4 A. I mean, when -- after the accident, my 5 mother helped me a lot with -- I mean, I couldn't 6 shower. I had to wear special sleeves to shower. 7 So she helped with that. Doing things around the 8 house. 9 I mean, after, you know -- between three 10 and six months -- or from the accident until, you 11 know, six months, I've had a lot of issues and 12 problems doing stuff like driving, doing -- you 13 know, feeding myself, doing stuff around the house. 14 I mean, it was affecting my hands and my arms, so 15 anything that I had to do with that, you know, it 16 affected it. 17 Q. I think you testified you were living 18 with your parents after the accident for some 19 period of time? 20 A. Yes. 21 Q. Did you say six months? 22 A. Yes. 23 Q. And it's during that six-month period 24 that you're now explaining how your parents -- your 25 mother in particular would help you with daily</p>	<p style="text-align: right;">Page 17</p> <p>1 A. About -- I mean, she was helping me to 2 the point until where I moved out. And then after 3 I moved out, I lived with my business partner 4 because he knew of the situation. And so I lived 5 there for a short period of time because it was -- 6 like I said, I was closer to work. 7 And driving 40 minutes to work every day 8 was -- you know, especially with my hands, or like 9 sitting -- because my parents would drive me, so I 10 would sit on the side. It was just -- it was 11 uncomfortable moving around and all that stuff 12 so... 13 Q. When you say your business partner, do 14 you mean Mr. Sadie? 15 A. Yes. 16 Q. So now I'm going to go back and get the 17 geography straight. 18 I know you graduated from high school 19 in -- what year was it? 20 A. 2000. 21 Q. And that was Syosset? How do you say it? 22 A. Syosset, yeah. 23 Q. Syosset. Where is that? 24 A. Long Island, New York. 25 Q. So where did you move after New York?</p>

<p style="text-align: right;">Page 18</p> <p>1 Miami?</p> <p>2 A. No. After New York, I came here.</p> <p>3 Q. What first brought you here?</p> <p>4 A. School.</p> <p>5 Q. That's right. You went to UNLV?</p> <p>6 A. Yes.</p> <p>7 Q. Why did you come here for school?</p> <p>8 A. It was the best hotel restaurant</p> <p>9 management school in the country at the time, and</p> <p>10 that's what I was getting myself into. I didn't --</p> <p>11 I thought I wanted to own and operate restaurants,</p> <p>12 which I do now, and so I was right. And then --</p> <p>13 but I also was -- I didn't really have the</p> <p>14 ability -- or I didn't think I was going to be a</p> <p>15 chef at that time. I was focusing more on the</p> <p>16 running hospitality, businesses and restaurants and</p> <p>17 so on and so forth.</p> <p>18 Q. Management side?</p> <p>19 A. Yes.</p> <p>20 Q. So after high school, you came here to go</p> <p>21 to UNLV?</p> <p>22 A. Yes.</p> <p>23 Q. What year was that?</p> <p>24 A. 2001 -- or actually the end of 2000.</p> <p>25 Q. Did you graduate?</p>	<p style="text-align: right;">Page 20</p> <p>1 jumped ahead a little, but that's all right. It</p> <p>2 will move us along. I want to focus now</p> <p>3 specifically on education, which we may have</p> <p>4 covered. I know you graduated from high school in</p> <p>5 2000, then you went to UNLV, and you left there, as</p> <p>6 you explained, to work at Walt Disney World.</p> <p>7 And that was -- so you started UNLV in</p> <p>8 2001. When did you leave?</p> <p>9 A. 2004, '5, something around there.</p> <p>10 Q. Then you went to Walt Disney World?</p> <p>11 A. No. I left to do my catering business.</p> <p>12 My Disney World was in between the time I was in</p> <p>13 college, so I --</p> <p>14 Q. Oh, I'm sorry.</p> <p>15 A. My second semester of college I went to</p> <p>16 Disney World, stayed there, then I came back, and</p> <p>17 then I went back again.</p> <p>18 Q. And when you went back, you were done</p> <p>19 with school?</p> <p>20 A. No. I was still -- I was in an</p> <p>21 externship program.</p> <p>22 Q. I see.</p> <p>23 A. So I was getting credit for working at</p> <p>24 Disney World. That was why it was so good for me</p> <p>25 because I was getting on-the-job training while I</p>
<p style="text-align: right;">Page 19</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. I actually -- because I started working</p> <p>4 and I owned my own business at that time.</p> <p>5 After -- during my first semester in</p> <p>6 college, I got accepted to one of the most</p> <p>7 prestigious internships/externship program in the</p> <p>8 country, which is Walt Disney World. So I got</p> <p>9 accepted to that, and I went and worked at</p> <p>10 Cinderella's Royal Table, which is the number 1</p> <p>11 restaurant in Disney World and it's in the castle.</p> <p>12 It's the hardest reservation to get in</p> <p>13 Disney World.</p> <p>14 So when I got that job, I took it. And</p> <p>15 then I ended up staying there -- I went for a year,</p> <p>16 then I came back, and then I went back for another</p> <p>17 year because it was just such a good program. So I</p> <p>18 went to an externship program there.</p> <p>19 Then I came back, and that's when I</p> <p>20 started working on the Strip, and I was working and</p> <p>21 going to school at the same time. And then after</p> <p>22 that, after that I started my own catering personal</p> <p>23 chef business and had that business for a long</p> <p>24 time, about two years.</p> <p>25 Q. Because of how I asked the questions, we</p>	<p style="text-align: right;">Page 21</p> <p>1 was getting credit for school.</p> <p>2 Q. I see. And then at some point you</p> <p>3 decided to leave UNLV --</p> <p>4 A. Yes.</p> <p>5 Q. -- before graduation, and I think you</p> <p>6 explained that, but tell me what you did at that</p> <p>7 point.</p> <p>8 A. That was -- I mean, I left school because</p> <p>9 I had a very profitable business at that time doing</p> <p>10 catering and meal prep and --</p> <p>11 Q. What was the name of that business?</p> <p>12 A. Greens Gourmet.</p> <p>13 Q. Greens?</p> <p>14 A. Gourmet.</p> <p>15 Q. So just a little bit more about</p> <p>16 education.</p> <p>17 Have you had any other formal education</p> <p>18 besides high school and UNLV classes?</p> <p>19 A. No.</p> <p>20 Q. Any vocational school or culinary school?</p> <p>21 A. No.</p> <p>22 Q. Any military service?</p> <p>23 A. No.</p> <p>24 Q. I understand from your interrogatory</p> <p>25 responses you are never married?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. No.</p> <p>2 Q. Any children?</p> <p>3 A. I actually -- I am married now, but I</p> <p>4 wasn't married.</p> <p>5 Q. When did you get married?</p> <p>6 A. A week ago.</p> <p>7 Q. Congratulations.</p> <p>8 What's your wife's name?</p> <p>9 A. Lauren.</p> <p>10 Q. So I understand you had no previous</p> <p>11 marriages?</p> <p>12 A. Yep.</p> <p>13 Q. Have you fathered any children?</p> <p>14 A. No.</p> <p>15 Q. Before this accident -- or I should say</p> <p>16 before you married Lauren, did you have any</p> <p>17 dependents?</p> <p>18 A. No.</p> <p>19 Q. Does Lauren work in the same business?</p> <p>20 A. Travel.</p> <p>21 Q. Just a little bit about UNLV. You told</p> <p>22 me you went there because it's a highly regarded</p> <p>23 school for hotel restaurant management, and then</p> <p>24 you decided you wanted to get more on the actual</p> <p>25 gourmet or chef side of things.</p>	<p style="text-align: right;">Page 24</p> <p>1 business, whether management or chef? Would that</p> <p>2 be when you were doing the externship?</p> <p>3 A. I mean, my first job in Las Vegas was</p> <p>4 working at UNLV at the dining commons.</p> <p>5 Q. All right.</p> <p>6 A. And I was working -- and then I was a</p> <p>7 teacher's assistant for Chef Claude Lambertz at</p> <p>8 UNLV, and that's where I started learning a lot of</p> <p>9 that stuff.</p> <p>10 And then I was a chef at Danny Boulud at</p> <p>11 the Wynn. Then I worked at Kerry Simon's --</p> <p>12 Q. Are these in Las Vegas?</p> <p>13 A. Yes. Kerry Simon's at the Hard Rock.</p> <p>14 Then I started my own personal chef</p> <p>15 business -- oh, no. I then worked for</p> <p>16 Arizona Catering, which was doing all the stuff --</p> <p>17 all the shows at MGM, so like helping with</p> <p>18 rockstars and all different, you know, kind of like</p> <p>19 personal catering for personal -- for events.</p> <p>20 That's where I took my next venture into</p> <p>21 my own business, doing personal chef catering,</p> <p>22 weekly meals, and that was called Greens Gourmet.</p> <p>23 I started that with a hundred bucks in my pocket</p> <p>24 and generated millions of dollars.</p> <p>25 I had a business partner who I worked</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Yes.</p> <p>2 Q. How much school did you have total at</p> <p>3 UNLV before you left?</p> <p>4 A. Four years. I had four credits left.</p> <p>5 Q. Just four left?</p> <p>6 A. Yeah.</p> <p>7 Q. Why not finish?</p> <p>8 A. I actually was -- I was going to finish a</p> <p>9 couple of years ago, you know, when I had more</p> <p>10 time, but when my business started, I was very,</p> <p>11 very busy, and I was young and immature at the</p> <p>12 time, so I had to just either -- I didn't want to</p> <p>13 juggle -- I was trying not to juggle as much -- you</p> <p>14 know, I was trying focus on my business, and I</p> <p>15 thought that was the right move and -- I mean, it</p> <p>16 was.</p> <p>17 Q. Let's talk about your employment before</p> <p>18 Pies N' Fries. You've told me a little bit</p> <p>19 already. Just walk me through from the time you</p> <p>20 first started working after -- I guess you were</p> <p>21 still in school before Pies N' Fries. Tell me the</p> <p>22 kinds of -- Fries N' Pies -- the positions where</p> <p>23 you worked and what you were doing there.</p> <p>24 A. Starting when?</p> <p>25 Q. What's the first job you had in the</p>	<p style="text-align: right;">Page 25</p> <p>1 with at the time. His name is Dimitri and we</p> <p>2 started this business together. We brought on an</p> <p>3 investor, and once we brought on the investor, they</p> <p>4 kind of sideswiped me and I got the pushed out of</p> <p>5 the company.</p> <p>6 Q. What was the name of that company?</p> <p>7 A. Greens Gourmet.</p> <p>8 Q. And how long was it in existence?</p> <p>9 A. It was in existence for about two years.</p> <p>10 I went and worked for a famous guy named</p> <p>11 Kimbo Slice. And when I was working for Kimbo</p> <p>12 Slice, that's when I was in Miami and LA. And what</p> <p>13 I was working there, they had a lot of business --</p> <p>14 you know, they were controlling a lot of the</p> <p>15 business at the time.</p> <p>16 Tony Kalar or the guy -- the other</p> <p>17 partner was helping me with my money, accountant,</p> <p>18 stuff like that, and they were doing stuff illegal.</p> <p>19 And to that way, they -- I started seeing money</p> <p>20 deplete from the account and different things like</p> <p>21 that. And then they teamed up against me and</p> <p>22 they -- you know, they thought they could do it</p> <p>23 themselves and they forced me out, and three months</p> <p>24 later they were bankrupt.</p> <p>25 Q. This is still Greens Gourmet you're</p>

<p style="text-align: right;">Page 26</p> <p>1 talking about?</p> <p>2 A. Yes. After that, we had a -- I started a</p> <p>3 huge aviation company which was called Air Green</p> <p>4 and it was catering to private jets, and that's</p> <p>5 really where we made a lot of our money.</p> <p>6 Q. Is that still in business?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. When they took it over, they kept it</p> <p>10 going for about three months and then they closed</p> <p>11 because they couldn't keep it going. Because</p> <p>12 they -- they thought that they could do it</p> <p>13 themselves, and I was the glue holding it together.</p> <p>14 Q. So that's a different company than Greens</p> <p>15 Gourmet?</p> <p>16 A. No, it was the same.</p> <p>17 Q. Same?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. So that operation just started a new</p> <p>20 venture --</p> <p>21 A. Yeah.</p> <p>22 Q. -- that was the aviation?</p> <p>23 A. Yes.</p> <p>24 Q. But this is where you ran into trouble</p> <p>25 with these people who you thought were doing things</p>	<p style="text-align: right;">Page 28</p> <p>1 what I -- for what my -- for what I do, you know.</p> <p>2 Being a chef, you can be a chef in a</p> <p>3 fine-dining restaurant but also at a McDonald's or</p> <p>4 a fast casual restaurant. So I just wanted to</p> <p>5 learn every single avenue or every single way that</p> <p>6 I can make myself better in the restaurant</p> <p>7 industry.</p> <p>8 Q. So if I understand -- correct me if I'm</p> <p>9 wrong -- you moved to different opportunities when</p> <p>10 you thought they could be better for your education</p> <p>11 and experience?</p> <p>12 A. Yes. And different things that -- you</p> <p>13 know, learning Italian food and learning Chinese</p> <p>14 food and learning Asian food at different locations</p> <p>15 helps you broaden your horizons and make myself</p> <p>16 better, and that's why I was a personal chef for</p> <p>17 eight years for some of the biggest celebrities,</p> <p>18 you know, due to all that experience.</p> <p>19 Q. So for all of your jobs in the industry,</p> <p>20 when you left, was that your choice or were you</p> <p>21 ever fired from a job?</p> <p>22 A. No, a lot of it was either my choice or a</p> <p>23 better situation or -- for example, like this, I</p> <p>24 was forced out, but -- I don't even remember the</p> <p>25 last time I was fired.</p>
<p style="text-align: right;">Page 27</p> <p>1 that were illegal?</p> <p>2 A. Well, I thought they were helping me, but</p> <p>3 they weren't.</p> <p>4 Q. Did you end up in any litigation with</p> <p>5 them?</p> <p>6 A. No.</p> <p>7 Q. Which, by the way, have you ever brought</p> <p>8 a lawsuit before this one?</p> <p>9 A. No.</p> <p>10 Q. Has anyone ever sued you?</p> <p>11 A. No.</p> <p>12 Q. So I notice you've had a lot of different</p> <p>13 opportunities and businesses. In particular when</p> <p>14 you worked in Las Vegas, you moved around to</p> <p>15 different opportunities.</p> <p>16 Is that just the nature of the business,</p> <p>17 that you worked one place for a while and then</p> <p>18 maybe you see a better opportunity? Why would you</p> <p>19 move around?</p> <p>20 A. Well, I mean, being a chef, you try to</p> <p>21 get as much experience from different environments.</p> <p>22 Hence I worked at Black Angus Grill, which was like</p> <p>23 a fast casual steakhouse or you could say, you</p> <p>24 know, a less-expensive steakhouse. That was for</p> <p>25 learning the -- learning different environments for</p>	<p style="text-align: right;">Page 29</p> <p>1 I think the only time I was fired was in</p> <p>2 high school, and that was because I -- the line was</p> <p>3 all the way down, and I was working at the grocery</p> <p>4 store and I went to get a sandwich. We only had a</p> <p>5 15-minute break. I went to eat the sandwich and</p> <p>6 pay for it and they said I stole it.</p> <p>7 That's the only time I ever got -- you</p> <p>8 know, I'm a very hard worker, very determined. I</p> <p>9 focus on my jobs. I mean, you can see, I've</p> <p>10 never -- you know, I've always worked long, long,</p> <p>11 long hours, you know. I'm an entrepreneur. I've</p> <p>12 always tried to make myself better in my money, my</p> <p>13 life, my world, you know, everything around me. So</p> <p>14 I've tried to better myself.</p> <p>15 Q. So except for what happened with the</p> <p>16 sandwich in high school and Greens Gourmet, where</p> <p>17 you had some partners who you thought were acting</p> <p>18 unscrupulously and forced you out, every other job</p> <p>19 you've had, you made the decision to move on to</p> <p>20 something else?</p> <p>21 A. Yes.</p> <p>22 Q. I understand for a time you were the</p> <p>23 registered agent for a company called</p> <p>24 EPMM Nevada, LLC, based in Denver.</p> <p>25 Does that ring a bell?</p>



<p style="text-align: right;">Page 30</p> <p>1 A. Yes.</p> <p>2 Q. What was that?</p> <p>3 A. It was called EdiPure Nevada and never</p> <p>4 registered in the State of Nevada. It was an</p> <p>5 edible company. Me being a chef and my best friend</p> <p>6 owned and operated the company in California and</p> <p>7 Colorado, so -- I actually met him in Disney World.</p> <p>8 So him knowing that I was a chef, he asked me to</p> <p>9 help him with some edibles and stuff that would</p> <p>10 help him in his market. And that was really the</p> <p>11 only thing.</p> <p>12 Q. By "edibles," you mean marijuana-infused</p> <p>13 food?</p> <p>14 A. Yes.</p> <p>15 Q. Why wasn't it registered -- just</p> <p>16 curious -- in Nevada?</p> <p>17 A. What do you mean?</p> <p>18 Q. Sorry. You said it was not registered in</p> <p>19 Nevada?</p> <p>20 A. It never came to fruition in Nevada. It</p> <p>21 never -- we never got a Nevada kitchen and that's</p> <p>22 why. And then there was problems with the -- above</p> <p>23 EdiPure in Colorado, and now they're not even -- I</p> <p>24 don't even think they're in business anymore.</p> <p>25 Q. If you can just summarize why the</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Full time, yeah. Yes.</p> <p>2 Q. I should ask you first, was it a</p> <p>3 full-time job?</p> <p>4 A. Yes, it was.</p> <p>5 Q. How did you get that job?</p> <p>6 A. Through connections. I just -- I'm a</p> <p>7 very well-known personal chef, and I've worked for</p> <p>8 a lot, a lot of people, and through connections, he</p> <p>9 was looking for somebody and I ended up, you know,</p> <p>10 working for him.</p> <p>11 He asked me to do a tasting. I did a</p> <p>12 tasting and he loved it, so...</p> <p>13 Q. This was when you were living in Miami?</p> <p>14 Is that how you first met him?</p> <p>15 A. No. I met him when I was here. I've</p> <p>16 opened a lot of other restaurants in town. And I</p> <p>17 was consulting a restaurant called Protein Source,</p> <p>18 and the owner of Protein Source was his security</p> <p>19 guard, and that's how I had got the tasting.</p> <p>20 And then I worked for him 12 hours --</p> <p>21 12 to 14 hours a day for seven days a week and</p> <p>22 did -- I mean, I remember I did 146 days straight.</p> <p>23 So you can tell that I'm a very hard, determined</p> <p>24 worker and I don't really need days off, and I --</p> <p>25 you know. That's it.</p>
<p style="text-align: right;">Page 31</p> <p>1 business didn't work. I'm trying to understand why</p> <p>2 it closed.</p> <p>3 A. That's stuff that I don't even know. I</p> <p>4 wasn't privy to that information. The</p> <p>5 information -- the only reason that I was even on</p> <p>6 that was because I was the one who was trying to</p> <p>7 bring -- when marijuana was legal in Nevada, I</p> <p>8 tried to bring EdiPure or the edibles company to</p> <p>9 Nevada.</p> <p>10 Q. But before you could do that, the company</p> <p>11 closed or --</p> <p>12 A. After -- when I was trying to do that, we</p> <p>13 had to give them some money, and the owner of the</p> <p>14 company didn't want to give him some money and</p> <p>15 that's really what happened. So it just never</p> <p>16 happened.</p> <p>17 Q. It failed for financial reasons?</p> <p>18 A. Yes.</p> <p>19 Q. So I understand you were a personal chef</p> <p>20 to Dan Bilzerian?</p> <p>21 A. Yes.</p> <p>22 Q. For three years?</p> <p>23 A. Yes.</p> <p>24 Q. Was that the last full-time job you had</p> <p>25 before you opened Fries N' Pies?</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. So you worked for him for three years?</p> <p>2 A. Yes.</p> <p>3 Q. Why did you leave? Why did you stop</p> <p>4 working there?</p> <p>5 A. I actually left because I thought the</p> <p>6 edible business was going to be more promising than</p> <p>7 it was.</p> <p>8 Q. You said in interrogatory responses that</p> <p>9 your annual income, I think you were estimating,</p> <p>10 when you worked for Mr. Bilzerian was about 52,000?</p> <p>11 A. Yes, around there.</p> <p>12 Q. I'm just curious how you determined that.</p> <p>13 Were you paid an hourly wage?</p> <p>14 A. Yes, I was.</p> <p>15 Q. What was the wage?</p> <p>16 A. \$32 an hour.</p> <p>17 Q. So it was purely wage-based?</p> <p>18 A. Yes.</p> <p>19 Q. Based on the hours, that was your income?</p> <p>20 A. Yeah, but it was only for a certain</p> <p>21 amount of hours. Some hours were -- it was like</p> <p>22 you only get paid -- it was a 12-hour -- it was</p> <p>23 10:00 to 10:00 every day, so it was a 12-hour day,</p> <p>24 but you -- you capped out at a certain -- I think</p> <p>25 it was like \$350 a day or something.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. So you mentioned that you -- I think you</p> <p>2 mentioned that you had opened other restaurants</p> <p>3 other than Fries N' Pies?</p> <p>4 A. Yes.</p> <p>5 Q. Let's talk about that. How many</p> <p>6 restaurants have you personally been involved,</p> <p>7 either you yourself were opening or assisting</p> <p>8 others opening a restaurant?</p> <p>9 A. Greens Gourmet -- I mean,</p> <p>10 Greens &amp; Proteins, Protein House, Protein Source,</p> <p>11 SkinnyFATS, and Fries N' Pies.</p> <p>12 Q. So Greens &amp; Protein?</p> <p>13 A. Mm-hmm.</p> <p>14 Q. Was that a brick and mortar or was that a</p> <p>15 catering service?</p> <p>16 A. It was brick and mortar.</p> <p>17 Q. How about Protein House?</p> <p>18 A. Brick and mortar.</p> <p>19 Q. How about Protein --</p> <p>20 A. -- Source, brick and mortar.</p> <p>21 Q. What was the next one you mentioned?</p> <p>22 A. SkinnyFATS.</p> <p>23 Q. SkinnyFATS.</p> <p>24 A. Brick and mortar.</p> <p>25 Q. So like Fries N' Pies, these were all</p>	<p style="text-align: right;">Page 36</p> <p>1 why I created that. My last name is Green. So I</p> <p>2 was going for -- you know, using my last name and</p> <p>3 then using like something that had to do with</p> <p>4 healthy, and healthy was just coming around at that</p> <p>5 time.</p> <p>6 Q. How about on the management side? And by</p> <p>7 that I mean actually obtaining the lease on the</p> <p>8 space, having renovations made, bringing in the</p> <p>9 appropriate equipment, hiring employees. I'm</p> <p>10 calling that the management or business side.</p> <p>11 Would you have involvement in that or was that</p> <p>12 somebody else?</p> <p>13 A. Yeah. Greens and Proteins, I didn't.</p> <p>14 Protein House, I did until I left, and that was</p> <p>15 because -- I just left because I had SkinnyFATS,</p> <p>16 and I just opened SkinnyFATS, so -- but I was</p> <p>17 always a -- I got paid on it. I was a consultant,</p> <p>18 you know. So none of -- and then SkinnyFATS, I was</p> <p>19 a -- I did everything for. I mean, I was the chef.</p> <p>20 I was the line cook. I brought in equipment. I</p> <p>21 mean, I managed. I did everything.</p> <p>22 Q. How about financing? Did you have a</p> <p>23 partner?</p> <p>24 A. I had a partner, yes.</p> <p>25 Q. And would the partner be somebody who was</p>
<p style="text-align: right;">Page 35</p> <p>1 eating establishments that had a fixed location?</p> <p>2 A. Yes.</p> <p>3 Q. That's what I meant by "brick and</p> <p>4 mortar."</p> <p>5 A. Yes.</p> <p>6 Q. People could come in and sit down and</p> <p>7 dine in, correct?</p> <p>8 A. Yes.</p> <p>9 Q. So for those other four instances that</p> <p>10 you mentioned, what was your role in opening the</p> <p>11 business?</p> <p>12 A. I was just the creator and the concept --</p> <p>13 you know, the creator of the food, the menu</p> <p>14 creator, the concept creator.</p> <p>15 Q. What does "concept creator" mean?</p> <p>16 A. Creating the concept, creating like the</p> <p>17 environment, the menu, the way that it flows, you</p> <p>18 know. Just creating the whole concept from A to Z.</p> <p>19 Q. Including the type of food and the</p> <p>20 environment that you thought was appropriate for</p> <p>21 that food?</p> <p>22 A. Yes. And it was like new-age stuff. I</p> <p>23 mean, Greens and Proteins before -- you know, it's</p> <p>24 been open eight years now, and before that, there</p> <p>25 was really no healthy fast food in town and that's</p>	<p style="text-align: right;">Page 37</p> <p>1 knowledgeable in opening a restaurant on the</p> <p>2 management side?</p> <p>3 A. He never opened a restaurant before, but</p> <p>4 he was a very smart operator in, you know,</p> <p>5 business. He was my best friend. So we opened it</p> <p>6 together.</p> <p>7 Q. Which restaurant are you talking about?</p> <p>8 A. SkinnyFATS.</p> <p>9 Q. And who was that person?</p> <p>10 A. Reed Slobusky.</p> <p>11 Q. Oh, boy. How do you spell that?</p> <p>12 A. S-l-o-b-u-s-k-y.</p> <p>13 Q. And Reed is R-e-i-d?</p> <p>14 A. R-e-e-d.</p> <p>15 Q. So Reed Slobusky was your partner in</p> <p>16 opening?</p> <p>17 A. Yes.</p> <p>18 Q. When did you open SkinnyFATS?</p> <p>19 A. 2013, I think. 2013 or '14.</p> <p>20 Q. Was SkinnyFATS the restaurant that you</p> <p>21 opened before Fries N' Pies?</p> <p>22 A. Yes.</p> <p>23 Q. Is SkinnyFATS still in business?</p> <p>24 A. Yes.</p> <p>25 Q. Are you still involved?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. I have a little percentage.</p> <p>2 <b>Q. Did your role change at SkinnyFATS?</b></p> <p>3 A. Yeah. I don't -- I just have a little --</p> <p>4 I had an incident. I was working there a year and</p> <p>5 a half, 16, 17 hours a day, and then I had a</p> <p>6 seizure on the line. I have epilepsy.</p> <p>7 So I had a seizure and I ended up in the</p> <p>8 hospital for a month. And then after that, I</p> <p>9 couldn't work on the line.</p> <p>10 <b>Q. When you say "line," do you mean cooking?</b></p> <p>11 A. Yeah. I could work, but I had to take a</p> <p>12 step back of working as many hours as I was.</p> <p>13 <b>Q. You were working too many hours, you had</b></p> <p>14 <b>a seizure, you were hospitalized, and then you</b></p> <p>15 <b>reduced your involvement?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. On a permanent basis?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Is that because of health issues?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Let's talk about that. You've already</b></p> <p>22 <b>disclosed your epilepsy. But just to get some</b></p> <p>23 <b>details, when were you first diagnosed with</b></p> <p>24 <b>epilepsy?</b></p> <p>25 A. I mean, I was first diagnosed after I had</p>	<p style="text-align: right;">Page 40</p> <p>1 <b>before this accident?</b></p> <p>2 A. Kidney stones.</p> <p>3 <b>Q. Kidney stones. When did that happen?</b></p> <p>4 A. I think when I was 22, something like</p> <p>5 that. I don't remember exactly, but I had a kidney</p> <p>6 stone out here. I actually had three surgeries. I</p> <p>7 had a kidney stone here that I didn't know what</p> <p>8 happened and they tried to figure it out, and then</p> <p>9 I ended up going to the best hospital in the</p> <p>10 country, Cornell in New York, and I ended up --</p> <p>11 they did a whole major surgery of removing the</p> <p>12 kidney stones, going into the kidney, removing</p> <p>13 them, and I haven't had that problem since.</p> <p>14 <b>Q. So you had three surgeries for kidney</b></p> <p>15 <b>stones?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. When did you have those surgeries?</b></p> <p>18 A. In between 22 and the earlier years of my</p> <p>19 life, like between 20 and 25. I don't remember</p> <p>20 exactly the exact time.</p> <p>21 <b>Q. Years ago?</b></p> <p>22 A. Yeah.</p> <p>23 <b>Q. Have you had any complications or issues</b></p> <p>24 <b>regarding kidney stones since then?</b></p> <p>25 A. Uh-uh.</p>
<p style="text-align: right;">Page 39</p> <p>1 my first seizure. I actually was in a really bad</p> <p>2 car accident when I was 23 years old. I fell</p> <p>3 asleep at the wheel and I flipped my car seven</p> <p>4 times. I ended up in a ditch and I flipped seven</p> <p>5 times. I walked out with no visible scrapes or</p> <p>6 scratches or anything. Nothing happened.</p> <p>7 <b>Q. What kind of car does that?</b></p> <p>8 A. It was a Chrysler Sebring.</p> <p>9 <b>Q. Air bag go off?</b></p> <p>10 A. Everything, yeah.</p> <p>11 <b>Q. You had your seatbelt on and so on?</b></p> <p>12 A. Yes. But I was sleeping, so I don't --</p> <p>13 you know, my body was so relaxed. What the doctor</p> <p>14 told me was after that -- after that incident, my</p> <p>15 whole body reconfigured itself. I never had any</p> <p>16 issues with anything.</p> <p>17 So I was -- I was allergic to shellfish</p> <p>18 after. I had lactose intolerance after. I started</p> <p>19 developing seizures after. I started -- a bunch of</p> <p>20 issues started happening after that.</p> <p>21 <b>Q. So seizures I get could be a serious</b></p> <p>22 <b>issue, and in fact, that's why you reduced your</b></p> <p>23 <b>role at SkinnyFATS.</b></p> <p>24 <b>Any other medical issues that were</b></p> <p>25 <b>significant enough that you required treatment</b></p>	<p style="text-align: right;">Page 41</p> <p>1 <b>Q. So it sounds like -- tell me if I'm</b></p> <p>2 <b>wrong -- the only --</b></p> <p>3 MR. McMULLEN: Sorry?</p> <p>4 MR. PFAU: His answer was "uh-uh." I</p> <p>5 just want to make sure that that's a no.</p> <p>6 THE WITNESS: No.</p> <p>7 MR. McMULLEN: Thank you. I didn't catch</p> <p>8 that.</p> <p>9 BY MR. McMULLEN:</p> <p>10 <b>Q. I'm glad your kidney stone issues are</b></p> <p>11 <b>resolved. The only medical condition that I am</b></p> <p>12 <b>aware of before this accident is that you mentioned</b></p> <p>13 <b>seizures.</b></p> <p>14 A. Yes. Epilepsy.</p> <p>15 <b>Q. Are there any other medical issues,</b></p> <p>16 <b>whether they be injuries or illnesses, any kind of</b></p> <p>17 <b>condition that required any professional treatment</b></p> <p>18 <b>before this accident?</b></p> <p>19 A. No.</p> <p>20 <b>Q. Are your seizures under control with</b></p> <p>21 <b>medication?</b></p> <p>22 A. I started taking medication from</p> <p>23 Dr. Evangelista and that medication was giving me</p> <p>24 extremely bad side effects, and that's actually</p> <p>25 where marijuana has come in and I haven't had a</p>

<p style="text-align: right;">Page 42</p> <p>1 seizure for three and a half years because of 2 marijuana and CBD.</p> <p>3 My first seizure was at Tao. I grabbed a 4 security guard. This is when they didn't even know 5 I had epilepsy. My first seizure was a grand mal 6 seizure. I grabbed the security guard and said, 7 "I'm going to fall down," and he didn't believe me 8 or didn't -- whatever. And I ended up falling and 9 I peed. When I -- every single thing that could 10 come out of me came out of me.</p> <p>11 Q. That was your first seizure?</p> <p>12 A. Yes.</p> <p>13 Q. When did that happen?</p> <p>14 A. Like when I was 25, I think.</p> <p>15 Q. So you're 37 or 38 today?</p> <p>16 A. 38.</p> <p>17 Q. When was the last time you had a seizure?</p> <p>18 A. About three and a half years ago. My 19 last one was with a girl I was dating.</p> <p>20 Q. Did this happen -- the one that you're 21 referencing, did that happen at SkinnyFATS?</p> <p>22 A. No. That was after.</p> <p>23 Q. Okay. Well, I was asking about the last 24 time you had a seizure.</p> <p>25 A. Yeah. It was after SkinnyFATS.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. No, sir.</p> <p>2 Q. Were there any conditions -- and I'm 3 asking this very broadly, so if there aren't any, 4 we can move on, but I would like to know if there 5 is anything mental, physical, emotional, 6 psychological, anything at all, any condition 7 before this accident that impacted your daily life 8 other than the seizures which I understand were 9 under control with medical marijuana.</p> <p>10 Anything else?</p> <p>11 A. No. I mean, can you just -- just so I'm 12 making sure that I'm answering your question, 13 psychological -- I mean, I went to a therapist when 14 I was younger for most of my life for, you know, 15 how to deal with learning disability, how to cope 16 with all that stuff.</p> <p>17 So that's -- in a psychological way, that 18 was the only thing. But when I came out to Vegas, 19 no, I've never had any issues like -- I'm good with 20 friends. I'm a very popular person, you know.</p> <p>21 Q. When was the last time you saw a 22 therapist or healthcare professional for any 23 emotional or psychological issues?</p> <p>24 A. I mean, I stopped seeing someone when I 25 was -- when I left New York, and then when I was</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. I see. But about three and a half years 2 ago?</p> <p>3 A. Yes.</p> <p>4 Q. And you were seeing Dr. Evangelista --</p> <p>5 A. Yes.</p> <p>6 Q. -- for your epilepsy?</p> <p>7 A. Yes.</p> <p>8 Q. You explained that --</p> <p>9 A. He's a neurologist.</p> <p>10 Q. -- the medicine he put you on had bad 11 side effects, so you ultimately began using medical 12 marijuana?</p> <p>13 A. Yes.</p> <p>14 Q. Did you begin doing that about three and 15 a half years ago?</p> <p>16 A. As a result to -- yes.</p> <p>17 Q. And since then, no seizures?</p> <p>18 A. Yes.</p> <p>19 Q. So that's a true statement, you've had no 20 seizures?</p> <p>21 A. Had no seizures.</p> <p>22 Q. Right. For the past three and a half 23 years?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Are you taking any other medications?</p>	<p style="text-align: right;">Page 45</p> <p>1 out here, I haven't seen anybody.</p> <p>2 And then I saw someone at a place called 3 Pathways where my mom recommended me to go. I saw 4 her for about two months, but...</p> <p>5 Q. When was that?</p> <p>6 A. I don't remember the exact time. I think 7 it was maybe five, six years ago.</p> <p>8 Q. What condition were you trying to 9 address?</p> <p>10 A. I was just -- I went through -- I went 11 through a lot of -- because of the whole SkinnyFATS 12 situation, I went through some issues of -- when I 13 left there, it was very emotional for me, so I had 14 to go -- I just wanted to see somebody of a doctor 15 stature, of just talking to somebody and getting my 16 feelings out on the situation.</p> <p>17 Q. The situation was --</p> <p>18 A. Of SkinnyFATS.</p> <p>19 Q. And I think I understand. The SkinnyFATS 20 situation was that you were reducing your role 21 there because of the seizure?</p> <p>22 A. Yes. But I was also -- it was just 23 affecting me in ways because I wasn't able to be 24 there on a continual basis. I wasn't able to do 25 what I planned to do and help the company move</p>

<p style="text-align: right;">Page 46</p> <p>1 forward in the way that I wanted it to move 2 forward.</p> <p>3 Q. And that was psychologically troubling? 4 A. Yes.</p> <p>5 Q. And that's why you saw someone at 6 Pathways for two months five or six years ago? 7 A. Yes.</p> <p>8 Q. Have you had any therapy or counseling or 9 any mental health issues or treatment since then? 10 A. No. About two years ago, I went to see a 11 shaman in Miami, somebody that I'm very close to 12 growing up in high school. I met her out here. We 13 connected through some way. And I knew that she 14 was, you know, training and taking herself to 15 another level in her life, and then I heard she 16 helped one of my other friends, so I went to her. 17 I stayed with her for three months in Miami, and 18 she kind of helped me get back to the happy self 19 that I always was. I mean, the whole situation 20 with SkinnyFATS made me a very negative person.</p> <p>21 Q. The shaman, what's her name? 22 A. Lauren Unger.</p> <p>23 Q. Forgive me. I have some idea about 24 shamans, but maybe you can educate me, how she was 25 helping you.</p>	<p style="text-align: right;">Page 48</p> <p>1 everything. 2 And when I -- when I was -- actually, the 3 way it happened, I was at Fries N' Pies and Mario 4 calls me and says -- it was the day after Fathers' 5 Day, and he said, "Why don't you come over for a 6 barbecue?" I said okay, and then I was driving to 7 his house and I called my business partner because 8 my business partner wanted to do pizzas because we 9 were trying out stuff.</p> <p>10 So he was like, "Why don't we make" -- 11 before I left, he was like, "Why don't we make 12 pizzas today?" And I was like, "Well, I have this 13 barbecue to go to." And I went to the barbecue and 14 the explosion happened.</p> <p>15 But before -- before -- when I was at -- 16 you know, when I was with Lauren, that was right 17 before the time that I opened up Fries N' Pies.</p> <p>18 Q. So I think you said you were living with 19 her for about two months? 20 A. Three months.</p> <p>21 Q. So I gather you had a friendship in 22 addition to the assistance she was giving you? 23 A. Yes.</p> <p>24 Q. At the end of that three months, did you 25 feel like you were back to --</p>
<p style="text-align: right;">Page 47</p> <p>1 A. She would just help me realize like that 2 my life wasn't -- you know, my life's important. 3 It's better to be happy than sad. It's better to 4 be a positive person than being a negative person. 5 So I just -- she just helped me be a better person 6 and find my inner self that I can be happy. And 7 that's where it led to, like.</p> <p>8 You know, after I left her, I was never 9 happier than I ever was. Super contained with 10 myself, content with myself, knew exactly what I 11 wanted. Still know exactly what I want. She just 12 opened my eyes to a lot of different things.</p> <p>13 Q. If I understand correctly, the reason you 14 went to Pathways and the reason you spent time with 15 Lauren Unger, the shaman in Miami, was because of 16 what occurred at SkinnyFATS? 17 A. Mm-hmm.</p> <p>18 Q. Psychologically how that impacted you? 19 A. Yes.</p> <p>20 Q. So you said that was two years ago. Was 21 that before this accident or after? 22 A. It was actually right before this 23 accident. I came back here because I was about to 24 open up Fries N' Pies, and I was going through all 25 the steps of opening Fries N' Pies, hiring, I mean,</p>	<p style="text-align: right;">Page 49</p> <p>1 A. Yeah.</p> <p>2 Q. -- where you wanted to be? 3 A. I felt like a different person.</p> <p>4 Q. Did you feel like -- 5 A. I felt like a million dollars.</p> <p>6 Q. All right. So just before this 7 accident -- 8 A. Yes.</p> <p>9 Q. -- a matter of a few days, you had 10 completed some sort of treatment with Laura Unger 11 in Miami for three months? 12 A. Yes.</p> <p>13 Q. And that was to help you psychologically 14 recover from -- how would you describe it? Was it 15 depression or -- how would you describe your mental 16 state as a result of the SkinnyFATS? 17 A. Depression, negativity, just thinking 18 that everyone was out to get me. I was just a 19 super negative person. And I was trying to do 20 other things, like I started a weekly meal 21 business, but I was still in that negative state of 22 mind where I couldn't get out of it. And that's -- 23 that was why I closed that business.</p> <p>24 But a lot of -- you know, I wasn't the 25 person that I knew I could have been, you know, so</p>

<p style="text-align: right;">Page 50</p> <p>1 that's why I needed help that way.</p> <p>2 Q. But that is, in fact, why you closed or</p> <p>3 at least took yourself out of SkinnyFATS, because</p> <p>4 of the negativity that you were feeling?</p> <p>5 A. Well, because I wasn't -- no. It was</p> <p>6 because I wasn't able to -- from the doctor's</p> <p>7 rules, I wasn't able to work a certain amount of</p> <p>8 time on the line.</p> <p>9 Q. I see. That was because of the epilepsy?</p> <p>10 A. Yes.</p> <p>11 Q. And as a result of that, you had</p> <p>12 psychological issues because you couldn't work</p> <p>13 there as much anymore?</p> <p>14 A. Correct.</p> <p>15 Q. And eventually you left?</p> <p>16 A. Correct.</p> <p>17 Q. The business continued on?</p> <p>18 A. Correct.</p> <p>19 Q. Still thriving today?</p> <p>20 A. Yes.</p> <p>21 Q. Does Mr. Slobusky still work there?</p> <p>22 A. Yes.</p> <p>23 Q. Are you friends?</p> <p>24 A. Are we friends? No, we're not.</p> <p>25 Q. Why not?</p>	<p style="text-align: right;">Page 52</p> <p>1 emotional counseling or therapy of any kind since</p> <p>2 this accident?</p> <p>3 A. Since this accident, I've actually seen a</p> <p>4 rabbi and talked to a rabbi every single day. I</p> <p>5 was never into Judaism before. When I came out</p> <p>6 here, no one even knew I was Jewish. And actually,</p> <p>7 after the -- I never practiced.</p> <p>8 And then after the accident, I actually</p> <p>9 became extremely into religion. The rabbi came to</p> <p>10 the hospital for two hours, sat with me. We did</p> <p>11 tefillin. It was the first time I ever did</p> <p>12 tefillin, and it just opened my eyes to whole</p> <p>13 nother avenue of life.</p> <p>14 Q. I appreciate that. And I hear you saying</p> <p>15 that you became very devout about your religion.</p> <p>16 A. Yes.</p> <p>17 Q. And is that why you were seeing the</p> <p>18 rabbi?</p> <p>19 A. Yes.</p> <p>20 Q. I'm not sure we can separate the two, but</p> <p>21 what I'm really asking is did you feel that you had</p> <p>22 any kind of psychological issues from this</p> <p>23 accident, whether it be depression, anxiety,</p> <p>24 paranoia, or anything like that, that you wanted a</p> <p>25 healthcare professional to help you?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. We just -- we went separate ways after --</p> <p>2 I mean, there was different things that he could</p> <p>3 have done to help me and he chose not to, and</p> <p>4 that's just where it's led to then.</p> <p>5 Q. You had some disagreements with</p> <p>6 Mr. Slobusky?</p> <p>7 A. Yes.</p> <p>8 Q. So you parted ways?</p> <p>9 A. Yes.</p> <p>10 Q. Other than the therapy, I'll call it -- I</p> <p>11 don't know what you say when you see a shaman.</p> <p>12 A. That's fine.</p> <p>13 Q. The therapy that Laura Unger provided,</p> <p>14 did you have any other healthcare from any</p> <p>15 specialist for your psychological condition?</p> <p>16 A. No.</p> <p>17 Q. Take any medication, for example?</p> <p>18 A. No.</p> <p>19 Q. The only medication you've been taking is</p> <p>20 medical marijuana to treat your epilepsy seizures,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. And that's true to the present time?</p> <p>24 A. Yes.</p> <p>25 Q. Have you had any other psychological,</p>	<p style="text-align: right;">Page 53</p> <p>1 A. I -- at that time I was talking to Lauren</p> <p>2 and the rabbi on a continual basis so I felt that</p> <p>3 it was -- talking to them and dealing with them</p> <p>4 with the issues was enough. And then I started</p> <p>5 cutting time back with talking to Lauren and</p> <p>6 everything was going okay.</p> <p>7 And then, you know, now I actually --</p> <p>8 last Friday I went to a psychologist for evaluation</p> <p>9 and to see, just because a lot of the effects that</p> <p>10 happened due to the -- from the explosion has</p> <p>11 caused emotional and different effects of like --</p> <p>12 you know, I'm not able to work as much. I'm not</p> <p>13 able to work with grills. I'm afraid of grills. I</p> <p>14 used to be a big caterer in town, and now I have to</p> <p>15 ask the person if they have a grill or what I'm</p> <p>16 cooking on because I'm terrified of grills.</p> <p>17 I mean, I worked for a personal -- I'm a</p> <p>18 personal chef right now because I only work a</p> <p>19 certain amount of hours a day because it's too hard</p> <p>20 on my body to do. Like my hands, I've got to be</p> <p>21 very careful with my hands because there's only</p> <p>22 one -- you know, the baby layer of skin now because</p> <p>23 all my skin was taken off when -- in the accident.</p> <p>24 So getting back to that state of being</p> <p>25 able to handle ice cold things and handle hot</p>

<p style="text-align: right;">Page 54</p> <p>1 things, it's been to this day that I've had major 2 problems handling.</p> <p>3 Q. I appreciate you're being very 4 forthcoming and that's helpful, and I'm going to 5 come back and get into those issues in more detail.</p> <p>6 The question right now is just focusing 7 on emotional and psychological issues after the 8 accident. You told me that you have been seeing a 9 rabbi daily since the accident?</p> <p>10 A. Yes.</p> <p>11 Q. Is there anyone else that you talked to, 12 I guess before last Friday, when you had an 13 evaluation, with regard to emotional or 14 psychological issues resulting from this accident?</p> <p>15 A. No. Just the shaman and the rabbi.</p> <p>16 Q. Okay. So you did talk to Lauren after 17 the accident?</p> <p>18 A. Yes.</p> <p>19 Q. And how often did you see her to discuss 20 the accident?</p> <p>21 A. I mean, we talk -- we usually talk every 22 week. After the accident, I was talking to her 23 about two, three times a week.</p> <p>24 Q. Is she still in Miami?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 or is that to help your emotional or psychological 2 issues?</p> <p>3 A. Both.</p> <p>4 Q. Before last Friday, had you seen any 5 medical professional for any psychological issues 6 due to this accident?</p> <p>7 A. No.</p> <p>8 Q. Whose idea was it that you go see this 9 psychological -- go for a psychological evaluation?</p> <p>10 A. Just people around me, my parents, you 11 know, the rabbi. I was talking to Lauren about it 12 and she just said that maybe I should seek medical 13 help to really -- to talk to somebody that can help 14 me with more of understanding things that are 15 happening in my brain and things that are happening 16 due to the -- you know, to the emotional distress 17 of everything that I've dealt with, with the 18 accident.</p> <p>19 Q. What's the name of the doctor or 20 professional you saw for a psychological evaluation 21 last Friday?</p> <p>22 A. It was Dr. Michael-something. I don't 23 remember the last name.</p> <p>24 Q. Did you get any kind of written report or 25 diagnosis?</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. So you talk to her by phone?</p> <p>2 A. Yes.</p> <p>3 Q. How long are these phone calls?</p> <p>4 A. It just depends. When we were talking a 5 lot, it was anywhere from 30 minutes to an 6 hour-plus.</p> <p>7 Q. Talking about the accident and your 8 feelings and so on from the accident?</p> <p>9 A. Yes. And how to get over the -- how to 10 get over it and how to keep maintaining my life of 11 how I left when I -- you know, before the accident. 12 And when I left her and when I felt the way -- you 13 know, I was the happiest I've ever been, and then 14 this explosion happened.</p> <p>15 Q. How long did you talk to Lauren Unger 16 after the accident?</p> <p>17 A. I mean, I talk to her to this day.</p> <p>18 Q. Still two or three times a week?</p> <p>19 A. Now I talk to her maybe once a week.</p> <p>20 Q. Does she charge you for this?</p> <p>21 A. No, she doesn't.</p> <p>22 Q. Just helping as a friend?</p> <p>23 A. Yes.</p> <p>24 Q. And when you're talking to the rabbi, is 25 that about deepening your understanding of religion</p>	<p style="text-align: right;">Page 57</p> <p>1 A. From -- not yet, no.</p> <p>2 Q. We'll come back to that. I want to move 3 on to some other areas first. I think we've 4 covered -- but tell me if I'm wrong -- all of 5 the employment experience you've had before 6 Fries N' Pies?</p> <p>7 A. Yes.</p> <p>8 Q. Did you have before Fries N' Pies -- and 9 I know about the other restaurants -- any other 10 source of income?</p> <p>11 A. No.</p> <p>12 Q. How did you learn how to open a 13 restaurant on the management side? Did you have 14 any schooling or training on how to do that?</p> <p>15 A. No, just learning from people, from 16 on-the-job training.</p> <p>17 Q. So you've had several stabs at this and 18 it appears they were all successful?</p> <p>19 A. Yes.</p> <p>20 Q. Well, I understand what happened with the 21 first Greens operation, where you were forced out. 22 After that, Greens and Protein?</p> <p>23 A. Still operating. Five, I think. I think 24 five or six restaurants now.</p> <p>25 Q. Why are you not associated with that?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. I was just the creator and the developer 2 of the menu.</p> <p>3 Q. You weren't an owner or manager?</p> <p>4 A. No.</p> <p>5 Q. So you had a role to play, but once that 6 was completed, you moved on?</p> <p>7 A. Yes.</p> <p>8 Q. You had no ownership interest?</p> <p>9 A. No.</p> <p>10 Q. And no management responsibility?</p> <p>11 A. No.</p> <p>12 Q. How about Protein House; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Again, were you the creator?</p> <p>15 A. Creator, concept creator, and then I set 16 up the staff and I put a manager in place and 17 that's why I left that location.</p> <p>18 Q. Did you have any ownership interest?</p> <p>19 A. I had ownership due to the manager that I 20 put in place. The manager did not end up working, 21 so I -- that was where it forfeited.</p> <p>22 Q. I guess I want to make sure we're 23 understanding each other. When I say "ownership 24 interest," I mean --</p> <p>25 A. I do not have any ownership interest at</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. How about Protein --</p> <p>2 A. Protein Source I still work with to this 3 day. And --</p> <p>4 Q. What's your role there?</p> <p>5 A. I've just -- I'm concept creator and 6 menu. To this day, they've had the same menus. 7 That's the same thing with SkinnyFATS. 8 They've had the same menu from day one until now. 9 I was the one that created it.</p> <p>10 Q. So Protein Source, was that like, you 11 told me, Greens and Proteins? You were the 12 creator?</p> <p>13 A. Yes.</p> <p>14 Q. You did haven't any ownership or 15 management involvement?</p> <p>16 A. No. I was a consultant and was paid for 17 it.</p> <p>18 Q. At SkinnyFATS, you told me about that.</p> <p>19 A. Yep.</p> <p>20 Q. Did you have ownership interest in 21 SkinnyFATS?</p> <p>22 A. At the beginning, yes. I was supposed to 23 have a lot more that I had, yes.</p> <p>24 Q. It sounds like you had had a falling out 25 with Mr. Slobusky?</p>
<p style="text-align: right;">Page 59</p> <p>1 this time.</p> <p>2 Q. When you opened Protein House, was there 3 a business agreement that gave you a percentage of 4 the profits?</p> <p>5 A. A percentage based on my management -- if 6 my manager stayed a certain amount of time, that's 7 how I would benefit from it.</p> <p>8 Q. I see. Are you still working with 9 Protein House?</p> <p>10 A. I am not.</p> <p>11 Q. Why not?</p> <p>12 A. I put in a manager and the manager didn't 13 work, so we severed ties after that. There was 14 no -- it was -- everything was fine.</p> <p>15 Q. Why didn't the manager work out?</p> <p>16 A. He just had -- he was a different manager 17 style than they wanted, and he just -- I thought he 18 was perfect for the situation, but he's a little 19 overweight and he's -- this is a health food store, 20 and it's different to -- it's different lifestyle, 21 and it just didn't work for him.</p> <p>22 Q. Did you try to find a health-nut manager 23 to take his place?</p> <p>24 A. They just chose to -- they were going to 25 do it themselves.</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Yes.</p> <p>2 Q. Otherwise you would still be there 3 perhaps in a management capacity?</p> <p>4 A. Yeah, in a different way of working the 5 line, but yeah -- I mean, not working the line, but 6 yes.</p> <p>7 Q. With some ownership interest originally?</p> <p>8 A. Yes. Yes.</p> <p>9 Q. All right. So we've been going about an 10 hour. Do you want to take a break?</p> <p>11 A. I'm good.</p> <p>12 MR. McMULLEN: Is everybody else okay?</p> <p>13 ^^male speaker: Maybe a quick break.</p> <p>14 MR. McMULLEN: Five minutes? Let's take 15 five minutes.</p> <p>16 THE VIDEOGRAPHER: The time is 17 approximately 10:35 a.m. We're off the record. 18 (Recess had.)</p> <p>19 THE VIDEOGRAPHER: We're back on the 20 record. The time is approximately 10:48 a.m.</p> <p>21 BY MR. McMULLEN:</p> <p>22 Q. Josh, we're back after a break.</p> <p>23 Do you feel all right today? You okay 24 continuing?</p> <p>25 A. Yes.</p>



<p style="text-align: right;">Page 62</p> <p>1 Q. Anything you need to change or add to any</p> <p>2 answers before?</p> <p>3 A. No.</p> <p>4 Q. Okay. You mentioned that you speak with</p> <p>5 a rabbi daily and I just probably should get the</p> <p>6 name of that rabbi. What's his name?</p> <p>7 A. Motti Harlig, M-o-t-t-i, H-a-r-l-i-g.</p> <p>8 Q. H-a-r-l-i-g?</p> <p>9 A. Yes.</p> <p>10 MR. McMULLEN: Let's go off the record.</p> <p>11 THE VIDEOGRAPHER: The time is 10:49 a.m.</p> <p>12 We are off the record.</p> <p>13 (Recess had.)</p> <p>14 THE VIDEOGRAPHER: We're back on the</p> <p>15 record. The time is approximately 10:55 a.m.</p> <p>16 BY MR. McMULLEN:</p> <p>17 Q. Josh, we had another break thanks to the</p> <p>18 air blower outside. We're going to try again here.</p> <p>19 You had just given me the name of your</p> <p>20 rabbi. What synagogue is that?</p> <p>21 A. Chabad of Las Vegas. It's on Arville and</p> <p>22 Charleston.</p> <p>23 Q. How long have you known the rabbi there?</p> <p>24 A. Two and a half years or two years -- how</p> <p>25 long has it been since the accident? So the time</p>	<p style="text-align: right;">Page 64</p> <p>1 told you before, and I used to do a lot of quick</p> <p>2 setups, which means taking propane tanks and</p> <p>3 setting them up and putting them onto equipment</p> <p>4 that I need to use for the catering, which could be</p> <p>5 a fryer. The grills were run off propane. I mean,</p> <p>6 anything that's portable runs off propane. So I</p> <p>7 would be dealing with that a lot.</p> <p>8 Q. That's grills. What else?</p> <p>9 A. Grills, friers. I mean, anything you can</p> <p>10 physically rent from a kitchen that has a gas</p> <p>11 outlet or something that has to be, you know,</p> <p>12 generated by gas, that was -- that the way we used</p> <p>13 it was through propane.</p> <p>14 Q. And this was during your catering</p> <p>15 business. How long did you do that?</p> <p>16 A. Two, three years, and then, you know,</p> <p>17 with SkinnyFATS, I did a lot of catering for them.</p> <p>18 And then -- I mean, when I set up a lot of the</p> <p>19 other restaurants like Protein House, I helped with</p> <p>20 configuring all the equipment. So I had to -- you</p> <p>21 know, not propane technically, but gas lines, and</p> <p>22 so I -- and especially with Fries N' Pies, I went</p> <p>23 through all the building stages of that.</p> <p>24 So knowing about gas lines, knowing about</p> <p>25 propane, knowing about how to operate with gas and</p>
<p style="text-align: right;">Page 63</p> <p>1 since -- from the accident to now.</p> <p>2 Q. And you've seen him daily since the</p> <p>3 accident?</p> <p>4 A. Yeah. I've seen him pretty much daily</p> <p>5 since the accident. I talk to him every single</p> <p>6 day.</p> <p>7 Q. Is there anyone other than the rabbi and</p> <p>8 Lauren who you've turned to for any guidance or</p> <p>9 support due to this accident?</p> <p>10 A. I mean, just my parents, but that's just,</p> <p>11 you know, talking to my parents like parents.</p> <p>12 Q. Sure.</p> <p>13 So I'm going to change gears and ask you</p> <p>14 a little bit about propane and propane appliances</p> <p>15 and equipment. I just want to get an idea of what</p> <p>16 your knowledge is about that.</p> <p>17 I know that you had used -- based on</p> <p>18 interrogatory responses, you had used Mr. Gonzalez'</p> <p>19 grill one time before the accident date?</p> <p>20 A. Yes.</p> <p>21 Q. And we will get back to that.</p> <p>22 What other experience have you had before</p> <p>23 the accident with propane equipment?</p> <p>24 A. Well, I -- sorry.</p> <p>25 I used to do a lot of a catering, like I</p>	<p style="text-align: right;">Page 65</p> <p>1 how to operate with all those types of things that</p> <p>2 have to do with the kitchen and, you know, all the</p> <p>3 equipment. I'm pretty -- you know, I would say I'm</p> <p>4 pretty self-sufficient and know what I'm doing with</p> <p>5 equipment.</p> <p>6 Q. So that was part of your professional</p> <p>7 life to know how to use that equipment?</p> <p>8 A. Yes.</p> <p>9 Q. And how to use it safely?</p> <p>10 A. Yes.</p> <p>11 Q. And that would be -- it sounds like when</p> <p>12 you were catering you used all different kinds of</p> <p>13 propane equipment, including grills, at the</p> <p>14 customer site?</p> <p>15 A. Yes.</p> <p>16 Q. And when it comes to the various</p> <p>17 restaurants you told me about, did they all use gas</p> <p>18 equipment?</p> <p>19 A. Most -- a lot of them, except SkinnyFATS</p> <p>20 used all electrical equipment.</p> <p>21 Q. So the ones that used gas, I imagine was</p> <p>22 that natural gas on the utility line?</p> <p>23 A. Yes.</p> <p>24 Q. But you were equally attentive to the gas</p> <p>25 equipment when it was inside the restaurant?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. Yes.</p> <p>2 Q. That was part of your job?</p> <p>3 A. Yes. And when I do -- when I did a lot</p> <p>4 of catering stuff before, I did -- you know, I did</p> <p>5 a lot of, like I said -- and I used to use a lot of</p> <p>6 barbecue grills out at other people's houses that</p> <p>7 were generated through propane and I never had a</p> <p>8 problem before.</p> <p>9 Q. I saw something -- I don't remember if it</p> <p>10 was in an interrogatory or social media -- I think</p> <p>11 you said something like, as a professional chef,</p> <p>12 that friends often ask you for help when cooking or</p> <p>13 grilling. Does that ring a bell?</p> <p>14 A. Yes.</p> <p>15 Q. What did you mean by that?</p> <p>16 A. Oh, I mean when I'm at somebody's house</p> <p>17 or just chilling or just hanging out and they say,</p> <p>18 "Oh, we've got a chef here. Let him help me." Or,</p> <p>19 "You know how to cook. Jump on the grill." There</p> <p>20 is always someone referring to me as helping them</p> <p>21 cook.</p> <p>22 Q. So during your catering business which</p> <p>23 you had for two or three years, was it a regular</p> <p>24 assignment to set up propane grills at a customer</p> <p>25 location?</p>	<p style="text-align: right;">Page 68</p> <p>1 grill all the time and had no problems.</p> <p>2 Q. Did you use propane at home? Just</p> <p>3 curious.</p> <p>4 A. When I was younger, I used propane. My</p> <p>5 dad actually is a big guy on charcoal, so he</p> <p>6 started to move grills to charcoal.</p> <p>7 Q. Do you happen to recall who your propane</p> <p>8 supplier was when you used propane at home?</p> <p>9 A. No, I don't.</p> <p>10 Q. Do you own a grill yourself?</p> <p>11 A. Right now?</p> <p>12 Q. Yes.</p> <p>13 A. I don't.</p> <p>14 Q. Did you at one time?</p> <p>15 A. At the places that I currently lived at</p> <p>16 that time, we did have grills that I used.</p> <p>17 Q. Including propane grills?</p> <p>18 A. Yes.</p> <p>19 Q. And you used those?</p> <p>20 A. Yes.</p> <p>21 Q. Did you ever see or read a manual for a</p> <p>22 propane grill?</p> <p>23 A. I mean, I've read about propane and how</p> <p>24 to be careful with propane and how to -- you know,</p> <p>25 how to operate it, what happens if it's on and you</p>
<p style="text-align: right;">Page 67</p> <p>1 A. Yes. We would do that pretty regularly.</p> <p>2 Q. Would that include grills that were</p> <p>3 similar to Mr. Gonzalez' grill?</p> <p>4 A. It was just propane tanks that we would</p> <p>5 set up to -- you know, a free-standing grill or</p> <p>6 free-standing friers or stuff like that, which are</p> <p>7 actually more dangerous than a grill that's built</p> <p>8 into a system.</p> <p>9 Q. You know, I'm glad you made that</p> <p>10 distinction. So Mr. Gonzalez' grill operated on</p> <p>11 propane, but it was piped into a residential</p> <p>12 propane service, right?</p> <p>13 A. Yes.</p> <p>14 Q. And the catering jobs you had where you</p> <p>15 set up a propane grill used a portable cylinder?</p> <p>16 A. Yes, sometimes. And then sometimes, like</p> <p>17 I said, I left -- I would work at people's houses</p> <p>18 that had grills that would use the same way at</p> <p>19 Mario's house with the propane tanks and the same</p> <p>20 way and I never had an issue before.</p> <p>21 Q. I see. So it was hard-piped into an</p> <p>22 existing residential propane system?</p> <p>23 A. Yes. Because a lot of the places that I</p> <p>24 have worked before are, you know, high-end people</p> <p>25 that had -- you know, Dan Bilzerian, I used his</p>	<p style="text-align: right;">Page 69</p> <p>1 don't -- and you smell it and all different types</p> <p>2 of things that pertain to propane because of my job</p> <p>3 before.</p> <p>4 Q. Sure.</p> <p>5 So you have read safety information about</p> <p>6 propane and how to use a propane grill safely?</p> <p>7 A. Yes.</p> <p>8 Q. And that was important to you because not</p> <p>9 only as a professional, but also for safety</p> <p>10 reasons, you would want to read that information</p> <p>11 before you used the equipment; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. All right. So I guess you've had lots of</p> <p>14 experience making a connection to a propane</p> <p>15 cylinder or turning a valve on or off for a propane</p> <p>16 grill like the one that Mario had?</p> <p>17 A. Yes.</p> <p>18 Q. For probably many years?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So talking about propane itself,</p> <p>21 this might help us.</p> <p>22 MR. McMULLEN: Let's mark this, please.</p> <p>23 (Exhibit Number 1 was marked.)</p> <p>24 BY MR. McMULLEN:</p> <p>25 Q. Josh, I've handed you a document that's</p>

<p style="text-align: right;">Page 70</p> <p>1 in the case. It's been Bates-stamped with little 2 FG numbers in the bottom right. This is FG19 3 through 28. 4 And the reason I'm sharing it with you is 5 this is actually the new customer letter that 6 Ferrellgas sent to Mario. And if you go to FG25, 7 FG25 through 28 is a propane safety brochure. 8 Have you seen something like this before? 9 A. I've seen this on other things, yes. 10 Q. All right. So you knew before the 11 accident, for example, that propane has an odor to 12 it? 13 A. Yes. 14 Q. And that's a warning agent so you can 15 smell leaking gas? 16 A. Yes. 17 Q. Did you know what that smelled like 18 before the accident? 19 A. I have smelt it before, yes. 20 Q. Under what circumstances did you make 21 that -- did you smell it? 22 A. I've smelt it when other tanks or other, 23 you know, before when I've been in catering 24 instances, the tank hasn't worked or it's maybe -- 25 the malfunction of it is wrong, so you can smell</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. You knew, of course, that it should be 2 handled very carefully? 3 A. Yes. 4 Q. So just looking at this brochure, it has 5 a section here about "If you smell gas, avoid 6 flames or sparks. Leave the area immediately. 7 Shut off the gas." 8 Did you know that before this accident? 9 A. Before the accident, yes. 10 Q. So I need to ask you a few other 11 questions about background. And I won't dwell on 12 them, but I need to ask you a few things simply to 13 do my job here. 14 In response to interrogatories about any 15 criminal history, you responded that you were 16 arrested for an unpaid parking ticket but no 17 charges were filed; is that right? 18 A. Yes. 19 MR. PFAU: Okay. I'd like to object to 20 that question. Past criminal history has no 21 relevance. 22 BY MR. McMULLEN: 23 Q. Have you had any other arrests other than 24 that one you told us about? 25 MR. PFAU: Object to the form. Past</p>
<p style="text-align: right;">Page 71</p> <p>1 that it's wrong, or the connections not hooked up 2 all the way and you could smell it and I would 3 know. 4 Q. What does it smell like? 5 A. Like a foul odor, in a way. 6 Q. Would rotten eggs come to mind -- 7 A. Yeah. 8 Q. -- something like that? 9 Did you know what to do if you smelled 10 that odor? 11 A. I mean, I would just shut it off and 12 either get a new tank or find a solution and not 13 use it. 14 Q. Did you know that if you smelled that 15 odor, it could be the warning of a leak? 16 A. Yes. 17 Q. And that you should turn it off and get 18 away? 19 A. Yes. 20 Q. You knew that propane, obviously, is 21 flammable and explosive? 22 A. Yes. 23 Q. Did you know it was heavier than air 24 before this accident? 25 A. Yes.</p>	<p style="text-align: right;">Page 73</p> <p>1 criminal history has no relevance. 2 BY MR. McMULLEN: 3 Q. You can answer the question. 4 A. I was arrested for a DWI. 5 Q. When did that happen? 6 A. Five years ago, maybe. Maybe seven or 7 eight years ago, actually. 8 Q. We have the date on that as July 10, 9 2014. Does that sound right? 10 A. Yes. 11 Q. What happened? 12 MR. PFAU: Objection. It carries forward 13 from those questions anything related to past 14 criminal history. 15 BY MR. McMULLEN: 16 Q. You can answer. 17 A. I had people in the car and we were 18 smoking marijuana and a bike cop pulled up on the 19 side and saw that there was smoke in the car and 20 told me to roll down the windows. 21 When I rolled down the windows, he asked 22 me to step out and I did so, and then he did a test 23 and he said I failed, but... 24 Q. According to the records, a bench warrant 25 was issued as a result of that incident.</p>

<p style="text-align: right;">Page 74</p> <p>1 MR. PFAU: Same objections.  2 BY MR. McMULLEN:  3 Q. Do you recall that warrant was issued?  4 MR. PFAU: Same objections.  5 THE WITNESS: No.  6 BY MR. McMULLEN:  7 Q. How was it resolved?  8 MR. PFAU: Same objections apply to the  9 line of questioning related to past criminal  10 history.  11 BY MR. McMULLEN:  12 Q. You can answer.  13 A. I had a lawyer.  14 Q. Did you plead or what happened? Was it  15 reduced?  16 A. No. It was just reduced and it was  17 dropped.  18 Q. Any other arrests or criminal history?  19 A. No.  20 MR. PFAU: Same objections related to  21 past criminal history.  22 Josh, slow down a little bit.  23 MR. McMULLEN: He needs to have a chance  24 to object.  25 / / /</p>	<p style="text-align: right;">Page 76</p> <p>1 A. I believe so.  2 Q. How was it resolved?  3 A. I've been paying payments to them.  4 Q. Any other tax liens?  5 MR. PFAU: Same objections --  6 THE WITNESS: Not that I know of.  7 MR. PFAU: -- to past criminal history  8 line of questioning.  9 BY MR. McMULLEN:  10 Q. So you've explained, moving on, that for  11 epilepsy, you use marijuana for medical reasons.  12 So I presume you have a medical prescription for  13 marijuana?  14 A. I had a medical -- I had a medical card  15 that I used to use, but now because of the state  16 laws, it's -- you know, you can get it without a  17 medical card. But at the -- I did have a medical  18 card before it became legal.  19 Q. Was that through Dr. Evangelista?  20 A. It was not. It was through another  21 doctor.  22 Q. Do you recall what the prescription was  23 for in terms of what type of marijuana and what  24 dosage and how frequently you were to use it for  25 medical purposes?</p>
<p style="text-align: right;">Page 75</p> <p>1 BY MR. McMULLEN:  2 Q. So tax liens. I understand you had a  3 couple of IRS tax liens?  4 MR. PFAU: Same objections related to  5 past criminal history.  6 BY MR. McMULLEN:  7 Q. A tax lien in April 2013 for a business  8 debt just under \$5,000? Does that ring a bell?  9 MR. PFAU: Same objections apply.  10 THE WITNESS: ^^Does it recall? No.  11 BY MR. McMULLEN:  12 Q. You don't remember that or is it  13 incorrect?  14 A. I don't remember it.  15 Q. Do you remember an IRS federal tax lien  16 that was filed in 2011 for an individual debt in  17 the amount of \$12,000?  18 MR. PFAU: Same objections.  19 BY MR. McMULLEN:  20 Q. \$12,915?  21 MR. PFAU: Same objections related to  22 past criminal history.  23 THE WITNESS: Yes.  24 BY MR. McMULLEN:  25 Q. Was that resolved?</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Well, it was a marijuana that contained  2 CBD. CBD is a cannabinoid from the THC plant that  3 helps you with your relaxation, nervous -- your  4 joints, things in the brain that, you know,  5 technically, I'm not a doctor, so I can't tell you,  6 but the cannabinoids from the -- it's one of the  7 biggest reasons why people smoke marijuana, is to  8 cure -- or not to cure, but to help epilepsy.  9 The number one lady -- and it's called  10 Charlotte's Web. It's the number one CBD marijuana  11 in the United States and that is controlled for  12 epilepsy itself.  13 Q. I appreciate that. My questions are more  14 specific. If you recall, what I'm asking is when  15 you first obtained a prescription for medical  16 marijuana, do you recall what the prescription said  17 about the type of marijuana and how much and how  18 frequently you should use it for medical purposes?  19 A. It was a 2:1 ratio of THC to CBD, so it  20 had 2:1 ratio of -- the THC was two parts to one of  21 the CBD. And I used to take a tincture under my  22 tongue.  23 Q. Do they quantify that in the  24 prescription, how much you're supposed to use?  25 A. It was just a drop.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. And how often were you supposed to use 2 it?</p> <p>3 A. I used it every day.</p> <p>4 Q. You'd just take a drop of this under your 5 tongue?</p> <p>6 A. Yes.</p> <p>7 Q. How often each day?</p> <p>8 A. Once a day.</p> <p>9 Q. So one drop once a day under your tongue?</p> <p>10 A. One --</p> <p>11 Q. Pinch?</p> <p>12 A. Well, it's full -- it's a droplet, like a 13 dropper, so you take the whole dropper.</p> <p>14 Q. Okay. One dropper under your tongue once 15 a day, that was the prescription?</p> <p>16 A. Yes.</p> <p>17 Q. Do you continue to do that?</p> <p>18 A. Yes. I take it now, yes.</p> <p>19 Q. In the same way?</p> <p>20 A. Yes.</p> <p>21 Q. The same amount?</p> <p>22 A. Yes.</p> <p>23 Q. So as you pointed out, I am aware that in 24 Nevada since January 1 of '17, marijuana is legal 25 for recreational use.</p>	<p style="text-align: right;">Page 80</p> <p>1 asking, on average, each day, how much do you 2 smoke?</p> <p>3 A. I mean, it's -- it could be at least a 4 half a gram to, you know, maybe two grams, but it 5 just depends on the day. It depends on how I'm 6 feeling. Like I said, I don't overdo it. I do it 7 for medical purposes. I do it because it helps my 8 headaches. I mean, that's the reason, is it helps 9 my headaches and I haven't had a seizure for three 10 and a half years.</p> <p>11 Q. Are you familiar with the Nevada 12 marijuana law restrictions on recreational use?</p> <p>13 A. In what regards?</p> <p>14 Q. Let me rephrase the question. 15 Are you familiar with the restrictions 16 imposed by Nevada law on recreational marijuana 17 use?</p> <p>18 A. I mean, you can't have more than an ounce 19 of weed on you or you can't -- is that what you're 20 looking for?</p> <p>21 Q. I'm just asking for your understanding of 22 what the law is on limitations for recreational 23 use.</p> <p>24 You mentioned one of them. You can't 25 have more than an ounce on your person?</p>
<p style="text-align: right;">Page 79</p> <p>1 A. Yes.</p> <p>2 Q. Do you use marijuana recreationally?</p> <p>3 A. I use marijuana because it helps me with 4 my seizures, and I haven't had a seizure in two and 5 a half years.</p> <p>6 Q. I mean, beyond what you told me the 7 prescription called for, which was one drop under 8 your -- one dropper under your tongue per day, do 9 you use marijuana beyond that?</p> <p>10 A. I do. I smoke maybe one -- you know, I 11 don't overdo it. I take one hit here and there 12 because I have extremely bad headaches due to -- 13 due to this accident and due to the epilepsy. So 14 that's -- that's why. If I get -- if I get 15 headaches, I take a little puff here and there and 16 it helps me. Controls my nerves in my brain or 17 whatever.</p> <p>18 Q. When you say "a hit here and there," do 19 you smoke daily?</p> <p>20 A. I do.</p> <p>21 Q. How much?</p> <p>22 A. I mean, I take a hit at one -- you know, 23 it just depends on if I -- my headaches and stuff 24 like that. That's really what it depends on.</p> <p>25 Q. So you say you smoke daily, and I'm just</p>	<p style="text-align: right;">Page 81</p> <p>1 A. Yes. You're not allowed to have 2 not-sealed or quick -- you know, have it to your 3 ability in the car, like, you know. You can't have 4 it accessible.</p> <p>5 Q. You can't smoke in public, correct?</p> <p>6 A. Yes.</p> <p>7 Q. You can't drive under the influence, 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. You can only buy it from the state, 11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you can only have a limited amount at 14 one time?</p> <p>15 A. Yes.</p> <p>16 Q. Your understanding is no more than an 17 ounce; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever violated any of those 20 restrictions?</p> <p>21 A. No.</p> <p>22 Q. So you told us in response to 23 interrogatories that you smoked marijuana the day 24 of the accident before the accident happened, and I 25 want to ask a few questions about that.</p>

<p style="text-align: right;">Page 82</p> <p>1 We will talk about the accident day in  2 more detail, but I understand Mr. Gonzalez invited  3 you over to cook steaks at -- he said come over  4 about 6:30 p.m.? Does that sound right?  5 A. Yes.  6 Q. What time did you actually arrive? Do  7 you know?  8 A. I believe at around -- between 6:15 and  9 6:30.  10 Q. Did you smoke marijuana with Mr. Gonzalez  11 that evening after you arrived?  12 A. I believe -- from my recollection, I  13 believe we did at that time.  14 Q. Was that shortly after you arrived?  15 A. Yes. It was right before the accident.  16 Q. The accident happened at about 7:00 --  17 what time? Do you know?  18 A. I don't remember exactly on the time.  19 Q. There's a medical record indicating you  20 were admitted at about 7:30, I believe.  21 What's your best estimate as to when the  22 accident occurred?  23 A. About 7:00 o'clock.  24 Q. What did -- specifically, do you know  25 what type of marijuana you and Mr. Gonzalez were</p>	<p style="text-align: right;">Page 84</p> <p>1 it does on other people with me.  2 Q. How does THC affect you?  3 A. It helps my -- it helps control the  4 nervousness of my brain and stuff that -- it helps  5 me relax, helps my anxiety levels, and it just  6 helps keep me calm.  7 Q. Does it have any other effect?  8 A. No.  9 Q. Have you ever known marijuana to impact  10 your judgment in any way?  11 A. No.  12 Q. How about your ability to perceive,  13 smell, taste, see, hear?  14 A. No.  15 Q. How about reaction time?  16 A. No.  17 Q. So your testimony is that whether it's  18 medical or recreational use of marijuana, it has no  19 impact on you other than calming you down?  20 A. Exactly.  21 Q. So you were sharing marijuana with  22 Mr. Gonzalez right before the accident, true?  23 A. I believe so.  24 Q. How much marijuana did he ingest or take  25 in?</p>
<p style="text-align: right;">Page 83</p> <p>1 smoking before the accident?  2 A. No. It was his.  3 Q. How much marijuana did you smoke?  4 A. I took one hit of a bowl.  5 Q. Does one hit literally mean just one  6 puff?  7 A. Yes.  8 Q. You said in response to interrogatories  9 that as a frequent smoker of medical marijuana,  10 that marijuana, quote, "does not have much of an  11 effect on his mental capacity," ending quote. Is  12 that correct?  13 A. Yes.  14 Q. What does that mean?  15 A. It means I can do the same stuff that I  16 do when I'm not high, when I'm high, and it has no  17 effect to me.  18 Q. Well, you said it does not have much  19 effect. So I presume it has some effect?  20 A. I mean, obviously, weed has a THC  21 component which makes you high. To a lot of other  22 people, it makes you tired, it makes you not alert,  23 it makes you maybe change your ways or your  24 decisions. But in my regards with marijuana, with  25 marijuana use, it doesn't have the same effects as</p>	<p style="text-align: right;">Page 85</p> <p>1 A. I believe one hit as well.  2 Q. We will get into later -- we have some  3 social media and texting that I understand that you  4 and Mr. Gonzalez are good friends. True?  5 A. Yes.  6 Q. And he's invited you over to his house on  7 many --  8 A. Yes.  9 Q. -- occasions for grilling, true?  10 A. Yes.  11 Q. And on those occasions it's common that  12 you all will share some marijuana, true?  13 A. Yes.  14 Q. And on those occasions is it the case  15 that you and Mr. Gonzalez only have one puff each?  16 A. Sometimes. I mean, we -- as both  17 smokers, we don't overdo it. I mean, we don't  18 smoke like other people just, you know, to be  19 nonfunctional. You know, I don't do it for that  20 purpose.  21 Q. Have you ever done that?  22 A. Smoked to get to the point where I'm  23 belligerent?  24 Q. No, just smoked to where you've overdone  25 it, in your view.</p>

<p style="text-align: right;">Page 86</p> <p>1 A. No.</p> <p>2 Q. Never?</p> <p>3 A. No. I mean, when I first -- I never</p> <p>4 over -- even when I was young, you know, I never</p> <p>5 overdid it, no.</p> <p>6 Q. Do you have rules for employees at the</p> <p>7 various restaurants you've opened about safety</p> <p>8 rules for operating cooking equipment, including</p> <p>9 gas grills and ovens?</p> <p>10 A. For -- in my restaurants, the manuals --</p> <p>11 I do have manuals for the, like, pizza oven and for</p> <p>12 the grills and stuff that they had -- they were</p> <p>13 allowed to look at or, you know, had privy to the</p> <p>14 information to go to.</p> <p>15 Q. Did those rules include that you do not</p> <p>16 want an employee who's operating a gas oven or</p> <p>17 other gas equipment -- you do not want them to be</p> <p>18 ingesting alcohol, marijuana, or other drugs while</p> <p>19 they're cooking; is that true?</p> <p>20 A. Yes. But I also had rules that if you</p> <p>21 had a medical condition or had something that</p> <p>22 made -- you know. If you were using marijuana for</p> <p>23 a medical purpose, it was a different sort of</p> <p>24 situation.</p> <p>25 Q. Sure. Because that would be a doctor's</p>	<p style="text-align: right;">Page 88</p> <p>1 What's the purpose of that rule?</p> <p>2 A. I mean, the purpose of it is that, you</p> <p>3 know, you don't want anyone drinking, you know,</p> <p>4 doing anything that can inhibit their</p> <p>5 decision-making with the gas grill.</p> <p>6 Q. Because, as you testified before, you</p> <p>7 want to handle gas carefully?</p> <p>8 A. Yes. And other -- but like I said</p> <p>9 before, in my situation, I have smoked marijuana</p> <p>10 and handled equipment from -- my whole life.</p> <p>11 Q. Regarding medicinal use of marijuana?</p> <p>12 A. Yes. And I know how -- you know, and</p> <p>13 that's also, with my employees, you know, I know</p> <p>14 who's telling the truth, who's not telling the</p> <p>15 truth, and who -- you know.</p> <p>16 Q. Just so we're on the same page, I'm</p> <p>17 talking about a rule that says "Recreational use of</p> <p>18 marijuana is prohibited for employees who are</p> <p>19 operating gas equipment." True?</p> <p>20 A. Yes. But that's anywhere in an</p> <p>21 establishment, when you sign paperwork -- when you</p> <p>22 sign paperwork saying that you're going to join</p> <p>23 a -- to join their group or their restaurant or</p> <p>24 whatever it is, you sign paperwork stating that,</p> <p>25 you know, you know the situation and you will not</p>
<p style="text-align: right;">Page 87</p> <p>1 prescription for a particular medical treatment,</p> <p>2 right?</p> <p>3 A. Correct.</p> <p>4 Q. But otherwise, your rules at the</p> <p>5 restaurants for employees using gas equipment is</p> <p>6 that they would not be allowed to use recreational</p> <p>7 marijuana or drink alcohol or take other drugs</p> <p>8 before operating that equipment, true?</p> <p>9 A. Yes.</p> <p>10 Q. Did that rule apply to you also?</p> <p>11 A. In what regards? In regards of my</p> <p>12 restaurant or in regards of being outdoors at a</p> <p>13 location?</p> <p>14 Q. At any time did you apply that rule to</p> <p>15 yourself?</p> <p>16 A. I have, but also because of my medical</p> <p>17 conditions, I -- you know, sometimes I do smoke for</p> <p>18 headaches and other purposes that I -- you know,</p> <p>19 which helps me with my condition.</p> <p>20 Q. Right. I'm talking about other than for</p> <p>21 medical purposes.</p> <p>22 A. No.</p> <p>23 Q. Why would you have a rule for employees</p> <p>24 that you don't want them smoking marijuana</p> <p>25 recreationally before they operate gas equipment?</p>	<p style="text-align: right;">Page 89</p> <p>1 use drugs or alcohol.</p> <p>2 Q. Employees have to sign that they will</p> <p>3 follow those rules.</p> <p>4 A. Correct.</p> <p>5 Q. That's required for their employment.</p> <p>6 A. Correct.</p> <p>7 Q. And in part, that's for their safety and</p> <p>8 the safety of people in the restaurant?</p> <p>9 A. Yes.</p> <p>10 Q. Let's talk about the grill that was</p> <p>11 involved in this accident.</p> <p>12 So you told us that you were at the</p> <p>13 Gonzalez residence on one previous occasion where</p> <p>14 you were using the grill -- I think you said for a</p> <p>15 large party?</p> <p>16 A. Yes.</p> <p>17 Q. I want to ask you about that.</p> <p>18 Do you remember roughly when that</p> <p>19 occurred or how long before this accident?</p> <p>20 A. I don't. Within a year, I believe, but</p> <p>21 I'm not sure exactly.</p> <p>22 Q. You said in an interrogatory that you</p> <p>23 were using it on and off for an entire day.</p> <p>24 Do you remember that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. What kind of party was it?</p> <p>2 A. A pool party.</p> <p>3 Q. How many people were there?</p> <p>4 A. Over 20.</p> <p>5 Q. Do you remember what you were cooking?</p> <p>6 A. I did an omelette station and different</p> <p>7 stuff like that for a brunch.</p> <p>8 Q. So you were cooking throughout the day,</p> <p>9 different things?</p> <p>10 A. Yeah.</p> <p>11 Q. When you say for an entire day, is that</p> <p>12 eight hours? Ten hours? How long were you there?</p> <p>13 A. About six to eight hours.</p> <p>14 Q. Cooking the whole time?</p> <p>15 A. On and off, yes.</p> <p>16 Q. So you start with the breakfast item,</p> <p>17 brunch item, dinner item; is that how it worked?</p> <p>18 A. No. I mean, you know, you have brunch</p> <p>19 items, hot dogs, hamburgers.</p> <p>20 Q. A variety of food?</p> <p>21 A. Yes.</p> <p>22 Q. Who else was cooking at that time?</p> <p>23 A. No one, I believe.</p> <p>24 Q. Do you remember who else was there</p> <p>25 besides you and Mr. Gonzalez, perhaps his wife?</p>	<p style="text-align: right;">Page 92</p> <p>1 I'm not sure exactly because there was a flat top</p> <p>2 that he brought in to use. We had another grill to</p> <p>3 use. So I don't remember if that was the time or</p> <p>4 not, but there was another grill that I used</p> <p>5 because there was something wrong with either --</p> <p>6 there was something wrong with that grill or -- but</p> <p>7 I know that there was -- you know, I knew of the</p> <p>8 problem of that grill.</p> <p>9 And then -- and then that's when I --</p> <p>10 when I came back this day, to this day I came back</p> <p>11 and I said -- you know, when we sat at the table, I</p> <p>12 said, "Mario, is the grill good?"</p> <p>13 He's like, "Yes. Ferrellgas just came</p> <p>14 two days before and said okay, signed off on it,"</p> <p>15 blah, blah, blah, blah, blah. Everything was good.</p> <p>16 And then he started -- he's like "Okay,</p> <p>17 I'm going to put these steaks on." He started</p> <p>18 putting the steaks on the grill. And --</p> <p>19 Q. Rest assured, we're going to talk about</p> <p>20 that and I want to know all those details. I</p> <p>21 appreciate your patience.</p> <p>22 Before I get to the accident in this</p> <p>23 case, I'm asking about the history of the grill</p> <p>24 before that. And in your interrogatory responses</p> <p>25 you said there was a previous occasion, which we</p>
<p style="text-align: right;">Page 91</p> <p>1 A. I mean, his wife and his friends. I</p> <p>2 don't remember exactly.</p> <p>3 Q. I think you told me that was within a</p> <p>4 year before this accident?</p> <p>5 A. I would say.</p> <p>6 Q. Were there any problems with the</p> <p>7 operation of the grill at that time that you can</p> <p>8 recall?</p> <p>9 A. No, not at the time.</p> <p>10 Q. We're talking about the first time now.</p> <p>11 A. The first time, no. There was another</p> <p>12 time that the grill didn't work at his house. I</p> <p>13 don't believe we used it. And that's when</p> <p>14 Ferrellgas was called, and then that's -- and then</p> <p>15 that leads up to this situation.</p> <p>16 Q. Right. We're going to talk about that.</p> <p>17 I'm still asking before the last time you used the</p> <p>18 grill, which resulted in this accident, the only</p> <p>19 previous time I'm aware of is the one we're</p> <p>20 discussing where there was a large party and you</p> <p>21 were there for six to eight hours. That's what I'm</p> <p>22 discussing now.</p> <p>23 Did you have any problems with the grill</p> <p>24 at that time?</p> <p>25 A. There might have been a grill problem.</p>	<p style="text-align: right;">Page 93</p> <p>1 just talked about, a large party, you were there</p> <p>2 for six to eight hours and were cooking on and off</p> <p>3 for the entire day.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Was there any other time besides</p> <p>6 the accident date that you used this grill?</p> <p>7 A. I don't know if it was that day or after,</p> <p>8 but the specific time that I remember, he said that</p> <p>9 he was having a problem with the grill. I don't</p> <p>10 remember if it was that day. I know he brought in</p> <p>11 another grill and used the flat top to cook and</p> <p>12 stuff like that.</p> <p>13 I do remember -- from my memory, I</p> <p>14 remember using the grill that day, but I also know</p> <p>15 that there was a time that I either went over to</p> <p>16 his house to use the grill and it wasn't</p> <p>17 operational or something to that effect because</p> <p>18 that's how this whole story led up to me asking him</p> <p>19 how the grill was.</p> <p>20 Q. I follow you.</p> <p>21 So at some point before the accident</p> <p>22 date, you're not sure when, you became aware there</p> <p>23 was a problem with the grill that we're talking</p> <p>24 about in this case and so you used another grill, a</p> <p>25 portable grill.</p>



<p style="text-align: right;">Page 94</p> <p>1 A. Yes.</p> <p>2 Q. Do you know what the problem was with the</p> <p>3 grill at that time?</p> <p>4 A. I don't.</p> <p>5 Q. How did it come to your attention?</p> <p>6 A. We were -- we were talking about the</p> <p>7 grill in some regards, Mario was talking about it,</p> <p>8 and that's how I know about it, from Mario telling</p> <p>9 me that the grill was not working.</p> <p>10 Q. Other than that, did he give you any</p> <p>11 detail as to what was going on with it or why it</p> <p>12 wasn't working?</p> <p>13 A. No. I just knew something about the</p> <p>14 line. Like he said something with the line, but I</p> <p>15 don't know anything else to the effect.</p> <p>16 Q. And that conversation when you became</p> <p>17 aware of a problem with this grill might have been</p> <p>18 the big party?</p> <p>19 A. It might have.</p> <p>20 Q. Might have been some other time, but it</p> <p>21 was well before the accident day?</p> <p>22 A. Yes.</p> <p>23 Q. And your best memory is he said it wasn't</p> <p>24 working and it was something with the line?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Yes.</p> <p>2 I said, "Is the grill fixed?"</p> <p>3 He said, "Yes."</p> <p>4 I said, "Are you sure? It's able to be</p> <p>5 used?"</p> <p>6 He said, "Yes. Ferrellgas came out.</p> <p>7 They signed paperwork saying two days before that</p> <p>8 it was operational, ready to use. There was no</p> <p>9 problems with it."</p> <p>10 Q. I understand that, and we are going to</p> <p>11 talk about it. I just want to have a clear record</p> <p>12 on what you know about problems with this grill</p> <p>13 before that happened.</p> <p>14 A. Yep.</p> <p>15 Q. And you remember a previous conversation</p> <p>16 he said something was wrong with the hose, but you</p> <p>17 don't remember more?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know who installed that grill?</p> <p>20 A. No.</p> <p>21 Q. Or when?</p> <p>22 A. No.</p> <p>23 Q. Or who installed the hose?</p> <p>24 A. No.</p> <p>25 Q. Do you know how often Mr. Gonzalez used</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. Was he any more specific as to which</p> <p>2 line? Was he talking about the hose under the</p> <p>3 grill or some other line? Do you know?</p> <p>4 A. The hose under the grill connected to the</p> <p>5 propane line.</p> <p>6 Q. I know I'm really scraping your memory</p> <p>7 here, and I appreciate your patience.</p> <p>8 Anything else you can recall that he told</p> <p>9 you about the grill not working properly on that</p> <p>10 prior occasion other than there was something wrong</p> <p>11 with the line, meaning the hose under the grill?</p> <p>12 A. No.</p> <p>13 Q. Did he say it was leaking?</p> <p>14 A. No. I mean, he didn't -- he just said</p> <p>15 that there was a problem and that was it.</p> <p>16 Q. Did he say how he was going to fix it?</p> <p>17 A. He said he was going to call Ferrellgas</p> <p>18 and he was going to have them come out and check</p> <p>19 it, and he was going to do -- you know, to get it</p> <p>20 fixed.</p> <p>21 So under my -- under what I -- when I</p> <p>22 went to his house, I asked him, I said, "The grill</p> <p>23 is fixed?" He said "Yes."</p> <p>24 Q. You're talking about on the accident day</p> <p>25 now?</p>	<p style="text-align: right;">Page 97</p> <p>1 the grill?</p> <p>2 A. No.</p> <p>3 Q. Do you know if he did any maintenance</p> <p>4 work or repairs on it?</p> <p>5 A. No.</p> <p>6 Q. Did Mr. Gonzalez tell you before the</p> <p>7 accident that he had had a problem with the hose</p> <p>8 getting hot and that he called Ferrellgas about</p> <p>9 that a few days before the accident?</p> <p>10 Did he tell you that?</p> <p>11 A. I don't remember.</p> <p>12 Q. Because I'll share with you that</p> <p>13 Mr. Gonzalez' handyman -- do you know Chad Brown?</p> <p>14 A. No, I don't.</p> <p>15 Q. -- discovered three or four days before</p> <p>16 this accident that that hose in the cabinet for the</p> <p>17 grill was hot. And when Mr. Gonzalez came home, he</p> <p>18 found it was also hot. He also found that when he</p> <p>19 touched the cabinet, the metal cabinet, that he got</p> <p>20 an electric shock.</p> <p>21 Did Mr. Gonzalez tell you about any of</p> <p>22 those things?</p> <p>23 A. No.</p> <p>24 Q. Did you even know about it before just</p> <p>25 now, when I mentioned it?</p>

<p style="text-align: right;">Page 98</p> <p>1 A. No. Like I said, I just know about the 2 line, that, you know, it was leaking, and that was 3 it. 4 Q. Well, you know that now, about this 5 accident. 6 A. Yes. 7 Q. I'm asking -- it's kind of tough because 8 I'm asking you to search different parts of your 9 brain for different time frames. I'm now asking 10 you, before this accident happened, if Mr. Gonzalez 11 ever told you, "Hey, a few days ago that line was 12 really hot and I got an electric shock and I called 13 Ferrellgas." 14 Did he tell you any of that? 15 A. No. Because when we talked about it, he 16 said that it was fixed. 17 Q. Did he say what was fixed? 18 A. No. He said Ferrellgas came out and 19 fixed the line and everything was good to go. 20 Q. Did he tell you that an electrician came 21 out? 22 A. No. I didn't know anything about an 23 electrician after -- until after the incident. 24 Q. Do you know Mr. Carl Kleisner? 25 A. Do I? No.</p>	<p style="text-align: right;">Page 100</p> <p>1 know. 2 Q. Do you know -- 3 A. He used that grill a lot, so I don't 4 know. 5 Q. Has he used it since the accident? 6 A. I don't know. 7 Q. Has anyone used it since the accident? 8 A. I don't know. I know -- because I've 9 been to his house -- he has another grill, like a 10 little grill. 11 Q. Do you know Rob Vickery? 12 A. (Witness shook head.) 13 Q. Do you know anyone who works for 14 Ferrellgas? 15 A. No. 16 Q. Have you talked to anyone at Ferrellgas 17 about this accident? 18 A. No. 19 MR. McMULLEN: So I want to show you some 20 pictures in case it helps your memory on a few 21 things. 22 Let's mark this, please. This will be 23 Exhibit 2, I think. 24 (Exhibit Number 2 was marked.) 25 / / /</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Do you know who that is? 2 A. I mean, from -- you know, now I do, yeah. 3 Q. After. Okay. 4 Before this accident, you didn't know 5 Mr. Kleisner and you didn't know he had come out? 6 A. No. 7 Q. You didn't know what work he had done? 8 A. No. 9 Q. You've already testified Mr. Gonzalez 10 told you that Ferrellgas came out and, according to 11 Mr. Gonzalez, told you that Ferrellgas said you 12 could use the grill. 13 A. Yes. 14 Q. Did he tell you what work Mr. -- what 15 work Ferrellgas did? 16 A. No. He just said that they came out, 17 fixed the line, and made sure that the grill was 18 operational. 19 Q. Did Mr. Gonzalez say whether he had used 20 the grill since then? 21 A. No. I think that was the first -- I 22 believe that was the first time he used it. 23 Q. Was just before your accident? 24 A. But I don't -- you know, I don't know if 25 he used it the day before or anything. I don't</p>	<p style="text-align: right;">Page 101</p> <p>1 BY MR. McMULLEN: 2 Q. Josh, I've had marked a series of 3 photographs. There's five pictures, all stapled 4 together. And I'll represent to you that there was 5 an inspection by various experts on the case at 6 Mr. Gonzalez' place last Friday, May 15. And these 7 pictures were taken by an electrical expert for 8 Ferrellgas. 9 Do you recognize the first picture? Does 10 that look like the porch at the Gonzalez place? 11 A. That looks like the outside house, but I 12 am never behind there, so I don't know. 13 Q. Okay. The reason I'm sharing these 14 pictures with you is they show various cords, an 15 electrical outlet, and then there's two pictures 16 that show the pumps for the koi pond, and the last 17 picture shows an extension cord. 18 Did Mr. Gonzalez say anything to you 19 about electrical problems he was having with the 20 pump for the koi pond or any other electrical 21 problems before this accident? 22 A. No. 23 Q. Did you know about any electrical work 24 that was done -- 25 A. No.</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. -- at his house before the accident?</p> <p>2 A. No.</p> <p>3 Q. Did he tell you anything about lights</p> <p>4 that were flickering or breakers that had</p> <p>5 tripped --</p> <p>6 A. No.</p> <p>7 Q. -- anything like that?</p> <p>8 You didn't have any idea about that?</p> <p>9 A. No.</p> <p>10 Q. Do you know where the breaker box is</p> <p>11 located for the outdoor electrical equipment?</p> <p>12 A. No, I do not.</p> <p>13 Q. Did Mr. Gonzalez ever say anything about</p> <p>14 breakers tripping for the outdoor electrical</p> <p>15 equipment?</p> <p>16 A. Not to me, no.</p> <p>17 Q. You had no knowledge of that?</p> <p>18 A. I had no knowledge.</p> <p>19 Q. So before this accident, Mr. Gonzalez</p> <p>20 didn't say anything to you about electrical</p> <p>21 problems that were affecting the backyard</p> <p>22 electrical equipment?</p> <p>23 A. No, sir.</p> <p>24 Q. Including that he himself had had an</p> <p>25 electrical shock from the grill?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Is that what you're saying you don't</p> <p>2 remember?</p> <p>3 A. Yeah. I don't remember that.</p> <p>4 Q. You don't think that was there at the</p> <p>5 time of the accident?</p> <p>6 A. I just don't remember it. I don't know</p> <p>7 if it was there or not there, but I don't remember</p> <p>8 that.</p> <p>9 Q. So if you go to the next-to-last --</p> <p>10 A. I remember cooking on a grill that was</p> <p>11 like that when I did that thing I just told you,</p> <p>12 but I don't remember it -- I thought it was a</p> <p>13 pull-in grill. I don't remember it being there.</p> <p>14 Q. So you're not sure if that's what you</p> <p>15 were cooking on before?</p> <p>16 A. No, no, no. I was cooking on this thing.</p> <p>17 Q. "This thing," can you --</p> <p>18 A. I was cooking on the grill, the propane</p> <p>19 grill, this.</p> <p>20 Q. So you're now pointing to the grill</p> <p>21 that's shown in the next-to-last picture, which is</p> <p>22 the fourth page of Exhibit 3.</p> <p>23 Can you hold that up and maybe show it to</p> <p>24 other counsel so they know? And if you'll show the</p> <p>25 camera for me.</p>
<p style="text-align: right;">Page 103</p> <p>1 A. No.</p> <p>2 MR. McMULLEN: Here's the next one,</p> <p>3 please.</p> <p>4 (Exhibit Number 3 was marked.)</p> <p>5 BY MR. McMULLEN:</p> <p>6 Q. So I've handed you -- or the court</p> <p>7 reporter has handed you what we've marked as</p> <p>8 Exhibit 3, and this is another series of pictures</p> <p>9 that have been taken of the back kitchen area.</p> <p>10 These are, again, five pictures stapled together,</p> <p>11 marked Exhibit 3.</p> <p>12 The first one shows the grill and kitchen</p> <p>13 area. Do you see that?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. Does that look like the way it did when</p> <p>16 you were there?</p> <p>17 A. I don't remember this grill, but I might</p> <p>18 be wrong.</p> <p>19 Q. Which grill?</p> <p>20 A. This side grill.</p> <p>21 Q. If you'll turn in about -- to the very</p> <p>22 last picture, I think they refer to that as "the</p> <p>23 griddle."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 105</p> <p>1 That's the grill that you recall</p> <p>2 cooking --</p> <p>3 A. Yes.</p> <p>4 Q. -- both the first time you were there,</p> <p>5 cooking for the large party, and also when the</p> <p>6 accident happened?</p> <p>7 A. No.</p> <p>8 Q. No?</p> <p>9 A. No.</p> <p>10 Q. Different grill?</p> <p>11 A. The griddle, which I -- I remember --</p> <p>12 from my memory -- I might be totally wrong. From</p> <p>13 my memory, I thought it was a pull-in grill where</p> <p>14 it was a griddle and I was cooking on the griddle.</p> <p>15 I might be wrong. It might be it was inside the --</p> <p>16 put on the island over there, but that's what I</p> <p>17 cooked at the party on.</p> <p>18 Q. So you're testifying --</p> <p>19 A. And I believe that the grill was on and I</p> <p>20 used it for a little bit of time or whatever during</p> <p>21 that party, but that was all.</p> <p>22 Q. Okay. So just so I'm clear, we're</p> <p>23 looking at Exhibit 3, a series of photos, and the</p> <p>24 fourth page is the page you just held up to the</p> <p>25 camera.</p>

<p style="text-align: right;">Page 106</p> <p>1           You recall that grill when the accident 2 happened?</p> <p>3       A.    Mm-hmm.</p> <p>4       Q.    That's the grill?</p> <p>5       A.    Yes.</p> <p>6       Q.    And you recall the same grill was there 7 the previous time you were there cooking?</p> <p>8       A.    Yes.</p> <p>9       Q.    But you were using another grill?</p> <p>10      A.    I was using that flat top because it was 11 for breakfast.</p> <p>12      Q.    The flat top being the griddle, which was 13 the last page?</p> <p>14      A.    Yes.</p> <p>15      Q.    So now you do remember that as something 16 you were using?</p> <p>17      A.    Yes, I did use it, but what I remember -- 18 I thought it was a pull-in -- like a -- you know, 19 like a pull-in flat top.</p> <p>20      Q.    Portable?</p> <p>21      A.    Yes, portable flat top.</p> <p>22      Q.    But you also recall using the grill that 23 was involved in the accident --</p> <p>24      A.    Yes.</p> <p>25      Q.    -- the earlier time you were there, and</p>	<p style="text-align: right;">Page 108</p> <p>1       Q.    Sorry?</p> <p>2       A.    The mouse.</p> <p>3       Q.    Yeah. We'll get to that.</p> <p>4            So Mario starts -- you testified that 5 before the accident, Mr. Gonzalez started the 6 grill.</p> <p>7       A.    Yes.</p> <p>8       Q.    And that would have been between 6:30 and 9 6:45 sometime, roughly?</p> <p>10      A.    Yes.</p> <p>11      Q.    Was it dark?</p> <p>12      A.    No. I believe -- it was June, so no. It 13 was getting dark.</p> <p>14      Q.    So I meant to ask, if you'd go back to 15 Exhibit 3, which is our pictures of the grill. Do 16 you see there's some lights, light fixtures --</p> <p>17      A.    Yes.</p> <p>18      Q.    -- that are mounted to the back wall?</p> <p>19      A.    Yes.</p> <p>20      Q.    Were any of those turned on?</p> <p>21      A.    I don't think so, but I don't -- I can't 22 tell you because I don't remember.</p> <p>23      Q.    If you go to the second page of 24 Exhibit 3, you see those lights are closer up?</p> <p>25      A.    Yes.</p>
<p style="text-align: right;">Page 107</p> <p>1 that's the same grill we see in this picture?</p> <p>2       A.    Yes.</p> <p>3       Q.    So you get there about 6:30. The 4 accident, we discussed earlier, was around 7:00 -- 5 was that your estimate? -- or shortly after?</p> <p>6       A.    Yeah. I mean, I think it happened, from 7 my memory, between 6:45 and 7:00 o'clock.</p> <p>8       Q.    Is when the accident occurred?</p> <p>9       A.    Yes.</p> <p>10      Q.    What time was the grill put in operation 11 the day of the accident?</p> <p>12      A.    Mario handled the whole -- the grill. 13 That's the whole point of it, is that he was -- he 14 was handling it. He said, "I'm going to come over 15 and" -- "I'm going to cook for you." And that's 16 how it -- you know.</p> <p>17      Q.    So he put the grill in operation?</p> <p>18      A.    Yeah.</p> <p>19           MR. McMULLEN: Let's mark this, please. 20 (Exhibit Number 4 was marked.)</p> <p>21           MR. McMULLEN: Is that 4?</p> <p>22 BY MR. McMULLEN:</p> <p>23      Q.    To help with our discussion, I've marked 24 a few more pictures. This is Exhibit 4.</p> <p>25      A.    Eww.</p>	<p style="text-align: right;">Page 109</p> <p>1       Q.    It's closer picture.</p> <p>2            If you go to the third page, there is 3 another light you can see to the left of the sink. 4 I don't know if that's a real lantern or an 5 electric lantern that's made to look like an 6 old-time thing.</p> <p>7            Do you know?</p> <p>8       A.    I don't know.</p> <p>9       Q.    Do you remember ever seeing that lit up?</p> <p>10      A.    No.</p> <p>11      Q.    If you turn to the next page, which is 12 the grill, when the grill is in operation, do you 13 get these lights on the knobs?</p> <p>14            Do you remember that?</p> <p>15      A.    I don't remember that, no.</p> <p>16      Q.    Do you see up just above the grill grate 17 itself there appear to be a couple of orange lamps? 18 Do you remember those being on?</p> <p>19      A.    I don't remember.</p> <p>20      Q.    When you are saying you don't remember, 21 are you saying you don't remember one way or the 22 other?</p> <p>23      A.    No. I don't remember them being on.</p> <p>24      Q.    You don't remember them being on?</p> <p>25      A.    No.</p>

<p style="text-align: right;">Page 110</p> <p>1 Q. Is that true for all the lamps we just 2 talked about?</p> <p>3 A. Yeah. I mean, I wasn't paying attention 4 to the lights, so I don't remember.</p> <p>5 Q. So looking through these pictures on 6 Exhibit 3, you see behind the sink, there's an 7 electrical outlet?</p> <p>8 A. Which one?</p> <p>9 Q. It's the second page of Exhibit 3.</p> <p>10 A. Yes.</p> <p>11 Q. Do you remember anything being plugged in 12 there?</p> <p>13 A. Anything being plugged in where?</p> <p>14 Q. The outlet behind the sink that we see on 15 the second page of Exhibit 3.</p> <p>16 A. No.</p> <p>17 Q. There is another outlet right behind the 18 grill. You can see the edge of it in this picture?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. Was anything plugged in there?</p> <p>21 A. No, I don't remember.</p> <p>22 Q. Do you remember before Mr. Gonzalez 23 started the grill or after, before the accident, if 24 he turned any switches on or off, any lights came 25 on or off?</p>	<p style="text-align: right;">Page 112</p> <p>1 Did you ever look inside that cabinet?</p> <p>2 A. No.</p> <p>3 Q. Have you ever seen what's in there before 4 the accident?</p> <p>5 A. No.</p> <p>6 Q. So this is the first time you've seen 7 under the grill, is these pictures?</p> <p>8 A. I mean, yes.</p> <p>9 Q. Okay. Did you know he had a rat problem?</p> <p>10 A. No. Now I do. But I didn't know.</p> <p>11 MR. GOLDSTEIN: Objection. One rat does 12 not make a problem.</p> <p>13 BY MR. McMULLEN:</p> <p>14 Q. Did you know he had a rat under the 15 grill?</p> <p>16 A. No.</p> <p>17 MR. GOLDSTEIN: Objection.</p> <p>18 MR. PFAU: That is a mouse.</p> <p>19 MR. GOLDSTEIN: And objection. I don't 20 know if that rat was there at the time.</p> <p>21 MR. McMULLEN: Wow. They're pretty 22 sensitive about rats and mice.</p> <p>23 MR. GOLDSTEIN: Rats and attorneys go 24 hand in hand.</p> <p>25 MR. PFAU: I want a clear record of what</p>
<p style="text-align: right;">Page 111</p> <p>1 A. No, sir.</p> <p>2 Q. Do you remember any cords being plugged 3 in or disconnected, anything electrical, before 4 this accident?</p> <p>5 A. No, sir.</p> <p>6 Q. Do you remember any lights flickering 7 before the accident?</p> <p>8 A. No, sir.</p> <p>9 Q. Did you turn on any switches or plug 10 anything in before the accident?</p> <p>11 A. No, sir.</p> <p>12 Q. So let's go to Exhibit 4.</p> <p>13 A. With the rat?</p> <p>14 Q. Well, we'll get to the rat.</p> <p>15 The first picture, is that a view of the 16 cabinet under the grill?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember Mr. Gonzalez opening 19 those doors to turn on the valve that we see there 20 to start the grill?</p> <p>21 A. No.</p> <p>22 Q. Are you saying that you don't remember 23 one way or the other or --</p> <p>24 A. I don't remember him doing that.</p> <p>25 Q. You don't remember him doing that.</p>	<p style="text-align: right;">Page 113</p> <p>1 animal this was.</p> <p>2 THE WITNESS: A mouse.</p> <p>3 MR. GOLDSTEIN: Mouse, rat, whatever.</p> <p>4 MR. McMULLEN: I'll be really careful 5 with this next one.</p> <p>6 BY MR. McMULLEN:</p> <p>7 Q. Josh, did you have any idea that there 8 were any rodents of any kind --</p> <p>9 A. No.</p> <p>10 Q. -- under the grill before this accident?</p> <p>11 A. No.</p> <p>12 Q. Did Mr. Gonzalez tell you that he had any 13 issues or problems with rats or mice or rodents on 14 the property, including under the grill?</p> <p>15 A. No.</p> <p>16 Q. Let's look at that picture, the picture 17 with the rodent. That's the third picture of 18 Exhibit 4.</p> <p>19 Do you know what he's laying on? Do you 20 know what that tube is?</p> <p>21 A. I don't.</p> <p>22 Q. Have you ever seen that before?</p> <p>23 A. No.</p> <p>24 Q. Were you standing close by when 25 Mr. Gonzalez put the grill in operation the day of</p>

<p style="text-align: right;">Page 114</p> <p>1 the accident?</p> <p>2 A. I believe it was -- I believe it was on</p> <p>3 when I got there, or like when I got to the house,</p> <p>4 I mean, he put it on like right when I got there or</p> <p>5 right before. I didn't see anything. I just knew</p> <p>6 that he was like -- he just told me that -- I asked</p> <p>7 him. I said, "Oh, the grill's fixed?"</p> <p>8 And he said -- I'll never forget it. He</p> <p>9 said, "Yes, the grill's fixed. They came and</p> <p>10 signed off on it two days ago."</p> <p>11 I said, "They're able to use it?"</p> <p>12 "Yes, able to use it."</p> <p>13 Q. So we talked about how you remember a</p> <p>14 previous time where Mr. Gonzalez told you the grill</p> <p>15 wasn't working, but you don't remember when he told</p> <p>16 you that. It might have been when you cooked for</p> <p>17 the party, except that you remember it was</p> <p>18 operating then, true?</p> <p>19 A. Yes.</p> <p>20 Q. So you think it was sometime between then</p> <p>21 and the accident date that he mentioned to you the</p> <p>22 grill wasn't working?</p> <p>23 A. Yes.</p> <p>24 Q. You're just not sure when?</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 116</p> <p>1 A. Yes.</p> <p>2 Q. All right. We've been over that. You</p> <p>3 don't know because he didn't tell you what was</p> <p>4 wrong with the grill at that time?</p> <p>5 A. Yes.</p> <p>6 Q. He just said it wasn't working, but he</p> <p>7 did say there was a problem with the hose?</p> <p>8 A. Yes.</p> <p>9 Q. Months before he told you there was a</p> <p>10 problem with the hose?</p> <p>11 A. Yes. He said there was a problem with</p> <p>12 the hose and that people were coming out to fix it.</p> <p>13 Gas -- you know, Ferrellgas has been out there</p> <p>14 trying to fix it.</p> <p>15 Q. On that earlier occasion?</p> <p>16 A. Huh?</p> <p>17 Q. I want to keep our timeline straight.</p> <p>18 A. Yes.</p> <p>19 Q. I know on the accident date he told you</p> <p>20 he had a problem a few days before and Ferrellgas</p> <p>21 came out.</p> <p>22 A. Yes.</p> <p>23 Q. I want to be really clear. The previous</p> <p>24 time, which you think was months earlier, he</p> <p>25 mentioned to you the grill wasn't working and there</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. It could have been months or even a year</p> <p>2 before; you just don't know?</p> <p>3 A. Yes. Excuse me.</p> <p>4 Q. So when we now talk about Mr. Gonzalez</p> <p>5 telling you on the day of the accident that the</p> <p>6 grill was fixed, you don't know if that's the same</p> <p>7 issue as what he told you before?</p> <p>8 A. No. But I mean, when I asked him, I</p> <p>9 said, "Is the grill fixed and it's operational?"</p> <p>10 He said, "Yes, it's fixed. It's operational. And</p> <p>11 it was filled or okayed by Ferrellgas."</p> <p>12 Q. And the reason you asked him on the</p> <p>13 accident date if the grill was fixed is because at</p> <p>14 some time in the past he had told you that it</p> <p>15 wasn't working?</p> <p>16 A. Yes.</p> <p>17 Q. But that was more than a few days before</p> <p>18 the accident?</p> <p>19 A. Yes, sir.</p> <p>20 Q. It was at least months before?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Maybe a year?</p> <p>23 A. I mean, I don't think it was a year,</p> <p>24 but --</p> <p>25 Q. Months?</p>	<p style="text-align: right;">Page 117</p> <p>1 was a problem with the gas hose, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Did he tell you anything else about the</p> <p>4 situation at the time?</p> <p>5 A. No, just that Ferrellgas was coming --</p> <p>6 had been coming to check it out and make sure that</p> <p>7 it was, you know, operational.</p> <p>8 Q. On the previous time?</p> <p>9 A. Yes.</p> <p>10 Q. So twice?</p> <p>11 A. I'm lost now.</p> <p>12 Q. Let me go through. This is my --</p> <p>13 MR. PFAU: Mike, I think it's --</p> <p>14 MR. McMULLEN: This is my fault because I</p> <p>15 need to make it clear so we have a clear record.</p> <p>16 MR. PFAU: Can we maybe define the</p> <p>17 time -- we understand there's two times that he had</p> <p>18 some knowledge about the grill and the operation of</p> <p>19 the grill, one at the party and one some other time</p> <p>20 before.</p> <p>21 THE WITNESS: But that might have been</p> <p>22 the party. That's what I'm saying. I don't know</p> <p>23 directly when I knew about the problem, but I knew</p> <p>24 that there was a problem with the grill, and I knew</p> <p>25 that he had Ferrellgas coming out to check it. So</p>

<p style="text-align: right;">Page 118</p> <p>1 that's what I knew.</p> <p>2 BY MR. McMULLEN:</p> <p>3 Q. And that's the instance that occurred</p> <p>4 months before the accident date?</p> <p>5 A. Yes.</p> <p>6 Q. So that instance also involved Gonzalez</p> <p>7 telling you that Ferrellgas was coming out to fix</p> <p>8 it?</p> <p>9 A. Yes, sir.</p> <p>10 Q. But at that time, it was not working?</p> <p>11 A. Right.</p> <p>12 Q. He said they were coming?</p> <p>13 A. They said -- yeah. He said they were</p> <p>14 coming, they were fixing it. They came by and</p> <p>15 checked it out, and then -- you know, and then --</p> <p>16 because the last time I knew that -- so I knew it</p> <p>17 was broken.</p> <p>18 And then when I went to his house on that</p> <p>19 day, I even asked him on the phone, "Hey, the</p> <p>20 grill's working?" He said "Yes."</p> <p>21 And then when I went there, I said, "Hey,</p> <p>22 the grill's working? It's fine to use?" He said</p> <p>23 "Yes."</p> <p>24 Q. All right. So getting back to our</p> <p>25 timeline of events, when you arrived at about 6:30,</p>	<p style="text-align: right;">Page 120</p> <p>1 A. He did that. He put the steaks on the</p> <p>2 grill.</p> <p>3 Q. And we will get into the details of this</p> <p>4 later, but just to have the timeline straight, it's</p> <p>5 my understanding that at some point after the</p> <p>6 steaks had been cooking, he asks you to keep an eye</p> <p>7 on them and he went in the house?</p> <p>8 A. Yes.</p> <p>9 Q. How long were the steaks on the grill</p> <p>10 before he asked you to keep an eye on them?</p> <p>11 A. He put them on and he went inside. He</p> <p>12 has four kids. He went inside. I don't know what</p> <p>13 he was doing. I don't know. When he put them on,</p> <p>14 he closed the grill. And when he -- he went inside</p> <p>15 and he said, "Keep an eye on them." I said "Okay."</p> <p>16 Me being a chef, you know, I know how to</p> <p>17 cook steaks and keep an eye on them, so I -- it was</p> <p>18 on for like four to five minutes, but I -- when you</p> <p>19 know cooking, you can hear if something's burning</p> <p>20 or if something's getting cooked too much. And I</p> <p>21 heard like -- it was like cracking and it was</p> <p>22 like -- you could hear it was like burning, burning</p> <p>23 the steaks, right?</p> <p>24 So then --</p> <p>25 Q. This is with the lid closed?</p>
<p style="text-align: right;">Page 119</p> <p>1 the grill was either already on or he put it into</p> <p>2 operation very quickly after you arrived?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if he lit the grill with the</p> <p>5 lid down or up?</p> <p>6 A. I don't know how he lit the grill. All I</p> <p>7 remember is him putting the steaks on the grill.</p> <p>8 Q. Did he warm up the grill for a time</p> <p>9 before he put the steaks on?</p> <p>10 A. It might have been. I'm not sure.</p> <p>11 Q. Well, how long were you there before he</p> <p>12 put the steaks on?</p> <p>13 A. Maybe ten -- ten minutes.</p> <p>14 Q. So during that time was the grill in</p> <p>15 operation?</p> <p>16 A. From what I remember, yeah, the grill was</p> <p>17 on.</p> <p>18 Q. So you arrive, and either it's already in</p> <p>19 operation or very soon after you arrive, Gonzalez</p> <p>20 puts the grill in operation, true?</p> <p>21 A. Yes.</p> <p>22 Q. And then the grill is in operation for</p> <p>23 maybe ten minutes, and then he puts the steaks on?</p> <p>24 A. Yes.</p> <p>25 Q. Did he do that or did you do that?</p>	<p style="text-align: right;">Page 121</p> <p>1 A. Yeah.</p> <p>2 So when I went to open the lid and flip</p> <p>3 the steak. As soon as I went to flip the steak,</p> <p>4 there was an explosion.</p> <p>5 Q. Let's make sure this is correct or that I</p> <p>6 am understanding correctly. We've been through</p> <p>7 this.</p> <p>8 You arrive. It's burning or he puts it</p> <p>9 in operation for about ten minutes. Then</p> <p>10 Mr. Gonzalez puts the steaks on the grill, correct?</p> <p>11 A. Yes.</p> <p>12 Q. Then he closes the grill and asks you to</p> <p>13 keep an eye on them after they've been there about</p> <p>14 four or five minutes?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So the two of you were there together</p> <p>17 with the steaks cooking for four or five minutes?</p> <p>18 A. No. He put the steaks on the grill and</p> <p>19 walked inside.</p> <p>20 Q. Oh, I see. And then it was four or</p> <p>21 five minutes after that --</p> <p>22 A. Right.</p> <p>23 Q. -- before the accident?</p> <p>24 A. It was four to five minutes until I went</p> <p>25 to turn the steak.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. Got it.</p> <p>2 A. And then the explosion.</p> <p>3 Q. So he goes inside. You're keeping an eye</p> <p>4 on the steaks, although the lid is closed, true?</p> <p>5 A. Yes, sir.</p> <p>6 Q. But you hear a cracking sound which you</p> <p>7 associate with the steaks might be burning?</p> <p>8 A. Yes.</p> <p>9 Q. So you open the lid?</p> <p>10 A. Yes.</p> <p>11 Q. And then you flip the steaks?</p> <p>12 A. I'm about to flip the steaks.</p> <p>13 Q. Did you have a tool underneath them?</p> <p>14 A. Yes.</p> <p>15 Q. And that's when the incident happened?</p> <p>16 A. Yes.</p> <p>17 Q. It didn't happen when the lid was raised;</p> <p>18 it happened when you started to flip the steaks?</p> <p>19 A. Yes, but that was -- I went to open it,</p> <p>20 flip the steak, and "poof" (indicating).</p> <p>21 Q. Right. How would you describe the</p> <p>22 fireball or flash fire?</p> <p>23 First, did it make a noise?</p> <p>24 A. It was the loudest noise I've ever heard.</p> <p>25 Q. Loudest noise you've ever heard?</p>	<p style="text-align: right;">Page 124</p> <p>1 because of my jeans. I had jeans on. So -- it</p> <p>2 wasn't -- you know, jeans don't burn as fast as --</p> <p>3 I had a shirt on, a V-neck T shirt from H&amp;M, and it</p> <p>4 went up in flames like that.</p> <p>5 Q. How tall do you think the flame was?</p> <p>6 Above your height?</p> <p>7 A. Yes.</p> <p>8 Q. Several feet above your height?</p> <p>9 A. I would be telling you a lie if I told</p> <p>10 you -- I just know that I was engulfed in it.</p> <p>11 Q. At least six feet?</p> <p>12 A. Yes.</p> <p>13 Q. So during the ten minutes that the grill</p> <p>14 was on before Mr. Gonzalez put the steaks on, did</p> <p>15 you notice anything at all that appeared unusual</p> <p>16 with how the grill was operating?</p> <p>17 A. No, sir.</p> <p>18 Q. Was the lid closed at that time?</p> <p>19 A. No, I don't believe so.</p> <p>20 Q. So are you standing nearby at the time?</p> <p>21 A. I'm sitting at a table right next door --</p> <p>22 right next to the grill. If you look at the patio,</p> <p>23 there's a table -- oh, right here.</p> <p>24 There's a table right in where everybody</p> <p>25 sits, and then there's a TV that hangs.</p>
<p style="text-align: right;">Page 123</p> <p>1 A. Yeah. I mean, from being in that -- it</p> <p>2 sounded like a bomb went off. And the way I know</p> <p>3 it was so loud is because Mario's neighbor, this</p> <p>4 guy Chris Trillo, is good friends with my business</p> <p>5 partner, he called my business partner to tell him</p> <p>6 that I was just in a thing because he heard the</p> <p>7 explosion.</p> <p>8 I mean, he obviously didn't know it was</p> <p>9 me until he came over to talk to Mario, whatever</p> <p>10 the case is, but like he -- it was so loud that he</p> <p>11 heard it next door.</p> <p>12 Q. How big was the flame or how high; do you</p> <p>13 recall?</p> <p>14 A. It was huge.</p> <p>15 Q. Do you have an estimate? I know you're</p> <p>16 in the middle of this and it's traumatic, so I'm</p> <p>17 not trying to push you if you don't remember, but</p> <p>18 do you recall how high the flame was?</p> <p>19 A. I mean, the flame was -- I was engulfed</p> <p>20 in a fireball, if that makes any sense. And I'm</p> <p>21 5'8", so that fireball was huge.</p> <p>22 Q. Above you?</p> <p>23 A. It engulfed my shoes. My shoes -- he has</p> <p>24 them. They were burnt. My pants were burnt. And</p> <p>25 the only reason I was saved through my pants is</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. I've been there. I recall that.</p> <p>2 How far was the table, do you estimate,</p> <p>3 from the grill when you were sitting there at that</p> <p>4 time?</p> <p>5 A. Seven to ten feet.</p> <p>6 Q. So you arrive, the grill is burning for</p> <p>7 ten minutes before the steaks go on, and you're</p> <p>8 sitting at the table?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Is Mr. Gonzalez there with you?</p> <p>11 A. He was, yes.</p> <p>12 Q. Anyone else?</p> <p>13 A. No.</p> <p>14 Q. Was anyone else present during this whole</p> <p>15 accident scenario?</p> <p>16 A. Inside.</p> <p>17 Q. His wife was there?</p> <p>18 A. Yes.</p> <p>19 Q. Anyone else?</p> <p>20 A. The kids. And I think his -- I think</p> <p>21 someone else, a nanny or somebody.</p> <p>22 Q. Was anybody else outside with you?</p> <p>23 A. No.</p> <p>24 Q. So when you and Mr. Gonzalez are sitting</p> <p>25 there for ten minutes, the grill is operating and</p>



<p style="text-align: right;">Page 126</p> <p>1 the lid is up, true?</p> <p>2 A. True.</p> <p>3 Q. Do you hear, see, or smell anything at</p> <p>4 all unusual in the grill area during that time?</p> <p>5 A. No, sir.</p> <p>6 Q. Then he puts the steaks on with the lid</p> <p>7 open?</p> <p>8 A. Yes.</p> <p>9 Q. And the steaks cook for four or five</p> <p>10 minutes, and he goes inside and says, "Keep an eye</p> <p>11 on it"?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Actually, he's inside during that four or</p> <p>14 five minutes; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. So you're there together for ten minutes.</p> <p>17 The grill is running, no problems. He says, "Keep</p> <p>18 an eye on it." He goes inside for four or five</p> <p>19 minutes.</p> <p>20 Did he close the lid before he went</p> <p>21 inside?</p> <p>22 MR. PFAU: Objection. Asked and</p> <p>23 answered.</p> <p>24 BY MR. McMULLEN:</p> <p>25 Q. Well, you said the lid was closed when</p>	<p style="text-align: right;">Page 128</p> <p>1 A. Yes.</p> <p>2 Q. Is there anything about your previous</p> <p>3 testimony that you need to change or add to?</p> <p>4 A. No, sir.</p> <p>5 Q. All right. I've got a few follow-up</p> <p>6 loose ends from where we left off. Then we'll</p> <p>7 finish talking about the accident and move on.</p> <p>8 So you told me about the marijuana that</p> <p>9 you and Mr. Gonzales had right before the accident.</p> <p>10 Was that sitting at the table?</p> <p>11 A. Yes.</p> <p>12 Q. And you described that as a bowl?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And I did go to college in California, so</p> <p>15 I have some idea what that is, but why don't you</p> <p>16 tell me. What do you mean by a bowl?</p> <p>17 A. It's a glass pipe that you put the</p> <p>18 marijuana in and you smoke it.</p> <p>19 Q. Do you know what type of marijuana was in</p> <p>20 the bowl that day?</p> <p>21 A. I don't.</p> <p>22 Q. Do you know how much?</p> <p>23 A. Well, a normal bowl does not hold more</p> <p>24 than like .2 grams, so it was a very minimal of --</p> <p>25 we didn't -- Mario put it in there, so I don't know</p>
<p style="text-align: right;">Page 127</p> <p>1 you heard the crackling, so I'm trying to remember</p> <p>2 who closed the lid.</p> <p>3 A. I think he closed it. I'm not sure if he</p> <p>4 closed it or I closed it, but from what I remember,</p> <p>5 I believe he closed it and I went and opened it.</p> <p>6 Q. I think Matt's right. I misspoke.</p> <p>7 When Mr. Gonzalez put the steaks on, he</p> <p>8 closed the grill?</p> <p>9 A. I believe that's what happened.</p> <p>10 Q. That's when he says "Keep an eye on them"</p> <p>11 and went inside for four or five minutes?</p> <p>12 A. Yes.</p> <p>13 Q. And then you hear the noise, the</p> <p>14 crackling. You open the lid. And when you start</p> <p>15 to turn the steak, the accident happens.</p> <p>16 Is that all accurate?</p> <p>17 A. Yes.</p> <p>18 MR. McMULLEN: Let's go off the record.</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 approximately 12:04 p.m. We're off the record.</p> <p>21 (Recess had.)</p> <p>22 THE VIDEOGRAPHER: We're back on the</p> <p>23 record. The time is approximately 1:18 p.m.</p> <p>24 BY MR. McMULLEN:</p> <p>25 Q. Josh, did you have a good lunch break?</p>	<p style="text-align: right;">Page 129</p> <p>1 exactly how much.</p> <p>2 Q. How many hits could you take off of that?</p> <p>3 A. Probably four. We only had two. I had</p> <p>4 one, he had one, and then he put the steaks on.</p> <p>5 Q. Was anyone else out there with you at</p> <p>6 that time?</p> <p>7 A. No.</p> <p>8 Q. Did Mr. Gonzales or did you do</p> <p>9 anything -- let me show you Exhibit 4 again.</p> <p>10 You've got it in front of you. It's the picture --</p> <p>11 the first picture in Exhibit 4 is the cabinet</p> <p>12 door's open and I told you about that -- that</p> <p>13 valve.</p> <p>14 Do you see the valve there with the</p> <p>15 yellow handle?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. The second picture is a close-up, and</p> <p>18 I'll represent to you that's a cutoff valve that</p> <p>19 would control the propane going to the hose that</p> <p>20 went to the grill. You can actually see the hose</p> <p>21 there as well after the accident.</p> <p>22 I think you testified before, but I want</p> <p>23 to be sure, at least while you were there, did you</p> <p>24 see Mr. Gonzales open that cabinet and turn that</p> <p>25 valve?</p>

<p style="text-align: right;">Page 130</p> <p>1 A. No, sir.</p> <p>2 Q. Did you open that cabinet at any time?</p> <p>3 A. No, sir.</p> <p>4 Q. Do you know if Mr. Gonzales did any kind</p> <p>5 of inspection or leak test of the hose before he --</p> <p>6 A. No.</p> <p>7 Q. -- lit the grill?</p> <p>8 A. No, sir.</p> <p>9 Q. So I think we've got the timeline</p> <p>10 straight. Mr. Gonzales goes inside. You think he</p> <p>11 closes the lid after he puts the steaks on. He</p> <p>12 goes inside, and he's there for four or five</p> <p>13 minutes, and then the accident happens, correct?</p> <p>14 A. (No audible response.)</p> <p>15 Q. Yes?</p> <p>16 A. Yes. Sorry.</p> <p>17 Q. So were you sitting at the table or</p> <p>18 standing next to the grill during that four or</p> <p>19 five minutes?</p> <p>20 A. I was sitting at the table.</p> <p>21 Q. At some point you got up. Was that when</p> <p>22 you heard the noise?</p> <p>23 A. No. When he went inside and I heard the</p> <p>24 crackling of the steaks being cooked. That's when</p> <p>25 I got up and went to flip the steak.</p>	<p style="text-align: right;">Page 132</p> <p>1 same noise before and you associated it with a</p> <p>2 steak that's ready to turn over?</p> <p>3 A. Yes.</p> <p>4 Q. Did you hear any other noises before that</p> <p>5 coming from the grill area?</p> <p>6 A. No.</p> <p>7 Q. Anything at all?</p> <p>8 A. No.</p> <p>9 Q. Sitting at the table, did you smell</p> <p>10 anything unusual?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you smell any gas odors, sitting at</p> <p>13 the table?</p> <p>14 A. No.</p> <p>15 Q. How about when you went up to the grill</p> <p>16 to flip the steaks, did you smell any odors then?</p> <p>17 A. No.</p> <p>18 Q. How about when you opened the lid and you</p> <p>19 were about to turn the steak, did you smell any</p> <p>20 odors?</p> <p>21 A. No.</p> <p>22 Q. Were you still hearing the noise when you</p> <p>23 opened the lid?</p> <p>24 A. When I opened it, I saw the grill marks</p> <p>25 were extremely into the meat, so it was the right</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. I see. So you were actually sitting at</p> <p>2 the table first for ten minutes while he was there</p> <p>3 with you, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And then he gets up, shuts the lid, he</p> <p>6 goes inside?</p> <p>7 A. Yes.</p> <p>8 Q. And you stay at the table?</p> <p>9 A. Yes.</p> <p>10 Q. Until you hear the crackling noise?</p> <p>11 A. Yes.</p> <p>12 Q. So it was loud enough you could hear it</p> <p>13 while you were sitting at the table seven or</p> <p>14 eight feet away?</p> <p>15 A. Yes.</p> <p>16 Q. What's your best description of that</p> <p>17 noise?</p> <p>18 A. Just like wood burning on a fire and you</p> <p>19 just hear crack, crack, crack, and then I just, you</p> <p>20 know, as a chef, as a trained chef, I know when</p> <p>21 steaks or meat or anything, you know, is burning.</p> <p>22 You can -- I'm not saying it was burnt and I could</p> <p>23 smell, but you could tell that, you know, it's</p> <p>24 definitely -- you definitely have to flip it.</p> <p>25 Q. In your experience you had heard that</p>	<p style="text-align: right;">Page 133</p> <p>1 decision to turn them over. And I think I only got</p> <p>2 one over and then, when it exploded, I think they</p> <p>3 all burnt and she made tacos out of them.</p> <p>4 Q. How many steaks were on the grill?</p> <p>5 A. I think four to six.</p> <p>6 Q. So you think you got the first one</p> <p>7 flipped and then the accident happened?</p> <p>8 A. Yeah. It was as soon as I turned that --</p> <p>9 as soon as I opened that lid and gave the grill</p> <p>10 oxygen, it was -- I was engulfed.</p> <p>11 Q. Well, I want to be clear that the flash</p> <p>12 fire didn't really occur until you flipped the</p> <p>13 steak?</p> <p>14 A. I went, I opened it, and then as soon as</p> <p>15 I like -- it was like motion, like open, flip, and</p> <p>16 then as soon as that happened, then it exploded.</p> <p>17 Q. I got you.</p> <p>18 Did you see any grease burning on the</p> <p>19 grill?</p> <p>20 A. No.</p> <p>21 Q. Did you see any flames from the steaks</p> <p>22 themselves before the flash fire?</p> <p>23 A. No. I mean, you see flames coming up</p> <p>24 from the grill, you know, but like very little,</p> <p>25 just as a normal grill would be.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q. That was my next question. If you 2 recall, I know this happened rapidly and it's hard 3 maybe to remember, but if you recall, before the 4 flash fire, when you opened the lid, could you see 5 the burner flames? 6 A. The burner flames, they were on, yes. 7 Q. Was there anything unusual about their 8 appearance? 9 A. No. 10 Q. Their color or their height? 11 A. No. 12 Q. They looked normal to you? 13 A. Yes. 14 Q. So for 14 or 15 minutes while this grill 15 was in operation, you didn't notice anything 16 unusual, you didn't hear or see anything unusual 17 until you heard the crackling, which told you that 18 the meat was starting to burn, opened the lid, and 19 then the accident happens? 20 A. Yes. 21 Q. Before this accident had you ever 22 experienced any previous accident or even a minor 23 experience with propane or natural gas where it 24 ignited and you had a quick poof? 25 Had you ever experienced anything like</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No, sir. 2 Q. Do you feel like you have a pretty good 3 memory of those events? 4 A. Yes, sir. 5 Q. And the timing? 6 A. Yes. 7 Q. All right. So from your interrogatory 8 response, I understand the next thing you did is 9 you ran into some sprinklers to put out the fire? 10 A. Yep. 11 Q. And Mr. Gonzales took you to 12 Spring Valley Hospital? 13 A. Yes, sir. 14 Q. And later you were transferred by 15 ambulance to University Medical Center Burn Unit? 16 A. Yes. 17 Q. Why did Mr. Gonzales take you to the 18 hospital? Why didn't somebody call 911 or call an 19 ambulance? 20 A. Because his house literally is -- I think 21 it's a total of less than ten miles from the 22 hospital, and if you go from his house straight up 23 Sunset, you could get to that -- the hospital 24 faster than an ambulance. 25 So -- and when it did happen, my skin was</p>
<p style="text-align: right;">Page 135</p> <p>1 that before this accident? 2 A. Not to -- not to what happened, no. I 3 mean -- 4 Q. Not like this, I understand, but had you 5 ever seen a quick flash of propane before? 6 A. I mean, lighting other -- lighting other 7 stuff for catering and stuff like that, I've seen 8 little like -- you know, because initially, when 9 the propane goes in, it goes like a little pop. 10 I've seen that, but that's, you know, normal. Not 11 opening a hood and then an explosion, you know. I 12 mean, this was the craziest thing I've ever seen. 13 Q. Do you know if Mr. Gonzales ignited the 14 grill first to put it in operation with a 15 push-button device or did he light it manually? 16 A. I don't know. 17 Q. You don't remember? 18 A. I don't remember. 19 Q. You testified before, he may have 20 actually lit it before you got there. 21 A. Yes. 22 Q. Is there anything else about the timing 23 or the sequence of events or the events themselves 24 that evening up through the time we had the flash 25 fire that you haven't told me?</p>	<p style="text-align: right;">Page 137</p> <p>1 completely off my hands. So I technically thought 2 I would never cook again. And that was the biggest 3 thing of my whole incident, is that, you know, I'm 4 a chef, a trained chef. I have a significant 5 amount of restaurants. And I was -- you know, I 6 was able -- I thought I was never going to be able 7 to cook again. 8 And, you know, so when you see that, when 9 you see -- and your skin's all the melting off and 10 you see all of it, you get to the point where 11 you're just, "Take me as quick as you can," and 12 that's what he did. 13 I mean, his wife -- his wife was the one 14 who said, "Take him now." 15 Q. Didn't want to wait for an ambulance? 16 A. No. 17 Q. I understand. 18 A. And the pain -- like I told you, I had 19 kidney stones before. This pain was the worst pain 20 I've ever had in my life. And the burns in the 21 hospital, like, no one can -- nobody at this table 22 can even envision what it is to take gauze off a 23 burn that's up your hand, that they have to rip it, 24 and it rips every single time. It's like the most 25 painful experience.</p>

<p style="text-align: right;">Page 138</p> <p>1 Q. No one actually witnessed the fireball 2 besides you, correct?</p> <p>3 A. I don't think so. I mean, I know they 4 heard it, but I don't think they saw it.</p> <p>5 Q. So I'm going to change gears now and ask 6 you about some other things.</p> <p>7 You testified before, as a professional 8 chef and just for safety reasons, it's important to 9 read and follow all the equipment manufacturers' 10 instructions and warnings when you're using gas 11 equipment like a grill.</p> <p>12 A. Yes, sir.</p> <p>13 Q. So I wanted to ask you about the manual 14 in this case, which I've had marked.</p> <p>15 MR. McMULLEN: I thought we marked it. 16 This will be Number 5. 17 (Exhibit Number 5 was marked.)</p> <p>18 BY MR. McMULLEN:</p> <p>19 Q. So Mr. -- Josh, here I've got the grill 20 manual.</p> <p>21 Have you seen this before?</p> <p>22 A. No.</p> <p>23 Q. So I just wanted to call your attention 24 to a few things, if you'd go to page 7. 25 Are you on page 7?</p>	<p style="text-align: right;">Page 140</p> <p>1 never put it on. I never turned it. I never did 2 anything in that regards. The only thing I did was 3 help a friend not burn his steaks, and due to that, 4 I was -- it was an explosion.</p> <p>5 It doesn't matter if I was -- if it was 6 anyone else or anything. I mean, his kids were 7 about to be outside. So it doesn't -- I mean, I 8 didn't put the grill on. I didn't do anything with 9 the grill. The grill was already on. The grill 10 was already there.</p> <p>11 I mean, it was me helping a friend -- I 12 mean, technically, has nothing to do with the 13 operations of a grill. I know how to operate a 14 grill. I'm a trained chef. I can physically 15 operate a grill. I can turn it on. I can turn it 16 off. I can do anything and everything that has to 17 do with the operation of a grill.</p> <p>18 And I've read plenty of manuals to 19 grills, but at the end of the day, with this grill, 20 I did not do anything wrong. I didn't turn it on. 21 I didn't do anything that would make me read a 22 manual.</p> <p>23 Now, if you're telling me that I was 24 going to use the manual -- I was going to use the 25 grill for myself and I was going to, you know -- if</p>
<p style="text-align: right;">Page 139</p> <p>1 A. Yes.</p> <p>2 Q. Could you -- just so we have the camera 3 oriented, could you hold that up for the camera, 4 page 7, so they know what we're talking about?</p> <p>5 A. (Witness complies.)</p> <p>6 Q. All right. Thanks.</p> <p>7 So you see at the top it says "Important 8 Safety Information," and it has "Warning" in big 9 letters, right?</p> <p>10 A. Yes.</p> <p>11 Q. Then it says, quote, "Please read this 12 manual carefully and before using your Blaze grill 13 to ensure proper operation, installation, 14 servicing, and to reduce the risk of fire burn 15 hazard or other injury."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. A few lines further on, it says, "Do not 19 operate this appliance without having read this 20 manual." Is that right?</p> <p>21 A. Yes.</p> <p>22 Q. You did not read this manual before you 23 operated the grill, true?</p> <p>24 A. No, I didn't, but as well I wasn't 25 technically using the grill. Because if you see, I</p>	<p style="text-align: right;">Page 141</p> <p>1 Mario wanted -- if he read this, then, you know, 2 that's the same question, obviously, anyone would 3 have asked him, "Did you read this before?" And if 4 his answer is no, then there's a problem.</p> <p>5 But for me, I just -- I was helping out a 6 friend with a grill that all of a sudden it 7 exploded.</p> <p>8 Q. Did you ask Mr. Gonzales if he had read 9 the manual before he put the grill in operation?</p> <p>10 A. Did I ask him? No. I did not ask him 11 those questions.</p> <p>12 Q. Do you know if he read the manual before?</p> <p>13 A. He owns the -- he owns the appliance, so 14 it's in his best interests to have read it before.</p> <p>15 Q. Do you know if Mr. Gonzales read the 16 manual before putting the grill in operation?</p> <p>17 A. I don't.</p> <p>18 Q. Mr. Gonzales had already started the 19 grill. You've made that clear. That's not 20 something you did.</p> <p>21 A. Right.</p> <p>22 Q. But Mr. Gonzales did ask you to watch 23 over the operation of the grill for four or five 24 minutes while he was gone, true?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 142</p> <p>1 Q. Did you read this manual before the first</p> <p>2 time you used the grill, when there was the big</p> <p>3 party we talked about and you were cooking all day?</p> <p>4 A. No, I did not read it.</p> <p>5 Q. So if you go on to -- did you ever ask</p> <p>6 Mr. Gonzales for the manual?</p> <p>7 A. No. It wouldn't even come up to me to</p> <p>8 read a grill -- a manual about a grill because I've</p> <p>9 been doing this for so long that I know how grills</p> <p>10 operate, I know how they work, I know what they</p> <p>11 smell like. I mean, anything and everything that</p> <p>12 has to do with a grill, I pretty -- would say I'm</p> <p>13 comfortable with.</p> <p>14 Q. But you don't know if he ever read it?</p> <p>15 A. No. I don't know.</p> <p>16 Q. And you didn't ask him if he had read it?</p> <p>17 A. No.</p> <p>18 Q. So if we go to page 10. Page 10, you see</p> <p>19 there about the middle of the page it says in bold</p> <p>20 type, underlined, "Never cook without the drip pan</p> <p>21 in place."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know what a drip pan is?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 144</p> <p>1 A. I don't.</p> <p>2 Q. Do you know what condition the drip pan</p> <p>3 was in at the time just before this accident?</p> <p>4 A. No, I don't.</p> <p>5 Q. Did you ask Mr. Gonzales about that?</p> <p>6 A. No. But like I said numerous amounts of</p> <p>7 times, because I was -- because I was helping out a</p> <p>8 friend of -- just finish cooking a steak, that's --</p> <p>9 you know, that is the reason why I didn't ask him</p> <p>10 to read or look at any other thing. I was just,</p> <p>11 you know, helping him out.</p> <p>12 Q. If the drip pan wasn't cleaned, that</p> <p>13 could pose a hazard; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And it wouldn't matter if you're just</p> <p>16 helping out a friend or if you're there for any</p> <p>17 reason. If you're operating the grill, that could</p> <p>18 pose a hazard?</p> <p>19 A. Yes, it can. But there's also -- I've</p> <p>20 been in certain situations where a drip pan is</p> <p>21 extremely covered and there's no fires.</p> <p>22 Q. In this situation you don't know what the</p> <p>23 condition of the drip pan was, right?</p> <p>24 A. I don't, no.</p> <p>25 Q. You see the next line on page 10, it</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. What does it do?</p> <p>2 A. A drip pan takes all the grease and</p> <p>3 everything and it falls onto the pan so it doesn't</p> <p>4 fall into the gas or anything under that.</p> <p>5 Q. Where was the drip pan located on this</p> <p>6 grill?</p> <p>7 A. Like I said, I just was helping him out,</p> <p>8 so I don't -- technically, I know where a drip pan</p> <p>9 is on a grill. It's under the knobs and it usually</p> <p>10 pulls out. But at this moment, I wasn't checking</p> <p>11 for a drip pan. I wasn't checking for anything. I</p> <p>12 just was helping a friend out, opening the grill.</p> <p>13 Q. Do you know if Mr. Gonzales checked the</p> <p>14 drip pan?</p> <p>15 A. I have no clue if he checked it or</p> <p>16 didn't.</p> <p>17 Q. Did you ask him?</p> <p>18 A. No.</p> <p>19 Q. Is it important to clean the drip pan</p> <p>20 after each use? Do you know?</p> <p>21 A. Yes, it is.</p> <p>22 Q. Why is that?</p> <p>23 A. Because that can cause a fire.</p> <p>24 Q. Do you know if Mr. Gonzales cleaned the</p> <p>25 drip pan after the last use?</p>	<p style="text-align: right;">Page 145</p> <p>1 says -- also in bold font, underlined, right</p> <p>2 underneath the drip pan business -- "Never operate</p> <p>3 this grill while under the influence of alcohol or</p> <p>4 drugs."</p> <p>5 Did I read that correctly?</p> <p>6 A. You did.</p> <p>7 Q. Do you agree with that?</p> <p>8 A. Yes.</p> <p>9 Q. What does "under the influence" mean to</p> <p>10 you?</p> <p>11 A. Under the influence would be having drugs</p> <p>12 or alcohol in your system. But like I've said</p> <p>13 before, the reason I have marijuana in my system is</p> <p>14 due to headaches, due to epilepsy, due to different</p> <p>15 medical conditions, and that's why I have it.</p> <p>16 It's the same reason why, when I was</p> <p>17 there, you know, when I was with Mario, taking --</p> <p>18 and I've said this numerous amounts of times --</p> <p>19 taking one hit -- I operate machinery every day in</p> <p>20 my restaurants on marijuana. Never had a problem.</p> <p>21 Never had an issue.</p> <p>22 Q. The medicinal marijuana that you told me</p> <p>23 about, that was taking a drop of liquid under your</p> <p>24 tongue once a day, correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 146</p> <p>1 Q. The marijuana that you were smoking with 2 Mr. Gonzales was recreational marijuana, true? 3 A. Same thing. Marijuana being 4 recreational, marijuana being medical is the same 5 thing. 6 Q. Recreational marijuana does have the 7 possibly of influencing your behavior, true? 8 A. They both do. But recreational 9 marijuana -- I was taking it for specific reasons. 10 Q. Understood. But I'm just asking, when do 11 you know that you're under the influence of 12 marijuana? 13 A. I mean, on a normal basis I'm always 14 under the influence of marijuana. So at the end of 15 the day, me having a medical condition and being 16 epileptic and being -- having seizures, that's why 17 I smoke marijuana. 18 Q. If it's true that you're under the 19 influence of marijuana, then under these 20 instructions you should not be operating the grill, 21 correct? 22 A. Correct. But technically, I wasn't -- if 23 I -- if I operated it to the point where I've 24 turned it on and I -- I can understand that. But 25 me helping -- me going to it and opening the grill</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Before the accident, no. And like I 2 said, again, and I'm going to say it again, but me 3 having -- me doing any of this in this booklet has 4 no pertain to me at all. All I was doing was, went 5 up to a grill, I opened the grill and I flipped the 6 steak, and all of a sudden I -- it was in flames. 7 Me -- the person that you need to talk to 8 about this operation of the grill or of anything is 9 Mario, because Mario was the one that turned it on. 10 Mario is the one that used it. Mario is the one 11 that did anything with that grill. 12 All I did was do what any other normal 13 person would do and go and flip the steak. All of 14 a sudden I flip a steak and I end up in flames and 15 my hands are gone and all my skin's gone. My 16 shirt's on fire. 17 I ended up getting lucky there was a 18 sprinkler on and I stopped, dropped, and rolled, 19 like you learn in elementary school. I stopped, 20 dropped, and rolled, and I put out the fire on 21 myself. If I didn't do that, I would have been in 22 flames and we would have been talking about a lot 23 more difficult situation than it is now, you know. 24 I got blown up by a situation that had no 25 control over me at all. I had no control over the</p>
<p style="text-align: right;">Page 147</p> <p>1 and flipping a steak has nothing to do with me 2 being high or me not being high. It has no -- no 3 circumstance at all. 4 Q. So the next -- two pages on is page 12. 5 It talks about, at the bottom, "Never use water on 6 grease fires." And I was just curious if you had 7 any experience with how to control grease fires 8 using a propane grill. 9 A. Yeah. You put salt on it. 10 Q. Salt? 11 A. Yes. 12 Q. Did you ever have experience with a 13 grease fire using Mr. Gonzales' grill? 14 A. No, sir. 15 Q. So next, if you go to page 14, do you see 16 in the middle of the page there, it says, "Before 17 each use, visually inspect the gas supply hose for 18 cracks, cuts, or excessive wear. Replace the hose 19 if necessary. Check for gas leaks before each 20 use." 21 Did I read that correctly? 22 A. Yes, sir. 23 Q. Did you inspect the hose for wear or 24 check for gas leaks at any time before this 25 accident?</p>	<p style="text-align: right;">Page 149</p> <p>1 situation. Like I said before, I did not put on 2 the grill. I did not turn the grill. I did not do 3 anything with that grill that was not supposed to 4 be done. 5 The only thing I did was open it, gave it 6 oxygen, and turned a steak, and all of a sudden I'm 7 in flames. So nothing in here has to do with me at 8 all. Nothing. 9 Q. Do you know if Mr. Gonzales inspected the 10 hose or checked for gas leaks before he put the 11 grill in operation? 12 A. Like I said, I don't know. I wasn't 13 checking him, so I don't know. 14 Q. Did you ask him if he did those things? 15 A. No, I did not ask him. 16 Q. So we can -- 17 A. But that's also -- when you're at a 18 friend's house or you're talking, you don't ask 19 somebody, hey, did you use -- did you read the 20 grill instructions or did you check the gas pipes. 21 You think everything is -- you never think that 22 because usually, when you're using a grill or 23 you're using some type of equipment, you always 24 think it's safe to use. 25 Q. So just to speed up things, on page --</p>

<p style="text-align: right;">Page 150</p> <p>1 that was page 14 we were looking at. If you go to  2 15, do you see the big warning in the middle there?  3 Can you hold that up for the camera,  4 please.  5 It says, "Warning, Gas Leak Warnings,"  6 right?  7 A. Yep.  8 Q. And you see, here again, the second time,  9 in all caps, "Never use the grill without first  10 leak testing the gas connections including all of  11 the valves, fittings, lines, etc."  12 Did I read that correctly?  13 A. Yes, sir.  14 Q. And just to move along, same thing on  15 page 16. It says, "Checking for Gas Leaks."  16 That's the next page.  17 Do you see "Checking for Gas Leaks"?  18 A. Yes, sir.  19 Q. It says, "Perform a leak test before each  20 use." And then below that it gives instructions on  21 how to do that by using a leak test solution.  22 Are you familiar with that process?  23 A. Yes. I know how to do that.  24 Q. Have you done that before?  25 A. In other circumstances, yes.</p>	<p style="text-align: right;">Page 152</p> <p>1 A. Yes.  2 Q. And you would agree that's good advice?  3 A. Yes.  4 Q. It also says in several places to inspect  5 the hose before each use. That's on page 15 and  6 17. I think there's at least one other time.  7 You'd agree that's good advice?  8 A. Yes, sir.  9 Q. For safety?  10 A. Yes.  11 Q. Do you know if Mr. Gonzales ever  12 inspected the hose before he put the gas grill back  13 in operation before the accident?  14 A. No, I don't.  15 Q. Did you ask him about that?  16 A. I just asked him if the grill was -- if  17 the grill was able to use, like he told me -- he  18 said that Ferrellgas came, checked it out, and they  19 said it was fine to use and they signed off on it.  20 Q. Did you see anything they signed? You  21 referred to paperwork and I've not seen that  22 paperwork.  23 A. No, I haven't.  24 Q. Okay.  25 A. He just told me that it was -- it was</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. So you know how to make the leak test  2 solution and it says you put that on the lines and  3 joints and connections.  4 Is that something you've done before?  5 A. Yes, with other equipment.  6 Q. Okay.  7 A. Not with this grill.  8 Q. So then on page 17, we have a fourth time  9 the manual says, "All gas piping and connections  10 must be tested for leaks," it says, "before each  11 use."  12 Do you see that?  13 A. Yes, sir.  14 Q. And finally, on page 20, under "Warning,"  15 and then you go to the middle of the page, do you  16 see in bold type there, "Always check for leaks  17 before every use."  18 Do you see that?  19 A. Yes, sir.  20 Q. You would agree with me that at least the  21 manufacturer of the grill thinks it's very  22 important that you check for leaks before each  23 use --  24 A. Yes.  25 Q. -- since they said it five times.</p>	<p style="text-align: right;">Page 153</p> <p>1 good to use and -- and like I said, he was the one  2 that put it on. If it was different, like, you  3 know, if I'd put it on, it's a different situation.  4 But he put it on, he had it done, and it was all,  5 you know. He was -- he did it all.  6 Q. Before this accident, just to summarize,  7 you simply didn't know if anyone had checked,  8 inspected that gas hose or done a leak test, right?  9 A. No.  10 Q. Do you have an understanding today -- and  11 don't talk to me about anything your lawyer told  12 you. But other than that, do you have any  13 understanding as to how this accident happened?  14 A. What do you mean, how it happened?  15 Q. Why or how this happened?  16 A. No. I ask that question all the time. I  17 ask why did it happen to me? Why is it happening?  18 Why did it happen? Why am I in flames? Why am I  19 in the burn unit? I mean, I ask the same  20 questions.  21 Q. So on page 20 of Exhibit 5, we looked at  22 that a moment ago. Underneath where it says  23 "Always check for leaks before every use," the  24 paragraph after that, it says, "It's required that  25 there be a shutoff valve installed at the gas</p>

<p style="text-align: right;">Page 154</p> <p>1 supply source," which I'll represent to you is in  2 Exhibit 4. We've got a picture of it through the  3 open cabinet doors. It's the yellow-handled valve.  4 And according to this manual, that valve should be  5 turned off when the appliance is not in use.  6 Do you know if that handle was normally  7 off when the appliance wasn't in use or if it was  8 left on?  9 A. I have no clue.  10 Q. Okay. Fair enough.  11 By the way, when you heard the crackling  12 noise and went up to the grill and opened the  13 hood -- let me get a good picture here in just a  14 moment.  15 If you turn to Exhibit 3, the front page  16 looks like this. I'm looking at the second  17 photograph in this group, and you see the grill  18 there, just to the right of center. How do you  19 open the lid? Is this a handle?  20 A. Yes.  21 Q. That metal ridge there?  22 A. Yes.  23 Q. Is that what you use to open the lid?  24 A. Yes.  25 Q. When you did that, was it hot?</p>	<p style="text-align: right;">Page 156</p> <p>1 Mr. Gonzales had told you some months  2 before this accident that he had had a problem with  3 the grill, in particular the hose, correct?  4 A. Correct.  5 Q. All right. Then on the day of the  6 accident, he did not say anything to you about what  7 had happened just a few days before, that the hose  8 was hot or that he had a shock?  9 A. No.  10 Q. He didn't tell you about that?  11 A. No.  12 Q. But because he had told you several  13 months before there was a problem with the hose,  14 you asked him if the grill was okay and he said it  15 had been fixed?  16 A. There was a problem with the grill that I  17 knew of. I didn't know directly if it was the  18 hose. I knew there was a problem with the grill,  19 and that's why I asked him, before I even came to  20 his house, I said, "Is the grill" -- "Is everything  21 okay with the grill?"  22 Q. And he said Ferrellgas had come out a few  23 days before?  24 A. And checked it, yes.  25 Q. And checked it. All right.</p>
<p style="text-align: right;">Page 155</p> <p>1 A. I don't remember. I mean, I opened it  2 quick and -- just opened it like I would open any  3 other grill.  4 Q. Was there anything unusual or sticks out  5 in your mind when you grabbed ahold of that --  6 A. No.  7 Q. -- hood?  8 Just to summarize, there wasn't anything  9 unusual about the operation of the grill that you  10 could detect until the moment of the flash fire?  11 A. Yes, sir.  12 Q. Just as you were flipping the steak?  13 A. Yes, sir.  14 Q. Up until then, everything seemed normal?  15 A. Yes.  16 Q. The crackling noise seemed normal to you  17 as well. You had heard that before?  18 A. Yes. I mean, like I've been working  19 around meat and stuff for, you know, 18-plus years.  20 I know if something's burning or not.  21 Q. I think that's it on the manual. Thanks.  22 One thing I want to be sure of. We went  23 round and round on it last time before lunch, so I  24 appreciate your patience, but it could be  25 confusing, so just to be sure.</p>	<p style="text-align: right;">Page 157</p> <p>1 A. And gave him the okay.  2 Q. But just so I'm clear, when he mentioned  3 there was a problem with the grill months before,  4 he did mention there was a hose issue?  5 A. I -- as of my remembrance, I remember him  6 telling me there was a problem with the grill.  7 Q. Did he say anything about the hose?  8 A. I don't remember exactly.  9 Q. Okay.  10 A. I know there -- I know he said that there  11 was a problem with the grill and a leak, but that  12 was -- you know, that's all I know. And then  13 that's why I asked him. Before I even went to his  14 house, I asked him, you know, the question, "Is the  15 grill okay to use?"  16 Q. Okay. When he told you there was a  17 problem with the grill and there was a leak, that's  18 what he told you months before?  19 A. Yes.  20 Q. All right. I think we're clear now.  21 Thank you.  22 So you responded to interrogatories in  23 this case, I'm sure you'll recall. Mr. Gonzales  24 sent you interrogatories and Ferrellgas sent you  25 interrogatories, and that will help us along here.</p>



<p style="text-align: right;">Page 158</p> <p>1 And if you like, I'll give you my copy if 2 it helps, if anything's unclear. I want to talk 3 about your injuries. All right? 4 A. Mm-hmm. 5 Q. You told us about your injuries in 6 response to Mr. Gonzales' Interrogatory Number 9. 7 The question was: "Please describe in as much 8 detail as possible all physical injuries, ailments, 9 or symptoms experienced by you which you allege 10 resulted from the subject incident." 11 And I'll hand that to you in case you 12 want to refer to it. There were bullet points 13 provided as to all the various conditions. 14 And I guess the first thing I want to do 15 is summarize what you have there and see if you 16 want to add to it or change anything. You're free 17 to do that. 18 As for burns, it indicates second-degree 19 burns to abdominal wall, both forearms, left hand, 20 head, face, and neck. Is that accurate? 21 A. Yes. 22 Q. And that's accurate as you sit here 23 today? 24 A. Yes. 25 Q. There were no other burn injuries.</p>	<p style="text-align: right;">Page 160</p> <p>1 University Medical, also they said first and second 2 degree. And when you were admitted to the Burn 3 Unit, first and second degree, 5 percent, second 4 degree, 3 percent. 5 So I don't know where the third-degree 6 diagnosis is coming from. Do you remember what 7 doctor has told you that? 8 A. No. Like I said, I was under so much 9 medication in the hospital, and that's what I was 10 told in the hospital. 11 Q. Okay. And you're obviously not a doctor 12 yourself. 13 A. Right. 14 Q. So maybe the fair thing is to just let 15 the records and the doctors address that. You 16 don't remember who told you that. 17 A. No. 18 Q. But you remember someone said you had 19 third-degree burns? 20 A. Yes. 21 Q. Was it a doctor? 22 A. I believe so. 23 Q. Do you remember what hospital or 24 treatment center you were at? 25 A. It was at UMC because that's really where</p>
<p style="text-align: right;">Page 159</p> <p>1 That's a complete summary? 2 A. Yeah, that's a complete summary. 3 Q. So I have looked through all the medical 4 records, and I don't expect that you have 5 necessarily done that, and some of these questions 6 might be better for your treaters. And if that's 7 the case, just tell me. 8 I am not aware of anyplace in the records 9 where it indicates you had third-degree burns. 10 Do you have an understanding that you had 11 third-degree burns anywhere? 12 A. From when I went into the hospital or at 13 the hospital, that's what I was told, that I had 14 third-degree burns, especially on my hands. 15 Q. Did you have any skin grafts? 16 A. No, I didn't. 17 Q. So there's various records which I can 18 show you from Spring Valley Hospital which indicate 19 you were only there for a couple hours and then you 20 were transferred to the Burn Unit at University 21 Medical Center. 22 But when you were admitted to Spring 23 Valley Hospital, they indicated first-degree burns 24 19 percent, second degree, 18 percent. 25 When you got to the Burn Unit at</p>	<p style="text-align: right;">Page 161</p> <p>1 I talked to more doctors. 2 Q. All right. 3 A. I mean, as soon as I went to 4 Spring Valley, I got -- I went -- as soon as I got 5 in there, they pumped me with so much medication. 6 Q. Would it be fair to say that anytime 7 you're under heavy medication, you're not going to 8 trust your memory or what was said at that time, or 9 do you have a firm memory that somebody said 10 third-degree burns? 11 A. No, I'm -- I just have a memory that 12 someone told me third-degree burns. 13 I mean, I can tell you that when I was -- 14 under -- in the hospital at UMC, under medication, 15 I had a lawyer come in and make me sign paperwork 16 that had to do with -- being sent from Mario or 17 someone that was close to Mario, but they sent -- 18 they came, they sat there, and they made me sign 19 paperwork; hence, that's why Matt is my lawyer now. 20 But that was -- that was also a big 21 issue, that they made me sign paperwork under 22 the -- when I was under medication. 23 Q. The first lawyer who you talked to made 24 you sign? 25 A. Some lawyer. I don't even know what</p>

<p style="text-align: right;">Page 162</p> <p>1 lawyer it was. I don't even remember the name.  2 But it was a guy and a girl, and they came in and  3 sat in the room and told me to sign paperwork. And  4 that's how Matt was brought to me.  5 Q. That sounds like you had conversations  6 with lawyers and I'm not going to touch that.  7 Matt's your lawyer here today, correct?  8 A. Yes. But I'm just telling you, under  9 the -- you know, someone sending a lawyer to the  10 hospital, that's -- that's -- you know.  11 MR. McMULLEN: Let's take a five-minute  12 break. I'm going to organize my records and we'll  13 continue. Thank you.  14 THE VIDEOGRAPHER: The time is  15 approximately 2:00 p.m. We're off the record.  16 (Recess had.)  17 THE VIDEOGRAPHER: We're back on the  18 record. The time is approximately 2:11 p.m.  19 (Exhibit Number 6 was marked.)  20 BY MR. McMULLEN:  21 Q. Josh, I want to share with you just a few  22 medical records. I had planned to go through more  23 and there's no point. We can just talk about it.  24 But there are a few I want to show you.  25 Exhibit 6 is when you were discharged</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. So if you had oral pain medicine, they  2 were able to change your dressings.  3 Do you agree with that?  4 A. Yes.  5 Q. It says: "He will be discharged with  6 outpatient dressing changes by BCU clinic daily."  7 Do you recall that's what occurred? You  8 were discharged; you could do your dressing changes  9 at home?  10 A. No. I had to go into the unit to get  11 them changed.  12 Q. Beg your pardon. That's right. You had  13 to go -- that's what it says. Go to the clinic and  14 they did it?  15 A. Yes.  16 Q. After that, your parents helped you?  17 A. Yes.  18 Q. It says: "Work/school instructions: You  19 may return to work in two weeks," at the bottom,  20 "sooner if able to tolerate."  21 Do you see that?  22 A. Yes, sir.  23 Q. So on June 24, according to the Burn Unit  24 discharge summary, they felt you could return to  25 work in two weeks or sooner, if you could tolerate</p>
<p style="text-align: right;">Page 163</p> <p>1 from UMC Burn Unit.  2 A. Mm-hmm.  3 Q. That happened on June 24, so I believe it  4 was six days after the accident.  5 So you were in the Burn Unit for six  6 days? Does that sound right?  7 A. Yeah, six to eight days.  8 Q. Okay. Well, it would have been the  9 19th through the 24th. So five or six days?  10 Does that sound wrong?  11 A. No. Six days I think is right.  12 Q. Okay. So a couple -- two or three things  13 here I just want to check on with you.  14 It talks about the hospital course about  15 two-thirds of the way down?  16 A. Mm-hmm.  17 Q. And it's got a description there of your  18 injuries, that you were admitted for pain control  19 and monitoring the progression of burns. It talks  20 about treatment and so forth, and then it says:  21 "On the day of discharge, he demonstrated  22 stabilization of his burns and was able to tolerate  23 dressing changes with oral medication."  24 Do you see where it says that?  25 A. Yes, sir.</p>	<p style="text-align: right;">Page 165</p> <p>1 it, which would be about July 7.  2 When did you actually return to work?  3 A. I don't know -- I don't know the exact  4 date that I returned to work, but I do know that we  5 were supposed to open the restaurant in July and we  6 ended up opening the first day of August.  7 Q. We'll talk about that. I'm just asking  8 your recollection of when did you return to work  9 after this accident?  10 A. I mean, I didn't fully return to work. I  11 mean, technically -- I didn't return -- I didn't  12 fully return to work until -- I'd say until like  13 August 1st. I mean, that's when I started, you  14 know, doing stuff for the restaurant and so on and  15 so forth. The other times I had stuff on my arms  16 and, you know, I wasn't able to do what I was  17 normal -- or planning on doing.  18 Q. So I need to understand. I'm not  19 disputing that you needed to wait longer, but I  20 just need to find out why since, according to the  21 discharge report, medically they thought you could  22 return to work by July 7 or so.  23 Was that mistaken or was there something  24 else going on?  25 A. No. Just it's the difference of</p>

<p style="text-align: right;">Page 166</p> <p>1 returning to work and cooking as a chef or  2 returning to work and just sitting there monitoring  3 people.  4 I mean, me sitting there cooking and  5 having heat, there's no possible way -- I mean, you  6 can ask the people that were around me. There is  7 no possible way that could have happened.  8 <b>Q. Because of the heat from the stove?</b>  9 A. The heat from the stove, on my arms, my  10 hands. I mean, everything that was affected by the  11 burns, it all -- I mean, anytime I went near heat  12 or near cold or -- it would hurt.  13 <b>Q. But as you said, you felt you would be</b>  14 <b>able to return to monitor what other people were</b>  15 <b>doing?</b>  16 A. Yes. When I'm standing around, I can  17 monitor. I can tell somebody to do something and  18 so on and so forth.  19 <b>Q. Did you do that?</b>  20 A. I went back to work and hired people and  21 did the -- finished the process of what I needed to  22 do to complete -- complete what I needed to as well  23 as open the restaurant.  24 <b>Q. So even though you weren't ready to cook</b>  25 <b>because of the heat associated with the stove, did</b></p>	<p style="text-align: right;">Page 168</p> <p>1 A. Yes.  2 <b>Q. And why is that?</b>  3 A. Just the pain that I was in.  4 <b>Q. On the subject of pain, if you'll turn to</b>  5 <b>the next page, second page of Exhibit 6, it says:</b>  6 <b>"Instructions. We encourage the use of ibuprofen</b>  7 <b>for pain at up to 2400 milligrams per day for up to</b>  8 <b>two weeks."</b>  9 It also says, second bullet point: "We  10 encourage the use of Tylenol in combination with  11 ibuprofen for pain control."  12 I don't see any other reference to pain  13 medications at the time of discharge. Were there  14 any?  15 A. No. Just this.  16 <b>Q. Over the counter?</b>  17 A. Yeah.  18 <b>Q. Did you take ibuprofen?</b>  19 A. Yes, I did.  20 <b>Q. And Tylenol?</b>  21 A. Yes.  22 <b>Q. Anything else for pain?</b>  23 A. No. Marijuana.  24 <b>Q. Did you ask for anything stronger for</b>  25 <b>pain, medication?</b></p>
<p style="text-align: right;">Page 167</p> <p>1 you go back to work full time about July 7 to  2 help --  3 A. I mean, it wasn't full time, no.  4 <b>Q. Why not?</b>  5 A. It's just because, as I said to you, I  6 wasn't able to do what I would be doing full time.  7 <b>Q. So you would disagree with the medical</b>  8 <b>summary here that you could go back to work in two</b>  9 <b>weeks. You weren't ready to go back?</b>  10 A. No, I don't think so.  11 <b>Q. You weren't ready to go back and --</b>  12 A. Not to a full-time chef, no.  13 <b>Q. Did you work part time?</b>  14 A. I mean, I was there. I guess you could  15 say I worked part time.  16 <b>Q. When did you first go back to work part</b>  17 <b>time after the accident?</b>  18 A. I don't have an exact date.  19 <b>Q. Can you give me an estimate? Was it by</b>  20 <b>the middle of July?</b>  21 A. Middle of July.  22 <b>Q. To do part-time work, supervising others?</b>  23 A. Yeah.  24 <b>Q. Did you feel you couldn't go back any</b>  25 <b>sooner than that?</b></p>	<p style="text-align: right;">Page 169</p> <p>1 A. No. I actually can't -- I'm allergic to  2 Demerol, codeine, and that's -- and I don't take  3 any -- any other medication makes me faint.  4 <b>Q. Are there any stronger pain medications</b>  5 <b>than ibuprofen or Tylenol that you could take if</b>  6 <b>you wanted to?</b>  7 A. I don't -- I think there is one, but I  8 don't really take any -- even when I had my kidney  9 stones, I didn't -- I didn't take strong pain  10 medication.  11 <b>Q. Were you able to control your pain after</b>  12 <b>you were discharged using ibuprofen and Tylenol?</b>  13 A. With the help of marijuana, yes.  14 <b>Q. So those three things together, you were</b>  15 <b>able to control your pain?</b>  16 A. Yes.  17 <b>Q. So if you were able to control your pain,</b>  18 <b>was there some reason you couldn't return to work</b>  19 <b>part time sooner than the middle of July?</b>  20 A. No, just the bothering of when you're a  21 chef and you're in heat and you have a chef coat on  22 or you have a long-sleeve shirt on -- because I  23 have to cover my burns, and I have gauze on my arms  24 and all that stuff -- it gets really, really hot.  25 It gets itchy.</p>

<p style="text-align: right;">Page 170</p> <p>1 And them saying that I can -- in two</p> <p>2 weeks I can return to work, they don't know what I</p> <p>3 actually do. You know, as a chef, you can't --</p> <p>4 it's physically impossible to put a chef coat on,</p> <p>5 have your bandages get all hot and sweaty under</p> <p>6 there, and it just starts getting itchy, it starts</p> <p>7 burning, it starts hurting.</p> <p>8 And so that's why at that time, I just</p> <p>9 did the stuff that I needed to do of hiring, making</p> <p>10 sure that the restaurant was going to open on time,</p> <p>11 and so on and so forth because I had a partner and</p> <p>12 I had -- I was supposed to open the restaurant a</p> <p>13 month before, and then due to this, I ended up</p> <p>14 opening a month later.</p> <p>15 Q. So you needed to stay away from the heat</p> <p>16 but you could work in other places of the</p> <p>17 restaurant?</p> <p>18 A. Yes, but the heat and then working on the</p> <p>19 line, working as a chef was very, very hard.</p> <p>20 Q. So when you first returned you worked</p> <p>21 part time to help get the restaurant open, staying</p> <p>22 out of the kitchen?</p> <p>23 A. Correct.</p> <p>24 Q. And you think you did that beginning the</p> <p>25 middle of July?</p>	<p style="text-align: right;">Page 172</p> <p>1 BY MR. McMULLEN:</p> <p>2 Q. This is a record marked Exhibit 7,</p> <p>3 three pages, from the UMC Burn and Wound Clinic</p> <p>4 dated July 3.</p> <p>5 Do you have that in front of you?</p> <p>6 A. Yes.</p> <p>7 Q. And I told you before that all the</p> <p>8 records I've seen talk about first and second</p> <p>9 degree. This is an example. At the bottom it says</p> <p>10 "Assessment and Plan." It talks about</p> <p>11 second-degree burns. But we'll leave that for</p> <p>12 later.</p> <p>13 I certainly don't dispute that you had</p> <p>14 serious injuries. However, it looks like the</p> <p>15 treatment was working and you made a good recovery.</p> <p>16 Would you agree?</p> <p>17 A. Yes.</p> <p>18 Q. And if you turn to the second page of</p> <p>19 Exhibit 7, as of July 3, a couple weeks after the</p> <p>20 accident, it says the burn has healed and you were</p> <p>21 instructed to apply lotion three or four times at</p> <p>22 home.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have any reason to disagree with</p>
<p style="text-align: right;">Page 171</p> <p>1 A. Yeah. I mean, I did that all the way</p> <p>2 until -- we started -- we opened.</p> <p>3 Q. When you opened on -- was it August 1 you</p> <p>4 opened?</p> <p>5 A. Yeah.</p> <p>6 Q. Were you back to full time by August 1?</p> <p>7 A. I mean, I wasn't full time until, you</p> <p>8 know, technically -- I mean, I worked full time,</p> <p>9 but to really like -- it was when all the bandages</p> <p>10 and everything was off and then the scars were gone</p> <p>11 and it stopped bothering me with burns -- you know,</p> <p>12 with sweating and all that stuff.</p> <p>13 Q. Do you remember when you first went back</p> <p>14 full time, when that was?</p> <p>15 A. I would say full, full time like in</p> <p>16 October.</p> <p>17 Q. Not until October?</p> <p>18 A. Yeah. Like full, full time, like doing</p> <p>19 everything that I could physically do and be a</p> <p>20 chef, yes.</p> <p>21 Q. Actually work in the kitchen, that's what</p> <p>22 you mean?</p> <p>23 A. Yes.</p> <p>24 MR. McMULLEN: Let's mark this.</p> <p>25 (Exhibit Number 7 was marked.)</p>	<p style="text-align: right;">Page 173</p> <p>1 that?</p> <p>2 A. No.</p> <p>3 Q. It also says at the top of page 3 that at</p> <p>4 least at that time, on July 3 of '18, your pain</p> <p>5 score was zero. No pain. Is that accurate?</p> <p>6 A. I mean, as it says -- it says no pain,</p> <p>7 but, I mean, who knows at that time.</p> <p>8 Q. And then at the bottom, just above</p> <p>9 "Wound Care," there's a -- there's a space there</p> <p>10 for percentage healed. It says "100 percent</p> <p>11 healed."</p> <p>12 Do you see that?</p> <p>13 A. Yep.</p> <p>14 Q. Is that accurate?</p> <p>15 A. From the paper, yes. I can't tell you</p> <p>16 because it's not -- you know, it's not that time</p> <p>17 and I don't know -- I can't go back in my head and</p> <p>18 tell you.</p> <p>19 Q. Well, let's be fair. You're not a</p> <p>20 doctor.</p> <p>21 A. Yep.</p> <p>22 Q. And for sure you've had some discomfort</p> <p>23 and pain after that, right?</p> <p>24 A. Yes.</p> <p>25 Q. And I'm not arguing about that. I'm</p>

<p style="text-align: right;">Page 174</p> <p>1 asking if you have any reason to disagree that the</p> <p>2 burn specialist reported that your burns were</p> <p>3 100 percent healed as of July 3 of '18.</p> <p>4 Do you have any reason to dispute that?</p> <p>5 A. No.</p> <p>6 (Exhibit Number 8 was marked.)</p> <p>7 BY MR. McMULLEN:</p> <p>8 Q. So I'm just about done with the medical</p> <p>9 records. According to the records we have, you</p> <p>10 went to the Las Vegas Pain Relief Center later in</p> <p>11 July.</p> <p>12 Do you remember that, going there?</p> <p>13 A. Yes.</p> <p>14 Q. I can show you the record, but just to</p> <p>15 move along, according to those records, they wrote</p> <p>16 down that you were knocked to the ground by an</p> <p>17 explosion, but I don't see that in any other</p> <p>18 records.</p> <p>19 Did this explosion knock you to the</p> <p>20 ground?</p> <p>21 A. I mean, it pushed me back to the fact</p> <p>22 that -- you know, I was engulfed in flames, and I</p> <p>23 fell -- I went backwards. I mean, that's -- that's</p> <p>24 what happened. I don't know --</p> <p>25 Q. Well, I think there's an indication in</p>	<p style="text-align: right;">Page 176</p> <p>1 MR. PFAU: Is that a "yes," Josh?</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. McMULLEN: Sorry?</p> <p>4 MR. PFAU: He answered with a "mm-hmm."</p> <p>5 MR. McMULLEN: Oh, thanks.</p> <p>6 BY MR. McMULLEN:</p> <p>7 Q. After the single visit to the pain relief</p> <p>8 center on July 16 of 2018, I don't have records for</p> <p>9 any other care or treatment at all for this</p> <p>10 accident until you went to the Henderson</p> <p>11 Dermatology and Skin Center in June of 2019; is</p> <p>12 that correct?</p> <p>13 There is a gap of about a year where</p> <p>14 you -- almost exactly a year where you had no</p> <p>15 healthcare treatment for this incident?</p> <p>16 A. No, I believe that's it.</p> <p>17 Q. Okay. Then I want to show you Exhibit 8</p> <p>18 is the dermatology -- Henderson Dermatology.</p> <p>19 MR. PFAU: Exhibit 9?</p> <p>20 MR. McMULLEN: We marked that 8, didn't</p> <p>21 we?</p> <p>22 MR. PFAU: Didn't we already have an</p> <p>23 Exhibit 8?</p> <p>24 MR. McMULLEN: Off the record.</p> <p>25 THE VIDEOGRAPHER: The time is</p>
<p style="text-align: right;">Page 175</p> <p>1 the file that you -- did you roll on the ground to</p> <p>2 try and put out the fire?</p> <p>3 A. Yeah. But when the burn -- when the</p> <p>4 explosion happened, I did get pushed back.</p> <p>5 Q. Did you fall onto the ground because of</p> <p>6 the explosion?</p> <p>7 A. I believe so.</p> <p>8 Q. Because it knocked you back off your</p> <p>9 balance?</p> <p>10 A. Yeah.</p> <p>11 Q. You're not saying the explosive force</p> <p>12 blew you off your feet?</p> <p>13 A. No.</p> <p>14 Q. But you did fall back?</p> <p>15 A. Yes.</p> <p>16 Q. All right.</p> <p>17 Are you claiming back pain from this</p> <p>18 accident?</p> <p>19 A. No.</p> <p>20 Q. After the last visit to Las Vegas Pain</p> <p>21 Relief Center, which appears to be a single visit</p> <p>22 on July 16 -- does that sound right?</p> <p>23 A. Yes.</p> <p>24 Q. Just went there once?</p> <p>25 A. Mm-hmm.</p>	<p style="text-align: right;">Page 177</p> <p>1 approximately 2:28 p.m. We're off the record.</p> <p>2 (Discussion off the record.)</p> <p>3 THE VIDEOGRAPHER: We're back on the</p> <p>4 record. The time is approximately 2:31 p.m.</p> <p>5 BY MR. McMULLEN:</p> <p>6 Q. It's been brought to my attention that</p> <p>7 I've messed up on our exhibits or I may have, so</p> <p>8 just to be clear, Exhibit 6, which is the Burn</p> <p>9 Center discharge, that's also FG288 and 289.</p> <p>10 Exhibit 7 is the UMC Burn Unit record</p> <p>11 dated July 3. There are no Bates numbers on this</p> <p>12 copy. That's where we talked about there wasn't</p> <p>13 any pain and the burns were 100 percent healed.</p> <p>14 That was July 3. That's Exhibit 7.</p> <p>15 The next Exhibit is Exhibit 8. Do you</p> <p>16 have Exhibit 8 in front of you --</p> <p>17 A. Yes, sir.</p> <p>18 Q. -- from the Henderson Dermatology and</p> <p>19 Skin Cancer.</p> <p>20 The record I didn't show you we just</p> <p>21 discussed was Las Vegas Pain Relief Center, and you</p> <p>22 agreed you were only there a single time on</p> <p>23 July 16; that's all you recall, correct?</p> <p>24 A. The Las Vegas Pain Center? That's</p> <p>25 Jon Petrick, Dr. Petrick? I went there three</p>

<p style="text-align: right;">Page 178</p> <p>1 times.</p> <p>2 Q. Do you remember after July 16 you went</p> <p>3 there?</p> <p>4 A. Yeah. I went there three times.</p> <p>5 Q. All right.</p> <p>6 A. If that's the same -- I believe that's</p> <p>7 the same place.</p> <p>8 Q. We only have records for one visit, so I</p> <p>9 don't know. Maybe we just don't have all the</p> <p>10 records.</p> <p>11 Do you remember how many -- when you were</p> <p>12 there after July of '18?</p> <p>13 A. I don't. I don't remember dates.</p> <p>14 Q. Before we went off the record, I think</p> <p>15 you agreed -- but feel free to change your</p> <p>16 testimony -- that there was a gap of about a year</p> <p>17 where there was no treatment between July of '18</p> <p>18 and June of '19. Is that not right?</p> <p>19 A. No, I think that's -- I think that's</p> <p>20 right.</p> <p>21 Q. Okay. All right. So let's talk about</p> <p>22 the last record, then, which is Exhibit 8,</p> <p>23 Henderson Dermatology.</p> <p>24 Is that the last time you had any care or</p> <p>25 treatment for anything related to this accident,</p>	<p style="text-align: right;">Page 180</p> <p>1 A. Yes.</p> <p>2 Q. Did they provide any treatment?</p> <p>3 A. No.</p> <p>4 Q. Did you see them one --</p> <p>5 A. They just said that -- oh, and it was for</p> <p>6 tingling in my hands and stuff like that because I</p> <p>7 had a -- from this accident, I've had a huge</p> <p>8 sensitivity issue with feeling hot and feeling</p> <p>9 cold.</p> <p>10 Q. So you saw them for cuts and scrapes to</p> <p>11 your hands and also tingling in your hands?</p> <p>12 A. Yes.</p> <p>13 Q. But they didn't provide any treatment?</p> <p>14 A. I mean, they just told me to use the</p> <p>15 same -- that's why I stopped going to Henderson</p> <p>16 Dermatology because they all gave me the same</p> <p>17 \$75 ointment that you can -- cream that you just</p> <p>18 put on your arms.</p> <p>19 Q. You saw this other dermatology clinic</p> <p>20 three months ago just once?</p> <p>21 A. Yes.</p> <p>22 Q. Then you went to Henderson Dermatology?</p> <p>23 A. I went to Henderson a while before.</p> <p>24 Q. That was June of 2019?</p> <p>25 A. Yeah.</p>
<p style="text-align: right;">Page 179</p> <p>1 was Henderson Dermatology on June 17?</p> <p>2 A. No. There was another one that I went</p> <p>3 to. I went to another skin person three months</p> <p>4 ago, four months ago.</p> <p>5 Q. Who was that?</p> <p>6 A. I don't remember.</p> <p>7 Q. What was that for?</p> <p>8 A. It was for -- to check on my -- because I</p> <p>9 had problems with my hands. I was getting cuts and</p> <p>10 burns -- and like scrapes really, really -- like on</p> <p>11 anything on my hands. So I was just -- I went to</p> <p>12 the doctor to check out my skin. It was a skin</p> <p>13 person.</p> <p>14 Q. Three months ago?</p> <p>15 A. Yeah.</p> <p>16 Q. Dermatology?</p> <p>17 A. Yeah.</p> <p>18 Q. Do you remember the name of the provider?</p> <p>19 A. I don't. It was -- the address, it was</p> <p>20 on like Cheyenne and -- I don't remember exactly.</p> <p>21 It was in that area.</p> <p>22 Q. And this was for cuts and scrapes to your</p> <p>23 hands?</p> <p>24 A. Yeah.</p> <p>25 Q. Is that related to this accident?</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. More than once?</p> <p>2 A. No. Just once.</p> <p>3 Q. Henderson just once?</p> <p>4 A. Just because they said the same thing as</p> <p>5 the other person. "Just put cream on it."</p> <p>6 Q. So to keep the timeline straight, you</p> <p>7 went to Las Vegas Pain Relief Center in 2018?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Like I say, we just have a record for</p> <p>10 July 16, but you think it was three times?</p> <p>11 A. Yes.</p> <p>12 Q. However, you think it was then about a</p> <p>13 year of no treatment anywhere until June of '19,</p> <p>14 when you went to Henderson Dermatology, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Only one time?</p> <p>17 A. Yes. Because throughout that time I was</p> <p>18 having a lot of problems with my skin and my hands.</p> <p>19 Q. And then the last time you had any care</p> <p>20 or treatment was three months ago in 2020, so March</p> <p>21 or April?</p> <p>22 A. I think -- I think March. It was</p> <p>23 before -- maybe February. February or March.</p> <p>24 Because it was before this whole virus.</p> <p>25 Q. So in February or March of this year, you</p>

<p style="text-align: right;">Page 182</p> <p>1 went to a dermatologist, you don't remember the</p> <p>2 name, one time, but you didn't receive any</p> <p>3 treatment. They said, "Keep using the ointment?"</p> <p>4 A. Yes.</p> <p>5 Q. Which is expensive?</p> <p>6 A. Yes.</p> <p>7 Q. The Henderson Dermatology record, let's</p> <p>8 talk about that, Exhibit 8, because I have some</p> <p>9 confusion.</p> <p>10 It says "Chief" -- page 2. And to help</p> <p>11 the record, this has Bates Numbers FG234 to 240.</p> <p>12 On FG239, the second page: "HPI: This</p> <p>13 is a 37-year-old male who comes in for a chief</p> <p>14 complaint of a burn. The burn was caused by</p> <p>15 exposure to a propane tank. The burn is</p> <p>16 blistering, first degree, and painful and moderate</p> <p>17 in severity."</p> <p>18 Do you see that?</p> <p>19 A. Mm-hmm. Yes.</p> <p>20 Q. But then down below -- and I mean, you're</p> <p>21 familiar with the first-degree burn is sunburn,</p> <p>22 right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Then as it says here: "Sunburns usually</p> <p>25 resolve within seven to ten days."</p>	<p style="text-align: right;">Page 184</p> <p>1 know what I mean? Or I bang a desk, I get a cut or</p> <p>2 whatever.</p> <p>3 Q. Have any treating doctors told you that</p> <p>4 this is a condition from the accident?</p> <p>5 A. They told me -- they told me that that's</p> <p>6 going to happen, yes, because the skin is so</p> <p>7 fragile.</p> <p>8 Q. And the treatment for it is the ointment?</p> <p>9 A. Yeah, ointment or just being careful.</p> <p>10 Q. So that's why you went to Henderson?</p> <p>11 A. Yes.</p> <p>12 Q. And they basically told you, as we</p> <p>13 discussed, "Use the ointment"?</p> <p>14 A. Yes.</p> <p>15 Q. Have you been using the ointment?</p> <p>16 A. I have.</p> <p>17 Q. Do you use it on a regular basis?</p> <p>18 A. Not anymore, but yes, I did.</p> <p>19 Q. Why not anymore?</p> <p>20 A. To the point where now it's gotten to the</p> <p>21 point where I'm -- I'm not having the reactions</p> <p>22 that -- you know, I get burns and stuff and I put</p> <p>23 the ointment on that, but I haven't needed to use</p> <p>24 it.</p> <p>25 Q. But you're saying that this condition has</p>
<p style="text-align: right;">Page 183</p> <p>1 So my confusion is, are you saying that</p> <p>2 you had sunburn in June 2019 from this accident a</p> <p>3 year before?</p> <p>4 A. No.</p> <p>5 Q. Is this a separate thing?</p> <p>6 A. No. I don't know. I mean, I went in</p> <p>7 telling them my skin was -- you know, that my skin</p> <p>8 was hurting and my burns were -- I was getting cuts</p> <p>9 and all this different stuff. So I don't know.</p> <p>10 Q. Where was the sunburn?</p> <p>11 A. I don't even know of a sunburn, to be</p> <p>12 honest with you.</p> <p>13 Q. Well, here it tells us. On your forearm,</p> <p>14 arms, and trunk. Does that ring a bell?</p> <p>15 A. Yeah, but it wasn't sunburn.</p> <p>16 Q. Well, first degree.</p> <p>17 Do you relate this to the accident?</p> <p>18 A. Yeah.</p> <p>19 Q. In what way?</p> <p>20 A. Well, I was getting all this -- I was</p> <p>21 getting burns and cuts and all these different</p> <p>22 things from -- my skin was so fragile that I was</p> <p>23 just getting -- I mean, you can see, I get burns</p> <p>24 and cuts on the -- in any way, shape, or form, it</p> <p>25 doesn't matter if I bang an elbow, I get a cut, you</p>	<p style="text-align: right;">Page 185</p> <p>1 improved?</p> <p>2 A. Slightly.</p> <p>3 Q. Not as bad as it was?</p> <p>4 A. Not as bad, yes.</p> <p>5 Q. So you've stopped using the ointment?</p> <p>6 A. Yes.</p> <p>7 Q. When did you stop using the ointment?</p> <p>8 A. I just stopped in like March.</p> <p>9 Q. So I'm guessing you still want to be</p> <p>10 careful about not bruising or scraping or cutting</p> <p>11 your arms or hands, and not getting sunburned, but</p> <p>12 it's not as fragile as it was. Is that a fair</p> <p>13 statement?</p> <p>14 A. Yes.</p> <p>15 Q. And that's been the case since April?</p> <p>16 When you stopped using the ointment. I'm sorry.</p> <p>17 A. No. March.</p> <p>18 Q. March.</p> <p>19 Have we now covered all the medical</p> <p>20 appointments?</p> <p>21 A. I believe so.</p> <p>22 Q. You did say that you consulted with a</p> <p>23 psychiatrist or was it a psychologist?</p> <p>24 A. Psychologist.</p> <p>25 Q. Who was that? Did you --</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Michael White.</p> <p>2 Q. Michael White.</p> <p>3 Is he here in Las Vegas?</p> <p>4 A. Yes. I think that's his name.</p> <p>5 Q. And what prompted you to see him?</p> <p>6 A. Just talking to Lauren and talking to my</p> <p>7 rabbi, they -- after talking to them, you know, all</p> <p>8 for so many weeks and years, and they told me that</p> <p>9 it would be beneficial to me to go see somebody.</p> <p>10 Q. See them for what?</p> <p>11 A. To talk to them about -- I mean, I had a</p> <p>12 lot of issues from this. You know, I was</p> <p>13 working -- I was working 15, 16-hour days before</p> <p>14 this accident, and I was extremely, you know,</p> <p>15 determined and everything, and then this accident</p> <p>16 happened.</p> <p>17 It caused me a lot of frustration. It</p> <p>18 caused me a lot of pain in the ability of not</p> <p>19 working as much. I wasn't able to put as much time</p> <p>20 in as I wanted to, being a chef, because of the</p> <p>21 heat and the excruciating pain that I would get.</p> <p>22 And then I actually shortened my hours at</p> <p>23 Fries N' Pies.</p> <p>24 Right now, I started in January, I</p> <p>25 started working as a personal chef due to this</p>	<p style="text-align: right;">Page 188</p> <p>1 just have a lot of, you know, thoughts and</p> <p>2 psychological feelings of -- you know, before this</p> <p>3 accident, I was extremely, extremely happy. I was</p> <p>4 happy with my -- you know, internally happy, which</p> <p>5 I wasn't before I saw Lauren and -- you know, and</p> <p>6 the rabbi and they took me to this place where I</p> <p>7 was, you know, in a good position.</p> <p>8 And then -- and then after the accident,</p> <p>9 it just made me into a little bit of a different</p> <p>10 person. You know, I secluded myself from a lot of</p> <p>11 people just because I -- I didn't want to either</p> <p>12 see people or -- you know, I didn't want to see</p> <p>13 people because of my burns and have to explain it.</p> <p>14 I mean, after this situation, I had to</p> <p>15 explain burns to everybody, why -- you know, what</p> <p>16 happened with your arms, what happened with this,</p> <p>17 what happened with that, blah, blah, blah, and it</p> <p>18 takes a lot of toll on you, especially after this</p> <p>19 whole situation of going through this whole -- you</p> <p>20 know, going through the situation for me took a lot</p> <p>21 of toll on my body and me.</p> <p>22 Q. So I just want to focus a little bit more</p> <p>23 on the psychological.</p> <p>24 Before you saw Michael White, a</p> <p>25 psychologist here in Las Vegas last Friday, you had</p>
<p style="text-align: right;">Page 187</p> <p>1 incident because it's easier for me to work as a</p> <p>2 personal chef than it is on a line in a fast-paced</p> <p>3 environment.</p> <p>4 Q. Is that a part-time job?</p> <p>5 A. Right now, yes. But like, you know, at</p> <p>6 that job he asked me to use the grill. I don't --</p> <p>7 I don't use the grill. I had someone else --</p> <p>8 actually, two weeks ago, they wanted ribs and I</p> <p>9 made these ribs. And they asked -- they asked me</p> <p>10 to grill them, and I couldn't grill them, so I had</p> <p>11 someone else do it.</p> <p>12 And then there was another time that they</p> <p>13 wanted steak grilled and I can't -- I don't use a</p> <p>14 grill. So he had one of his friends grill the</p> <p>15 steak.</p> <p>16 Q. These two instances, is this at</p> <p>17 Fries N' Pies or just --</p> <p>18 A. No. That's at my client's house right</p> <p>19 now.</p> <p>20 Q. The personal chef?</p> <p>21 A. Yes.</p> <p>22 Q. So you saw Michael White because of</p> <p>23 frustration that you can't work as hard or as much</p> <p>24 because of heat in the kitchen causes you pain?</p> <p>25 A. Yeah. And I just -- I have a lot of -- I</p>	<p style="text-align: right;">Page 189</p> <p>1 not attempted to see any --</p> <p>2 A. Well, I was talking to my rabbi and I was</p> <p>3 talking --</p> <p>4 Q. Let me finish the question.</p> <p>5 A. Yeah. Sorry.</p> <p>6 Q. You had not attempted to see any medical</p> <p>7 specialists for psychological issues.</p> <p>8 You talked to your rabbi and to the</p> <p>9 shaman, right?</p> <p>10 A. Mm-hmm. Yes.</p> <p>11 Q. So the first time you've sought any</p> <p>12 professional medical help would be last Friday?</p> <p>13 A. Yes.</p> <p>14 Q. For psychological issues?</p> <p>15 A. Yes.</p> <p>16 Q. And did Mr. -- or Dr. White give you any</p> <p>17 diagnosis?</p> <p>18 A. Not yet, no.</p> <p>19 Q. What did he do?</p> <p>20 A. He gave me a bunch of paperwork and a</p> <p>21 bunch of questionnaires, and I had to go through</p> <p>22 everything. And then they told me they would call</p> <p>23 me.</p> <p>24 Q. Did he do any testing?</p> <p>25 A. Yes, questions.</p>



<p style="text-align: right;">Page 190</p> <p>1 Q. Interview?</p> <p>2 A. That type of testing. I mean, it was</p> <p>3 like 400 questions.</p> <p>4 Q. In writing?</p> <p>5 A. Computer.</p> <p>6 Q. Do you know what the test was called?</p> <p>7 A. I don't.</p> <p>8 Q. Or what it was for?</p> <p>9 A. I think it was just to go over what --</p> <p>10 what the problems that I had.</p> <p>11 Q. A psychological evaluation?</p> <p>12 A. Yeah.</p> <p>13 Q. Are you seeking medical treatment for</p> <p>14 psychological issues?</p> <p>15 A. Besides that doctor, no.</p> <p>16 Q. Well, this doctor would be a source of</p> <p>17 treatment, I suppose.</p> <p>18 Are you looking for treatment from him?</p> <p>19 A. Yes.</p> <p>20 Q. But at this point he's not given you a</p> <p>21 diagnosis, much less a treatment plan. You're</p> <p>22 waiting on that?</p> <p>23 A. Yes, I'm waiting on that.</p> <p>24 Q. I want to make sure I fully understand</p> <p>25 the psychological conditions that you're</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. You'd rather be by yourself unless they</p> <p>2 come to your house?</p> <p>3 A. I don't really have people in my house</p> <p>4 either.</p> <p>5 Q. Oh. You just stay by yourself?</p> <p>6 A. I mean, yeah. Like I said, I worked a</p> <p>7 lot. I used to work work work work. I mean, you</p> <p>8 can tell from all my experiences with my</p> <p>9 restaurants and so on and so forth. I mean, I've</p> <p>10 worked my whole life.</p> <p>11 And now it's -- you know, after this</p> <p>12 accident, it made me realize that, you know, if you</p> <p>13 don't have your health, your happiness, nothing</p> <p>14 else matters.</p> <p>15 You know, I worked 16-hour days on lines</p> <p>16 and now I can't -- you know, I don't have the</p> <p>17 ability to do the same stuff that I was doing</p> <p>18 because now I -- you know, if I work long hours, my</p> <p>19 skin bothers me or my hands bother me or it's too</p> <p>20 hot or it's cold. It's like -- you know.</p> <p>21 I mean, now you can see, I developed this</p> <p>22 callus on my finger because I use a knife all the</p> <p>23 time, but that was -- I never had that problem</p> <p>24 before.</p> <p>25 Q. So let me break this down so we can --</p>
<p style="text-align: right;">Page 191</p> <p>1 complaining about from this accident.</p> <p>2 I understand, you've been very clear that</p> <p>3 before you felt fulfilled, you were happy, you were</p> <p>4 busy, and now you're frustrated, you are not as</p> <p>5 happy as you were, and in particular, you feel</p> <p>6 like -- you say you seclude yourself from other</p> <p>7 people, so you're not as social; is that true?</p> <p>8 A. Yes.</p> <p>9 Q. You don't go out socially as much?</p> <p>10 A. Nope.</p> <p>11 Q. You prefer to stay home by yourself; is</p> <p>12 that what you're saying?</p> <p>13 A. Yeah. I stay home a lot. I have a</p> <p>14 really tight-knit group of friends and that's...</p> <p>15 Q. You don't like to go out in public?</p> <p>16 A. Yeah.</p> <p>17 Q. True statement?</p> <p>18 A. Yes.</p> <p>19 Q. Or to socialize in public?</p> <p>20 A. Yes.</p> <p>21 Q. So when you get together with friends, do</p> <p>22 they come to your house?</p> <p>23 A. It depends, you know. Like, I mean, if I</p> <p>24 go to someone's house, it's got to be for a big</p> <p>25 reason.</p>	<p style="text-align: right;">Page 193</p> <p>1 part of the purpose of this deposition is for you</p> <p>2 to explain to me as best you can -- and I</p> <p>3 appreciate you are -- what your conditions are from</p> <p>4 this accident. That's what we're talking about.</p> <p>5 And if we first focus on physical, my</p> <p>6 understanding is that you continue to have</p> <p>7 discomfort from temperature extremes --</p> <p>8 A. Yes.</p> <p>9 Q. -- with your hands. You can't touch</p> <p>10 things that are hot -- I saw in interrogatories --</p> <p>11 or cold, right?</p> <p>12 A. Yes.</p> <p>13 Q. So that's with your hands.</p> <p>14 A. Like if I grab a hot coffee without a</p> <p>15 sleeve or an insulated cup, I drop it right away.</p> <p>16 Q. Because you're more sensitive than it</p> <p>17 used to be?</p> <p>18 A. Yes.</p> <p>19 Q. Like --</p> <p>20 A. Sorry. In the restaurant, there's frozen</p> <p>21 trays. So I do all my fries fresh, so I put them</p> <p>22 in a freezer. I freeze the fries. And then when I</p> <p>23 take them out, they're on frozen metal trays. The</p> <p>24 average person can hold it for anywhere from five</p> <p>25 to ten seconds. I can't hold it for more than two.</p>

<p style="text-align: right;">Page 194</p> <p>1 Q. So if we talk about physical problems 2 that you're still having today from this accident, 3 it would be extreme temperatures are really hard on 4 your hands? 5 A. Yes. 6 Q. Any other physical problems? 7 A. I can't go in the sun. It bothers me in 8 the sun. I always wear a long-sleeved shirt. 9 Q. You have to be careful about sunburn? 10 A. Yes. 11 Q. Anything else on a physical basis? 12 A. No. 13 Q. You mentioned earlier that sometimes you 14 smoke marijuana to alleviate headaches. 15 Are you claiming headaches from this 16 accident? 17 A. I have had a headache every day since 18 this accident. 19 Q. Every day? 20 A. Yes. 21 Q. Has any doctor told you that your 22 headaches are due to this accident? 23 A. No. 24 Q. Did you ever have headaches before the 25 accident?</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. It's four to five every day? 2 A. Yes. 3 Q. Does it last all day? 4 A. Until I smoke, yes. 5 Q. Smoking alleviates it? 6 A. Yes. 7 Q. For a while? 8 A. Yes. 9 Q. Have you talked to any medical 10 professional about your headaches? 11 A. That was one reason I was going to the 12 psychologist, and then I am -- and I have to go 13 back to the neurologist, which I'm going to make an 14 appointment after this whole thing. 15 Q. "This whole thing" being the deposition? 16 A. No. No. The Coronavirus. 17 Q. Ah. You want to see the neurologist 18 again for headaches? 19 A. Yes. 20 Q. Anything else? 21 A. No, sir. 22 Q. Remind me the name of the neurologist? 23 A. Dr. Evangelista. Edgar Evangelista. 24 Q. What about the pain meds you were 25 prescribed, ibuprofen and Tylenol? Do they help</p>
<p style="text-align: right;">Page 195</p> <p>1 A. Yes, due to the epilepsy, but it was -- 2 it wasn't as -- I mean, I have them every single 3 day right now. Like I've had -- since the 4 accident, I've had a headache every single day. 5 Q. Do you have a headache now? 6 A. I've a headache all day. I haven't 7 smoked anything all day and I've had a headache all 8 day. 9 Q. Have I given you a headache? 10 A. No. 11 Q. Do you want to take a break? 12 A. No. 13 Q. I'm serious. I mean, if you have a 14 headache and you want to go and smoke or do 15 something, I'm fine with that. 16 A. No. I'm good. Thank you. 17 Q. What's the severity of your headache? 18 A. I mean, it's the same as it was -- it's 19 same right now as it was this morning. 20 Q. On a scale of zero 21 to ten, ten is the worst, unbearable, and zero is 22 zero? 23 A. Like a four or five. 24 Q. Is that what the -- 25 A. That's a constant, every day.</p>	<p style="text-align: right;">Page 197</p> <p>1 with the headache? 2 A. Sometimes. It just depends. Regular 3 Tylenol does not help. 4 Q. Ibuprofen helps? 5 A. It depends. Over 800. 6 Q. Sometimes it helps? 7 A. Yes. 8 Q. Have you tried anything else besides 9 marijuana for your headaches? 10 A. No, sir. 11 Q. When we talk about marijuana for your 12 headaches, are you talking about the medicinal 13 prescription or heavier smoking? 14 A. No. I'm talking about medical marijuana. 15 I mean, yeah. 16 Q. The same prescription that you take for 17 your epilepsy? 18 A. Yes. 19 Q. Were you taking that already for your 20 epilepsy on a daily basis? 21 A. The tincture I've been taking. The 22 smoking of it takes away the pain of the headache. 23 Q. When I refer to "medical marijuana," I 24 mean your prescription for epilepsy. So anything 25 beyond that is not prescribed; it's just something</p>

<p style="text-align: right;">Page 198</p> <p>1 that you found helps on your own?</p> <p>2 A. Right.</p> <p>3 Q. And that's actually smoking marijuana?</p> <p>4 A. Yes.</p> <p>5 Q. Besides the headache and the hands,</p> <p>6 anything else?</p> <p>7 A. I get -- but this is through the hands.</p> <p>8 I get tingling and -- tingling and -- there's</p> <p>9 something else. Just tingling and pain, to be</p> <p>10 honest with you.</p> <p>11 Oh, numbness. That's what it was.</p> <p>12 Numbness in my hands and my arms all the time.</p> <p>13 This arm, this left arm, I have numbness in it all</p> <p>14 the time. I always think I'm going to have a heart</p> <p>15 attack.</p> <p>16 Q. Have you talked to any healthcare</p> <p>17 professional about that?</p> <p>18 A. Yes.</p> <p>19 Q. Who?</p> <p>20 A. I've spoken to a doctor who's a family</p> <p>21 friend and my doctor, Dr. Reddy, and he said that a</p> <p>22 lot of it is just my sensory -- because of the</p> <p>23 burn, the sensory is coming back. So that's what</p> <p>24 he said. Because the numbness is like recovery --</p> <p>25 it's like something happens with your arms or your</p>	<p style="text-align: right;">Page 200</p> <p>1 I mean, I used to be able to pick up a</p> <p>2 steak from a burning grill and not have any</p> <p>3 problems. If I did that now, I would -- I mean, it</p> <p>4 would be a lot of pain.</p> <p>5 Q. With your bare hands, you could pick up a</p> <p>6 burning steak?</p> <p>7 A. I mean, I could touch anything. Before</p> <p>8 this accident, I could touch grills. I used to</p> <p>9 work, I told you, at Disney World. I would grab a</p> <p>10 steak off the grill, put it on a plate, and like --</p> <p>11 I mean, I had no feelings in my hands because of --</p> <p>12 when you deal with flames and fires all the time</p> <p>13 and hot stuff, you can just grab stuff. And I</p> <p>14 would grab hot pans. I would grab -- I mean, I'm</p> <p>15 telling you, it was crazy.</p> <p>16 And then after this accident, I can't</p> <p>17 grab anything.</p> <p>18 Q. So before this accident, did you ever</p> <p>19 burn your hands while you were working?</p> <p>20 A. No.</p> <p>21 Q. Never saw a doctor for burns?</p> <p>22 A. No. And that's why it's so frustrating.</p> <p>23 Q. Is this something unique to you or common</p> <p>24 among chefs that they can reach in and pick up --</p> <p>25 A. It's common among chefs.</p>
<p style="text-align: right;">Page 199</p> <p>1 hands or something when your sensories are coming</p> <p>2 back.</p> <p>3 Q. Have we now covered all the physical</p> <p>4 conditions that you claim today from this accident?</p> <p>5 A. Yes.</p> <p>6 Q. Briefly, just to make sure I understand</p> <p>7 on the psychology side, what you've told me is that</p> <p>8 you've had -- you can't work as hard, you're</p> <p>9 frustrated and not as happy about that, and that</p> <p>10 you seclude yourself from other people; is that</p> <p>11 accurate?</p> <p>12 A. Yes.</p> <p>13 Q. Anything more on the psychological</p> <p>14 issues?</p> <p>15 A. I mean, just that like -- you know. I</p> <p>16 mean, the biggest thing is I don't work -- I mean,</p> <p>17 I'm repeating myself, but I don't work as much. I</p> <p>18 cut my hours down a lot, and -- yeah, I mean,</p> <p>19 that's really mostly it.</p> <p>20 Q. If you could work more, do you think that</p> <p>21 would help?</p> <p>22 A. I mean, I think if I can work as I was</p> <p>23 working in the kitchen before this accident, yes,</p> <p>24 but I'm not able to work as much and as hard and</p> <p>25 as -- you know.</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. -- or grab a burning steak on a grill and</p> <p>2 flip it over like Superman?</p> <p>3 A. A lot of chefs can do it, yeah, a lot</p> <p>4 of -- you grow -- your sensories grow to being able</p> <p>5 to have really, really hot, and you don't -- you</p> <p>6 know, you can do anything with it. I mean, I can</p> <p>7 grab a hot pan from an oven and had no problems, no</p> <p>8 issues.</p> <p>9 Now I get blisters all the time,</p> <p>10 flareups. I mean, if I touch something -- like at</p> <p>11 my client's house right now, I touched a pan the</p> <p>12 other day, and like it was out of the oven, it was</p> <p>13 there for probably 10, 15 minutes, and I killed my</p> <p>14 hand. I dropped the pan.</p> <p>15 Q. So just one last thing on this so I'm</p> <p>16 clear. You're testifying that although you</p> <p>17 could -- with your bare hands before this accident,</p> <p>18 working as chef in the kitchen -- grab a hot steak</p> <p>19 or something else that's on a grill, that you never</p> <p>20 burned yourself, you never developed any kind of</p> <p>21 injury from doing that before this accident?</p> <p>22 A. No, sir.</p> <p>23 (Exhibit Number 9 was marked.)</p> <p>24 BY MR. McMULLEN:</p> <p>25 Q. Josh, I've handed you Exhibit 9.</p>

<p style="text-align: right;">Page 202</p> <p>1 Have you seen this before?</p> <p>2 A. No.</p> <p>3 Q. Well, I won't ask you questions that I</p> <p>4 wouldn't expect you to know.</p> <p>5 This is something that I'm sure your</p> <p>6 lawyer put together as required by the law to give</p> <p>7 us an idea of the -- what's called damages, the</p> <p>8 money value for various expenses and other things</p> <p>9 that you're claiming in the lawsuit. And it helps</p> <p>10 me as a guide to talk about a few of those things.</p> <p>11 The next thing that I wanted to ask you</p> <p>12 about is you're claiming scarring from this</p> <p>13 accident. Do you see that toward the bottom?</p> <p>14 A. Yes.</p> <p>15 Q. Permanent scarring?</p> <p>16 Do you have permanent scarring from this</p> <p>17 accident?</p> <p>18 A. Yes.</p> <p>19 Q. And where are those scars?</p> <p>20 A. My abdomen, my hands, my arm. I mean,</p> <p>21 all this.</p> <p>22 MR. McMULLEN: Before you do that, let's</p> <p>23 ask your lawyer.</p> <p>24 Are you comfortable with him showing his</p> <p>25 scars?</p>	<p style="text-align: right;">Page 204</p> <p>1 I need to ask you about the scarring, and if your</p> <p>2 lawyer is comfortable, and with the camera off, it</p> <p>3 sounds like we can look at the scars on your arms.</p> <p>4 Is that appropriate?</p> <p>5 MR. PFAU: That would be fine.</p> <p>6 BY MR. McMULLEN:</p> <p>7 Q. Okay. Before you show us your arms, I</p> <p>8 want to just ask you about the scarring.</p> <p>9 What doctor has told you that you have</p> <p>10 permanent scars? Or has any doctor told you that?</p> <p>11 A. I mean, all the doctors have said that</p> <p>12 the scars will be there forever. I mean, all the</p> <p>13 doctors that I've been to have said that the</p> <p>14 scarring that I have right now is permanent</p> <p>15 scarring.</p> <p>16 Q. Who's your primary treating doctor right</p> <p>17 now?</p> <p>18 A. Dr. Reddy.</p> <p>19 Q. R-e-d-d-y?</p> <p>20 A. Yep.</p> <p>21 Q. Has Dr. Reddy in particular told you that</p> <p>22 you have permanent scarring?</p> <p>23 A. No. I haven't -- I went to him once</p> <p>24 about this, I think. I mean, that was told to me</p> <p>25 by the Burn Unit, that it would be permanent</p>
<p style="text-align: right;">Page 203</p> <p>1 MR. PFAU: No, not on the camera. We can</p> <p>2 discuss it, though.</p> <p>3 MR. GOLDSTEIN: Can we see them off the</p> <p>4 camera?</p> <p>5 MR. PFAU: No. That would require a</p> <p>6 medical examination. He would have to take off his</p> <p>7 shirt. That wouldn't be appropriate.</p> <p>8 MS. WINSPEAR: He's already lifted his</p> <p>9 arm.</p> <p>10 MR. McMULLEN: Could we look at his arms</p> <p>11 and not the abdomen? Would that be okay?</p> <p>12 MR. PFAU: As long as the camera's not</p> <p>13 on, yeah.</p> <p>14 MR. McMULLEN: Okay.</p> <p>15 MR. PFAU: The only issue is that the</p> <p>16 camera doesn't capture it appropriately, and I</p> <p>17 don't want that to be the record.</p> <p>18 MR. GOLDSTEIN: We understand.</p> <p>19 MR. McMULLEN: I see. At some point, my</p> <p>20 client needs to know what your scars look like.</p> <p>21 And maybe the best way to do that is your lawyer</p> <p>22 could refer you to a professional photographer and</p> <p>23 get images that the both of you feel are fair and</p> <p>24 accurate.</p> <p>25 But for purposes of the deposition today,</p>	<p style="text-align: right;">Page 205</p> <p>1 scarring.</p> <p>2 Q. Who at the Burn Unit? Do you remember</p> <p>3 the doctor?</p> <p>4 A. I don't remember the doctor exactly, but</p> <p>5 it was in the -- because I asked him, I said, "Is</p> <p>6 the scars going to be there forever?" And they</p> <p>7 said yes.</p> <p>8 And I have a tattoo on my whole arm and I</p> <p>9 spent a lot of money on it, and the whole -- when I</p> <p>10 got burned, the whole thing changed color. It went</p> <p>11 from a blue tattoo to a black tattoo.</p> <p>12 Q. The doctor at the Burn Unit who said the</p> <p>13 scarring is permanent, what scarring was he</p> <p>14 referring to or she? What scars?</p> <p>15 A. The abdomen and the arm.</p> <p>16 Q. Left arm?</p> <p>17 A. Both arms.</p> <p>18 Q. Both arms.</p> <p>19 A. You can't really see it. I mean, I could</p> <p>20 show you parts of this arm that will -- I mean,</p> <p>21 explains the burn that I told you, like the tattoo,</p> <p>22 but this one you can see it.</p> <p>23 Q. There's no tattoo on the right arm?</p> <p>24 A. No.</p> <p>25 Q. The scars are on both arms and the</p>

<p style="text-align: right;">Page 206</p> <p>1 abdomen?</p> <p>2 A. Yes, sir.</p> <p>3 Q. So you're saying all of your scars you</p> <p>4 were told by the Burn Unit doctor are permanent?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Is there anything you can do for the</p> <p>7 scarring? Is there any kind of treatment such</p> <p>8 as --</p> <p>9 A. Not that I was told. I'm sorry.</p> <p>10 Q. Can tattoos be done to conceal the scars?</p> <p>11 A. What do you mean, put tattoos on this</p> <p>12 arm?</p> <p>13 Q. Right.</p> <p>14 A. Is that what you're saying?</p> <p>15 Q. Do you have a regular tattoo artist?</p> <p>16 A. I do.</p> <p>17 Q. And who is that?</p> <p>18 A. A girl, Serene. I don't know her last</p> <p>19 name.</p> <p>20 Q. Sharene?</p> <p>21 A. Serene.</p> <p>22 Q. Serene. Here in Vegas?</p> <p>23 A. Yes.</p> <p>24 Q. Where is she located?</p> <p>25 A. She was at Stay True Tattoo on Jones and</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. What about plastic surgery? Have you</p> <p>2 asked about that?</p> <p>3 A. No, I haven't.</p> <p>4 Q. Does the scarring bother you?</p> <p>5 A. From physical appearance, I mean, I don't</p> <p>6 take off my shirt at a pool, you know. I haven't</p> <p>7 taken off my shirt in public, you could say, since</p> <p>8 this accident.</p> <p>9 Q. How about on your arms? Are you afraid</p> <p>10 to show your arms?</p> <p>11 A. No. I just don't take off my shirt. I</p> <p>12 mean, I don't even -- I wear long-sleeved shirts a</p> <p>13 lot. It's not like I'm afraid to show it, but...</p> <p>14 Q. I probably asked it the wrong way. I</p> <p>15 didn't mean any disrespect.</p> <p>16 You said that you don't want to take your</p> <p>17 shirt off, I think because you didn't want to show</p> <p>18 the scarring on your abdomen?</p> <p>19 A. Yes.</p> <p>20 Q. I'm now asking if the same is true with</p> <p>21 your arms, or is the scarring less severe on your</p> <p>22 arms that you're okay showing your arms?</p> <p>23 A. I'm okay showing it, but it is there.</p> <p>24 You can see it.</p> <p>25 Q. So is the scarring worst on the abdomen?</p>
<p style="text-align: right;">Page 207</p> <p>1 Spring Mountain, but I don't know -- I don't think</p> <p>2 she's there anymore.</p> <p>3 Q. Stay True Tattoo?</p> <p>4 A. Yeah.</p> <p>5 Q. Did you talk to her about your scars and</p> <p>6 whether tattoos could help?</p> <p>7 A. No.</p> <p>8 Q. Do you know if that's a possibility?</p> <p>9 A. I don't. I was going to get this arm</p> <p>10 done because I had a cousin that passed away and I</p> <p>11 was going to get this arm done, and the doctors</p> <p>12 have told me not to do anything to this arm because</p> <p>13 it will be so painful.</p> <p>14 Q. The doctors who have been treating you</p> <p>15 told you not to --</p> <p>16 A. Burn Unit. Like when I was at the</p> <p>17 Burn Unit, I was telling them, I was going over</p> <p>18 that. I was going to get a tattoo for my cousin,</p> <p>19 and they said, "Don't touch that arm."</p> <p>20 Q. The doctors at the Burn Unit have told</p> <p>21 you that tattoos are not an acceptable or good way</p> <p>22 to treat the scarring because it would be too</p> <p>23 painful?</p> <p>24 A. Yeah. It would be painful if I was</p> <p>25 getting any other work done.</p>	<p style="text-align: right;">Page 209</p> <p>1 A. Yes.</p> <p>2 Q. At this point you don't know -- because</p> <p>3 you haven't asked any healthcare professional -- if</p> <p>4 something could be done such as plastic surgery for</p> <p>5 the scarring; is that true?</p> <p>6 A. Yes.</p> <p>7 Q. Do you plan to have that discussion or</p> <p>8 not?</p> <p>9 A. It's never came up, no.</p> <p>10 Q. Well, have you ever brought it up?</p> <p>11 A. Have I brought it up? No.</p> <p>12 Q. Do you plan to bring it up?</p> <p>13 A. I mean, as I say, if I'm going to start</p> <p>14 working as a pool boy at a nightclub or a dayclub,</p> <p>15 then, yes, I would -- if I have to do a --</p> <p>16 something that reveals my stomach, then, you</p> <p>17 know -- I don't do anything that has to reveal my</p> <p>18 stomach.</p> <p>19 Like I told you, I don't take off my</p> <p>20 shirt in public. I don't want to have a hundred</p> <p>21 questions. If I took my shirt off, people would</p> <p>22 ask questions, what happened to your side, what</p> <p>23 happened to this, what happened to that, and I</p> <p>24 don't want to answer.</p> <p>25 Q. Is it fair to say, Josh, that the</p>

<p style="text-align: right;">Page 210</p> <p>1 scarring doesn't bother you enough that you plan to  2 ask a plastic surgeon or anybody else if something  3 could be done about them? You're just living with  4 it?  5 A. Yeah. I'm living with it because I have  6 to.  7 Q. Well, does it bother you enough that you  8 plan to seek some kind of medical care to alleviate  9 the scars?  10 A. I mean, from my talks with doctors,  11 they've told me that it's -- there's going to be no  12 way to alleviate it. If I'm going -- if you're  13 asking me if I'm going to spend a crazy amount of  14 money to go to a plastic surgeon to fix my -- to  15 fix like my abdomen because, you know, I don't take  16 off my shirt? Not at this time.  17 Q. How much would it cost?  18 A. I don't know. I would have to go to a  19 doctor.  20 Q. Have you asked about that?  21 A. No. To this date, I haven't.  22 Q. Okay. Let's turn the camera off, please.  23 And if -- only if you're comfortable just to give  24 us an idea --  25 A. It's up to you.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. How would you describe it?  2 A. I guess so. I mean, it's more scarring.  3 I mean, this is a scar. And then, like I told you,  4 this whole tattoo was blue, like that, and it's  5 black. This whole thing is black. And that was  6 all from the burn.  7 MR. GOLDSTEIN: Can we identify for the  8 record, since we don't have a video? He's pointing  9 to his left hand or left arm and -- are you talking  10 about the shaded areas was all blue?  11 THE WITNESS: Yeah. It was all blue.  12 MR. GOLDSTEIN: And now it's all black?  13 THE WITNESS: Yes.  14 MR. GOLDSTEIN: And that -- for  15 reference, your tattoo goes from about halfway up  16 your forearm to all the way up -- does it end at  17 your shoulder?  18 THE WITNESS: Yeah, it ends at my  19 shoulder. But you can't see -- I mean, even the  20 doctor said you can't see anything that's under it  21 because of the tattoo. But this whole thing was  22 discolored. And if I went in to get it recolored,  23 it would be -- it's a pretty good chunk of change.  24 BY MR. McMULLEN:  25 Q. So it's changed color? Where the blue</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. -- of the scarring on your arms?  2 MR. PFAU: You can show him your arms.  3 MR. McMULLEN: We're still on the record,  4 but no camera.  5 THE VIDEOGRAPHER: The time is 3:10 and  6 we're going off the camera record.  7 THE WITNESS: This all the way down  8 (indicating). Do you see that? I mean, you can  9 see all this.  10 BY MR. McMULLEN:  11 Q. Is that -- and I'm not a doctor, so --  12 and you're not either, but it looks to me like a  13 slight pigmentation change. Is that what you're  14 seeing?  15 A. Yes.  16 Q. It's just slightly darker?  17 A. Yes.  18 Q. Is that what you refer to when you say  19 "scarring"?  20 A. Yeah. I mean, this was -- you know, it  21 was all the same color and now it's a different  22 color. I mean, my abdomen's the worst.  23 Q. Is the abdomen similar; it's a  24 pigmentation issue, darker area?  25 A. I mean...</p>	<p style="text-align: right;">Page 213</p> <p>1 was, is now darker-colored?  2 A. It's all black.  3 Q. Point to where you're seeing all black.  4 A. All this. All this was blue. All this  5 was blue. All this was -- this whole thing was  6 like dark green. It's all like light green.  7 I mean, you can see the whole thing is  8 totally different color from here to here.  9 Q. Thank you.  10 There's no scarring to your hands. Is  11 that true?  12 A. I mean, very little in the top --  13 Q. In your mind, do you have any significant  14 scarring to your hands?  15 A. Just the top, no. That's it, just the  16 pigmentation on the top of my fingers. I mean, the  17 hardest thing about the hands is the sensitivity.  18 That's the number 1 issue.  19 Q. No scarring to your face, correct?  20 A. No.  21 Q. So it is a correct statement?  22 A. Yes. It's a correct statement.  23 MR. GOLDSTEIN: Matt, can we see his  24 abdomen at all?  25 MR. PFAU: No.</p>

<p style="text-align: right;">Page 214</p> <p>1 MR. McMULLEN: We can go back on the 2 camera now. 3 THE VIDEOGRAPHER: We're back on the 4 camera record. The time is approximately 3:14 p.m. 5 BY MR. McMULLEN: 6 Q. Josh, we're back on the record. We went 7 off briefly to look at scarring on your arms, and I 8 appreciate the opportunity. 9 With regard to any lasting record of the 10 scarring, I think your lawyer has agreed that we'll 11 do that through photographs. In addition, we'll 12 see the scarring to your abdomen. 13 MR. McMULLEN: Is that acceptable? 14 MR. PFAU: That's fine. 15 BY MR. McMULLEN: 16 Q. So turn back to Exhibit 9, if you would. 17 You have that in front of you? 18 A. Yes, sir. 19 Q. The amount of damages claimed for 20 permanent scarring, do you see the figure there? 21 A. Yes, sir. 22 Q. \$789,452.19. 23 Did you play any role in the computation 24 of that number? 25 A. No, I haven't.</p>	<p style="text-align: right;">Page 216</p> <p>1 grabbing hot and cold. I mean, that's a big thing 2 when you're a chef. 3 Q. I know. You've given me all that, I 4 think. If you want to add to it, it's fine, but I 5 think we've covered all your current conditions, 6 true? 7 A. Yes. 8 Q. So other than cooking, which I understand 9 you can't do as much or as long because of the heat 10 sensitivity, and making sure you don't stay out in 11 the sun too long, again, because of the heat 12 sensitivity, is there anything that you can't do 13 now that you did before the accident or you can't 14 do as well, except for those things? 15 A. No. I mean, just the stuff that I told 16 you. 17 Q. If I understand correctly, there's no 18 healthcare provider that's told you or recommended 19 that you should have some kind of future treatment 20 as a result of this accident; is that correct? 21 A. Correct. 22 Q. Other than taking marijuana to help with 23 the headaches, is there anything you're doing on 24 your own to address your issues? Do you still take 25 ibuprofen, Tylenol, or no?</p>
<p style="text-align: right;">Page 215</p> <p>1 Q. Do you know what the basis is for that 2 number? 3 A. No. 4 Q. All right. If you'll turn to 5 Mr. Gonzales' interrogatories, Number 10. They 6 might be in front of you there someplace. 7 This interrogatory, do you have it before 8 you? I probably put a blue tab on it. Number 10? 9 A. The Question Number 10? 10 Q. Correct. 11 A. Yes. 12 Q. So this asked you what injuries or 13 conditions from the accident that you are no longer 14 experiencing. It looks like you answered what you 15 are still experiencing, which we've covered. 16 Are there any injuries or conditions that 17 have improved or gone away since the accident? 18 A. No. I mean, just the -- 19 Q. You did say that the sensitivity or the 20 fragile skin situation has improved. You don't 21 need the ointment anymore. So that's gotten 22 better? 23 A. Yes. I mean, yes. Some of it has gotten 24 better. But, I mean, the big -- one of the biggest 25 issues is the sensitivity in the hands, you know,</p>	<p style="text-align: right;">Page 217</p> <p>1 A. When I have the headaches, yes, I try to. 2 And sometimes if it doesn't work, then I result to, 3 you know, marijuana. It depends on how -- how bad 4 it is. 5 Q. So ibuprofen, Tylenol, and marijuana 6 you'll take as needed for your headaches, correct? 7 A. Yes, sir. 8 Q. Any other medications or drugs that 9 you're now still doing because of this accident? 10 A. No. 11 Q. Do you think you need any additional 12 drugs of any kind because of this accident? 13 A. No. 14 Like I stated before, I'm very, very, 15 very big against narcotics in the way of like, you 16 know, pills and painkillers and stuff like that. 17 You know, because of the kidney stones before, I 18 was given other painkillers that I've had bad 19 problems with, so I try not to take any of them. 20 Q. You've had no professional care or 21 treatment of any kind for a health issue in the 22 last five years before the accident other than the 23 epilepsy; is that right? 24 A. Right. 25 Q. You're not taking any prescription</p>

<p style="text-align: right;">Page 218</p> <p>1 medicine now other than the marijuana medical 2 prescription? 3 A. Correct. 4 MR. McMULLEN: Let's go off the record. 5 THE VIDEOGRAPHER: The time is 6 approximately 3:20 p.m. We're off the record. 7 (Recess had.) 8 THE VIDEOGRAPHER: We're back on the 9 record. The time is approximately 3:28 p.m. 10 (Exhibit Number 10 was marked.) 11 BY MR. McMULLEN: 12 Q. Josh, there was one, I think, glitch here 13 on Exhibit 9, the computation of damages, but I'm 14 not sure, and I think you might be able to clear it 15 up. 16 I've marked as Exhibit 10 a statement 17 that's GREEN 190. That's the Bates number at the 18 bottom right, GREEN 190. It's Gubler Family 19 Dental. It's a statement dated August 26 of '18. 20 On the computation of damages, Exhibit 9, 21 this is listed for \$1,626.94, and that's the amount 22 of the statement. But I notice the patient name is 23 Sheila. 24 Is that your mother? 25 A. Yes.</p>	<p style="text-align: right;">Page 220</p> <p>1 A. I haven't seen this, no. 2 Q. So in response to Interrogatory 3 Number 14, you have asserted that because of this 4 explosion, you were unable to open Fries N' Pies on 5 time, which as I understand it, you say it should 6 have opened in early July instead of August 1. 7 A. Yes. 8 Q. That's one of your claims in this case? 9 A. Yes. 10 Q. And you claim that the business lost 11 \$50,000 in lost revenue because it opened a month 12 later, right? 13 A. Yes, sir. 14 Q. So I want to talk about that. First 15 we'll talk about the business. 16 Do you co-own the business with 17 Mr. Sadie? 18 A. Yes, I do. 19 Q. I can show you the records, but only 20 Mr. Sadie's name is listed on the leasing 21 consultant retainer, hired some lawyers to look at 22 the lease, and the guarantees for leases on 23 building and equipment, only his name is on it, not 24 yours, and also a contract for the renovation work. 25 Is there a reason why your name is not on</p>
<p style="text-align: right;">Page 219</p> <p>1 Q. This is not something that you incurred 2 as a result of this accident? 3 A. No, but I did go to the dentist, and I 4 think this is me. I'm pretty sure this is me. 5 Q. Why is her name on there? 6 A. I don't know, but that's -- it might be a 7 glitch with them because I did go there, and my 8 mom -- my parents go there, so they might have just 9 put it under the patient name. 10 Q. I'm not aware that you suffered any 11 dental problems because of this accident. 12 Are you claiming that? 13 A. No. 14 Q. This is something unrelated? 15 A. Yeah. 16 Q. So it's not part of your damages you're 17 claiming in this case; is that correct? 18 A. Yes. 19 MR. McMULLEN: All right. Thanks. 20 (Exhibit Number 11 was marked.) 21 BY MR. McMULLEN: 22 Q. Number 11 we have had marked, I will 23 share with you is from the Nevada Secretary of 24 State, the official registration for Fries N' Pies. 25 Have you seen this before?</p>	<p style="text-align: right;">Page 221</p> <p>1 those documents? 2 A. Well, we have an operation agreement, 3 which I can provide. I am a 45 percent -- I am a 4 45 percent owner based on operations. And I own 5 45 percent of the business and -- 6 Q. That's in the operation agreement? 7 A. Yes. When we went over this, we 8 discussed it, and he said that he was going to put 9 the -- so how this all happened, how Fries N' Pies 10 came about, was he has a little office right next 11 to Fries N' Pies. The place was a hot dog place 12 before, so he knows the owner of the property. 13 So he said to the owner, hey, do you have 14 a -- or is someone else coming into this property? 15 Because it was closed. The hot dog place closed, 16 and then he said it was open. 17 So he said to the landlord, he said, 18 "I've got a concept." It was a healthy concept 19 that I wanted to put in there. The guy said, "No. 20 Let's do pizza." So he came to me and said, "Let's 21 come up with a pizza concept." We came up with a 22 pizza concept together, and that's what happened. 23 Adam is the one who put up all the money, 24 so that's why his name is under this. I didn't put 25 up any money for it, but my whole obligation was to</p>



<p style="text-align: right;">Page 222</p> <p>1 operate and provide my experience and my sweat 2 equity into the business, which I did. 3 Q. So if you look at Exhibit 11, it talks 4 about the company, Fries N' Pies Las Vegas, LLC, 5 was formed on January 19, 2018, right? 6 A. Yes, sir. 7 Q. And on the second page it lists two 8 managing members and only two, Mr. Sadie and 9 someone called Sherman Yu? 10 A. Yes. 11 Q. Who is Sherman Yu? 12 A. Sherman is the other 10 percent of the 13 business. He put 50,000 into the business. So the 14 reason that they're both managing members is 15 because they're the ones that put the money up. 16 Q. Sherman has 10 percent interest? 17 A. Yes, sir. 18 Q. And Sadie has 45 percent? 19 A. Yes. 20 Q. Why is your name not on here? 21 A. My name's not on there because when we 22 discussed it, I was -- I'm a partner with Adam and 23 we did an operating agreement, and that was -- you 24 know, that was what we discussed. 25 Q. Could you please produce the operating</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. What was that? 2 A. It was about 60 a year. 3 Q. \$60,000 a year? 4 A. Yes. And then after -- I think it was 5 like the first six months, after the first six 6 months, Adam realized that it was hurting the 7 business more than it was helping. And then I went 8 to -- he cut it down. He cut it down. And then 9 maybe four or five months ago, I stopped getting 10 paid. 11 Q. I need to go back and ask. You said, 12 "After the first six months, Adam realized that it 13 was hurting the business." 14 By that, do you mean your salary? 15 A. Yes. 16 Q. And then four or five months later, you 17 stopped getting paid altogether? 18 A. Four to five months ago, yeah. Yeah, I 19 stopped getting paid. 20 Q. So -- 21 A. I was making \$14 an hour as a line cook, 22 and then -- because he said -- you know, I was 23 like, "I've got to get paid." 24 And then starting maybe January or the 25 end -- December or January, I stopped getting paid</p>
<p style="text-align: right;">Page 223</p> <p>1 agreement -- 2 A. Yes, sir. 3 Q. -- to your counsel? 4 A. Yes. 5 Q. Mr. Sadie secured the funding for the 6 restaurant business and all of its expenses? 7 A. Yes, sir. 8 Q. How did he do that? 9 A. I mean, he has a very good -- he has a 10 job that empowers him to do that, but he works at 11 Hakkasan Group. And he had someone who was 12 operating his business, and so it was me, so he 13 didn't have to -- for the first couple -- for the 14 first three to six months he was there, and then he 15 let me run it myself. 16 Q. You personally didn't sign any loan 17 guarantees or obligations? 18 A. No. And that's part of my -- that's part 19 of my thing with eight other restaurants that I've 20 done. 21 Q. Under the operating agreement, once the 22 restaurant was up and running, what were the terms 23 of your compensation? Were you paid on an hourly 24 basis? 25 A. At the beginning, I was paid a salary.</p>	<p style="text-align: right;">Page 225</p> <p>1 altogether. 2 Q. Zero compensation? 3 A. Yes, because of my sweat equity. 4 Q. I'm not sure we're communicating. When 5 you say -- and that's my fault. Let me make sure 6 I'm being clear. 7 I'm asking for any compensation at all 8 from this business from the time it started, and 9 you testified you had a salary which started 10 \$60,000 a year for about \$5,000 a month; is that 11 correct? 12 A. Yes. 13 Q. You had no other return or income from 14 this operation? 15 A. No. 16 Q. Is that a true statement? 17 A. Yes, that's a true statement. 18 Q. Okay. So help me understand. If it's 19 true for the sake of discussion that this 20 restaurant opened a month late because of this 21 accident, then you would have lost one month's 22 salary or \$5,000, correct? 23 A. No. Because the business itself was 24 under -- when I opened this business, it was me, 25 Adam, and Sherman. We opened the business as --</p>

<p style="text-align: right;">Page 226</p> <p>1 you know, with no money, you know, like -- we went  2 into the business -- the first month, in August, we  3 did over \$60,000, which I can show you.</p> <p>4 <b>Q. Gross or net?</b></p> <p>5 A. Gross.</p> <p>6 And if I would have opened in July, I  7 would have made that same money as the  8 restaurant -- as we made -- what we made in August  9 is the same amount we were going to technically  10 make in July.</p> <p>11 <b>Q. Let me back up. The gross amount is not  12 the amount of profit. That's the gross amount.  13 What was the net that was made the first month of  14 operation?</b></p> <p>15 A. I don't have the correct -- I don't know  16 the correct number.</p> <p>17 <b>Q. But you'd agree with me that the gross  18 amount doesn't take into account expenses. You  19 deduct expenses from the gross amount to see if  20 there is any profit, true?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Was there any profit the first month?</b></p> <p>23 A. At any restaurant, if you look at the  24 money we put in and -- you know, and being -- was  25 it profitable based on the amount of sales and what</p>	<p style="text-align: right;">Page 228</p> <p>1 trajectory plan, then we did make a profit the  2 first month.</p> <p>3 <b>Q. Well, if we get away from trajectory and  4 just look at what happened that month, there was no  5 profit?</b></p> <p>6 A. No, because we're a brand-new business.  7 No restaurant is going to make profit the first  8 month.</p> <p>9 <b>Q. So that's to be expected?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. So if you're operating a month late, how  12 would you have any different income than what you  13 would have had otherwise?</b></p> <p>14 A. Well, because if I opened in July, I'm  15 just missing a month. Do you see what I'm saying?  16 I'm missing a month. So in July, if I would have  17 opened in July, I would have made 68,000. It would  18 have helped me to the point where I am today.</p> <p>19 <b>Q. I don't want to argue with you, but I  20 thought you testified that no restaurant makes a  21 profit the first month, true?</b></p> <p>22 A. True.</p> <p>23 <b>Q. And we're talking about the first month  24 of operation here that you're saying was delayed,  25 true?</b></p>
<p style="text-align: right;">Page 227</p> <p>1 we were doing and the whole -- the restaurant  2 itself? Yes, there was technically a profit.  3 But --</p> <p>4 <b>Q. What was the profit? What was the  5 number?</b></p> <p>6 A. I don't have the -- I don't know the  7 exact number, but --</p> <p>8 <b>Q. Let me just interrupt for a second.  9 You're saying that the amount of money  10 that came in exceeded expenses?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. But you don't know what the number was?</b></p> <p>13 A. The number that came in was like, you  14 know, 68,000 or something, so minus expenses. I  15 don't know exactly what the number is.</p> <p>16 <b>Q. Has anyone calculated that?</b></p> <p>17 A. I mean, Adam has numbers. We have  18 numbers.</p> <p>19 <b>Q. Do you know for certain that there was a  20 profit the first month?</b></p> <p>21 A. Well, no restaurant makes a profit the  22 first month. But if you -- if you put the  23 trajectory on a monthly -- like what we should have  24 made for the first month, and what we keep making,  25 then the profit -- then if you looked at it on a</p>	<p style="text-align: right;">Page 229</p> <p>1 A. True.</p> <p>2 <b>Q. So here's another confusing thing. You  3 were not obligated to put any of your own money  4 into this business, correct?</b></p> <p>5 A. Sweat equity, but yes, correct.</p> <p>6 <b>Q. And you were not entitled by the  7 operating agreement to get any compensation from  8 this business other than your salary, true?</b></p> <p>9 A. No. I have 45 percent of the business.  10 So compensation -- if we sold the business today  11 and it's worth \$2 million, I get 45 percent of  12 that.</p> <p>13 <b>Q. I'm having trouble understanding if you  14 don't expect any profit the first month of  15 operation, regardless of what your percentage  16 ownership was in the business, how you lost  17 anything by starting a month late.</b></p> <p>18 <b>Can you explain?</b></p> <p>19 A. Yeah. Because you -- if I open my  20 business on January 1st, I would have made, say,  21 \$60,000 and I would have had a start on my  22 business. Because of it, because of me getting  23 burned, I didn't start until August. So in that  24 year I had less -- one month less of revenue which  25 I should have had.</p>

<p style="text-align: right;">Page 230</p> <p>1 Q. You're not entitled to any revenue until</p> <p>2 the profit is made, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Because there's no money --</p> <p>5 A. But that extra month would have helped</p> <p>6 my -- would have helped everything for the</p> <p>7 remainder of the year.</p> <p>8 Q. But we're talking about just the first</p> <p>9 month here, right?</p> <p>10 A. Yes. But I'm saying because I didn't</p> <p>11 open, it messed up my numbers.</p> <p>12 Q. So the second month of operation, which</p> <p>13 under your theory should have been -- sorry.</p> <p>14 The first month of operation, which you</p> <p>15 believe should have been the second month if you'd</p> <p>16 started on time, was there a profit that month?</p> <p>17 We're talking about July -- or August. Sorry.</p> <p>18 In August of '18, was there a profit?</p> <p>19 A. The amount -- there is a profit. If you</p> <p>20 look at our expenses and you look at what we made,</p> <p>21 yes, there's a profit.</p> <p>22 Q. How much was that?</p> <p>23 A. I don't -- I don't have the exact number,</p> <p>24 but if you look at our -- what our costs are and</p> <p>25 what our profit was for those months, we did make a</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. I believe in this lawsuit you're bringing</p> <p>2 claims personally, not on behalf of Fries N' Pies.</p> <p>3 Is that mistaken?</p> <p>4 That's how the pleadings look.</p> <p>5 Fries N' Pies is not a party to this case.</p> <p>6 A. No, it's not.</p> <p>7 Q. So --</p> <p>8 A. But I also am -- I own a percentage of</p> <p>9 Fries N' Pies. So because I started late, I had my</p> <p>10 business partner be affected, which I'm affected;</p> <p>11 we're both affected because I started a month late.</p> <p>12 Q. You may be affected, but the way the</p> <p>13 lawsuit is brought is on your behalf. Mr. Sadie is</p> <p>14 not a party. Fries N' Pies is not a party.</p> <p>15 So are you claiming that you, Josh Green,</p> <p>16 have been damaged to the extent of your business</p> <p>17 interest in Fries N' Pies, 45 percent? Is that</p> <p>18 correct?</p> <p>19 Because there's no claim for the</p> <p>20 business. You understand that?</p> <p>21 A. Yes.</p> <p>22 Q. In this case, no one has brought a claim</p> <p>23 for Fries N' Pies.</p> <p>24 A. I understand that, but what I'm trying to</p> <p>25 tell you is because I couldn't open in August -- I</p>
<p style="text-align: right;">Page 231</p> <p>1 profit. So if my thing is -- you know, if my bills</p> <p>2 are 36,000 and I made 68,000, then the rest for</p> <p>3 that month is profit.</p> <p>4 Q. Right, but I need real numbers. Because</p> <p>5 you're claiming in papers filed in court --</p> <p>6 A. Yes.</p> <p>7 Q. -- that you lost \$50,000.</p> <p>8 A. As a business.</p> <p>9 Q. Well, you only have 45 percent of that,</p> <p>10 correct?</p> <p>11 A. Okay.</p> <p>12 Q. So are you claiming 45 percent of the</p> <p>13 50,000?</p> <p>14 A. I'm claiming that because we started a</p> <p>15 month late, that -- that we didn't bring in that</p> <p>16 money.</p> <p>17 Q. In your lawsuit are you claiming</p> <p>18 45 percent of the alleged \$50,000 in lost revenue</p> <p>19 for the first month of operation -- or what would</p> <p>20 have been the first month of operation? Is that</p> <p>21 your claim?</p> <p>22 A. Well, I'm claiming the business because</p> <p>23 I -- yes, I have 45 percent of it, but I'm claiming</p> <p>24 it as a -- you know, as my business, as, I mean,</p> <p>25 anyone else would.</p>	<p style="text-align: right;">Page 233</p> <p>1 mean, in July, and I was pushed back a month,</p> <p>2 that's what I'm explaining.</p> <p>3 Q. I appreciate the explanation. I'm not</p> <p>4 arguing with you. I'm asking about in this lawsuit</p> <p>5 brought by Josh Green, are you claiming your</p> <p>6 personal interest in the alleged lost revenue is</p> <p>7 what you're owed, the 45 percent of allegedly</p> <p>8 \$50,000 that would have been made if you opened on</p> <p>9 time? Is that your claim? Or are you claiming</p> <p>10 \$50,000 for Josh Green?</p> <p>11 A. I was claiming 50,000 because that --</p> <p>12 technically it was my -- if I would have started --</p> <p>13 because I'm the chef and I was the guy who -- the</p> <p>14 operator and everything else, I -- the way that,</p> <p>15 you know, we -- it's written is that I am --</p> <p>16 because the business wasn't -- didn't do business</p> <p>17 in July, that affected me -- you know, my business</p> <p>18 as a whole.</p> <p>19 So I am saying that if I was able to</p> <p>20 operate it, then we would have made \$60,000 and the</p> <p>21 business would have made \$60,000 that month.</p> <p>22 Q. Josh, to calculate or determine if an</p> <p>23 actual loss occurred for a given month, you would</p> <p>24 need to calculate if there was a profit for that</p> <p>25 month, correct?</p>

<p style="text-align: right;">Page 234</p> <p>1 A. Yes.</p> <p>2 Q. Have you done any calculations? Can you</p> <p>3 share with me any numbers as to whether there was a</p> <p>4 profit during the first or second month of</p> <p>5 operation and how much that was? Do you know?</p> <p>6 A. I don't know off the top of my head, no.</p> <p>7 Q. Do you know what the gross receipts were</p> <p>8 the first month of operation?</p> <p>9 A. No, I don't.</p> <p>10 Q. Or the second month?</p> <p>11 A. No.</p> <p>12 Q. Do you know what the expenses were the</p> <p>13 first month of operation or the second month?</p> <p>14 A. No.</p> <p>15 Q. And you would agree with me, you would</p> <p>16 need to know those numbers to figure out if there</p> <p>17 even was a profit the first couple months, true?</p> <p>18 A. True.</p> <p>19 Q. Has anyone done those calculations, to</p> <p>20 your knowledge?</p> <p>21 A. Yes.</p> <p>22 Q. Who?</p> <p>23 A. Adam.</p> <p>24 Q. Have you seen those numbers?</p> <p>25 A. I have seen numbers, but I didn't -- you</p>	<p style="text-align: right;">Page 236</p> <p>1 you, but there are other people.</p> <p>2 Did Mr. Sadie make any effort to find</p> <p>3 someone who could step in on a temporary basis who</p> <p>4 had those skills to open on time?</p> <p>5 A. No. I mean, as I know it, you know, he</p> <p>6 didn't want to do it with anyone else except me.</p> <p>7 Q. That was a personal choice he made?</p> <p>8 A. No. That was a business decision.</p> <p>9 Because we -- as a business, when you open a</p> <p>10 restaurant, it's -- you know, when you first open,</p> <p>11 it's all about the way you do things, the way</p> <p>12 you -- your mise en place, the way you do</p> <p>13 everything inside the restaurant. So for me to do</p> <p>14 that -- for someone else to come in and start that</p> <p>15 is extremely difficult.</p> <p>16 Q. Mr. Sadie made a decision that he would</p> <p>17 prefer to open a month later than to hire someone</p> <p>18 else to come in to help him open on time. Is that</p> <p>19 true?</p> <p>20 A. Yes.</p> <p>21 Q. And so it might have been possible, but</p> <p>22 he decided to wait until you were back?</p> <p>23 A. Yes. Yes.</p> <p>24 Q. Is it your position that everything was</p> <p>25 in place for Fries N' Pies to open in early July if</p>
<p style="text-align: right;">Page 235</p> <p>1 know, as of today, I can't tell you what they are,</p> <p>2 no.</p> <p>3 Q. What exactly about this accident</p> <p>4 prevented the restaurant from opening in early</p> <p>5 July?</p> <p>6 A. Me. I wasn't able to operate it. I</p> <p>7 wasn't able to run it. I wasn't able to do</p> <p>8 anything that I started doing in August.</p> <p>9 Q. Are you saying it was impossible for</p> <p>10 Mr. Sadie to bring in someone on a temporary basis</p> <p>11 to get it running on time?</p> <p>12 A. Yes.</p> <p>13 Q. Why was that impossible?</p> <p>14 A. I mean, that is why I have 45 percent of</p> <p>15 the business, from my knowledge of what I do in</p> <p>16 restaurants and what I've started before and</p> <p>17 everything that I've done. He has taken me for my</p> <p>18 experience of what I do in restaurants, and that's</p> <p>19 why he chose for me to be his business partner.</p> <p>20 Q. I'm not arguing that you are a very</p> <p>21 valuable and important business partner because of</p> <p>22 your skills. I'm not disputing that. My</p> <p>23 question's different.</p> <p>24 Certainly there are other creative chefs</p> <p>25 in Las Vegas. I'm not saying they're as good as</p>	<p style="text-align: right;">Page 237</p> <p>1 this accident had not occurred?</p> <p>2 A. Yes.</p> <p>3 Q. And what are those things?</p> <p>4 A. My employees -- my employees were hired.</p> <p>5 I mean, everything was ready to -- everything was</p> <p>6 ready.</p> <p>7 Q. Isn't it true that Fries N' Pies didn't</p> <p>8 even begin interviewing people to be employees</p> <p>9 until June 26?</p> <p>10 A. Yes.</p> <p>11 Q. And how long does it take to hire people,</p> <p>12 to get everybody you need to open a restaurant?</p> <p>13 A. Two days.</p> <p>14 Q. Two days?</p> <p>15 A. Yes. I mean, if I -- if I hire a person</p> <p>16 on the 26th, I can have them working with me in</p> <p>17 three or four days. I mean, I can have them</p> <p>18 working with me as soon as they give me their</p> <p>19 cards. And then I train them. And that was the</p> <p>20 whole process, was I was training them. I was</p> <p>21 going to be with them side by side and make sure</p> <p>22 that everything is going out correctly.</p> <p>23 Q. What date exactly would Fries N' Pies</p> <p>24 have opened if the accident had not occurred, in</p> <p>25 your opinion?</p>

<p style="text-align: right;">Page 238</p> <p>1 A. First week of July.</p> <p>2 Q. Well, that's a range of seven days.</p> <p>3 Anytime during the first week, is what you're</p> <p>4 saying?</p> <p>5 A. I'm saying the first five days of July.</p> <p>6 Q. How do you arrive at that range?</p> <p>7 A. Just because we -- like I said, all our</p> <p>8 stuff was in line and we were ready to do it. So</p> <p>9 that's why I'm saying those days.</p> <p>10 Q. Did Fries N' Pies have a business plan</p> <p>11 drafted when you formed the business with some kind</p> <p>12 of checklist or itemization for all the necessary</p> <p>13 tasks and a timeline for completing those to open</p> <p>14 by early July?</p> <p>15 A. Adam and I have some paperwork. He might</p> <p>16 have that. But we had a list of, you know, stuff</p> <p>17 that we -- we had a list of stuff that was already</p> <p>18 done by July, yes. I mean, everything was ready to</p> <p>19 open.</p> <p>20 Q. Everything on that list was done by July?</p> <p>21 A. Yes. Maybe a couple little missing</p> <p>22 things, but nothing that was not going to make me</p> <p>23 not open the business.</p> <p>24 Q. What were those things?</p> <p>25 A. Some food orders and stuff like that.</p>	<p style="text-align: right;">Page 240</p> <p>1 done, this is done on time, then we're ready to</p> <p>2 open the first week of July. Is there that kind of</p> <p>3 plan in writing?</p> <p>4 A. I don't know. I'm not sure.</p> <p>5 Q. How do you know for certain that you</p> <p>6 would be ready the first week in July if you don't</p> <p>7 have that organized?</p> <p>8 A. Because, like I've said before, my</p> <p>9 experiences with restaurants. It's -- you know. I</p> <p>10 know when I'm ready to open and we were ready. I</p> <p>11 mean, everything was -- everything was functioning.</p> <p>12 Everything was ready to go.</p> <p>13 Q. Well, let's talk about just a few of the</p> <p>14 details here, just to work through it.</p> <p>15 (Exhibit Number 12 was marked.)</p> <p>16 BY MR. McMULLEN:</p> <p>17 Q. Josh, I am not at all an expert on the</p> <p>18 restaurant business, so I appreciate your patience</p> <p>19 in explaining to me. And I've just picked out a</p> <p>20 few things that might help me understand.</p> <p>21 We marked Exhibit 12, something from the</p> <p>22 State of Nevada. It's a Southern Nevada Health</p> <p>23 District permit evaluation.</p> <p>24 Have you seen this before?</p> <p>25 A. Yes. Yes, sir.</p>
<p style="text-align: right;">Page 239</p> <p>1 You know, like making sure -- you know, because my</p> <p>2 initial order was from U.S. Foods from a person</p> <p>3 that I already know, so it was super easy to plug</p> <p>4 in everything that I've had from my past</p> <p>5 experiences.</p> <p>6 Q. Am I correct that there was a business</p> <p>7 plan for Fries N' Pies, something in writing?</p> <p>8 A. There might be.</p> <p>9 Q. That's a maybe?</p> <p>10 A. There might be, yes. I don't know.</p> <p>11 Q. But you're certain that there was some</p> <p>12 kind of itemized list of here's what we've got to</p> <p>13 get done to open?</p> <p>14 A. I mean, Adam is very organized, and yes,</p> <p>15 we have paperwork of stuff that -- I don't know if</p> <p>16 it's an itemized list, but we do -- he has</p> <p>17 paperwork on everything.</p> <p>18 Q. Well, what I'll do through your lawyer is</p> <p>19 ask for the business plan and any itemized list</p> <p>20 that may exist, just to give you a heads up that</p> <p>21 I'll need to see that.</p> <p>22 A. Okay.</p> <p>23 Q. Is there paperwork, then, that says we're</p> <p>24 going to be ready to go in the first week of July,</p> <p>25 something that specifies when this is done, this is</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. And what is it?</p> <p>2 A. It's from the health department saying</p> <p>3 that -- what's wrong and what's right of -- what</p> <p>4 you need to operate.</p> <p>5 Q. So this is dated June 4, and it appears</p> <p>6 that as long as you met certain conditions -- I</p> <p>7 mean, they always find something, right? If you</p> <p>8 look on FG703, there's quite a list of things. It</p> <p>9 says "Observations &amp; Corrective Actions."</p> <p>10 It's signed by Mr. Sadie on the last</p> <p>11 page, right?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Are you familiar with this agency and how</p> <p>14 they work, the regulations that have to be</p> <p>15 followed --</p> <p>16 A. Yes.</p> <p>17 Q. -- before you can open up?</p> <p>18 A. Yes.</p> <p>19 Q. So it's my understanding under Nevada</p> <p>20 statute that the renovation plans for the space</p> <p>21 have to be approved before the work can begin,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. And it appears that happened on June 4;</p> <p>25 is that right?</p>

<p style="text-align: right;">Page 242</p> <p>1 A. Yes.</p> <p>2 Q. And then is it true there has to be a</p> <p>3 second or final inspection before you can get a</p> <p>4 certificate of occupancy?</p> <p>5 A. I believe that, yes, they tell you what</p> <p>6 it is and then they come back and check you out</p> <p>7 after.</p> <p>8 Q. And is it typically required that you</p> <p>9 have 21 days before the second inspection; do you</p> <p>10 know?</p> <p>11 A. Yes, I believe so.</p> <p>12 Q. So would that not mean that all of these</p> <p>13 items on FG703 -- I didn't count them. It looks</p> <p>14 like there is a dozen more -- that all of that</p> <p>15 would have to be corrected and then, if you got</p> <p>16 your inspection 21 days later and everything was</p> <p>17 corrected, that takes you to June 25, right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So tell me if I'm wrong. You'd have to</p> <p>20 get the next inspection arranged and have all these</p> <p>21 things corrected by the end of June for you to open</p> <p>22 in early July?</p> <p>23 A. Which is feasible.</p> <p>24 Q. Have you looked at all these corrective</p> <p>25 actions?</p>	<p style="text-align: right;">Page 244</p> <p>1 he comes in and he did the walls for us in a day.</p> <p>2 Nothing on this list takes a long -- more than a</p> <p>3 week to do.</p> <p>4 Q. Is it your testimony that all the items</p> <p>5 on this list were completed by the end of June? Do</p> <p>6 you know?</p> <p>7 A. I could tell you it most likely was.</p> <p>8 Q. How do you know that?</p> <p>9 A. I mean, I have told you numerous amounts</p> <p>10 of times that I was ready to open in July. And</p> <p>11 from my experience in the past of operating and</p> <p>12 opening restaurants, eight of them, that I had</p> <p>13 enough -- enough knowledge that I could have opened</p> <p>14 in July.</p> <p>15 Q. When did Fries N' Pies obtain a</p> <p>16 certificate of occupancy? Or did it?</p> <p>17 A. I don't know exactly when.</p> <p>18 Q. Did it obtain a certificate of occupancy</p> <p>19 before the end of June?</p> <p>20 A. I believe so.</p> <p>21 Q. Do you know?</p> <p>22 A. I don't know exactly, but I believe so.</p> <p>23 As I told you before, I was ready to open July --</p> <p>24 in the first week of July.</p> <p>25 Q. And I'm not arguing with you, Josh, but</p>
<p style="text-align: right;">Page 243</p> <p>1 A. I mean, I was here. I did this. So...</p> <p>2 I mean, a lot of these are pretty quick.</p> <p>3 Q. Looks like you needed a fire-suppression</p> <p>4 system?</p> <p>5 A. Yeah. That happened that second week. I</p> <p>6 got that right away.</p> <p>7 Q. Looks like you needed to submit</p> <p>8 specifications that you were meeting the</p> <p>9 Sanitation-Certified something or other?</p> <p>10 A. Yes, and we did that.</p> <p>11 Q. You needed a plan for a three-compartment</p> <p>12 sink. Is that a new sink?</p> <p>13 A. It was a new sink, but we had -- the one</p> <p>14 that we had was sufficient enough, so they didn't</p> <p>15 make us do it.</p> <p>16 Q. What's item 88, "Quarry tile, aluminum in</p> <p>17 walk-in"?</p> <p>18 A. Quarry tile is the tile on the floor in</p> <p>19 the thing -- in the kitchen, and the aluminum --</p> <p>20 there's aluminum inside the walk-in that keeps it</p> <p>21 insulated. That had to be fixed.</p> <p>22 Q. The kitchen needed washable ceiling tiles</p> <p>23 and stainless steel walls.</p> <p>24 How do you get that done?</p> <p>25 A. That was easy. You get a stainless guy,</p>	<p style="text-align: right;">Page 245</p> <p>1 we both know a certificate of occupancy is required</p> <p>2 before you can open, true?</p> <p>3 A. Yes.</p> <p>4 Q. So I'm asking, do you know if there was a</p> <p>5 certificate of occupancy issued before the end of</p> <p>6 June?</p> <p>7 A. I believe there was.</p> <p>8 Q. Why do you believe that?</p> <p>9 A. Because we were ready to open.</p> <p>10 Q. How were you ready to open unless you</p> <p>11 know you have a certificate of occupancy?</p> <p>12 A. Because all this stuff was done. So if</p> <p>13 you're ready to open, all you have to do is call</p> <p>14 the health department and they give you a</p> <p>15 certificate and you're ready to rock and roll.</p> <p>16 Q. When did you get the certificate?</p> <p>17 A. I'm not going to give you an exact date</p> <p>18 because I don't know that exact date, but I do know</p> <p>19 that it was -- that I could have gotten it right</p> <p>20 after -- when I was done with all this stuff.</p> <p>21 Q. Let me ask it this way. Can you testify</p> <p>22 under oath that you obtained a certificate of</p> <p>23 occupancy that was dated before the end of</p> <p>24 June 2018? Do you know that for sure?</p> <p>25 A. I don't know that for sure, no.</p>

<p style="text-align: right;">Page 246</p> <p>1 Q. Who would know that?</p> <p>2 A. Adam and my records.</p> <p>3 Q. Was the inspection process -- and there's</p> <p>4 more than one inspection, right? You also have to</p> <p>5 have the health department come in?</p> <p>6 A. That's this.</p> <p>7 Q. Was that completed and the food stocked</p> <p>8 by the end of June?</p> <p>9 A. It could have been, but it wasn't because</p> <p>10 I was hurt.</p> <p>11 Q. Could someone else not have arranged to</p> <p>12 make sure the food was stocked?</p> <p>13 A. No. Because the way that I needed to</p> <p>14 organize the kitchen and put everything in place</p> <p>15 and be there and watch them and show them, I needed</p> <p>16 to be there.</p> <p>17 Q. And this gets back to Mr. Sadie's</p> <p>18 decision that rather than hire someone else to take</p> <p>19 your place, he chose to wait until you came back?</p> <p>20 A. Yes.</p> <p>21 Q. How about the other equipment that was</p> <p>22 necessary to operate the business in the kitchen,</p> <p>23 other fixtures; was everything scheduled to be in</p> <p>24 place by July 1, before your accident?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 248</p> <p>1 Q. When did the work begin on the renovation</p> <p>2 of the space that was intended for Fries N' Pies?</p> <p>3 Do you know?</p> <p>4 A. The first -- I think it started in April.</p> <p>5 Q. And am I correct that the last two pages</p> <p>6 of Exhibit 13 -- this is actually an itemization of</p> <p>7 all the work that this construction company,</p> <p>8 Match Point, was hired to do?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And how much of these things or how</p> <p>11 many -- let's see, we've got -- I won't name them</p> <p>12 all, but there's mechanical, plumbing, electrical.</p> <p>13 There's drywall, countertops, floor tile. I mean,</p> <p>14 there's quite a list here, right? Even roofing.</p> <p>15 Floor tile for the bathroom.</p> <p>16 There's roughly 30 different categories</p> <p>17 of construction that they were hired to do for</p> <p>18 almost \$90,000, correct?</p> <p>19 A. (Witness nodded head.)</p> <p>20 Q. Is that yes?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And how much of that was completed by</p> <p>23 June 18 of 2018?</p> <p>24 A. I believe most of this.</p> <p>25 Q. Was anything left?</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. So why didn't that happen?</p> <p>2 A. Why didn't what happen?</p> <p>3 Q. Why weren't all the fixtures and</p> <p>4 equipment in place by the end of June?</p> <p>5 A. It was.</p> <p>6 Q. So that's -- those things didn't prevent</p> <p>7 you from opening on July 1. That's what you're</p> <p>8 saying?</p> <p>9 A. Right.</p> <p>10 Q. What prevented it was you weren't there</p> <p>11 to manage?</p> <p>12 A. I wasn't there to open the restaurant.</p> <p>13 (Exhibit Number 13 was marked.)</p> <p>14 BY MR. McMULLEN:</p> <p>15 Q. This is Exhibit 13 in front of you?</p> <p>16 A. Yep.</p> <p>17 Q. This is the construction agreement that</p> <p>18 was entered into by Mr. Sadie; is that correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. For the record, it's FG682 to 770.</p> <p>21 And at the back end there, it's got you</p> <p>22 down as operating manager and Sadie as operating</p> <p>23 owner, and he's the one who signed it for the</p> <p>24 company, right?</p> <p>25 A. Yep.</p>	<p style="text-align: right;">Page 249</p> <p>1 A. I can't -- I don't know exactly, but I --</p> <p>2 I know most of this was done.</p> <p>3 Q. What wasn't done?</p> <p>4 A. I'm not sure.</p> <p>5 Q. You'd agree with me that anything that</p> <p>6 wasn't done would have to be completed, and then it</p> <p>7 has to be inspected before you can open?</p> <p>8 A. Yes. But this inspection right here</p> <p>9 wouldn't have happened if this wasn't done.</p> <p>10 Q. Well, there's two inspections, though,</p> <p>11 right? There is a final inspection?</p> <p>12 A. Right.</p> <p>13 Q. And everything here, the last two pages</p> <p>14 of Exhibit 13, would have to pass inspection?</p> <p>15 A. Yes. But your final inspection is due to</p> <p>16 this, and then he comes out, he fills this out, and</p> <p>17 then they come back, you know, and then they'll</p> <p>18 give you an A or a letter grade, I mean.</p> <p>19 Q. When you say "this," you're talking about</p> <p>20 Exhibit 12, the inspection form?</p> <p>21 A. Yes.</p> <p>22 Q. I'm just asking, as you sit here today,</p> <p>23 can you testify under oath that all of the items</p> <p>24 listed in the last two pages of this construction</p> <p>25 itemization sheet, Exhibit 13, were they all in</p>

<p style="text-align: right;">Page 250</p> <p>1 place that they would have been done to open by 2 early July?</p> <p>3 A. I believe so, yes.</p> <p>4 Q. You don't have any paperwork or anything 5 to tell you for sure, or you know for sure?</p> <p>6 A. I mean, like I said, from my 7 recollection, you know, it's happened on 8 July 20th -- I mean June 20th. So me -- me 9 being ready to open -- if I wasn't burnt, then I 10 would have been able to open by July 1st or the 11 first week of July.</p> <p>12 Q. What happened on June 20?</p> <p>13 A. That's when I got burned.</p> <p>14 Q. Oh, I'm sorry. It was actually June 18, 15 but that's what you were referring to?</p> <p>16 A. Yeah.</p> <p>17 Q. I see.</p> <p>18 Are there records somewhere that 19 Fries N' Pies keeps that would tell us when these 20 things were completed?</p> <p>21 A. I'm not sure. I would have to look.</p> <p>22 Q. Would Mr. Sadie be the person to ask?</p> <p>23 A. Yes.</p> <p>24 Q. What permits and licenses were necessary 25 before you could open?</p>	<p style="text-align: right;">Page 252</p> <p>1 Q. Under the business plan or just your own 2 experience, how much of the revenue for 3 Fries N' Pies would be derived from alcohol sales?</p> <p>4 A. It's not that much because it's a pizza 5 place, you know. It's not like -- maybe someone 6 gets a beer here and there. Right now, it's about 7 10 percent of my sales.</p> <p>8 Q. When did you get the liquor license?</p> <p>9 A. The exact date, I don't know.</p> <p>10 Q. When did Fries N' Pies apply for it?</p> <p>11 A. He applied -- it took him a while, but I 12 think he applied first I think March, April, 13 something like that, and then we got approved, I 14 think, at the beginning of July or August, 15 something like that. But I know that there was 16 a -- there was an issue and then, you know, he 17 fixed it.</p> <p>18 Q. What was the issue?</p> <p>19 A. I don't know exactly. Adam -- Adam did 20 deal with the liquor license. I just remember that 21 there was a --</p> <p>22 Q. There was some issue that delayed getting 23 the license?</p> <p>24 A. Yes.</p> <p>25 Q. Probably or possibly not until August?</p>
<p style="text-align: right;">Page 251</p> <p>1 A. I mean, you need the liquor license. You 2 need the health department, fire. The hood 3 inspection, which is also the fire. That's 4 really -- I think that's it. Maybe one other. Oh, 5 you need a what's-it-called inspection. A 6 building -- building inspector.</p> <p>7 Q. The liquor license is important, right? 8 Even though I don't know much, I know that liquor 9 sales accounts for a huge part of the margin for 10 the restaurant business?</p> <p>11 A. Yes, sir.</p> <p>12 Q. So that was critical before you opened to 13 get the liquor license in place?</p> <p>14 A. No, it's not super critical. You can 15 open a restaurant without a liquor license. But if 16 you want to have liquor and you want to serve 17 liquor, then, yes, you need to have the liquor 18 license.</p> <p>19 Q. If you want to have decent income?</p> <p>20 A. Well, I mean, SkinnyFATS I opened with no 21 liquor license. We did that for a year and a half 22 with no liquor license. So all these other 23 restaurants, I've started with no liquor licenses. 24 Some of them have liquor licenses now and some of 25 them don't.</p>	<p style="text-align: right;">Page 253</p> <p>1 A. I think so, but I believe -- I don't know 2 exactly, but I do know that when I did talk to Adam 3 about opening, we were ready to open, obviously, 4 because the last week I was in this situation, the 5 last week and a half of June in this situation, you 6 know, I couldn't get everything else done.</p> <p>7 Q. Was he turning to you to get the liquor 8 license done?</p> <p>9 A. No. That was him.</p> <p>10 Q. So the fact that you had this accident 11 didn't have anything to do with the delay in 12 getting the liquor license?</p> <p>13 A. No, not the liquor license.</p> <p>14 Q. How about the fire department permit, 15 when you get that?</p> <p>16 A. When did I get it? I don't know exactly, 17 but I do know that we could have -- like I have 18 said numerous amounts of times, that if I needed to 19 get it done before July, we would have had it done.</p> <p>20 Q. Well, the liquor license apparently is an 21 exception to that.</p> <p>22 A. Yes.</p> <p>23 Q. Is the fire department license an 24 exception?</p> <p>25 A. No.</p>



<p style="text-align: right;">Page 254</p> <p>1 Q. What about the building permit?</p> <p>2 A. No.</p> <p>3 Q. Health department?</p> <p>4 A. I mean, health department is -- you saw.</p> <p>5 Q. Don't you need a tax permit also?</p> <p>6 A. An EIN number, yes.</p> <p>7 MR. McMULLEN: All right. Let's mark</p> <p>8 this, please.</p> <p>9 (Exhibit Number 14 was marked.)</p> <p>10 MR. McMULLEN: Let's go off the record.</p> <p>11 THE VIDEOGRAPHER: The time is 4:11 p.m.</p> <p>12 We are off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 THE VIDEOGRAPHER: We're back on the</p> <p>15 record. The time is approximately 4:12 p.m.</p> <p>16 BY MR. McMULLEN:</p> <p>17 Q. Josh, how are you holding up?</p> <p>18 A. Good.</p> <p>19 Q. Thank you. If you need a break, let me</p> <p>20 know. I'm trying to push through here so we can</p> <p>21 finish soon.</p> <p>22 I've handed you -- or the court reporter</p> <p>23 has handed you Exhibit 14.</p> <p>24 Do you recognize that?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 256</p> <p>1 A. No.</p> <p>2 Q. And as it turned out -- well, you can't</p> <p>3 operate until you have a tax permit, right?</p> <p>4 A. Correct.</p> <p>5 Q. And based on the timing of the</p> <p>6 application, it says your business start date is</p> <p>7 July 30, 2018.</p> <p>8 So you could not operate under the law</p> <p>9 any sooner than July 30 because you didn't have a</p> <p>10 tax permit, right?</p> <p>11 A. As of what this says, yes.</p> <p>12 Q. How about hiring employees? How many</p> <p>13 employees were necessary to open a restaurant?</p> <p>14 A. I mean, when we first hired -- we've</p> <p>15 hired a lot of people.</p> <p>16 Q. My question is pretty specific and I --</p> <p>17 A. How many people to operate the</p> <p>18 restaurant?</p> <p>19 Q. Right. For opening day, if you will, how</p> <p>20 many employees were required?</p> <p>21 A. About six.</p> <p>22 Q. And I believe -- tell me if I'm wrong --</p> <p>23 you didn't start interviewing until June 26; is</p> <p>24 that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 255</p> <p>1 Q. State of Nevada -- Nevada, right?</p> <p>2 A. Yes.</p> <p>3 Q. Nevada Sales Tax Permit.</p> <p>4 This is for Fries N' Pies, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Who applied?</p> <p>7 A. Adam.</p> <p>8 Q. When did he apply?</p> <p>9 A. I'm not sure of the exact date. But I</p> <p>10 did talk to him about this, and I do know that when</p> <p>11 we -- that he filed -- he sent this in late because</p> <p>12 of the situation. That's what I believe.</p> <p>13 Q. What situation?</p> <p>14 A. Because of my situation.</p> <p>15 Q. What --</p> <p>16 A. The burn.</p> <p>17 Q. What prevent Adam, who was not injured,</p> <p>18 from timely applying for a tax permit?</p> <p>19 A. Because I believe that -- I think -- I</p> <p>20 think because of this -- there was something with</p> <p>21 this. I'm telling you.</p> <p>22 Q. Well, Adam knew how to do it, right?</p> <p>23 A. Yes.</p> <p>24 Q. And Adam did not need your assistance in</p> <p>25 doing this, did he?</p>	<p style="text-align: right;">Page 257</p> <p>1 Q. And is it your testimony that you hired</p> <p>2 six people within a couple days?</p> <p>3 A. Yes.</p> <p>4 Q. Did Mr. Sadie do that?</p> <p>5 A. Yes. And -- that was me and -- me and</p> <p>6 him.</p> <p>7 Q. Well, you were in the hospital.</p> <p>8 A. After I would go -- I went there a couple</p> <p>9 days to check the people because, with my sleeves</p> <p>10 on, my parents would take me.</p> <p>11 Q. I see. So how long to train the</p> <p>12 employees to do their various jobs?</p> <p>13 A. I mean, usually it takes about a week,</p> <p>14 but on-the-job training. You don't have to -- you</p> <p>15 know, there's no special training and you don't</p> <p>16 have to do it ahead of time. Just on the job.</p> <p>17 Q. The employees -- the interviewing process</p> <p>18 could have started, obviously, in early June.</p> <p>19 There was nothing to prevent that from happening,</p> <p>20 right?</p> <p>21 A. Nope.</p> <p>22 Q. So why didn't the interviewing begin</p> <p>23 earlier so you could plan ahead and have the people</p> <p>24 hired and have the training done to open by July 1?</p> <p>25 A. Well, because we were -- I mean, our goal</p>

<p style="text-align: right;">Page 258</p> <p>1 was to open by July -- you know, the first week of  2 July, and we were doing -- the reason we hired them  3 a little later is because we didn't have to -- you  4 know, we didn't have to really waste any time. It  5 was just hire them, put them on the line, and let's  6 start rocking and rolling and open the restaurant.  7 Q. So if it takes a couple days to hire,  8 that takes you to at least June 28, and then a week  9 to train on the job?  10 A. On the job.  11 So while people are coming in, while you  12 have your -- you know, you have a couple of days  13 where you do a friends and family, you do a  14 couple -- you know, you do a trial -- a trial  15 experiment, you call it, or whatever, and you have  16 them train and that's it. And then you train them.  17 (Exhibit Number 15 was marked.)  18 BY MR. McMULLEN:  19 Q. Josh, I've handed you -- the court  20 reporter has handed you something called Campus  21 Cash?  22 A. Yes.  23 Q. Which I understand -- tell me if I'm  24 wrong -- that this was a program where UNLV  25 students could pay with -- have a different payment</p>	<p style="text-align: right;">Page 260</p> <p>1 have to.  2 Q. So this is dated -- apparently it's  3 the -- well, you tell me. I think it appears to be  4 an application to start the program. It's called a  5 merchant services agreement. It looks like  6 Mr. Sadie filled this out, including federal tax  7 ID, bank account, and so forth.  8 This is what is submitted to start  9 Fries N' Pies on that program?  10 A. Mm-hmm.  11 Q. Is that yes?  12 A. Yes, sir.  13 Q. It looks like he signed it on July 5 of  14 2018, true?  15 A. Yes, sir.  16 Q. There's no reason he couldn't have done  17 that sooner, is there?  18 A. No. But like I just told you, we don't  19 have to have this, and we were deciding if we  20 wanted to have it or not because some -- you know,  21 some businesses around there have it, some people  22 don't. So you don't have to. It's not a -- it's  23 not like something you have to have or you can't  24 open the restaurant.  25 Q. What percentage of revenue did you</p>
<p style="text-align: right;">Page 259</p> <p>1 method to help them facilitate coming into the  2 restaurant; is that right?  3 A. Yes, sir.  4 Q. Is this something that a lot of  5 restaurants use that are near the campus?  6 A. Yes, sir.  7 Q. You're familiar with this?  8 A. Yes.  9 Q. Is this something that was part of the  10 business plan to facilitate revenue?  11 A. It was to facilitate revenue, but it  12 wasn't on a timely basis or anything. Like we  13 don't have to open with this.  14 Q. Why wouldn't you want it in place for  15 opening?  16 A. Oh, I mean, you would, but you don't have  17 to. That's all I'm saying. You don't have to.  18 It's not like you have to have a POS system -- you  19 have to have a POS system, you have to have Toast,  20 you have to have all these things to do it, but  21 this is something you don't have to have when you  22 first open. You can add it after.  23 Q. It's not required, but something you'd  24 want to do to maximize revenue?  25 A. Yeah, maximize revenue, but you don't</p>	<p style="text-align: right;">Page 261</p> <p>1 anticipate might be provided by UNLV students,  2 particularly if you help them with this program?  3 A. Maybe -- our max thought was 20 percent.  4 I don't even get -- maybe I get 5 percent. So at  5 the end of day -- and we were in decisions of this,  6 of if we should do it or if we should not do it.  7 Q. So just to summarize, there's a lot of  8 business decisions that are made, some of which are  9 necessary before you can open, and others which are  10 made to help the business maximize revenue, right?  11 A. Yes, sir.  12 Q. And that's what this Exhibit 15 would be,  13 to help maximize revenue?  14 A. Yes.  15 Q. Which is why you're in business?  16 A. Yes.  17 Q. And the longer you put that off, the less  18 revenue you're going to have from that particular  19 effort?  20 A. Yes.  21 Q. So to some extent, even if you had opened  22 on time, the timing of this application would  23 affect your revenue?  24 A. I mean, it would affect a little revenue,  25 but the other thing is you don't have any -- during</p>

<p style="text-align: right;">Page 262</p> <p>1 this time you don't have any students at UNLV. The</p> <p>2 students come in September. So that was another</p> <p>3 reason why we didn't have to do this right away.</p> <p>4 This was not an important thing that had to be done</p> <p>5 before we opened.</p> <p>6 <b>Q. UNLV doesn't have classes during the</b></p> <p>7 <b>summer?</b></p> <p>8 A. They have very little and it's lot of</p> <p>9 commuter traffic and lot of commuters, kids going</p> <p>10 to school. It's not -- you know, I don't even</p> <p>11 think the dorms are open during the summer.</p> <p>12 <b>Q. Do you know for a fact how much</b></p> <p>13 <b>difference it would make to have this in place</b></p> <p>14 <b>versus not?</b></p> <p>15 A. Minimal.</p> <p>16 <b>Q. But do you know what the numbers are?</b></p> <p>17 A. No. But, I mean, like I said before and</p> <p>18 like I just said, is that you only have -- you</p> <p>19 don't have a wide variety of students during the</p> <p>20 summer. So this paper during the summer would have</p> <p>21 nothing to do with -- technically, it would have</p> <p>22 nothing to do with our business. It started in</p> <p>23 September, and we were just getting it in place so</p> <p>24 people would be able to come to us if they have a</p> <p>25 UNLV card.</p>	<p style="text-align: right;">Page 264</p> <p>1 A. I mean, you have -- you have initial</p> <p>2 cleaning, where, you know, you clean the whole</p> <p>3 restaurant before you open.</p> <p>4 A lot of costs like -- like initial fees</p> <p>5 of like all your accounts, like, you know, your</p> <p>6 towels, your -- there's some of them you have to</p> <p>7 pay a deposit, you know. Your --</p> <p>8 <b>Q. Deposits on accounts?</b></p> <p>9 A. Yeah.</p> <p>10 Maintenance, you know, in case anything</p> <p>11 is breaking or you need to fix during the time</p> <p>12 that, you know, your --</p> <p>13 <b>Q. Your startup maintenance costs are</b></p> <p>14 <b>heavier?</b></p> <p>15 A. Yes. I mean, that's -- being able to pay</p> <p>16 your employees, you know, it's -- you're not -- you</p> <p>17 know, the first couple weeks are a little rough</p> <p>18 usually.</p> <p>19 But like for our situation, we opened</p> <p>20 like bat out of hells because Adam is in the</p> <p>21 nightlife business and I have a big following, so</p> <p>22 we opened and we did, you know, more than any</p> <p>23 average restaurant would do in the first month.</p> <p>24 <b>Q. So the initial labor cost is heavier?</b></p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 263</p> <p>1 <b>Q. When you open a new restaurant, do you</b></p> <p>2 <b>have startup expenses the first month or two that</b></p> <p>3 <b>you don't have after that?</b></p> <p>4 A. Yeah. I mean, your opening food order.</p> <p>5 You know, there is lot of things that are --</p> <p>6 <b>Q. Give me a list, if you would. What are</b></p> <p>7 <b>the startup expenses that are incurred the first</b></p> <p>8 <b>month or two that you don't have later for opening</b></p> <p>9 <b>a new restaurant?</b></p> <p>10 A. I mean, your opening food costs, your</p> <p>11 opening inventory. Your --</p> <p>12 <b>Q. What's the difference between -- when you</b></p> <p>13 <b>say "inventory" --</b></p> <p>14 A. Well, inventory is everything that you</p> <p>15 have to open the store.</p> <p>16 <b>Q. I see.</b></p> <p>17 A. So beer, wine, toilet paper, tissue</p> <p>18 paper.</p> <p>19 <b>Q. Everything besides food?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Got it.</b></p> <p>22 A. Even food.</p> <p>23 <b>Q. All right. What other opening costs</b></p> <p>24 <b>would you have that are significant that go away</b></p> <p>25 <b>over time?</b></p>	<p style="text-align: right;">Page 265</p> <p>1 <b>Q. Do you know, were there still bills owed</b></p> <p>2 <b>on the renovation work required?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. How long did it take to pay that off?</b></p> <p>5 A. Probably -- I don't know exact time.</p> <p>6 Six months.</p> <p>7 <b>Q. Any other categories that come to mind</b></p> <p>8 <b>where the startup costs would be heavier for your</b></p> <p>9 <b>expenses the first few months of operation?</b></p> <p>10 A. Not that I can think of.</p> <p>11 <b>Q. For any of those categories you just</b></p> <p>12 <b>named, opening food costs, inventory, cleaning,</b></p> <p>13 <b>deposits on accounts, maintenance, initial labor</b></p> <p>14 <b>cost, renovation work, do you know what those</b></p> <p>15 <b>numbers are for the first few months? Do you have</b></p> <p>16 <b>any records that would tell us?</b></p> <p>17 A. No.</p> <p>18 <b>Q. How about utilities? Do you know what</b></p> <p>19 <b>that was?</b></p> <p>20 A. How high the utilities were?</p> <p>21 <b>Q. Right.</b></p> <p>22 A. I don't. I mean, I know they were higher</p> <p>23 because we did have a -- or actually, no, they</p> <p>24 were -- we had an air-conditioning problem at the</p> <p>25 beginning, and it was -- it was a big issue with</p>

<p style="text-align: right;">Page 266</p> <p>1 air conditioning.</p> <p>2 Q. I can imagine. July in Las Vegas.</p> <p>3 A. It was crazy.</p> <p>4 Q. So that was a heavy cost during the first</p> <p>5 few months --</p> <p>6 A. Yeah. It was nuts.</p> <p>7 Q. -- to get that fixed?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Credit card fees you have to pay the</p> <p>10 credit card company?</p> <p>11 A. Yeah. But -- yeah, credit card fees.</p> <p>12 Q. So has anyone sat down and itemized all</p> <p>13 these expenses and how much they were the first</p> <p>14 month or two? Do you know?</p> <p>15 A. I'm pretty sure Adam does. Like I said</p> <p>16 to you, he's pretty organized and he has a lot of</p> <p>17 this stuff down. So I just have to ask him.</p> <p>18 Q. But you don't, as you sit here today --</p> <p>19 we've been over this -- you don't have those</p> <p>20 numbers?</p> <p>21 A. No.</p> <p>22 Q. You haven't done any calculations?</p> <p>23 A. No.</p> <p>24 Q. So as you sit here today, you're not able</p> <p>25 to tell me any basis for this \$50,000 lost revenue?</p>	<p style="text-align: right;">Page 268</p> <p>1 accident, and you said that you don't currently</p> <p>2 know of any future care required.</p> <p>3 Is that still true?</p> <p>4 A. Yeah, besides the -- besides the</p> <p>5 psychological.</p> <p>6 Q. Which we don't know the answer on that</p> <p>7 yet; you're waiting?</p> <p>8 A. Correct.</p> <p>9 Q. So as you sit here today, no medical</p> <p>10 professional has recommended any future care as a</p> <p>11 result of this accident; is that true?</p> <p>12 A. Correct.</p> <p>13 Q. You listed a number of people in response</p> <p>14 to interrogatories who you say have knowledge about</p> <p>15 your condition from this accident. Of course your</p> <p>16 parents, Mr. Sadie, Lauren Unger. You also listed</p> <p>17 Mr. Gonzales and his wife.</p> <p>18 Do you keep in contact with them since</p> <p>19 this accident?</p> <p>20 A. Yeah. I've talked to him.</p> <p>21 Q. Have you been over to his house?</p> <p>22 A. Yes. We don't talk anything about this</p> <p>23 case or nothing that comes up with it.</p> <p>24 Q. Do you talk to him about how you're</p> <p>25 doing?</p>
<p style="text-align: right;">Page 267</p> <p>1 A. I could tell you based on the revenue</p> <p>2 that I did in August. That's what I could tell</p> <p>3 you, is how much I did in revenue in August. And</p> <p>4 based on that, that's what I'm telling you I</p> <p>5 missed.</p> <p>6 Q. Well, we went through that before and you</p> <p>7 told me you would need to know the profit and you</p> <p>8 don't know what the expenses were in August,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. So you don't know what the profit was in</p> <p>12 August?</p> <p>13 A. Correct.</p> <p>14 Q. So is there anyone that can furnish me</p> <p>15 with the numbers to support \$50,000 or whatever the</p> <p>16 number might be that you're claiming?</p> <p>17 Would that be Mr. Sadie?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know for a fact that he has all</p> <p>20 that information?</p> <p>21 A. I don't. I would have to ask him.</p> <p>22 Q. In interrogatories -- sorry to jump back</p> <p>23 for a second -- on medical, we asked you if you</p> <p>24 were aware or are you claiming that any future</p> <p>25 medical care will be needed as a result of this</p>	<p style="text-align: right;">Page 269</p> <p>1 A. In relative. Not based on what happened,</p> <p>2 no.</p> <p>3 Q. Dave Goodman in La Jolla?</p> <p>4 A. Yes?</p> <p>5 Q. How do you know him?</p> <p>6 A. Best friend.</p> <p>7 Q. For how long?</p> <p>8 A. Since I'm twenty years old. Eighteen</p> <p>9 years.</p> <p>10 Q. How often do you see him?</p> <p>11 A. I don't see him that much. I talk to him</p> <p>12 most likely every day.</p> <p>13 Q. On the phone?</p> <p>14 A. Yes.</p> <p>15 Q. Daily?</p> <p>16 A. Yes.</p> <p>17 Q. Would he have knowledge about how you're</p> <p>18 doing based on those phone calls?</p> <p>19 A. Yes.</p> <p>20 Q. How about Andrea Schuman?</p> <p>21 A. My aunt.</p> <p>22 Q. She's in New York?</p> <p>23 A. Yes.</p> <p>24 Q. How often do you talk to her?</p> <p>25 A. Once or -- once a week, once every other</p>

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1 week.

2 Q. So based on those phone calls, she'd have

3 some knowledge how you're doing?

4 A. Yes.

5 Q. So I just want to go through as quickly

6 as I can some text messages that I think shed light

7 on how you're doing and a few other issues, and the

8 easiest way to get through it is just in a packet,

9 so let's mark this.

10 (Exhibit Number 16 was marked.)

11 MR. GOLDSTEIN: Can we take a quick

12 five-minute break?

13 MR. McMULLEN: Sure. He wants a break,

14 so we'll take five minutes.

15 THE VIDEOGRAPHER: The time is

16 approximately 4:30 p.m. We're off the record.

17 (Recess had.)

18 THE VIDEOGRAPHER: We are back on the

19 record. The time is 4:43 p.m.

20 MR. McMULLEN: This is just to make a

21 record that we've decided because the witness has

22 got to leave for his work -- we're not entirely

23 sure, but there may only be an hour left under the

24 seven-hour rule. There's three other parties who

25 haven't had a chance to ask questions.

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1 So we have decided to stop for the day.

2 I've got more to do, but I'll try and cut it back.

3 And the other parties may need to ask the Court for

4 more time; I don't know. But we're going to recess

5 the deposition for now with the idea that we will

6 come back later at mutually agreeable time.

7 Is that agreeable?

8 MR. AVAKIAN: Yes.

9 MR. PFAU: Yes.

10 MS. WINSPEAR: Yes. Thank you.

11 MR. McMULLEN: Thank you.

12 THE VIDEOGRAPHER: This concludes today's

13 portion of Joshua Green's deposition. The time is

14 approximately 4:44 p.m. We're off the record.

15 (Whereupon, the deposition was adjourned

16 at 4:44 p.m. this date.)

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1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA )

3 ) SS:

4 COUNTY OF CLARK )

5

6 I, Monice K. Campbell, a duly

7 commissioned and licensed court reporter, Clark

8 County, State of Nevada, do hereby certify: That I

9 reported the taking of the deposition of the

10 witness, JOSHUA GREEN, commencing on Monday,

11 MAY 18, 2020, at 9:36 a.m.;

12

13 That prior to being examined, the witness

14 was, by me, duly sworn to testify to the truth.

15 That I thereafter transcribed my said shorthand

16 notes into typewriting and that the typewritten

17 transcript of said deposition is a complete, true,

18 and accurate transcription of said shorthand notes.

19

20 I further certify that I am not a relative or

21 employee of an attorney or counsel or any of the

22 parties, nor a relative or employee of an attorney or

23 counsel involved in said action, nor a person

24 financially interested in the action; that a request

25 has not been made to review the transcript.


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1 IN WITNESS THEREOF, I have hereunto set my hand

2 in my office in the County of Clark, State of Nevada,

3 this 28th day of May, 2020.

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Monice K. Campbell, CCR No. 312

# **EXHIBIT "2"**

**Video Provided via  
Dropbox**

# **EXHIBIT “3”**



**In the Matter Of:**  
A-19-795381-C  
GREEN  
vs  
FERRELLGAS, INC. et al.

---

**Videotaped Deposition Of:**  
*JOSHUA GREEN, VOLUME II*  
*June 29, 2020*

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702-805-4800  
scheduling@envision.legal

DISTRICT COURT

CLARK COUNTY, NEVADA

JOSHUA GREEN, an )  
individual, )  
 )  
Plaintiff, ) Case No.: A-19-795381-C  
 ) Dept. No.: C  
vs. )  
 )  
FERRELLGAS, INC., a foreign )  
corporation; MARIO S. )  
GONZALEZ, an individual; )  
CARL J. KLEISNER, an )  
individual; DOES I through )  
XXX, inclusive, and ROES )  
BUSINESS ENTITIES I through )  
XXX, inclusive, )  
 )  
Defendants. )  
 )  
 )  
AND ALL RELATED ACTIONS. )  
 )

VOLUME II

VIDEOTAPED DEPOSITION OF JOSHUA GREEN

LAS VEGAS, NEVADA

MONDAY, JUNE 29, 2020

Reported by: Monice K. Campbell, NV CCR No. 312

Job No.: 4472

Page 275	Page 277
<p>1 VIDEOTAPED DEPOSITION OF JOSHUA GREEN, held at  2 Envision Legal Solutions, located at 700 South 3rd  3 Street, Las Vegas, Nevada, on Monday, June 29, 2020,  4 at 8:38 a.m., before Monice K. Campbell, Certified  5 Court Reporter, in and for the State of Nevada.  6  7 APPEARANCES:  8 For the Plaintiff, Joshua Green:  9 MATT PFAU LAW GROUP  10 BY: MATTHEW G. PFAU, ESQ.  11 3041 West Horizon Ridge Pkwy, Suite 135  12 Henderson, Nevada 89052  13 702.605.5500  14 matt@mattpfaulaw.com  15  16 For the Defendant Mario S. Gonzalez:  17 PYATT SILVESTRI  18 BY: STEVEN M. GOLDSTEIN, ESQ.  19 701 Bridger Avenue, Suite 600  20 Las Vegas, Nevada 89101  21 702.477.0088  22 sgoldstein@pyattsilvestri.com  23  24 For the Defendant Carl J. Kleisner:  25 DENNETT WINSPEAR, LLP  BY: GINA GILBERT WINSPEAR, ESQ.  3301 North Buffalo Drive, Suite 195  Las Vegas, Nevada 89129  702.839.1100  gwinspear@dennettwinspear.com</p>	<p>1 I N D E X  2 JOSHUA GREEN PAGE  3 Examination By Mr. McMullen 279  4 Examination By Ms. Winspear 317  5 Examination By Mr. Goldstein 322  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
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<p>1 APPEARANCES:  2 For the Defendant Home Depot U.S.A., Inc.:  3 LEWIS BRISBOIS  4 BY: MICAH MTATABIKWA-WALKER, ESQ.  5 6385 South Rainbow Boulevard, Suite 600  6 Las Vegas, Nevada 89118  7 702.693.4308  8 micah.walker@lewisbrisbois.com  9  10 For the Defendant Ferrellgas, Inc.:  11 BAKER, STERCHI, COWDEN &amp; RICE, LLC  12 BY: MICHAEL C. McMULLEN, ESQ.  13 2500 Pershing Road, Suite 500  14 Kansas City, Missouri 64108  15 816.474.2121  16 mmcmullen@bscr-law.com  17  18 Also Present:  19 JORDAN LEADS, VIDEOGRAPHER  20  21  22  23  24  25</p>	<p>1 * * * * *  2 LAS VEGAS, NEVADA; MONDAY, JUNE 29, 2020  3 8:38 A.M.  4 * * * * *  5 THE VIDEOGRAPHER: This begins the  6 video-recorded deposition of Josh Green, Volume II,  7 in the matter entitled Green v. Ferrellgas,  8 Incorporated, et al., Case Number A-19-795381-C.  9 We're at 700 South 3rd Street, Las Vegas,  10 Nevada. Today's date is Monday, June 29th of  11 2020, and the time is approximately 8:38 a.m.  12 I am the videographer, Jordan Leads. The  13 court reporter is Monice Campbell with Envision.  14 Will counsel please identify yourselves  15 and then the reporter will administer the oath.  16 MR. McMULLEN: Mike McMullen for  17 Defendant Ferrellgas.  18 MS. WINSPEAR: Gina Winspear for  19 Defendant Carl Kleisner.  20 MR. WALKER: Mike Walker for third-party  21 Defendant Home Depot.  22 MR. GOLDSTEIN: Steve Goldstein for  23 Defendant Mario Gonzalez.  24 MR. PFAU: Matt Pfau for Plaintiff,  25 Josh Green.</p>

<p style="text-align: right;">Page 279</p> <p>1 Whereupon,</p> <p>2 JOSHUA GREEN,</p> <p>3 having been sworn to testify to the truth, the whole</p> <p>4 truth, and nothing but the truth, was examined and</p> <p>5 testified under oath as follows:</p> <p>6</p> <p>7 EXAMINATION</p> <p>8 BY MR. McMULLEN:</p> <p>9 Q. Good morning.</p> <p>10 A. Good morning.</p> <p>11 Q. How are you, Josh?</p> <p>12 A. Good.</p> <p>13 Q. How are you feeling today?</p> <p>14 A. Good. Itchy hands, but good.</p> <p>15 Q. Do you feel like you can complete your</p> <p>16 deposition today? And by that I mean, is there</p> <p>17 anything that might interfere with your ability to</p> <p>18 do so?</p> <p>19 A. No.</p> <p>20 Q. So you do feel like you can continue?</p> <p>21 A. Yes. I can continue.</p> <p>22 Q. All right. Thanks.</p> <p>23 I just have a few things and then I'm</p> <p>24 going to pass the witness to other counsel.</p> <p>25 Last time we talked about your work</p>	<p style="text-align: right;">Page 281</p> <p>1 to any learning disability problems?</p> <p>2 A. No.</p> <p>3 Q. You testified that the first six months</p> <p>4 after the accident that your mother helped with you</p> <p>5 with daily activities such as eating, bathing, and</p> <p>6 driving while your hands and arms were healing; is</p> <p>7 that true?</p> <p>8 A. Yes.</p> <p>9 Q. You testified by October '18 -- sorry, by</p> <p>10 October of 2018, that by then you were able to</p> <p>11 return to work full time as a chef cooking in the</p> <p>12 kitchen; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And did that include using gas grills in</p> <p>15 the kitchen?</p> <p>16 A. I haven't used a gas grill or a propane</p> <p>17 grill since the accident.</p> <p>18 Q. You've not used any gas grill at all</p> <p>19 since the time of the accident?</p> <p>20 A. No.</p> <p>21 Q. And that gets into psychological issues</p> <p>22 where you are fearful of using a gas grill; is that</p> <p>23 right?</p> <p>24 A. Yes. It happened once. It can happen</p> <p>25 again.</p>
<p style="text-align: right;">Page 280</p> <p>1 issues, and you testified that long before this</p> <p>2 grill accident, you had epileptic seizures. I</p> <p>3 think you said those began when you were working at</p> <p>4 SkinnyFATS; is that right?</p> <p>5 A. It began before that, but yes.</p> <p>6 Q. And you testified at least initially that</p> <p>7 the seizures reduced your work hours, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then if I understand, once you</p> <p>10 treated those seizures with medical marijuana, it</p> <p>11 has been several years since you've had any</p> <p>12 seizures; is that true?</p> <p>13 A. Yes.</p> <p>14 Q. So am I correct that you no longer have</p> <p>15 any reduction in your work hours due to seizures?</p> <p>16 A. Yes.</p> <p>17 Q. You also testified about at a very young</p> <p>18 age, at least at that time, a learning disability;</p> <p>19 is that right?</p> <p>20 A. Yes.</p> <p>21 Q. Are there any current continuing issues</p> <p>22 that you relate to that learning disability that</p> <p>23 interfere with your work?</p> <p>24 A. No.</p> <p>25 Q. So there's no reduction in work hours due</p>	<p style="text-align: right;">Page 282</p> <p>1 Q. Other than the psychological issue which</p> <p>2 I'll get into in a moment, according to your prior</p> <p>3 testimony, the only remaining problem that you're</p> <p>4 facing that you relate to the accident is</p> <p>5 temperature extremes on your hands; is that true?</p> <p>6 A. Yes.</p> <p>7 Q. So let's talk about the psychological</p> <p>8 issue briefly.</p> <p>9 You testified last time that -- that was</p> <p>10 May 18, I believe, that the Friday before we</p> <p>11 started your deposition, which would be May 15,</p> <p>12 that you saw a -- is it psychologist or</p> <p>13 psychiatrist?</p> <p>14 A. Psychologist.</p> <p>15 Q. Is that Michael Elliott?</p> <p>16 A. Yes.</p> <p>17 Q. You saw psychologist Michael Elliott for</p> <p>18 an evaluation on May 15?</p> <p>19 A. Yes.</p> <p>20 Q. Have you heard from him on the results of</p> <p>21 his evaluation?</p> <p>22 A. Yes. I have another appointment with him</p> <p>23 on July 1st.</p> <p>24 Q. Can you tell us what results he reported</p> <p>25 to you from his evaluation?</p>

<p style="text-align: right;">Page 283</p> <p>1 A. We didn't really go into too much of it.</p> <p>2 They said we were going to go over stuff on the</p> <p>3 1st. Just told me that I had -- from his findings,</p> <p>4 that I -- that I have PTSD on the situation, and</p> <p>5 that, you know, me working on grills or anything</p> <p>6 that has to do with potential fire, it definitely</p> <p>7 has a play on it.</p> <p>8 And, I mean, his whole thing is that he</p> <p>9 definitely thinks that there's trauma due to the</p> <p>10 incident.</p> <p>11 Q. Did he specifically diagnose you with</p> <p>12 PTSD as a result of this grill accident?</p> <p>13 A. I mean, he told me that he feels that it</p> <p>14 can and then that's why they're doing more tests</p> <p>15 and they're doing more -- that's why we're having</p> <p>16 more meetings and more sessions.</p> <p>17 Q. So if I understand, is his evaluation</p> <p>18 continuing or has he completed his --</p> <p>19 A. No. It's continuing.</p> <p>20 Q. So at this point he said it's a</p> <p>21 possibility that you have PTSD from this accident</p> <p>22 but that more evaluation is needed; is that true?</p> <p>23 A. Yes, and going more into a detailed</p> <p>24 psychological session, and that's what we're going</p> <p>25 on July 1st.</p>	<p style="text-align: right;">Page 285</p> <p>1 A. No.</p> <p>2 Q. Do you know what future tests he has in</p> <p>3 mind?</p> <p>4 A. No.</p> <p>5 Q. But some kind of testing you understand</p> <p>6 is slated for the next visit?</p> <p>7 A. Yes.</p> <p>8 Q. And that's on July 1?</p> <p>9 A. Yes.</p> <p>10 Q. Did you get any paperwork from him, any</p> <p>11 kind of report or test results from when you saw</p> <p>12 him on May 15?</p> <p>13 A. I believe everything was given to my</p> <p>14 lawyer.</p> <p>15 Q. Okay. Have you seen it?</p> <p>16 A. No.</p> <p>17 Q. Forgive me if I covered this before.</p> <p>18 Had you ever been diagnosed with PTSD</p> <p>19 before this accident?</p> <p>20 A. No.</p> <p>21 Q. Have you ever had any traumatic event</p> <p>22 before this accident that required any kind of</p> <p>23 professional care?</p> <p>24 A. No. I mean, I had a bad car accident,</p> <p>25 but I never had -- you know, I never had anything</p>
<p style="text-align: right;">Page 284</p> <p>1 Q. Did you do any testing on May 15 with</p> <p>2 Michael Elliott?</p> <p>3 A. Yes.</p> <p>4 Q. What kind of testing?</p> <p>5 A. I went in front of a computer and</p> <p>6 answered a bunch of questions.</p> <p>7 Q. Do you happen to know the name of that</p> <p>8 test, what it's called?</p> <p>9 A. No. I think it was like a Pearson's test</p> <p>10 or some straightforward test.</p> <p>11 Q. Do you recall how many questions were</p> <p>12 involved?</p> <p>13 A. Like 200. I don't even -- it was a lot.</p> <p>14 Q. How long did it take?</p> <p>15 A. Like two and a half hours, two hours.</p> <p>16 Q. Was it a multiple choice or an essay</p> <p>17 type?</p> <p>18 A. Multiple choice.</p> <p>19 Q. So you're given a question and then you</p> <p>20 have, what, three or four possible answers and you</p> <p>21 pick one of those?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall any other type of testing</p> <p>24 that you took on May 15 when you saw Michael</p> <p>25 Elliott for psychological evaluation?</p>	<p style="text-align: right;">Page 286</p> <p>1 from it.</p> <p>2 Q. You were seeing Lauren Unger, a shaman in</p> <p>3 Miami?</p> <p>4 A. Mm-hmm.</p> <p>5 Q. And what specifically were you seeing her</p> <p>6 for?</p> <p>7 A. I was seeing her for -- I've had a lot of</p> <p>8 businesses and I was, you know, taken advantage of</p> <p>9 in a couple ways. And I saw her because I was</p> <p>10 super negative in my life and saw a lot of things</p> <p>11 going in a negative spiral. So I went to her to</p> <p>12 fix -- to fix things and going into a better</p> <p>13 direction, positive and -- you know, kind of fix my</p> <p>14 life in different ways.</p> <p>15 Q. And that had to do in part, I think, from</p> <p>16 what you testified before, with what happened with</p> <p>17 Green Gourmet and SkinnyFATS?</p> <p>18 A. Yes.</p> <p>19 Q. That was a negative impact?</p> <p>20 A. Yes.</p> <p>21 Q. Psychologically?</p> <p>22 A. Yes. I mean, everything.</p> <p>23 Q. Right.</p> <p>24 Do you feel that you had recovered from</p> <p>25 that negative psychological impact, what happened</p>

<p style="text-align: right;">Page 287</p> <p>1 with those businesses, before this accident  2 happened?  3 A. Yes. Because I -- I mean, after going to  4 her, I felt that I was a different -- I was a  5 different person, and I just felt in a more  6 positive attitude towards things and not as  7 negative.  8 Q. By the way, I'm sure I'm mistaken, but  9 Lauren Unger is not now your wife? Is it a  10 different Lauren?  11 A. Yes.  12 Q. Lauren Unger is still in Miami somewhere?  13 A. Yes. I still talk to her.  14 Q. How often do you talk to her?  15 A. Whenever I need to, but usually like  16 once -- I touch base once every two weeks.  17 Q. What do you talk about generally?  18 A. Just what's going on, my well-being, how  19 I'm doing, how, you know, my path is going.  20 Q. Do you talk to Lauren Unger specifically  21 about your psychological issues from this accident?  22 A. I mean, we've had discussions about it,  23 yes.  24 Q. Is she someone that provides therapy for  25 you on that?</p>	<p style="text-align: right;">Page 289</p> <p>1 relevant. It is relevant. It's privileged because  2 it is a treating person, a person providing medical  3 treatment or psychological treatment. So for that  4 reason, it is subject to the patient privilege.  5 MR. McMULLEN: In Nevada is the privilege  6 not waived once the plaintiff puts the condition in  7 issue? That's been my experience.  8 MR. PFAU: No, it's not waived. It's not  9 waived as it relates to communications.  10 MR. McMULLEN: So if I had medical  11 records or some notes that she made when she  12 provides therapy to him, clearly those would be  13 discoverable and I could ask him about those.  14 MR. PFAU: Certainly.  15 MR. McMULLEN: And that's along the lines  16 what I'm asking now, whether she's provided him any  17 assistance or help, advice, with his psychological  18 issues.  19 MR. PFAU: Okay. That's fine.  20 BY MR. McMULLEN:  21 Q. Has Lauren Unger provided you with any  22 care, therapy-type care, in relation to this  23 accident?  24 A. Just like I said before, just normal --  25 just conversations and we talk about -- we do talk</p>
<p style="text-align: right;">Page 288</p> <p>1 A. I mean, she gives me the advice from  2 her -- from her side, and, you know, it's not  3 really -- I wouldn't say "therapy," but it's more  4 of talks and conversations of making myself better.  5 Q. Is that the main reason you still have  6 contact with her, or are you mainly talking about  7 other things?  8 A. I mean, we talk about everything. I  9 mean, we have conversations about this accident,  10 about everything.  11 Q. You talk to her about your general  12 well-being?  13 A. Yes.  14 Q. Has she given you any advice regarding  15 your psychological issues from this accident?  16 MR. PFAU: I'm going to object to the  17 question as it calls for privileged communications.  18 He can answer as long as it's not related to  19 anything she may have said to him.  20 MR. McMULLEN: I'm not sure I understand  21 the nature of the privilege. He's put his  22 psychological condition at issue, so if he's  23 getting any kind of professional care, that's now  24 become relevant.  25 MR. PFAU: It's not that it's not</p>	<p style="text-align: right;">Page 290</p> <p>1 about the incident. We talk about what happened,  2 how I'm doing, and you know, the situation -- how  3 I'm handling it, how I'm going through it. And  4 that's really the basis of it.  5 Q. In the course of the care or therapy that  6 Lauren Unger has provided you, has she given you  7 any specific advice to help with your psychological  8 issues?  9 A. No. She just said to go to a more  10 detailed psychological treatment and that's why I  11 went to Michael Elliott.  12 Q. I see.  13 A. The conversations that we have are more  14 of a -- about my attitude, my ways of how I'm  15 dealing with all the situations that come into my  16 life, and how I'm making my life better.  17 Q. How is your attitude and outlook now?  18 How would you describe your psychological state?  19 A. I mean, everything -- it's been good,  20 but, I mean, a lot of -- like I said before, a lot  21 of this incident just made me -- hindered a lot of  22 things that I would have done before.  23 I was -- I never was ever in fear of  24 equipment. Now I have fear of equipment. I have  25 fear of grills. I mean, I -- you know, I do cook</p>

<p style="text-align: right;">Page 291</p> <p>1 on a normal basis, but it's always like -- I used 2 to work 16-, 17-hour days. I don't do that 3 anymore.</p> <p>4 I probably work -- I mean, right now I 5 work at a pizza place. It's called Fries N' Pies. 6 I work there four or five hours a day and that's 7 it. And then I go do a personal chef thing for a 8 couple hours. It's very minimal work in the 9 kitchen.</p> <p>10 When I used to work at SkinnyFATS, I 11 worked 16 hours a day. So it's a totally different 12 situation.</p> <p>13 <b>Q. Are you saying you work fewer hours 14 because you're afraid of being in a cooking 15 environment?</b></p> <p>16 A. Yeah. That and -- I mean, I've got real 17 bad sensitivity on my hands. My hands have been 18 itching in the past two -- two months, month. I 19 mean, I get out of the shower and if it's cold 20 outside, like, I have to be extremely dry in the 21 shower, because if I go out and it's cold, my hands 22 get extremely sensitive.</p> <p>23 I have been having issues of itching on 24 my hands. Maybe that's the healing process or 25 whatever. But my hands are extremely tight. The</p>	<p style="text-align: right;">Page 293</p> <p>1 A. I mean, every doctor I have been to just 2 says put cream and kind of wait it out and see if 3 it's going to get better. They all tell me it's 4 going to get better and it's just a waiting 5 process.</p> <p>6 <b>Q. Is it getting any better?</b></p> <p>7 A. I mean, like I didn't have itching issues 8 until, you know, the past two months. And that's 9 just -- maybe that -- like I said, maybe that's the 10 healing process or maybe it's just a sensitivity 11 issue, but that's...</p> <p>12 <b>Q. Have you talked to any medical person 13 about these issues?</b></p> <p>14 A. I did go to a skin, and they tell me the 15 same -- you know, they tell me the same things, put 16 lotion, keep an eye on it, make sure, you know, if 17 you have any other issues, come back and see us.</p> <p>18 And that's really it.</p> <p>19 <b>Q. Was this a dermatologist in Henderson you 20 told me about last time?</b></p> <p>21 A. It was that one and then there was 22 another one.</p> <p>23 <b>Q. When was the last time you talked to any 24 professional about this?</b></p> <p>25 A. I don't really have exact memory, but I</p>
<p style="text-align: right;">Page 292</p> <p>1 skin is extremely tight. I get cuts all the time. 2 You can see blisters from cuts. I mean, it's 3 blisters.</p> <p>4 I mean, it's crazy. And it's on a 5 continuous basis.</p> <p>6 MR. McMULLEN: Would you be okay if he 7 holds his hands up for the video so we can see his 8 hands?</p> <p>9 MR. PFAU: Sure.</p> <p>10 BY MR. McMULLEN:</p> <p>11 <b>Q. Show us, if you would, where the blisters 12 and the itching occur.</b></p> <p>13 A. Blister here, blister here (indicating).</p> <p>14 <b>Q. Go like this so they can see.</b></p> <p>15 <b>Thank you.</b></p> <p>16 A. Blister here. Scar here. Or like my 17 palms get scraped very easily. I got a blister 18 here. And it's just a continual basis of...</p> <p>19 <b>Q. So specifically regarding your hands, I'm 20 understanding that you have itching, you have 21 blisters, and you have scrapes?</b></p> <p>22 A. Yeah, and sensitivity issues.</p> <p>23 <b>Q. And sensitivity.</b></p> <p>24 <b>What are you doing to treat those 25 problems, if anything?</b></p>	<p style="text-align: right;">Page 294</p> <p>1 could say March or April, in those months.</p> <p>2 <b>Q. Who was that, if you remember?</b></p> <p>3 A. I don't. I don't remember the name. I 4 know where it was, but I don't remember the name.</p> <p>5 <b>Q. And you got the advice about using 6 lotion?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. Do you use lotion?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. What kind of lotion is it?</b></p> <p>11 A. It's a -- a derma -- a derma -- I don't 12 know exactly what it's called.</p> <p>13 <b>Q. Is it over the counter or prescription?</b></p> <p>14 A. Prescription.</p> <p>15 <b>Q. Who prescribed it?</b></p> <p>16 A. Every dermatologist that I went to 17 prescribed the same thing, and it's \$75 bottle of 18 cream that --</p> <p>19 <b>Q. Does it help?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Have you told your health care people 22 this lotion isn't helping?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. Do they have any advice?</b></p> <p>25 A. Same thing when I went to the person I</p>

<p style="text-align: right;">Page 295</p> <p>1 said, I use this already, and they said just keep 2 using it. That's really it. 3 And then they say that it's going to -- 4 you know, the sensitivity issues should go away and 5 it hasn't. And to be honest with you, I don't 6 think it will because it just gets worse. Me 7 grabbing something from the freezer, me grabbing a 8 hot cup of coffee -- you know, like I said last 9 time, if I grab a hot cup of coffee without a 10 jacket on it, you know, it burns. 11 Q. So I appreciate your patience with my 12 detailed questions. I'm trying to get a very 13 thorough understanding of the issues you still have 14 from this accident. 15 I understand physically, with regard to 16 your hands, you told me about sensitivity to 17 temperature, itching, blisters, scrapes, and then 18 you've told me psychologically you have a fear of 19 using grills. 20 A. Mm-hmm. 21 Q. Is there anything else that's continuing 22 from this accident that you claim today? 23 A. I mean, I have headaches on a continual 24 basis. I mean, that is -- I believe it's from the 25 blow and like it just -- it's never stopped since</p>	<p style="text-align: right;">Page 297</p> <p>1 I think you told me before -- 2 A. Yeah, Tylenol, like I said, and CBD and 3 marijuana. 4 Q. Anything else? 5 A. No, not right now. 6 Q. Have you spoken to any healthcare 7 professional and said, Hey, I need to do something 8 more, or are those things working? 9 A. They work. I mean, it hasn't got to a 10 point where it's not working, so I just keep on -- 11 on that system. 12 Q. A little bit more about the PTSD. The 13 symptoms of your PTSD you've told me are fear of 14 using grills, fear of other equipment. 15 What other equipment besides grills are 16 you fearful of using because you relate that to 17 this accident? 18 A. Any -- you know, like I told you last 19 time, I do catering. So with catering, you hook up 20 ovens. You hook up different things that have 21 propane. So I don't really use -- I haven't used 22 any propane since this accident and I don't think I 23 ever will. 24 I mean, that's the thing of it. The 25 propane, the explosion was so traumatic to the</p>
<p style="text-align: right;">Page 296</p> <p>1 that accident. I've always had continuous 2 headaches. That's one of the reasons why I smoke 3 weed, is because of that. 4 And the headaches get so painful, 5 sometimes I -- you know, if you do look at my 6 medical record, I had a problem with headaches and 7 then it kind of got resolved, and then after this 8 accident I've had massive headaches all the time. 9 Q. I asked you last time -- and maybe I 10 misunderstood or maybe the answer has changed -- if 11 any healthcare professional has told you that your 12 headaches today are likely the result of this 13 accident. And I thought you said no one has, but 14 is that mistaken? 15 A. No. Like I said, I said that I get 16 headaches and I believe that it's from that. I 17 haven't been to a -- I mean, I went to, you know, 18 the specific individuals that I went to, but no one 19 has said exactly from the accident. 20 But I -- you know, like I said before, I 21 went through treatment for the headaches, 22 everything was good, and then after this accident 23 had numerous amounts of more headaches. 24 Q. Are you getting any treatment today for 25 your headaches other than over-the-counter Tylenol</p>	<p style="text-align: right;">Page 298</p> <p>1 point where it's like, you know, it blew me back 2 and I -- you know, if I didn't jump in the 3 sprinkler, I might have had a lot more, you know, 4 damages. But because of my, you know, ability of 5 reacting, I put myself in water, you know, in a 6 sprinkler, and put out the fire. 7 And then as soon as I -- as soon as the 8 fire went out, I looked at my hands and I said "I'm 9 never going to be able to cook again." So -- 10 Q. Do you have any PTSD symptoms, in your 11 opinion, other than what you've told me? Are you 12 fearful of using propane? 13 A. Yep. I mean, I'm fearful of using 14 propane. I'm fearful of using grills. I'm afraid 15 of fire. I mean, I went to O, a show at the 16 Bellagio, with my boss, and I was sitting there and 17 there was a guy on fire and I was like, "Oh, look. 18 It's me." You know, anything that I see that has 19 to do with a guy on fire or, you know, any of that, 20 it brings back the memories. 21 And that's the biggest thing, is that 22 it's always -- I'm always being -- you know, I'm 23 always remembering the situation because it was so 24 dramatic and the fact where I was in the hospital a 25 while. I was in a lot of treatment with them</p>



<p style="text-align: right;">Page 299</p> <p>1 ripping off my bandages and just like the whole  2 process was extremely emotional and devastating to  3 everything that I've done after the accident.  4 <b>Q. So if you see fire, that brings back</b>  5 <b>these bad memories?</b>  6 A. Yes.  7 <b>Q. Anything else regarding PTSD?</b>  8 A. I mean, the biggest thing is that, like I  9 said before -- and I don't really -- you know, if  10 this does pertain to PTSD, it's just the fact where  11 before I was able to do a lot more things in the  12 kitchen, a lot more things at work, a lot more  13 things in my life, and now it's hindered a lot of  14 things, to make me think about doing things either  15 differently or things that I, you know, react.  16 I react kind of just -- I think about  17 things before I do it, where before I would just,  18 oh, turn on a grill and I wouldn't even think about  19 it, or I would -- you know. So a lot of that stuff  20 has to do with the posttraumatic syndrome of having  21 to deal with -- you know, of what happened.  22 <b>Q. So you told me before that you're less</b>  23 <b>social, you're more withdrawn?</b>  24 A. Yeah.  25 <b>Q. With regard to working in the kitchen,</b></p>	<p style="text-align: right;">Page 301</p> <p>1 A. I mean, I think we've covered most of it.  2 I just, you know -- yeah.  3 <b>Q. All right. So I wanted to ask you</b>  4 <b>briefly about Green's Gourmet and SkinnyFATS. You</b>  5 <b>testified before that Green's Gourmet -- which, by</b>  6 <b>the way, is that greens like we eat greens or is</b>  7 <b>that you, Green?</b>  8 A. Me.  9 <b>Q. So it's Josh Green's Gourmet?</b>  10 A. Yes.  11 <b>Q. That was a personal chef catering</b>  12 <b>business that you with started with someone named</b>  13 <b>Demetri and an investor, correct?</b>  14 A. Yes.  15 <b>Q. What's Demetri's last name?</b>  16 A. Townsend.  17 <b>Q. I'm sorry?</b>  18 A. Townsend. T-o-w-n-s-e-n-d, I believe.  19 <b>Q. And who was the investor?</b>  20 A. Tony Clark.  21 <b>Q. Is Green's Gourmet still in business?</b>  22 A. No.  23 <b>Q. Where is Demetri Townsend today, if you</b>  24 <b>know?</b>  25 A. I don't know.</p>
<p style="text-align: right;">Page 300</p> <p>1 <b>you do still cook in the kitchen, true?</b>  2 A. Yes, but very little.  3 <b>Q. So what equipment do you use now that you</b>  4 <b>didn't use before?</b>  5 A. I mean, I use a flat top grill, which is  6 a controlled gas grill, you know, that -- you know,  7 yes, anything can happen, but it's pretty  8 controlled. So, you know, if there's -- if there's  9 a gas problem, I'm going to smell it or I'm going  10 to know about it before it goes into the grill.  11 And then I use fryers on a daily basis.  12 <b>Q. So the gas equipment that you use would</b>  13 <b>be a flat top or a fryer, but am I correct that</b>  14 <b>it's not propane that you're using?</b>  15 A. No.  16 <b>Q. It's natural gas?</b>  17 A. Yes. I will never use propane again. I  18 mean, that's just -- and that's, you know, part of  19 the PTSD. That's part of a lot of, you know, the  20 thinking process of using propane after this  21 incident -- accident.  22 <b>Q. Anything else you can think of that you</b>  23 <b>can't do or you don't do like you did before or</b>  24 <b>other symptoms you relate to PTSD, or have we</b>  25 <b>covered it?</b></p>	<p style="text-align: right;">Page 302</p> <p>1 <b>Q. The last time you knew where he was,</b>  2 <b>where was he?</b>  3 A. Las Vegas. But I haven't talked to him  4 since.  5 <b>Q. How about Tony Clark?</b>  6 A. No.  7 <b>Q. You did testify -- the words you used</b>  8 <b>were that they sideswiped you, that they, quote,</b>  9 <b>"pushed you out of the company."</b>  10 <b>What happened?</b>  11 A. I went to work for a big fighter in Miami  12 and LA, and while I was doing that, they were doing  13 things behind my back in the business.  14 And when I came back, we were -- we were  15 having a talk, and they said that because I was  16 doing personal chef stuff and other things, that  17 they didn't think I was, you know, putting all  18 the -- and I started the business. So they were --  19 I wasn't putting as much effort or they were  20 running the business while I was doing this other  21 stuff. And it just led to problems.  22 And then they tried to start the aviation  23 company without me and they went -- and they were  24 done in three months.  25 <b>Q. Were you an investor yourself? Did you</b></p>

<p style="text-align: right;">Page 303</p> <p>1 have an ownership interest in Green's Gourmet?</p> <p>2 A. I was the owner. I was the sole owner.</p> <p>3 I've, you know, dealt with a lot of issues behind</p> <p>4 it. I was very young and I learned a lot of</p> <p>5 lessons from it. That's really what it comes down</p> <p>6 to.</p> <p>7 Q. So legally, if you were the sole owner of</p> <p>8 Green's Gourmet, how were they able to push you</p> <p>9 out?</p> <p>10 A. Because -- so -- I mean, I was the owner</p> <p>11 and I gave Demetri -- I gave him ownership. And</p> <p>12 then when I brought in the other investor, he</p> <p>13 brought in the accountants, he brought in</p> <p>14 everything, brought in the business aspects of it,</p> <p>15 and they used that talent to -- you know, in his</p> <p>16 business ways, to take control and force me out. I</p> <p>17 mean, that's really what it comes down to.</p> <p>18 Q. Was there a lawsuit over this?</p> <p>19 A. No.</p> <p>20 Q. Did they threaten to sue you?</p> <p>21 A. No. I mean, not to sue me, no.</p> <p>22 Q. Did you think about hiring a lawyer</p> <p>23 and --</p> <p>24 A. I didn't have the money to fight it.</p> <p>25 That's the same reason why SkinnyFATS -- I didn't</p>	<p style="text-align: right;">Page 305</p> <p>1 Q. And that was back in 2013 or 2014?</p> <p>2 A. 2013.</p> <p>3 Q. So you testified before that you had a</p> <p>4 falling out with Mr. Slobusky, that you had</p> <p>5 disagreements and you parted ways.</p> <p>6 What was the disagreement --</p> <p>7 A. I had a seizure, actually. I had a</p> <p>8 seizure on the line and I was in the hospital for a</p> <p>9 month after that. The doctor told him that I could</p> <p>10 not work on the line due to that.</p> <p>11 He said that I didn't -- I wasn't</p> <p>12 following my contractual obligations. And that's</p> <p>13 where he said he doesn't need me anymore, and if I</p> <p>14 wanted to take it up with anybody, that I could</p> <p>15 take it up with a lawyer.</p> <p>16 I spoke to a lawyer and, you know, we had</p> <p>17 a conversation, and he said that I could do it, but</p> <p>18 it's going to -- you know, it's the same thing I</p> <p>19 just told you. He would have eaten me alive.</p> <p>20 Q. Did you have an ownership interest in</p> <p>21 SkinnyFATS?</p> <p>22 A. That's part of the issue. I was supposed</p> <p>23 to. I was supposed to have 25 percent. I was</p> <p>24 supposed -- and then I had a contract for</p> <p>25 10 percent, signed it, and he never gave it to the</p>
<p style="text-align: right;">Page 304</p> <p>1 have money to fight it. I mean, that guy from</p> <p>2 SkinnyFATS would have eaten me alive because he</p> <p>3 would have spent as much money as possible. And</p> <p>4 that's exactly what happened.</p> <p>5 Q. So when we talk about SkinnyFATS, is that</p> <p>6 Reed Slobusky?</p> <p>7 A. Yep.</p> <p>8 Q. You said he was your best friend at one</p> <p>9 time?</p> <p>10 A. He was.</p> <p>11 Q. And he was your financing partner for</p> <p>12 SkinnyFATS?</p> <p>13 A. He was.</p> <p>14 Q. SkinnyFATS is still in operation?</p> <p>15 A. Yes.</p> <p>16 Q. Do they have more than one location?</p> <p>17 A. Yep.</p> <p>18 Q. Where do those --</p> <p>19 A. Eight locations.</p> <p>20 Q. Where was the original location?</p> <p>21 A. Dean Martin.</p> <p>22 Q. Is that Dean Martin Drive or Avenue?</p> <p>23 A. Dean Martin Drive, I believe.</p> <p>24 Q. Here in Las Vegas?</p> <p>25 A. Yep.</p>	<p style="text-align: right;">Page 306</p> <p>1 lawyer.</p> <p>2 And that's the whole thing. He was</p> <p>3 supposed to be my business advocate. He was</p> <p>4 supposed to be my confidant. And he got greedy and</p> <p>5 started doing things to get me out of it.</p> <p>6 Q. So originally you were supposed to have</p> <p>7 25 percent, but somehow that got negotiated down to</p> <p>8 a contract for 10 percent?</p> <p>9 A. Well, it was -- it was 10 percent and</p> <p>10 then it was, you know, after a certain time it</p> <p>11 would evolve into more, and --</p> <p>12 Q. So like Green's Gourmet, you felt like</p> <p>13 you had been wronged but you didn't have the</p> <p>14 legal -- you didn't have the resources to fight it?</p> <p>15 A. Yep.</p> <p>16 Q. Did you talk to any lawyer about this?</p> <p>17 A. I mean, I spoke to friends that are</p> <p>18 lawyers, but, you know, just to get advice.</p> <p>19 Q. Did you talk to a lawyer about taking</p> <p>20 this on on a contingency so the expenses would be</p> <p>21 fronted by them and you can go forward?</p> <p>22 A. I mean, nobody that I talked or nobody</p> <p>23 that I -- you know, was willing to do it.</p> <p>24 Q. So you did talk to some lawyers, but they</p> <p>25 weren't willing to take it?</p>

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<p>1 A. Yeah.</p> <p>2 Q. So today --</p> <p>3 A. Because he had the paperwork.</p> <p>4 Q. I'm sorry?</p> <p>5 A. Because he had the paperwork. He knew</p> <p>6 what he was doing.</p> <p>7 Q. "He" being Slobusky?</p> <p>8 A. Yes.</p> <p>9 Q. So today you're working at Fries N' Pies?</p> <p>10 A. Yes.</p> <p>11 Q. And as a personal chef for someone?</p> <p>12 A. Yes.</p> <p>13 Q. What are your hours at Fries N' Pies?</p> <p>14 A. 10:00 to 3:00.</p> <p>15 Q. And I know you told me this.</p> <p>16 Is there more than one location?</p> <p>17 A. No.</p> <p>18 Q. Where is Fries N' Pies located?</p> <p>19 A. 4503 Paradise Road.</p> <p>20 Q. Some of your time when you're working</p> <p>21 there from 10:00 to 3:00 is cooking?</p> <p>22 A. Yes.</p> <p>23 Q. Is that primarily what you do?</p> <p>24 A. I mean, I'm a manager. I'm an operating</p> <p>25 manager. So I operate the store and make sure the</p>	<p>1 A. Scott Sibley.</p> <p>2 Q. Who is he?</p> <p>3 A. He's a prominent man in Las Vegas. I</p> <p>4 mean, he has a bunch of businesses. And he got my</p> <p>5 name through someone that -- he was trying to lose</p> <p>6 weight, and he said, "I need the best personal chef</p> <p>7 in town," and somebody that I know referred him.</p> <p>8 And that's how it happened.</p> <p>9 Q. How long have you been doing that?</p> <p>10 A. About five months.</p> <p>11 Q. What kind of hours do you work as a</p> <p>12 personal chef for Mr. Sibley?</p> <p>13 A. About 4:00 to 8:00 every day.</p> <p>14 Q. Seven days a week?</p> <p>15 A. Yes.</p> <p>16 Q. Sounds like you're cooking all of his</p> <p>17 evening meals, anyway.</p> <p>18 A. Yep. I do his dinner.</p> <p>19 Q. Do you do other meals too?</p> <p>20 A. I leave a lunch for him in like a</p> <p>21 container.</p> <p>22 Q. I know you're skilled at cooking a wide</p> <p>23 variety of things, but give me an idea. What do</p> <p>24 you cook for him?</p> <p>25 A. I mean, everything. I mean, it's -- it</p>
Page 308	Page 310
<p>1 store's opened and following the proper code of</p> <p>2 setting up the restaurant.</p> <p>3 Q. And you cook as well?</p> <p>4 A. Yes.</p> <p>5 Q. How much time do you spend cooking at</p> <p>6 Fries N' Pies?</p> <p>7 A. I mean, actual cooking, probably two to</p> <p>8 three -- two hours a day, two to three hours a day.</p> <p>9 Q. What do you cook?</p> <p>10 A. I just cook on a flat top and make french</p> <p>11 fries.</p> <p>12 Q. Well, that's what it is, right, it's</p> <p>13 pizza and french fries?</p> <p>14 A. Yeah.</p> <p>15 Q. How is that business going?</p> <p>16 A. It's good. I mean, it's getting better</p> <p>17 now. We cut the menu down, so...</p> <p>18 Q. How many employees do you have?</p> <p>19 A. Seven.</p> <p>20 Q. Full time?</p> <p>21 A. Yes.</p> <p>22 Q. Making a profit?</p> <p>23 A. Starting to, yes.</p> <p>24 Q. Your other job is a personal chef to</p> <p>25 someone, and I forgot who someone is.</p>	<p>1 can be tacos to pasta to -- I mean, anything and</p> <p>2 everything.</p> <p>3 Q. Do you use any gas-fueled equipment to</p> <p>4 cook for Mr. Sibley?</p> <p>5 A. I use -- I mean, I use a stove and an</p> <p>6 oven, and that's really it.</p> <p>7 Q. Those are indoor appliances?</p> <p>8 A. Yep. I mean, we have -- he's asked me to</p> <p>9 grill a bunch of times and I tell him no and I tell</p> <p>10 him I can't. And then about three months ago, he</p> <p>11 asked me to grill and there was another person</p> <p>12 there, one of his friends, who said that he would</p> <p>13 grill instead, so I didn't have to.</p> <p>14 Q. What kind of income are you making</p> <p>15 working for Mr. Sibley?</p> <p>16 A. I make \$4,000 a month. And that's what</p> <p>17 keeps me afloat. So that's why I had to take that</p> <p>18 job. Because I do not get paid at Fries N' Pies</p> <p>19 because I own 45 percent of it.</p> <p>20 Q. That's a long-term business venture?</p> <p>21 A. Yes.</p> <p>22 Q. Who owns the rest of Fries N' Pies today?</p> <p>23 A. Adam Sadie.</p> <p>24 Q. The two of you are the owners; no one</p> <p>25 else?</p>

<p style="text-align: right;">Page 311</p> <p>1 A. Yes -- oh, no. There is one 10 percent 2 investor, one of -- a friend of his. 3 Q. Who is that? 4 A. Sherman -- I forget his last name. Yu, 5 actually, Y-u. Sherman Yu. 6 Q. As manager of Fries N' Pies, which I 7 understand has been in operation since July of 8 2018? 9 A. Yes. 10 Q. Continuously? 11 A. Yes. Besides the past -- we closed in 12 March and reopened two weeks ago. 13 Q. Because of COVID-19? 14 A. Yes. 15 Q. But now you're back open? 16 A. Yes. 17 Q. Including dine-in? 18 A. Yes. 19 Q. As manager of Fries N' Pies, do you have 20 a projection or expectation as to how that business 21 may grow or how it will work out in the future? 22 A. I mean -- maybe I don't understand your 23 question. 24 Q. Sure. 25 Do you have a business plan for Fries N'</p>	<p style="text-align: right;">Page 313</p> <p>1 A. Yes. 2 Q. Do you have a timetable for that? 3 A. In the next year or two, open another 4 store, and then keep growing it after that. 5 Q. Open another store in Las Vegas? 6 A. Yes. 7 Q. How many stores ultimately do you think 8 you might open with Fries N' Pies? 9 A. I mean, the goal is 100-plus. 10 Q. One hundred plus? 11 A. Yes. 12 Q. Do you have any expectation as to how 13 long that will take? 14 A. I mean, I think I could start selling 15 franchises in the next two to three years, and 16 history will be then. 17 Q. Perhaps outside Las Vegas or no? 18 A. Yeah. I mean, that's my goal. My goal 19 is to get it nationwide. Because it is easy to 20 duplicate. No need to -- I don't need a big 21 storefront. I don't need a big area. So it's 22 pretty easy to plug and play. 23 Q. Do you have some idea what the gross 24 sales or income currently is for Fries N' Pies? 25 A. The first year we were open, we made</p>
<p style="text-align: right;">Page 312</p> <p>1 Pies? 2 A. I mean, we -- I mean, we developed it 3 based on -- I was actually going to put in a 4 healthy concept. The guy wanted a pizza concept; 5 then Adam and I developed it. 6 Q. Can you do healthy pizza? 7 A. We do. It's cauliflower crust and 8 broccoli crust. 9 Q. So that concept does survive in some way? 10 A. Yes. 11 Q. I'm not -- do you have a written business 12 plan? 13 A. For Fries N' Pies, no. 14 Q. Do you have a business plan in your head, 15 as it were, as to what you want to -- 16 A. Actually, Adam might have one. He might 17 have something then. 18 Well, our whole goal of it is to -- I 19 mean, the reason I opened it was because I had the 20 experience -- our whole reason of opening it was to 21 franchise it. So that's where I'm going with it. 22 I'm trying to take it to the next level and 23 franchise it. 24 Q. So that's the main goal of the business 25 plan, is to grow and have other locations?</p>	<p style="text-align: right;">Page 314</p> <p>1 \$760,000. 2 Q. When you say you "made," is that net or 3 gross? 4 A. That was gross. 5 Q. Total? 6 A. Yes. 7 Q. 760,000? 8 A. Yes. 9 Q. And that was July of '18 to July of '19? 10 A. Yes. 11 Q. How about July 19 to the present; do you 12 know? 13 A. Right now I don't, but, I mean, you know, 14 due to COVID -- you know, now we -- to make a 15 profit, we need to make \$100 an hour and we're 16 doing that, so... 17 Q. So you're in the black? 18 A. Yeah, now we are. 19 Q. Even with COVID? 20 A. Well, I mean, we're starting to, yes. 21 Q. Okay. Have you worked out or do you have 22 some idea of what your financial benefit would be 23 as you grow? With each franchise location that 24 opens, how does that impact you personally, 25 financially? Do you have an idea?</p>

<p style="text-align: right;">Page 315</p> <p>1 A. I mean, once we start, you know, making</p> <p>2 profit, you know, we break it up into 45 percent</p> <p>3 Adam, 45 percent me, 10 percent to the other guy.</p> <p>4 And then the same with the franchise --</p> <p>5 the building of the franchise would be the same</p> <p>6 way.</p> <p>7 Q. For each franchise location, the same</p> <p>8 percentages?</p> <p>9 A. Yes.</p> <p>10 Q. Mr. Green, you've been very courteous and</p> <p>11 patient. Thank you.</p> <p>12 Is there anything about your testimony as</p> <p>13 we sit here that you think you need to change or</p> <p>14 add?</p> <p>15 A. No. I mean, I just -- I just want you to</p> <p>16 know that, you know, after the -- after the fire,</p> <p>17 you know, like I said, you know, like I've been</p> <p>18 stating, it's changed my life in many ways.</p> <p>19 And now I'm just handling it in the fact</p> <p>20 with -- like I was never a practicing Jew before,</p> <p>21 and now, because of the accident, like I said, like</p> <p>22 I stated last time, the rabbi came and sat with me</p> <p>23 for two hours and opened my world to religion.</p> <p>24 And, you know, now I talk to a rabbi every single</p> <p>25 day.</p>	<p style="text-align: right;">Page 317</p> <p>1 And that's how I've done this whole</p> <p>2 incident. I haven't really communicated with a lot</p> <p>3 of different people about it, but I speak to a</p> <p>4 certain group of people, you know.</p> <p>5 Q. Do you feel that your businesses are</p> <p>6 going well?</p> <p>7 A. Yeah.</p> <p>8 Q. You got married middle of May?</p> <p>9 A. Yeah.</p> <p>10 Q. Are you happily married?</p> <p>11 A. I am.</p> <p>12 MR. McMULLEN: Those are all my</p> <p>13 questions. Thank you.</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MS. WINSPEAR:</p> <p>17 Q. I think I'm probably next in order. My</p> <p>18 name is Gina Winspear and I represent Defendant</p> <p>19 Carl Kleisner.</p> <p>20 Have you ever met Mr. Kleisner?</p> <p>21 A. I haven't.</p> <p>22 Q. Did you have any knowledge of</p> <p>23 Mr. Kleisner or had you ever heard his name prior</p> <p>24 to the incident back in June of 2018?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 316</p> <p>1 So, you know, there's a lot of things</p> <p>2 that have changed, you know, like I said, with my</p> <p>3 thinking, my way of life, because of the accident.</p> <p>4 That's really what it comes down to.</p> <p>5 Q. When you talk to the rabbi, are you</p> <p>6 talking specifically about this accident or about</p> <p>7 your path forward?</p> <p>8 A. We talk about everything. Everything.</p> <p>9 Q. It's been a positive thing?</p> <p>10 A. Yeah. I mean, you know, it's helped me</p> <p>11 get through -- I mean, the biggest thing with this</p> <p>12 is having -- is being able to turn to people and</p> <p>13 having people that, you know, understand.</p> <p>14 You know, I speak to a very, very small</p> <p>15 group of this incident. I don't talk to my friends</p> <p>16 about it. I don't talk to anyone about it. I talk</p> <p>17 to my parents. I talk to my rabbi. I talk to</p> <p>18 Lauren. I talk to my wife. And that's it.</p> <p>19 It's very -- I don't talk to -- you know,</p> <p>20 Mario is good friend of mine. I don't talk to him</p> <p>21 about this incident at all. We don't have a</p> <p>22 conversation about it because I know he's emotional</p> <p>23 about the situation, and I don't -- you know, me</p> <p>24 and him have a friendship, and I don't want to ruin</p> <p>25 the friendship, so I separate it.</p>	<p style="text-align: right;">Page 318</p> <p>1 Q. Since the incident in June of 2018, have</p> <p>2 you had any conversations with Mario Gonzalez about</p> <p>3 Mr. Kleisner?</p> <p>4 A. No.</p> <p>5 Q. Have you obtained a disability rating</p> <p>6 from any governmental body or disability insurer?</p> <p>7 A. No.</p> <p>8 Q. Have you applied for any disability</p> <p>9 insurance since this incident in June of 2018?</p> <p>10 A. I haven't.</p> <p>11 Q. Prior to the incident in June of 2018,</p> <p>12 did you have any knowledge that Mario was having</p> <p>13 electrical problems with his koi pond?</p> <p>14 A. No.</p> <p>15 Q. In your lawsuit you allege that</p> <p>16 Carl Kleisner owed a duty to Mario Gonzalez and all</p> <p>17 of his guests to ensure that all electrical lines</p> <p>18 to the home were in working order.</p> <p>19 Were you aware that's one of your</p> <p>20 allegations in this lawsuit?</p> <p>21 A. Yes.</p> <p>22 Q. What information or knowledge do you have</p> <p>23 that the electrical lines in the home were not in</p> <p>24 working order?</p> <p>25 A. I mean, I believe they were. That's the</p>

<p style="text-align: right;">Page 319</p> <p>1 whole thing.</p> <p>2 Q. You believe they were or they were not?</p> <p>3 A. I didn't know anything about the</p> <p>4 electrical problems.</p> <p>5 Q. So as you sit here today, is that still</p> <p>6 your position, you don't know one way or another</p> <p>7 about any electrical problems?</p> <p>8 MR. GOLDSTEIN: I want to raise an</p> <p>9 objection. Vague.</p> <p>10 Go ahead.</p> <p>11 BY MS. WINSPEAR:</p> <p>12 Q. Do you understand my question? Let me</p> <p>13 restate it so I make sure our record is really</p> <p>14 clear.</p> <p>15 A. Yeah.</p> <p>16 Q. In your lawsuit you allege that</p> <p>17 Carl Kleisner owed a duty to Mario Gonzalez and all</p> <p>18 his guests on Mario's premises to ensure that all</p> <p>19 electrical lines to the home were in working order.</p> <p>20 As you sit here today, do you have any</p> <p>21 knowledge or information that the electrical lines</p> <p>22 were not in working order?</p> <p>23 MR. PFAU: Objection that this calls for</p> <p>24 an expert opinion and calls for a legal conclusion.</p> <p>25 / / /</p>	<p style="text-align: right;">Page 321</p> <p>1 his backyard?</p> <p>2 A. I don't know.</p> <p>3 Q. You don't personally have any of that</p> <p>4 information, fair?</p> <p>5 A. Yep.</p> <p>6 Q. Do you personally have any information</p> <p>7 that Carl Kleisner maintained or repaired any</p> <p>8 electrical lines inside Mario Gonzalez's home or in</p> <p>9 his backyard in the barbecue area?</p> <p>10 A. No, I don't.</p> <p>11 Q. And I believe -- and I just want to</p> <p>12 clarify from your earlier testimony. What I wrote</p> <p>13 down that you said weeks ago when we were in your</p> <p>14 original deposition is that you didn't know</p> <p>15 anything about an electrician until after the</p> <p>16 incident.</p> <p>17 Is that a fair statement?</p> <p>18 A. Yes.</p> <p>19 Q. You now know the name of an electrician</p> <p>20 to be Carl Kleisner, but that's -- is that from</p> <p>21 information Mario provided to you or information</p> <p>22 you learned in the course of this lawsuit?</p> <p>23 A. I mean, both. But I just heard the name</p> <p>24 from Mario, but that was -- that was it.</p> <p>25 Q. Okay. You didn't -- other than hearing a</p>
<p style="text-align: right;">Page 320</p> <p>1 BY MS. WINSPEAR:</p> <p>2 Q. You can still answer.</p> <p>3 A. So do I know -- maybe say it again.</p> <p>4 Q. Do you have any knowledge or information</p> <p>5 that the electrical lines at Mario Gonzalez's home</p> <p>6 were not in working order?</p> <p>7 A. No.</p> <p>8 MR. PFAU: Same objections.</p> <p>9 THE WITNESS: I thought they were.</p> <p>10 BY MS. WINSPEAR:</p> <p>11 Q. So nothing has been communicated to you</p> <p>12 by Mario indicating that the electrical lines were</p> <p>13 not in working order.</p> <p>14 Is that a fair statement?</p> <p>15 A. Yes.</p> <p>16 Q. And you never independently did any</p> <p>17 inspection or investigation of the electrical lines</p> <p>18 at Mario's home either inside or in the barbecue</p> <p>19 area. Is that also a fair statement?</p> <p>20 A. Yes.</p> <p>21 Q. In your -- well, let me ask this</p> <p>22 question.</p> <p>23 Do you have any -- do you personally have</p> <p>24 any knowledge or information that Carl Kleisner</p> <p>25 installed electrical lines in Mario's home or in</p>	<p style="text-align: right;">Page 322</p> <p>1 name, what other information did Mario give you</p> <p>2 about Carl Kleisner?</p> <p>3 A. Nothing.</p> <p>4 MS. WINSPEAR: Okay. That's all the</p> <p>5 questions that I have. Thank you very much.</p> <p>6 MR. WALKER: I have no questions.</p> <p>7 MR. GOLDSTEIN: I'm Steve Goldstein. I</p> <p>8 represent Mario. I won't have too many questions</p> <p>9 because everything's been thorough thus far. I</p> <p>10 just have a few follow-up questions.</p> <p>11</p> <p>12 EXAMINATION</p> <p>13 BY MR. GOLDSTEIN:</p> <p>14 Q. The cream that you use -- I don't know.</p> <p>15 Do you still use it today?</p> <p>16 MR. PFAU: Asked and answered.</p> <p>17 BY MR. GOLDSTEIN:</p> <p>18 Q. Forgive me. I'm just laying a foundation</p> <p>19 here.</p> <p>20 A. Yes. I have a cream and I do use it.</p> <p>21 Q. How long does it take you to go through a</p> <p>22 bottle of cream or a tube of cream?</p> <p>23 A. I mean, I've had the same bottle for a</p> <p>24 while. So --</p> <p>25 Q. A month, two months?</p>

<p style="text-align: right;">Page 323</p> <p>1 A. Couple months.</p> <p>2 Q. Okay. Do you apply it every day?</p> <p>3 A. I apply it when needed or when I -- but,</p> <p>4 I mean, I have a lotion that I use every day, yes.</p> <p>5 Q. Okay. Is the lotion over the counter?</p> <p>6 A. Yes.</p> <p>7 Q. What kind of lotion is it?</p> <p>8 A. I mean, it's non-medicated.</p> <p>9 Q. Brand?</p> <p>10 A. Yes. It's like Aveeno. But I also use</p> <p>11 the other lotion that I was given by the doctors.</p> <p>12 Q. And I don't believe you remember that</p> <p>13 name?</p> <p>14 A. No, I don't.</p> <p>15 Q. Let me ask you about your relationship</p> <p>16 with Mario a little bit.</p> <p>17 A. Yes.</p> <p>18 Q. And forgive me if we go over a little bit</p> <p>19 of what was discussed last time.</p> <p>20 You -- how long have you known Mario?</p> <p>21 A. I know Mario probably for five years.</p> <p>22 Q. Okay. Before this incident, have you</p> <p>23 ever been a business partner with him at all?</p> <p>24 A. No.</p> <p>25 Q. At the time of this incident, were you</p>	<p style="text-align: right;">Page 325</p> <p>1 A. I mean, he is one of my best friends at</p> <p>2 this time.</p> <p>3 Q. Okay.</p> <p>4 A. And that's why we don't talk about this</p> <p>5 case. We don't communicate about it. We don't say</p> <p>6 nothing.</p> <p>7 Q. When was the last time you communicated</p> <p>8 about this case?</p> <p>9 A. We don't -- I mean, honestly, we don't</p> <p>10 have a -- we don't.</p> <p>11 Q. Well, I imagine during your healing</p> <p>12 period you guys talked about things, right?</p> <p>13 A. Yeah. But I don't -- I don't have an</p> <p>14 exact date.</p> <p>15 Q. I'm not asking for an exact date. But</p> <p>16 was the last time you talked to him about this</p> <p>17 incident before you filed a lawsuit against him?</p> <p>18 A. Yeah. I mean --</p> <p>19 Q. Have you been over to his house since the</p> <p>20 last time -- since you filed a lawsuit against him?</p> <p>21 A. Yes.</p> <p>22 Q. Approximately how many times have you</p> <p>23 been over?</p> <p>24 A. I mean, I honestly can't tell you. I</p> <p>25 don't know. Four or five, six. I don't know. We</p>
<p style="text-align: right;">Page 324</p> <p>1 all discussing business options and things to make</p> <p>2 money together?</p> <p>3 A. I mean, we always talk about business,</p> <p>4 but nothing to the fact -- no, we weren't doing</p> <p>5 anything.</p> <p>6 Q. There wasn't a gummy bear CBD --</p> <p>7 A. Oh, we were talking about that, but that</p> <p>8 wasn't -- he was just trying to see if he could buy</p> <p>9 a product for me because I have a white label</p> <p>10 company for my edibles.</p> <p>11 Q. What does that mean?</p> <p>12 A. I have an edible company that I'm a</p> <p>13 partner with in San Diego that I try to get</p> <p>14 contacts for, and because he's in the CBD business,</p> <p>15 I told him about that I had this connection and we</p> <p>16 were talking about it, but nothing came from it.</p> <p>17 Q. Would you classify your friendship with</p> <p>18 Mario to be good?</p> <p>19 A. Yeah, very good.</p> <p>20 Q. Today even?</p> <p>21 A. Yes.</p> <p>22 Q. I know you mentioned one other fellow</p> <p>23 that you worked with that started SkinnyFATS as</p> <p>24 your best friend. Where does Mario rate in the</p> <p>25 whole pantheon of friends that you have?</p>	<p style="text-align: right;">Page 326</p> <p>1 hang out. I mean, like I said, he's one of my best</p> <p>2 friends. This didn't hinder anything because we</p> <p>3 don't talk about it.</p> <p>4 Q. But you do realize you are suing him,</p> <p>5 right?</p> <p>6 A. Yes. But, I mean, my whole thing was --</p> <p>7 yes, I'm suing him, but, you know, the insurance</p> <p>8 company, and at the end of the day, you know, my</p> <p>9 friendship -- that's the whole reason we don't --</p> <p>10 we don't talk about it. You know, we don't have a</p> <p>11 conversation about it because we don't -- you know,</p> <p>12 it keeps our friendship the way it should be.</p> <p>13 Q. Do you know why you're suing him?</p> <p>14 A. I mean, yeah, because he was negligent</p> <p>15 and he had the -- you know, it was his grill. It</p> <p>16 was his place. And, you know, if that incident</p> <p>17 didn't happen, then my life would be different</p> <p>18 right now.</p> <p>19 Q. So if I understand you correctly, the</p> <p>20 reason why you're suing him is because he owned the</p> <p>21 grill and he had the house?</p> <p>22 A. Yeah. I -- because I was at his house</p> <p>23 working on something that should have been handled</p> <p>24 and fixed and -- you know.</p> <p>25 Q. But he was -- if I understand correctly,</p>


<p style="text-align: right;">Page 327</p> <p>1 he was told by Ferrellgas that the grill was  2 inspected and fixed and everything was fine?  3 A. And that's how he told me, and then  4 that's why we used it. And look what happened.  5 Q. Okay. So with that being said, then, you  6 still think that he's negligent when Ferrellgas is  7 the one that told him?  8 A. I think everyone in the situation is  9 negligent to the fact where -- they all had a place  10 in this incident, and if everyone handled it to the  11 way that they should have, it wouldn't have  12 happened.  13 Q. Okay. Do you believe it is reasonable  14 for Mario to trust what the representative for  15 Ferrellgas told him?  16 A. Yes.  17 And that's the thing. When I asked Mario  18 if it was fixed, he said that he had the okay from  19 Ferrellgas and obviously it wasn't.  20 Q. The grill, you mean?  21 A. Yes. What did I say?  22 Q. Well --  23 A. Yeah, the grill.  24 Q. I just wanted to clarify what the okay  25 was that was okay.</p>	<p style="text-align: right;">Page 329</p> <p>1 Q. And that was to go for your health  2 expenses?  3 A. Yes, which is not even one percent of it.  4 Q. Understood. Understood. It was a drop  5 in the bucket, let's say.  6 A. Mm-hmm.  7 Q. But what did you think of that -- him  8 setting up that GoFundMe page for you?  9 A. I mean, it was very -- it was nice and  10 generous and...  11 Q. All right. You had mentioned that --  12 Mario gets -- you hadn't talked to him because he  13 gets emotional.  14 What do you mean by that?  15 A. I mean, just in the situation -- I mean,  16 when you talk about this incident -- and this is  17 like a long, long time ago. When you talk about  18 the incident, he just gets -- he gets choked up.  19 So I leave it alone.  20 Q. So he gets choked up in a way that is  21 sorrowful or somber?  22 A. Yeah. I mean, I think that -- you know,  23 he's --  24 Q. He's not angry about it is what I'm  25 trying --</p>
<p style="text-align: right;">Page 328</p> <p>1 A. The grill was okay to use.  2 Q. That's what was told to Mario?  3 A. Yes.  4 Q. We all know that you used the grill  5 before.  6 A. Yes. I've used numerous grills before.  7 I never had an issue.  8 Q. And you've used that particular grill  9 before without any issue?  10 A. Yes.  11 Q. After the incident, and I'm talking  12 directly after the incident, when you were taken to  13 the hospital, Mario took you, right?  14 A. Yes.  15 Q. Do you know that Mario set up a GoFundMe  16 page for you?  17 A. I do.  18 Q. And do you remember how much money Mario  19 raised for you?  20 A. I don't remember exactly. I think it was  21 like anywhere from \$1,700 to \$2,300, something in  22 that range.  23 Q. And he gave you all that money; is that  24 right?  25 A. Yeah.</p>	<p style="text-align: right;">Page 330</p> <p>1 A. No, I don't think he's angry. I just  2 think he's frustrated that it happened. He trusted  3 someone -- you know, he trusted someone from a gas  4 company and now we're dealing with this issue.  5 Q. Understood.  6 Has any doctor told you that you can't  7 work to your full potential?  8 A. I mean, directly, no, but indirectly,  9 yes.  10 Q. What do you mean?  11 A. I mean, every doctor that I've spoken to  12 that I've had a conversation about my work, they  13 tell me to not work as much and they tell me to  14 limit what I do in certain areas, you know.  15 And like I said before, I used to work  16 16-, 17-hour days. There would be no way I could  17 do that right now.  18 Q. But formally, there has been nothing on  19 paper or anything saying you can't do what it is  20 you do, which is be a chef?  21 A. I mean, you could take that two different  22 ways: Me being a chef and being able to use every  23 piece of equipment that I'm able to use? I am not  24 able to use everything, so yes, it hinders me.  25 And the ability of grabbing hot stuff. I</p>



<p style="text-align: right;">Page 331</p> <p>1 mean, like before, I used to grab -- I mean, I used 2 to work at a restaurant which had a thousand 3 covers. I used to grab steaks off the grill, like, 4 with my hands. And now I can't even touch 5 something hot.</p> <p>6 Q. I think that is, you know, an incredible 7 feat. I just want to put that on the record. He 8 could take something hot before and flip it?</p> <p>9 A. I mean, yeah. As a chef, and every chef 10 will tell you, that when you build -- you build 11 your tolerance.</p> <p>12 Q. Right.</p> <p>13 In your business, in your line of work, 14 do you ever use oven mitts?</p> <p>15 A. I use towels, which is like an oven mitt.</p> <p>16 Q. Kind of like that, yeah.</p> <p>17 Now --</p> <p>18 A. But now, anything that I grab -- like 19 before, I used to grab stuff with either a damp 20 towel or whatever, just grab it. And now it's like 21 I have to make sure everything's dry, or like if I 22 grab something -- the other day I grabbed something 23 out of the oven that was sitting out for probably 24 25, 30 minutes, out of the oven, I grabbed the pan 25 and I dropped it right away because it was hotter</p>	<p style="text-align: right;">Page 333</p> <p>1 Q. Did you see any kind of certifications 2 hanging on the wall in her -- in her house at all?</p> <p>3 A. I mean, no, but I, you know, I know she 4 went through a lot of training and, you know, I 5 definitely -- before it wasn't just the blind 6 thing. Like I knew that she's worked with people 7 and helped people.</p> <p>8 Q. Does she have an office or does she work 9 out of her house?</p> <p>10 A. She works out of her house.</p> <p>11 Q. Does she see other -- does she have other 12 clients that you know of?</p> <p>13 A. Yes.</p> <p>14 Q. I just want to follow up on your itchy 15 hands.</p> <p>16 You said that they have been itchy for 17 approximately about two months?</p> <p>18 A. Yep.</p> <p>19 Q. Does that mean they were not itchy before 20 this incident?</p> <p>21 A. They were. Not to the point where I got 22 to scratch them every couple hours or whatever. 23 They just itch more than frequently, more than they 24 did.</p> <p>25 Q. Do you have any allergies?</p>
<p style="text-align: right;">Page 332</p> <p>1 than I can handle.</p> <p>2 Q. You work for this Scott Sibley person. 3 How long have you worked for him now?</p> <p>4 A. Five months.</p> <p>5 Q. Five months.</p> <p>6 And did you know him before?</p> <p>7 A. Before the incident?</p> <p>8 Q. No. Before working for him.</p> <p>9 A. No.</p> <p>10 Q. And you work about four hours a day for 11 him?</p> <p>12 A. Yep.</p> <p>13 Q. Do you have any assistants help you?</p> <p>14 A. No.</p> <p>15 Q. Now, Lauren Unger, do you know if she has 16 any kind of certifications, professional 17 certifications?</p> <p>18 A. I believe so, yeah.</p> <p>19 Q. Have you seen them or -- do you know?</p> <p>20 A. No. I believe so. I said -- that's all. 21 She's -- from my understanding, she's a certified 22 healer and shaman, whatever you want to call it.</p> <p>23 Q. All right. You have lived with her for a 24 little bit of time, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 334</p> <p>1 A. I do.</p> <p>2 Q. What?</p> <p>3 A. Demerol, codeine, and shellfish.</p> <p>4 Q. Have you had in the last two months any 5 of those?</p> <p>6 A. No.</p> <p>7 Q. Or before that?</p> <p>8 A. No.</p> <p>9 Q. All types of shellfish or just --</p> <p>10 A. Red shellfish, crab, lobster, shrimp.</p> <p>11 Q. All the good stuff.</p> <p>12 A. Yes.</p> <p>13 Q. That us nice Jewish boys should be 14 eating.</p> <p>15 So with the psychologist, 16 Michael Elliott, you've seen him one time, right?</p> <p>17 A. Yes.</p> <p>18 Q. How many minutes or hours did you spend 19 with him on that first visit?</p> <p>20 A. I mean, I just did a testing visit with 21 him. It was like two and a half hours.</p> <p>22 Q. And it was you filling out forms?</p> <p>23 A. Me going through questions and -- yeah.</p> <p>24 Q. Did he tell you the questions and you 25 provided answers or did you fill out --</p>

<p style="text-align: right;">Page 335</p> <p>1 A. No. I sat a computer and filled it out.</p> <p>2 Q. So he wasn't like providing you with any</p> <p>3 guidance at that time?</p> <p>4 A. Not yet, no. That's why we're having</p> <p>5 another meeting on the 1st.</p> <p>6 Q. I'm just going through my notes from the</p> <p>7 last time.</p> <p>8 A. And the biggest thing is I had no fear of</p> <p>9 using anything before. Like never had a fear of</p> <p>10 drills, equipment. And now, you know, I have a</p> <p>11 fear, a fear of a lot of different things.</p> <p>12 Q. In your mind, do you know if there's a</p> <p>13 difference between natural gas and propane?</p> <p>14 A. Yeah, there's a difference.</p> <p>15 Q. Because you mentioned earlier that you</p> <p>16 won't use propane, but the other grills at your</p> <p>17 work are natural gas.</p> <p>18 A. Yes. But they're not open flame -- I</p> <p>19 won't use an open flame grill at all, ever. Even</p> <p>20 if it's a gas grill, I won't use it. I'm afraid of</p> <p>21 flames. I'm afraid of the idea of fire.</p> <p>22 Like -- I mean, like I said to --</p> <p>23 Mr. McMullen, is it?</p> <p>24 MR. McMULLEN: Yes.</p> <p>25 THE WITNESS: Like I said to him, it</p>	<p style="text-align: right;">Page 337</p> <p>1 deal with grills.</p> <p>2 Q. Anything about grills you don't do?</p> <p>3 A. No. It's like an ex-girlfriend. Stay</p> <p>4 away from it.</p> <p>5 Q. So how often do you get blisters on your</p> <p>6 hand?</p> <p>7 A. I mean, not -- it can happen -- I mean,</p> <p>8 it happens on a continuous basis. I don't know</p> <p>9 exactly.</p> <p>10 Q. Well --</p> <p>11 A. I mean, I had this blister -- I had this</p> <p>12 blister the other day. I have -- you know, I have</p> <p>13 blisters that come and go all the time.</p> <p>14 Q. Is that because you're dealing with heat?</p> <p>15 A. Yeah. Heat. Yeah.</p> <p>16 Q. So it comes on when perhaps maybe you're</p> <p>17 taking a -- something you're cooking and you're</p> <p>18 flipping it?</p> <p>19 A. Well, I don't use my bare hands anymore.</p> <p>20 It's just anything. I mean, I can touch something</p> <p>21 that is like a little hot and it will create a</p> <p>22 blister.</p> <p>23 Q. Let me ask you about the PTSD you</p> <p>24 mentioned earlier. If you're not thinking about or</p> <p>25 not having something like an open flame that you</p>
<p style="text-align: right;">Page 336</p> <p>1 was -- I mean, I saw the show, and when I saw the</p> <p>2 show, when I see anything on fire, it brings me</p> <p>3 back to that day and it's -- you know, it's</p> <p>4 traumatic.</p> <p>5 BY MR. GOLDSTEIN:</p> <p>6 Q. So your grills at work aren't -- don't</p> <p>7 have open flame?</p> <p>8 A. No.</p> <p>9 Q. The grills at -- or the stove at</p> <p>10 Scott Sibley's, does it have open flame?</p> <p>11 A. It does, but it's -- you know, it's on --</p> <p>12 it's controlled by a burner, so the flame is</p> <p>13 controlled. It's not super high. And there's</p> <p>14 always something covering it. You know, I always</p> <p>15 have a pan covering it or...</p> <p>16 Q. And do you ever use charcoal or</p> <p>17 wood-pellet grills?</p> <p>18 A. No.</p> <p>19 Q. Why not?</p> <p>20 A. I won't use -- I will not use a grill</p> <p>21 ever since this accident. Like, I don't care what</p> <p>22 it is. My father uses charcoal grills. I went to</p> <p>23 his house. He -- and I stayed inside when he, you</p> <p>24 know, dealt with the grill.</p> <p>25 Like I don't go near grills. I don't</p>	<p style="text-align: right;">Page 338</p> <p>1 see or somebody on fire, do you think about, you</p> <p>2 know, the incident?</p> <p>3 A. I think about the incident all the time.</p> <p>4 Yeah. It changed my life, drastically, in</p> <p>5 everything that I do and everything that I -- I</p> <p>6 mean...</p> <p>7 Q. But up until May --</p> <p>8 A. I used to be a very active person and</p> <p>9 always outside and always doing things, and like</p> <p>10 this hindered me -- I mean, for the whole month</p> <p>11 that I was, you know -- or, I mean, from the time</p> <p>12 since the accident, in the first year I didn't go</p> <p>13 in the sun at all. You know, there's a lot of</p> <p>14 things that I didn't do because of the accident.</p> <p>15 Q. I believe Mario told us about you playing</p> <p>16 hockey.</p> <p>17 A. Playing hockey?</p> <p>18 Q. Yeah, or being a good ice skater, ice</p> <p>19 hockey?</p> <p>20 A. Okay. Yeah.</p> <p>21 Q. Can you tell us how long you have been --</p> <p>22 A. I played hockey for 22 years. I was</p> <p>23 supposed to -- I chose to go to a cooking school or</p> <p>24 UNLV rather than going to a school for hockey. I</p> <p>25 ended up playing at UNLV after four or five years,</p>

<p style="text-align: right;">Page 339</p> <p>1 when they started opening a team. But, I mean, I 2 have skated my whole life.</p> <p>3 Q. Okay.</p> <p>4 A. His son was skating, so I started 5 teaching him how to skate, but I never -- it was 6 always -- I never used a stick or, you know, used 7 anything. I would just skate with him.</p> <p>8 Q. With Mario's son?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. But you used -- you played 11 hockey -- was this on a formal UNLV team --</p> <p>12 A. Yes.</p> <p>13 Q. -- when you were a student there?</p> <p>14 A. Yes. I actually haven't played -- I used 15 to play roller hockey all the time. I haven't 16 played hockey since this accident.</p> <p>17 Q. You said roller hockey?</p> <p>18 A. Yeah. I used to play on Sahara and 19 Maryland at a facility, and I haven't played since 20 this accident.</p> <p>21 Q. Has anybody said that you can't play or 22 is it just that you don't want to play?</p> <p>23 A. No. I just haven't.</p> <p>24 Q. And the ice skating, when did you tutor 25 Mario's son?</p>	<p style="text-align: right;">Page 341</p> <p>1 Q. Since our last meeting, have you seen any 2 medical professionals regarding this incident?</p> <p>3 A. No.</p> <p>4 Q. So just Michael Elliott?</p> <p>5 A. Mm-hmm.</p> <p>6 Q. And then you're waiting until July 1st 7 to have a follow-up visit?</p> <p>8 A. Yes. And that was because I had -- you 9 know, after talking to my rabbi and Lauren Unger 10 and specific people, I felt that it was time to get 11 some more doctor help.</p> <p>12 Q. And the rabbi you talked to, he's 13 associated with Chabad, right?</p> <p>14 A. Yes.</p> <p>15 Q. Which Chabad?</p> <p>16 A. The one on Arville.</p> <p>17 Q. What was his name again?</p> <p>18 A. Rabbi Motti Harlig. M-o-t-t-i, 19 H-a-r-l-i-g.</p> <p>20 Q. The grills at Fries N' Pies, there's no 21 open flame, right?</p> <p>22 A. No.</p> <p>23 Q. So it doesn't have the same look as like 24 Scott Sibley's that has, you know, a flame that 25 comes up from the stove?</p>
<p style="text-align: right;">Page 340</p> <p>1 A. I mean, in the past -- it was only a 2 couple -- it was only like four or five times.</p> <p>3 Q. Was it before the incident or after?</p> <p>4 A. I'm not sure exactly. I think it was a 5 little before, a little after. I'm not sure.</p> <p>6 Q. Have you been on the ice since tutoring 7 Mario's son?</p> <p>8 A. No.</p> <p>9 Q. Is it because you don't want to or you 10 just haven't had the opportunity?</p> <p>11 A. I just haven't.</p> <p>12 Q. Okay. When you get a blister, how long 13 does it take for them to heal?</p> <p>14 A. Four or five days.</p> <p>15 Q. Do you put anything on the blisters?</p> <p>16 A. Just cream.</p> <p>17 Q. Just cream.</p> <p>18 You don't put a Band-Aid on?</p> <p>19 A. No. I mean, unless it needs a Band-Aid, 20 if it's open.</p> <p>21 Q. Do they ever bleed?</p> <p>22 A. I mean, it depends. It depends on the 23 blister, you know. If you pick a blister sooner 24 than normal, then it's going to -- I don't usually 25 pick them either.</p>	<p style="text-align: right;">Page 342</p> <p>1 A. Well, it's a stove that I use at Scott's, 2 and this one is a flat top grill that it's under 3 the --</p> <p>4 Q. Understood.</p> <p>5 So there's a flame under the grill.</p> <p>6 A. Yeah. The grill's a metal or steel 7 plate, and then the heat rises and you cook on it.</p> <p>8 Q. The pizzas that you-all make there, is it 9 an oven that's --</p> <p>10 A. No flame. Gas.</p> <p>11 Q. It's a gas oven?</p> <p>12 A. Brick gas oven.</p> <p>13 Q. So there's no -- it's like not one that's 14 coal-fired?</p> <p>15 A. No.</p> <p>16 Q. I call those the new fancy -- new way of 17 doing things because they heat up to like 800 or so 18 degrees.</p> <p>19 A. Mm-hmm.</p> <p>20 Q. What does your pizza oven heat up to?</p> <p>21 A. We keep it at 550.</p> <p>22 Q. 550?</p> <p>23 A. Or 555.</p> <p>24 MR. GOLDSTEIN: All right. I don't have 25 any further questions for you.</p>

<p style="text-align: right;">Page 343</p> <p>1 Thank you very much.</p> <p>2 MR. PFAU: I don't have any questions.</p> <p>3 Are we all done?</p> <p>4 MR. McMULLEN: I think so.</p> <p>5 MR. PFAU: Okay.</p> <p>6 MR. McMULLEN: Do we have the usual</p> <p>7 stipulations? What do you want to do?</p> <p>8 MR. PFAU: To read and sign, you mean?</p> <p>9 MR. McMULLEN: Right.</p> <p>10 MR. PFAU: Yeah. We can waive the read</p> <p>11 and sign for Josh.</p> <p>12 MR. McMULLEN: Very good. Thank you.</p> <p>13 MR. PFAU: Thanks.</p> <p>14 THE VIDEOGRAPHER: This concludes today's</p> <p>15 deposition of Joshua Green. The time is</p> <p>16 approximately 9:54 a.m. We're off the record.</p> <p>17 (Whereupon, the deposition was concluded</p> <p>18 at 9:54 a.m. this date.)</p> <p>19 * * * * *</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 345</p> <p>1</p> <p>2 IN WITNESS THEREOF, I have hereunto set my hand</p> <p>3 in my office in the County of Clark, State of Nevada,</p> <p>4 this 12th day of July, 2020.</p> <p>5</p> <p>6 </p> <p>7</p> <p>8 Monice K. Campbell, CCR No. 312</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 344</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 STATE OF NEVADA )</p> <p>3 ) SS:</p> <p>4 COUNTY OF CLARK )</p> <p>5</p> <p>6 I, Monice K. Campbell, a duly</p> <p>7 commissioned and licensed court reporter, Clark</p> <p>8 County, State of Nevada, do hereby certify: That I</p> <p>9 reported the taking of the deposition of the</p> <p>10 witness, JOSHUA GREEN, commencing on MONDAY, JUNE</p> <p>11 29, 2020, at 8:38 a.m.;</p> <p>12</p> <p>13 That prior to being examined, the witness</p> <p>14 was, by me, duly sworn to testify to the truth.</p> <p>15 That I thereafter transcribed my said shorthand</p> <p>16 notes into typewriting and that the typewritten</p> <p>17 transcript of said deposition is a complete, true,</p> <p>18 and accurate transcription of said shorthand notes.</p> <p>19</p> <p>20 I further certify that I am not a relative or</p> <p>21 employee of an attorney or counsel or any of the</p> <p>22 parties, nor a relative or employee of an attorney or</p> <p>23 counsel involved in said action, nor a person</p> <p>24 financially interested in the action; that a request</p> <p>25 ([X] has not) been made to review the transcript.</p>	

# **EXHIBIT “4”**

## 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:**

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**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**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:**

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**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:**

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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
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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 casual 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:**

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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:** 11/04/2020 11:30AM**Address:** 1661 W Horizon Ridge Parkway Suite 280,  
Henderson, NV, 89012**Sex:** M**Chart:** GRJO000002**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:**

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Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

# **EXHIBIT “5”**

## *Post-traumatic stress disorder and declarative memory functioning: a review*

*Kristin W. Samuelson, PhD*



*Declarative memory dysfunction is associated with post-traumatic stress disorder (PTSD). This paper reviews this literature and presents two frameworks to explain the nature of this dysfunction: that memory deficits are a product of neurobiological abnormalities caused by PTSD and/or that pre-existing memory deficits serve as a risk factor for the development of PTSD following trauma exposure. Brain regions implicated in declarative memory deficits include the hippocampus and pre-frontal cortex, and imaging and biochemistry studies as they relate to memory dysfunction are described. Prospective and twin studies provide support for a risk factor model.*

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**Keywords:** verbal memory; PTSD; trauma; neuropsychology; hippocampus

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Memory disturbances are predominant in the presentation of post-traumatic stress disorder (PTSD) and are part of the diagnostic criteria.<sup>1</sup> The re-experiencing symptom criteria of PTSD include intrusive memories of the traumatic event, and the avoidance symptom criteria include the inability to recall important aspects of the trauma. In addition, patients with PTSD often complain of experiencing everyday memory problems with emotionally neutral material, although these problems are not included in the diagnostic criteria. Documenting these types of memory deficits related to PTSD, and understanding the reasons underlying these deficits, has become a primary focus for researchers for the past 20 years, in part because memory problems can lessen a patient's engagement in, and response to, treatment. In this review, literature on declarative memory deficits (defined as the ability to consciously remember and reproduce emotionally neutral material) related to PTSD will be summarized. Some of the inconsistencies and complexities in these findings, with a focus on addressing the potential influence of comorbid psychopathologies, will be addressed. Then, these findings will be explored through two frameworks: (i) that memory dysfunction is a result of neurobiological abnormalities caused by trauma, and/or (ii) that memory dysfunction serves as a pre-existing risk factor for the development of PTSD.

### **Declarative memory dysfunction in PTSD**

Multiple studies have demonstrated verbal declarative memory deficits related to PTSD, in samples of adult patients with PTSD related to combat,<sup>2-9</sup> childhood abuse,<sup>10-11</sup> rape,<sup>12</sup> political violence,<sup>13</sup> and the Holocaust.<sup>14-15</sup>

Studies have employed a variety of memory measures, including list-learning tasks such as the California Verbal Learning Test and the Rey Auditory Verbal Learning Test; paired associates learning, from the Wechsler Memory Scale (WMS); and narrative recall, such as the Logical Memory subtest of the WMS. Visual memory impairments appear to be less pronounced than verbal memory impairments.<sup>16</sup> Fewer studies have examined neuropsychological functioning in children with PTSD. There is some evidence of verbal memory deficits in samples of children exposed to intimate partner violence,<sup>17</sup> motor vehicle accidents,<sup>18</sup> and physical and sexual abuse.<sup>19</sup>

There are some exceptions to this fairly robust literature, with some studies failing to find memory impairments related to PTSD.<sup>20-26</sup> Conflicting methodologies across studies might account for these inconsistencies; the majority of studies examining memory in PTSD employ small sample sizes and a variety of instruments used to assess memory. In addition, confounds such as comorbid psychiatric conditions complicate interpretation of findings.

Meta-analysis is the most useful method to pool the results of individual studies, weight them for sample size, and generate an overall effect size to test the hypothesis that PTSD is associated with verbal declarative memory deficits. A meta-analysis of adult studies prior to 2006<sup>27</sup> showed a small-to-moderate effect size for memory deficits in PTSD. The 27 studies reviewed examined both verbal and visual memory and produced larger effects for verbal memory. The studies included both trauma-exposed and unexposed control groups with more pronounced differences occurring between PTSD patients and control groups not exposed to trauma. Similarly, Johnsen and Asbjensen,<sup>28</sup> in their recent meta-analysis, found a moderate effect size for verbal memory impairment, with stronger memory impairment in war veteran groups compared with civilian groups. The authors noted that the majority of studies reviewed included veterans from the Vietnam War with chronic, long-lasting PTSD. These findings could suggest that the memory impairments were related in part to illness duration.

It should be emphasized that overall, decrements in memory performance due to PTSD are subtle, with performance falling either in the low average range, or in the normal range yet significantly lower than controls. Still, the findings are clinically meaningful when they represent a change in functioning before and after trauma.

A closer examination of the pattern of memory deficits reveals that PTSD most significantly impacts the initial acquisition and learning phases of memory, as opposed to the retention phase. For example, when controlling for initial acquisition, several studies have failed to find PTSD-related deficits in delayed recall.<sup>7,8,13,17,23,24,29</sup> In Brewin et al's<sup>27</sup> meta-analysis, there was not an effect of immediate versus delayed recall, suggesting that any loss of memory over time is more likely accounted for by difficulties in immediate recall.

### Comorbidities

It is important to establish that any memory deficits observed in patients with PTSD are related to PTSD and not to psychiatric conditions commonly comorbid with PTSD, particularly depression, substance use disorders, and traumatic brain injury. For example, Neylan et al<sup>20</sup> failed to find PTSD-related memory deficits when veterans with psychiatric comorbidities were excluded. Barrett et al<sup>30</sup> found that veterans with PTSD alone did not exhibit impairments in neurocognitive functioning, whereas veterans with PTSD and a concurrent diagnosis of depression, anxiety, or substance abuse did. To further address the comorbidity issue, researchers have matched PTSD and control subjects on comorbidity status,<sup>2,11,12</sup> statistically controlled for alcohol use or depression,<sup>6</sup> or examined subgroups with and without comorbid disorders<sup>8</sup> and continued to find PTSD-related neuropsychological deficits. Our group<sup>9</sup> systematically examined the independent and interactive contributions of PTSD and alcohol abuse history using a four-group design and found verbal memory deficits specific to PTSD.

The majority of neuropsychological studies with patients with PTSD excluded subjects with traumatic brain injury (TBI), which could represent a confound as it is also associated with memory deficits and commonly comorbid with PTSD. In their meta-analysis, Brewin et al<sup>27</sup> determined that a confounding effect of a history of head injury is not likely: studies reviewed that excluded subjects with head injury actually showed larger effect sizes for memory impairments than did studies that failed to state whether they excluded subjects with head injury. A current focus of PTSD research is to examine independent and interactive effects of PTSD and TBI on neurocognitive functioning and to attempt to distinguish patterns of impairment between the two disorders. This

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is challenging, as the diagnosis of mild TBI cannot be easily made when PTSD is present as clinicians are unsure of the cause of many of the cognitive symptoms.

## Memory and PTSD frameworks

There are two primary frameworks for understanding memory impairment in PTSD. The first posits that memory deficits are a product of neurobiological abnormalities caused by PTSD. The second framework posits that preexisting memory deficits serve as a risk factor for the development of PTSD following trauma exposure. Each model represents either end of the nature vs nurture paradigm—either that the environment impacts neurobiology or that genetics influence one's predisposition to PTSD.

## Neurobiological abnormalities in PTSD

Researchers have established multiple neurobiological systems and structural and functional abnormalities involved in PTSD.<sup>31,32</sup> Here, key systems and structures and their relationship to declarative memory will be briefly summarized. Memory deficits appear to be most related to abnormalities in the hippocampus and hypothalamic-pituitary-adrenal (HPA) axis, and the prefrontal cortex and catecholamine system.

Over 15 years of PTSD research has focused on the role of the hippocampus, a brain area particularly sensitive to the effects of stress. Studies showing glucocorticoid toxicity in the hippocampus and memory dysfunction in animals under stress<sup>33,34</sup> led to the hypothesis that severe stress, in particular traumatic stress, may result in similar changes in humans. Meta-analyses<sup>35,36</sup> of adults with PTSD reveal smaller hippocampal volume in both the left and right sides. Functional imaging studies have demonstrated abnormal cerebral blood flow to the hippocampus<sup>37,38</sup> during declarative memory tasks. Other studies have found reductions in N-acetyl aspartate (NAA), a marker of neuronal integrity.<sup>39,40</sup> In addition, dysregulation of the hypothalamic-pituitary-adrenal (HPA) axis is associated with PTSD.<sup>41-45</sup>

In contrast, meta-analysis<sup>36</sup> did not demonstrate hippocampal volume loss in children. Two possible explanations are that hippocampal alterations associated with PTSD may change over time or that there may be more sensitive markers of hippocampal pathology than volume loss with children. There is some limited evidence

pointing to hippocampal dysfunction in children. Carrion and colleagues<sup>46</sup> found that PTSD symptoms and cortisol levels predicted hippocampal reduction over time. And in a functional imaging study, this group<sup>47</sup> found decreased activity in the hippocampus during a verbal memory task in children with PTSD symptoms from interpersonal trauma.

The relationship between declarative memory and hippocampal functioning is well established within studies of elderly subjects, both with and without dementia.<sup>48-51</sup> Given that line of research, as well as repeated documentation of both declarative memory deficits and hippocampal abnormalities in PTSD, it would follow that there would be a correlation between hippocampal dysfunction and declarative memory performance in individuals with PTSD. However, few studies have examined and demonstrated this relationship. Two research studies have found expected correlations between hippocampal volume loss and declarative memory performance,<sup>52,53</sup> whereas three other studies have not.<sup>54-56</sup>

Although the hippocampus was the early focus of research in understanding declarative memory deficits related to PTSD, the discrepant findings described above suggest that it should not be the only focus. To summarize, first, research does not consistently show a correlation between declarative memory performance and hippocampal function. Second, there is limited evidence showing hippocampal dysfunction in children. Finally, the pattern of memory impairments in PTSD demonstrates that PTSD is less associated with problems with retention, a process mediated by the hippocampus, and much more associated with problems with acquisition and learning, processes more associated with prefrontal system dysfunction.<sup>57</sup>

There are a number of studies further elucidating the impact of PTSD on the prefrontal cortex (PFC). Stress exposure releases glucocorticoids and catecholamines in the PFC,<sup>58-59</sup> which impair functions mediated by the PFC including working memory, executive function, and the regulation of behavior and emotion.<sup>60</sup> Deficits in these areas are also associated with PTSD.<sup>5-8,12,61-65</sup> Several magnetic resonance imaging (MRI) studies have reported decreased frontal cortex volume in PTSD<sup>66-68</sup> and decreased volume in medial prefrontal regions, namely the anterior cingulate and subcallosal cortex.<sup>69-72</sup> A functional imaging study revealed underactivation of the frontal cortex during a paired-associates learning task in patients with PTSD.<sup>73</sup> Particularly in children, findings of



frontal dysfunction are more robust than findings of hippocampal dysfunction.<sup>66,67,74</sup>

### Cognitive risk and protective factors in PTSD

PTSD is a unique psychiatric disorder in that it is the result of a traumatic life event. As such, it would be assumed that all neuropsychological and neurobiological abnormalities associated with PTSD are also caused by that event. However, prospective and twin studies offer compelling support for the model that pre-existing memory and learning deficits, and related hippocampal dysfunction, increase one's vulnerability to developing PTSD. Gibertson et al<sup>75</sup> studied monozygotic twin pairs who were discordant for combat exposure and found that the identical co-twins of combat veterans with PTSD, who had not experienced combat exposure or PTSD themselves, showed similar deficits in verbal memory. In addition, both combat veterans with PTSD and their co-twins exhibited smaller hippocampi,<sup>76</sup> suggesting that a smaller hippocampus and memory impairments in PTSD represent a pre-existing, genetic factor. Further support for this framework has come from a recent longitudinal study, where researchers examined the extent to which poorer neurocognitive functioning prior to a major natural disaster predicted the develop-

ment of PTSD symptoms.<sup>77</sup> Development of PTSD symptoms was inversely associated with word recall, as well as working memory, processing speed, and verbal intelligence performance assessed pretrauma.

### Conclusions

It is likely that memory dysfunction is both a pre-existing risk factor for the development of PTSD as well as a consequence of the disorder. Vasterling and Brailey<sup>78</sup> propose a potential "downward spiral" (p 192) in which pre-existing neurocognitive deficits lead to an increased risk of PTSD through ineffective coping or fewer resources, and the development of PTSD, in turn, engenders greater cognitive dysfunction. Regardless of the origin of memory deficits, their effects on daily functioning and treatment are of primary concern. Memory problems reduce the resources available to PTSD patients when coping with life's demands and more specifically, can impact patients' ability to engage in and respond to psychological treatment. Indeed, a recent study found that verbal memory impairment predicted poorer outcome in patients receiving cognitive behavioral therapy for PTSD.<sup>79</sup> To address this concern, future research should examine the effects of cognitive rehabilitation training on neuropsychological deficits related to PTSD. □

#### **Trastorno por estrés postraumático y funcionamiento de la memoria declarativa: una revisión**

*La disfunción de la memoria declarativa se asocia con el trastorno por estrés postraumático (TEPT). Este artículo revisa la literatura y presenta dos propuestas para explicar la naturaleza de esta disfunción: que los déficit de memoria son producto de anomalías causadas por el TEPT y/o que los déficit de memoria preexistentes constituyen un factor de riesgo para el desarrollo de un TEPT a continuación de la exposición a un trauma. El hipocampo y la corteza prefrontal son las regiones cerebrales que participan en los déficit de memoria declarativa. Se describen los estudios de imágenes y bioquímicos que se han realizado y la manera en que ellos se relacionan con la disfunción de memoria. Los estudios prospectivos y de gemelos proporcionan apoyo para un modelo de factor de riesgo.*

#### **Etat de stress post-traumatique et fonctionnement de la mémoire déclarative**

*L'état de stress post-traumatique (ESPT) s'associe à un trouble de la mémoire déclarative. Cet article analyse la littérature et présente deux grands axes pour expliquer la nature de ce trouble : tout d'abord, ces déficits mnésiques résultent d'anomalies dues à l'ESPT, de plus, la préexistence de déficits mnésiques jouent le rôle de facteur de risque de développement de l'ESPT après exposition à un traumatisme. L'hippocampe et le cortex préfrontal sont les régions cérébrales impliquées dans les déficits de mémoire déclarative. Nous décrivons ici les études de biochimie et d'imagerie liées au trouble mnésique, les études prospectives et de jumeaux servant de base à un modèle de facteur de risque.*

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# **EXHIBIT “6”**

## Short report

Verbal memory and treatment response  
in post-traumatic stress disorder

Jennifer Wild and Ruben C. Gur

## Summary

Post-traumatic stress disorder (PTSD) is often associated with verbal memory deficits, which could influence treatment outcome. We assessed neuropsychological functioning in individuals with PTSD and their response to cognitive-behavioural therapy (CBT). Treatment non-responders had significantly poorer performance on measures of verbal memory compared with responders and demonstrated narrative encoding deficits. Differences were not explained

by IQ, performance on tasks of attention, initial PTSD severity, depression, time since trauma, or alcohol/substance misuse. Verbal memory deficits seem to diminish the effectiveness of CBT and should be considered in its implementation.

## Declaration of interest

None.

Individuals with post-traumatic stress disorder (PTSD) often demonstrate verbal memory deficits,<sup>1–3</sup> which may increase risk of developing the disorder.<sup>4</sup> Alcohol misuse, depression, lower IQ and impairments in attention contribute to verbal memory problems. However, the link between memory problems and PTSD remains after controlling for comorbidity, attentional difficulties and intellectual functioning.<sup>5</sup> It is unclear whether verbal memory influences outcome of cognitive-behavioural therapy (CBT) for PTSD, an effective intervention<sup>6</sup> recommended by the National Institute for Health and Clinical Excellence (NICE) as a first-line treatment. Between 8 and 12 sessions are typically offered, but not all people with PTSD recover with this regimen.<sup>6</sup> Our purpose was to examine whether verbal memory relates to outcome of CBT for individuals with PTSD.

## Method

Twenty-three people (10 women; mean age=34.8 years, s.d.=8.3) were recruited from consecutive referrals to a PTSD clinic in London. All participants had PTSD as a result of interpersonal trauma or a road traffic accident. Two participants had physical injury: one had suffered the amputation of two toes, and one had leg scarring. Diagnoses were ascertained with the Structured Clinical Interview for DSM-IV (SCID)<sup>7</sup> and the Clinician Administered PTSD Scale (CAPS).<sup>8</sup> There was full agreement in PTSD diagnoses at assessment and follow-up. Two participants met criteria for SCID-assessed alcohol misuse. Severity of depression and anxiety were measured using the Beck Depression Inventory (BDI)<sup>9</sup> and the Beck Anxiety Inventory.<sup>10</sup> Participants underwent neuropsychological assessment before commencing a standard course of eight sessions of CBT for PTSD and were re-assessed for PTSD after session eight. One of two clinical psychologists with extensive training in CBT delivered the treatment. All participants were native English-speaking, free from illicit drug use, psychotropic medications, major medical illness, neurological disorder, and history of head trauma with loss of consciousness.

The Vocabulary and Block Design tests of the Wechsler Adult Intelligence Scale-Revised<sup>11</sup> were administered to estimate verbal and non-verbal IQ.<sup>12</sup> Memory was assessed with the Adult Memory and Information Processing Battery.<sup>13</sup> Two variables that reflect the ability to register meaningful narrative and retain it, hypothesised as relevant to CBT, were analysed: story recall immediate (immediate verbal memory) and percentage retained (retention of verbal information). The digit span subtest of the

WAIS-R was administered to measure encoding, and three subtests of the Test of Everyday Attention (TEA)<sup>14</sup> were selected: map search (focused attention), visual elevator (attentional switching), and lottery (sustained attention). These latter four subtests measure components of attention.<sup>15</sup>

T-tests were performed to assess differences between responders and non-responders on pre-treatment severity, age, years of education, alcohol intake, time since trauma, memory, attention and intellectual functioning. There was a trend for non-responders to have higher scores on the BDI ( $P=0.077$ ) and the CAPS ( $P=0.098$ ) at the start of treatment compared with responders. These variables were used as covariates in subsequent analyses.

Partial correlations were performed to assess the relationship between improvement in symptoms and the memory and attention variables controlling for pre-treatment severity. To test whether verbal memory functioning predicted improvement after controlling for pre-treatment severity and differences in attention, sequential regression was employed.

## Results

At follow-up, 16 patients had recovered (70%) and 7 (30%) continued to meet DSM-IV<sup>16</sup> criteria for PTSD. The online Table DS1 summarises sample characteristics, pre-treatment symptom scores and neuropsychological scores, and post-treatment improvement on the CAPS. The PTSD-persistent group had poorer performance on immediate and delayed verbal recall compared with the recovered group. Groups were similar on percentage of information retained. There was a trend ( $P=0.081$ ) for the PTSD-persistent group to have more difficulty with sustained attention, although their scores fell in the average range. Groups did not differ in age, years of education, gender, time since trauma, trauma type, alcohol intake and misuse, pre-treatment PTSD symptomatology, intellectual functioning, and rates of physical injury and prior trauma.

Controlling for pre-treatment severity, improvement on the CAPS was associated with story recall immediate ( $r=0.688$ , d.f.=19,  $P=0.001$ ) but not with percentage retained ( $r=0.000$ , d.f.=19,  $P=0.998$ ). As the two groups did not differ on this variable, it was not included in subsequent analyses. Improvement on the CAPS was unrelated to attention: encode ( $r=0.177$ , d.f.=19,  $P=0.442$ ), focus ( $r=0.213$ , d.f.=19,  $P=0.355$ ), shift ( $r=0.072$ , d.f.=19,  $P=0.755$ ) and sustain ( $r=0.072$ , d.f.=19,  $P=0.755$ ).

Sequential regression revealed that even after controlling for differences in pre-treatment severity and attention, story recall immediate predicted improvement on the CAPS. The BDI, CAPS, and TEA sustained attention, entered at step 1, failed to predict improvement in symptoms ( $r^2=0.246$ ; adjusted  $r^2=0.126$ ;  $F=2.06$ ; d.f.=3,22;  $P=0.139$ ) but adding story recall immediate at step 2 significantly increased  $r^2$  ( $r^2=0.604$ ; adjusted  $r^2=0.516$ ;  $F=6.87$ ; d.f.=4,22;  $P=0.002$ ), accounting for 36% of the variability in improvement on the CAPS. Non-responders performed in the low average to abnormal range on this task.

## Discussion

Memory difficulties did not characterise all patients with PTSD, but did distinguish patients who failed to improve in treatment from those who recovered. In particular, registration and recall of meaningful narrative predicted outcome. This relationship was sustained after controlling for depression, PTSD severity and differences in attention, highlighting the role of verbal memory in treatment-related recovery from PTSD. These findings extend reports that verbal memory difficulties predict the development of PTSD in trauma-exposed adults.<sup>4</sup> Once PTSD is established, verbal memory may constrain recovery.

The recovered and PTSD-persistent groups did not differ on the long delay/short delay savings ratio, consistent with current research.<sup>1</sup> What patients did initially register, they retained, suggesting that the problem lies in the ability to initially learn meaningful information. Differences in memory function could be related to encoding difficulties. The PTSD-persistent group had lower scores on the digit span test of the WAIS-R. However, poorer performance on digit span was unrelated to improvement in symptoms. The ability to encode and manipulate numerical information (digit span) may have little relevance to CBT, whereas the ability to encode and remember meaningful narrative (story recall immediate) is relevant. There was a trend for the PTSD-persistent group to have more difficulty sustaining attention, although patients still performed in the average range and attention was unrelated to improvement in symptoms. This may relate to the likelihood that clinicians will notice and appropriately address patients who are unable to sustain attention. The groups were similar in their ability to focus and shift attention, consistent with previous research<sup>1</sup> and findings that suggest memory functioning is a specific predictor of PTSD status separate from attention.<sup>5</sup>

The main limitation of our study is its small sample size. However, the differences in memory between our groups remain significant after correcting for multiple comparisons and controlling for possible contributing variables. Given the small sample size, further research is encouraged. Additional limitations include limited information on participants' premorbid psychiatric history and their memory functioning. The memory deficits may have existed prior to trauma exposure, or could have developed in its aftermath in vulnerable individuals. Regardless of the origin of memory dysfunction, our study indicates that patients with poor verbal memory make less progress with CBT than patients with similar levels of PTSD without memory deficits. This finding has implications for improved treatment for PTSD as it may guide adjustments to CBT to compensate for verbal memory deficits, such as summarising key points

frequently. Alternatively, patients with poor verbal memory and PTSD may benefit from other NICE recommended treatments that are possibly less reliant on verbal memory capacity, such as eye movement and desensitisation reprocessing therapy, or drug treatment in cases with severe depression.

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## Acknowledgements

We wish to thank Dr Sallie Baxendale, Dr Peter Scragg, Ms Kerry Young, Dr Janet Feigenbaum and Dr Stuart Turner for their assistance in completing the study.

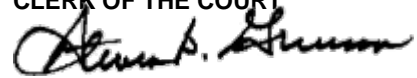
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EXTRA  
CONTENT  
ONLINE

# **EXHIBIT G**



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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* 10<sup>th</sup> supplemental 16.1 disclosures attached hereto as Exhibit A; *See*  
22 *also* Plaintiff's 12<sup>th</sup> 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 **B. Determining Whether Plaintiff Has Memory Loss and Cognitive**  
17 **Impairment and Whether Those Symptoms Are Caused by PTSD or**  
18 **Something Else is The Reason Defendants Need to Conduct a Rule 35**  
19 **Examination**

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

26 Plaintiff seeks to have this Court find that PTSD is the sole cause of the memory and  
27 cognitive issues, which Plaintiff alleges in this case. The Court's inquiry should be limited to  
28 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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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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22 */s/ Gregorio V. Silva*  
23 \_\_\_\_\_  
24 An Employee of  
25 Baker Sterchi Cowden & Rice LLP  
26  
27  
28

# Exhibit A



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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, 3<sup>rd</sup> 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 18<sup>th</sup> 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

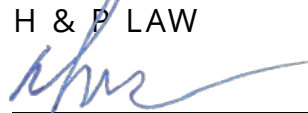
Pursuant to NRCP 16.1(a)(1)(C), below are the calculation of damages to date. Plaintiff reserves the right to supplement/amend her calculation as discovery continues.

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

<b>Michael Elliott and Associates</b>	<b>5/20/2020-present</b>	<b>\$3,060.00</b>
<b>Out of Pocket Expenses</b>		<b>Damage</b>
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
<b>Total Economic Damages</b>		<b>&gt;\$56,114.69</b>
<b>Permanent Scarring</b>		<b>\$789,452.19</b>
Pain and Suffering		<b>\$3,891,234.45</b>
<b>Total Damages</b>		<b>&gt;\$4,739,801.33</b>

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  
MURCHISON & CUMMING, LLP  
350 South Rampart Boulevard, Suite 320  
Las Vegas, Nevada 89145

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

James P.C. Silvestri, Esq.  
Nevada Bar No.: 3603  
Steven M. Goldstein, Esq.  
Nevada Bar No.: 006318  
PYATT SILVERSTRI  
700 Bridger Avenue, Suite 600  
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  
6385 South Rainbow Boulevard, Suite  
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.

<b>Patient:</b> Joshua Green	<b>Chart ID:</b> GRJO000002	<b>Statement ID:</b> 244344-87453546-PREVIEW
<b>Responsible Party:</b> H&P Law		<b>Responsible Party Phone:</b> (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
<b>Total:</b>				<b>\$1,800.00</b>				<b>\$1,800.00</b>
5/20/2020 11:00AM	Dr. Michael Elliott	90791 - PSYCH DIAGNOSTIC EVALUATION	:::	\$540.00				\$540.00
<b>Total:</b>				<b>\$540.00</b>				<b>\$540.00</b>
7/01/2020 09:00AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
9/01/2020 12:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
<b>Total:</b>				<b>\$360.00</b>				<b>\$360.00</b>

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
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>

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](http://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**

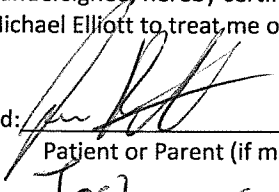
(if other than patient)

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 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: \_\_\_\_\_



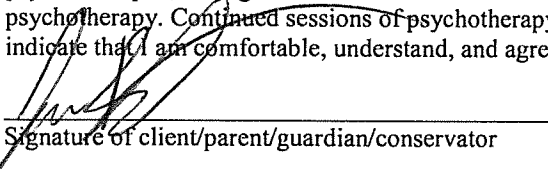
# Teletherapy Informed Consent Form

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.

	<u>5/15/20</u>
Signature of client/parent/guardian/conservator	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 15<sup>th</sup> 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:**

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**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**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:**

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**

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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, 3<sup>rd</sup> 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 18<sup>th</sup> 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

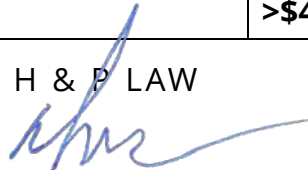
Pursuant to NRCP 16.1(a)(1)(C), below are the calculation of damages to date. Plaintiff reserves the right to supplement/amend her calculation as discovery continues.

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
<del>Gubler Family Dental</del>	<del>8/13/2018-8/21/2018</del>	<del>\$1,626.94</del>
Michael Elliott and Associates	5/20/2020-present	\$3,060.00
<b>Out of Pocket Expenses</b>		<b>Damage</b>
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
<b>Total Economic Damages</b>		<b>&gt;\$56,114.69</b>
<b>Permanent Scarring</b>		<b>\$789,452.19</b>
Pain and Suffering		<b>\$3,891,234.45</b>
<b>Total Damages</b>		<b>&gt;\$4,739,801.33</b>

DATED this 17th day of November 2020.

H & P LAW

  
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 Matthew G. Pfau, Esq.  
 Nevada Bar No.: 11439

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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
<b>SHOW AMOUNT PAID HERE:</b>	<b>\$</b>	

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2609 Centaurus Street  
Henderson, NV 89044

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24800 Chrisanta Drive  
Ste 120  
Mission Viejo, CA 92691

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

<b>Patient:</b> Joshua Green	<b>Chart ID:</b> GRJO000002	<b>Statement ID:</b> 257673-87453546-PREVIEW
<b>Responsible Party:</b> H&P Law		<b>Responsible Party Phone:</b> (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
<b>Total:</b>				<b>\$1,800.00</b>				<b>\$1,800.00</b>
5/20/2020 11:00AM	Dr. Michael Elliott	90791 - PSYCH DIAGNOSTIC EVALUATION	:::	\$540.00				\$540.00
<b>Total:</b>				<b>\$540.00</b>				<b>\$540.00</b>
7/01/2020 09:00AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
9/01/2020 12:00PM	Dr. Michael Elliott	96132 - NRPSYC TST EVAL PHYS/QHP 1ST	:::	\$360.00				\$360.00
<b>Total:</b>				<b>\$360.00</b>				<b>\$360.00</b>

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
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
9/16/2020 10:15AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
10/07/2020 10:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
10/21/2020 10:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
11/04/2020 11:30AM	Dr. Michael Elliott	00004 - Coaching	:::	\$180.00				\$180.00
<b>Total:</b>				<b>\$180.00</b>				<b>\$180.00</b>
<b>Total Amount: \$3,780.00</b>								

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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:**

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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
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**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
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**Plan:**

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**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
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Henderson, NV, 89012**Primary Payer ID:****Secondary Payer ID:**

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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
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Type	Code	Modifiers	Quantity	Description
CUSTOM	00004		1.00 UN	Coaching

# **EXHIBIT H**

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APP-987

1 Las Vegas, Nevada; Thursday, November 19, 2020

2 \* \* \*

3 [Proceeding commenced at 9:48 a.m.]

4 DISCOVERY COMMISSIONER: Our next matter on for  
5 hearing this morning is Green vs Ferrellgas. This is Defendant's motion  
6 to compel a Rule 35 examination.

7 If I could have counsel for the Plaintiff first identify him- or  
8 herself, followed by counsel for Defendants.

9 MR. PFAU: Sorry. I was on mute. Good morning, Your  
10 Honor. Matt Pfau, for the Plaintiff.

11 DISCOVERY COMMISSIONER: Thank you, Mr. Pfau.

12 MS. GALATI: Good morning, Your Honor. Felicia Galati,  
13 appearing for Defendant Ferrellgas.

14 DISCOVERY COMMISSIONER: Good morning, Ms. Galati.

15 MS. WINSPEAR: Good morning, Your Honor. Gina  
16 Winspear. Gina Winspear, on behalf of the Defendant, Carl Kleisner.

17 MR. GOLDSTEIN: And good morning, Your Honor. Steve  
18 Goldstein, on behalf of Defendant Mario Gonzalez.

19 MR. SILVA: Good morning, Your Honor. Gregorio Silva, also  
20 on behalf of Defendant Ferrellgas.

21 DISCOVERY COMMISSIONER: All right. This is Defendant's  
22 motion to compel. I'm not sure who's going to be arguing this, but  
23 whoever is, why don't you go ahead, identify yourself, and proceed.

24 MR. SILVA: Gregorio Silva, Your Honor, on behalf of  
25 Ferrellgas. This is an issue where the parties don't dispute that Plaintiff

1 has put his mental condition at issue and that a Rule 35 examination is  
2 appropriate. It's just kind of the fine details of what should be allowed,  
3 and whether or not Plaintiff should be allowed an observer, and the  
4 scope of examination that should be allowed that are at issue.

5 So there are really kind of four issues before Your Honor.

6 DISCOVERY COMMISSIONER: Okay.

7 MR. SILVA: Whether or not Plaintiff's past -- I'm sorry.  
8 Whether or not Plaintiff's past medical and life issues are within the  
9 scope of the examination, whether Plaintiff should be allowed to have an  
10 observer at the examination, whether an audio recording of the  
11 examination should be done, and then whether Dr. Etcoff is an  
12 appropriate expert to be conducting this examination.

13 So starting with that last issue, I think that's something that the  
14 discovery -- I'm sorry -- that the District Court should be deciding, not  
15 Your Honor. It's a question of admissibility and qualifications, which I  
16 don't think it's proper for this motion.

17 DISCOVERY COMMISSIONER: I agree, and I'm just going to  
18 say that whether or not the expert is the appropriate expert is something  
19 for the District Court Judge to decide when it's determined, you know,  
20 when the admissibility issues are addressed.

21 I am, as the Discovery Commissioner, I am not going to  
22 address that, and I will allow the Defendant -- I will ask -- there's a  
23 showing as to why I should not. I'm going to allow the Defendant to  
24 select their own examiner.

25 Further, there was an issue in the motion that Plaintiffs had

1 requested that a purported violation of the parameters may be  
2 commented upon at the time of trial. I am similarly not going to  
3 recommend that because I think that that's an issue that is, again, an  
4 admissibility issue that should be handled at the time of trial or prior to  
5 trial by the District Court Judge. So I am not going to enforce any  
6 parameter or recommend that a parameter be in place, that a purported  
7 violation of the parameter -- of the agreement may be commented upon  
8 at the time of trial.

9           So, with that said, I think that leaves three issues that I need  
10 to address, the first being what the scope of the inquiry by Dr. Etcoff will  
11 be, whether an audio recording may be allowed, and whether an  
12 observer may be allowed.

13           As all of you, I'm certain, are aware, and as is addressed in  
14 the papers, there is a clear dispute between NRCP 35 and NRS 52.380.  
15 Given the fact that the Legislature has enacted a statute that allows for a  
16 recording to go forward during the Rule 35 exam or the examination of a  
17 party and has allowed an observer, I do think that, since this is an  
18 examination of a person, it does affect a substantive right.

19           And so, while there is a clear distinction, I'm tasked with  
20 reading those two -- the rule -- the conflicting rule and the statute  
21 together in the best way that I'm able. And based on the statute, I am  
22 going to allow an observer at the examination. They will be subject to  
23 the requirements of NRS 52.380. They may not interfere, and if they do  
24 interfere, the examination may be suspended, and there may be  
25 sanctions imposed.

1           In addition, there may be an audio recording. I understand  
2 how that affects psychological evaluations and the willingness of some  
3 providers to actually undertake those examinations with those  
4 parameters in place. But in the state of Nevada, that is the current state  
5 of our law until it's addressed further by the courts, and so that is what I  
6 am going to allow.

7           Finally, with regard to what Dr. Etcoff can address -- and I'm  
8 going to let each of you, you know, address this to me further. I just  
9 want to give you what my tentative thoughts are. I think what's  
10 appropriate for Dr. Etcoff to address in a psychological examination is  
11 maybe somewhat more involved than what would be -- what would be  
12 the appropriate scope in a physical examination.

13           Psychological evaluations are different. I think it's important  
14 for the doctor to be able to make inquiries into the Plaintiff's past or  
15 current medical status as it impacts his current -- it is a him. Yes. -- his  
16 current condition. And so I think that what is appropriate is for the  
17 parameter to be what is reasonable to a psychological evaluation. That  
18 will be the scope.

19           I think it's appropriate for the doctor to be able to determine  
20 whether there are underlying traumas or incidents that could impact or  
21 be contributing to a current symptom that is manifested in the Plaintiff.  
22 So I am not going to limit it to the fact that he will not make any inquiries  
23 into past or -- medical -- that he will not make any inquiries into the past,  
24 but I think that he can certainly inquire as to what his current physical  
25 condition is and how that is impacting his psychological condition or his



1 mental condition, as well as his past traumas that may be currently  
2 impacting his condition. So I am not going to limit it in that way.

3 With those things said, is there anything any of you would like  
4 to argue or further address?

5 MR. SILVA: Your Honor, Gregorio Silva, for Defendant  
6 Ferrellgas. So one thing I would like clarification on is whether or not Dr.  
7 Etcoff, or whichever expert Defendant ends up having to retain if Dr.  
8 Etcoff is unwilling to do this examination given the conflict that you  
9 discussed between Rule 35 and NRS, Plaintiff is claiming that he has  
10 difficulty focusing and memory issues, as well as his -- Dr. Elliott has  
11 made reference to a potential traumatic brain injury, and Plaintiff  
12 recently disclosed, either Monday or Tuesday of this week, that he's  
13 made an appointment with a neurologist.

14 So we believe Dr. Elliott -- I'm sorry -- Dr. Etcoff questioning  
15 should be allowed to include, you know, his past educational history and  
16 everything that would be encompassed on difficulties related to memory  
17 or difficulties related to focusing all the way back to his early childhood,  
18 because that's what Dr. Elliott questioned Mr. Green about, so we feel  
19 Defendants should be allowed to, you know, delve all the way back into  
20 Mr. Green's history and neurological issues and, you know, learning  
21 condition that he was diagnosed with as a kid, you know, his problems at  
22 school, his being classified as a learning disabled student. We think all  
23 of that is relevant to Mr. Green's mental condition as a result of this  
24 incident and his cognitive function.

25 DISCOVERY COMMISSIONER: I think what's appropriate is

1 if Dr. -- I'm sorry -- that if the examiner -- if the Plaintiff is alleging that he  
2 has an inability to focus or he has issues with -- related to memory, I  
3 think that certainly the examiner should be able to ask if he has a history  
4 of those, whether those issues have been present previously in his life,  
5 whether he's been diagnosed with any inability to focus or any memory  
6 issues or inability to understand or learn information; I think that that is  
7 appropriate if that's part of the claims at issue in this case.

8           So I think that any of his prior mental conditions that are at  
9 issue in this case I think, given the nature of a psychological evaluation,  
10 those are appropriate areas of inquiry. Anything that the examiner  
11 thinks is an appropriate area in the psychological field is an appropriate  
12 issue because of the different nature of a psychological evaluation  
13 versus a physical examination, and so I think that that is appropriate.

14           MR. SILVA: Your Honor, Gregorio Silva with Ferrellgas. The  
15 next point I would like to address is the specifics of this incident.

16           Plaintiff requested in his letter and in his briefing that the -- Mr.  
17 Green not be questioned about this incident specifically, but Mr. Green is  
18 making a \$4 million PTSD claim and claiming that he can't be around  
19 barbeques, or he has fear and anxiety being around barbeques, and  
20 general anxiety.

21           And we believe, Defendants believe, the mechanics of this  
22 incident and, you know, how claimant is going to interact with barbeques  
23 in the future are relevant to the inquiry and the examination by Dr. Etcoff  
24 as well as, you know, Mr. Green is saying that he has anxiety from this,  
25 and so determining who or what he believes is responsible for this

1 incident goes to the issue of evaluating his anxiety and how it relates to  
2 this case.

3 DISCOVERY COMMISSIONER: What I think is appropriate --  
4 and I'll give Mr. Pfau a chance to chime in, but what I think is appropriate  
5 is for the examiner to generally ask what happened and how that's  
6 currently affecting his anxiety, and how that affects his interaction with, I  
7 guess, a barbecue, and how in the future it will -- how it impacts his  
8 desire, or lack of, to utilize one in the future.

9 I don't think it's appropriate for the examiner to get into the  
10 specific mechanics of how the event occurred. I think what the resulting  
11 impact was can be asked, like were you burned, did it explode in your  
12 face, I think that's okay, but how it came to happen, I don't think getting  
13 into the specifics of that is appropriate or is reasonable or necessary for  
14 the evaluation.

15 I think, generally speaking, just a general overview as to what  
16 happened, without getting into the specific mechanics of what did you  
17 touch or any of that. I don't think this should be a second liability  
18 deposition. So I don't know if I've made that clear or not, or if you'd like  
19 further clarification, but I'll let other counsel address that.

20 MR. SILVA: So, Your Honor, Grigorio Silva for Ferrellgas  
21 again. There's a fine line in this case on the mechanics of the incident  
22 specifically that Dr. Elliott, Plaintiff's treating physician, is saying that  
23 there's signs of concussion-related symptoms that would have occurred  
24 from the shockwave of the fire incident itself, so --

25 DISCOVERY COMMISSIONER: Okay. I think --

1 MR. SILVA: -- there's a fine line as to --

2 DISCOVERY COMMISSIONER: I think --

3 MR. SILVA: Go ahead, Your Honor.

4 DISCOVERY COMMISSIONER: -- anything from the  
5 explosion forward, and how it impacted, like whether or not, once it  
6 exploded, like, did you -- did your body move back, did you hit anything,  
7 I think -- did you hit your head, I think those are appropriate questions for  
8 the examiner to ask.

9 What I don't think is appropriate is, well, what button did you,  
10 like, turn on first, and did you check any gauges first, things like that, of  
11 that nature, as to what occurred before the explosion. I don't think that's  
12 appropriate for a psychological evaluation.

13 I think certainly when the explosion happened, how did that  
14 affect your body, did you hit anything, did it whip your head back; those  
15 kinds of questions, I think that's appropriate, to understand whether  
16 there was an actual head trauma.

17 But I don't think getting into how the explosion occurred is  
18 appropriate. So anything before the -- I think how the explosion  
19 occurred or what caused it to occur is not an appropriate inquiry, but  
20 what was the result of the explosion I think is.

21 MR. SILVA: Gregorio Silva for Ferrellgas. Thank you, Your  
22 Honor. That's all of the clarifications that I had on the briefing.

23 DISCOVERY COMMISSIONER: Okay. With all of that said,  
24 and with the questions of Mr. Silva, starting with Mr. Pfau, is there  
25 anything that you would like addressed?

1 MR. PFAU: Yes, Your Honor. I appreciate the opportunity.  
2 So I do want to address a couple of things. We were not disputing the  
3 fact that Dr. Etoff could do an evaluation. What we are disputing is the  
4 scope of his evaluation. So I don't know that that necessarily has been  
5 addressed.

6 I understand that you can't prevent a certain expert and  
7 admissibility of his report is really upon the District Court, but what this  
8 Court can do is determine the scope of the examination or the scope of  
9 what is examined, as this Court has already done in the instance that  
10 Mr. Silva was just asking about. And what we're asking for in this case  
11 is a limitation on Dr. Etoff examination related to purely psychological  
12 and not neuropsychological.

13 Mr. Silva's relying on a statement by Mr. Green's current  
14 psychologist that says that there's a possibility for a traumatic brain  
15 injury, yet there has been no diagnosis for a traumatic brain injury and it  
16 is not a claim we are pursuing. This is all related to PTSD related to the  
17 explosion, how the explosion affected him.

18 Just to clarify for Your Honor, Mr. Green is a very well known  
19 chef that has created well known restaurants here in town, and his job is  
20 to work with open flames, and he cannot do that anymore, and that is  
21 part of his damages as related to this. Now, for a common, ordinary  
22 person, maybe anxiety related open flames isn't that big of a deal, but  
23 for a chef, and when that's your career, and that's what you're paid to  
24 do, it is.

25 And what we have here is purely a psychological symptoms,

1 not neuropsychological symptoms, and that's all that's ever been alleged  
2 in this case.

3           There, again, was a statement maybe there's a traumatic  
4 brain injury, but again the psychologist can't diagnose this, and he's not  
5 being diagnosed for a traumatic brain injury, so that is off the table.

6           As you have mentioned previously, if there [poor audio  
7 quality - audio drops] -- things at issue, then Dr. Etcoff can ask about  
8 them. Well, what is the -- the only things are at issue here, as we  
9 indicated in our moving papers, are psychological trauma, not  
10 neuropsychological related to a brain injury and resulting effects of a  
11 brain injury, but only --

12           DISCOVERY COMMISSIONER: Well, didn't I just --

13           MR. PFAU: -- psychological --

14           DISCOVERY COMMISSIONER: Didn't I just hear that he's  
15 now going to a neurologist or he's been recommended to go to a  
16 neurologist? Is that because there is a neuropsychological component?

17           MR. PFAU: He was only -- this doctor that he's seeing, this  
18 psychologist, is only exploring that option, and he -- this psychologist --  
19 of course, we don't dictate what these doctors do, but this doctor says,  
20 hey, maybe you should be checked out. There is no claim for a  
21 neuropsychological component for this. And --

22           DISCOVERY COMMISSIONER: And you're willing to  
23 stipulate that there will not be?

24           MR. PFAU: Yes.

25           DISCOVERY COMMISSIONER: Okay. Well, if that

1 stipulation is, in fact, in place, that there's not going to be a  
2 neuropsychological component, then the examination should not focus  
3 on those things.

4 MR. PFAU: Okay. And that's exactly what we're asking --

5 MR. SILVA: Your Honor, Gregorio --

6 MR. PFAU: Mr. Silva --

7 MR. SILVA: Gregorio Silva, for Ferrellgas.

8 DISCOVERY COMMISSIONER: Just a second. Let me let  
9 Mr. Pfau finish, and then I'll turn the time back over to you, Mr. Silva.

10 MR. PFAU: So -- and I appreciate that because that is exactly  
11 what we're asking, related just to the scope of the examination. Dr.  
12 Etcoff can do an examination, but it should be a psychological  
13 examination because that's the only claim we are making in this case,  
14 and that would be the scope we are asking for because that's all that's at  
15 issue. Any examinations -- and they do -- two-day neuropsychological  
16 examinations would be completely irrelevant in this type of a case  
17 because, again, there's no traumatic brain injury, there's no evidence of  
18 a traumatic brain injury. There's only a doctor saying, hey, maybe there  
19 is one, but, again, he's not qualified to do that. And, as I stated before,  
20 we are stipulating the fact that there is not one and we're not trying to  
21 claim one.

22 This is just a doctor --

23 DISCOVERY COMMISSIONER: Well, it was my  
24 understanding from -- it was my understanding from Mr. Silva that the  
25 Plaintiff is claiming an inability to focus and memory issues associated

1 with this injury, which does -- which are cognitive issues, which call into  
2 question a neuropsychological evaluation.

3 So I guess I'm not clear, Mr. Pfau. Are you saying there is no  
4 inability to focus or memory issues related?

5 MR. PFAU: No, Your Honor, that is not what we're saying, but  
6 we're saying they're not related to a traumatic brain injury. What we're  
7 saying is they're related to the PTSD and the anxiety that he feels when  
8 he's working and what he's doing.

9 DISCOVERY COMMISSIONER: Okay.

10 MR. PFAU: Because those [poor audio quality - audio  
11 drops] --

12 DISCOVERY COMMISSIONER: If he's claiming an inability to  
13 focus and memory issues, then I'm going to allow a neuropsychological  
14 evaluation because those are symptoms that are related to a  
15 neuropsychological claim.

16 If he is going to continue memory issues and an inability to  
17 focus, then I think that that calls into question cognitive difficulties, and I  
18 will allow Dr. -- or the examiner, whoever it ends up being, to address  
19 that.

20 If you are willing to waive any claim for any type of  
21 neuropsychological injuries, that may be a different story. But my  
22 understanding is that lack of focus and memory loss are -- fall well within  
23 the neuropsychological -- our neurological -- neuropsychological  
24 complaints, and then a neuropsychological examination would be  
25 appropriate.



1 MR. PFAU: And so, Your Honor, I guess this really comes  
2 down to a causation question posed.

3 DISCOVERY COMMISSIONER: Okay.

4 MR. PFAU: Because, again, our theory that this -- these  
5 issues are not caused by a traumatic brain injury, which then would  
6 necessitate a neuropsychological, if Dr. Etcoff is going to be opining as  
7 to causation related to a traumatic brain injury, then I withdraw my  
8 stipulation related to any traumatic brain injury type of causes of action  
9 or anything related to neuropsychological damage because if he's going  
10 to be evaluating him on those bases, then we also need to have him  
11 evaluated on those bases, and those haven't been done. We haven't  
12 been planning to do that.

13 And, honestly, I think that this challenge is expanding the  
14 expense of the litigation unnecessarily and also expanding the scope of  
15 litigation when that's not where we're trying to take this.

16 DISCOVERY COMMISSIONER: Okay. Well, what is very  
17 clear to me, at least at this point -- and I may let other counsel weigh  
18 in -- is that it's not clear to everyone what is or is not being alleged and  
19 what you're stipulating to withdraw or not withdraw.

20 So, Mr. Silva, would you like to respond?

21 MR. SILVA: Yes, Your Honor. So Gregorio Silva, for  
22 Ferrellgas again.

23 So Mr. Pfau, in his disclosure of witnesses and documents,  
24 identified Dr. Elliott as testifying regarding the encounter for screening  
25 for a traumatic brain injury. The records that Mr. Pfau produced this

1 week state that Mr. Green has made an appointment with a neurolog- --  
2 [poor audio quality - audio drops]

3 The diagnosis and evaluations that Dr. Etcoff performed  
4 included neuropsychological opinions, so we believe that Dr. Etcoff  
5 should be allowed to --

6 DISCOVERY COMMISSIONER: You mean Dr. Elliott?

7 Did you mean Dr. Elliott?

8 MR. SILVA: Dr. Elliott. Dr. Elliott did those evaluations.

9 DISCOVERY COMMISSIONER: Okay.

10 MR. SILVA: So we believe Dr. Etcoff should also be allowed  
11 to do those evaluat- -- [poor audio quality - audio drops].

12 DISCOVERY COMMISSIONER: Mr. Pfau.

13 MR. PFAU: Yes. Thank you for giving me another  
14 opportunity. Again, I just want to reiterate what I said before. We  
15 were -- are not planning on making a claim for traumatic brain injury. Dr.  
16 Elliott said, hey, this may be something that should be investigated. He  
17 did refer him to somebody to get it investigated. If the result of those  
18 investigations do determine that there is a traumatic brain injury, then I  
19 guess it's on the table.

20 It seems like Your Honor's opinion is that, because he's  
21 claiming some memory loss and concentration issues, that it could be  
22 related to traumatic brain injury, though we were willing to stipulate that  
23 those are off the table to limit the expense and time of this litigation, but  
24 if the defense wants to make it an issue in this case, then we will plan on  
25 also addressing those issues as they come up.

1 DISCOVERY COMMISSIONER: Well, the defense can't put  
2 the Plaintiff's claims at issue. That's not how it works. So either there's  
3 an agreement that you're withdrawing it and the Defendants aren't going  
4 to --

5 I mean, Mr. Silva, do you accept the stipulation that they want  
6 to remove any claim for neuropsychological injury?

7 MR. SILVA: Your Honor, yes, if Plaintiff is willing to stipulate  
8 to removing a claim for neurological injuries, we are, I think, since this is  
9 a joint Defendants' motion, and I don't think I can speak for every  
10 Defendant, but I think Ferrellgas at least would agree that if Plaintiff is  
11 stipulating that there are no neurological conditions at issue in this  
12 litigation, and that he's not going to make any claim related to  
13 neurological issues, then we will withdraw our portion of the request for a  
14 neurological --

15 DISCOVERY COMMISSIONER: Okay.

16 MR. SILVA: -- examination. Again, this is a joint defense  
17 motion, and I don't feel like I can speak --

18 DISCOVERY COMMISSIONER: I understand.

19 MR. SILVA: -- for Ms. Winspear and Mr. Goldstein.

20 DISCOVERY COMMISSIONER: Okay. What I think is  
21 becoming apparent to me is I'm not sure it's clear to anyone what type of  
22 Rule 35 exam is warranted in this case. There -- I feel like there needs  
23 to be further discussion among the counsel as to what the claims are,  
24 what can be stipulated out.

25 Would you like to speak to this, Ms. Winspear or Mr.

1 Goldstein?

2 MS. WINSPEAR: Hi. This is Mrs. Winspear. I have the same  
3 position as Mr. Silva. You know, I think that it is -- it needs to be  
4 narrowed down a little bit. Obviously there's some confusion between  
5 the parties, and certainly Plaintiff's doctors have created issues that  
6 we're just trying to follow up on, but I would join with Mr. Silva's position.

7 DISCOVERY COMMISSIONER: Okay. Mr. Goldstein.

8 MR. GOLDSTEIN: Yes. Hi. Steve Goldstein here. I will  
9 agree with all counsel that if Plaintiff wants to withdraw any of those  
10 issues regarding the neurological issues, I'm okay with that. We can --

11 DISCOVERY COMMISSIONER: Okay.

12 MR. GOLDSTEIN: We can limit the scope of the IME.

13 DISCOVERY COMMISSIONER: All right. This is what I'm  
14 going to do. I think that counsel need to discuss and enter into some  
15 stipulations or at least ferret out some more information before I  
16 determine what the scope of the evaluation -- of the -- whether it's  
17 appropriate for there to be a neuropsychological evaluation rather than  
18 just a psychological evaluation.

19 I think that that needs to take place, and then I think that we  
20 need to come back on this motion, or perhaps once you agree to that,  
21 we may not have to come back on this motion.

22 So I've already ruled on the issues with regard to the audio  
23 recording, which I've said under NRS 52.380 can go forward. A silent  
24 observer again on -- can be present under NRS 52.380. I will not  
25 comment on whether a purported -- or I will not make a recommendation

1 on whether a purported violation of the parameters may be commented  
2 upon at trial. I think that's more appropriately addressed before the  
3 District Court Judge. And, again, whether Dr. Etcoff is the appropriate  
4 expert for this type of evaluation is I think something that should be  
5 addressed at the time of the evidentiary issues with the District Court  
6 Judge.

7 What I will allow is for Dr. -- or the examiner to ask questions  
8 regarding the past or current medical status of the Plaintiff. I am going  
9 to continue the motion as it relates to the scope of the evaluation and  
10 whether neuropsychological issues can be addressed.

11 I'm going to continue this for a period of about two weeks on  
12 the motion to compel that portion, so the motion to compel is granted  
13 with the parameters that I've addressed, but the issue with regard to the  
14 scope of the evaluation will be decided in two weeks.

15 If, during that interim, counsel can get together and make --  
16 come to some kind of a stipulation as to what the actual claims at issue  
17 in the case are or are not, and can come to an agreement, certainly you  
18 can stipulate to that scope and then you can vacate the continuation of  
19 the motion and just put it into a stipulation.

20 So is that clear as mud?

21 MR. PFAU: Yes, Your Honor, this is Matt --

22 MR. SILVA: Yeah. Gregorio Silva --

23 MR. PFAU: This is --

24 MR. SILVA: I'm sorry. Go ahead, Matt.

25 MR. PFAU: Oh. Sorry.

1 DISCOVERY COMMISSIONER: Go ahead, Mr. Silva.  
2 MR. SILVA: For Ferrellgas.  
3 DISCOVERY COMMISSIONER: Mr. Silva?  
4 MR. SILVA: I was just going to say that --  
5 DISCOVERY COMMISSIONER: Oh, Mr. Pfau, go ahead.  
6 MR. SILVA: Can you hear me down there?  
7 DISCOVERY COMMISSIONER: Yes, Mr. Pfau -- oh, who's  
8 speaking?  
9 MR. PFAU: That's Gregorio.  
10 MR. SILVA: This is Gregorio Silva for Ferrellgas, Your Honor.  
11 I was just going to bring to your attention that we have a  
12 hearing on various issues before the District Court on December 8<sup>th</sup> and  
13 may benefit from having those issues resolved before we appear back  
14 before Your Honor.  
15 DISCOVERY COMMISSIONER: Okay. So you'd --  
16 MR. PFAU: Your Honor --  
17 DISCOVERY COMMISSIONER: -- like a date -- go ahead.  
18 MR. PFAU: I'm very sorry. This is so challenging, not being  
19 in person. I'm sorry. Matt Pfau, for the Plaintiff.  
20 I was also going to just add to that I think, just so the record's  
21 clear, we're -- we are willing to waive any traumatic brain injury type  
22 claims. However [poor audio quality - audio distortion] -- I think there is  
23 a distinguishing feature of this case that needs to be maybe ferreted out  
24 and maybe some additional motion work needs to be done, and  
25 something that we've discussed previously is that because he has

1 PTSD, because he has these burns, because he has anxiety related to  
2 his job, that does -- those do affect his ability to focus, and they're not  
3 necessarily related to a traumatic brain injury. And I think that's really  
4 going to be the focus of our conversation. I think that's probably what  
5 we're going to be talking about in the next couple weeks. But at that  
6 same time we are willing to withdraw a traumatic brain injury claim, but  
7 that doesn't mean that he does not have any other deficits related to his  
8 ability to remember or have concentration.

9 So that's, I guess, the real issue here, and maybe additional  
10 briefing might be needed on that, and that's all I was going to add.

11 DISCOVERY COMMISSIONER: Well, I think what needs to  
12 happen on that issue as to the scope of the examination, the motion is  
13 granted, as I've stated. It is continued with regard to the scope of the  
14 examination and to whether a neuropsychological evaluation is  
15 appropriate in this case, and I think that there does need to be further  
16 briefing if all of you -- unless you can come to an agreement, and if you  
17 can, then you can certainly reach that agreement and submit a  
18 stipulation and then you don't need to come back. Otherwise I do think  
19 we need to set this for a continued hearing date on that limited issue.

20 How are we looking on December 10<sup>th</sup>?

21 THE CLERK: Right now we have ten matters set, but nothing  
22 is set at 10.

23 DISCOVERY COMMISSIONER: Okay. Why don't we set this  
24 for 10:00 on December 10<sup>th</sup>, so it'll be 10/10/2020 at 10; how's that for  
25 some numerology? So we'll do December 10<sup>th</sup> -- I'm sorry. 12/10, not

1 10/10. What am I thinking? 12/10 at 10.

2 And then we'll -- if all of you reach an agreement prior to that  
3 time and have arrived at a stipulation, then you can certainly call and  
4 vacate that hearing.

5 I'm going to ask --

6 MR. SILVA: Gregorio --

7 DISCOVERY COMMISSIONER: -- Mr. Silva to prepare the  
8 Report and Recommendation from -- well, is there anything else anyone  
9 wants to add before I assign that?

10 MR. PFAU: No, Your Honor. Thank you for the time.

11 DISCOVERY COMMISSIONER: Okay. I'm going to ask --

12 MR. GOLDSTEIN: No, Your Honor.

13 DISCOVERY COMMISSIONER: Thank you.

14 I'm going to ask Mr. Silva to prepare a Report and  
15 Recommendation from today's hearing noting that the matters that were  
16 decided and then continuing the issue of scope, the matter of -- the  
17 decision on the scope of the examination, and also indicate in there that  
18 the status -- I'm sorry -- that the continuation will be December 10<sup>th</sup> at  
19 10, and then please circulate that to all counsel for their review as to  
20 form and content, and have that submitted within 14 days to the  
21 discovery inbox address; do you have that inbox address, or do I need --  
22 the discovery inbox address, or do I need to give it to you?

23 MR. SILVA: Gregorio Silva for Ferrellgas, Your Honor. I have  
24 it. Thank you.

25 DISCOVERY COMMISSIONER: Okay. Great. All right.



1 Anything else I can help with? All right. Then all of you stay well. Have  
2 a great day, and enjoy your holiday next week. Hope you have a Happy  
3 Thanksgiving, everyone.

4 [Proceeding concluded at 10:19 a.m.]

5 \* \* \* \* \*

6 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
7 audio-video recording of this proceeding in the above-entitled case.  
8 Note that BlueJeans technical glitches may result in the audio/video  
distortion and/or dropped audio in the recording.

9   
10 FRANCESCA HAAK  
11 Court Recorder/Transcriber

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# **EXHIBIT I**

## **AFFIDAVIT REGARDING RECOMMENDED SCOPE OF EVALUATION**

**By Lewis M. Etkoff, Ph.D., ABN**

1. I am a Nevada Licensed Psychologist #129 (01/01/1983); a Board Certified Neuropsychologist (American Board of Professional Neuropsychology, 08/13/1992); with added credentials in Forensic Neuropsychology (American Board of Professional Neuropsychology, 10/11/2002); and was elected as a Fellow of the National Academy of Neuropsychology (10/27/2006). Since 2008, I have been a lay member of Las Vegas Panel C Fee Dispute Arbitration Committee, State Bar of Nevada. Between 1988 and 1997, I was a consulting clinical psychologist to the 8<sup>th</sup> Judicial District, Family Court and Child Custody Division. I was Past President of the Nevada Psychological Association (1996-1997), and I am the 2020 Nevada Psychological Association James Mikawa Award Winner for Outstanding Contribution in the Field of Psychology.
2. Gregorio Silva, Esquire originally contacted my office on 09/15/20. His law firm, Baker Sterchi Cowden & Rice, represents one of the defendants in this personal injury lawsuit, Ferrellgas.
3. On 09/22/20, Mr. Silva formally retained me via a retention check from Ferrellgas applicable to my performing a Forensic Neuropsychological Evaluation of the Plaintiff Joshua Green who had been grilling when a fireball enveloped him, causing burn injuries predominantly to his abdomen and arms for which he was hospitalized approximately a week.
4. On 11/30/20, Mr. Silva called to inform me that a traumatic brain injury claim was no longer being considered in this case; however, Mr. Green still claims that the subject accident caused him attention/concentration difficulties and memory problems which interfere in his occupation as well as emotional difficulties resembling Posttraumatic Stress Disorder.
5. On 12/08/20, in a followup telephone call with Mr. Silva, I explained that since a traumatic brain injury claim has been dropped, I would not need to perform a full two-day neuropsychological evaluation, but I could perform a more limited neuropsychological evaluation that could be accomplished in one day. My associate, Jedidiah Gunter, Ph.D., ABN could administer a face-to-face memory test battery (including attention/concentration subtests) and a computer-based memory test which Mr. Green would take in an office by himself. These tests would measure whether Mr. Green's memory functioning has worsened as a direct result of the emotional stressors associated with the subject accident.
6. Other tests I would likely choose to administer to Mr. Green include two paper-and-pencil self-report objective psychological tests: the Minnesota Multiphasic Personality Inventory – 2 – Restructured Form (MMPI-2-RF) and the Battery for Health Improvement – 2 (BHI-2). Mr. Green would fill out these paper-and-pencil psychological tests in an office by himself without any need for an observer. These objective psychological tests measure symptoms associated with posttraumatic stress disorder, depressive disorders, anxiety disorders, somatic symptom disorders, personality disorders, and potential psychiatric diagnoses and treatments associated with these diagnoses.
7. I would personally interview Mr. Green over a two- to three-hour period of time, gathering pre- and post-subject accident information necessary for me to determine to what extent the subject accident

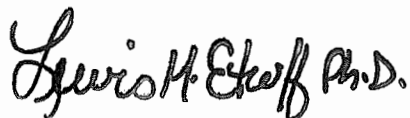
**RE: AFFIDAVIT (Joshua Green)**

**DECEMBER 9, 2020**

**PAGE 2**

injured Mr. Green emotionally, psychologically, cognitively, and interpersonally. I would also review with him the results from the MMPI-2-RF and BHI-2.

8. My evaluation of Mr. Green will depict his pre-subject accident psychological functioning and contrast that with his post-subject accident psychological functioning.

A handwritten signature in black ink that reads "Lewis M. Etcoff Ph.D." in a cursive script.

Lewis M. Etcoff, Ph.D., ABN  
Diplomate, American Board of Professional Neuropsychology  
Fellow, National Academy of Neuropsychology

LME/jhs  
T: 12/09/20

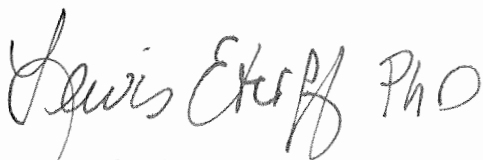
# **EXHIBIT J**

**Affidavit of Lewis M. Etkoff, Ph.D., ABN regarding Third Party Observers during Forensic Neuropsychological Evaluations**

1. I am a Nevada Licensed Psychologist #129 (01/01/1983); a Board Certified Neuropsychologist (American Board of Professional Neuropsychology, 08/13/1992); with added credentials in Forensic Neuropsychology (American Board of Professional Neuropsychology, 10/11/2002); and was elected as a Fellow of the National Academy of Neuropsychology (10/27/2006). Since 2008, I have been a lay member of Las Vegas Panel C Fee Dispute Arbitration Committee, State Bar of Nevada. Between 1988 and 1997, I was a consulting clinical psychologist to the 8<sup>th</sup> Judicial District, Family Court and Child Custody Division. I was Past President of the Nevada Psychological Association (1996-1997), and I am the 2020 Nevada Psychological Association James Mikawa Award Winner for Outstanding Contribution in the Field of Psychology.
2. Gregorio Silva, Esquire originally contacted my office on 09/15/20. His law firm, Baker Sterchi Cowden & Rice, represents one of the defendants in this personal injury lawsuit, Ferrellgas.
3. On 09/22/20, Mr. Silva formally retained me via a retention check from Ferrellgas applicable to my performing a Forensic Neuropsychological Evaluation of the Plaintiff Joshua Green who had been grilling when a fireball enveloped him, causing burn injuries predominantly to his abdomen and arms for which he was hospitalized approximately a week.
4. Despite NRS 52.380 "Attendance by Observer," which is applicable to physical independent medical examinations and mental (psychological, neuropsychological, and psychiatric Court-ordered evaluations), I am enjoined by the Nevada State Board of Psychological Examiners; the American Psychological Association; professional neuropsychological associations such as the National Academy of Neuropsychology, the American Board of Professional Neuropsychology, and the American Board of Clinical Neuropsychology; including the Nevada Psychological Association from allowing third party observers to observe, take notes, or audiotape copyrighted psychological and neuropsychological tests for test security, validity issues, and protection of the public (see 2020 attached letters from the Nevada State Board of Psychological Examiners and Nevada Psychological Association).
5. Consistent with my professional and ethical obligations as a Nevada Licensed Psychologist and Fellow of the National Academy of Neuropsychology, I will not allow third party observers or audiotaping of the administration of either clinical psychological or neuropsychological tests and measures in clinical or Court-ordered forensic evaluations.
6. In order to compromise with plaintiff attorneys, I will allow audiotaping (but will not allow a third party observer) of my forensic interviews.
7. In this instant case, Joshua Green claims attention, concentration, and memory disturbance and PTSD-like symptoms following the subject accident. I would like to administer the Wechsler Memory Scale – IV to measure attention, concentration, and memory functioning. I would also like to administer a performance validity test, the Word Memory Test, to measure Mr. Green's effort.

The Wechsler Memory Scale – IV would be administered exactly the way it has been developed and normed with only the test administrator and Mr. Green in the room. To allow an audio recording or a third party observer during administration would irreparably damage the validity and reliability of the test results and make it impossible for me to form professional opinions made to a reasonable degree of clinical or neuropsychological probability.

8. The Word Memory Test is taken on a computer with Mr. Green alone in the office. The same conditions as noted above apply to the Word Memory Test. No third party observer will be allowed in the office during the Word Memory Test.
9. Other tests I would likely choose to administer to Mr. Green include two paper-and-pencil self-report objective psychological tests: the Minnesota Multiphasic Personality Inventory – 2 – Restructured Form (MMPI-2-RF) and the Battery for Health Improvement – 2 (BHI-2). Mr. Green would fill out these paper-and-pencil psychological tests in an office by himself without any need for an observer. These objective psychological tests measure symptoms associated with posttraumatic stress disorder, depressive disorders, anxiety disorders, somatic symptom disorders, personality disorders, and potential psychiatric diagnoses and treatments associated with these diagnoses.
10. I would personally interview Mr. Green over a two- to three-hour period of time, gathering pre- and post-subject accident information necessary for me to determine to what extent the subject accident injured Mr. Green emotionally, psychologically, cognitively, and interpersonally. I would also review with him the results from the MMPI-2-RF and BHI-2. I would also allow audiotaping of my interview.
11. My evaluation of Mr. Green will depict his pre-subject accident psychological functioning and contrast that with his post-subject accident psychological functioning.



Lewis M. Etcoff, Ph.D., ABN  
Diplomate, American Board of Professional Neuropsychology  
Fellow, National Academy of Neuropsychology

LME/jhs  
T: 12/14/20

# **EXHIBIT K**





STATE OF NEVADA  
BOARD OF PSYCHOLOGICAL EXAMINERS

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Reno, Nevada 89502  
Telephone 775 / 688-1268 • Fax 775 / 688-1060  
nbop@govmail.state.nv.us  
Psyexam.nv.gov

October 1, 2018  
BAGS 000001  
Governor

Elizabeth Brown  
Clerk of the Supreme Court  
201 South Carson Street  
Carson City, NV, 89701.

Michelle G. Paul, Ph.D.  
President, Las Vegas

Whitney E. Koch-Owens, Psy.D.  
Secretary/Treasurer, Las Vegas

John H. Krogh, Ph.D.  
Board Member, Reno

Stephanie Holland, Psy.D.  
Board Member, Las Vegas

Anthony Papa, Ph.D.,  
Board Member, Reno

Pamela L. Becker, M.A.  
Public Board Member, Reno

Patrick M. Ghezzi, Ph.D., BCBA-D, LBA  
Board Member, Reno

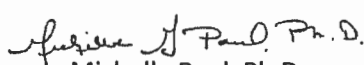
Dear Ms. Brown:


Please see below the Licensing Board's position on third-party observers in psychological evaluations. This statement has been provided to the Nevada State Supreme Court as public comment regarding the proposed changes to Rule 35 of Nevada Civil Procedure.


In the interest of protecting the needs of the public, it is the position of the Nevada Board of Psychological Examiners that allowing third-party observers, monitors, and/or electronic recording equipment during psychological and neuropsychological evaluations poses a significant threat to public safety. Observation, monitoring, and recording can significantly alter the credibility and validity of results obtained during psychological and neuropsychological medical evaluations, as well as forensic evaluations completed for judicial proceedings. Research indicates that the presence of observers, monitors and recorders during patient clinical interviews and evaluations directly impacts patient behavior and performance such that patients may avoid disclosing crucial information essential to diagnosis and clinical recommendations. Additionally, (neuro)psychological tests and measures are developed and standardized under highly controlled conditions. Observation, monitoring, and recording of these tests is not part of the standardization. Observation, monitoring, and recording of psychological assessment components (i.e., testing) of evaluations may distort patient task performance, such that patient weaknesses and strengths are exaggerated, yielding inaccurate or invalid test data. Furthermore, research highlights that this impact on performance is independent of method of observation. In other words, there is no "good" or "safe" way to observe, monitor, or record such (neuro)psychological evaluations without impacting and potentially invalidating the evaluation. Ultimately, deviations from standardized administration procedures compromise the validity of the data collected and compromise the psychologist's ability to compare test results to normative data. This increases the potential for inaccurate test results and erroneous diagnostic conclusions, thus impacting reliability of results and future treatment for the patient. In addition, the risk of secured testing and assessment procedures being released to non-Psychologists poses risk to the public in that exposure of the test and assessment confidentiality can undermine their future validity and utility.

Sincerely  
for the Board of Psychological Examiners

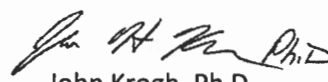
  
Morgan Gleich  
Executive Director

  
Michelle Paul, Ph.D.  
Board President

  
Whitney Owens, Psy.D.  
Board Secretary/Treasurer

  
Pam Becker, MA  
Public Member

  
Stephanie Holland, Psy.D.  
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Board Member