

THE SUPREME COURT OF THE STATE OF NEVADA

JAIME ROBERTO SALAIS, AND TOM
MALLOY CORPORATION aka/dba
TRENCH SHORING COMPANY,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT, COUNTY OF CLARK, STATE
OF NEVADA, AND THE HONORABLE
RONALD J. ISRAEL,

Respondents,

and

MAIKEL PEREZ-ACOSTA, AND
ROLANDO BESSU HERRERA,

Real Parties in Interest.

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Clerk of Supreme Court

Case No. _____

**APPENDIX TO PETITION FOR WRIT OF MANDAMUS, OR IN THE
ALTERNATIVE, PROHIBITION**

VOLUME 2

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CHRONOLOGICAL INDEX TO PETITIONER'S APPENDIX

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
1.	Complaint	4/4/18	1	1-10
2.	Answer to Complaint	5/8/18	1	11-21
3.	Plaintiff's Initial Designation of Expert Witnesses	10/29/18	1	22-48
	<u>Exhibit 1</u> : Stuart Kaplan, M.D., FAANS' CV, Testimony List, Fee Schedule/Invoice, & Expert Report		1	49-89
	<u>Exhibit 2</u> : David J. Oliveri, M.D.'s CV, Fee Schedule, Testimony List & Expert Report		1	90-146
	<u>Exhibit 3</u> : Lora White, RN-BC, BSN, CCM, CNLCP, LNCP-C's CV, Fee Schedule, Testimony List & Expert Report		1	147-207
	<u>Exhibit 4</u> : Dr. Andrew J. Mitchell's CV & Deposition Fees		1	208-212
	<u>Exhibit 5</u> : Jorg Rosler, M.D. s CV & Fee Schedule		1	213-220
4.	Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	5/4/20	1	221-241
	<u>Exhibit 1</u> : Defendant Tom Molloy Corporation dba Trench Shoring Company's Responses Plaintiff Rolando Bessu Herrera's First Set of Requests for Production of Documents		2	242-266
	<u>Exhibit 2</u> : Defendants' Seventh Supplement to Initial NRCP 16.1 List of Witnesses and Documents		2	267-284
	<u>Exhibit 3</u> : Defendants, Tom Malloy Corporation dba Trench Shoring C Company and Jaime Roberto Salais' Eighth Supplemental Early Case Conference List of Witnesses and Production of Documents Pursuant to NRCP 16.1(a)(1)		2	285-306

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont 4)	<u>Exhibit 4:</u> Deposition Transcript of Nancy Espinoza taken on April 22, 2020		2	307-324
	<u>Exhibit 5:</u> EDCR 2.34 Meeting Transcript on April 22, 2020		2	325-329
	<u>Exhibit 6:</u> Email authored by Nancy Espinoza dated April 28, 2019		2	330-333
	<u>Exhibit 7:</u> Plaintiff's Third Set of Requests for Production of Documents to Defendant Tom Mallory Corporation dba Trench Shoring Company e-served on April 24, 2019		2	334-341
	<u>Exhibit 8:</u> Email exchange between Drummond Law Firm and Mokri Vanis & Jones regarding Nancy Espinoza email		2	342-351
	<u>Exhibit 9:</u> Article "Practicing in Nevada's State and Federal Civil Court: What are the Differences?"		2	352-355
5.	Defendants' Opposition to Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	5/18/20	2	356-371
	<u>Exhibit A:</u> Email exchange between Todd Jones, Esq. and Nancy Espinoza		2	372-397
	<u>Exhibit B:</u> Deposition Transcript of Nancy Espinoza taken on April 22, 2020		2	398-464
	<u>Exhibit C:</u> Defendants, Tom Malloy Corporation dba Trench Shoring Company and Jaime Roberto Salais' Eighth Supplemental Early Case Conference List of Witnesses and Production of Documents Pursuant to NRCP 16.1(a)(1)		2	465-483

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
(Cont 5)	<u>Exhibit D</u> : Defendants, Tom Malloy Corporation dba Trench Shoring Company and Jaime Roberto Salais' Ninth Supplemental Early Case Conference List of Witnesses and Production of Documents Pursuant to NRCP 16.1(a)(1)		3	484-502
6.	Plaintiff Rolando Bessue Herrera's Reply to Defendants' Opposition to Motion to Strike Defendants Answer	6/2/20	3	503-512
	<u>Exhibit 10</u> : Defendants, Tom Malloy Corporation dba Trench Shoring Company and Jaime Roberto Salais Ninth Supplemental Early Case Conference List of Witnesses and Production of Documents Pursuant to NRCP 16.1(a)(1)		3	513-553
7.	Plaintiff Perez-Acosta's Joinder to Plaintiff Bessu Herrera's Motion to Strike Defendants' Answer	6/2/20	3	554-556
	<u>Exhibit 1</u> : Plaintiff Maikel Perez-Acosta's First Set of Requests for Production of Documents to Defendant Tom Malloy Corporation		3	557-567
8.	Plaintiff Rolando Bessu Herrera's Omnibus Motion in Limine	7/27/20	3	568-593
	<u>Exhibit 1</u> : Deposition Transcript of Jaime Roberto Salais taken on January 17, 2020		3	594-631
	<u>Exhibit 2</u> : Defendant Tom Malloy Corporation dba Trench Shoring Company's Responses Plaintiff Rolando Bessu Herrera's First Set of Requests for Production of Documents		3	632-656
	<u>Exhibit 3</u> : Jason E. Garber, M.D. F.A.C.S.'s Report		3	657-675
	<u>Exhibit 4</u> : Deposition Transcript of Brian K. Jones, MSBE, PE, ACTAR, CXLT, taken on March 3, 2020		3	676-702

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
9.	Defendants' Supplemental Opposition to Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	8/11/20	3	703-719
10.	Affidavit Pursuant to NRS 53.045 of Todd Alan Jones, Esq. in Support of Defendants' Supplemental Opposition To Plaintiff Rolando Bessue Herrera's Motion to Strike Answer	8/11/20	3	720-726
	<u>Exhibit A:</u> Email Correspondence from Nancy Espinoza dated April 28, 2019		3	727-730
	<u>Exhibit B:</u> Email Exchange between Nancy Espinoza and Todd Jones, Esq.		4	731-760
11.	Response to Defendants' Supplemental Opposition to Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	9/1/20	4	761-768
12.	Plaintiff Perez-Acosta's Joinder to Plaintiff Bessu Herrera's Response to Defendant's Supplemental Opposition to Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	9/1/20	4	769-771
13.	Court Minutes – Plaintiff Rolando Bessu Herrera's Motion to Strike Defendants' Answer	10/1/20	4	772-773
14.	Order to Turn Over Communication and Records in Camera	10/16/20	4	774-777
15.	Court Minutes – Minute Order	10/23/20	4	778
16.	Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records on Order Shortening Time	10/23/20	4	779-792
	<u>Exhibit A:</u> Transcript of Proceedings on Plaintiff Herrera's Motion to Strike Defendants' Answer; Hearing Regarding Motion to Strike Answer/ Sanctions on October 15, 2020		4	793-824

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
17.	Order on Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records on Order Shortening Time	10/26/20	4	825-872
18.	Response to Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records	11/4/20	4	873-880
19.	Reply in Support of Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records on Order Shortening Time	11/10/20	4	881-887
20.	Court Minutes – Defendants Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records on Order Shortening Time	11/17/20	4	888
21.	Court Minutes – Motion to Strike Plaintiff Rolando Bessu Herrera’s Motion to Strike Defendants’ Answers	11/19/20	4	889
22.	Defendants’ Supplemental Opposition to Plaintiff Rolando Bessu Herrera’s Motion to Strike Defendants’ Answer Pursuant to Court’s Order on November 17, 2020	12/1/20	4	890-897
	<u>Exhibit A</u> : Transcript of Proceedings on Defendants’ Motion for Production of Defense Correspondence and Billing Records on Shortening Time on November 17, 2020		4	898-921
23.	Response to Defendants’ Supplemental Opposition to Plaintiffs’ Motion to Strike Defendants’ Answer	12/30/20	4	922-931
24.	Court Minutes – Decision: Interim Decision Reconsideration of Defendants Production of Defense Correspondence and Billing Records	1/7/21	4	932

<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
25.	Decision and Order	2/10/21	4	933-943
26.	Notice of Entry of February 10, 2021 Decision and Order	2/19/21	4	944-956
27.	Plaintiff Roland Bessu Herrera's Supplemental Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	2/24/21	4	957-962
	<u>Exhibit 1</u> : Hours for Supplemental Memorandum of Attorney's Fees and Costs		4	963-965
	<u>Exhibit 2</u> : Drummond Law Firm Cost Worksheet		4	966-969
	<u>Exhibit 3</u> : Discovery Commissioner's Report and Recommendations		4	970-978
	<u>Exhibit 4</u> : Declaration of Joel D. Hernroid in Support of Plaintiff's Supplemental Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order		5	979-984
28.	Errata to Exhibit 4 of Plaintiff Rolando Bessu Herrera's Supplemental Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	2/24/21	5	985-996
29.	Court Minutes – Status Check	2/25/21	5	997
30.	Plaintiff Maikel Perez-Acosta's Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	3/4/21	5	998-1003
	<u>Exhibit 1</u> : Hours for Memorandum of Attorney's Fees and Costs		5	1004-1007
31.	Court Minute – Minute Order	3/9/21	5	1008

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<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
32.	Defendants' Opposition to Plaintiffs, Rolando Bessue Herrera amd Maikel Perez-Acosta's Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	3/10/21	5	1009-1023
	<u>Exhibit A:</u> Plaintiff Maikel Perez-Acosta's Sixteenth Supplement to the Early Case Conference Initial Disclosure of Documents and Witnesses Pursuant to NRCP 16.1		5	1024-1205
	<u>Exhibit B:</u> EDCR 2.34 Meeting Transcript on April 22, 2020		5	1206-1228
33.	Plaintiff Maikel Perez-Acosta's Reply to Defendants' Opposition to Plaintiff's Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	3/17/21	6	1229-1231
34.	Plaintiff Rolando Bessu Herrera's Reply to Opposition Regarding Memorandum of Fees and Costs Pursuant to February 10, 2021 Decision and Order	3/17/21	6	1232-1236
35.	Order on Attorney's Fee and Costs	5/17/21	6	1237-1241
36.	Notice of Entry of Order on Attorney's Fees and Costs	5/17/21	6	1242-1248
37.	Defendants' Motion to Stay February 10, 2021 and May 17, 2021 Orders Pending Decision on Petition for Writ Relief to Supreme Court of Nevada on Order Shortening Time	5/28/21	6	1249-1266
	<u>Exhibit A:</u> Deposition Transcript of Rolando Bessu Herrera taken on October 21, 2019		6	1267-1378
	<u>Exhibit B:</u> Deposition Transcript of Jaime Robert Salais taken on January 17, 2020		7	1379-1542

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<u>NO.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>PAGE NO.</u>
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TRANSCRIPTS

38.	<i>Transcript of Hearing Re:</i> Plaintiff Rolando Bessue Herrera's Motion to Strike Defendants' Answer dated July 14, 2020	7/17/20	7	1543-1552
39.	<i>Transcript of Proceedings Re:</i> Plaintiff Herrera's Motion to Strike Defendants' Answer; Hearing Regarding Motion to Strike to Answer/ Sanctions dated October 1, 2020	10/15/20	7	1553-1583
40.	<i>Transcript of Proceedings Re:</i> Defendants' Motion for Reconsideration of Order for Production of Defense Correspondence and Billing Records on Order Shortening Time dated November 17, 2020	11/19/20	7	1584-1606

EXHIBIT 1

EXHIBIT 1

RSPN

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CORPORATION dba TRENCH SHORING
COMPANY and JAIME ROBERTO SALAIS

DISTRICT COURT

CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA,
individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION,
aka/dba TRENCH SHORING
COMPANY, a foreign corporation, DOES
I through V, inclusive, and ROE
CORPORATIONS I through V, inclusive,

Defendants.

Case No. A-18-772273-C

DEPT NO.: XXVIII

Action Filed: April 4, 2018

**DEFENDANT TOM MALLOY
CORPORATION dba TRENCH SHORING
COMPANY'S RESPONSES PLAINTIFF
ROLANDO BESSU HERRERA'S FIRST
SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS**

Defendant TOM MALLOY CORPORATION dba TRENCH SHORING COMPANY
(hereinafter "TOM MALLOY" or "Responding Party"), by and through its undersigned counsel,
Todd A. Jones, Esq. and Araba Panford, Esq., of the law firm of Mokri, Vanis & Jones, LLP, hereby
submits these Responses to the First Set of Request for Production of Documents, propounded by

**TOM MALLOY CORPORATION DBA TRENCH SHORING COMPANY'S RESPONSES PLAINTIFF
ROLANDO BESSU HERRERA'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

1 Plaintiff, ROLANDO BESSU HERRERA (hereinafter "Propounding Party"), as follows:

2 **PRELIMINARY STATEMENT**

3 It should be noted that this Responding Party has not fully completed its investigation of
4 the facts of this case, has not fully completed discovery in this action, and has not completed its
5 preparation for trial. All responses contained herein are based solely upon such information and
6 belief that are currently available to and specifically known to this Responding Party, and
7 Responding Party discloses only those contentions which presently occur to Responding Party.
8 This Responding Party reserves its right to supplement its answers as additional facts become
9 known through discovery.

10 This Responding Party objects to each Request to the extent that it seeks information
11 protected by any privilege, including but not limited to, the attorney-client privilege or attorney-
12 work product doctrine and TOM MALLOY and its counsel hereby assert such privileges.

13 TOM MALLOY objects to each Request, to the extent that the Request seeks information
14 not in TOM MALLOY's possession, custody or control. TOM MALLOY will make reasonable
15 efforts to respond to each Request, to the extent that no objections are made, as TOM MALLOY
16 understands and interprets each Request. If any party subsequently asserts an interpretation of any
17 Request, which differs from that of TOM MALLOY, TOM MALLOY reserves the right to
18 supplement its responses and objections and assert any objections not made herein and/or amend
19 its responses and objections.

20 TOM MALLOY also objects to each Request to the extent that the Request seek information
21 that is not relevant to the subject matter of this action and not reasonably calculated to lead to the
22 discovery of admissible evidence. TOM MALLOY also objects to each and every Request to the
23 extent that it seeks to impose an undue burden or expense or is overly broad, annoying, or
24 oppressive.

25 The mere fact that any of the above General Objections are not restated below in response
26 to any specific request is not intended to and shall not be construed to imply the waiver of any of
27 these General Objections or any unstated privilege objections to which TOM MALLOY is
28 entitled. These General Objections are incorporated by reference into each specific request set

1 forth below, where applicable, as if fully set forth therein.

2 **RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

3 **REQUEST NO. 1**

4 Produce copies of the photographs, movies, tapes, video, DVD's, CD's media of any type
5 of form, electronic or otherwise, and other forms of photography that relate to any aspect of this
6 case, including of the Plaintiffs, vehicle damage, property damage, objects, bodily injury, and/or
7 the incident scene.

8 **RESPONSE TO REQUEST NO. 1**

9 Objection. This request is compound, overly broad, vague as to the use of the phrases "any
10 type of form"; "any aspect of the case"; and "any aspects of this case", ambiguous and assumes
11 facts not in evidence. This interrogatory further improperly seeks information which is privileged
12 and/or confidential and potentially violates the attorney client privilege and work product doctrines.
13 This request is also improper in that it requests information that has been previously provided to
14 propounding party.

15 Subject to and without waiving the foregoing objections, Responding Party responds as
16 follows: See TMC000022 – TMC000032 and TMC000047 – TMC000052. Responding Party has
17 not fully completed its investigation of the facts relating to this case, has not completed discovery
18 in this action, and has not completed its preparation for trial. Discovery is ongoing and Responding
19 Party reserves its right to supplement this response if and when additional and/or new information
20 or documents are subsequently located.

21 **REQUEST NO. 2**

22 Please produce a copy of your complete file for the incident, which is the subject of this
23 lawsuit, whether in hard copy or electronic form, including but not limited to, the entire file, all
24 photographs, all recorded and written statements, copies of checks for any payouts regarding this
25 incident to anyone, printouts from the computer communications and electronic databases and
26 logs, the electronically imaged documents, the reports and investigations, and the correspondence.

27 **RESPONSE TO REQUEST NO. 2**

28 Objection. This request is compound, overly broad, oppressive, remote, vague and
3

1 ambiguous, which makes it difficult to determine which documents fall within the scope of this
 2 request. This request further assumes facts, improperly seeks information which is privileged and/or
 3 confidential and potentially violates the attorney client privilege and work product doctrines.
 4 Payment of damages by an insurer or insured does not constitute admission of liability or waiver
 5 of defenses and is not admissible. *See Proctor v. Castelleetti*, 911 P.2d 853, 854 (1996). This
 6 request is also objectionable on the grounds that it is calculated to annoy and harass Responding
 7 Party by seeking information that is not relevant to this proceeding or reasonably calculated to lead
 8 to the discovery of admissible evidence. Subject to and without waiving the foregoing objections,
 9 Responding Party responds as follows: See TMC000001 – TMC001155 and TMC001627-
 10 TMC002666. Discovery is ongoing and Responding Party reserves to supplement this response
 11 should additional information become available.

12 **REQUEST NO. 3**

13 Please state the names of all dealership locations/automotive repair shops/tire dealerships
 14 and or private individuals that have conducted repairs, maintenance or preventative maintenance
 15 on the motor vehicle that Defendant JAIME ROBERTO SALAIS was driving, from July 12,
 16 2011 to the present.

- 17 a) The type of preventative maintenance, replacement, repair conducted;
- 18 b) The type of inspection and results of the inspection;
- 19 c) The name of the person, date and time the above preventative maintenance, replacement,
 20 or repair was conducted;
- 21 d) The location and date of the purchase of tires;
- 22 e) The last time the tires were inspected, balanced, or replaced.

23 **RESPONSE TO REQUEST NO. 3**

24 This is an improper request as Responding Party is not required under NRCP 34 to generate
 25 documents or compile an informational response to what is in actuality, an Interrogatory, misnamed
 26 as a Request to Produce. Responding Party further objects to this Request as vague, overly broad,
 27 unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to
 28 lead to the discovery of admissible evidence. Subject to and without waiving said objections, see

1 TMC001997 – TMC002012.

2 Discovery is ongoing and Responding Party reserves to supplement this response should
3 additional information become available.

4 **REQUEST NO. 4**

5 Please produce a list of your preventative and regular maintenance policies, records, and
6 checklists for all of the delivery vehicles owned and/or leased by you that were in effect on the
7 date of the subject incident.

8 **RESPONSE TO REQUEST NO. 4**

9 This is an improper request as Responding Party is not required under NRCP 34 to generate
10 documents or compile an informational response to what is in actuality, an Interrogatory, misnamed
11 as a Request to Produce. Responding Party further objects to this Request as vague, overly broad,
12 unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to
13 lead to the discovery of admissible evidence. Further this Request seeks information which may be
14 protected as trade-secrets. Subject to and without waiving said objections, see TMC001997-
15 TMC002012.

16 Discovery is ongoing and Responding Party reserves to supplement this response should
17 additional information become available.

18 **REQUEST NO. 5**

19 Please list the recording, antitheft, GPS or navigational devices that were present in the
20 vehicle that Defendant JAIME ROBERTO SALAIS was driving, concerning the subject incident,
21 as well as where the information from these devices has been stored since the subject incident.

22 **RESPONSE TO REQUEST NO. 5**

23 This is an improper request as Responding Party is not required under NRCP 34 to generate
24 documents or compile an informational response to what is in actuality, an Interrogatory, misnamed
25 as a Request to Produce. Responding Party further objects to this Request as vague, overly broad,
26 unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to
27 lead to the discovery of admissible evidence. Further. This request violates Defendants' rights to
28 privacy and confidentiality and seeks information which may be protected as trade secrets. Subject

1 to and without waiving said objections, Responding Party has conducted a reasonable inquiry and
2 has made a diligent search in an effort to respond to this request. Based on information currently
3 available, responding party has no such documents in its possession. Defendants' vehicle is
4 available for inspection on a mutually agreeable date and time.

5 Discovery is ongoing and Responding Party reserves to supplement this response should
6 additional information become available.

7 **REQUEST NO. 6**

8 Please produce copies of information downloaded from any recording device contained
9 within the semi-truck that Defendant JAIME ROBERTO SALAIS was driving, which was involved
10 in the subject collision, including but not limited to, audio, visual, GPS, navigational, anti-theft
11 devices, "Black Box" downloads at the time of the subject incident.

12 **RESPONSE TO REQUEST NO. 6**

13 This is an improper request as Responding Party is not required under NRCP 34 to generate
14 documents or compile an informational response to what is in actuality, an Interrogatory, misnamed
15 as a Request to Produce. Responding Party further objects to this Request as vague, overly broad,
16 unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to
17 lead to the discovery of admissible evidence. Further. This request violates Defendants' rights to
18 privacy and confidentiality and seeks information which may be protected as trade secrets.
19 Responding party has conducted a reasonable inquiry and has made a diligent search in an effort to
20 respond to this request. Defendants' vehicle is available for inspection on a mutually agreeable date
21 and time and any "Black Box" information, if available, should be obtained pursuant to NRS
22 484D.485(1). Based on information currently available, responding party has no such documents
23 in its possession.

24 Discovery is ongoing and Responding Party reserves to supplement this response should
25 additional information become available.

26 **REQUEST NO. 7**

27 Please produce a copy of the repair estimates for the 2014 Isuzu 14' Stake with Nevada
28 license plate number: 58262A following the subject incident.

RESPONSE TO REQUEST NO. 7

Responding Party objects to this Request as overly broad, unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, see TMC001997 – TMC002012.

Discovery is ongoing and Responding Party reserves to supplement this response should additional information become available.

REQUEST NO. 8

Please produce a copy of the pre-incident vehicle photos of the 2014 Isuzu 14' Stake with Nevada license plate number: 58262A taken prior to July 12, 2016.

RESPONSE TO REQUEST NO. 8

Responding Party objects to this Request as overly broad, unlimited in scope, assumes facts and seeks information which is irrelevant and not calculated to lead to the discovery of admissible evidence. Subject to and without waiving said objections, Responding Party has conducted a reasonable inquiry and has made a diligent search in an effort to respond to this request. Based on information currently available, Responding Party has no such documents in its possession.

Discovery is ongoing and Responding Party reserves to supplement this response should additional information become available.

REQUEST NO. 9

Please produce a copy of the post-incident vehicle photos of the 2014 Isuzu 14' Stake with Nevada license plate number: 58262A taken after July 12, 2016.

RESPONSE TO REQUEST NO. 9

See TMC000047 – TMC000048. Discovery and investigation are ongoing and responding party reserves its right to supplement this response if and when additional and/or new information or documents are subsequently located.

REQUEST NO. 10

Please produce a copy of the surveillance video, photographs, or other images taken by you, your agents, contractors, affiliates, or others capturing any part of the subject incident including the full, unedited video of the subject incident.

RESPONSE TO REQUEST NO. 10

Objection. This request is compound, overly broad, vague and ambiguous. This interrogatory further improperly seeks information which is privileged and/or confidential. This request, by its terms, potentially violates the attorney client privilege and work product doctrines. This request is also objectionable in that it assumes facts, seeks information that is not relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. This request is also improper in that it requests information that has been previously provided to propounding party.

Subject to and without waiving the foregoing objections, Responding Party responds as follows: See TMC000047 – TMC000052 and Defendants’ Biomechanical Report produced with its Initial Experts Disclosures. Responding Party has not fully completed its investigation of the facts relating to this case, has not completed discovery in this action, and has not completed its preparation for trial. Discovery and investigation are ongoing and Responding Party reserves its right to supplement this response if and when additional and/or new information or documents are subsequently located.

REQUEST NO. 11

Please produce a copy of the entire employment file of Defendant JAIME ROBERTO SALAIS, including his resume, training certificates, training records, job tasks, written assessments or reprimands written by his supervisor(s) for the duration of his employment with Tom Malloy Corporation aka/dba Trench Shoring Company.

RESPONSE TO REQUEST NO. 11

Objection. This request is compound, overly broad, vague and ambiguous. This interrogatory further improperly seeks information which is privileged and/or confidential and seeks to violate Defendants’ rights to privacy and confidentiality. This request, by its terms, potentially violates the attorney client privilege and work product doctrines. This request is also objectionable in that it seeks information that is not relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. This request potentially violates the attorney client privilege and work product doctrines.

1 Subject to and without waiving the foregoing objections, see TMC001627 - TMC001774.
2 Discovery and investigation are ongoing and responding party reserves its right to supplement this
3 response if and when additional and/or new information or documents are subsequently located.

4 **REQUEST NO. 12**

5 Please produce a copy of the vehicle driving policies and procedures you had in place for
6 delivery truck drivers, employees, agents, independent contractors, or similar title for Tom
7 Malloy Corporation aka/dba Trench Shoring Company on July 12, 2016.

8 **RESPONSE TO REQUEST NO. 12**

9 Objection. This request is compound, overly broad, vague and ambiguous. This request is
10 also objectionable in that it seeks information that is not relevant to this proceeding or reasonably
11 calculated to lead to the discovery of admissible evidence and may be protected from disclosure as
12 trade secrets. This request is further objectionable in that it assumes facts not in evidence. Subject
13 to and without waiving the foregoing objections, Responding Party responds as follows:

14 Subject to and without waiving the foregoing objections, see TMC001689 -TMC001710
15 and TMC002589 – TMC002666. Discovery and investigation are ongoing and Responding Party
16 reserves its right to supplement this response if and when additional and/or new information or
17 documents are subsequently located.

18 **REQUEST NO. 13**

19 INSURANCE INFORMATION: Please produce a complete copy of all insurance policies
20 or insurance agreements for Tom Malloy Corporation aka/dba Trench Shoring Company, under
21 which any person carrying an insurance business may be liable to satisfy part or all of a judgment
22 which may be entered in the action or indemnify or reimburse for payments made to satisfy the
23 judgment. This includes primary, self-insurance, umbrella, acceptance of excess coverage by your
24 own insurance company, admitted open policies by your primary coverage, or other insurance
25 coverages applicable to the subject incident.

26 **RESPONSE TO REQUEST NO. 13**

27 Objection. This request is compound, overly broad, vague and ambiguous. Pursuant to NRS
28 48.135 evidence that a person was or is insured is not admissible on the issue of wrong doing on

1 the part of the defendant. This request is also objectionable in that it seeks information that is not
2 relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence.
3 This request is further objectionable in that it assumes facts not in evidence. Subject to and without
4 waiving the foregoing objections, Responding Party responds as follows: See TMC000056 –
5 TMC000161. Discovery and investigation are ongoing and Responding Party reserves its right to
6 supplement this response if and when additional and/or new information or documents are
7 subsequently located.

8 **REQUEST NO. 14**

9 INSURANCE INFORMATION: Please produce a complete copy of all insurance policies
10 or insurance agreements for Kevin T. Malloy, under which any person carrying an insurance
11 business may be liable to satisfy part or all of a judgment which may be entered in the action or
12 indemnify or reimburse for payments made to satisfy the judgment. This includes primary, self-
13 insurance, umbrella, acceptance of excess coverage by your own insurance company, admitted
14 open policies by your primary coverage, or other insurance coverages applicable to the subject
15 incident.

16 **RESPONSE TO REQUEST NO. 14**

17 Responding Party Objects to this Request as an improper attempt to obtain a file from a
18 Third-Party. There is no litigation pending between these parties. Kevin T. Malloy is not a
19 defendant in this matter. Subject to and without waiving the foregoing objections, this request is
20 improper as it is an attempt to obtain a file from a non-party which should be obtained via a
21 Subpoena directed to the appropriate person.

22 **REQUEST NO. 15**

23 INSURANCE INFORMATION: Please produce a complete copy of all insurance policies
24 or insurance agreements for Thomas E. Malloy, under which any person carrying an insurance
25 business may be liable to satisfy part or all of a judgment which may be entered in the action or
26 indemnify or reimburse for payments made to satisfy the judgment. This includes primary, self-
27 insurance, umbrella, acceptance of excess coverage by your own insurance company, admitted
28 open policies by your primary coverage, or other insurance coverages applicable to the subject

1 incident.

2 **RESPONSE TO REQUEST NO. 15**

3 Responding Party Objects to this Request as an improper attempt to obtain a file from a
4 Third-Party. There is no litigation pending between these parties. Thomas E. Malloy is not a
5 defendant in this matter. Subject to and without waiving the foregoing objections, this request is
6 improper as it is an attempt to obtain a file from a non-party which should be obtained via a
7 Subpoena directed to the appropriate person.

8 **REQUEST NO. 16**

9 CLAIMS FILE: Produce a copy of your insurance carrier's complete claim file for the
10 incident, which is the subject of this lawsuit, including, but not limited to, the entire claim file,
11 photographs, recorded statements, repair estimates, copies of checks for any payouts made from
12 your insurance carrier regarding this incident to anyone, printouts of computer communications
13 and electronic databases and logs, electronically imaged documents, reports and investigations,
14 correspondence, and explanations of benefits. This is a request for all factual content in the claims
15 file. If a privilege is claimed, please include a copy of the privilege log.

16 **RESPONSE TO REQUEST NO. 16**

17 Objection. This request is compound, overly broad, oppressive, remote, vague and
18 ambiguous, which makes it difficult to determine which documents fall within the scope of this
19 Request. Additionally, this Request seeks to violate NRCP 26 (b) (3) which protects against
20 disclosure of mental impressions, conclusions, opinions, or legal theories of an attorney or other
21 representative of a party, including insurance providers, concerning this proceeding, and are
22 therefore privileged. This Request is not reasonably calculated to lead to the discovery of
23 admissible evidence and seeks legal conclusions as to the value of the claim. This Request further
24 assumes facts, improperly seeks information which is privileged and/or confidential and potentially
25 violates the attorney client privilege and work product doctrines. Payment of damages by an insurer
26 or insured does not constitute admission of liability or waiver of defenses and is not admissible.
27 *See Proctor v. Castelleetti*, 911 P.2d 853, 854 (1996). This Request is also objectionable on the
28 grounds that it is calculated to annoy and harass Responding Party by seeking information that is

not relevant to this proceeding.

Subject to and without waiving the foregoing objections, Responding Party responds as follows: See TMC000001 – TMC001155 and TMC001627- TMC002666. The remainder of the claim file had been redacted as privileged as it pertains to evaluations of the claim and attorney-client communications.

REQUEST NO. 17

Please produce the responsive communications, including, but not limited to internal electronic messages (“e-mails”), text messages, telephone calls, voice messages, or other communications, whether in electronic or physical form, between you and Defendant JAIME ROBERTO SALAIS, relating to the subject incident and/or the Plaintiff(s).

RESPONSE TO REQUEST NO. 17

Objection. This request is compound and overly broad. Subject to and without waiving the foregoing objections, Responding Party responds as follows: See TMC001769 - TMC001770. Responding Party has not fully completed its investigation of the facts relating to this case, has not completed discovery in this action, and has not completed its preparation for trial. Discovery and investigation are ongoing and Responding Party reserves its right to supplement this response if and when additional and/or new information or documents are subsequently located.

REQUEST NO. 18

Please produce copies of the written or recorded statements made by any party, witness, investigator, adjuster, or any person with knowledge of the accident which is the subject of the instant litigation or Plaintiff ROLANDO BESSU HERRERA’s alleged injuries.

RESPONSE TO REQUEST NO. 18

Objection. This Request is compound, overly broad, vague and ambiguous and assumes facts not in evidence. This Request further improperly seeks information which is privileged and/or confidential and by its terms, potentially violates the attorney client privilege and work product doctrines.

Subject to and without waiving the foregoing objections, Responding Party responds as follows: See TMC001770. Responding Party has not fully completed its investigation of the facts

1 relating to this case, has not completed discovery in this action, and has not completed its
2 preparation for trial. Discovery and investigation are ongoing and Responding Party reserves its
3 right to supplement this response if and when additional and/or new information or documents are
4 subsequently located.

5 **REQUEST NO. 19**

6 Please produce copies of the written or recorded statements made on or after July 12, 2016
7 by Defendant JAIME ROBERTO SALAIS to Tom Malloy Corporation aka/dba Trench Shoring
8 Company, regarding the subject incident.

9 **RESPONSE TO REQUEST NO. 19**

10 See Response to Request No. 18.

11 **REQUEST NO. 20**

12 Please produce copies of the written or recorded statements made on or after July 12, 2016
13 by Defendant JAIME ROBERTO SALAIS to Tom Malloy Corporation aka/dba Trench Shoring
14 Company's insurance company, regarding the subject incident.

15 **RESPONSE TO REQUEST NO. 20**

16 See Response to Request No. 18.

17 **REQUEST NO. 21**

18 Please produce the documents, communication, memoranda, e-mail, correspondence,
19 notes, and computer records whether in hard copy or electronic form between you and any
20 insurance company concerning, referring, or relating to the subject incident. If privilege is
21 claimed, please submit and attach a Privilege Log.

22 **RESPONSE TO REQUEST NO. 21**

23 Objection. This request is compound, overly broad, oppressive, remote, vague and
24 ambiguous, which makes it difficult to determine which documents fall within the scope of this
25 Request. Additionally, this Request seeks to violate NRCP 26 (b) (3) which protects against
26 disclosure of mental impressions, conclusions, opinions, or legal theories of an attorney or other
27 representative of a party, including insurance providers, concerning this proceeding, and are
28 therefore privileged. This Request is not reasonably calculated to lead to the discovery of

1 admissible evidence and seeks legal conclusions as to the value of the claim. This Request further
2 assumes facts, improperly seeks information which is privileged and/or confidential and potentially
3 violates the attorney client privilege and work product doctrines. Payment of damages by an insurer
4 or insured does not constitute admission of liability or waiver of defenses and is not admissible.
5 See *Proctor v. Castelleetti*, 911 P.2d 853, 854 (1996). This Request is also objectionable on the
6 grounds that it is calculated to annoy and harass Responding Party by seeking information that is
7 not relevant to this proceeding.

8 Subject to and without waiving the foregoing objections, Responding Party responds as
9 follows: See TMC001775 – TMC001996. The remainder of the claim file had been redacted as
10 privileged as it pertains to evaluations of the claim and attorney-client communications.

11 **REQUEST NO. 22**

12 Please produce a copy of the billings and correspondence between your attorney's office,
13 insurance company, or agency acting on your behalf and any outside experts or third parties
14 related to the subject incident and this case.

15 **RESPONSE TO REQUEST NO. 22**

16 Objection. This Request is premature, overly broad, vague, assumes facts and seeks
17 irrelevant information not reasonably calculated to lead to the discovery of admissible evidence.
18 This Request is also objectionable on the grounds that it violates the attorney client privilege, work
19 product doctrines, disclosure of Defendant's legal analysis and assessments relative to the facts of
20 this case. Similarly, to the extent that this request seeks an attorney's mental impressions,
21 conclusions, opinions, and legal theories and requires the analysis and identification of what factual
22 information is necessary for defendant to properly defend against plaintiff's claims and allegations
23 at the time of trial, it improperly calls for privileged information including, without limitation,
24 information protected by the attorney-client privilege and attorney work product doctrine. See
25 *Schreib v. American Family Mutual Insurance Company*, 304 F.R.D. 282, 284 (W.D. Washington,
26 2014)(holding "[i]n the context of Rule 30(b)(6) depositions, the work product doctrine operates in
27 a 'very limited way ... to circumscribe the scope of depositions upon oral examination.'"
28 Specifically, it protects against "questions which improperly tend to elicit the mental impressions

of the parties' attorneys."); accord *Taylor v. Shaw*, No. 2:04CV01668LDGLRL, 2007 WL710186 (D.Nev. Mar 7, 2007)(citing *Hydramar v. General Dynamics Corp.*, 119 F.R.D. 367, 372 (E.D. Pa.1988)); *Protective Nat'l Ins. Co. of Omaha v. Commonwealth Ins. Co.*, 137 F.R.D. 267, 279 (D.Neb.1989)); see also *Equal Employment Opportunity Commission v. Anchor Continental, Inc.*, 74 F.R.D. 523, 526 (D.South Carolina, 1977)(noting it is well recognized that "ordinarily opinions of counsel and correspondence between attorneys would be exempt from discovery under the 'work product rule'").

Subject to and without waiving the foregoing objections, Responding Party is not currently asserting any claims for recovery of attorneys' fees. Further, the requested documents, if existing, are protected from disclosure by attorney client privilege and the work-product doctrine.

REQUEST NO. 23

Please produce the responsive documents evidencing any policies and procedures you have in place related to the hiring of prospective employees, including any minimal qualifications, training, and/or experience you require for employment as a semi-truck driver, employee, agent, independent contractor, or similar title for Tom Malloy Corporation aka/dba Trench Shoring Company prior to July 12, 2016.

RESPONSE TO REQUEST NO. 23

Objection. This request is compound, overly broad, vague and ambiguous. This request is also objectionable in that it seeks information that is not relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence. This request is further objectionable in that it assumes facts not in evidence. Subject to and without waiving the foregoing objections, Responding Party responds as follows:

See TMC001689 through TMC001710 and TMC002589 – TMC002666. Discovery and investigation are ongoing and Responding Party reserves its right to supplement this response if and when additional and/or new information or documents are subsequently located.

REQUEST NO. 24

Please produce the driving logs of Defendant JAIME ROBERTO SALAIS one (1) week prior to July 12, 2016, and one (1) week after July 12, 2016, which also includes the driving log

1 for July 12, 2016.

2 **RESPONSE TO REQUEST NO. 24**

3 Objection. This request is overly broad and vague. This request is also objectionable in that
4 it seeks information that is not relevant to this proceeding or reasonably calculated to lead to the
5 discovery of admissible evidence. This request is further objectionable in that it assumes facts not
6 in evidence. Subject to and without waiving the foregoing objections, Responding Party has
7 conducted a reasonable inquiry and has made a diligent search in an effort to respond to this request.
8 Based on information currently available, responding party has no such documents in its
9 possession.

10 **REQUEST NO. 25**

11 Please produce a copy of any claim you have made to insurance, workers compensation,
12 or a third party for injuries or damages you suffered as a result of the subject incident.

13 **RESPONSE TO REQUEST NO. 25**

14 Objection. This request potentially violates the attorney client privilege and work product
15 doctrines. This request is also objectionable in that it seeks information that is not relevant to this
16 proceeding or reasonably calculated to lead to the discovery of admissible evidence.

17 Subject to and without waiving the foregoing objections, Responding Party has not asserted
18 any claims against any party in this matter.

19 **REQUEST NO. 26**

20 Please produce a list of the owning company, person, or entity currently in ownership of
21 you, along with documentation listing any percentages of ownership.

22 **RESPONSE TO REQUEST NO. 26**

23 Objection. This is an improper request as Responding Party is not required under NRCP 34
24 to generate documents or compile an informational response to what is in actuality, an
25 Interrogatory, misnamed as a Request to Produce. Further, this request lacks foundation, is overly
26 broad and improperly seeks to obtain documents unrelated and irrelevant to the subject matter and
27 is not likely to lead to the discovery of admissible evidence. This request potentially violates the
28 attorney client privilege and work product doctrines.

1 Subject to and without waiving said objections, *See* Defendants' 7.1 Disclosure Statement
2 filed with the court of Clark County, Nevada on May 9, 2018.

3 **REQUEST NO. 27**

4 Please produce all corporate minutes of Tom Malloy Corporation aka/dba Trench Shoring
5 Company, where the subject collision was discussed.

6 **RESPONSE TO REQUEST NO. 27**

7 Objection. This is an improper request as Responding Party is not required under NRCP 34
8 to generate documents or compile an informational response to what is in actuality, an
9 Interrogatory, misnamed as a Request to Produce. Further, this request lacks foundation, is overly
10 broad and improperly seeks to obtain documents unrelated and irrelevant to the subject matter and
11 is not likely to lead to the discovery of admissible evidence. This request potentially violates the
12 attorney client privilege and work product doctrines.

13 Subject to and without waiving said objections, based on information currently available,
14 Responding Party has no such documents in its possession.

15 **REQUEST NO. 28**

16 Please produce a copy of your document retention policy.

17 **RESPONSE TO REQUEST NO. 28**

18 This request is also objectionable in that it seeks information that overly broad and is not
19 relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence.

20 Subject to and without waiving the foregoing objections, see TMC001634 – TMC001686
21 and TMC002589 – TMC002666.

22 **REQUEST NO. 29**

23 Please produce copies of the Custodian of Records Affidavits that you have received in
24 this case that accompany any medical records.

25 **RESPONSE TO REQUEST NO. 29**

26 See TMC000162 – TMC001154 and TMC002013 – TMC002484. Discovery and
27 investigation are ongoing and responding party reserves its right to supplement this response if and
28 when additional and/or new information or documents are subsequently located.

1 ///
2

3 **REQUEST NO. 30**

4 Please produce copies of the Custodian of Records Affidavits that you have received in
5 this case that accompany any billing records.

6 **RESPONSE TO REQUEST NO. 30**

7 See TMC000162 – TMC001154 and TMC002013 – TMC002484. Discovery and
8 investigation are ongoing and responding party reserves its right to supplement this response if and
9 when additional and/or new information or documents are subsequently located.

10 **REQUEST NO. 31**

11 Please provide copies of the pre-employment 49 CFR §382.301 alcohol and drug tests for
12 Defendant JAIME ROBERTO SALAIS.

13 **RESPONSE TO REQUEST NO. 31**

14 Objection. This request is compound, overly broad, vague and ambiguous. This
15 interrogatory further improperly seeks information which is privileged and/or confidential and
16 violates Defendants' rights to privacy and confidentiality. This request, by its terms, potentially
17 violates the attorney client privilege and work product doctrines. This request is also objectionable
18 in that it seeks information that is not relevant to this proceeding or reasonably calculated to lead
19 to the discovery of admissible evidence. This request is further objectionable in that it is
20 argumentative and assumes facts not in evidence. This request also improperly calls for a legal
21 conclusion. This request further improperly requests responding party to provide an expert opinion.
22 This request, by its terms, potentially violates the attorney client privilege and work product
23 doctrines. This request is also objectionable on the grounds that it is calculated to annoy and harass
24 Responding Party.

25 Subject to and without waiving the foregoing objections, Responding Party responds as
26 follows: See TMC001632.

27 Discovery and investigation are ongoing and responding party reserves its right to
28 supplement this response if and when additional and/or new information or documents are
subsequently located.

1 ///

2 **REQUEST NO. 32**

3 Please provide copies of the 49 CFR §382.301 alcohol and drug test requests related to the
4 subject incident and Defendant JAIME ROBERTO SALAIS.

5 **RESPONSE TO REQUEST NO. 32**

6 Objection. This request is compound, overly broad, vague and ambiguous. This
7 interrogatory further improperly seeks information which is privileged and/or confidential violates
8 Defendants' rights to privacy and confidentiality. This. This request, by its terms, potentially
9 violates the attorney client privilege and work product doctrines. This request is also objectionable
10 in that it seeks information that is not relevant to this proceeding or reasonably calculated to lead
11 to the discovery of admissible evidence. This request is further objectionable in that it is
12 argumentative and assumes facts not in evidence. This request also improperly calls for a legal
13 conclusion. This request further improperly requests responding party to provide an expert opinion.
14 This request, by its terms, potentially violates the attorney client privilege and work product
15 doctrines. This request is also objectionable on the grounds that it is calculated to annoy and harass
16 Responding Party.

17 Subject to and without waiving the foregoing objections, Responding Party responds as
18 follows: Responding Party will produce documents responsive to this request. See TMC001773-
19 TMC001774. Discovery and investigation are ongoing and responding party reserves its right to
20 supplement this response if and when additional and/or new information or documents are
21 subsequently located.

22 **REQUEST NO. 33**

23 Please provide copies of the Department of Transportation Form E filled out related to the
24 subject incident and Defendant JAIME ROBERTO SALAIS.

25 **RESPONSE TO REQUEST NO. 33**

26 Based on information currently available, responding party is not in possession of the
27 requested documents, and has been unable to locate any documents responsive to this request.
28 Discovery and investigation are ongoing and Responding Party reserves its right to supplement this

1 response if and when additional and/or new information or documents are subsequently located.

2 **REQUEST NO. 34**

3 Please provide a copy of the disciplinary information for any counseling, write-up, or
4 other negative action and related communication provided to Defendant JAIME ROBERTO
5 SALAIS as a result of the July 12, 2016 collision.

6 **RESPONSE TO REQUEST NO. 34**

7 Objection. This request assumes facts. Subject to and without waiving said objection,
8 Responding party has conducted a reasonable inquiry and has made a diligent search in an effort to
9 respond to this request. Based on information currently available, responding party has no such
10 documents in its possession.

11 **REQUEST NO. 35**

12 Please produce a copy of the excess or surplus insurance policy, declaration sheet, and any
13 underlying retention amount information that would cover the subject collision of July 12, 2016.

14 **RESPONSE TO REQUEST NO. 35**

15 Objection. This request is compound, overly broad, vague and ambiguous. Pursuant to NRS
16 48.135 evidence that a person was or is insured is not admissible on the issue of wrong doing on
17 the part of the defendant. This request is also objectionable in that it seeks information that is not
18 relevant to this proceeding or reasonably calculated to lead to the discovery of admissible evidence.
19 This request is further objectionable in that it assumes facts not in evidence.

20 Subject to and without waiving the foregoing objections, Responding Party responds as
21 follows: See TMC000056 – TMC000161. Discovery and investigation are ongoing and
22 Responding Party reserves its right to supplement this response if and when additional and/or new
23 information or documents are subsequently located.

24 **REQUEST NO. 36**

25 Please provide a copy of the emails, messages, texts, and letters between Defendant
26 JAIME ROBERTO SALAIS and other Tom Malloy Corporation aka/dba Trench Shoring
27 Company employees, supervisors, investigators and any third-party administrators discussing the
28 collision of July 12, 2016. This is not a request for any communication to and from a person and

1 their attorney or their attorney's staff.

2 **RESPONSE TO REQUEST NO. 36**

3 See TMC001769 - TMC001770. Responding Party has not fully completed its investigation
4 of the facts relating to this case, has not completed discovery in this action, and has not completed
5 its preparation for trial. Discovery and investigation are ongoing and Responding Party reserves its
6 right to supplement this response if and when additional and/or new information or documents are
7 subsequently located.

8 **REQUEST NO. 37**

9 Please provide a copy of the emails, messages, texts, and letters between Tom Malloy
10 Corporation aka/dba Trench Shoring Company employees, supervisors, investigators and any
11 third-party administrators discussing the collision of July 12, 2016. This is not a request for any
12 communication to and from a person and their attorney or their attorney's staff.

13 **RESPONSE TO REQUEST NO. 37**

14 See TMC001775 – TMC001996. Discovery and investigation are ongoing and responding
15 party reserves its right to supplement this response if and when additional and/or new information
16 or documents are subsequently located.

17 **REQUEST NO. 38**

18 Please produce copies of Federal and State Income Tax Returns filed by you for the years
19 2013, 2014, and 2015, together with any amendments, adjustments, extension requests, and all
20 correspondence relating thereto.

21 **RESPONSE TO REQUEST NO. 38**

22 Objection. This is an improper request as Responding Party is not required under NRCP 34
23 to generate documents or compile an informational response to what is in actuality, an
24 Interrogatory, misnamed as a Request to Produce. Further, this request overly burdensome, lacks
25 foundation, is overly broad and improperly seeks to obtain documents unrelated and irrelevant to
26 the subject matter and is not likely to lead to the discovery of admissible evidence. This request
27 potentially violates the attorney client privilege and work product doctrines.

28 Subject to and without waiving said objections, *See* Defendants' 7.1 Disclosure Statement
21

1 filed with the court of Clark County, Nevada on May 9, 2018.

2 **REQUEST NO. 39**

3 Please produce documents, writings, communications, financial statements, both audited
4 and unaudited, and amendments thereto, which show the net worth for the last five (5) years
5 according to GENERAL ACCEPTED ACCOUNTING PRINCIPLES (GAAP).

6 **RESPONSE TO REQUEST NO. 39**

7 See Response to Request No. 38.

8 **REQUEST NO. 40**

9 FINANCIAL STATEMENTS: Please produce all documents, writings, communications,
10 financial statements, both audited and unaudited, and amendments thereto, which state your net
11 income or loss for the last five (5) years according to GENERAL ACCEPTED ACCOUNTING
12 PRINCIPLES (GAAP).

13 **RESPONSE TO REQUEST NO. 40**

14 See Response to Request No. 38.

15 Dated this 8th day of November, 2019.

MOKRI VANIS & JONES, LLP

17 /s/ Araba Panford

18 Todd A. Jones, Esq.
19 Nevada Bar No. 12983
20 Araba Panford, Esq.
21 Nevada Bar No. 11235
22 MOKRI VANIS & JONES, LLP.
23 Lakes Business Park
24 8831 West Sahara Avenue
25 Las Vegas, Nevada 89117
26 Telephone: 702.880.0688
27 Facsimile: 949.226.7150
28 Attorneys for Defendants
TOM MALLOY CORPORATION dba
TRENCH SHORING COMPANY and
JAIME ROBERTO SALAIS

1
2 **CERTIFICATE OF SERVICE**

3
4 I hereby certify that on the 8th day of November, 2019, I served a true and correct copy
5 of the foregoing **DEFENDANT TOM MALLOY CORPORATION dba TRENCH SHORING**
6 **COMPANY'S RESPONSES PLAINTIFF ROLANDO BESSU HERRERA'S FIRST SET**
7 **OF REQUESTS FOR PRODUCTION OF DOCUMENTS** by electronic service through
8 Odyssey to all parties on the Court's e-service list for the above-referenced matter.

9
10 */s/ Polanda Bullock*

11 Employee of Mokri Vanis & Jones, LLP

SERVICE LIST

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EXHIBIT 2

EXHIBIT 2

SUPP

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Attorneys for Defendants TOM MALLOY
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COMPANY and JAIME ROBERTO SALAIS

DISTRICT COURT
CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA,
individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION,
aka/dba TRENCH SHORING
COMPANY, a foreign corporation, DOES
I through V, inclusive, and ROE
CORPORATIONS I through V, inclusive,

Defendants.

Case No. A-18-772273-C

DEPT NO.: XXVIII

**DEFENDANTS' SEVENTH SUPPLEMENT
TO INITIAL N.R.C.P. 16.1 LIST OF
WITNESSES AND DOCUMENTS**

**DEFENDANTS' SEVENTH SUPPLEMENT TO INITIAL N.R.C.P. 16.1 LIST OF
WITNESSES AND DOCUMENTS**

Defendants TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY
and JAIME ROBERTO SALAIS ("Defendants"), by and through their counsel of record, the law

DEFENDANTS' FIFTH SUPPLEMENT TO INITIAL N.R.C.P. 16.1 LIST OF WITNESSES AND DOCUMENTS

1 firm of Mokri Vanis & Jones, LLP., hereby make the following supplemental disclosures
 2 pursuant to Nevada Rule of Civil Procedure ("N.R.C.P.") 16.1 as follows (additions in **bold**):

3 **PRELIMINARY STATEMENT**

4 Defendants have not fully completed their investigation of the facts of this case and
 5 discovery has not yet been completed. Defendants have not completed their preparation for trial.
 6 Defendants reserve the right to supplement these disclosures as additional facts become known.

7 **I. LIST OF WITNESSES**

- 8
 9 1. Maikel Perez-Acosta
 c/o THE 702 FIRM
 10 400 S. 7th Street, Suite 400
 Las Vegas, NV 89101
 11 (702) 776.3333

12 This individual is a Plaintiff in this matter and is expected to testify about the facts and
 13 circumstances surrounding the subject incident and purported damages as alleged in plaintiffs'
 14 complaint.

- 15 2. Rolando Bessu-Herrera
 c/o THE 702 FIRM
 16 400 S. 7th Street, Suite 400
 Las Vegas, NV 89101
 17 (702) 776.3333

18 This individual is a Plaintiff in this matter and is expected to testify about the facts and
 19 circumstances surrounding the subject incident and purported damages as alleged in plaintiffs'
 20 complaint.

- 21 3. Jaime Roberto Salais
 c/o Mokri Vanis & Jones, LLP.
 22 8831 West Sahara Avenue
 Las Vegas, NV 89117
 23 (702) 880-0688

24 This individual is a Defendant in this matter and is expected to testify about his or her
 25 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged
 26 in plaintiffs' complaint.

- 27 4. Person(s) Most Knowledgeable
 28 TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY

c/o Mokri Vanis & Jones, LLP.
 8831 West Sahara Avenue
 Las Vegas, NV 89117
 (702) 880-0688

The Person(s) Most Knowledgeable for Defendant TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

5. Yuniel Villegas-Gonzalez
 Address unknown at this time
 Phone number unknown at this time

It is believed this individual is/was a witness and is expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

6. Jeovanny Ricardo Mondeja
 Address unknown at this time
 Phone number unknown at this time

It is believed this individual is/was a witness and is expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

7. Person(s) Most Knowledgeable
 Andrew Mitchell, D.C.
 Meadows Chiropractic
 3441 W. Sahara Ave., Suite B-7
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

8. Person(s) Most Knowledgeable
 Capanna International Neuroscience Consultants
 716 S. 6th Street
 Las Vegas, NV 89101

1 It is believed that this/these individual(s) is/are expected to testify about his or her
 2 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged
 3 in plaintiffs' complaint.

4 9. Person(s) Most Knowledgeable
 5 Desert Radiologists
 6 P.O. Box 95291
 7 St. Louis, MO 63195

8 It is believed that this/these individual(s) is/are expected to testify about his or her
 9 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged
 10 in plaintiffs' complaint.

11 10. Person(s) Most Knowledgeable
 12 University Medical Center
 13 1800 West Charleston Boulevard
 14 Las Vegas, NV 89102

15 It is believed that this/these individual(s) is/are expected to testify about his or her
 16 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged
 17 in plaintiffs' complaint.

18 11. Person(s) Most Knowledgeable
 19 EMP of Clark
 20 4535 Dressler Road N.W.
 21 Cincinnati, OH 45264

22 It is believed that this/these individual(s) is/are expected to testify about his or her
 23 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged
 24 in plaintiffs' complaint.

25 12. Person(s) Most Knowledgeable
 26 Southwest Medical Pharmacy
 27 620 Placid Street
 28 Las Vegas, NV 89119

It is believed that this/these individual(s) is/are expected to testify about his or her
 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 in plaintiffs' complaint.

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1 13. Person(s) Most Knowledgeable
 2 Advanced Orthopedic
 3 8420 W. Warm Springs Road, Suite 100
 Las Vegas, NV 89113

4 It is believed that this/these individual(s) is/are expected to testify about his or her
 5 knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged
 6 in plaintiff's complaint.

7 14. Person(s) Most Knowledgeable
 Stephen A. Holper, M.D.
 8 3233 W. Charleston Blvd., Suite 202
 Las Vegas, NV 89102

9 It is believed that this/these individual(s) is/are expected to testify about his or her
 10 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 11 in plaintiffs' complaint.

12 15. Person(s) Most Knowledgeable
 13 Surgical Arts Center
 14 9499 West Charleston Boulevard, Suite 250
 Las Vegas, NV 89145

15 It is believed that this/these individual(s) is/are expected to testify about his or her
 16 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 17 in plaintiffs' complaint.

18 16. Person(s) Most Knowledgeable
 19 Dr. Kaplan
 Western Regional Center for Brain & Spine Surgery
 20 2471 Professional Court
 Las Vegas, NV 89128

21 It is believed that this/these individual(s) is/are expected to testify about his or her
 22 knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged
 23 in plaintiff's complaint.

24 17. Person(s) Most Knowledgeable
 25 Steinberg Diagnostic Medical Imaging
 26 P.O. Box 39600
 Las Vegas, NV 89133

27 ///
 28

1 It is believed that this/these individual(s) is/are expected to testify about his or her
2 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
3 in plaintiffs' complaint.

4 18. Person(s) Most Knowledgeable
5 ASP Cares
6 501 S. Rancho Dr., Suite G46
7 Las Vegas, NV 89133

8 It is believed that this/these individual(s) is/are expected to testify about his or her
9 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
10 in plaintiffs' complaint.

11 19. Person(s) Most Knowledgeable
12 Gobinder S. Chopra, M.D.
13 6410 Medical Center Street, Suite A-100
14 Las Vegas, NV 89148

15 It is believed that this/these individual(s) is/are expected to testify about his or her
16 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
17 in plaintiffs' complaint.

18 20. Person(s) Most Knowledgeable
19 Interventional Pain & Spine Institute
20 851 S. Rampart Blvd., Suite 100
21 Las Vegas, NV 89145

22 It is believed that this/these individual(s) is/are expected to testify about his or her
23 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
24 in plaintiffs' complaint.

25 21. Person(s) Most Knowledgeable
26 Pueblo Medical Imaging
27 100 N. Green Valley Pkwy., Suite 130
28 Henderson, NV 89074

It is believed that this/these individual(s) is/are expected to testify about his or her
knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
in plaintiffs' complaint.

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1 22. Person(s) Most Knowledgeable
 2 Wellcare Pharmacy
 3 1050 Wigwam Pkwy., Suite 100
 Henderson, NV 89074

4 It is believed that this/these individual(s) is/are expected to testify about his or her
 5 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 6 in plaintiffs' complaint.

7 23. Person(s) Most Knowledgeable
 Alain Coppel, M.D.
 8 Nevada Comprehensive Pain Center
 1050 Wigwam Pkwy., Suite 100
 9 Henderson, NV 89074

10 It is believed that this/these individual(s) is/are expected to testify about his or her
 11 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 12 in plaintiffs' complaint.

13 24. Person(s) Most Knowledgeable
 Nevada Surgical Suites
 14 2809 W. Charleston Blvd., Suite 150
 15 Las Vegas, NV 89102

16 It is believed that this/these individual(s) is/are expected to testify about his or her
 17 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 18 in plaintiffs' complaint.

19 25. Person(s) Most Knowledgeable
 Shadow Emergency Physicians
 20 1000 River Road, Suite 100
 21 Conshohocken, PA 19428

22 It is believed that this/these individual(s) is/are expected to testify about his or her
 23 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
 24 in plaintiffs' complaint.

25 26. Person(s) Most Knowledgeable
 Desert Springs Hospital
 26 2075 E. Flamingo Road
 Las Vegas, NV 89119

27 It is believed that this/these individual(s) is/are expected to testify about his or her
 28

1 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as
2 alleged in plaintiffs' complaint.

3 27. Person(s) Most Knowledgeable
4 Las Vegas Pharmacy
5 2600 W. Sahara Ave., Suite 120
6 Las Vegas, NV 89102

7 It is believed that this/these individual(s) is/are expected to testify about his or her
8 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
9 in plaintiffs' complaint.

10 28. Person(s) Most Knowledgeable
11 Oasis Counseling
12 2360 W. Horizon Ridge Pkwy., Suite 120
13 Henderson, NV 89052

14 It is believed that this/these individual(s) is/are expected to testify about his or her
15 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
16 in plaintiffs' complaint.

17 29. Person(s) Most Knowledgeable
18 Centennial Hills Hospital
19 6900 N. Durango Drive
20 Las Vegas, NV 89149

21 It is believed that this/these individual(s) is/are expected to testify about his or her
22 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
23 in plaintiffs' complaint.

24 30. Person(s) Most Knowledgeable
25 CVS Pharmacy
26 One CVS Drive
27 Woonsocket, RI 02895

28 It is believed that this/these individual(s) is/are expected to testify about his or her
knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged
in plaintiffs' complaint.

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31. Person(s) Most Knowledgeable
 Babuk Ghuman, M.D.
 Nevada Spine Clinic
 7104 Smoke Ranch Road
 Las Vegas, NV 89128

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

32. Reynold L. Rimoldi, M.D.
 Nevada Orthopedic & Spine Center
 7455 W. Washington Ave., Suite 160
 Las Vegas, Nevada 89128
 702.258.5540
 702.258.5530

Dr. Rimoldi is expected to testify as a medical expert in his field of practice regarding causation of Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA's alleged injuries, the nature of their injuries, their medical progress, the reasonableness and necessity of their past treatment and the reasonableness and necessity of any future treatment.

33. Brian K. Jones, MSBE, P.E., CXLT, ACTAR
 American Bio Engineers
 6905 W. Charleston Blvd., Suite 110
 Las Vegas, Nevada 89117
 702.395.6768
 844.882.6110

Mr. Jones is expected to testify as an accident reconstruction/biomechanical specialist/forensic expert in his field of practice regarding causation as it relates to Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA's alleged injuries.

34. Nancy Espinoza
 2995 E. Sunset Rd., Unit D117
 Las Vegas, NV 89102

It is believed this individual is expected to testify about her knowledge of the subject incident and plaintiff Rolando Bessu-Herrera's injuries and alleged damages as alleged in plaintiffs' complaint.

35. Any witness identified or disclosed in this action.

36. Any witness whose name or identifying information appears on any document produced by any party to this litigation.

37. Any person most knowledgeable for any legal entity whose name or identifying information appears on any document produced by any party to this litigation.

Defendants reserve the right to supplement or amend this witness list.

Defendants reserve the right to supplement or amend its NRCP 16.1 Disclosures.

II. LIST OF DOCUMENTS PRODUCED

1. Copy of Plaintiff's Summons and Complaint, filed on April 4, 2018, attached hereto and bates stamped as TMC000001-TMC000010;

2. Copy of vehicle damage appraisal for plaintiff's 2010 Ford Focus allegedly involved in the subject accident, attached hereto, and bates stamped as TMC000011-TMC000032;

3. Defendants' Answer to Plaintiffs' Complaint, filed on May 8, 2018, attached hereto and bates stamped as TMC000033-TMC000043;

4. Copy of Milestone Insurance Incident Report, attached hereto, and bates stamped as TMC000044-TMC000046;

5. Copy of two (2) still photographs of the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bates stamped as TMC000047-TMC000048;

6. Copy of four (4) still photographs of plaintiff's 2010 Ford Focus allegedly involved in the subject accident, attached hereto, and bates stamped as TMC000049-TMC000052;

7. Copy of Trench Shoring Company insurance card and DMV registration for the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bates stamped as TMC000053-TMC000055;

8. Copy of Trench Shoring Company insurance policies, attached hereto, and bates stamped as TMC000056-TMC000161;

9. Copies of documents received via subpoena from Advanced Orthopedic & Sports Medicine, bates stamped as TMC000162-TMC000179;

10. Copies of documents received via subpoena from ASP Care Pharmacy, bates

1 stamped as TMC000180-TMC000184;

2 11. Copies of documents received via subpoena from Desert Radiologists, bate
3 stamped as TMC000185-TMC000195;

4 12. Copies of documents received via subpoena from Interventional Pain & Spine
5 Institute, bate stamped as TMC000196-TMC000351;

6 13. Copies of documents received via subpoena from Meadows Chiropractic, bate
7 stamped as TMC000352-TMC000383;

8 14. Copies of documents received via subpoena from Pueblo Medical Imaging, bate
9 stamped as TMC000384-TMC000392;

10 15. Copies of documents received via subpoena from Southwest Medical Pharmacy,
11 bate stamped as TMC000393-TMC000409;

12 16. Copies of documents received via subpoena from Steinberg Diagnostic Medical
13 Imaging, bate stamped as TMC000410-TMC000430;

14 17. Copies of documents received via subpoena from Surgical Arts Center, bate
15 stamped as TMC000431-TMC000432;

16 18. Copies of documents received via subpoena from University Medical Center, bate
17 stamped as TMC000433-TMC000441;

18 19. Copies of documents received via subpoena from Western Regional Center for
19 Brian & Spine Injury, bate stamped as TMC000442-TMC000490;

20 20. Copies of documents received via subpoena from Centennial Hills Hospital, bate
21 stamped as TMC000491-TMC000683;

22 21. Copies of documents received via subpoena from CVS Pharmacy, bate stamped as
23 TMC000684-TMC000693;

24 22. Copies of documents received via subpoena from Desert Radiologists, bate
25 stamped as TMC000694-TMC000727;

26 23. Copies of documents received via subpoena from Las Vegas Pharmacy, bate
27 stamped as TMC000728-TMC000731;

28 24. Copies of documents received via subpoena from Meadows Chiropractic, bate

1 stamped as TMC000732-TMC000805;

2 25. Copies of documents received via subpoena from Nevada Comprehensive Pain
3 Center, bated stamped as TMC000806-TMC000874;

4 26. Copies of documents received via subpoena from Nevada Spine Clinic, bated
5 stamped as TMC000875-TMC000889;

6 27. Copies of documents received via subpoena from Nevada Surgical Suites, bated
7 stamped as TMC000890-TMC001044;

8 28. Copies of documents received via subpoena from Wellcare Pharmacy, bated
9 stamped as TMC001045-TMC001048;

10 29. Copies of documents received via subpoena from Western Regional Center for
11 Brain & Spine, bated stamped as TMC001049-TMC001153;

12 30. Copies of documents received via subpoena from Desert Radiologists, bated
13 stamped as TMC001154;

14 31. Copies of documents received via subpoena from EMP of Clark County, bated
15 stamped as TMC002013-TMC002015;

16 32. Copies of documents received via subpoena from University Medical Center, bated
17 stamped as TMC002016-TMC002388;

18 33. Copies of documents received via subpoena from Dr. Albert Capanna, bated
19 stamped as TMC002389-TMC002393;

20 34. Copies of documents received via subpoena from Desert Radiologists, bated
21 stamped as TMC002394;

22 35. Copies of documents received via subpoena from Steinberg Diagnostic Medical
23 Imaging, bated stamped as TMC002395;

24 36. Copies of documents received via subpoena from Oasis Counseling, bated stamped
25 as TMC002396-TMC002399;

26 37. Copies of documents received via subpoena from Pueblo Medical Imaging, bated
27 stamped as TMC002400-TMC002412;

28 38. Copies of documents received via subpoena from Shadow Emergency Physicians,

bate stamped as TMC002413-TMC002478;

39. Copies of documents received via subpoena from Desert Radiologists, bate stamped as TMC002479;

40. Copies of documents received via subpoena from Desert Radiologists, bate stamped as TMC002480;

41. Copies of documents received via subpoena from Pueblo Medical Imaging, bate stamped as TMC002481;

42. Copies of documents received via subpoena from Oasis Counseling, bate stamped as TMC002482-TMC002484;

43. Copies of Jaime Roberto Salais employee and training documents, bate stamped as TMC001627-TMC001774;

44. Copies of the insurance claims files in connection with the July 12, 2016 motor vehicle collision, bate stamped as TMC001775-TMC001996;

45. Copies of all documents pertaining to the vehicle involved in the subject accident, bate stamped as TMC001997-TMC002012;

46. Copy of Jaime Roberto Salais Nevada Driver License, bate stamped as TMC002485;

47. Copies of Dr. Reynold Rimoldi's CV, Expert Testimony List, Fee Schedule, and Plaintiffs' IME Reports, bate stamped as TMC002486 – TMC002521;

48. Copies of Brian Jones' CV, Testimony List, Fee Schedule, Report and Calculations, bate stamped as TMC002522 – TMC002588;

49. Copy of Trench Shoring Company's 2015 Employee Handbook, bate stamped as TMC002589 – TMC002666;

50. Image of team "Cuban Missiles" bates stamped as MC002667;

51. Video: "Cuban Missiles (02.21.20)" bates stamped as TMC002668;

52. Video: "Cuban Missiles vs. Blue Jays (02.04.19)" bates stamped as TMC002669;

- 1 **53. Video: “Cuban Missiles vs. Criollos” bates stamped as TMC002670;**
- 2 **54. Video: “Cuban Missiles v. NES” bates stamped as TMC002671;**
- 3 **55. Video: “Estamos En Los Playoffs (09.28.19)” bates stamped as TMC002672;**
- 4 **56. Video: “Fuerza Missiles (09.21.19)” bates stamped as TMC002673;**
- 5 **57. Video: “Jugada Cerrada (09.18.19)” bates stamped as TMC002674;**
- 6 **58. Video: “Lo Que Viene (11.22.19)” bates stamped as TMC002675;**
- 7 **59. Video: “Missiles (Resumen 2da Liga) (07.06.19)” bates stamped as**
8 **TMC002676;**
- 9 **60. Video: “Missiles 2020 (01.04.20)” bates stamped as TMC002677;**
- 10 **61. Video: “MVP Celebration al Estilo Missiles (12.02.19)” bates stamped as**
11 **TMC002678;**
- 12 **62. Video: “Resumen 5to Juego (08.15.19)” bates stamped as TMC002679;**
- 13 **63. Video: “Team Cuban Missiles” bates stamped TMC002680;**
- 14 **64. Video: “Una Historia de Amor Impossible (01.22.20)” bates stamped as**
15 **TMC00281;**
- 16 **65. Image of “MVP's Game #9 Jose A. Garcia” bates stamped as TMC002682;**
- 17 66. Defendants reserve the right to supplement, amend, or withdraw any documents
18 produced or identified in their disclosures; and
- 19 67. Defendants further reserve the right to file and produce a supplemental list of
20 documents.

21 **III. COMPUTATION OF DAMAGES**

22 Pursuant to NRCp 16.1(a)(1)(C), plaintiff is to provide a computation of any and all
23 categories of damages he is seeking.

24 Defendants have not yet asserted any claims for damages against any other party in this
25 litigation. Defendants reserve their right to assert any such claims they may have against any
26 other party to this litigation. Defendants further reserve the right to supplement, amend, and/or
27 modify this category of damages as discovery continues in this litigation and additional facts
28 become known.

1 **IV. INSURANCE AGREEMENTS**

2 Pursuant to NRCP 16.1(a)(1)(D), Defendants identify the following insurance policy(ies):

3 Old Republic Insurance Company, Policy No.: MWTB 307814

4 Defendant Tom Malloy Corporation d/b/a Trench Shoring Company does not have any
5 excess insurance policy applicable to this matter. Defendants reserve their right to supplement,
6 amend, and/or modify this disclosure as discovery continues in this litigation and additional facts
7 become known.

8
9 Dated this 12th day of March, 2020.

MOKRI VANIS & JONES, LLP

10
11 /s/ Araba Panford

Todd A. Jones, Esq.

Nevada Bar No. 12983

12 Araba Panford, Esq.

Nevada Bar No. 11235

13 MOKRI VANIS & JONES, LLP.

Lakes Business Park

14 8831 West Sahara Avenue

Las Vegas, Nevada 89117

15 Telephone: 702.880.0688

16 Facsimile: 949.226.7150

Attorneys for Defendants

17 TOM MALLOY CORPORATION dba

TRENCH SHORING COMPANY and

18 JAIME ROBERTO SALAIS

I hereby certify that on the 12th day of March, 2020, I served a true and correct copy of the foregoing **DEFENDANTS' SEVENTH SUPPLEMENT TO INITIAL N.R.C.P. 16.1 LIST OF WITNESSES AND DOCUMENTS** by electronic service through Odyssey to all parties on the Court's e-service list for the above-referenced matter.

/s/ *Polanda Bullock*

Employee of Mokri Vanis & Jones, LLP

SERVICE LIST

Michael C. Kane, Esq. Bradley J. Myers, Esq. Jason Barron, Esq. THE 702 FIRM 400 South 7 th St., Suite/Floor 4 Las Vegas, NV 89101	Counsel for Plaintiff, Maikel Perez-Acosta Telephone: (702) 776-3333 Fax: 702-505-9787 Email: Michael Kane (mike@the702firm.com) Bradley Myers (Brad@the702firm.com) Jason Barron (jason@the702firm.com) Adam Kutner (askadamkutner@yahoo.com) Venessa Patino (vpatino@adamskutner.com)
Craig W. Drummond, Esq. Liberty A. Ringor, Esq. DRUMMOND LAW FIRM 810 S. Casino Center Bl., Suite 101 Las Vegas, NV 89101	Counsel for Plaintiff, Rolando Bessu Herrera Telephone: 702-366-9966 Email: Craig Drummond (craig@drummondfirm.com) Gaylynn McCullough (gaylynn@drummondfirm.com) Liberty Ringor (liberty@drummondfirm.com)

EXHIBIT 3

EXHIBIT 3

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Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 ♦ FAX 702 251 5405

SLWD

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Nevada Bar No. 7468
Nicholas F. Adams
Nevada Bar No. 14813
Wood, Smith, Henning & Berman LLP
2881 Business Park Court, Suite 200
Las Vegas, Nevada 89128-9020
Telephone: 702 251 4100
Facsimile: 702 251 5405
jodou@wshblaw.com
nadams@wshblaw.com

Attorneys for Defendants, Tom Malloy
Corporation d/b/a Trench Shoring Company and
Jaime Roberto Salais

Todd A. Jones, Esq.
MOKRI VANIS & JONES, LLP
2251 Fair Oaks Blvd., Suite 100
Sacramento, California 95825
Tel.: (916) 306-0434/Fax: (949) 226-7150
tjones@mvjllp.com

Attorneys for Defendants, Tom Malloy
Corporation d/b/a Trench Shoring Company and
Jaime Roberto Salais

DISTRICT COURT

CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA, individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION, aka/dba
TRENCH SHORING COMPANY, a foreign
corporation, DOES I through V, inclusive, and
ROE CORPORATIONS I through V,
inclusive,

Defendants.

Case No. A-18-772273-C
Dept. No.: 28

**DEFENDANTS, TOM MALLOY
CORPORATION D/B/A TRENCH
SHORING COMPANY AND JAIME
ROBERTO SALAIS' EIGHTH
SUPPLEMENTAL EARLY CASE
CONFERENCE LIST OF WITNESSES
AND PRODUCTION OF DOCUMENTS
PURSUANT TO NRCP 16.1(A)(1)**

DEFENDANTS' EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS PURSUANT TO NRCP 16.1(A)(1)

Defendants TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY and JAIME ROBERTO SALAIS ("Defendants"), by and through their counsel of record, Todd A. Jones, Esq. of the law firm of Mokri Vanis & Jones, LLP., hereby make the following supplemental disclosures pursuant to Nevada Rule of Civil Procedure ("N.R.C.P.") 16.1 as follows (additions in **bold**):

PRELIMINARY STATEMENT

Defendants have not fully completed their investigation of the facts of this case and discovery has not yet been completed. Defendants have not completed their preparation for trial. Defendants reserve the right to supplement these disclosures as additional facts become known.

I. LIST OF WITNESSES

1. Maikel Perez-Acosta
c/o THE 702 FIRM
400 S. 7th Street, Suite 400
Las Vegas, NV 89101
(702) 776.3333

This individual is a Plaintiff in this matter and is expected to testify about the facts and circumstances surrounding the subject incident and purported damages as alleged in plaintiffs' complaint.

2. Rolando Bessu-Herrera
c/o THE 702 FIRM
400 S. 7th Street, Suite 400
Las Vegas, NV 89101
(702) 776.3333

This individual is a Plaintiff in this matter and is expected to testify about the facts and circumstances surrounding the subject incident and purported damages as alleged in plaintiffs' complaint.

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- 1 3. Jaime Roberto Salais
 2 c/o Mokri Vanis & Jones, LLP.
 3 8831 West Sahara Avenue
 4 Las Vegas, NV 89117
 (702) 880-0688

5 This individual is a Defendant in this matter and is expected to testify about his or her
 6 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in
 7 plaintiffs' complaint.

- 8
 9 4. Person(s) Most Knowledgeable
 10 TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY
 11 c/o Mokri Vanis & Jones, LLP.
 12 8831 West Sahara Avenue
 Las Vegas, NV 89117
 (702) 880-0688

13 The Person(s) Most Knowledgeable for Defendant TOM MALLOY CORPORATION d/b/a
 14 TRENCH SHORING COMPANY is/are expected to testify about his or her knowledge of the subject
 15 incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

- 16 5. Yuniel Villegas-Gonzalez
 17 Address unknown at this time
 Phone number unknown at this time

18
 19 It is believed this individual is/was a witness and is expected to testify about his or her
 20 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 21 plaintiffs' complaint.

- 22 6. Jeovanny Ricardo Mondeja
 Address unknown at this time
 Phone number unknown at this time

23
 24 It is believed this individual is/was a witness and is expected to testify about his or her
 25 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 26 plaintiffs' complaint.

27 ///

28 ///

7. Person(s) Most Knowledgeable
 Andrew Mitchell, D.C.
 Meadows Chiropractic
 3441 W. Sahara Ave., Suite B-7
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

8. Person(s) Most Knowledgeable
 Capanna International Neuroscience Consultants
 716 S. 6th Street
 Las Vegas, NV 89101

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

9. Person(s) Most Knowledgeable
 Desert Radiologists
 P.O. Box 95291
 St. Louis, MO 63195

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

10. Person(s) Most Knowledgeable
 University Medical Center
 1800 West Charleston Boulevard
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

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11. Person(s) Most Knowledgeable
 EMP of Clark
 4535 Dressler Road N.W.
 Cincinnati, OH 45264

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

12. Person(s) Most Knowledgeable
 Southwest Medical Pharmacy
 620 Placid Street
 Las Vegas, NV 89119

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

13. Person(s) Most Knowledgeable
 Advanced Orthopedic
 8420 W. Warm Springs Road, Suite 100
 Las Vegas, NV 89113

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged in plaintiff's complaint.

14. Person(s) Most Knowledgeable
 Stephen A. Holper, M.D.
 3233 W. Charleston Blvd., Suite 202
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

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15. Person(s) Most Knowledgeable
 Surgical Arts Center
 9499 West Charleston Boulevard, Suite 250
 Las Vegas, NV 89145

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

16. Person(s) Most Knowledgeable
 Dr. Kaplan
 Western Regional Center for Brain & Spine Surgery
 2471 Professional Court
 Las Vegas, NV 89128

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged in plaintiff's complaint.

17. Person(s) Most Knowledgeable
 Steinberg Diagnostic Medical Imaging
 P.O. Box 39600
 Las Vegas, NV 89133

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

18. Person(s) Most Knowledgeable
 ASP Cares
 501 S. Rancho Dr., Suite G46
 Las Vegas, NV 89133

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

19. Person(s) Most Knowledgeable
 Gobinder S. Chopra, M.D.
 6410 Medical Center Street, Suite A-100
 Las Vegas, NV 89148

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge

1 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
2 complaint.

3 20. Person(s) Most Knowledgeable
4 Interventional Pain & Spine Institute
5 851 S. Rampart Blvd., Suite 100
6 Las Vegas, NV 89145

7 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
8 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
9 complaint.

10 21. Person(s) Most Knowledgeable
11 Pueblo Medical Imaging
12 100 N. Green Valley Pkwy., Suite 130
13 Henderson, NV 89074

14 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
15 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
16 complaint.

17 22. Person(s) Most Knowledgeable
18 Wellcare Pharmacy
19 1050 Wigwam Pkwy., Suite 100
20 Henderson, NV 89074

21 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
22 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
23 complaint.

24 23. Person(s) Most Knowledgeable
25 Alain Coppel, M.D.
26 Nevada Comprehensive Pain Center
27 1050 Wigwam Pkwy., Suite 100
28 Henderson, NV 89074

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
complaint.

///

24. Person(s) Most Knowledgeable
 Nevada Surgical Suites
 2809 W. Charleston Blvd., Suite 150
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

25. Person(s) Most Knowledgeable
 Shadow Emergency Physicians
 1000 River Road, Suite 100
 Conshohocken, PA 19428

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

26. Person(s) Most Knowledgeable
 Desert Springs Hospital
 2075 E. Flamingo Road
 Las Vegas, NV 89119

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

27. Person(s) Most Knowledgeable
 Las Vegas Pharmacy
 2600 W. Sahara Ave., Suite 120
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

28. Person(s) Most Knowledgeable
 Oasis Counseling
 2360 W. Horizon Ridge Pkwy., Suite 120
 Henderson, NV 89052

///

1 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 2 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 3 complaint.

4 29. Person(s) Most Knowledgeable
 5 Centennial Hills Hospital
 6 6900 N. Durango Drive
 7 Las Vegas, NV 89149

8 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 9 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 10 complaint.

11 30. Person(s) Most Knowledgeable
 12 CVS Pharmacy
 13 One CVS Drive
 14 Woonsocket, RI 02895

15 It is believed that this/these individual(s) is/are expected to testify about his or her
 16 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 17 plaintiffs' complaint.

18 31. Person(s) Most Knowledgeable
 19 Babuk Ghuman, M.D.
 20 Nevada Spine Clinic
 21 7104 Smoke Ranch Road
 22 Las Vegas, NV 89128

23 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 24 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 25 complaint.

26 32. Reynold L. Rimoldi, M.D.
 27 Nevada Orthopedic & Spine Center
 28 7455 W. Washington Ave., Suite 160
 Las Vegas, Nevada 89128
 702.258.5540
 702.258.5530

///

1 Dr. Rimoldi is expected to testify as a medical expert in his field of practice regarding
2 causation of Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA's alleged
3 injuries, the nature of their injuries, their medical progress, the reasonableness and necessity of their
4 past treatment and the reasonableness and necessity of any future treatment.

5 33. Brian K. Jones, MSBE, P.E., CXLT, ACTAR
6 American Bio Engineers
7 6905 W. Charleston Blvd., Suite 110
8 Las Vegas, Nevada 89117
9 702.395.6768
10 844.882.6110

11 Mr. Jones is expected to testify as an accident reconstruction/biomechanical specialist/forensic
12 expert in his field of practice regarding causation as it relates to Plaintiffs MAIKEL PEREZ-ACOSTA
13 and ROLANDO BESSU HERRERA's alleged injuries.

14 34. Nancy Espinoza
15 2995 E. Sunset Rd., Unit D117
16 Las Vegas, NV 89102

17 It is believed this individual is expected to testify about her knowledge of the subject incident
18 and plaintiff Rolando Bessu-Herrera's injuries and alleged damages as alleged in plaintiffs' complaint.

19 Any witness identified or disclosed in this action.

20 Any witness whose name or identifying information appears on any document produced by
21 any party to this litigation.

22 Any person most knowledgeable for any legal entity whose name or identifying
23 information appears on any document produced by any party to this litigation.

24 Defendants reserve the right to supplement or amend this witness list.

25 Defendants reserve the right to supplement or amend its NRCP 16.1 Disclosures.

26 **II. LIST OF DOCUMENTS PRODUCED**

27 1. Copy of Plaintiff's Summons and Complaint, filed on April 4, 2018, attached hereto
28 and bated stamped as TMC000001-TMC000010;

2. Copy of vehicle damage appraisal for plaintiff's 2010 Ford Focus allegedly involved in the
subject accident, attached hereto, and bated stamped as TMC000011-TMC000032;

3. Defendants' Answer to Plaintiffs' Complaint, filed on May 8, 2018, attached hereto and bated stamped as TMC000033-TMC000043;

4. Copy of Milestone Insurance Incident Report, attached hereto, and bated stamped as TMC000044-TMC000046;

5. Copy of two (2) still photographs of the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000047-TMC000048;

6. Copy of four (4) still photographs of plaintiff's 2010 Ford Focus allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000049-TMC000052;

7. Copy of Trench Shoring Company insurance card and DMV registration for the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000053-TMC000055;

8. Copy of Trench Shoring Company insurance policies, attached hereto, and bated stamped as TMC000056-TMC000161;

9. Copies of documents received via subpoena from Advanced Orthopedic & Sports Medicine, bated stamped as TMC000162-TMC000179;

10. Copies of documents received via subpoena from ASP Care Pharmacy, bated stamped as TMC000180-TMC000184;

11. Copies of documents received via subpoena from Desert Radiologists, bated stamped as TMC000185-TMC000195;

12. Copies of documents received via subpoena from Interventional Pain & Spine Institute, bated stamped as TMC000196-TMC000351;

13. Copies of documents received via subpoena from Meadows Chiropractic, bated stamped as TMC000352-TMC000383;

14. Copies of documents received via subpoena from Pueblo Medical Imaging, bated stamped as TMC000384-TMC000392;

15. Copies of documents received via subpoena from Southwest Medical Pharmacy, bated stamped as TMC000393-TMC000409;

///

1 16. Copies of documents received via subpoena from Steinberg Diagnostic Medical
 2 Imaging, bate stamped as TMC000410-TMC000430;

3 17. Copies of documents received via subpoena from Surgical Arts Center, bate stamped as
 4 TMC000431-TMC000432;

5 18. Copies of documents received via subpoena from University Medical Center, bate
 6 stamped as TMC000433-TMC000441;

7 19. Copies of documents received via subpoena from Western Regional Center for Brian &
 8 Spine Injury, bate stamped as TMC000442-TMC000490;

9 20. Copies of documents received via subpoena from Centennial Hills Hospital, bate
 10 stamped as TMC000491-TMC000683;

11 21. Copies of documents received via subpoena from CVS Pharmacy, bate stamped as
 12 TMC000684-TMC000693;

13 22. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
 14 TMC000694-TMC000727;

15 23. Copies of documents received via subpoena from Las Vegas Pharmacy, bate stamped
 16 as TMC000728-TMC000731;

17 24. Copies of documents received via subpoena from Meadows Chiropractic, bate stamped
 18 as TMC000732-TMC000805;

19 25. Copies of documents received via subpoena from Nevada Comprehensive Pain Center,
 20 bate stamped as TMC000806-TMC000874;

21 26. Copies of documents received via subpoena from Nevada Spine Clinic, bate stamped as
 22 TMC000875-TMC000889;

23 27. Copies of documents received via subpoena from Nevada Surgical Suites, bate
 24 stamped as TMC000890-TMC001044;

25 28. Copies of documents received via subpoena from Wellcare Pharmacy, bate stamped as
 26 TMC001045-TMC001048;

27 29. Copies of documents received via subpoena from Western Regional Center for Brain
 28 & Spine, bate stamped as TMC001049-TMC001153;

30. Copies of documents received via subpoena from Desert Radiologists, bates stamped as TMC001154;

31. Copies of documents received via subpoena from EMP of Clark County, bates stamped as TMC002013-TMC002015;

32. Copies of documents received via subpoena from University Medical Center, bates stamped as TMC002016-TMC002388;

33. Copies of documents received via subpoena from Dr. Albert Capanna, bates stamped as TMC002389-TMC002393;

34. Copies of documents received via subpoena from Desert Radiologists, bates stamped as TMC002394;

35. Copies of documents received via subpoena from Steinberg Diagnostic Medical Imaging, bates stamped as TMC002395;

36. Copies of documents received via subpoena from Oasis Counseling, bates stamped as TMC002396-TMC002399;

37. Copies of documents received via subpoena from Pueblo Medical Imaging, bates stamped as TMC002400-TMC002412;

38. Copies of documents received via subpoena from Shadow Emergency Physicians, bates stamped as TMC002413-TMC002478;

39. Copies of documents received via subpoena from Desert Radiologists, bates stamped as TMC002479;

40. Copies of documents received via subpoena from Desert Radiologists, bates stamped as TMC002480;

41. Copies of documents received via subpoena from Pueblo Medical Imaging, bates stamped as TMC002481;

42. Copies of documents received via subpoena from Oasis Counseling, bates stamped as TMC002482-TMC002484;

43. Copies of Jaime Roberto Salais employee and training documents, bates stamped as TMC001627-TMC001774;

1 44. Copies of the insurance claims files in connection with the July 12, 2016 motor vehicle
 2 collision, bates stamped as TMC001775-TMC001996;

3 45. Copies of all documents pertaining to the vehicle involved in the subject accident, bates
 4 stamped as TMC001997-TMC002012;

5 46. Copy of Jaime Roberto Salais Nevada Driver License, bates stamped as TMC002485;

6 47. Copies of Dr. Reynold Rimoldi's CV, Expert Testimony List, Fee Schedule, and
 7 Plaintiffs' IME Reports, bates stamped as TMC002486 – TMC002521;

8 48. Copies of Brian Jones' CV, Testimony List, Fee Schedule, Report and Calculations,
 9 bates stamped as TMC002522 – TMC002588;

10 49. Copy of Trench Shoring Company's 2015 Employee Handbook, bates stamped as
 11 TMC002589 – TMC002666;

12 50. Image of team "Cuban Missiles" bates stamped as MC002667;

13 51. Video: "Cuban Missiles (02.21.20)" bates stamped as TMC002668;

14 52. Video: "Cuban Missiles vs. Blue Jays (02.04.19)" bates stamped as TMC002669;

15 53. Video: "Cuban Missiles vs. Criollos" bates stamped as TMC002670;

16 54. Video: "Cuban Missiles v. NES" bates stamped as TMC002671;

17 55. Video: "Estamos En Los Playoffs (09.28.19)" bates stamped as TMC002672;

18 56. Video: "Fuerza Missiles (09.21.19)" bates stamped as TMC002673;

19 57. Video: "Jugada Cerrada (09.18.19)" bates stamped as TMC002674;

20 58. Video: "Lo Que Viene (11.22.19)" bates stamped as TMC002675;

21 59. Video: "Missiles (Resumen 2da Liga) (07.06.19)" bates stamped as TMC002676;

22 60. Video: "Missiles 2020 (01.04.20)" bates stamped as TMC002677;

23 61. Video: "MVP Celebration al Estilo Missiles (12.02.19)" bates stamped as
 24 TMC002678;

25 62. Video: "Resumen 5to Juego (08.15.19)" bates stamped as TMC002679;

26 63. Video: "Team Cuban Missiles" bates stamped TMC002680;

27 64. Video: "Una Historia de Amor Impossible (01.22.20)" bates stamped as
 28 TMC002681;

65. Image of “MVP's Game #9 Jose A. Garcia” bates stamped as TMC002682;

66. Michael Allen Fryar’s Curriculum Vitae, identified as Bates numbers TMC002667-TMC002670;

67. Michael Allen Fryar’s Fee Schedule, identified as Bates numbers TMC002671;

68. Michael Allen Fryar’s Testimony List, identified as Bates numbers TMC002672 through TMC002675;

69. Michael Allen Fryar’s Report on Maikel Perez-Acosta, identified as Bates numbers TMC002676 through TMC002755;

70. Michael Allen Fryar’s Report on Rolando Bessu-Herrera, identified as Bates numbers TMC002756-TMC002801;

71. Correspondence regarding Insurance Fraud, Trench Shoring Case dated April 28, 2019, identified as Bates numbers TMC002802-TMC002804.

Redactions may appear on disclosures. Defendants have worked diligently to comply with SRCR 2 and redact "restricted personal information" from the documents disclosed. Further, to the extent redactions relate to a claim of privilege, a log pursuant to NRCP 26(b)(5)(A) is available upon request.

Defendants specifically reserve the right to further supplement their list of witnesses and documents as discovery is ongoing. Further, Defendants specifically reserve the right to utilize any additional witnesses and/or documents named or produced by any other party in this matter regardless of whether that party is ultimately dismissed from this matter prior to trial.

III. EXPERT WITNESSES

1. Michael Allen Fryar
InQuis Global, LLC
999 Lake Hunter Circle, Suite A
Mt. Pleasant, SC 29464
843.352.9418

Mr. Fryar is a life care plan expert expected to testify as a rebuttal witness regarding Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA’s claimed life care plan, work life expectancy, and occupational rehabilitation and retraining as a result of the alleged injuries sustained from the subject of this litigation, as well as regarding the deficiencies of the expert opinions of

1 Plaintiffs' experts, Lora White and J. Matthew Sims, as set forth in their reports.

2 These Defendants reserve the rights to add, amend or delete expert witnesses in this
 3 matter.

4 These Defendants reserve the right to call any expert witness identified by any other party to
 5 this action whether or not such party remains a party at the time of trial.

6 These Defendants reserve the right to depose and call at the time of trial any and all experts
 7 designated by any other party in this case including non-retained treating physicians.

8 These Defendants reserve the right to name and call such additional witnesses should it
 9 become necessary following the deposition testimony of various expert witnesses involved in matter.

10 These Defendants reserve the right to call expert witnesses for the purpose of rebuttal or
 11 impeachment as necessary.

12 These Defendants reserve the right to call any and all other witnesses who may have relevant
 13 knowledge of the facts and circumstances surrounding the allegations contained within Plaintiffs'
 14 Complaint.

15 These Defendants reserve the right to utilize any and all witnesses named by any other party to
 16 this action.

17 Defendants further reserve the right to call any witness or expert witness named or deposed by
 18 any other party in this case.

19 **IV. COMPUTATION OF DAMAGES**

20 Pursuant to NRCP 16.1(a)(1)(C), plaintiff is to provide a computation of any and all categories
 21 of damages he is seeking.

22 Defendants have not yet asserted any claims for damages against any other party in this
 23 litigation. Defendants reserve their right to assert any such claims they may have against any other
 24 party to this litigation. Defendants further reserve the right to supplement, amend, and/or modify this
 25 category of damages as discovery continues in this litigation and additional facts
 26 become known.

27 **V. INSURANCE AGREEMENTS**

28 Pursuant to NRCP 16.1(a)(1)(D), Defendants identify the following insurance policy(ies): Old

1 Republic Insurance Company, Policy No.: MWTB 307814

2 Based on investigations and upon information and belief, the Old Republic Insurance
3 Company Policy MWTB 307814 is subject to all reservations of rights as stated within the policy.
4 Defendant Tom Malloy Corporation d/b/a Trench Shoring Company does not have any excess or
5 umbrella insurance policies applicable to this matter

6 **VI. RESERVATION OF RIGHTS**

7 Defendants have attempted in good faith to set forth information presently and reasonably
8 available to them that may be relevant to the subject matter. Defendants preserve, without waiver, all
9 objections to production and admissibility. Defendants further reserve all applicable privileges,
10 confidentiality, or other protections that may apply to documents or witnesses listed by other parties.

11 April 23, 2020

12 WOOD, SMITH, HENNING & BERMAN LLP
13 Attorneys at Law

14 By /s/ Nicholas F. Adams

15 JOEL D. ODOU
16 Nevada Bar No. 7468
17 NICHOLAS F. ADAMS
18 Nevada Bar No. 14813
19 2881 Business Park Court, Suite 200
20 Las Vegas, Nevada 89128-9020
21 Tel. 702 251 4100

22 Attorneys for Defendants, Tom Malloy
23 Corporation d/b/a Trench Shoring Company and
24 Jaime Roberto Salais
25
26
27
28

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 LAS VEGAS, NEVADA 89128-9020
 TELEPHONE 702.251.4100 • FAX 702.251.5405

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Wood Smith Henning & Berman, LLP and that on this 23rd day of April, 2020, I did cause a true and correct copy of the foregoing **DEFENDANTS, TOM MALLOY CORPORATION D/B/A TRENCH SHORING COMPANY AND JAIME ROBERTO SALAIS' EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS PURSUANT TO NRCP 16.1(A)(1)** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System.

Michael C. Kane, Esq.
 Bradley J. Myers, Esq.
 Jason Barron, Esq.
THE 702 FIRM
 400 South 7th Street, Suite/Floor 4
 Las Vegas, NV 89101
 Tel. (702) 776-3333/Fax: 702-505-9787
 Michael Kane: mike@the702firm.com
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Counsel for Plaintiff,
Maikel Perez-Acosta

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Trench Shoring Company and
Jaime Roberto Salais

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Rolando Bessu Herrera

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Tom Malloy Corporation d/b/a
Trench Shoring Company and
Jaime Roberto Salais

By /s/ Michelle N. Ledesma

Michelle N. Ledesma, an Employee of
 WOOD, SMITH, HENNING & BERMAN LLP

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Sunday, April 28, 2019 7:25 AM
To: John Dorame; Todd Jones
Subject: insurance fraud, trench shoring company case

1 **JCCR**
2 MICHAEL C. KANE, ESQ.
3 Nevada Bar No. 10096
4 BRADLEY J. MYERS, ESQ.
5 Nevada Bar No. 8857
6 JASON BARRON, ESQ.
7 Nevada Bar No. 7270
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14 brad@the702firm.com
15 jason@the702firm.com

16 and

17 ADAM S. KUTNER, ESQ.
18 Nevada Bar No. 4310
19 **ADAM S. KUTNER, P.C.**
20 1137 South Rancho Drive, Suite 150-A
21 Las Vegas, Nevada 89102
22 Telephone: (702) 382-0000
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

17 MAIKEL PEREZ-ACOSTA, an Individual,
18 ROLANDO BESSU HERRERA, Individually,

Case No.: A-18-772273-C
Dept No.: 28

19 Plaintiffs

Date: Monday, July 30, 2018
Time: 10:00 a.m.

20 vs.

21 JAIME ROBERTO SALAIS, an Individual,
22 TOM MALLOY CORPORATION aka/dba

Pursuant to Administrative Order 14-2, which took effect
mandated, the parties consent to service of all documents in this case to
recipients:

The702Firm Electronic Service address: jason@the702firm.com

Law Offices of MOKRI VANIS & JONES, LLP. Electronic Ser
jdorame@mvjllp.com and dsteinhauer@mvjllp.com

The parties agree to update the E-Service Master List to reflect
posthaste.

Dated on this 20 day of August, 2018.

Dated on this 16

THE702FIRM


MICHAEL C. KANE, ESQ.
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JOHN DORAME, ESQ.
Nevada Bar No. 1002
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Nevada Bar No: 1298
8831 West Sahara Ave
Las Vegas, Nevada 89123
Attorneys for Defendant
CORPARATION dba
TRENCH SHORING
ROBERT SALAIS

Hi I reported this case anonymously thru insurance fraud however nothing has been done, I found your information finally and decided to be direct with it instead... My name is Nancy Espinoza I was in a relationship with Rolando Bessu Herrera for the past 3 years and friend of Maikel Acosta Perez both where fresh from Cuba and where in the same condition they claim this accident caused or worsen... wrong. First of all, the accident was planned they picked that truck and intentionally slammed there brakes due to the rabbit car in front of them slamming their brakes then fleeing the scene. Second tge already had those conditions prior to the accident, Im not sure of Maikel seeing a doctor prior however Rolando Bessu had just started seeing doctor Serru on eastern ave for the same complaints and problems prior to the accident. Why am I giving you this information? Because the its wrong and these are why our cost of insurance is so high in nevada.... Rolando Bessu repeated this scammed again with his own car and me as a passenger, I was disgusted and apalled he made me part of a scam and I didnt want any part of it he used Steven parke law with that one so you can see how similar the cases are... I am willing to be a witness and help in any way for finders fee which will save your company alot of money then paying out to those that don't deserve it. thank you for time i added case number so it's easier to look them up.

EXHIBIT 4

EXHIBIT 4

**NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS**

**April 22, 2020
1-4**

Page 1	Page 3
<p>1 DISTRICT COURT</p> <p>2 CLARK COUNTY, NEVADA</p> <p>3</p> <p>4 MAIKEL PEREZ-ACOSTA,</p> <p>5 individually, ROLANDO BESSU</p> <p>6 HERRERA, individually,</p> <p>7 Plaintiffs, CASE NO.</p> <p>8 vs. A-18-772273-C</p> <p>9 DEPT. NO. XXVIII</p> <p>10 JAIME ROBERTO SALAIS,</p> <p>11 individually, TOM MALLOY</p> <p>12 CORPORATION, aka/dba TRENCH</p> <p>13 SHORING COMPANY, a foreign</p> <p>14 corporation, DOES I through V,</p> <p>15 inclusive, and ROE</p> <p>16 CORPORATIONS I through V,</p> <p>17 inclusive,</p> <p>18 Defendants.</p> <p>19 VIDEO-RECORDED DEPOSITION VIA VIDEOCONFERENCE</p> <p>20 OF NANCY ESPINOZA</p> <p>21 Taken on Wednesday, April 22, 2020</p> <p>22 At 10:06 a.m.</p> <p>23 At 2995 East Sunset Road</p> <p>24 Apartment 117</p> <p>25 Las Vegas, Nevada</p> <p>Reported by: John L. Nagle, CCR 211</p>	<p>1 Also present (via videoconference):</p> <p>2 JESSE ELLIS, VIDEOGRAPHER</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</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>
Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2 For Plaintiff, Maikel Perez-Acosta (via</p> <p>3 videoconference):</p> <p>4 THE702FIRM</p> <p>5 400 South Seventh Street</p> <p>6 Suite 400</p> <p>7 Las Vegas, Nevada 89101</p> <p>8 BY: JASON BARRON, ESQ.</p> <p>9 Ph. (702)776-3333; Fax (702)505-9787</p> <p>10 jason@the702firm.com</p> <p>11 For Plaintiff, Rolando Bessu Herrera (via</p> <p>12 videoconference):</p> <p>13 DRUMMOND LAW FIRM</p> <p>14 810 South Casino Center Boulevard</p> <p>15 Suite 101</p> <p>16 Las Vegas, Nevada 89101</p> <p>17 BY: CRAIG W. DRUMMOND, ESQ.</p> <p>18 Ph. (702)366-9966; Fax (702)508-9440</p> <p>19 craig@drummondfirm.com</p> <p>20 For Defendants (via videoconference):</p> <p>21 WOOD SMITH HENNING & BERMAN LLP</p> <p>22 2881 Business Park Court</p> <p>23 Suite 200</p> <p>24 Las Vegas, Nevada 89128</p> <p>25 BY: JOEL D. ODOU, ESQ.</p> <p>NICK ADAMS, ESQ.</p> <p>Ph. (702)251-4100; Fax (702)251-5405</p> <p>jodou@wshblaw.com</p> <p>nadams@wshblaw.com</p> <p>and</p> <p>MOKRI VANIS & JONES, LLP</p> <p>2251 Fair Oaks Boulevard</p> <p>Suite 100</p> <p>Sacramento, California 95825</p> <p>BY: TODD A. JONES, ESQ.</p> <p>Ph. (916)306-0434; Fax (916)307-6353</p> <p>tjones@mvjllp.com</p>	<p>1 INDEX</p> <p>2 Examination Further Examination</p> <p>3 By Mr. Odou 7</p> <p>4 By Mr. Drummond 46</p> <p>5 By Mr. Odou 48</p> <p>6 By Mr. Drummond 50</p> <p>7 By Mr. Barron 51</p> <p>8 By Mr. Odou 56</p> <p>9 By Mr. Drummond 57</p> <p>10 By Mr. Odou 59</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>

**NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS**

**April 22, 2020
5-8**

<p style="text-align: right;">Page 5</p> <p>1 EXHIBITS</p> <p>2 Deposition Exhibits Page</p> <p>3 Exhibit 1 - Amended Notice of Continued Videotaped 14</p> <p>Deposition of Nancy Espinoza</p> <p>4 Exhibit 2 - E-mail dated 4/28/19 from Nancy 46</p> <p>Espinoza to John Dorame and Todd Jones</p> <p>5</p> <p>6</p> <p>7</p> <p>8</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 7</p> <p>1 MR. BARRON: Jason Barron for plaintiff</p> <p>2 Acosta.</p> <p>3 MR. DRUMMOND: And Craig Drummond for</p> <p>4 plaintiff Bessu Herrera.</p> <p>5 THE COURT REPORTER: The witness and the</p> <p>6 reporter are not in the same room. The witness will be</p> <p>7 sworn in remotely pursuant to agreement of all parties.</p> <p>8 The parties stipulate that the testimony is being given</p> <p>9 as if the witness was sworn in person.</p> <p>10</p> <p>11 NANCY ESPINOZA,</p> <p>12 having been first duly sworn, was</p> <p>13 examined and testified as follows:</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MR. ODOU:</p> <p>17 Q. Ms. Espinoza, good morning. My name is</p> <p>18 Joel Odou. I represent the defendants in this matter.</p> <p>19 Would you please state and spell your name</p> <p>20 for our court reporter?</p> <p>21 A. Sure. My name is Nancy Espinoza. It's</p> <p>22 N-a-n-c-y, Espinoza, E-s-p-i-n-o-z-a.</p> <p>23 Q. Ms. Espinoza, would you provide us with</p> <p>24 your current address, please?</p> <p>25 A. My current address is 2995 East Sunset</p>
<p style="text-align: right;">Page 6</p> <p>1 THE VIDEOGRAPHER: Good afternoon. We are</p> <p>2 now on the record. The time is now 10:06 a.m.,</p> <p>3 April 22nd, 2020. This begins the videotaped</p> <p>4 deposition of Nancy Espinoza, taken in the matter of</p> <p>5 Maikel Perez-Acosta v. Jamie Alberto [sic] Salais,</p> <p>6 et al., filed in the court -- District Court, Clark</p> <p>7 County, Nevada, case number of which is A-18-1772273-C</p> <p>8 [sic].</p> <p>9 My name is Jesse Ellis. I am your remote</p> <p>10 videographer for today. The court reporter is John</p> <p>11 Nagle. We are representing Esquire Deposition</p> <p>12 Solutions.</p> <p>13 As a courtesy, will everyone who is not</p> <p>14 speaking please mute your audio, and please remember to</p> <p>15 unmute your audio when you are ready to speak.</p> <p>16 Counsel, will you please state your name</p> <p>17 and whom you represent, after which the court reporter</p> <p>18 will swear in the witness.</p> <p>19 MR. ODOU: Good morning. My name is Joel</p> <p>20 Odou. I'm with Wood Smith Henning & Berman,</p> <p>21 representing the defendants in this matter.</p> <p>22 MR. JONES: Good morning. This is Todd</p> <p>23 Jones, representing the defendants in this matter.</p> <p>24 MR. ADAMS: Good morning. This is Nick</p> <p>25 Adams, representing the defendants in this matter.</p>	<p style="text-align: right;">Page 8</p> <p>1 Road, Apartment 117, Las Vegas, Nevada 89120.</p> <p>2 Q. Thank you.</p> <p>3 The oath that you took is the same oath as</p> <p>4 if you were testifying in front of a judge in a</p> <p>5 courtroom, even though that we are doing this video</p> <p>6 deposition remotely.</p> <p>7 Do you understand that?</p> <p>8 A. Yes.</p> <p>9 Q. Thank you.</p> <p>10 I'm going to go over what we call the</p> <p>11 "ground rules," or sometimes the "admonitions," just to</p> <p>12 kind of explain to you how the process is going to</p> <p>13 work.</p> <p>14 I have to speak slowly or we get feedback,</p> <p>15 so I don't normally speak this slowly. I apologize.</p> <p>16 In addition, because we're doing this</p> <p>17 deposition remotely, we have to be very careful to not</p> <p>18 talk over one another.</p> <p>19 In one of these other video rooms, if you</p> <p>20 will, there's a court reporter, and he just gave you</p> <p>21 the oath as if you were testifying in front of a judge,</p> <p>22 and he is making a record of everything that we both</p> <p>23 say or that any of us say today.</p> <p>24 At the conclusion of the deposition, a</p> <p>25 record will be typed up into what's called a</p>



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NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
9-12

<p style="text-align: right;">Page 9</p> <p>1 "transcript," and that transcript will have all the 2 questions that I ask today, all of the answers that you 3 give, whether it's me or somebody else, and all of the 4 things that are said here today. 5 However, the court reporter can only take 6 down one of us at a time, and so it's important that we 7 speak clearly and we state slightly slowly so that he 8 can hear and understand us. 9 In everyday conversation, we can talk over 10 one another. We have a video available to us today, so 11 we can point; we can gesture; we can nod our head; we 12 can shrug our shoulders; we can shake a finger at each 13 other, if we wanted to. But that does not come out 14 well on a written record. 15 So from time to time, somebody may say 16 something like, "Do you mean 'yes'? Do you mean 'no'?" 17 They're not trying to correct you. They just want to 18 get the best written record that we can get here today. 19 Do you understand that? 20 A. Yes. 21 Q. Thank you. 22 In addition, in everyday conversation, we 23 can use things like "uh-huh" and "uh-uh." Those, 24 again, don't come out very well on the written 25 transcript, and so from time to time, somebody may ask</p>	<p style="text-align: right;">Page 11</p> <p>1 events. 2 Is that fair? 3 A. Okay. 4 Q. Finally, because this is a transcribed 5 court proceeding, at the end of this proceeding, there 6 will be a transcript that we can send to you. And you 7 can review all the answers that you provided, and you 8 can make any changes or corrections to those answers, 9 because sometimes things don't get heard, especially 10 through a video, or sometimes something just got 11 miscommunicated. 12 However, I must caution you that if you 13 change an answer of substance -- for example, changing 14 a "yes" to a "no," a "no" to a "yes" or something that 15 makes importance in a case -- someone could comment 16 upon that at the time of trial, and you could find that 17 embarrassing, so it's important to give your best 18 testimony here today. 19 Do you understand that? 20 A. Yes. 21 Q. Also, if you answer a question, we're 22 going to assume that you understood the question. 23 Again, if you don't understand the question, it's 24 perfectly fine to say that you don't understand, or if 25 you didn't hear a question, it's perfectly fine to ask</p>
<p style="text-align: right;">Page 10</p> <p>1 you, "Do you mean 'yes'? Do you mean 'no'?" Again, 2 just to get the best record that we can here today. 3 In addition, there are various noises that 4 we will hear, that we've already heard. If for any 5 reason you can't hear a question that is asked of you, 6 it's perfectly fine for you to say, "I'm sorry. I 7 didn't hear that," or if you don't understand a 8 question that's asked of you, it's perfectly fine to 9 say, "I'm sorry. I didn't understand that." We will 10 do our best to repeat the question. 11 Does that sound fair? 12 A. Yes. 13 Q. We're also going to be asking you for your 14 best recollection about time and events and things that 15 have happened in the past. All we want from you is 16 your best recollection. We don't want you to guess. 17 If you have a recollection, it's perfectly fine to give 18 that to us. On the other hand, if you don't have a 19 recollection, if there's something that you can't 20 remember, it's also fine to tell us that you can't 21 remember. We just want to get your best estimate. 22 There we go with one of the noises. 23 If there's something that you don't 24 recall, perfectly fine to say, "I don't recall," but do 25 try to provide us with your best recollection of</p>	<p style="text-align: right;">Page 12</p> <p>1 us to repeat it. 2 Is there any reason why we cannot go 3 forward with your deposition today? 4 A. No. 5 Q. Currently, who resides at the apartment at 6 2995 East Sunset Road with you? 7 A. Myself and my three kids. 8 Q. Does anyone else live there? 9 A. No. 10 Q. It's my understanding -- I've had the 11 opportunity to review some of the other answers given 12 in this case. It's my understanding that Rolando 13 Herrera lived there for a period of time with you. 14 Am I correct, that he does not live there 15 anymore? 16 A. He does not live here anymore. He did off 17 and on. 18 Q. When was the last time he lived there with 19 you? 20 A. I wouldn't say lived. He stayed every now 21 and then. The last time, it was a couple weeks ago. 22 Q. And my understanding is that your kids are 23 18, 10 and 7. 24 A. Yes. 25 Q. And the 18-year-old is Nia?</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
13-16

<p style="text-align: right;">Page 13</p> <p>1 A. Yes.</p> <p>2 Q. What are the names of the 10- and</p> <p>3 7-year-old?</p> <p>4 I didn't get that.</p> <p>5 A. Gustav is the 10-year-old, and Bastion is</p> <p>6 my 7-year-old.</p> <p>7 Q. Thank you.</p> <p>8 Do you still see Mr. Herrera socially?</p> <p>9 A. Occasionally.</p> <p>10 Q. When was the last time that you saw him?</p> <p>11 A. I spoke to him yesterday.</p> <p>12 Q. And did you talk about the deposition for</p> <p>13 today?</p> <p>14 A. No.</p> <p>15 Q. Does he know that you're giving a</p> <p>16 deposition today?</p> <p>17 A. I don't think so.</p> <p>18 Q. Has he ever talked to you about the</p> <p>19 lawsuit that he's involved in?</p> <p>20 A. Yes.</p> <p>21 Q. When was the last time that you remember</p> <p>22 him talking to you about the lawsuit, approximately?</p> <p>23 A. It's been a while. The last time he had</p> <p>24 to do the deposition is when he mentioned it.</p> <p>25 Q. So about a month ago, roughly?</p>	<p style="text-align: right;">Page 15</p> <p>1 BY MR. ODOU:</p> <p>2 Q. Let's talk about Mr. Herrera.</p> <p>3 Do you recall when you first met him?</p> <p>4 A. Yes.</p> <p>5 Q. How long ago was that?</p> <p>6 A. Back in 2016.</p> <p>7 Q. And how did you meet him?</p> <p>8 A. At the bar.</p> <p>9 Q. And did you begin seeing him socially</p> <p>10 thereafter?</p> <p>11 A. Off and on. I lived in California at the</p> <p>12 time.</p> <p>13 Q. When did you move to Las Vegas?</p> <p>14 A. I've been here for a couple years.</p> <p>15 Q. And you moved here from California in</p> <p>16 approximately what year?</p> <p>17 A. At the end of 2017.</p> <p>18 Q. And what kind of work do you do?</p> <p>19 A. I'm a registered nurse.</p> <p>20 Q. And where do you work?</p> <p>21 A. Right now, I'm working at Henderson</p> <p>22 Hospital.</p> <p>23 Q. Well, thank you for appearing today. I</p> <p>24 hope this is not too inconvenient for you.</p> <p>25 A. That's okay.</p>
<p style="text-align: right;">Page 14</p> <p>1 A. Around there, or a couple months, yeah.</p> <p>2 Q. Did he know that you're going to give a</p> <p>3 deposition in the lawsuit?</p> <p>4 A. Yes.</p> <p>5 Q. And did he ask you what you were going to</p> <p>6 say?</p> <p>7 A. No.</p> <p>8 Q. Did you talk to him about what you might</p> <p>9 say?</p> <p>10 A. No.</p> <p>11 Q. In preparing for the deposition today, did</p> <p>12 you look at any of the documents or e-mails that you</p> <p>13 received on this case?</p> <p>14 A. Yeah. With the subpoena, I've seen that.</p> <p>15 Q. Okay. And there was also a deposition</p> <p>16 notice, which had the date and time for today.</p> <p>17 Did you happen to see that?</p> <p>18 A. Yes.</p> <p>19 Q. You know we're all remotely. One of the</p> <p>20 things that we did is we provided a copy of that to the</p> <p>21 court reporter, and it's going to be marked -- the</p> <p>22 deposition notice will be marked as Exhibit 1 to this</p> <p>23 deposition today, just for the record. You don't need</p> <p>24 to do anything about that.</p> <p>25 (Deposition Exhibit 1 marked.)</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. My understanding is also that you have</p> <p>2 another child who lives outside the home, who is</p> <p>3 approximately 20 years old.</p> <p>4 A. Yes.</p> <p>5 Q. And is that child's name Jonaveh?</p> <p>6 A. Jonavaih.</p> <p>7 Q. Jonavaih. Sorry.</p> <p>8 Can you give us the spelling of that for</p> <p>9 our court reporter?</p> <p>10 A. Sure. It's J-o-n-a-v-a-i-h.</p> <p>11 Q. Thank you. We got that wrong last time.</p> <p>12 Mr. -- you call him "Rolando," right?</p> <p>13 A. Uh-huh.</p> <p>14 Q. If I call him "Rolando," it's not</p> <p>15 confusing?</p> <p>16 A. No.</p> <p>17 Q. Okay. Rolando has lived at your</p> <p>18 apartment -- or stayed with you at your apartment off</p> <p>19 and on; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember the first time that he</p> <p>22 stayed with you?</p> <p>23 A. No, I don't recall the exact date.</p> <p>24 Q. Would it have been 2017, the start of</p> <p>25 2018, approximately?</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
17-20

<p style="text-align: right;">Page 17</p> <p>1 A. Before that, he used to stay with me, 2 because I was a traveling nurse before, so I used to 3 come three or four days a week, and then I would go 4 back to California. 5 Q. And the times that he would stay with you, 6 is it just a couple days that he would stay there, or 7 was there ever longer periods? 8 A. He always had his place. We did try to 9 move in together for about -- I think it was about six 10 to eight months, and it didn't work out. 11 Q. And the six to eight months that you tried 12 living together, was that at the home -- or the 13 apartment on Sunset Road? 14 A. Yes. 15 Q. Do you know what kind of work Rolando 16 does? 17 A. Not currently. The last he had a job was 18 at Big's Furniture. 19 Q. I'm sorry. The phone glitched. 20 What was the name of the furniture place? 21 A. Big's Furniture. 22 Q. Big's, B-i-g-s? 23 A. Yeah. 24 Q. And do you know what type of work he did 25 there?</p>	<p style="text-align: right;">Page 19</p> <p>1 recall. 2 Q. At the time that he worked at 3 New York-New York as a porter, do you know why he quit 4 working there? 5 A. Because he had an injury from the accident 6 that he had. 7 Q. From a car accident? 8 A. Yes. 9 Q. And you believe it was an injury from the 10 car accident we're here to talk about today? 11 A. That's why he said he quit his job, 12 because he said that he had to walk most of the day and 13 lift things that he couldn't do anymore. 14 Q. So after being -- after being injured, he 15 couldn't work at New York-New York anymore? 16 A. The duties that they gave him, he said 17 that they -- he couldn't do what was required of him 18 anymore. 19 Q. And so then there was a period of time 20 that he was not working? 21 A. Yes. 22 Q. And then from there, he started working at 23 Big's Furniture, if I got the timeline right? 24 A. Yeah. But he was out of work for a while, 25 and then he had the surgery, and sometime after the</p>
<p style="text-align: right;">Page 18</p> <p>1 A. I think he was a driver. 2 Q. And approximately when was that? 3 A. I think they laid him off -- I think it 4 was last year, around this time. 5 Q. So approximately April of 2019? 6 A. Yeah. 7 Q. Did he ever tell you why they let him go, 8 or laid him off? 9 A. No. 10 Q. Do you know any other jobs that Rolando 11 has had? 12 A. When we first were together, he was a 13 porter at New York-New York. 14 Q. The hotel? 15 A. Yes. 16 Q. And so that would have been in 2018? 17 A. No. We were first together in 2016. 18 Q. '16. I'm sorry. 19 So in -- you think he worked at 20 New York-New York in approximately 2016? 21 A. Yeah. When I met him, he was working 22 there. 23 Q. And any other jobs, that you're aware of, 24 that Rolando had? 25 A. Not apart from those two, that I can</p>	<p style="text-align: right;">Page 20</p> <p>1 surgery is when he started working there. 2 Q. So after the surgery, he started working 3 at Big Furniture -- or Big's Furniture? 4 A. Yeah. I don't recall how long afterwards 5 it was. 6 Q. How did you learn that Rolando had been in 7 a car accident in 2016? 8 A. We had plans that day, and he called me, 9 saying that he was in an accident. 10 Q. Do you remember what day that was? 11 A. No, I don't recall the exact date. 12 Q. Was it around July 12th? 13 A. It was around his birthday. That's what I 14 remember. 15 Q. And when is his birthday? 16 A. July 15th. 17 Q. Okay. What plans did you have that day? 18 A. We were supposed to meet up for dinner. 19 Q. Where were you going to meet him? 20 A. I don't recall. 21 Q. Had he stayed with you that morning or 22 that -- the night before? 23 A. I don't recall that, either. 24 Q. Do you know where he was going at the time 25 of the accident?</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
21-24

<p style="text-align: right;">Page 21</p> <p>1 A. No, I don't recall.</p> <p>2 Q. Do you know if anybody was with him?</p> <p>3 A. I know he was with his friend.</p> <p>4 Q. Do you know which ones?</p> <p>5 A. Maikel and Yuniel.</p> <p>6 Q. Had you met Maikel before?</p> <p>7 A. Yes.</p> <p>8 Q. When do you recall first meeting him,</p> <p>9 approximately?</p> <p>10 A. Probably a couple months after I met</p> <p>11 Rolando.</p> <p>12 Q. You actually met Maikel before Rolando?</p> <p>13 A. No, no, no. I met him after I met</p> <p>14 Rolando, a couple months after.</p> <p>15 Q. Okay. And do you know if Maikel had any</p> <p>16 physical limitations when you met him first?</p> <p>17 MR. BARRON: Form of the question.</p> <p>18 THE WITNESS: I don't recall that.</p> <p>19 BY MR. ODOU:</p> <p>20 Q. Okay. Do you recall if Maikel used</p> <p>21 anything to assist him in walking, a cane or anything</p> <p>22 like that?</p> <p>23 A. No. He -- I don't recall him using any</p> <p>24 devices.</p> <p>25 Q. Okay. Do you recall that there were any</p>	<p style="text-align: right;">Page 23</p> <p>1 BY MR. ODOU:</p> <p>2 Q. Yeah. I was asking if Maikel had -- if</p> <p>3 you had become aware when you first met him of any</p> <p>4 limitations, things that he couldn't do when you met</p> <p>5 him, such as sports or anything like that.</p> <p>6 MR. BARRON: Form of the question.</p> <p>7 Objection restated. Assumes facts.</p> <p>8 BY MR. ODOU:</p> <p>9 Q. You can answer.</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you recall him having any difficulty</p> <p>12 sitting or standing for a long period of time?</p> <p>13 MR. BARRON: Form of the question.</p> <p>14 THE WITNESS: I wasn't with him that long</p> <p>15 to notice that.</p> <p>16 BY MR. ODOU:</p> <p>17 Q. Okay. I just wanted to get your best</p> <p>18 recollection of Maikel when you first met him.</p> <p>19 What can you tell me about him?</p> <p>20 A. Not very much. Just that he was his</p> <p>21 friend, and they used to live together.</p> <p>22 Q. Did Maikel ever come over to your house?</p> <p>23 A. A few times.</p> <p>24 Q. And did you notice anything about him?</p> <p>25 You know, that he could or could not do anything, that</p>
<p style="text-align: right;">Page 22</p> <p>1 things that Maikel couldn't do, such as sports or</p> <p>2 activities, when you first met him?</p> <p>3 MR. BARRON: Form of the question. Lacks</p> <p>4 foundation.</p> <p>5 THE WITNESS: No, I don't --</p> <p>6 BY MR. ODOU:</p> <p>7 Q. From time to time, people may make</p> <p>8 objections for the record. That's only because we</p> <p>9 don't have a judge here today to rule on them.</p> <p>10 Everybody just wants to make their best record here</p> <p>11 today, so we didn't mean to interrupt you, but the</p> <p>12 attorneys have a right to state their objections. I</p> <p>13 didn't cover that in the beginning, but please go ahead</p> <p>14 and answer.</p> <p>15 THE COURT REPORTER: Hold on. I didn't</p> <p>16 know who objected. Hold on. This is the court</p> <p>17 reporter. I don't know who objected. It didn't come</p> <p>18 up on here.</p> <p>19 MR. BARRON: Attorney -- I'm going to tell</p> <p>20 you. Attorney Jason Barron for the plaintiff.</p> <p>21 Go ahead and answer. The objection is</p> <p>22 restated.</p> <p>23 THE WITNESS: Can you ask the question</p> <p>24 again?</p> <p>25 ///</p>	<p style="text-align: right;">Page 24</p> <p>1 you remember?</p> <p>2 MR. BARRON: Form of the question.</p> <p>3 THE WITNESS: He walked with a limp.</p> <p>4 BY MR. ODOU:</p> <p>5 Q. And did he ever tell you how he got the</p> <p>6 limp?</p> <p>7 A. Yes.</p> <p>8 Q. What did he tell you?</p> <p>9 A. He said he was in some kind of an accident</p> <p>10 in Cuba, that I don't recall what it was, that put him</p> <p>11 in a wheelchair for a while.</p> <p>12 Q. And since you're a nurse, did he ask you</p> <p>13 about any kind of advice or anything like that?</p> <p>14 A. No.</p> <p>15 Q. Anything else that you can recall -- I'm</p> <p>16 sorry.</p> <p>17 Anything else that you can recall about</p> <p>18 Maikel?</p> <p>19 A. Specifically, no.</p> <p>20 Q. Okay. His friend Yuniel, what do you</p> <p>21 remember about him, if anything?</p> <p>22 A. I remember he was also living with him at</p> <p>23 the time.</p> <p>24 Q. He was living with Rolando?</p> <p>25 A. Yes.</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
25-28

<p style="text-align: right;">Page 25</p> <p>1 Q. And was Yuniel also a friend of Rolando's</p> <p>2 from Cuba?</p> <p>3 A. Yes.</p> <p>4 Q. And do you know what kind of work either</p> <p>5 Maikel or Yuniel did, if any?</p> <p>6 A. I don't recall either of them working at</p> <p>7 the time.</p> <p>8 Q. Okay. Do you also know Rolando's friend</p> <p>9 Giovanni Ricardo Mondeja?</p> <p>10 A. No, I don't know who that is.</p> <p>11 Q. So his last name is Ricardo Mondeja,</p> <p>12 M-o-n-d-e-j-a. I may have butchered that.</p> <p>13 Not familiar to you?</p> <p>14 A. No.</p> <p>15 Q. Okay. Have you ever helped Rolando with</p> <p>16 any of his legal issues?</p> <p>17 A. Once in a while, he gave me a paper to</p> <p>18 translate. I would translate it.</p> <p>19 Q. Has he asked you to translate anything for</p> <p>20 the documents in this case, that you know of?</p> <p>21 A. No, not for this case.</p> <p>22 Q. Rolando has had a couple of other cases.</p> <p>23 I just want to briefly ask you a little bit about that.</p> <p>24 Do you know anything about him having an</p> <p>25 issue with a reckless driving incident?</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. What can you tell me about that, briefly?</p> <p>2 A. Just that he got in a fight with another</p> <p>3 guy.</p> <p>4 Q. That other guy that he got in a fight</p> <p>5 with, that's not somebody who lived at your house, was</p> <p>6 it?</p> <p>7 A. No.</p> <p>8 Q. What did Rolando tell you about the</p> <p>9 accident we're here to talk about today?</p> <p>10 A. What did he tell me about the accident?</p> <p>11 Q. Yeah. You guys were supposed to go out to</p> <p>12 dinner that night, and he had called you and said that</p> <p>13 he had been in an accident.</p> <p>14 What else did he say?</p> <p>15 A. He canceled the plans because he had --</p> <p>16 because he was stuck waiting for police to get there,</p> <p>17 so (unintelligible).</p> <p>18 Q. What time did he call you?</p> <p>19 A. I don't remember.</p> <p>20 Q. Do you remember if it was in the morning</p> <p>21 or at night?</p> <p>22 A. I don't remember.</p> <p>23 Q. At the time that he called you, do you</p> <p>24 believe he was waiting for the police to come?</p> <p>25 A. That's what he said.</p>
<p style="text-align: right;">Page 26</p> <p>1 A. I remember him getting a ticket for it.</p> <p>2 Q. And what do you recall about that, if</p> <p>3 anything?</p> <p>4 MR. DRUMMOND: And this is Craig Drummond.</p> <p>5 I object as to anything about a reckless</p> <p>6 driving ticket under the Schlatter, S-c-h-l-a-t-t-e-r,</p> <p>7 decision. It's a complete invasion of privacy, and</p> <p>8 it's not admissible or relevant in this case. My</p> <p>9 client is a passenger. But that is my objection.</p> <p>10 Again --</p> <p>11 MR. BARRON: Join.</p> <p>12 MR. DRUMMOND: -- this is Craig Drummond.</p> <p>13 THE COURT REPORTER: Wait.</p> <p>14 Who joined?</p> <p>15 MR. BARRON: Jason Barron for the</p> <p>16 plaintiff. Join.</p> <p>17 BY MR. ODOU:</p> <p>18 Q. You can answer. I'm sorry.</p> <p>19 A. All I can recall is that he got a ticket.</p> <p>20 Q. You were with him at the time?</p> <p>21 A. No.</p> <p>22 Q. Okay. And he also had an issue where he's</p> <p>23 under probation.</p> <p>24 Do you know anything about that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. And do you know where he was going?</p> <p>2 A. No.</p> <p>3 Q. Do you recall that his friends were with</p> <p>4 him?</p> <p>5 A. At the moment, he said that he was with</p> <p>6 them.</p> <p>7 Q. And do you know where they were going?</p> <p>8 A. No.</p> <p>9 Q. Do you know what he and his friends were</p> <p>10 going to be doing that day?</p> <p>11 A. No, I didn't.</p> <p>12 Q. I'm sorry.</p> <p>13 You didn't know that day what he and his</p> <p>14 friends were going to be doing?</p> <p>15 A. No.</p> <p>16 Q. Did you learn after that day what he and</p> <p>17 his friends were going to be doing?</p> <p>18 A. I didn't really ask.</p> <p>19 Q. Did you ask him how he was after the</p> <p>20 accident?</p> <p>21 A. Yes.</p> <p>22 Q. Do you remember what he told you?</p> <p>23 A. His back and his neck were hurting a lot.</p> <p>24 Q. And did you give him any advice as to what</p> <p>25 to do?</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
29-32

Page 29

1 A. No. He already had an appointment to see
2 the chiropractor and to go to the doctor.
3 Q. And do you know how he got those
4 appointments?
5 A. I don't recall at the moment.
6 Q. Did he ask you for any recommendations as
7 to any doctors per se?
8 A. No.
9 Q. Did he tell you how the accident happened?
10 A. All I know is that he -- they were
11 rear-ended.
12 THE COURT REPORTER: I didn't get that.
13 BY MR. ODOU:
14 Q. Rear-ended?
15 There was a noise when you were answering,
16 and the court reporter didn't hear that.
17 Did you say rear-ended?
18 A. Yes.
19 Q. What did he tell you about being
20 rear-ended?
21 A. That they were hit from behind.
22 Q. Did he say by who?
23 A. No.
24 Q. Did he tell you anything else about that
25 accident?

Page 30

1 A. No.
2 Q. After the accident in July of 2016, were
3 you in a car that was involved in another accident with
4 Rolando?
5 A. Yes.
6 Q. What happened?
7 A. We were going to go shopping, and we got
8 rear-ended.
9 Q. How did the accident happen?
10 A. We were at a stoplight, and the light
11 turned green. Then we started to go, and then traffic
12 in front of us stopped, and then the truck behind us
13 hit us.
14 Q. What kind of truck was it?
15 A. It was, like, a dump truck.
16 Q. It was a dump truck?
17 A. Yeah.
18 Q. Did it have a name on it?
19 A. I can't recall the name. I just remember
20 it was blue.
21 Q. And were you injured in the accident?
22 A. Yes.
23 Q. What did you injure?
24 A. My shoulder.
25 Q. Anything else?

Page 31

1 A. No.
2 Q. Was Rolando injured?
3 A. Yeah.
4 Q. What did he injure?
5 A. I think he said that his neck was hurting,
6 and I don't recall which arm it was for him was
7 hurting, as well.
8 Q. And at the time of that accident, were you
9 in a Jaguar?
10 A. Yes.
11 Q. That was Rolando's car?
12 MR. BARRON: I'm going to interpose an
13 objection real quick. I know this is discovery. You
14 can go ahead, Counselor. If you could just give me a
15 continuing objection as to the materiality of this
16 entire line of questioning, I'd appreciate it.
17 THE COURT REPORTER: I didn't know who
18 that was.
19 MR. ODOU: I'm sorry. The --
20 MR. BARRON: Jason Barron for the
21 plaintiff.
22 MR. ODOU: I didn't understand the
23 objection. The phone cut out.
24 BY MR. ODOU:
25 Q. Let me ask you this --

Page 32

1 MR. BARRON: You're asking about an
2 accident that happened after this one, so I'm objecting
3 that it's wholly immaterial to this proceeding subject
4 to a later motion in limine, but you can continue. I'm
5 just making the objection for the record.
6 MR. ODOU: Thank you. The phone cut out.
7 I appreciate that clarification.
8 BY MR. ODOU:
9 Q. Rolando injured his -- or told you that
10 his neck and -- and I'm sorry. I didn't get what else
11 he had injured in that accident in the Jaguar.
12 A. I don't recall which arm was hurting him
13 during that accident, but I know his neck was hurting
14 him.
15 Q. And did you or Rolando go to get any
16 treatment?
17 A. Yes. I had physical therapy.
18 Q. What about Rolando? Where did he get
19 treatment?
20 A. He went to the same place I did. He also
21 got physical --
22 Q. What was the name of that?
23 A. I don't recall.
24 Q. Where was it?
25 A. In Las Vegas.



NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
33-36

<p style="text-align: right;">Page 33</p> <p>1 Q. Where in Las Vegas?</p> <p>2 A. Off of Maryland.</p> <p>3 Q. Near Sunset Hospital?</p> <p>4 A. No.</p> <p>5 Q. Maryland and what?</p> <p>6 A. I don't recall the cross street. I don't</p> <p>7 recall.</p> <p>8 Q. Was it near the hospital?</p> <p>9 A. Which hospital?</p> <p>10 Q. Sunrise.</p> <p>11 A. It was farther out north, yes.</p> <p>12 Q. Do you remember the name of the physical</p> <p>13 therapist?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you know if Rolando ever made a claim</p> <p>16 for that accident?</p> <p>17 A. Yes.</p> <p>18 Q. And who did he make that claim with?</p> <p>19 A. Steven Parke Law.</p> <p>20 Q. Do you know if Rolando treated with a</p> <p>21 doctor named Serru, S-e-r-r-u?</p> <p>22 A. Yes.</p> <p>23 Q. And that was from this accident with the</p> <p>24 Jaguar?</p> <p>25 A. No. That's his primary physician.</p>	<p style="text-align: right;">Page 35</p> <p>1 hit us said it was his fault.</p> <p>2 Q. Said it was Rolando's fault?</p> <p>3 A. No. That it was -- the driver that</p> <p>4 rear-ended us, he said it was his fault.</p> <p>5 Q. The dump truck driver?</p> <p>6 A. Yes.</p> <p>7 Q. Did you ever believe that Rolando</p> <p>8 intentionally caused that accident?</p> <p>9 MR. BARRON: Lacks foundation. Calls for</p> <p>10 speculation. Asked and answered.</p> <p>11 BY MR. ODOU:</p> <p>12 Q. You can answer.</p> <p>13 A. No.</p> <p>14 Q. The accident that we're here to talk about</p> <p>15 today from July of 2016, did you ever believe that that</p> <p>16 accident happened on purpose?</p> <p>17 MR. BARRON: Calls for --</p> <p>18 MR. DRUMMOND: This is Attorney Craig</p> <p>19 Drummond. We're doing it on the phone because we lost</p> <p>20 Wi-Fi. We're trying to get back on.</p> <p>21 I object. It's complete speculation.</p> <p>22 MR. BARRON: Objection is joined.</p> <p>23 THE COURT REPORTER: Who was the last</p> <p>24 object -- you have to state your name.</p> <p>25 MR. BARRON: Provide your good-faith</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. You don't remember the name of the</p> <p>2 physical therapist that you or Rolando treated with</p> <p>3 from the Jaguar accident?</p> <p>4 A. No, I don't recall.</p> <p>5 Q. Do you believe that Rolando caused that</p> <p>6 accident by slamming on his brakes?</p> <p>7 MR. BARRON: Form of the question.</p> <p>8 Assumes facts. Wholly lacks knowledge. Immaterial to</p> <p>9 the proceeding.</p> <p>10 THE COURT REPORTER: Is that Mr. Barron</p> <p>11 again?</p> <p>12 MR. BARRON: Yes, sir.</p> <p>13 THE COURT REPORTER: Okay.</p> <p>14 BY MR. ODOU:</p> <p>15 Q. You can answer.</p> <p>16 A. I don't recall. I wasn't really paying</p> <p>17 attention to that. I was doing something on my phone</p> <p>18 at the time.</p> <p>19 Q. Did you later believe that he caused the</p> <p>20 accident by slamming on his brakes?</p> <p>21 MR. BARRON: Lacks foundation. Asked and</p> <p>22 answered. Immaterial. Calls for speculation, as well.</p> <p>23 BY MR. ODOU:</p> <p>24 Q. You can answer.</p> <p>25 A. When the police arrived, the driver that</p>	<p style="text-align: right;">Page 36</p> <p>1 basis --</p> <p>2 THE COURT REPORTER: You have to state</p> <p>3 your name.</p> <p>4 MR. BARRON: Provide your good-faith basis</p> <p>5 for the question. She wasn't even (unintelligible).</p> <p>6 This is Jason Barron. It assumes facts. Lacks</p> <p>7 foundation. Calls for speculation.</p> <p>8 BY MR. ODOU:</p> <p>9 Q. You can answer the question.</p> <p>10 A. I don't recall. I don't have evidence for</p> <p>11 that.</p> <p>12 Q. Did you ever believe that?</p> <p>13 MR. BARRON: Objections restated.</p> <p>14 THE WITNESS: What do you mean?</p> <p>15 BY MR. ODOU:</p> <p>16 Q. I just mean, did you ever believe that,</p> <p>17 perhaps, Rolando and his friends had planned to be in</p> <p>18 this accident?</p> <p>19 MR. DRUMMOND: This is Craig Drummond.</p> <p>20 I object as to that. It's also now</p> <p>21 argumentative. She's -- you're asking somebody to</p> <p>22 speculate about something they were not there to give a</p> <p>23 personal opinion. It is complete argumentative.</p> <p>24 MR. BARRON: Lacks foundation. Calls for</p> <p>25 speculation. Join.</p>

**NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS**

**April 22, 2020
37-40**

<p style="text-align: right;">Page 37</p> <p>1 THE COURT REPORTER: Was that Mr. Barron</p> <p>2 the last time?</p> <p>3 MR. BARRON: Yes, sir.</p> <p>4 BY MR. ODOU:</p> <p>5 Q. Ms. Espinoza, you can answer.</p> <p>6 A. I don't know how (unintelligible) that</p> <p>7 question.</p> <p>8 Q. I'm sorry. The phone glitched out.</p> <p>9 You had asked me to help you with the</p> <p>10 question that I was asking, so I will try to rephrase</p> <p>11 it, and I would imagine the attorneys will make their</p> <p>12 objection, and then you can answer.</p> <p>13 My question was -- that you've asked me to</p> <p>14 rephrase, which is: Did you ever believe that Rolando</p> <p>15 and his friends had planned to be in an accident?</p> <p>16 MR. BARRON: Speculation as phrased.</p> <p>17 Lacks foundation.</p> <p>18 THE COURT REPORTER: Is that Mr. Barron</p> <p>19 again?</p> <p>20 MR. BARRON: Yes.</p> <p>21 THE COURT REPORTER: Okay.</p> <p>22 BY MR. ODOU:</p> <p>23 Q. You can answer, if you (unintelligible).</p> <p>24 A. I don't know.</p> <p>25 Q. Did you have any reason to believe that?</p>	<p style="text-align: right;">Page 39</p> <p>1 MR. BARRON: It also has to be produced</p> <p>2 prior to any deposition as to the sub rosa, so this is</p> <p>3 incompetent evidence subject to a motion in limine.</p> <p>4 Ms. Espinoza, you can answer.</p> <p>5 THE WITNESS: I don't recall.</p> <p>6 BY MR. ODOU:</p> <p>7 Q. You don't recall why you sent the e-mail?</p> <p>8 A. No.</p> <p>9 Q. At the time that you sent the e-mail, did</p> <p>10 you concern -- did you have a concern that Mr. Herrera</p> <p>11 and Mr. Acosta-Perez had just come from Cuba and that</p> <p>12 they had planned to pick a truck and be in an accident?</p> <p>13 MR. BARRON: Same objection. I'm also</p> <p>14 going to ask in good faith that that e-mail is present</p> <p>15 and be read into the record in light that it wasn't</p> <p>16 produced in discovery in contravention directly to</p> <p>17 Discovery Bulla's recommendations and the law in this</p> <p>18 state for producement [sic] of impeachment evidence.</p> <p>19 So I'm going to ask it be read into the record.</p> <p>20 MR. DRUMMOND: And this is Attorney Craig</p> <p>21 Drummond.</p> <p>22 I also believe this is wholly improper,</p> <p>23 since we asked for the correspondence related to this.</p> <p>24 This would be a statement from a witness, which would</p> <p>25 be an immediately discoverable item under 16.1, so I'm</p>
<p style="text-align: right;">Page 38</p> <p>1 MR. BARRON: Asked and answered.</p> <p>2 Speculation. Lacks foundation. Lacks a good-faith</p> <p>3 basis.</p> <p>4 BY MR. ODOU:</p> <p>5 Q. You can answer.</p> <p>6 A. I don't think so.</p> <p>7 Q. Did you write an e-mail to Todd Jones,</p> <p>8 expressing concern about this accident?</p> <p>9 A. Yes.</p> <p>10 Q. And what did you say in that e-mail, that</p> <p>11 you can recall?</p> <p>12 A. I don't recall.</p> <p>13 Q. Why did you send an e-mail to Todd Jones?</p> <p>14 MR. BARRON: Counsel, has that e-mail been</p> <p>15 produced, as required, into evidence prior to any</p> <p>16 discovery of this sort, and that's sub rosa?</p> <p>17 BY MR. ODOU:</p> <p>18 Q. You can answer the question.</p> <p>19 MR. DRUMMOND: I also object. We,</p> <p>20 actually, requested prior to this -- prior to this, we</p> <p>21 requested all correspondence related to this deponent,</p> <p>22 so I'm really surprised that there is correspondence</p> <p>23 that's not been produced as a 16.1.</p> <p>24 BY MR. ODOU:</p> <p>25 Q. You can answer the question.</p>	<p style="text-align: right;">Page 40</p> <p>1 surprised that we have now people playing games with</p> <p>2 this, and I'm stating that for the record. Thank you.</p> <p>3 MR. BARRON: Join. We asked for the same</p> <p>4 thing on initial production. It is 16.1. It's</p> <p>5 required to be produced.</p> <p>6 THE COURT REPORTER: Was that Mr. Barron</p> <p>7 the last time?</p> <p>8 MR. ODOU: Counsel, you're making speaking</p> <p>9 objections, and I --</p> <p>10 That was Mr. Drummond first and then</p> <p>11 Mr. Barron second.</p> <p>12 Counsel, you're making speaking objections</p> <p>13 that are influencing the witness. Certainly, you have</p> <p>14 your objections for the record, and certainly, we can</p> <p>15 have a meet-and-confer following the deposition as to</p> <p>16 where to go from here, but I would like to get the</p> <p>17 witness's answer.</p> <p>18 MR. BARRON: And we were requesting you</p> <p>19 read into the record whatever you have. They're not</p> <p>20 objections. We're making a record for a subject -- for</p> <p>21 a motion in limine, possibly a motion for sanctions.</p> <p>22 MR. DRUMMOND: It's not a speaking</p> <p>23 objection when we have evidence that's being discussed</p> <p>24 that's not been properly disclosed. That's not a</p> <p>25 speaking objection. That is counsel playing games, and</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
41-44

<p style="text-align: right;">Page 41</p> <p>1 this honestly should be continued --</p> <p>2 MR. ODOU: There you go. That's the</p> <p>3 speaking part.</p> <p>4 MR. DRUMMOND: -- until you produce all</p> <p>5 correspondence. And that is my request. My request is</p> <p>6 that you continue it until you produce what you are</p> <p>7 supposed to produce. That is my request for the</p> <p>8 record. Thank you.</p> <p>9 MR. ODOU: That's fine.</p> <p>10 BY MR. ODOU:</p> <p>11 Q. Ms. Espinoza, do you understand my</p> <p>12 question, or do you need me to rephrase it?</p> <p>13 A. You can rephrase it.</p> <p>14 Q. At the time that you wrote the e-mail, did</p> <p>15 you have a concern -- or a belief, rather, that Rolando</p> <p>16 had planned to be in an accident with his friends?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay. Let me read you the first part of</p> <p>19 your e-mail, because we're not all in the same room</p> <p>20 together, and I can't show it to you.</p> <p>21 The e-mail is dated April 28, 2019, and</p> <p>22 you state, "My name is Nancy Espinoza. I was in a</p> <p>23 relationship with Rolando Bessu Herrera for the past 3</p> <p>24 years and a friend of Maikel Acosta-Perez. Both were</p> <p>25 fresh from Cuba and where in the same condition they</p>	<p style="text-align: right;">Page 43</p> <p>1 had just started seeing Doctor Serru," S-e-r-r-u, "on</p> <p>2 Eastern Avenue for the same complaints and problems</p> <p>3 prior to the accident. Why am I giving you this</p> <p>4 information? Because it's wrong and these are why our</p> <p>5 costs of insurance are so high in Nevada...</p> <p>6 "Rolando Bessu repeated this scam" --</p> <p>7 "this scammed again" -- sorry -- "with his own car and</p> <p>8 me as a passenger. I was disgusted and appalled he</p> <p>9 made me part of a scam and didn't want to be part of</p> <p>10 it. He used Steven Parke Law with that, so" -- "with</p> <p>11 that one. You can see how similar the cases are...</p> <p>12 "I am willing to be a witness and help in</p> <p>13 any way for finder's fee, which will save your company</p> <p>14 a lot of money then paying out those that don't deserve</p> <p>15 it. Thank you for your time. I added a case number so</p> <p>16 it's easier to look them up."</p> <p>17 Do you recall sending that e-mail?</p> <p>18 A. Yes.</p> <p>19 Q. And that was from you, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Other than the conversation that you</p> <p>22 overheard Rolando having on the phone, were there any</p> <p>23 other times when you heard him talking to anybody about</p> <p>24 this case possibly being a setup?</p> <p>25 A. I don't recall.</p>
<p style="text-align: right;">Page 42</p> <p>1 claim this accident caused or worsen." And then</p> <p>2 there's a couple of dashes, and you put "wrong."</p> <p>3 What did you mean by that, that they were</p> <p>4 in the same condition when they came from Cuba?</p> <p>5 A. They already had problems.</p> <p>6 Q. The e-mail continues.</p> <p>7 "First of all, the accident was planned,</p> <p>8 and they picked that truck and intentionally slammed</p> <p>9 there brakes due to the rabbit in front of them</p> <p>10 slamming their brakes and then fleeing the scene."</p> <p>11 Why did you have that belief that there</p> <p>12 was a rabbit?</p> <p>13 A. I overheard a conversation, and that's</p> <p>14 what they were talking about.</p> <p>15 Q. Mr. Herrera was talking to someone else?</p> <p>16 A. Yes.</p> <p>17 Q. Who was he talking to?</p> <p>18 A. I don't recall.</p> <p>19 Q. Was it on the phone, or was it in person?</p> <p>20 A. On the phone.</p> <p>21 Q. The e-mail continues.</p> <p>22 "Second" -- and there's a misspelled word.</p> <p>23 It should be "they" -- "already had those conditions</p> <p>24 prior to the accident. I'm not sure of Maikel seeing a</p> <p>25 doctor. However" -- "prior. However, Rolando Bessu</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. The call --</p> <p>2 MR. DRUMMOND: This is Attorney Craig</p> <p>3 Drummond.</p> <p>4 I'm going to further object. It's a</p> <p>5 nonproduction of this subject e-mail, and from what I'm</p> <p>6 understanding, which I've never seen it, we're now just</p> <p>7 talking about an extortion. Therefore, you may want to</p> <p>8 read somebody her rights -- or at least give somebody</p> <p>9 some information related to that, if that's what you're</p> <p>10 alleging in this e-mail. So I think we could have</p> <p>11 addressed that with the judge, but from what I'm</p> <p>12 hearing, I'm very concerned about this e-mail.</p> <p>13 And the further fact that it's never been</p> <p>14 produced, we couldn't have dealt with this before this</p> <p>15 deposition, and I don't think it's fair to go ahead and</p> <p>16 ask --</p> <p>17 MR. BARRON: Join.</p> <p>18 MR. DRUMMOND: -- somebody like that</p> <p>19 unless they're informed of their rights.</p> <p>20 Thank you, Counsel.</p> <p>21 MR. BARRON: Join. I'm going to ask for a</p> <p>22 2.34 by the week's end before we file a motion on order</p> <p>23 shortening time to preclude this bad-faith deposition</p> <p>24 and probably move for sanctions.</p> <p>25 THE COURT REPORTER: Is that Mr. Barron?</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
45-48

<p style="text-align: right;">Page 45</p> <p>1 MR. ODOU: You made your record. That's 2 fine. 3 That was Mr. Barron, correct. 4 MR. BARRON: Yes, it is. 5 BY MR. ODOU: 6 Q. The phone call that you overheard, can you 7 tell us approximately when that was? 8 A. I don't remember. 9 Q. Were you aware when you met Rolando that 10 he is a baseball player? 11 A. When I met him, he didn't play baseball. 12 Q. So after you met him, he started playing 13 baseball? 14 A. Yes. 15 Q. And who does he play for? 16 A. Some team in Las Vegas, here. 17 Q. And does he still play for them? 18 A. I don't know. 19 Q. When was the last time that you recall him 20 playing baseball? 21 A. At the beginning of the year. 22 Q. Of 2020? 23 A. Yes. 24 Q. Okay. I am going to provide, after the 25 deposition is over, a copy of the e-mail that will be</p>	<p style="text-align: right;">Page 47</p> <p>1 recall those questions? 2 A. Do I recall the questions that were asked? 3 Q. Yes. And this is -- just so that the 4 record is clear, we're dealing with -- I'm going to get 5 the actual date here -- the July 12, 2016, incident. 6 Do you remember that -- those questions 7 about it? 8 A. Not all of them. 9 Q. Well, counsel asked you -- let me ask you 10 this: There were some questions about this e-mail that 11 I've never seen, and I guess, apparently, you were 12 giving information to the defense counsel back in April 13 of 2019, so a year ago, related to the collision of 14 July 12th, 2016, with Mr. Perez-Acosta and Bessu 15 Herrera. 16 (Unintelligible) some information to 17 defense counsel about that? 18 A. I sent the e-mail out of skepticism. We 19 had just broken up, so I don't have any evidence on it. 20 I just sent it on pure skepticism out of a conversation 21 I heard. 22 Q. So if I were to tell the judge that you 23 were not at the actual July 12th, 2016, collision, is 24 that correct? 25 A. Yes, I was not there.</p>
<p style="text-align: right;">Page 46</p> <p>1 Exhibit 2 to the deposition, only because we're doing 2 this remotely and there's no way for me to figure out 3 how to attach it. 4 Ms. Espinoza, thank you very much for your 5 time today. That's all the questions that I have. 6 Some of the other attorneys on this videoconference 7 have an opportunity to ask you questions, so I would 8 appreciate if you bear with us. 9 A. Okay. 10 MR. BARRON: I have nothing until the 11 judge examines the rules on the impropriety here, 12 regardless of what you produced today, so that's my 13 position. 14 15 EXAMINATION 16 BY MR. DRUMMOND: 17 Q. This is Attorney Craig Drummond. I 18 represent Rolando. 19 Let me go ahead and get my video so we can 20 see. I'm sorry. It's kind of a weird time doing this. 21 But let me ask you this: There was a 22 bunch of questions related to your opinion related to 23 the incident for which we're here today. 24 You recall those questions, and there were 25 a bunch of lawyer objections during that? Do you</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Okay. And you've not seen a video of it 2 or some sort of firsthand account where you're able to 3 actually see what happened in the collision, correct? 4 A. Correct. 5 Q. And this issue about the incident 6 potentially being staged or something like that, would 7 you agree that that's just complete speculation that 8 occurred at the time when you had broken up with my 9 client, Mr. Bessu Herrera? Would that be correct? 10 A. Yes. 11 Q. I don't have any further questions, ma'am. 12 Thank you very much. 13 14 FURTHER EXAMINATION 15 BY MR. ODOU: 16 Q. Ms. Espinoza, just a follow-up on what 17 Mr. Drummond just asked you. You had indicated that 18 you had heard a phone conversation -- or part of a 19 phone conversation Mr. Herrera had. 20 Was there more than one phone 21 conversation? 22 A. That was the only one I ever 23 (unintelligible) an accident. 24 Q. Had you overheard multiple phone 25 conversations that Mr. Herrera had talked to people</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
49-52

<p style="text-align: right;">Page 49</p> <p>1 about --</p> <p>2 MR. BARRON: Asked --</p> <p>3 MR. ODOU: Let me ask the question. Let</p> <p>4 me ask the question.</p> <p>5 BY MR. ODOU:</p> <p>6 Q. Had you --</p> <p>7 MR. BARRON: Spit it out.</p> <p>8 BY MR. ODOU:</p> <p>9 Q. -- heard multiple conversations that</p> <p>10 Mr. Herrera had on the phone with other people, saying</p> <p>11 that this was a setup accident with a rabbit involved?</p> <p>12 MR. BARRON: Form of the question. Lacks</p> <p>13 foundation --</p> <p>14 THE WITNESS: No, I don't --</p> <p>15 MR. BARRON: -- calls for speculation.</p> <p>16 THE COURT REPORTER: I didn't get the</p> <p>17 answer.</p> <p>18 BY MR. ODOU:</p> <p>19 Q. You don't recall?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Had you made a complaint to the</p> <p>22 Department of Insurance and gotten no response from</p> <p>23 that complaint?</p> <p>24 A. Yes.</p> <p>25 Q. Had you told them that you had overheard</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. And then you made some speculation and</p> <p>2 assumptions based upon this, but you, again, only heard</p> <p>3 part of it, right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. I don't have any further questions,</p> <p>6 ma'am. Thank you very much for coming here today.</p> <p>7 MR. BARRON: I have a quick --</p> <p>8 BY MR. DRUMMOND:</p> <p>9 Q. I'm sorry to --</p> <p>10 MR. BARRON: I have a quick question.</p> <p>11 BY MR. DRUMMOND:</p> <p>12 Q. Well, we can ask you more.</p> <p>13 MR. DRUMMOND: Go ahead, Jason.</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MR. BARRON:</p> <p>17 Q. Ms. Espinoza, it's Attorney Jason Barron.</p> <p>18 Excuse my hat on backwards. If you hear a bird, it's</p> <p>19 my bird in the background.</p> <p>20 I just got a quick question for you.</p> <p>21 Have you heard of Mr. Salais? Do you know</p> <p>22 who that is?</p> <p>23 A. Salais?</p> <p>24 Q. Yes, ma'am.</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 50</p> <p>1 this phone conversation?</p> <p>2 A. I said I had speculated, and if they can</p> <p>3 do an investigation.</p> <p>4 Q. Your complaint, was it in writing, or was</p> <p>5 it over the phone?</p> <p>6 A. In writing.</p> <p>7 Q. And did you fill that out on the Internet,</p> <p>8 or did you mail something in?</p> <p>9 A. In the Internet.</p> <p>10 Q. Did you have -- do you have a copy of that</p> <p>11 complaint?</p> <p>12 A. No, I do not.</p> <p>13 Q. Again, Ms. Espinoza, we appreciate your</p> <p>14 time today. Unless Mr. Barron or Mr. Drummond have any</p> <p>15 other questions, I think we might be done, but let me</p> <p>16 just double-check with both of them.</p> <p>17</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MR. DRUMMOND:</p> <p>20 Q. Ms. Espinoza, this is Craig Drummond</p> <p>21 again.</p> <p>22 Sorry to keep belaboring this point, but</p> <p>23 this phone conversation, you only heard part of it,</p> <p>24 right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. Do you know the identity of the</p> <p>2 truck that drove in the back of my client's car, by</p> <p>3 chance, in this case?</p> <p>4 A. No, I don't.</p> <p>5 Q. Do you know if my client, Mr. Acosta, was</p> <p>6 driving or the passenger?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. And this later-in-time accident</p> <p>9 where you allege that coplaintiff Bessu was in an</p> <p>10 accident with you, you testified earlier that you don't</p> <p>11 know how that accident happened; is that correct? You</p> <p>12 were on your cell phone, right?</p> <p>13 A. I was on my cell phone when it happened.</p> <p>14 Q. Okay. And Bessu was driving at that time,</p> <p>15 correct? This is a later-in-time accident, right?</p> <p>16 A. Yes.</p> <p>17 Q. And in this accident, the issue in this</p> <p>18 case, was he driving or a passenger; do you know?</p> <p>19 A. He was driving.</p> <p>20 Q. He was driving in this case?</p> <p>21 A. In the case where I'm involved, he was</p> <p>22 driving.</p> <p>23 Q. No. The case where my client was</p> <p>24 involved.</p> <p>25 A. Oh, no, he was not driving.</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
53-56

<p style="text-align: right;">Page 53</p> <p>1 Q. He was not driving. Okay.</p> <p>2 Do you know where he was seated in the</p> <p>3 car, by chance, either my client or Bessu Herrera?</p> <p>4 A. He had mentioned he was in the back.</p> <p>5 That's all I know.</p> <p>6 Q. Okay. And do you know if Mr. Salais -- I</p> <p>7 understand that you don't know who he is.</p> <p>8 Do you know what a deposition is?</p> <p>9 A. Yes.</p> <p>10 Q. What's a deposition, to your</p> <p>11 understanding, ma'am?</p> <p>12 A. What we're doing now.</p> <p>13 Q. Okay. And you're under oath in a</p> <p>14 deposition, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you understand if you lie under oath,</p> <p>17 you can be held to the penalty of perjury. That means</p> <p>18 you can get in trouble.</p> <p>19 Do you understand that?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you've given your best</p> <p>22 testimony today, under oath; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you've given the whole truth</p> <p>25 and nothing but the truth, correct?</p>	<p style="text-align: right;">Page 55</p> <p>1 speculating, correct?</p> <p>2 MR. DRUMMOND: (Unintelligible) objection.</p> <p>3 MR. ODOU: I'm going to interpose an</p> <p>4 objection. Asked and answered. She's answered your</p> <p>5 question twice now. This is the third time you've</p> <p>6 asked it.</p> <p>7 MR. BARRON: It's called cross of now an</p> <p>8 adverse witness.</p> <p>9 BY MR. BARRON:</p> <p>10 Q. Is your testimony today that what you</p> <p>11 testified to in terms of the 2016 accident speculation?</p> <p>12 MR. ODOU: Asked and answered.</p> <p>13 Argumentative. Intimidating the witness.</p> <p>14 BY MR. BARRON:</p> <p>15 Q. You can answer, Ms. Espinoza.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And the depo -- I'll represent to</p> <p>18 you Mr. Salais has had his deposition taken, as well,</p> <p>19 under oath.</p> <p>20 And you have no idea what he testified to</p> <p>21 in his deposition in terms of how this accident</p> <p>22 occurred, correct?</p> <p>23 A. No, I don't.</p> <p>24 MR. ODOU: Asked and answered.</p> <p>25 ///</p>
<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And in the accident at issue in</p> <p>3 this case, the one that occurred in 2016, you do not</p> <p>4 know how that accident occurred, correct?</p> <p>5 A. I was not there.</p> <p>6 Q. Okay. And in terms of you reporting this</p> <p>7 to whomever you did and writing e-mails to whomever you</p> <p>8 did, you did that based on speculation, correct?</p> <p>9 That means lack of firsthand knowledge.</p> <p>10 Is that your testimony today, under oath?</p> <p>11 A. Yes.</p> <p>12 MR. ODOU: I'm going to interpose an</p> <p>13 objection. Argumentative and intimidating the witness.</p> <p>14 MR. BARRON: No, it's not. She's under</p> <p>15 oath. It's the law.</p> <p>16 BY MR. BARRON:</p> <p>17 Q. Is that your testimony today, ma'am? You</p> <p>18 were speculating at the time, correct?</p> <p>19 MR. ODOU: I'm going to --</p> <p>20 THE WITNESS: Yes.</p> <p>21 MR. ODOU: I'm going to interpose an</p> <p>22 objection. Intimidating the witness and argumentative.</p> <p>23 My objection stands. We can take that up later.</p> <p>24 BY MR. BARRON:</p> <p>25 Q. Is that your testimony, ma'am? You're</p>	<p style="text-align: right;">Page 56</p> <p>1 BY MR. BARRON:</p> <p>2 Q. Do you know somebody named Mr. Takahashi,</p> <p>3 I believe?</p> <p>4 He works for Trench Shoring Company.</p> <p>5 Before I brought up that name today, had</p> <p>6 you ever heard that name?</p> <p>7 A. No.</p> <p>8 Q. Okay. So you're not aware there was an</p> <p>9 internal investigation done by Trench Shoring, wherein</p> <p>10 they found Mr. Salais, the driver of the car, at fault</p> <p>11 for this accident? Are you aware of that or not?</p> <p>12 A. No.</p> <p>13 Q. I have no other questions. Thank you.</p> <p>14</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. ODOU:</p> <p>17 Q. Ms. Espinoza, the conversation that you</p> <p>18 had -- or the conversation that you overheard, was</p> <p>19 Rolando talking about somebody called "The Mexican,"</p> <p>20 who set up the accident?</p> <p>21 A. I think that --</p> <p>22 MR. BARRON: Assumes facts.</p> <p>23 THE WITNESS: -- that's who he was talking</p> <p>24 to.</p> <p>25 ///</p>

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
57-60

Page 57

1 BY MR. ODOU:
2 Q. He was talking to somebody called
3 "The Mexican," but you don't know who that is; is that
4 correct?
5 A. Correct.
6 Q. Thank you.
7
8 FURTHER EXAMINATION
9 BY MR. DRUMMOND:
10 Q. Ms. Espinoza, this is Craig Drummond.
11 So is there just one e-mail that you sent,
12 or are there more than one e-mail?
13 And I'm talking about to defense counsel.
14 MR. ODOU: I'm sorry.
15 Was that a question for the witness or for
16 me?
17 I'm sorry.
18 MR. DRUMMOND: It's for Ms. Espinoza.
19 BY MR. DRUMMOND:
20 Q. Ms. Espinoza, was there just one e-mail
21 that you sent, or was there multiple e-mails or
22 exchanges back and forth?
23 A. There was multiple exchanges.
24 Q. Okay. And do these exchanges continue
25 after you asked them to provide you money?

Page 58

1 A. Yes.
2 Q. Okay. So they continued to engage in
3 you -- after you asked to provide information for
4 money, this law firm continued to have a back-and-forth
5 with you; is that accurate?
6 A. Yes.
7 Q. Okay. And this was done -- were you in
8 Nevada the whole time, and this law firm, did you
9 understand they were actually in California?
10 A. I was in Nevada, yes.
11 Q. So you were in Nevada.
12 And wherever you were having this
13 exchange, do you know which state they were in, or you
14 just know it was via e-mail?
15 A. It was via e-mail.
16 Q. Did they ever pay you?
17 A. No.
18 Q. Did they ever say they would pay you?
19 A. No.
20 Q. But you had clearly asked them for money.
21 Do you agree with that?
22 A. Yes.
23 Q. And after that, they clearly asked you for
24 more information, correct?
25 A. Yes.

Page 59

1 Q. And who was the person you were having
2 this exchange with? What was his name or her name?
3 A. Jones.
4 Q. Mr. Jones?
5 A. Yes.
6 Q. And you're aware that this was involving
7 an ongoing civil lawsuit in Nevada, correct?
8 A. Yes.
9 Q. And you were trying -- or they were asking
10 you information so they could potentially not have to
11 pay money in the case, correct?
12 A. Yes.
13 MR. ODOU: Objection. Calls for
14 speculation.
15 BY MR. DRUMMOND:
16 Q. I don't have any further questions, ma'am.
17 Thank you very much.
18
19 FURTHER EXAMINATION
20 BY MR. ODOU:
21 Q. Ms. Espinoza, just a follow-up on that
22 e-mail.
23 The e-mail Mr. Jones sent you back
24 indicated to you that he could not pay you; isn't that
25 correct?

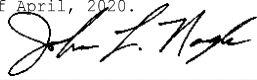
Page 60

1 A. Yes.
2 Q. Thank you.
3 MR. DRUMMOND: And since we're off the
4 record, I'd like to stay on the record, with the
5 witness gone, and do a 2.34, please.
6 UNIDENTIFIED SPEAKER: Are we ready to go
7 off the record or --
8 THE COURT REPORTER: I don't know who is
9 talking.
10 BY MR. ODOU:
11 Q. I do not have any further questions.
12 Ms. Espinoza, let me just make sure that
13 Mr. Barron does not have any further questions.
14 MR. BARRON: I do not. I'd like to stay
15 on the record. I do have a court call here coming up
16 soon, so we can --
17 Craig, do you think we have time?
18 The 2.34 has to be meaningful, so I want
19 to make sure that we have it pinned down before we --
20 MR. DRUMMOND: It's going to take one
21 minute.
22 THE COURT REPORTER: Hold on.
23 MR. BARRON: -- before we move forward
24 with our motion.
25 THE COURT REPORTER: Hold on. This is the



**NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS**

**April 22, 2020
61-64**

<p style="text-align: right;">Page 61</p> <p>1 court reporter. Hello. I don't know who's talking, 2 okay? And we're on the video record. 3 MR. DRUMMOND: Sure. This is Attorney 4 Craig Drummond. 5 I'm asking as soon as we dismiss the 6 witness -- I believe she's been dismissed by counsel, 7 who called her. I'm asking to stay on and do a new 8 transcript on a 2.34 real quick. 9 BY MR. ODOU: 10 Q. Ms. Espinoza, you can hang up. Thank you 11 very much for your time today. 12 THE COURT REPORTER: Can we go off the 13 video record right now? 14 This is the court reporter. 15 Can we go off the video record for a 16 second here? 17 THE VIDEOGRAPHER: Okay. We are now going 18 off the record at 11:13 a.m. 19 20 (Whereupon the deposition 21 was concluded at 11:13 a.m.) 22 23 24 25</p>	<p style="text-align: right;">Page 63</p> <p>1 DEPOSITION ERRATA SHEET 2 3 Our Assignment No. 5395071 4 Case Caption: Perez-Acosta vs. Salais 5 6 DECLARATION UNDER PENALTY OF PERJURY 7 8 I declare under penalty of perjury that I 9 have read the entire transcript of my deposition taken 10 in the captioned matter or the same has been read to 11 me, and the same is true and accurate, save and except 12 for changes and/or corrections, if any, as indicated by 13 me on the DEPOSITION ERRATA SHEET hereof, with the 14 understanding that I offer these changes as if still 15 under oath. 16 Signed on the ____ day of _____, 17 20__. 18 19 _____ 20 NANCY ESPINOZA 21 22 23 24 25</p>
<p style="text-align: right;">Page 62</p> <p>1 REPORTER'S CERTIFICATE 2 STATE OF NEVADA) 3) ss. 4 COUNTY OF CLARK) 5 6 I, John L. Nagle, a Certified Court Reporter 7 licensed by the State of Nevada, do hereby certify: 8 That I reported the taking of the deposition 9 of NANCY ESPINOZA on Wednesday, April 22, 2020, 10 commencing at the hour of 10:06 a.m. That prior to 11 being examined, the witness was by me duly sworn to 12 testify to the truth, the whole truth, and nothing but 13 the truth. 14 15 That I thereafter transcribed my said 16 stenographic notes via computer-aided transcription 17 into written form, and that the typewritten transcript 18 of said deposition is a complete, true and accurate 19 transcription of my said stenographic notes taken down 20 at said time. That review of the transcript was 21 requested. 22 23 I further certify that I am not a relative, 24 employee or independent contractor of counsel involved 25 in said action; nor a person financially interested in said action; nor do I have any other relationship that may reasonably cause my impartiality to be questioned. IN WITNESS WHEREOF, I have subscribed my name this 27th day of April, 2020.  _____ John L. Nagle, CCR 211 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 64</p> <p>1 DEPOSITION ERRATA SHEET 2 3 Page No. ____ Line No. ____ Change to: ____ 4 5 Reason for change: ____ 6 Page No. ____ Line No. ____ Change to: ____ 7 8 Reason for change: ____ 9 Page No. ____ Line No. ____ Change to: ____ 10 11 Reason for change: ____ 12 Page No. ____ Line No. ____ Change to: ____ 13 14 Reason for change: ____ 15 Page No. ____ Line No. ____ Change to: ____ 16 17 Reason for change: ____ 18 Page No. ____ Line No. ____ Change to: ____ 19 20 Reason for change: ____ 21 Page No. ____ Line No. ____ Change to: ____ 22 23 Reason for change: ____ 24 SIGNATURE: _____ DATE: _____ 25 NANCY ESPINOZA</p>

**NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS**

**April 22, 2020
65**

<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____ Change to: _____</p> <p>4 _____</p> <p>5 Reason for change: _____</p> <p>6 Page No. _____ Line No. _____ Change to: _____</p> <p>7 _____</p> <p>8 Reason for change: _____</p> <p>9 Page No. _____ Line No. _____ Change to: _____</p> <p>10 _____</p> <p>11 Reason for change: _____</p> <p>12 Page No. _____ Line No. _____ Change to: _____</p> <p>13 _____</p> <p>14 Reason for change: _____</p> <p>15 Page No. _____ Line No. _____ Change to: _____</p> <p>16 _____</p> <p>17 Reason for change: _____</p> <p>18 Page No. _____ Line No. _____ Change to: _____</p> <p>19 _____</p> <p>20 Reason for change: _____</p> <p>21 Page No. _____ Line No. _____ Change to: _____</p> <p>22 _____</p> <p>23 Reason for change: _____</p> <p>24 SIGNATURE: _____ DATE: _____</p> <p>25 NANCY ESPINOZA</p>	<p>Page 65</p>

EXHIBIT 5

EXHIBIT 5

**EDCR 2.34 MEETING
PEREZ-ACOSTA vs SALAIS**

**April 22, 2020
1-4**

<p style="text-align: right;">Page 1</p> <p>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 4 MAIKEL PEREZ-ACOSTA, 5 individually, ROLANDO BESSU 6 HERRERA, individually, 7 Plaintiffs, CASE NO. 8 vs. A-18-772273-C 9 10 JAIME ROBERTO SALAIS, 11 individually, TOM MALLOY 12 CORPORATION, aka/dba TRENCH 13 SHORING COMPANY, a foreign 14 corporation, DOES I through V, 15 inclusive, and ROE 16 CORPORATIONS I through V, 17 inclusive, 18 19 Defendants. 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p style="text-align: right;">Page 3</p> <p>1 MR. DRUMMOND: This is Craig Drummond. 2 I believe all the parties are still 3 present, who were present at the deposition that just 4 ended of Ms. Espinoza. 5 During that deposition, we learned that, 6 in fact, there had been an exchange with this witness 7 back in April of 2019, apparently, with defense 8 counsel. These documents were never produced. They've 9 never been produced. 10 Clearly, they would have been responsive 11 to requests for production from my client, Mr. Bessu 12 Herrera. In fact, I'm looking at them, and not only is 13 it a 16.1 required disclosure, Request for Production 14 No. 2, regarding any statements from anybody related to 15 this, would have been needed to be produced. 16 And it appears that these were actually 17 intentionally held back for production, used during the 18 deposition for which we have no copy of, a deposition 19 that occurred via Zoom, so we can't even see what we're 20 talking about. 21 I believe it's wholly improper. I believe 22 if it's, in fact, determined that these were 23 intentional, that this is sanctionable, potentially 24 terminable sanctions. And I don't know the 25 explanation, but, perhaps, there is one, but my</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES: 2 For Plaintiff, Maikel Perez-Acosta (via 3 videoconference): 4 THE702FIRM 5 400 South Seventh Street 6 Suite 400 7 Las Vegas, Nevada 89101 8 BY: JASON BARRON, ESQ. 9 Ph. (702)776-3333; Fax (702)505-9787 10 jason@the702firm.com 11 For Plaintiff, Rolando Bessu Herrera (via 12 videoconference): 13 DRUMMOND LAW FIRM 14 810 South Casino Center Boulevard 15 Suite 101 16 Las Vegas, Nevada 89101 17 BY: CRAIG W. DRUMMOND, ESQ. 18 Ph. (702)366-9966; Fax (702)508-9440 19 craig@drummondfirm.com 20 For Defendants (via videoconference): 21 WOOD SMITH HENNING & BERMAN LLP 22 2881 Business Park Court 23 Suite 200 24 Las Vegas, Nevada 89128 25 BY: JOEL D. ODOU, ESQ. 26 NICK ADAMS, ESQ. 27 Ph. (702)251-4100; Fax (702)251-5405 28 jodou@wshblaw.com 29 nadams@wshblaw.com 30 31 and 32 MOKRI VANIS & JONES, LLP 33 2251 Fair Oaks Boulevard 34 Suite 100 35 Sacramento, California 95825 36 BY: TODD A. JONES, ESQ. 37 Ph. (916)306-0434; Fax (916)307-6353 38 tjones@mvjllp.com 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000</p>	<p style="text-align: right;">Page 4</p> <p>1 meet-and-confer is we believe we have a clear discovery 2 violation unless somebody can tell me why there wasn't 3 one. That's my position. And it involves the 4 communication between defense counsel and this 5 deponent, Ms. Espinoza. 6 Thank you. 7 MR. BARRON: I would just add that I would 8 concur with that, at least in the state of Nevada. I 9 don't know if the rules are different in California. 10 In the state of Nevada, all impeachment needs to be 11 disclosed immediately, and, of course, with 26(e), 12 seasonably. 13 This is back in -- Craig, you said April 14 of 2019? 15 MR. DRUMMOND: That's what she said. 16 MR. BARRON: So, I mean, that's shocking 17 that we didn't get a copy of this. This is not a sub 18 rosa or something of that nature. "We need to hold it 19 back until we see what they say," and then you produce 20 it. 21 I understand the distinction with that, 22 but this is statements made by witnesses in this case 23 that are reasonably calculated to lead to the discovery 24 of admissible evidence. Under 26(e), they need to be 25 produced seasonably. They're part of 16.1 and directly</p>

EDCR 2.34 MEETING
PEREZ-ACOSTA vs SALAIS

April 22, 2020
5-8

<p style="text-align: right;">Page 5</p> <p>1 relevant to a request for production from my office.</p> <p>2 I don't have it in front of me, but</p> <p>3 counsel from Bessu just read that, so pursuant to 2.34,</p> <p>4 we would like an explanation briefly. I got to go to a</p> <p>5 court call, and then we're going to proceed with motion</p> <p>6 bias.</p> <p>7 MR. ODOU: This is Joel Odou for the</p> <p>8 defendants.</p> <p>9 I would offer a couple of observations.</p> <p>10 Obviously, this is not our full response, but as an</p> <p>11 initial matter, this witness was a third-party witness</p> <p>12 who resides off and on with Mr. Herrera.</p> <p>13 Mr. Herrera has a pending violation -- or</p> <p>14 a pending -- excuse me, a pending probation for</p> <p>15 domestic violence. We were concerned for the -- at</p> <p>16 least, I was concerned. I don't want to speak out of</p> <p>17 school. I was concerned for the safety of this witness</p> <p>18 and whether she would appear today and whether she</p> <p>19 would testify truthfully.</p> <p>20 Moreover, I was concerned that she would</p> <p>21 be hesitant to acknowledge the truth without being</p> <p>22 confronted with it, and we wanted to respect her</p> <p>23 privacy and respect her safety at the same time. The</p> <p>24 questions that we asked were not eliciting the</p> <p>25 information that she had, and so to refresh her</p>	<p style="text-align: right;">Page 7</p> <p>1 would be to seek a protective order for a court in</p> <p>2 terms of mode and order of how this deposition will</p> <p>3 proceed.</p> <p>4 Because when we started, you asked if they</p> <p>5 live together, and when this began and what's been</p> <p>6 testified to in trial, it was my understanding that</p> <p>7 they were either married or close, common law, whatever</p> <p>8 Mr. Bessu Herrera's understanding is. This man could</p> <p>9 have very well been in the same room with her. So if</p> <p>10 that's genuine, everything you're saying, it would not</p> <p>11 have transcribed that way.</p> <p>12 If you move for a protective order as to</p> <p>13 mode and order and what needs to be done, these</p> <p>14 statements would still need to be produced. They're</p> <p>15 not impeachments unless and until you gain from her</p> <p>16 something inconsistent from that, which essentially you</p> <p>17 didn't do today. She doesn't have knowledge, and she</p> <p>18 already talked about another motive as to that, so</p> <p>19 that's not responsive to the basic discovery</p> <p>20 requirement in Nevada.</p> <p>21 I don't know about California, but in</p> <p>22 Nevada, for that to be disclosed when it -- without an</p> <p>23 individual NRCP 34 request for production, sua sponte,</p> <p>24 it needs to be produced, period. If it's not, as per</p> <p>25 the court's history, it's not coming in. Dollars to</p>
<p style="text-align: right;">Page 6</p> <p>1 recollection, we reminded her of this e-mail, which is</p> <p>2 impeachment, and that e-mail chain will be produced.</p> <p>3 At no time was the witness offered money</p> <p>4 for her testimony. In fact, the very first -- or the</p> <p>5 second e-mail responding to her, prior to my firm's</p> <p>6 involvement, noted that she could not be paid for her</p> <p>7 testimony.</p> <p>8 Moreover, the witness had voluntarily</p> <p>9 reached out to the Department of Insurance to make a</p> <p>10 complaint, which was not prompted by any defense</p> <p>11 counsel activity.</p> <p>12 As I alluded to on the -- at the</p> <p>13 deposition transcript and on the video, these materials</p> <p>14 were produced as impeachment, and certainly, the court</p> <p>15 can review them.</p> <p>16 MR. BARRON: Craig, are you there?</p> <p>17 MR. DRUMMOND: Yeah.</p> <p>18 MR. BARRON: Let me just comment real</p> <p>19 quick, Craig.</p> <p>20 If that's the case, when you first started</p> <p>21 the depo -- first of all, I want to hear from Todd</p> <p>22 Jones, because with all due respect to you, Mr. Odou,</p> <p>23 you just got involved in the case. We're talking about</p> <p>24 when this was first produced back in April 2019.</p> <p>25 If that's the case, the proper thing to do</p>	<p style="text-align: right;">Page 8</p> <p>1 doughnuts in this case, it's not coming in. It could</p> <p>2 have if it was properly produced.</p> <p>3 You don't shield it and spring it on</p> <p>4 somebody in the state of Nevada. California, New York,</p> <p>5 those may be different. I know Todd Jones is from</p> <p>6 California. In Nevada -- I've been in front of the</p> <p>7 discovery commissioner in front of this -- those are</p> <p>8 sanctionable, possibly case-ending sanctions in a case,</p> <p>9 and you open yourself up for that.</p> <p>10 And I want to talk to Todd about that,</p> <p>11 because, Mr. Odou, you don't have personal knowledge.</p> <p>12 You weren't on board here as cocounsel back in April of</p> <p>13 2019. This should have been produced -- what? -- a</p> <p>14 year ago, roughly, give or take, so that's not an</p> <p>15 excuse at all. That's a bunch of garbage.</p> <p>16 MR. DRUMMOND: Go ahead, Todd.</p> <p>17 MR. JONES: I concur with what Joel said,</p> <p>18 but I also add that this was viewed as work product,</p> <p>19 trying to get information from -- by the attorney by an</p> <p>20 investigation by me. I got reached out, unsolicited.</p> <p>21 And it never even confirmed -- it was not even ever</p> <p>22 confirmed, the identity of the witness. Never met her,</p> <p>23 was very unclear who she was or where she was heading</p> <p>24 from.</p> <p>25 MR. BARRON: Work product under Hickman v.</p>

EDCR 2.34 MEETING
PEREZ-ACOSTA vs SALAIS

April 22, 2020
9-12

<p style="text-align: right;">Page 9</p> <p>1 Taylor and mental impressions of an attorney has 2 nothing to do with purported statements of a party that 3 you guys are eliciting as facts, which obviously 4 they're not, because she doesn't know what she's 5 talking about. 6 She's not on the other end of the phone to 7 even hear what's being said about facts that had 8 nothing to do with the accident at issue in 2016 in 9 this case. I know nothing about a gold car, anything 10 to do with this case. 11 So one half of it is hearsay, and all of 12 it is speculation. None of it is work product, and it 13 certainly doesn't become work product -- Todd, you know 14 I respect you, but it doesn't become work product when 15 you reach out personally and you're talking with her. 16 I mean, I think under 16.1, I'm going to recommend we 17 list you as a witness in this case, period. 18 MR. DRUMMOND: Can I just confirm one 19 thing? 20 And I don't want to get in an argument on 21 this one, because to me, it's not really conducive to 22 anything, or productive. 23 Let me just ask this: This was an 24 intentional withholding by defense; is that correct, 25 defense?</p>	<p style="text-align: right;">Page 11</p> <p>1 this was an intentional withholding in violation of the 2 rules for which there are relief. None was requested. 3 It's completely improper, and we're going 4 to ask to strike the answer related to my client. This 5 was a surprise. This was trial by ambush on this 6 deposition, and it's just not proper, and honestly, I'm 7 very disappointed that this happened today. 8 MR. BARRON: I will join as well because 9 my client was also in the car. I mean, I think all of 10 it is ridiculous. Frankly, they're both passengers. 11 There's no evidence as to any other. 12 But to the extent it's going to come into 13 trial for obvious reasons, to impugn or to poison a 14 jury, the only thing proper is either -- I don't think 15 case-ending, necessarily. This may go in front of 16 Judge Israel, possibly case-ending, but if not, 17 certainly, it's going to be -- that deposition will be 18 tossed. 19 MR. DRUMMOND: My other question is going 20 to be case-ending, but I have nothing further. 21 MR. ODOU: Just to add, obviously -- this 22 is Joel Odou -- I'm the new person on this case, but 23 there are a number of defense requests for identifying 24 witnesses, and we had asked for Mr. Barron to identify 25 witnesses, including the person who apparently goes by</p>
<p style="text-align: right;">Page 10</p> <p>1 MR. JONES: Not intentional holding. I 2 didn't think this was something that would be produced 3 normally, because it wasn't done with an investigator. 4 It wasn't done outside the normal realms of discovery. 5 MR. DRUMMOND: And are these documents 6 listed in a privilege log? 7 MR. JONES: I don't know. I'd have to go 8 back and check. 9 MR. DRUMMOND: Okay. And there is no 10 protective order -- ex parte motion for protective 11 order. 12 Was one ever applied for? 13 MR. JONES: Not that I'm aware of. 14 MR. DRUMMOND: Okay. And you agree that 15 this was an exchange back and forth with a witness, 16 right? It was a written exchange via e-mail, correct? 17 MR. JONES: An e-mail, yes. 18 MR. DRUMMOND: Okay. 19 MR. JONES: Well, a potential. Again, 20 like I said before, I could never identify, confirm her 21 identity. 22 MR. DRUMMOND: I didn't understand what 23 that means, but nonetheless, just so it's clear, I 24 mean, I don't really know any resolution we can have 25 other than to bring the matter before -- my position is</p>	<p style="text-align: right;">Page 12</p> <p>1 the name "The Mexican." And I think that, you know, 2 there may be some countermotions involved here, too, 3 because clearly, there's been a withholding of relevant 4 information by the plaintiff. 5 You know, I understand that you're going 6 to dispute the accuracy of Ms. Espinoza's statements, 7 and that's fine. And, again, I'm not trying to get 8 into it here. I'm just pointing that out. We can 9 certainly take those issues up. 10 MR. DRUMMOND: And this is Craig Drummond. 11 I'll let the record speak for itself on 12 her actual answers on that. 13 MR. BARRON: The problem with this is 14 there's no evidence for, quote, The Mexican. She just 15 said that he was talking out of her ear. 16 Okay? 17 There's no evidence for The Mexican. 18 Mr. Salais had his deposition taken, who was the one 19 that drove into our clients at an approaching speed 20 minimum of 20 -- approaching a speed of 30, 35 miles an 21 hour, clearly said it was his fault and had no evidence 22 about a gold car. 23 So that's not really the purpose of today. 24 Those are motions in limine. You get to put on your 25 affirmative defenses. I did defense work for a long</p>

EDCR 2.34 MEETING
PEREZ-ACOSTA vs SALAIS

April 22, 2020
13-15

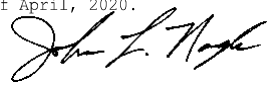
<p style="text-align: right;">Page 13</p> <p>1 time myself. What you don't get to do is come up with 2 things that are just pie-in-the-sky nonsense that lack 3 foundation or lack an evidentiary basis. 4 Okay? 5 The percipient witness in this case, the 6 driver Salais, has no clue about anyone except he drove 7 in our clients' car. 8 Ms. Espinoza heard one-half of a 9 conversation, as she said today, she knows nothing 10 about. It's pure speculation. She said that under 11 oath, so at the best, we have cross statements under 12 oath as to her. If the issue does get in at trial, it 13 will be tossed. 14 MR. JONES: Jason, I think you misspoke. 15 There is evidence of a gold car, if you look at the 16 incident report on the day of the accident and the 17 deposition testimony. 18 MR. BARRON: There's evidence of a gold 19 car. There's also evidence of other cars on the road 20 and cars with tires and a blue sign and everything 21 else. What I'm talking about is concerted action. 22 There's absolutely no evidence as to that. 23 MR. DRUMMOND: Let's all debate that a 24 different day. I just want to make sure that it's 25 clear on this e-mail so that I can file my motion.</p>	<p style="text-align: right;">Page 15</p> <p>1 REPORTER'S CERTIFICATE 2 STATE OF NEVADA) 3) ss. 4 COUNTY OF CLARK) 5 6 I, John L. Nagle, a Certified Court Reporter 7 licensed by the State of Nevada, do hereby certify: 8 That the foregoing proceedings were taken 9 before me at the time and place herein set forth; that 10 the proceedings were reported stenographically by me 11 and later transcribed by computer-aided transcription 12 under my direction; that the foregoing is a true record 13 of the proceedings taken at that time. 14 15 I further certify that I am not a relative, 16 employee or independent contractor of counsel involved 17 in said action; nor a person financially interested in 18 said action; nor do I have any other relationship that 19 may reasonably cause my impartiality to be questioned. 20 21 IN WITNESS WHEREOF, I have subscribed my name 22 this 27th day of April, 2020. 23 24  25 John L. Nagle, CCR 211</p>
<p style="text-align: right;">Page 14</p> <p>1 Since it's case-ending, it will go in front of 2 Judge Israel; at least, mine. Maybe 702FIRM has a 3 different one. 4 I don't have anything further, if anybody 5 else doesn't. 6 MR. BARRON: I'll join those. 7 MR. DRUMMOND: Does anybody have any other 8 record they would like to make related to this 2.34? 9 This is Craig Drummond. 10 All right. Hearing none, everybody, 11 please stay safe during this time. 12 And, Court Reporter, please, again, for 13 transcript, at least on the plaintiffs' side, I'll be 14 responsible for a copy of the transcript and pay the 15 fees accordingly. Thank you very much. 16 17 (Whereupon the proceedings 18 were concluded at 11:31 a.m.) 19 20 21 22 23 24 25</p>	

EXHIBIT 6

EXHIBIT 6

Sarah Doring

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Sunday, April 28, 2019 7:25 AM
To: John Dorame; Todd Jones
Subject: insurance fraud, trench shoring company case

1 **JCCR**
2 MICHAEL C. KANE, ESQ.
3 Nevada Bar No. 10096
4 BRADLEY J. MYERS, ESQ.
5 Nevada Bar No. 8857
6 JASON BARRON, ESQ.
7 Nevada Bar No. 7270
8 **THE702FIRM**
9 400 South 7th Street, #400
10 Las Vegas, Nevada 89101
11 Telephone: (702) 776-3333
12 Facsimile: (702) 505-9787
13 E-Mail: mike@the702firm.com
14 brad@the702firm.com
15 jason@the702firm.com

16 and

17 ADAM S. KUTNER, ESQ.
18 Nevada Bar No. 4310
19 **ADAM S. KUTNER, P.C.**
20 1137 South Rancho Drive, Suite 150-A
21 Las Vegas, Nevada 89102
22 Telephone: (702) 382-0000
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, an Individual,
ROLANDO BESSU HERRERA, Individually,

Case No.: A-18-772273-C
Dept No.: 28

Plaintiffs

Date: Monday, July 30, 2018
Time: 10:00 a.m.

vs.

JAIME ROBERTO SALAIS, an Individual,
TOM MALLOY CORPORATION aka/dba

Pursuant to Administrative Order 14-2, which took effect
mandated, the parties consent to service of all documents in this case to
recipients:

The702Firm Electronic Service address: jason@the702firm.com

Law Offices of MOKRI VANIS & JONES, LLP. Electronic Ser
jdorame@mvjllp.com and dsteinhauer@mvjllp.com

The parties agree to update the E-Service Master List to reflect
posthaste.

Dated on this 20 day of August, 2018.

Dated on this 16

THE702FIRM


MICHAEL C. KANE, ESQ.
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MOKRI VANIS & JONES, LLP


JOHN DORAME, ESQ.
Nevada Bar No. 1002
TODD A. JONES, ESQ.
Nevada Bar No: 1298
8831 West Sahara Ave
Las Vegas, Nevada 89123
Attorneys for Defendant
CORPARATION dba
TRENCH SHORING
ROBERT SALAIS

Hi I reported this case anonymously thru insurance fraud however nothing has been done, I found your information finally and decided to be direct with it instead... My name is Nancy Espinoza I was in a relationship with Rolando Bessu Herrera for the past 3 years and friend of Maikel Acosta Perez both where fresh from Cuba and where in the same condition they claim this accident caused or worsen... wrong. First of all, the accident was planned they picked that truck and intentionally slammed there brakes due to the rabbit car in front of them slamming their brakes then fleeing the scene. Second tge already had those conditions prior to the accident, Im not sure of Maikel seeing a doctor prior however Rolando Bessu had just started seeing doctor Serru on eastern ave for the same complaints and problems prior to the accident. Why am I giving you this information? Because the its wrong and these are why our cost of insurance is so high in nevada.... Rolando Bessu repeated this scammed again with his own car and me as a passenger, I was disgusted and apalled he made me part of a scam and I didnt want any part of it he used Steven parke law with that one so you can see how similar the cases are... I am willing to be a witness and help in any way for finders fee which will save your company alot of money then paying out to those that don't deserve it. thank you for time i added case number so it's easier to look them up.

EXHIBIT 7

EXHIBIT 7

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RFPD

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Attorneys for Plaintiff Rolando Bessu Herrera

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MAIKEL PEREZ-ACOSTA, an individual;)
ROLANDO BESSU HERRERA, an individual;)
Plaintiffs,)
vs.)
JAMIE ROBERTO SALAIS, an individual;)
TOM MALLOY CORPORATION aka/dba)
TRENCH SHORING COMPANY, a foreign)
corporation; DOES I-V; and ROE)
CORPORATIONS VI-X, inclusive,)
Defendants.)

Case No.: A-18-772273-C
Dept. No.: 28

**PLAINTIFF ROLANDO BESSU HERRERA'S THIRD REQUEST FOR PRODUCTION
OF DOCUMENTS TO DEFENDANT TOM MALLOY CORPORATION aka/dba
TRENCH SHORING COMPANY**

TO: TOM MALLOY CORPORATION aka/dba TRENCH SHORING COMPANY, Deft.;
TO: TODD A. JONES, Esq. of MOKRI VANIS & JONES, LLP, their attorney;
Plaintiff, ROLANDO BESSU HERRERA, by and through his attorney, CRAIG W.
DRUMMOND, ESQ., of the DRUMMOND LAW FIRM pursuant to Rule 34 of the Nevada Rules
of Civil Procedure, hereby requests that Defendant respond within 30 days of receipt hereof to

1 Plaintiff's Third Request for Production of Documents and to provide a copy or permit Plaintiff to
2 inspect and copy of the documents below.

3 PRELIMINARY STATEMENT

4 The following preliminary statement and definitions apply to each of the Request for
5 Production of Documents set forth hereinafter and are deemed to be incorporated therein.

6 1. The singular number and the masculine gender as used herein also mean the plural,
7 feminine, or neutral, as may be appropriate.

8 2. These requests for production of documents call for all information (including
9 information contained in writing) as is known or reasonably available to, attorneys, or any
10 investigators or representatives or others acting on behalf or under direction or control, and not
11 merely such information as is known of own personal knowledge.

12 3. If you cannot answer any of these requests in full, after exercising due diligence to
13 secure the information to do so, so state and answer the request to the extent possible, specifying
14 your inability to answer the remainder, the reasons therefore, the steps taken to secure the answers
15 to the unanswered portions, and stating whatever information or knowledge you have concerning
16 the unanswered portions; please also identify the persons you believe to have such knowledge,
17 what you believe the correct answer to be, and the facts upon which you base your answer.

18 4. If you consult any document or person in answering these requests, identify in regard
19 to each such request the person and/or document consulted.

20 5. The term "person" as used herein shall be deemed to mean any natural person, firm,
21 association, partnership, corporation, or any other form of legal entity or governmental body
22 unless the context otherwise dictates.

23 6. The term "you" as used herein shall be deemed to mean the person named as well as
24 his agents, servants, officers, directors, and employees.

25 7. The term "document" as used in these requests for production of documents means all
26 written, recorded or graphic matters, however produced or reproduced, and includes, but is not
27 limited to, any record, report, paper, writing, book, letter, note, memorandum correspondence,
28 agreement, contract, journal, ledger, summary, minute of meeting, photograph, inter-office

1 communication, telegram, schedule, diary, log, memorandum of telephone or in-person
2 communication, meeting or conversation, Telex, cable, tape, transcript, recording, photograph,
3 picture or film, computer printout, program or data of other graphic, symbolic, recorded or written
4 materials of any nature whatsoever. Any document, as herein above defined, which contains any
5 comment, notation, addition, insertion, or making of any kind which is part of another document,
6 are to be considered separate documents.

7 8. The term “communication” as used in these requests for production of documents shall
8 mean any dissemination of information or transmission of a statement from one person to another,
9 or in the presence of another, whether by writing, orally, or by action or conduct.

10 9. The term “fact” as used in these requests for production of documents shall include,
11 without limitation, every matter, occurrence, act, event, transaction, occasion, instance,
12 circumstance, representation or other happening, by whatever name it is known.

13 10. With respect to each document or communication identified and claimed to be
14 privileged, state the type of privilege claimed and its basis.

15 11. If you object in whole or in part to any of the following request for production of
16 documents, please state in complete detail the basis for your objection and all facts in which you
17 rely to support your objection.

18 12. The terms “incident”, “subject incident”, or “collision” refers to the motor vehicle
19 collision which occurred on July 12, 2016, which is the subject of this lawsuit.

20 **REQUESTS FOR PRODUCTION**

21 **REQUEST NO. 46:**

22 Please provide a copy of the emails, letters, and any written or typed correspondence
23 between Nancy Espinoza and Todd Jones, Esq. from July 12, 2016 to present.

24 **REQUEST NO. 47:**

25 Please provide a copy of the emails, letters, and any written or typed correspondence
26 between Nancy Espinoza and any employee, agent, or representative of Mokri, Vanis & Jones
27 from July 12, 2016 to present.

28 ///

REQUEST NO. 48:

Please provide a copy of the emails, letters, and any written or typed correspondence between the witnesses listed on Defendants' 16.1 disclosures and Todd Jones, Esq. from July 12, 2016 to present.

REQUEST NO. 49:

Please provide a copy of the emails, letters, and any written or typed correspondence between the witnesses listed on Defendants' 16.1 disclosures and any employee, agent, or representative of Mokri, Vanis & Jones from July 12, 2016 to present.

REQUEST NO. 50:

Please provide a copy of the emails, letters, and any written or typed correspondence between Todd Jones and any other person or entity regarding the statements made to him by Nancy Espinoza from July 12, 2016 to present.

REQUEST NO. 51:

Please provide a copy of the emails, letters, and any written or typed correspondence between any employee, agent, or representative of Mokri, Vanis & Jones and any other person or entity regarding the statements made to him by Nancy Espinoza from July 12, 2016 to present.

REQUEST NO. 52:

Please provide a copy of the emails, letters, and any written or typed correspondence between Todd Jones, Esq. and any other person or entity regarding withholding from production during discovery of the statements made to him by Nancy Espinoza from July 12, 2016 to present. [Authority is NRS 49.115]

REQUEST NO. 53:

Please provide a copy of the emails, letters, and any written or typed correspondence between any employee, agent, or representative of Mokri, Vanis & Jones and any other person or entity regarding withholding from production during discovery of the statements made to them by Nancy Espinoza from July 12, 2016 to present. [Authority is NRS 49.115]

///

1 **REQUEST NO. 54:**

2 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
3 payments made by Todd Jones, Esq. to Nancy Espinoza from July 12, 2016 to present.

4 **REQUEST NO. 55:**

5 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
6 payments made by Mokri, Vanis & Jones to Nancy Espinoza from July 12, 2016 to present.

7 **REQUEST NO. 56:**

8 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
9 payments made by Todd Jones, Esq. to any witnesses listed on Defendants' 16.1 disclosures from
10 July 12, 2016 to present.

11 **REQUEST NO. 57:**

12 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
13 payments made by Mokri, Vanis & Jones to any witnesses listed on Defendants' 16.1 disclosures
14 from July 12, 2016 to present.

15 **REQUEST NO. 58:**

16 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
17 payments made by any person or entity on behalf of any of the Defendants in this case to Nancy
18 Espinoza from July 12, 2016 to present.

19 ///

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1 **REQUEST NO. 59:**

2 Please provide a copy of the checks, stubs, invoices, and allied documents related to any
3 payments made by any person or entity on behalf of any of the Defendants in this case to any
4 witnesses listed on Defendants' 16.1 disclosures from July 12, 2016 to present.

5 DATED this 24th day of April, 2020.

6 DRUMMOND LAW FIRM, P.C.

7
8 By: 

9 Craig W. Drummond, Esq.

10 Nevada Bar No. 11109

11 Liberty A. Ringor, Esq.

12 Nevada Bar No. 14417

13 810 S. Casino Center Blvd., Suite 101

14 Las Vegas, NV 89101

15 *Attorneys for Plaintiff Rolando Bessu Herrera*

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DRUMMOND LAW FIRM
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CERTIFICATE OF SERVICE

Pursuant to NEFCR 9 and Administrative Order 14-2, the undersigned does hereby certify that on this 24th day of April, 2020, service of a true and correct copy of the foregoing **PLAINTIFF ROLANDO BESSU HERRERA'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT TOM MALLOY CORPORATION AKA/DBA TRENCH SHORING COMPANY** was duly made on all parties herein by causing a copy thereof to be filed and/or served with the Clerk of Court using Odyssey E-File & Serve system, which was served via electronic transmission.

Michael C. Kane Esq.
Bradley J. Myers, Esq.
Jason Barron, Esq.
The 702 Firm
400 South 7th Street/Floor 4
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Attorneys for Plaintiff Maikel Perez-Acosta

Araba Panford, Esq.
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Jaime Roberto Salais*

/s/ AD

An Employee of DRUMMOND LAW FIRM

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EXHIBIT 8

EXHIBIT 8

From: [Todd Jones](#)
To: [Craig Drummond](#)
Cc: [Jason Barron](#); [Heather Bowmer](#); [Yolanda Bullock](#); [Araba Panford](#); [Liberty Ringor](#); [Michael C. Kane](#)
 <mike@the702firm.com> (mike@the702firm.com)
Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza
Date: Tuesday, March 24, 2020 9:20:01 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Craig, I intend to move the deposition regardless because of the current conditions and the Order. As I have indicated before, it is clear she will not cooperate no matter what arrangements are made.

My office will get out notice of the new depo date this afternoon.

Todd A. Jones
Partner | Admitted in: CA, NV
MOKRI VANIS & JONES, LLP
 2251 Fair Oaks Blvd., Suite 100
 Sacramento, CA 95825
Main 916.306-0434 | **Fax** 949.226.7150
Direct: 916.306.0444
Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: Craig Drummond <Craig@drummondfirm.com>
Sent: Tuesday, March 24, 2020 9:13 AM
To: Todd Jones <tjones@mvjllp.com>
Cc: Jason Barron <jason@the702firm.com>; Heather Bowmer <hbower@mvjllp.com>; Yolanda Bullock <ybullock@mvjllp.com>; Araba Panford <apanford@mvjllp.com>; Liberty Ringor <liberty@drummondfirm.com>; Michael C. Kane <mike@the702firm.com> (mike@the702firm.com)
 <mike@the702firm.com>
Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Todd, I have not spoken with her. From what I understand, she is a nurse and has been very busy dealing with the coronavirus. We previously offered to try and assist in moving the date for professional courtesy and this was refused by you as you wanted conditions/agreements placed on moving things for a deposition of someone that I do not represent.

At this point, you do what you want, but the Order is clear that if there are any issues at all that depositions are to be continued 30 days. I have no idea if she will appear, but if you keep the deposition on and it is determined that your office told her that she still must appear on March 26th even after the Order came out, we will seek sanctions as your office would be lying to a non-represented party.

Craig

**Craig W. Drummond***Trial Attorney***Main Phone:** [702-366-9966](tel:702-366-9966)**Fax:** 702-508-9440

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Las Vegas, NV 89101

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Craig W. Drummond is licensed to practice law in Nevada and Missouri and is affiliated with other law firms. This message contains information which may be confidential and privileged. Unless you are the intended addressee (or authorized to receive for the intended addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply and delete the message. Thank you.

From: Todd Jones <tjones@mvjllp.com>**Sent:** Tuesday, March 24, 2020 8:56 AM**To:** Craig Drummond <Craig@drummondfirm.com>

Cc: Jason Barron <jason@the702firm.com>; Heather Bowmer <hbowmer@mvjllp.com>; Yolanda Bullock <ybullock@mvjllp.com>; Araba Panford <apanford@mvjllp.com>; Liberty Ringor <liberty@drummondfirm.com>; Michael C. Kane <mike@the702firm.com> (mike@the702firm.com) <mike@the702firm.com>

Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Sure thing Craig. As I indicated before, upon being served she stated she was refusing to testify at all.

She has never asked to continue the deposition date- she has flat out refused to testify. Period. In response, I've asked that she provide me with other dates of availability in mid- to late April so we can move her deposition date because of the Order. I haven't heard back from her yet. If you have any way pf getting her to cooperate/provide other dates, that would assist this entire process.

Todd A. Jones**Partner | Admitted in: CA, NV****MOKRI VANIS & JONES, LLP**

2251 Fair Oaks Blvd., Suite 100

Sacramento, CA 95825

Main 916.306-0434 | **Fax** 949.226.7150**Direct:** 916.306.0444**Cell:** 925.366.7391**email:** tjones@mvjllp.comwww.mvjllp.com**From:** Craig Drummond <Craig@drummondfirm.com>

Sent: Tuesday, March 24, 2020 8:47 AM

To: Todd Jones <tjones@mvjllp.com>

Cc: Jason Barron <jason@the702firm.com>; Heather Bowmer <hbowmer@mvjllp.com>; Yolanda Bullock <ybullock@mvjllp.com>; Araba Panford <apanford@mvjllp.com>; Liberty Ringor <liberty@drummondfirm.com>; Michael C. Kane <mike@the702firm.com> (mike@the702firm.com) <mike@the702firm.com>

Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Todd,

Please consider this a formal request to preserve all correspondence between your office and Ms. Espinoza in this matter.

From what I understand, she reached out to your office asking to continue the deposition and your office refused and represented that she must appear on March 26th. I have not spoken to her, but this is my understanding. If this is true, such representation on behalf of the Defendants would be in direct violation of EJDC Administrative Order 20-09.

As I am sure you have advised your clients, we will likely be seeking case concluding sanctions if the facts show an intentional violation of an Order by the Chief Judge of the Eighth Judicial District.

Thank you.

Craig



Craig W. Drummond

Trial Attorney

Main Phone: 702-366-9966

Fax: 702-508-9440

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Craig W. Drummond is licensed to practice law in Nevada and Missouri and is affiliated with other law firms. This message contains information which may be confidential and privileged. Unless you are the intended addressee (or authorized to receive for the intended addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply and delete the message. Thank you.

From: Craig Drummond

Sent: Friday, March 20, 2020 6:46 PM

To: Todd Jones <tjones@mvjllp.com>

Cc: Jason Barron <jason@the702firm.com>; Heather Bowmer <hbower@mvjllp.com>; Yolanda Bullock <ybullock@mvjllp.com>; Araba Panford <apanford@mvjllp.com>; Liberty Ringor <liberty@drummondfirm.com>; Michael C. Kane <mike@the702firm.com> (mike@the702firm.com) <mike@the702firm.com>

Subject: Re: Bessu Herrera - Deposition of Nancy Espinoza

Todd,

Pursuant to EJDC Administrative Order 20-09, para. V, as we cannot agree to the terms of this deposition, please vacate it for at least 30 days.

If you move forward, we will seek sanctions for an intentional violation of an order of Chief Judge Bell.

Craig



Craig W. Drummond
Trial Attorney

Phone: [702-366-9966](tel:702-366-9966)

Phone: [702-4-INJURY](tel:702-4-INJURY)

Fax: [702-508-9440](tel:702-508-9440)

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[Las Vegas, NV 89101](#)

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On Mar 18, 2020, at 11:40 AM, Craig Drummond <Craig@drummondfirm.com> wrote:

Todd,

My office asked for professional courtesy to reschedule this deposition based on the Coronavirus and lockdowns and shutdowns in Las Vegas. Highly unlikely a Judge will

sanction someone for not appearing next week. As you know, most Judges cancelled in person hearings as they did not want to be in small rooms with others. If you continued this we would certainly do what we could with our client to assist in getting Ms. Espinoza to appear.

However, you do what whatever you want.

Thanks.

Craig

Craig W. Drummond
DRUMMOND LAW FIRM, P.C.
P: (702) 366-9966
F: (702) 508-9440
www.DrummondFirm.com

On Mar 18, 2020, at 11:22 AM, Todd Jones <tjones@mvjllp.com> wrote:

Hi Craig, thanks for confirming your office does not represent Ms. Espinoza nor will be vouching for her.

Perhaps you didn't fully read my email below. I have no problem re-scheduling Ms. Espinoza's deposition for a later, mutually agreeable time and date and I appreciate both plaintiff's counsel agreeing to do so. The problem is with Ms. Espinoza herself. She actively tried to avoid being served with the deposition subpoena and immediately after being served with a valid/enforceable subpoena, she contacted my office and clearly stated she was "not a witness" and was refusing to appear for her deposition. This is not an issue of rescheduling a deposition but a witnesses' outright refusal to obey a lawful subpoena.

Since your office is (understandably) not in a position to make any promises on her behalf, my office will reach back out to her in an attempt to re-set her deposition for the mid-April timeframe. If she is agreeable to do so, great, we will circulate a new deposition date/notice, etc. However, if she continues to refuse to appear at all (for a new date), then I will simply go forward with her deposition on the date she has been subpoenaed for and make a record that I can later take to the Court as part of a motion to Compel, etc.

I certainly have no problem explaining this situation to the District Court Judge. Thank you,

Todd A. Jones
 Partner | Admitted in: CA, NV
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 2251 Fair Oaks Blvd., Suite 100
 Sacramento, CA 95825
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Direct: 916.306.0444
Cell: 925.366.7391
email: tjones@mvjllp.com
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From: Craig Drummond <Craig@drummondfirm.com>
Sent: Wednesday, March 18, 2020 10:49 AM
To: Todd Jones <tjones@mvjllp.com>
Cc: Jason Barron <jason@the702firm.com>; Heather Bowmer
 <hbowmer@mvjllp.com>; Yolanda Bullock <ybullock@mvjllp.com>; Araba
 Panford <apanford@mvjllp.com>; Liberty Ringor
 <liberty@drummondfirm.com>; Michael C. Kane
 <mike@the702firm.com> (mike@the702firm.com)
 <mike@the702firm.com>
Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Todd,

We will try and reach out to Ms. Espinoza to inquire as to her schedule.
 We do not represent her and I am not going to make any promises on
 someone I do not represent.

If you want to keep the matter on calendar that is your prerogative and if
 she does not show, you can then explain to the District Court Judge why
 you went forward with a depo of a non-party after both Plaintiffs had just
 agreed to your request to extend discovery, and the day after the Nevada
 Governor shut down all non-essential offices for 30 days.

Your call.

Thanks.

Craig

Craig W. Drummond

Trial Attorney

Main Phone: [702-366-9966](tel:702-366-9966)

Fax: 702-508-9440

<image001.png>

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<image002.png>

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Craig W. Drummond is licensed to practice law in Nevada and Missouri and is affiliated with other law firms. This message contains information which may be confidential and privileged. Unless you are the intended addressee (or authorized to receive for the intended addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply and delete the message. Thank you.

From: Todd Jones <tjones@mvjllp.com>

Sent: Wednesday, March 18, 2020 10:33 AM

To: Araba Panford <apanford@mvjllp.com>; Liberty Ringor
<liberty@drummondfirm.com>

Cc: Craig Drummond <Craig@drummondfirm.com>; Jason Barron
<jason@the702firm.com>; Todd Jones <tjones@mvjllp.com>; Heather
Bowmer <hbower@mvjllp.com>; Yolanda Bullock
<ybullock@mvjllp.com>

Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Importance: High

Liberty,

Please allow this to act as a further clarification on Araba's email below. Please be advised that we are willing to re-schedule the deposition of Nancy Espinoza to the mid-April timeframe contingent upon: (1) not having to re-serve Ms. Espinoza for the new deposition; and (2) the witness agreeing to appear at a new/later mutually agreeable date and time for her deposition. (Note we have confirmed that Esquire is currently open and intends to remain open to provide Court Reporting services.)

Please advise if your office has been in contact with Ms. Espinoza and/or whether your office is agreeing to produce her on a later/mutually agreeable date/time? As Ms. Espinoza was apparently trying to avoid service of the deposition subpoena and may be refusing to attend her deposition, we are unable to take the current deposition date off calendar until we have assurances from your office or Ms. Espinoza that she will agree to appear at her deposition at a re-scheduled later date.

In the event you are not in contact with Ms. Espinoza, my office will reach out to her to see if she is agreeable to rescheduling her deposition to a later date and will advise you accordingly. Thank you,

Todd A. Jones
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From: Araba Panford <apanford@mvjllp.com>
Sent: Wednesday, March 18, 2020 9:39 AM
To: Liberty Ringor <liberty@drummondfirm.com>; Todd Jones <tjones@mvjllp.com>
Cc: Craig Drummond <Craig@drummondfirm.com>; Jason Barron <jason@the702firm.com>
Subject: RE: Bessu Herrera - Deposition of Nancy Espinoza

Hi Liberty,

Yes, we will move the deposition to mid/late April due to virus.
 Does April 23rd work?

Araba Panford
Associate
MOKRI VANIS & JONES, LLP
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 Las Vegas, NV 89117
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Cell: 617-816-4549
email: apanford@mvjllp.com

From: Liberty Ringor <liberty@drummondfirm.com>
Sent: Tuesday, March 17, 2020 9:06 AM
To: Araba Panford <apanford@mvjllp.com>; Todd Jones <tjones@mvjllp.com>
Cc: Craig Drummond <Craig@drummondfirm.com>; Jason Barron <jason@the702firm.com>
Subject: Bessu Herrera - Deposition of Nancy Espinoza

Araba and Todd,

Is it possible to move the deposition of Ms. Espinoza to mid-April given

the current coronavirus situation? Ms. Espinoza is a nurse and may not be available on March 26th.

<image007.png>

Liberty A. Ringor

Attorney

Phone: [702-366-9966](tel:702-366-9966)

Phone: [702-4-INJURY](tel:702-4-INJURY) / [702-446-5879](tel:702-446-5879)

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Our Firm Has Been Awarded

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EXHIBIT 9

EXHIBIT 9

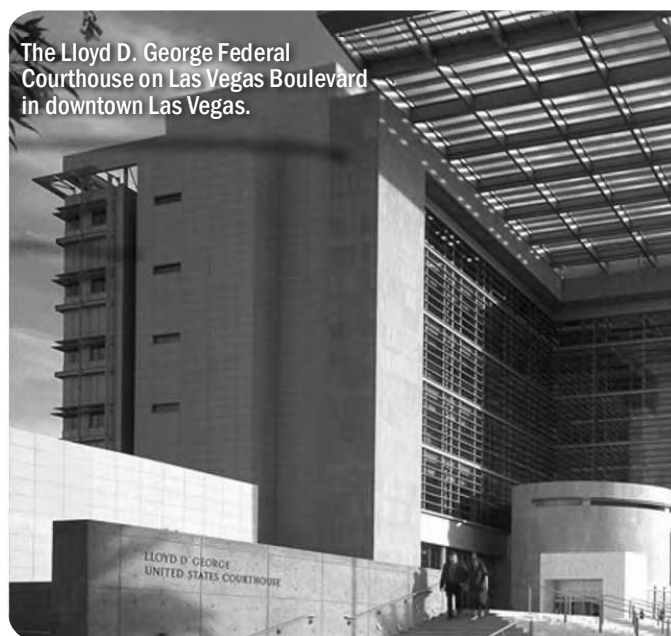
PRACTICING IN NEVADA'S STATE AND FEDERAL CIVIL COURTS: What Are the Differences?

BY JAY YOUNG, ESQ.

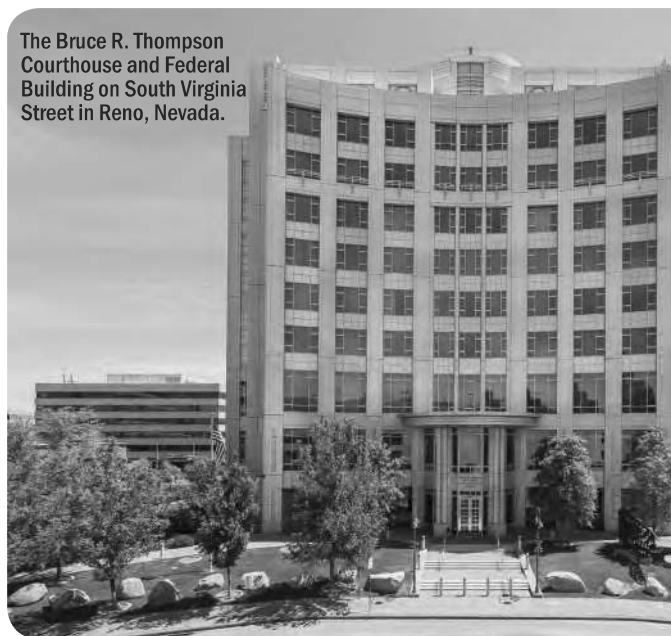
With the 2019 amendments to the Nevada Rules of Civil Procedure (NRCP), Nevada's rules are more closely aligned with the Federal Rules of Civil Procedure (FRCP) than they have been in a generation. Still, there are differences both between the rules themselves, as well as in their application. Anecdotal evidence suggests federal courts are more formal, more strictly adhere to the rules and more often hold parties to the timelines of trial orders compared to state courts. Of course, this generalization is not always true but is widely accepted as accurate. This article highlights other differences between practicing in Nevada's state and federal courts.

Jurisdiction

Generally, a U.S. district court has subject matter jurisdiction over actions presenting a federal question—that is, the matter arises under U.S. Constitution, enabling laws or treaties. 28 U.S.C. § 1331. U.S. district courts also generally have jurisdiction over a controversy between citizens of different states where the amount in controversy exceeds \$75,000.¹ Nevada district courts have original jurisdiction over matters involving title to real property or where the amount in controversy exceeds \$15,000 (NRS 4.370(1)) and the matter is not otherwise assigned to the justice courts.²



The Lloyd D. George Federal Courthouse on Las Vegas Boulevard in downtown Las Vegas.



The Bruce R. Thompson Courthouse and Federal Building on South Virginia Street in Reno, Nevada.

Magistrate Judges

The role of magistrate judges in the adjudication of matters in the federal courts cannot be overestimated. While the breadth of their authority is addressed elsewhere in this issue, their role highlights a key distinction from our state courts' administration of justice. Magistrate judges may preside over dispositive motions and other pretrial matters.³ They may also preside over jury trials and bench trials.⁴ Of course, magistrate judges hear discovery disputes, filling a role comparable to that of a discovery commissioner operating under NRCP 16.3.



Fictitious Parties

NRCP 10(d) allows a plaintiff to name a defendant by “any name” if that person’s name is not known at the time of the filing of the complaint. Under FRCP 15, fictitious name pleadings are “not favored in the Ninth Circuit” but are permissible where the defendant’s identity is not known as of the filing of the complaint.⁵

The rules allow for substitution of the actual name of the defendant once identified. Further, Nevada’s state courts allow an amendment to relate back to the initial filing.⁶ If the defendant’s identity is not discovered within the statute of limitations, a federal court *may* declare the pleading does not relate back to the filing of the complaint since the defendant may not have had adequate notice of action within the Rule 4(m) period of service. However, FRCP “Rule 15(c)(1) incorporates the relation back rules of the law of a state when that state’s law provides the applicable statute of limitations and is more lenient.”⁷ Following this ruling, Nevada federal judges have applied the NRCP 10 standard in unpublished opinions, allowing amendments to relate back.

Discovery

There are major differences regarding discovery between the state and federal systems. NRCP 16.1’s mandatory disclosure provision diverges from FRCP 26’s requirements “in key respects.”⁸ NRCP 16.1 requires:

- (1) the identity of impeachment and rebuttal witnesses, which is broader than the federal requirement;
- (2) “any record, report, or witness statement in any form, including audio or audiovisual form, concerning the incident that gives rise to the lawsuit”, which is broader than the federal requirement;
- (3) the identity of each relevant treating medical provider in a personal injury case; and
- (4) the identity of all witnesses who have been subpoenaed for trial.

NRCP 30 differs from FRCP 30 in several respects. Under NRCP 30:

- (1) a custodian of records deposition authenticating documents subpoenaed from a non-part does not count against a party’s limit of 10 depositions;
- (2) a party must give at least 14 days’ notice of a deposition, as opposed to the federal requirement of “reasonable” notice;
- (3) The Advisory Committee Notes reveal “7

hours of testimony... means 7 hours on the record”; and

- (4) the Advisory Notes specifically incorporate the *Coyote Springs Inv., LLC v. Eighth Judicial Dist. Court*, 131 Nev. 140, 149, 347 P.3d 267, 273 (2015) ruling (discussions between deponent and counsel during a convenience break are not privileged unless counsel called the break to preserve a privilege, enforce an order or to seek a protective order).

NRCP 33 allows 40 interrogatories, while FRCP 33 allows 25. NRCP 36 allows 40 requests for admission, while FRCP 36 allows an unlimited number (assuming the same are proportional to the needs of the case).

NRCP 35 allows the court to order an audio recording of physical and/or mental examinations for good cause shown. An examinee may bring an observer (if the observer is not the attorney or anyone employed by the attorney representing the examinee) to the examination. Changes to NRS Chapter 52 required by AB 285 ostensibly overrule portions of NRCP 35.⁹ AB 285 allows the examinee’s attorney to observe the examination. Further, the observer may make a stenographic record of the examination and may suspend the examination to obtain a protective order against abuse or if the exam attempts to exceed the scope of the court’s order.

NRCP 45(a)(4) requires all parties be given seven days’ notice before serving a subpoena duces tecum (SDT); the notice gives parties an opportunity to obtain a protective order before the subpoena is served. The rule also requires prompt disclosure of all documents produced by a third-party pursuant to a SDT. FRCP 45(a)(4) only requires that notice be given to a party before the SDT is served and doesn’t require prompt disclosure (although it is still the best practice).

Trial

The following illustrates differing treatment of matters relating to trial:

- Discharge in bankruptcy is an affirmative defense under NCRP 8, but not under the FRCP;
- NRS 13.050 declares improper venue is not a basis for dismissal in state court. Persons joined to an action under NRCP 19 retain the right to move to change venue. Under FRCP 19(a)(3), dismissal of the action against a joined party is required where the venue is improper;
- NRCP 41(e) allows dismissal of an action for want of prosecution. LR 41-1 allows dismissal of actions pending for more than 270 days without prosecution;

CONTINUED ON PAGE 11

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PRACTICING IN NEVADA'S STATE AND FEDERAL CIVIL COURTS

- NRCP 25 allows substitution 180 days after notice of the death of a party; FRCP 25 allows up to 90 days;
- Under NRCP 38, a party's right to a jury trial is waived by the failure to make a timely jury demand; and
- Under NRCP 48, a jury must number at least eight unless otherwise stipulated between the parties but may consist of no fewer than four persons. Under FRCP 48(a), a jury must number at least six and no more than 12 persons.

Offers of Judgment

The penalty under FRCP 68(d) for failing to accept an offer of judgment where the offeror obtains a more favorable result thereafter is ostensibly limited to payment of the costs (but not attorney fees) incurred by the offeror after the offer was made. NRCP 68 allows an award of both fees and costs as a penalty for rejecting such an offer. *MRO Communications v. AT&T*, 197 F.3d 1276, 1280 (9th Cir. 1999) seems to suggest that NRCP 68 treatment is available even if the offer is made pursuant to FRCP 68. Finally, where a "court is exercising its subject matter jurisdiction over a state law claim," an offeror may recover attorney fees where a state law provides for an award of attorney fees if the law "reflects a substantial policy of the state" and "does not run counter to a valid federal statute or rule of court."¹⁰ Fees may also be awarded where a substantive state law provides for an award of attorney fees.¹¹ Under NRCP 68(a), one may make an offer whether prosecuting or defending a claim.

Best practice requires a careful practitioner to review the rules of procedure as well as local rules before practicing in an unfamiliar jurisdiction. That best practice extends to uninitiated practitioners venturing into Nevada's state and federal courts. Careful review of the applicable rules and consultation with others knowledgeable about local practices are a must.

1. 28 U.S.C. § 1332(a).
2. Nev. Const. art. VI, § 6. Justice courts have jurisdiction over all civil actions where the amount in controversy is \$15,000 or less, and as otherwise listed in NRS 4.370.
3. 28 U.S.C. § 636(b)(1)(A).
4. 28 U.S.C. § 636(c)(1); LR IB 2-1, 2-2.
5. *Swartz v. Gold Dust Casino*, 91 F.R.D. 543, 546 (D. Nev. 1981) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)).
6. See Advisory Committee Notes to NRCP 15.
7. *Butler v. Nat'l Cmty. Renaissance of Cal.*, 766 F.3d 1191, 1201 (9th Cir. 2014).
8. Nevada Advisory Committee Notes to Rule 16.1.

9. One could argue AB 285 violates constitutional separation of powers, but that will be for the court to determine if the legislation is challenged.
10. *Beach v. Wal-Mart Stores, Inc.*, 958 F. Supp. 2d 1165, 1170 (D. Nev. 2013) (quoting *MRO Commc'ns*, 197 F.3d at 1281 (quoting *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240, 259 n. 31, 95 S.Ct. 1612, 44 L.Ed.2d 141 (1975))).
11. *Walsh v. Kelly*, 203 F.R.D. 597 (D. Nev. 2001).

JAY YOUNG is a full-time mediator and arbitrator with more than 25 years of experience as a litigator in Nevada's state and federal courts. He is also the author of several books, including *Nevada State Court Litigation Checklist* and *Federal Court Civil Litigation Checklist*. He can be reached at www.nevadawlaw.info.



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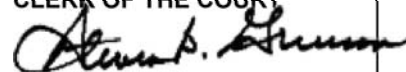
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Steven D. Grierson
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OPPS

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Nevada Bar No. 7468
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nadams@wshblaw.com

Attorneys for Defendants, Tom Malloy
Corporation d/b/a Trench Shoring Company and
Jaime Roberto Salais

DISTRICT COURT**CLARK COUNTY, NEVADA**

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA, individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION, aka/dba
TRENCH SHORING COMPANY, a foreign
corporation, DOES I through V, inclusive, and
ROE CORPORATIONS I through V,
inclusive,

Defendants.

Case No. A-18-772273-C
Dept. No.: XXVIII

DEFENDANTS' OPPOSITION TO
PLAINTIFF ROLANDO BESSU
HERRERA'S MOTION TO STRIKE
DEFENDANTS' ANSWER

Hearing Date: June 11, 2020
Hearing Time: In Chambers

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DEFENDANTS' OPPOSITION TO PLAINTIFF ROLANDO BESSU HERRERA'S
MOTION TO STRIKE DEFENDANTS' ANSWER

Defendants, TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY and JAIME ROBERTO SALAIS ("Defendants"), by and through their counsel of record, the law firm of Wood, Smith, Henning & Berman LLP, hereby file their Opposition to Plaintiff's Motion to Strike Defendants' Answer.

This Opposition is made and based upon the attached memorandum of points and authorities, all papers and pleadings on file herein, and upon such other oral and documentary evidence as may be presented at the time of hearing on this Motion.

May 18, 2020

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law

By /s/ Joel D. Odou

JOEL D. ODOU
Nevada Bar No. 7468
JENNIFER B. SHOMSHOR
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2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 ♦ FAX 702 251 5405

**DECLARATION PURSUANT TO NRS 53.045 OF JOEL D. ODOU, ESQ. IN SUPPORT
OF DEFENDANTS' OPPOSITION TO PLAINTIFF BESSU HERRERA'S MOTION TO
STRIKE DEFENDANTS' ANSWER TO THE COMPLAINT**

I, Joel D. Odou make this Declaration pursuant to NRCP 56, EDCR 2.21, 2.26 and 2.47.

1. I am an attorney at law, duly admitted to practice before the courts of the State of Nevada. I am an attorney with Wood, Smith, Henning & Berman LLP, attorneys of record for Defendants, Jaime Salais and Tom Malloy Corp.

2. I know the following facts to be true of my own knowledge, and if called to testify, I could competently do so.

3. This Opposition is not brought for purposes of harassment or delay, but to secure a speedy resolution of these issues.

4. I make this Declaration in support of **DEFENDANTS' OPPOSITION TO PLAINTIFF BESSU HERRERA'S MOTION TO STRIKE DEFENDANTS' ANSWER TO THE COMPLAINT.**

5. In the course of discovery, Todd Jones, Esq. received an unsolicited email from Plaintiff Herrera's former girlfriend, Nancy Espinoza on April 28, 2019.

6. A true and correct copy of TMC002802-TMC002826 disclosed by Defendants and constituting the totality of the known email correspondence between Todd Jones, Esq. and Nancy Espinoza is attached hereto as **Exhibit "A."**

7. Defendants identified Nancy Espinoza as a witness in their NRCP 16.1 Disclosure served March 12, 2020.

8. Plaintiff Bessu Herrera identified Nancy Espinoza as a witness in his NRCP 16.1 Disclosure served April 22, 2020.

9. Plaintiff Perez-Acosta identified Nancy Espinoza as a witness in his NRCP 16.1 Disclosure served April 23, 2020.

10. A true and correct copy of Nancy Espinoza's April 22, 2020 deposition transcript is attached hereto as **Exhibit "B."**

///

1 11. A true and correct copy of Defendants' Supp. NRCP 16.1 disclosure served April 23,
2 2020, excluding enclosures, is attached hereto as **Exhibit "C."**

3 12. A true and correct copy of Defendants' Supp. NRCP 16.1 disclosure served May 14,
4 2020, excluding enclosures, is attached hereto as **Exhibit "D."**

5 13. Discovery was set to close on April 27, 2020, but the parties reached an agreement to
6 extend discovery on May 7, 2020.

7 14. A stipulation and order to extend discovery and trial has been submitted to the
8 Department.

9 15. The parties have requested a close of discovery date of June 30, 2020.

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

12 Executed on: May 18, 2020
13 Date

/s/ Joel D. Odou
Joel D. Odou, Esq.

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 ♦ FAX 702 251 5405

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Bessu Herrera urges this Court to strike Defendants' Answer and impose default judgment for allegedly withholding information in discovery that it received, unsolicited, from Plaintiff's former girlfriend. The documentary evidence at issue was not discoverable until the deposition of Ms. Espinoza on April 22, 2020, at which time it was disclosed. Notably, Plaintiff had previously failed to disclose Ms. Espinoza as a witness despite the fact that he stayed with her in her home. Plaintiff Herrera now seeks to impose case ending and monetary sanctions which, if granted, would deprive any defendant and its counsel from preparing a case for trial. Plaintiff Herrera's request is unsupported by Nevada case law and statutory interpretation, and as a result, should be denied.

II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

This case arises out of a rear-end motor vehicle collision. *See generally* Complaint on file. In the course of discovery, Defendants' counsel Todd Jones, Esq. received an unsolicited email from Plaintiff Herrera's former girlfriend, Nancy Espinoza on April 28, 2019. Decl. para. 5; Ex. A, Email Correspondence at TMC002804. Ms. Espinoza had personal knowledge of the events that give rise to the Complaint and her email suggested that she knew that the motor vehicle accident was "planned" in an effort to defraud the insurance companies. Ex. A, Email Correspondence at TMC002804.

Defendants properly identified Ms. Espinoza as a witness in their NRCP 16.1 Disclosure served March 12, 2020. Decl. para. 7. Plaintiffs also identified Ms. Espinoza as a witness in their NRCP 16.1 Disclosures served on April 22, 2020 (Plaintiff Herrera) and April 23, 2020 (Plaintiff Perez-Acosta). Dec. paras. 8-9. Ms. Espinoza was deposed on April 22, 2020. *See* Ex. B, Espinoza Dep. Tr.

Inexplicably, after sending this e-mail, during her deposition Ms. Espinoza stated that she didn't know if Plaintiffs planned on setting up an accident. Ex. B, Espinoza Dep. Tr. at pp. 35:14-38:6. Defense counsel presented her with her April 28, 2019 email to refresh her recollection. Ex. B, Espinoza Dep. Tr. at pp. 38:7- 43:20. Ms. Espinoza then began to contradict the contents of her own email. *Id.* She was questioned about this change in her statement by all parties. Ex. B, Espinoza Dep. Tr. at pp. 46:16-48:12, 50:19-56:13, 57:9-59:17.

Further, this testimony came out even when counsel for Plaintiff's attempted to claim that the defense had no good faith basis to ask Ms. Espinosa questions about her accusation and counsel made speaking objections attempting to chill Ms. Espinosa's testimony:

Q. Do you recall sending that e-mail?

A. Yes.

Q. And that was from you, correct?

A. Yes.

Q. Other than the conversation that you overheard Rolando having on the phone, were there any other times when you heard him talking to anybody about this case possibly being a setup?

A. I don't recall.

Q. The call –

MR. DRUMMOND: This is Attorney Craig Drummond. I'm going to further object. It's a nonproduction of this subject e-mail, and from what I'm understanding, which I've never seen it, we're now just talking about an **extortion**. **Therefore, you may want to read somebody her rights** -- or at least give somebody some information related to that, if that's what you're alleging in this e-mail. So I think we could have addressed that with the judge, but from what I'm hearing, I'm very concerned about this e-mail. And the further fact that it's never been produced, we couldn't have dealt with this before this deposition, and I don't think it's fair to go ahead and ask –

MR. BARRON: Join.

MR. DRUMMOND: -- somebody like that unless they're informed of their rights.¹

Immediately following the deposition the email was disclosed by Defendants in their Supp. NRCP 16.1 Disclosure served April 23, 2020. Ex. C, Defs.'s April 23, 2020 Supp. Disclosure. Thereafter, newly retained counsel disclosed the balance of the email correspondence upon review of the file. Ex. D, Defs.' May 14, 2020 Supp. Disclosure.

Discovery was set to close on April 27, 2020, but the parties reached an agreement to extend discovery on May 7, 2020. Decl. para. 13. A stipulation and order to extend discovery and trial has

¹ Ex. B, Espinoza Dep. Tr. at pp. 43:17-44:19 (emphasis added)

1 been submitted to the Department. Decl. para. 14. The parties have requested a close of discovery date
2 of June 30, 2020. Decl. para. 15.

3 **III. LEGAL ARGUMENT**

4 Plaintiff Herrera's request for Defendants' Answer to be stricken is not warranted in this case.
5 No discovery abuse occurred, and the abuse claimed does not rise to the level required to strike
6 Defendants' Answer. Defendants had no duty to disclose the email correspondence prior to Ms.
7 Espinoza's deposition because it was not discoverable pursuant to NRCP 26(b) (2019). Defendants
8 did not commit any discovery abuse by withholding documentary evidence and identification was not
9 necessary to comply with NRCP 16.1(a)(1)(A)(ii) (2019) and have attempted in good faith, over the
10 conduct of Plaintiffs' counsel at the deposition in making speaking objections to intimidate the
11 witness, to get to the truth of the matter.

12 **A. Defendant Met All Obligations with Respect to NRCP 16.1**

13 A party is required to identify by name each individual "likely" to have discoverable
14 information in accordance with NRCP 26(b) (2019) and produce a copy or category description of
15 "nonprivileged" documents in its possession that it may use to support its claims or defenses. NRCP
16 16.1(a)(1)(A)(i-ii) (2019). Generally, "in addition to the disclosures required by Rule 16.1(a)(1)," a
17 party must make separate pretrial disclosures identifying witnesses and documents at least 30 days
18 before trial, unless otherwise ordered by the court. NRCP 16.1(a)(3)(A-B) (2019). In this case
19 Defendants promptly identified Ms. Espinoza as a witness and disclosed email correspondence with
20 her after she denied the contents of the correspondence during her deposition. Defendants made all
21 disclosures in a timely fashion and in advance of trial.

22 ***1. Information and documentary evidence of Ms. Espinoza's statements to*** 23 ***counsel was privileged until the time of her deposition.***

24 Defendants vetted whether Ms. Espinoza was "likely" to have discoverable information,
25 identified her as a witness in its Disclosure, and thereafter sought her deposition to determine the
26 scope of the discoverable information she had. *See*, NRCP 16.1(a)(1)(A)(i). The documentary
27 evidence (email correspondence) was privileged and Plaintiffs are not entitled to compulsory
28 disclosure until after the deposition of Ms. Espinoza, and only then because she made contradictory

1 statements under oath. *See*, NRCP 16.1(a)(1)(A)(ii) (2019).

2 The work-product privilege "protects an attorney's mental impressions, conclusions, or
3 legal theories concerning the litigation, as reflected in memoranda, **correspondence**,
4 **interviews**, briefs, or in other tangible and intangible ways." Rather than protecting the
5 confidential relationship between attorney and client, the work-product privilege exists
6 to ... safeguard... the **fruits** of an attorney's **trial preparations** Thus, "unlike the
attorney-client privilege, selective disclosure of work product to some, but not to
others, is permitted," and disclosure to third parties does not automatically waive the
privilege.

7 *Cotter v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 134 Nev. 247, 250, 416 P.3d 228, 232
8 (2018) (emphasis added) (quoting, *Wardleigh v. Second Judicial Dist. Court In & For Cty. of Washoe*,
9 111 Nev. 345, 357, 891 P.2d 1180, 1188 (1995); *Wynn Resorts, Ltd. v. Eighth Judicial Dist. Court in*
10 *& for Cty. of Clark*, 133 Nev. 369, 385-86, 399 P.3d 334, 349 (2017), reh'g denied (Sept. 28, 2017);
11 other internal citations omitted); *see also Wynn Resorts, Ltd.*, 133 Nev. at 386 (finding that waiver of
12 the protection is usually found when the material is disclosed to an adversary because it defeats the
13 policy that underlies the privilege), reh'g denied (Sept. 28, 2017).

14 Defendants had no duty to disclose the initiating email when received on April 28, 2019. At
15 that time the email did not "support ... claims or defenses" and was not to be used as "impeachment or
16 rebuttal" material. *See*, NRCP 16.1(a)(1)(A)(ii) (2019). Defendants had no duty to produce "a copy –
17 or a description by category and location" of the emails because the email correspondence did not
18 support the claims or defenses and did not become impeachment material until the deposition of Ms.
19 Espinoza. *Id.* It was only once Ms. Espinoza denied the substance of the correspondence in deposition
20 that the emails gained evidentiary value. The initiating email was produced to the witness at the
21 deposition for the sole purpose of impeachment after her inconsistent testimony.

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1 **B. Defendant Fully Responded to Written Discovery**

2 Plaintiff Herrera's Request for Production No. 2, served October 2, 2019, seeks documents
3 commonly referred to as the insurance carrier's claim file, which Defendant produced:

4 **Request No. 2.**

5 Please produce a copy of your complete file for the incident, which is the subject of this
6 lawsuit, whether in hard copy or electronic form, including but not limited to, the entire file,
7 all photographs, all recorded and written statements, copies of checks for any payouts
8 regarding this incident to anyone, printouts from the computer communications and electronic
9 databases and logs, the electronically imaged documents, the reports and investigations, and
10 the correspondence.

11 *See*, Pl.'s Mot. Strike at 6:1-21 and ex. 1. Plaintiff Herrera's Request for Production No. 2 can not
12 reasonably be construed to seek production of privileged materials contained within Defense counsel's
13 trial preparation file, developed only after litigation commenced.

14 NRCP 34(a) permits a party to request documents and tangible things "**within the scope of**
15 **Rule 26(b)**". NRCP 34(a) (2019). Trial preparation materials are ordinarily not discoverable and
16 Defendants had no duty to describe the contents of their counsel's trial preparation materials in a
17 privilege log. *See*, NRCP 26(b)(3)(A) (2019). At best, Plaintiff Herrera's Request for Production No. 2
18 improperly seeks undiscoverable trial preparation materials.

19 Plaintiff Herrera makes no legal argument in support of a contention that Defendants did not
20 fully respond to Request for Production No. 2, justifying sanctions in accordance with NRCP 37(d)
21 (2019). Rather, Plaintiff Herrera merely quotes the request and response (*see*, Pl.'s Mot. Strike at 6:1-
22 21) and later quotes the statute applicable to sanctions for failure to respond to a **request for**
23 **inspection** (*see*, Pl.'s Mot. Strike at 11:1-12) (emphasis added); *see*, NRCP 37(d)(1)(A)(ii) (2019)
24 (grounds for sanctions where "a party ... served with ... **a request for inspection under Rule 34,**
25 **fails to serve its answers, objections, or written response.**" (emphasis added)).

26 Plaintiff Herrera's Request for Production No. 2 is not a request for inspection pursuant to
27 NRCP 34. Plaintiff Herrera's Request for Production No. 2 can not be construed to compel production
28 (or identification) of privileged and undiscoverable information. Defendant fully and reasonably
responded to Plaintiff Herrera's request. To the extent Plaintiff Herrera suggests that he is entitled to
sanctions in accordance with NRCP 37(d), Plaintiff Herrera failed to articulate any legal grounds for
sanctions and his request should be denied.

1 **C. Plaintiff is Not Entitled to Sanctions**

2 Only if the Court finds that the information sought was (1) not privileged; (2) discoverable;
3 and (3) not timely disclosed, may sanctions issue against Defendants. In the unlikely event of such a
4 finding, the sanctions sought should be denied because Defendants' actions were substantially
5 justified, the delay in disclosure was harmless, and striking Defendants' Answer and/or granting
6 monetary sanctions would be unjust.

7 NRCP 37(b) provides remedies for failure to comply with a discovery order and grants the
8 Court the power to issue further orders that **may** include striking the pleadings in whole or in part.
9 NRCP 37(b)(1)(C) (2019) (emphasis added). Typically, a party that fails to provide information or
10 identify a witness is not allowed to use the information or witness to supply evidence on a motion, at
11 hearing, or in trial, unless the failure was "substantially justified or is harmless." NRCP 37(c)(1)
12 (2019). "In addition to or instead of this sanction, the court, **on motion and after giving an**
13 **opportunity to be heard:** (A) may order payment of the reasonable expenses, including attorney fees,
14 caused by the failure...." NRCP 37(c)(1)(A-C) (2019). Only where a party fails to respond to
15 interrogatories may they be subject to sanctions pursuant to NRCP 37(b)(1), "requir[ing] the party
16 failing to act, the attorney advising that party, or both to pay the reasonable expenses, including
17 attorney fees, caused by the failure, **unless the failure was substantially justified or other**
18 **circumstances make an award of expenses unjust.**" NRCP 37(d)(3) (emphasis added).

19 The Nevada Supreme Court has stated "the general rule in the imposing of sanctions is that
20 they be applied only in extreme circumstances where willful noncompliance of a courts order is
21 shown." *Finkleman v. Clover Jewelers Boulevard, Inc.*, 532 P.2d 608, 609 (Nev. 1975); *see also*,
22 *Blanco v. Blanco*, 129 Nev. 723, 729, 311 P.3d 1170, 1174 (2013) ["While the district court enjoys
23 broad discretion in imposing discovery sanctions, when the sanction imposed is dismissal with
24 prejudice, a heightened standard of review applies. Procedural due process considerations require that
25 such case-concluding discovery sanctions be just and that they relate to the claims at issue in the
26 violated discovery order."] *citing*, *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 92, 787 P.2d 777,
27 779–80; *see also*, *Foster v. Dingwall*, 126 Nev. 56, 64, 227 P.3d 1042, 1048 (2010).

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The offending conduct in *Foster* involved counsel and deponent parties' failure to appear for agreed upon depositions in Canada. *Foster*, 126 Nev. at 61-62. In that case the first motion for sanctions resulted in lesser sanctions and notice to the offending parties regarding the conduct at issue. *Id.* at 63. After the second motion for sanctions regarding the same conduct, the court held an evidentiary hearing on the *Young* factors, and ultimately granted the motion for sanctions. *Id.* The *Foster* court struck the pleadings and entered defaults against the offending parties before holding a prove-up hearing to determine damages. *Id.* On appeal, the Nevada Supreme Court did not disturb the District Court's imposition of case-ending sanctions because it was apparent from the "detailed strike order" that the "conduct during discovery was repetitive, abusive, and recalcitrant." *Id.* at 64. The Supreme Court also concluded that monetary sanctions were appropriate for the same reasons, citing the fact that the claims and defenses were unfounded, frivolous, and asserted in bad faith. *Id.* at 72.

This case is factually distinguishable from *Foster* in several important ways. First, this is the first motion for sanctions related to the conduct alleged, no lesser sanction has been requested or imposed on Defendant. *Id.* at 61-63. Unlike *Foster*, Defendants have not individually been made aware of these alleged discovery abuses prior to the filing of this motion. *Id.* No evidentiary hearing has been requested or conducted. *Id.* Here, Defendants' conduct, and the conduct of their counsel, was reasonable, permissible, and cannot be construed as abusive, repetitive, or recalcitrant considering the *Young* factors. *Id.* at 64.

The *Young* factors do not weigh in favor of striking Defendants' Answer. Striking a party's operative pleading is a case-ending sanction, and case-ending sanctions are only appropriate where "a party has engaged deliberately in deceptive practices that undermine the integrity of judicial proceedings." *Leon v. IDX Systems Corp.*, 464 F.3d 951, 958 (9th Cir. 2006) (citing *Anheuser-Busch, Inc. v. Natural Beverage Distributors*, 69 F.3d 337, 348 (9th Cir. 1995)). Before imposing such a harsh sanction, a court should consider the following factors:

- (1) the degree of willfulness of the offending party;
- (2) the extent to which the non-offending party would be prejudiced by a lesser sanction;
- (3) the severity of the sanction of case-terminating sanction relative to the severity of the discovery abuse;
- (4) whether any evidence has been irreparably lost;

- (5) the feasibility and fairness of alternative, less severe sanctions, such as an order deeming facts relating to improperly withheld or destroyed evidence to be admitted by the offending party;
- (6) the policy favoring adjudication on the merits;
- (7) whether sanctions unfairly operate to penalize a party for the misconduct of his or her attorney; and
- (8) the need to deter both the parties and future litigants from similar abuses.

Young, 106 Nev. at 88, 787 P.2d at 777 (1990) (affirming the dismissal of plaintiff's case upon a showing that the plaintiff willfully fabricated evidence during discovery); *see also Leon*, 464 F.3d at 958 (citing *Anheuser-Busch*, 69 F.3d at 348).

1. *Defendants' actions were not willful.*

There is absolutely no evidence that Defendants willfully withheld communications with Ms. Espinoza. Defendants reasonably responded to written discovery, vetted unsolicited comments from a non-party witness, and thereafter noticed and took Ms. Espinoza's deposition. Astonishingly, Ms. Espinoza denied the substance of her correspondence when deposed, elevating the emails to discoverable evidence. Defendants disclosed the correspondence in a timely fashion thereafter.

2. *Plaintiff is not prejudiced by a lesser sanction.*

Plaintiff does not request anything short of constructive dismissal and monetary sanctions. While Defendants maintain that their actions were not sanctionable at all, a lesser sanction ordering a subsequent deposition of Ms. Espinoza, should Plaintiffs want to take it, would be more appropriate, since all parties have an interest in getting the truth. Further, it should be noted that Plaintiff has had a relationship with Ms. Espinoza and even stayed with her a couple of weeks before the deposition and spoke to her the day before the deposition, yet did not disclose her until after the deposition.² Defendants' conduct in discovery has not been egregious, and no sanctions have previously been imposed upon Defendants in this case. Plaintiff has not incurred any prejudice and would not be prejudiced by a lesser sanction.

3. *Case terminating and monetary sanctions would be unjust.*

Constructive dismissal is a severe sanction that, on balance, would be unjust absent abusive

² Ex. B, Espinoza Dep. Tr. at pp. 12: 20-21, and 13: 10-11.

conduct. Monetary sanctions predicated on Defendants' reasonable interpretation of the discovery requests and disclosure of information following an unexpectedly hostile non-party deposition would similarly be unjust. Plaintiff has aggressively pursued this, ultimately, inconsequential issue to attain a tactical advantage at a time when Defendants were associating in new counsel and practice in the jurisdiction was impacted by COVID-19 administrative orders.³ Defendants meaningfully participated in discovery and disclosed information as its nature became apparent. Ms. Espinoza may still be called as a witness at trial and she may be cross-examined by all parties regarding the email correspondence and the inconsistencies in her prior statements. On balance, case ending and monetary sanctions do not equal the severity of even the alleged abuse.

4. *No spoliation of evidence has occurred, Plaintiff has not been harmed.*

The witness at issue is the former girlfriend of Plaintiff Bessu Herrera. Her deposition has been taken and she was identified by all parties as a witness. She is a local resident and her ongoing whereabouts are likely best known to Plaintiff Herrera himself. Furthermore, the documentary evidence (email correspondence) was disclosed. No spoliation has occurred, and the parties have agreed to extend discovery. Plaintiff has not been harmed by any perceived delay in disclosure.

5. *Lesser sanctions are both feasible and fair.*

To the extent the first deposition was insufficient and Plaintiff is unable to simply inquire with Ms. Espinoza directly, it is both feasible and fair to impose a lesser sanction and issue an order granting Plaintiff another opportunity to depose Ms. Espinoza regarding the email correspondence. *See*, NRCP 30(a)(2). This less severe sanction strikes a more appropriate balance given sufficient time remains in discovery remains to prepare this matter for trial.

6. *This matter should be adjudicated on the merits.*

Adjudication on the merits is favored. Defendants have not acted in an abusive manner in the course of discovery. Weighing the facts surrounding Ms. Espinoza's deposition testimony there is not suggestion that Defendant obstructed Plaintiff Herrera by willfully, and improperly, withholding

³ "This is not the time to press for unwarranted tactical advantages, unreasonably deny continuances or other accommodations, or otherwise take advantage of challenges presented due to the current pandemic." Admin. Order 20-13, Eighth Jud. Dist. Ct., April 17, 2020.

1 information. This case has not been unreasonably delayed, the parties remain capable of presenting
2 their case and rendition of events at trial, and this matter should be adjudicated on the merits.

3 **7. *The sanctions requested, at best, unfairly penalize the Defendants.***

4 Defendants should not be penalized for the alleged misconduct of their counsel. Sanctions
5 have not issued previously in this matter. Defendants had no notice of any allegation of improper
6 withholding of evidence until the time of Ms. Espinoza's deposition (less than a month ago on April
7 22, 2019). Since then Defendants have had to seek a protective order to bar Plaintiff from deposing
8 co-counsel regarding privileged, undiscoverable, and irrelevant information related to this matter.
9 Case dispositive sanctions and monetary sanctions would operate only to unfairly penalize the
10 Defendants in this action.

11 **8. *Granting the requested sanctions would not deter similar alleged abuses.***

12 Defendants identified Ms. Espinoza as a potential witness and took her deposition, reasoning
13 that she would testify consistently with her unsolicited correspondence. When she did not, that
14 correspondence was disclosed. Sanctioning Defendants, or their counsel, would do nothing to deter
15 similar occurrences because the sanctions imposed do not address the inconsistent statements of a,
16 now hostile, witness. The veracity of the testimony is best left for the trier of fact to examine.

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1 **IV. CONCLUSION**

2 Based on the foregoing, Defendants request that this Court DENY Plaintiff Bessu Herrera's
3 Motion to Strike Defendants' Answer.

4 May 18, 2020

5 WOOD, SMITH, HENNING & BERMAN LLP
6 Attorneys at Law

7
8 By /s/ Joel D. Odou

9 JOEL D. ODOU
10 Nevada Bar No. 7468
11 JENNIFER B. SHOMSHOR
12 Nevada Bar No. 13248
13 NICHOLAS F. ADAMS
14 Nevada Bar No. 14813
15 2881 Business Park Court, Suite 200
16 Las Vegas, Nevada 89128-9020
17 Tel. 702 251 4100

18
19 Attorneys for Defendants, Tom Malloy
20 Corporation d/b/a Trench Shoring Company and
21 Jaime Roberto Salais
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By /s/ Michelle N. Ledesma
Michelle N. Ledesma, an Employee of
WOOD, SMITH, HENNING & BERMAN LLP

EXHIBIT A

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Sunday, April 28, 2019 7:25 AM
To: John Dorame; Todd Jones
Subject: insurance fraud, trench shoring company case

1 **JCCR**
2 MICHAEL C. KANE, ESQ.
3 Nevada Bar No. 10096
4 BRADLEY J. MYERS, ESQ.
5 Nevada Bar No. 8857
6 JASON BARRON, ESQ.
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16 and

17 ADAM S. KUTNER, ESQ.
18 Nevada Bar No. 4310
19 **ADAM S. KUTNER, P.C.**
20 1137 South Rancho Drive, Suite 150-A
21 Las Vegas, Nevada 89102
22 Telephone: (702) 382-0000
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, an Individual,
ROLANDO BESSU HERRERA, Individually,

Case No.: A-18-772273-C
Dept No.: 28

Plaintiffs

Date: Monday, July 30, 2018
Time: 10:00 a.m.

vs.

JAIME ROBERTO SALAIS, an Individual,
TOM MALLOY CORPORATION aka/dba

Pursuant to Administrative Order 14-2, which took effect
mandated, the parties consent to service of all documents in this case to
recipients:

The702Firm Electronic Service address: jason@the702firm.com

Law Offices of MOKRI VANIS & JONES, LLP. Electronic Ser
jdorame@mvjllp.com and dsteinhauer@mvjllp.com

The parties agree to update the E-Service Master List to reflect
posthaste.

Dated on this 20 day of August, 2018.

Dated on this 16

THE702FIRM


MICHAEL C. KANE, ESQ.
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MOKRI VANIS & JONES, LLP


JOHN DORAME, ESQ.
Nevada Bar No. 1002
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Attorneys for Defendant
CORPARATION dba
TRENCH SHORING
ROBERT SALAIS

Hi I reported this case anonymously thru insurance fraud however nothing has been done, I found your information finally and decided to be direct with it instead... My name is Nancy Espinoza I was in a relationship with Rolando Bessu Herrera for the past 3 years and friend of Maikel Acosta Perez both where fresh from Cuba and where in the same condition they claim this accident caused or worsen... wrong. First of all, the accident was planned they picked that truck and intentionally slammed there brakes due to the rabbit car in front of them slamming their brakes then fleeing the scene. Second tge already had those conditions prior to the accident, Im not sure of Maikel seeing a doctor prior however Rolando Bessu had just started seeing doctor Serru on eastern ave for the same complaints and problems prior to the accident. Why am I giving you this information? Because the its wrong and these are why our cost of insurance is so high in nevada.... Rolando Bessu repeated this scammed again with his own car and me as a passenger, I was disgusted and apalled he made me part of a scam and I didnt want any part of it he used Steven parke law with that one so you can see how similar the cases are... I am willing to be a witness and help in any way for finders fee which will save your company alot of money then paying out to those that don't deserve it. thank you for time i added case number so it's easier to look them up.

From: Joel D. Odou
Sent: Tuesday, April 21, 2020 2:01 PM
To: 'NANCY ESPINOZA'
Cc: 'Todd Jones'
Subject: RE: Rolando Bessu Herrera Case (Perez-Acosta et al., v. Trench Shoring Co.) (ORI-002)
Attachments: Amd Not. of Cont. Videotaped Depo - Nancy Espinoza -4-22-20.pdf

Dear Ms. Espinoza

I am working with Todd Jones and wanted to follow up to confirm your deposition for tomorrow, April 22, 2020, at 10 a.m. at Esquire Depositions Solutions at 2300 West Sahara Avenue, Suite 770, Las Vegas Nevada 89102.

Due to the social distancing recommendations, the deposition is being taken via video conference. The court reporter and the attorneys will not be in the room with you.

If you can no longer make the deposition tomorrow, please let me know and I can provide additional dates to you to reschedule.

Please let us know.

Thank you.

Joel D. Odou

Partner | Wood, Smith, Henning & Berman LLP
 2881 Business Park Court, Suite 200 | Las Vegas, NV 89128-9020
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From: Todd Jones [mailto:tjones@mvjllp.com]
Sent: Tuesday, March 31, 2020 8:58 AM
To: NANCY ESPINOZA
Cc: Todd Jones
Subject: RE: Rolando Bessu Herrera Case (Perez-Acosta et al., v. Trench Shoring Co.) (ORI-002)

Hi Nancy,

Here is a copy of your Amended Deposition Notice for April 22, 2020 at 10AM for your records. Please let me know if you have any questions. Thanks.

Todd A. Jones
 Partner | Admitted in: CA, NV
MOKRI VANIS & JONES, LLP
 2251 Fair Oaks Blvd., Suite 100

Sacramento, CA 95825
Main 916.306-0434 | **Fax** 949.226.7150
Direct: 916.306.0444
Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: Todd Jones
Sent: Wednesday, March 25, 2020 12:22 PM
To: NANCY ESPINOZA <naymespin80@gmail.com>
Cc: Todd Jones <tjones@mvjllp.com>
Subject: RE: Rolando Bessu Herrera Case (Perez-Acosta et al., v. Trench Shoring Co.) (ORI-002)

Thank you Nancy. We will reschedule your deposition for Wednesday, April 22, beginning at 10AM. I will send you an updated deposition notice shortly with this new start time/date and location. In the event the current coronavirus conditions/Order of the Court continues through that timeframe, we will contact you ahead of time to make arrangements to move the deposition date further out.

Todd A. Jones
 Partner | Admitted in: CA, NV
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 Sacramento, CA 95825
Main 916.306-0434 | **Fax** 949.226.7150
Direct: 916.306.0444
Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, March 25, 2020 11:27 AM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: Rolando Bessu Herrera Case (Perez-Acosta et al., v. Trench Shoring Co.) (ORI-002)

You can reschedule, Im available april 21,22 from 10-2 pm

On Mon, Mar 23, 2020 at 11:53 AM Todd Jones <tjones@mvjllp.com> wrote:

Dear Ms. Espinoza:

Thank you for your email below. Please let me clarify a few items for you regarding the current legal proceedings. First and foremost, you have now been formally and properly served with a deposition subpoena to appear for your deposition on Thursday, March 26, 2020 at Esquire Court Reporting in Las Vegas, Nevada. The deposition subpoena is the equivalent of a court order which requires you to appear by law. You yourself do not get to decide whether you are a witness or not- that is not how this process works. You have been identified as a witness in this case by both Mr. Herrera and in the disclosures made by his attorneys, and as such you are now required to give deposition testimony which is required by law. You're also legally obligated to provide any documents responsive to our deposition subpoena requests. For instance, you clearly have documents related to Mr. Herrera's 2nd accident in 2018 which you are involved with and for which insurance claims are made. Under the law, my client is entitled to any such documents.

At this time, I am writing to request that due to the ongoing coronavirus pandemic and various governmental authorities instructions/orders to stay at home and limit social contacts, I am writing to request that we continue your deposition for approximately 30 days. Understanding that you're also a nurse, I am also sympathetic that your current work schedule may or may not be very demanding. In an effort to be accommodating to you and your schedule, please confirm: (1) you are agreeable to continuing and appearing at your deposition approximately 30 days from now without the need for our office to issue a new deposition subpoena; and (2) please provide dates/times of your availability during the week of April 20, 2020 is that we can reschedule your deposition for the appropriate timeframe.

Please confirm your availability for your continued deposition at your earliest opportunity. If you refuse to agree to continue your deposition to a new, mutually agreeable date (as discussed above) and/or refuse to appear for your deposition at all (as you indicate in your email below), we will be forced to go forward with deposition on March 26 and take a "Notice of Nonappearance". The Notice of Nonappearance in conjunction with your email below stating your intention to completely disregard a lawful deposition subpoena will allow my client to go to the Court to file a Motion to Compel to force your appearance at deposition and seek sanctions against you for time/money spent to enforce my client's deposition subpoena. Again, our office would much rather not have to go through this process and we simply need your written consent that you will appear at your deposition at a later, mutually agreeable time and date.

Thank you for your prompt attention to this matter and I look forward to hearing back from you.

Todd A. Jones
 Partner | Admitted in: CA, NV
MOKRI VANIS & JONES, LLP
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Direct: 916.306.0444

Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Saturday, March 14, 2020 5:53 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Rolando Bessu Herrera Case

I dont have any of the requested documents, pictures of any videos requested. I dont have anything to do with that case. I will not be attending deposition, I will not waste your time or expenses or mine. I am giving you advance notice so you may cancel and not waste your time. I do not have any of the requested items in possession or if they exist. I am not a witness to the accident 7-12-2016.

NTTD

Todd A. Jones, Esq.
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Araba Panford, Esq.
Nevada Bar No. 11235
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8831 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: 702.880.0688
Facsimile: 949.226.7150
apanford@mvjllp.com

Attorneys for Defendants
TOM MALLOY CORPORATION dba TRENCH
SHORING COMPANY and JAIME ROBERTO
SALAIS

DISTRICT COURT
CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA, individually,
ROLANDO BESSU HERRERA,
individually,

Plaintiffs,

v.

JAIME ROBERTO SALAIS, individually,
TOM MALLOY CORPORATION,
aka/dba TRENCH SHORING
COMPANY, a foreign corporation, DOES
I through V, inclusive, and ROE
CORPORATIONS I through V, inclusive,

Defendants.

Case No. A-18-772273-C

DEPT NO.: XXVIII

Action Filed: April 4, 2018

**AMENDED NOTICE OF CONTINUED
VIDEOTAPED DEPOSITION OF NANCY
ESPINOZA**

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TO: ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants TOM MALLOY CORPORATION dba TRENCH SHORING COMPANY and JAIME ROBERTO SALAIS (collectively referred to as “Defendants”) by and through thier counsel of record, Todd A. Jones and Araba Panford of the law offices of Mokri, Vanis & Jones, LLP, hereby give notice to the parties listed below of Defendants’ intent to take the oral deposition of:

DEPONENT: NANCY ESPINOZA

DATE: April 22, 2020

TIME: 10:00 a.m.

**LOCATION: Esquire Deposition Solutions
2300 West Sahara Avenue, Suite 770
Las Vegas, NV 89102**

This deposition is to be recorded by stenographic transcription and videotaped, in addition to recording the testimony through instant visual display of the testimony, before a Notary Public or other officer duly authorized to administer oaths in the State of Nevada, pursuant to NRCP 28, 30 and 45.

If an interpreter / translator is needed by any or all of the deponents, you are required to provide notice of such need as well as the specific language and /or dialect to the noticing party no less than ten (10) days prior to the date of the scheduled deposition.

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1 Counsel invited to attend and cross-examine. In the event that the deposition is not
2 completed on the date and time specified, Defendants reserves the right to continue the deposition
3 at the next available date and time until completed.

4
5 Dated this 25th day of March, 2020

MOKRI VANIS & JONES, LLP.

6
7 /s/ Araba Panford

Todd A. Jones, Esq.
Nevada Bar No. 12983
Araba Panford, Esq.
Nevada Bar No. 11235
MOKRI VANIS & JONES, LLP.
Lakes Business Park
8831 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: 702.880.0688
Facsimile: 949.226.7150
Attorneys for Defendants
TOM MALLOY CORPORATION dba
TRENCH SHORING COMPANY and JAIME
ROBERTO SALAIS

I hereby certify that on this 25th day of March, 2020, I served a true and correct copy of the foregoing **AMENDED NOTICE OF CONTINUED VIDEOTAPED DEPOSITION OF NANCY ESPINOZA** by electronic service through Odyssey to all parties on the Court's e-service list for the above-referenced matter.

Employee of Mokri Vanis & Jones, LLP

SERVICE LIST

Michael C. Kane, Esq. Bradley J. Myers, Esq. Jason Barron, Esq. THE 702 FIRM 400 South 7 th St., Suite/Floor 4 Las Vegas, NV 89101	Counsel for Plaintiff, Maikel Perez-Acosta Telephone: (702) 776-3333 Fax: 702-505-9787 Email: Michael Kane (mike@the702firm.com) Bradley Myers (Brad@the702firm.com) Jason Barron (jason@the702firm.com) Adam Kutner (askadamkutner@yahoo.com) Venessa Patino (vpatino@adamskutner.com)
Craig W. Drummond, Esq. Liberty A. Ringor, Esq. DRUMMOND LAW FIRM 810 S. Casino Center Bl., Suite 101 Las Vegas, NV 89101	Counsel for Plaintiff, Rolando Bessu Herrera Telephone: 702-366-9966 Email: Craig Drummond (craig@drummondfirm.com) Gaylynn McCullough (gaylynn@drummondfirm.com) Liberty Ringor (liberty@drummondfirm.com)

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, March 11, 2020 5:21 PM
To: Todd Jones
Subject: Re: insurance fraud, trench shoring company case

Well Im afraid I wont be much help, The tips I gave should be enough for you to investigate, simple as him playing on a baseball team all you had to do was google his name. I will attend however because you subpoena me, that is all I will do

On Wed, Mar 11, 2020 at 5:14 PM Todd Jones <tjones@mvjllp.com> wrote:

Nancy, I completely understand your position and I am very sympathetic. The problem is Maikel and Rolando are literally making a claim against my client for millions of dollars each based on a fraudulent/fabricated car accident. You have personal knowledge of them discussing the “accident” and I am not aware of any other way to introduce evidence of this set-up without your help. If there was another way to establish this information I would be happy to do so, but I’m not aware of any other evidence at this time.

Also, unrelated to the actual accident, I understand that you have personal knowledge that Maikel and Rolando were in the same physical condition before the accident as they were after the accident. They have both denied having any pre-accident injuries or issues. Again I am extremely appreciative of your help – I’m just trying to make sure the truth comes out. Thank you,

Todd A. Jones
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email: tjones@mvjllp.com
www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, March 11, 2020 5:00 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

I had requested to remain anonymous for the tip I gave.

On Wed, Mar 11, 2020 at 4:58 PM NANCY ESPINOZA <naymespin80@gmail.com> wrote:

I am not a witness to your case, I was not involved in that and all I gave you was a tip for your case. The accident I was involved in has nothing to do with your case. I will attend but will not answer no questions as that is my right. thank you

On Wed, Mar 11, 2020 at 4:39 PM Todd Jones <tjones@mvjllp.com> wrote:

Also- I wanted to give you a heads up that we are issuing a deposition subpoena to take your deposition (i.e., a question and answer session) as third party witness in this case/accident, as well as your involvement in the 2nd accident with Rolando in 2018. Rolando recently identified you as witness several times during his deposition. I didn't want you to be blind-sides with this so please feel free to call me if you have any questions.

Thanks you,

Todd A. Jones
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Direct: 916.306.0444

Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: Todd Jones
Sent: Wednesday, March 11, 2020 2:38 PM
To: NANCY ESPINOZA <naymespin80@gmail.com>
Subject: RE: insurance fraud, trench shoring company case

Thank you. Was he with a prior baseball team before that? If so, what was their name and when did he start playing?

Todd A. Jones
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Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, March 11, 2020 2:36 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

winter of 2018 with this team

On Wed, Mar 11, 2020 at 1:35 PM Todd Jones <tjones@mvjllp.com> wrote:

Nancy, can you please tell me when Rolando first started playing baseball for the Cuban Missiles? That is important information to have. Thank you.

Todd A. Jones
 Partner | Admitted in: CA, NV
 MOKRI VANIS & JONES, LLP
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Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, January 15, 2020 3:58 PM

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Thursday, January 16, 2020 9:04 PM
To: Todd Jones
Subject: Re: insurance fraud, trench shoring company case

I can call you around 2

On Thu, Jan 16, 2020 at 10:09 AM Todd Jones <tjones@mvjllp.com> wrote:

Hi Nancy,

I just happen to be flying into Las Vegas this morning and I am flying out tomorrow afternoon at 5pm. Any chance you could meet up around 2 pm or so tomorrow? - Feel free to pick a meeting place and I will be there. Otherwise, we can plan on talking on the phone around that time. My cell number is listed below. Thanks again for your help.

Todd A. Jones
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Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Wednesday, January 15, 2020 3:58 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

Im off Friday or next week wednesday thru friday

To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

Im off Friday or next week wednesday thru friday

On Mon, Jan 6, 2020 at 5:58 PM Todd Jones <tjones@mvjllp.com> wrote:

Thank you Nancy, much appreciated. Could you please let me know a good date and time that we can talk privately this week? Thanks again,

Todd A. Jones
 Partner | Admitted in: CA, NV
 MOKRI VANIS & JONES, LLP
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 Sacramento, CA 95825
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Direct: 916.306.0444

Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Sunday, January 05, 2020 6:25 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

I have another tip for you Rolando since accident has been playing baseball, if he was that injured he couldn't play right its all over facebook his team name is Cuban Missile baseball team there also videos on youtube of him playing. hope it helps.

On Fri, Oct 18, 2019 at 5:07 PM Todd Jones <tjones@mvjllp.com> wrote:

Hi Nancy,

I still need to speak with you about this matter. Please call me or let me know a convenient time for us to talk. Thank you.

Todd A. Jones
Partner | Admitted in: CA, NV
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Sacramento, CA 95825
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Direct: 916.306.0444

Cell: 925.366.7391
email: tjones@mvjllp.com
www.mvjllp.com

From: Todd Jones
Sent: Thursday, August 29, 2019 5:26 PM
To: 'NANCY ESPINOZA' <naymespin80@gmail.com>
Subject: RE: insurance fraud, trench shoring company case

Hi Nancy,

I just wanted to check in with you on this case, so please give me a call when you have a moment. You can either reach me at the office (916.306.0444) during regular business hours or anytime on my cell phone at 925.366.7391. Or if it's better for me to reach out to you, please let me know of good time and phone number to reach you at (I tried to leave a message on your cell phone, but the voicemail was full). Thank you for your help in this matter and I look forward to speaking with you.

Todd A. Jones
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Sacramento, CA 95825
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Direct: 916.306.0444

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Friday, May 31, 2019 8:30 AM
To: Todd Jones
Subject: Re: Perez-Acosta/Herrera v. Trench Shoring Company (ORI-002)- Insurance fraud

Ill be out of town tuesday and I work Wednesday

On Thu, May 30, 2019 at 3:55 PM Todd Jones <tjones@mvjllp.com> wrote:

Hi Nancy,

I wanted to let you know I will be in our Las Vegas office next Tuesday, June 4 and Wednesday, June 5 and was wondering if you would have time to briefly meet on either day? We could either meet at my office ([8831 W. Sahara Ave.](#)) or any other location of your choice-such as a Starbucks, a nearby restaurant, etc. Essentially, I would like to sit down and obtain a complete record of what you know about this fraudulent accident, etc. Any information and assistance you can provide is greatly appreciated. Thanks again and please let me know what I can do to set up such a meeting.

Todd A. Jones
Partner | Admitted in: CA, NV
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[Sacramento, CA 95825](#)
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Direct: 916.306.0444

Cell: 925.366.7391

email: tjones@mvjllp.com

www.mvjllp.com

to look them up.

12:28

[← Back](#)

Claim Details



Auto

Claim #: 0517248613
Policy #: 844353120
Vehicle: 2004 JAGUAR X-TYPE
VIN: SAJEA51C94WD66636
Claim Status: Open

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Messages, Docs & Photos

[View Messages, Documents & Photos](#)

1

[Send a Message or Photo](#)

Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Monday, April 29, 2019 12:30 PM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

here is info on last accident

On Mon, Apr 29, 2019 at 10:03 AM NANCY ESPINOZA <naymespin80@gmail.com> wrote:

Like I said I was in that accident not knowing what was happening til after the fact and I stopped going to doctor and therapy once I found out it was a scam, so I dont think they had enough of anything to file except loss of car, I will try get info

On Mon, Apr 29, 2019 at 9:58 AM Todd Jones <tjones@mvjllp.com> wrote:

Thanks Nancy, I understand your situation. Do you happen to have the name of the company that Herrera made a claim against when he was using Steven Parke Law? Was a lawsuit filed in that matter? If so, do you happen to have the Court case number for that one? I was trying to have one of my paralegals look up any other civil cases with Herrera in Clark County, but she didn't see anything.

I will give you a call this afternoon. I appreciate it.

Todd A. Jones
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Cell: 925.366.7391
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 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Monday, April 29, 2019 9:51 AM
To: Todd Jones <tjones@mvjllp.com>
Subject: Re: insurance fraud, trench shoring company case

Sure, no problem I would like to remain anonymous if I can because I still am in a relationship with these people however I think its wrong what they are doing... my number is(559) 804-8216

On Mon, Apr 29, 2019 at 8:21 AM Todd Jones <tjones@mvjllp.com> wrote:

Hi Nancy,

Thank you very much for your email and for reaching out to my office. We suspected that this accident may have been a set-up (this type of scam has been ongoing in the Las Vegas area in recent years), but until now we have not had any proof this was the case here. Can you please send me your contact information when you have a moment? I would like to give you a call later today (or whatever time works for you) so I can get a little bit more detail. You can also call me today at my office any time from 10am onward. Thanks again and I look forward to talking with you.

Todd A. Jones
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Direct: 916.306.0444

Cell: 925.366.7391
email: tjones@mvjllp.com
 www.mvjllp.com

From: NANCY ESPINOZA <naymespin80@gmail.com>
Sent: Sunday, April 28, 2019 7:25 AM

To: John Dorame <jdorame@mvjllp.com>; Todd Jones <tjones@mvjllp.com>
Subject: insurance fraud, trench shoring company case

Hi I reported this case anonymously thru insurance fraud however nothing has been done, I found your information finally and decided to be direct with it instead... My name is Nancy Espinoza I was in a relationship with Rolando Bessu Herrera for the past 3 years and friend of Maikel Acosta Perez both where fresh from Cuba and where in the same condition they claim this accident caused or worsen... wrong. First of all, the accident was planned they picked that truck and intentionally slammed there brakes due to the rabbit car in front of them slamming their brakes then fleeing the scene. Second tge already had those conditions prior to the accident,Im not sure of Maikel seeing a doctor prior however Rolando Bessu had just started seeing doctor Serru on eastern ave for the same complaints and problems prior to the accident. Why am I giving you this information? Because the its wrong and these are why our cost of insurance is so high in nevada.... Rolando Bessu repeated this scammed again with his own car and me as a passenger, I was disgusted and apalled he made me part of a scam and I didnt want any part of it he used Steven parke law with that one so you can see how similar the cases are... I am willing to be a witness and help in any way for finders fee which will save your company alot of money then paying out to those that don't deserve it. thank you for time i added case number so it's easier to look them up.

JCCR

MICHAEL C. KANE, ESQ.

Nevada Bar No. 10096

BRADLEY J. MYERS, ESQ.

Nevada Bar No. 8857

JASON BARRON, ESQ.

Nevada Bar No. 7270

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Telephone: (702) 776-3333

Facsimile: (702) 505-9787

E-Mail: mike@the702firm.combrad@the702firm.comjason@the702firm.com*and*

ADAM S. KUTNER, ESQ.

Nevada Bar No. 4310

ADAM S. KUTNER, P.C.

1137 South Rancho Drive, Suite 150-A

Las Vegas, Nevada 89102

Telephone: (702) 382-0000

Attorneys for Plaintiffs

DISTRICT COURT**CLARK COUNTY, NEVADA**

MAIKEL PEREZ-ACOSTA, an Individual,
 ROLANDO BESSU HERRERA, Individually,

Plaintiffs

vs.

JAIME ROBERTO SALAIS, an Individual,
 TOM MALLOY CORPORATION aka/dba
 TRENCH SHORING COMPANY, foreign
 corporation, DOES I through V, inclusive; and
 ROE CORPORATIONS I through V, inclusive,

Defendants.

Case No.: A-18-772273-C
 Dept No.: 28

Date: Monday, July 30, 2018
Time: 10:00 a.m.

JOINT CASE CONFERENCE REPORT

Pursuant to Administrative Order 14-2, which took effect
mandated, the parties consent to service of all documents in this case to
recipients:

The702Firm Electronic Service address: jason@the702firm.com

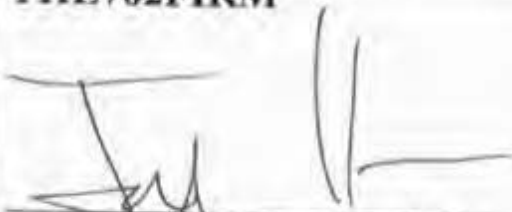
Law Offices of MOKRI VANIS & JONES, LLP. Electronic Service
jdorame@mvjllp.com and dsteinhauer@mvjllp.com

The parties agree to update the E-Service Master List to reflect
posthaste.

Dated on this 20 day of August, 2018.

Dated on this 1

THE702FIRM


MICHAEL C. KANE, ESQ.

Nevada Bar No. 10096

BRADLEY J. MYERS, ESQ.

Nevada Bar No. 8857

JASON BARRON, ESQ.

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MOKRI VANIS &


JOHN DORAME, I

Nevada Bar No. 10

TODD A. JONES, I

Nevada Bar No: 12

8831 West Sahara A

Las Vegas, Nevada

Attorneys for Defen

CORPARATION d

TRENCH SHORIN

ROBERT SALAIS

EXHIBIT B

In the Matter Of:

PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

A-18-772273-C

NANCY ESPINOZA

April 22, 2020



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NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020

1

DISTRICT COURT

CLARK COUNTY, NEVADA

MAIKEL PEREZ-ACOSTA,
individually, ROLANDO BESSU
HERRERA, individually,

Plaintiffs, CASE NO.
A-18-772273-C

vs.

DEPT. NO. XXVIII

JAIME ROBERTO SALAIS,
individually, TOM MALLOY
CORPORATION, aka/dba TRENCH
SHORING COMPANY, a foreign
corporation, DOES I through V,
inclusive, and ROE
CORPORATIONS I through V,
inclusive,

Defendants.

VIDEO-RECORDED DEPOSITION VIA VIDEOCONFERENCE

OF NANCY ESPINOZA

Taken on Wednesday, April 22, 2020

At 10:06 a.m.

At 2995 East Sunset Road
Apartment 117
Las Vegas, Nevada

Reported by: John L. Nagle, CCR 211



800.211.DEPO (3376)
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NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020

2

1 APPEARANCES:

2
3 For Plaintiff, Maikel Perez-Acosta (via
4 videoconference):

5 THE702FIRM
6 400 South Seventh Street
7 Suite 400
8 Las Vegas, Nevada 89101
9 BY: JASON BARRON, ESQ.
10 Ph. (702)776-3333; Fax (702)505-9787
11 jason@the702firm.com

12
13 For Plaintiff, Rolando Bessu Herrera (via
14 videoconference):

15 DRUMMOND LAW FIRM
16 810 South Casino Center Boulevard
17 Suite 101
18 Las Vegas, Nevada 89101
19 BY: CRAIG W. DRUMMOND, ESQ.
20 Ph. (702)366-9966; Fax (702)508-9440
21 craig@drummondfirm.com

22
23 For Defendants (via videoconference):

24 WOOD SMITH HENNING & BERMAN LLP
25 2881 Business Park Court
Suite 200
Las Vegas, Nevada 89128
BY: JOEL D. ODOU, ESQ.
NICK ADAMS, ESQ.
Ph. (702)251-4100; Fax (702)251-5405
jodou@wshblaw.com
nadams@wshblaw.com

and

21 MOKRI VANIS & JONES, LLP
22 2251 Fair Oaks Boulevard
23 Suite 100
24 Sacramento, California 95825
25 BY: TODD A. JONES, ESQ.
Ph. (916)306-0434; Fax (916)307-6353
tjones@mvjllp.com



800.211.DEPO (3376)
EsquireSolutions.com

1 Also present (via videoconference):

2 JESSE ELLIS, VIDEOGRAPHER

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NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020

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14
15
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17
18
19
20
21
22
23
24
25

INDEX

Examination Further Examination

By Mr. Odou	7	
By Mr. Drummond	46	
By Mr. Odou		48
By Mr. Drummond		50
By Mr. Barron	51	
By Mr. Odou		56
By Mr. Drummond		57
By Mr. Odou		59

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EXHIBITS

Deposition Exhibits	Page
Exhibit 1 - Amended Notice of Continued Videotaped Deposition of Nancy Espinoza	14
Exhibit 2 - E-mail dated 4/28/19 from Nancy Espinoza to John Dorame and Todd Jones	46

1 THE VIDEOGRAPHER: Good afternoon. We are
2 now on the record. The time is now 10:06 a.m.,
3 April 22nd, 2020. This begins the videotaped
4 deposition of Nancy Espinoza, taken in the matter of
5 Maikel Perez-Acosta v. Jamie Alberto [sic] Salais,
6 et al., filed in the court -- District Court, Clark
7 County, Nevada, case number of which is A-18-1772273-C
8 [sic].

9 My name is Jesse Ellis. I am your remote
10 videographer for today. The court reporter is John
11 Nagle. We are representing Esquire Deposition
12 Solutions.

13 As a courtesy, will everyone who is not
14 speaking please mute your audio, and please remember to
15 unmute your audio when you are ready to speak.

16 Counsel, will you please state your name
17 and whom you represent, after which the court reporter
18 will swear in the witness.

19 MR. ODOU: Good morning. My name is Joel
20 Odou. I'm with Wood Smith Henning & Berman,
21 representing the defendants in this matter.

22 MR. JONES: Good morning. This is Todd
23 Jones, representing the defendants in this matter.

24 MR. ADAMS: Good morning. This is Nick
25 Adams, representing the defendants in this matter.



1 MR. BARRON: Jason Barron for plaintiff

2 Acosta.

3 MR. DRUMMOND: And Craig Drummond for

4 plaintiff Bessu Herrera.

5 THE COURT REPORTER: The witness and the

6 reporter are not in the same room. The witness will be

7 sworn in remotely pursuant to agreement of all parties.

8 The parties stipulate that the testimony is being given

9 as if the witness was sworn in person.

10

11 NANCY ESPINOZA,

12 having been first duly sworn, was

13 examined and testified as follows:

14

15 EXAMINATION

16 BY MR. ODOU:

17 Q. Ms. Espinoza, good morning. My name is

18 Joel Odou. I represent the defendants in this matter.

19 Would you please state and spell your name

20 for our court reporter?

21 A. Sure. My name is Nancy Espinoza. It's

22 N-a-n-c-y, Espinoza, E-s-p-i-n-o-z-a.

23 Q. Ms. Espinoza, would you provide us with

24 your current address, please?

25 A. My current address is 2995 East Sunset

1 Road, Apartment 117, Las Vegas, Nevada 89120.

2 Q. Thank you.

3 The oath that you took is the same oath as
4 if you were testifying in front of a judge in a
5 courtroom, even though that we are doing this video
6 deposition remotely.

7 Do you understand that?

8 A. Yes.

9 Q. Thank you.

10 I'm going to go over what we call the
11 "ground rules," or sometimes the "admonitions," just to
12 kind of explain to you how the process is going to
13 work.

14 I have to speak slowly or we get feedback,
15 so I don't normally speak this slowly. I apologize.

16 In addition, because we're doing this
17 deposition remotely, we have to be very careful to not
18 talk over one another.

19 In one of these other video rooms, if you
20 will, there's a court reporter, and he just gave you
21 the oath as if you were testifying in front of a judge,
22 and he is making a record of everything that we both
23 say or that any of us say today.

24 At the conclusion of the deposition, a
25 record will be typed up into what's called a

1 "transcript," and that transcript will have all the
2 questions that I ask today, all of the answers that you
3 give, whether it's me or somebody else, and all of the
4 things that are said here today.

5 However, the court reporter can only take
6 down one of us at a time, and so it's important that we
7 speak clearly and we state slightly slowly so that he
8 can hear and understand us.

9 In everyday conversation, we can talk over
10 one another. We have a video available to us today, so
11 we can point; we can gesture; we can nod our head; we
12 can shrug our shoulders; we can shake a finger at each
13 other, if we wanted to. But that does not come out
14 well on a written record.

15 So from time to time, somebody may say
16 something like, "Do you mean 'yes'? Do you mean 'no'?"
17 They're not trying to correct you. They just want to
18 get the best written record that we can get here today.

19 Do you understand that?

20 A. Yes.

21 Q. Thank you.

22 In addition, in everyday conversation, we
23 can use things like "uh-huh" and "uh-uh." Those,
24 again, don't come out very well on the written
25 transcript, and so from time to time, somebody may ask

1 you, "Do you mean 'yes'? Do you mean 'no'?" Again,
2 just to get the best record that we can here today.

3 In addition, there are various noises that
4 we will hear, that we've already heard. If for any
5 reason you can't hear a question that is asked of you,
6 it's perfectly fine for you to say, "I'm sorry. I
7 didn't hear that," or if you don't understand a
8 question that's asked of you, it's perfectly fine to
9 say, "I'm sorry. I didn't understand that." We will
10 do our best to repeat the question.

11 Does that sound fair?

12 A. Yes.

13 Q. We're also going to be asking you for your
14 best recollection about time and events and things that
15 have happened in the past. All we want from you is
16 your best recollection. We don't want you to guess.
17 If you have a recollection, it's perfectly fine to give
18 that to us. On the other hand, if you don't have a
19 recollection, if there's something that you can't
20 remember, it's also fine to tell us that you can't
21 remember. We just want to get your best estimate.

22 There we go with one of the noises.

23 If there's something that you don't
24 recall, perfectly fine to say, "I don't recall," but do
25 try to provide us with your best recollection of

1 events.

2 Is that fair?

3 A. Okay.

4 Q. Finally, because this is a transcribed
5 court proceeding, at the end of this proceeding, there
6 will be a transcript that we can send to you. And you
7 can review all the answers that you provided, and you
8 can make any changes or corrections to those answers,
9 because sometimes things don't get heard, especially
10 through a video, or sometimes something just got
11 miscommunicated.

12 However, I must caution you that if you
13 change an answer of substance -- for example, changing
14 a "yes" to a "no," a "no" to a "yes" or something that
15 makes importance in a case -- someone could comment
16 upon that at the time of trial, and you could find that
17 embarrassing, so it's important to give your best
18 testimony here today.

19 Do you understand that?

20 A. Yes.

21 Q. Also, if you answer a question, we're
22 going to assume that you understood the question.
23 Again, if you don't understand the question, it's
24 perfectly fine to say that you don't understand, or if
25 you didn't hear a question, it's perfectly fine to ask

1 us to repeat it.

2 Is there any reason why we cannot go
3 forward with your deposition today?

4 A. No.

5 Q. Currently, who resides at the apartment at
6 2995 East Sunset Road with you?

7 A. Myself and my three kids.

8 Q. Does anyone else live there?

9 A. No.

10 Q. It's my understanding -- I've had the
11 opportunity to review some of the other answers given
12 in this case. It's my understanding that Rolando
13 Herrera lived there for a period of time with you.

14 Am I correct, that he does not live there
15 anymore?

16 A. He does not live here anymore. He did off
17 and on.

18 Q. When was the last time he lived there with
19 you?

20 A. I wouldn't say lived. He stayed every now
21 and then. The last time, it was a couple weeks ago.

22 Q. And my understanding is that your kids are
23 18, 10 and 7.

24 A. Yes.

25 Q. And the 18-year-old is Nia?

1 A. Yes.

2 Q. What are the names of the 10- and
3 7-year-old?

4 I didn't get that.

5 A. Gustav is the 10-year-old, and Bastion is
6 my 7-year-old.

7 Q. Thank you.

8 Do you still see Mr. Herrera socially?

9 A. Occasionally.

10 Q. When was the last time that you saw him?

11 A. I spoke to him yesterday.

12 Q. And did you talk about the deposition for
13 today?

14 A. No.

15 Q. Does he know that you're giving a
16 deposition today?

17 A. I don't think so.

18 Q. Has he ever talked to you about the
19 lawsuit that he's involved in?

20 A. Yes.

21 Q. When was the last time that you remember
22 him talking to you about the lawsuit, approximately?

23 A. It's been a while. The last time he had
24 to do the deposition is when he mentioned it.

25 Q. So about a month ago, roughly?

1 A. Around there, or a couple months, yeah.

2 Q. Did he know that you're going to give a
3 deposition in the lawsuit?

4 A. Yes.

5 Q. And did he ask you what you were going to
6 say?

7 A. No.

8 Q. Did you talk to him about what you might
9 say?

10 A. No.

11 Q. In preparing for the deposition today, did
12 you look at any of the documents or e-mails that you
13 received on this case?

14 A. Yeah. With the subpoena, I've seen that.

15 Q. Okay. And there was also a deposition
16 notice, which had the date and time for today.

17 Did you happen to see that?

18 A. Yes.

19 Q. You know we're all remotely. One of the
20 things that we did is we provided a copy of that to the
21 court reporter, and it's going to be marked -- the
22 deposition notice will be marked as Exhibit 1 to this
23 deposition today, just for the record. You don't need
24 to do anything about that.

25 (Deposition Exhibit 1 marked.)

1 BY MR. ODOU:

2 Q. Let's talk about Mr. Herrera.

3 Do you recall when you first met him?

4 A. Yes.

5 Q. How long ago was that?

6 A. Back in 2016.

7 Q. And how did you meet him?

8 A. At the bar.

9 Q. And did you begin seeing him socially
10 thereafter?

11 A. Off and on. I lived in California at the
12 time.

13 Q. When did you move to Las Vegas?

14 A. I've been here for a couple years.

15 Q. And you moved here from California in
16 approximately what year?

17 A. At the end of 2017.

18 Q. And what kind of work do you do?

19 A. I'm a registered nurse.

20 Q. And where do you work?

21 A. Right now, I'm working at Henderson
22 Hospital.

23 Q. Well, thank you for appearing today. I
24 hope this is not too inconvenient for you.

25 A. That's okay.

1 Q. My understanding is also that you have
2 another child who lives outside the home, who is
3 approximately 20 years old.

4 A. Yes.

5 Q. And is that child's name Jonavel?

6 A. Jonavaih.

7 Q. Jonavaih. Sorry.

8 Can you give us the spelling of that for
9 our court reporter?

10 A. Sure. It's J-o-n-a-v-a-i-h.

11 Q. Thank you. We got that wrong last time.

12 Mr. -- you call him "Rolando," right?

13 A. Uh-huh.

14 Q. If I call him "Rolando," it's not
15 confusing?

16 A. No.

17 Q. Okay. Rolando has lived at your
18 apartment -- or stayed with you at your apartment off
19 and on; is that correct?

20 A. Yes.

21 Q. Do you remember the first time that he
22 stayed with you?

23 A. No, I don't recall the exact date.

24 Q. Would it have been 2017, the start of
25 2018, approximately?

1 A. Before that, he used to stay with me,
2 because I was a traveling nurse before, so I used to
3 come three or four days a week, and then I would go
4 back to California.

5 Q. And the times that he would stay with you,
6 is it just a couple days that he would stay there, or
7 was there ever longer periods?

8 A. He always had his place. We did try to
9 move in together for about -- I think it was about six
10 to eight months, and it didn't work out.

11 Q. And the six to eight months that you tried
12 living together, was that at the home -- or the
13 apartment on Sunset Road?

14 A. Yes.

15 Q. Do you know what kind of work Rolando
16 does?

17 A. Not currently. The last he had a job was
18 at Big's Furniture.

19 Q. I'm sorry. The phone glitched.
20 What was the name of the furniture place?

21 A. Big's Furniture.

22 Q. Big's, B-i-g-s?

23 A. Yeah.

24 Q. And do you know what type of work he did
25 there?

1 A. I think he was a driver.

2 Q. And approximately when was that?

3 A. I think they laid him off -- I think it
4 was last year, around this time.

5 Q. So approximately April of 2019?

6 A. Yeah.

7 Q. Did he ever tell you why they let him go,
8 or laid him off?

9 A. No.

10 Q. Do you know any other jobs that Rolando
11 has had?

12 A. When we first were together, he was a
13 porter at New York-New York.

14 Q. The hotel?

15 A. Yes.

16 Q. And so that would have been in 2018?

17 A. No. We were first together in 2016.

18 Q. '16. I'm sorry.

19 So in -- you think he worked at
20 New York-New York in approximately 2016?

21 A. Yeah. When I met him, he was working
22 there.

23 Q. And any other jobs, that you're aware of,
24 that Rolando had?

25 A. Not apart from those two, that I can

1 recall.

2 Q. At the time that he worked at
3 New York-New York as a porter, do you know why he quit
4 working there?

5 A. Because he had an injury from the accident
6 that he had.

7 Q. From a car accident?

8 A. Yes.

9 Q. And you believe it was an injury from the
10 car accident we're here to talk about today?

11 A. That's why he said he quit his job,
12 because he said that he had to walk most of the day and
13 lift things that he couldn't do anymore.

14 Q. So after being -- after being injured, he
15 couldn't work at New York-New York anymore?

16 A. The duties that they gave him, he said
17 that they -- he couldn't do what was required of him
18 anymore.

19 Q. And so then there was a period of time
20 that he was not working?

21 A. Yes.

22 Q. And then from there, he started working at
23 Big's Furniture, if I got the timeline right?

24 A. Yeah. But he was out of work for a while,
25 and then he had the surgery, and sometime after the

1 surgery is when he started working there.

2 Q. So after the surgery, he started working
3 at Big Furniture -- or Big's Furniture?

4 A. Yeah. I don't recall how long afterwards
5 it was.

6 Q. How did you learn that Rolando had been in
7 a car accident in 2016?

8 A. We had plans that day, and he called me,
9 saying that he was in an accident.

10 Q. Do you remember what day that was?

11 A. No, I don't recall the exact date.

12 Q. Was it around July 12th?

13 A. It was around his birthday. That's what I
14 remember.

15 Q. And when is his birthday?

16 A. July 15th.

17 Q. Okay. What plans did you have that day?

18 A. We were supposed to meet up for dinner.

19 Q. Where were you going to meet him?

20 A. I don't recall.

21 Q. Had he stayed with you that morning or
22 that -- the night before?

23 A. I don't recall that, either.

24 Q. Do you know where he was going at the time
25 of the accident?

1 A. No, I don't recall.

2 Q. Do you know if anybody was with him?

3 A. I know he was with his friend.

4 Q. Do you know which ones?

5 A. Maikel and Yuniel.

6 Q. Had you met Maikel before?

7 A. Yes.

8 Q. When do you recall first meeting him,
9 approximately?

10 A. Probably a couple months after I met
11 Rolando.

12 Q. You actually met Maikel before Rolando?

13 A. No, no, no. I met him after I met
14 Rolando, a couple months after.

15 Q. Okay. And do you know if Maikel had any
16 physical limitations when you met him first?

17 MR. BARRON: Form of the question.

18 THE WITNESS: I don't recall that.

19 BY MR. ODOU:

20 Q. Okay. Do you recall if Maikel used
21 anything to assist him in walking, a cane or anything
22 like that?

23 A. No. He -- I don't recall him using any
24 devices.

25 Q. Okay. Do you recall that there were any

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
22

1 things that Maikel couldn't do, such as sports or
2 activities, when you first met him?

3 MR. BARRON: Form of the question. Lacks
4 foundation.

5 THE WITNESS: No, I don't --

6 BY MR. ODOU:

7 Q. From time to time, people may make
8 objections for the record. That's only because we
9 don't have a judge here today to rule on them.
10 Everybody just wants to make their best record here
11 today, so we didn't mean to interrupt you, but the
12 attorneys have a right to state their objections. I
13 didn't cover that in the beginning, but please go ahead
14 and answer.

15 THE COURT REPORTER: Hold on. I didn't
16 know who objected. Hold on. This is the court
17 reporter. I don't know who objected. It didn't come
18 up on here.

19 MR. BARRON: Attorney -- I'm going to tell
20 you. Attorney Jason Barron for the plaintiff.

21 Go ahead and answer. The objection is
22 restated.

23 THE WITNESS: Can you ask the question
24 again?

25 ///



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1 BY MR. ODOU:

2 Q. Yeah. I was asking if Maikel had -- if
3 you had become aware when you first met him of any
4 limitations, things that he couldn't do when you met
5 him, such as sports or anything like that.

6 MR. BARRON: Form of the question.

7 Objection restated. Assumes facts.

8 BY MR. ODOU:

9 Q. You can answer.

10 A. I don't recall.

11 Q. Do you recall him having any difficulty
12 sitting or standing for a long period of time?

13 MR. BARRON: Form of the question.

14 THE WITNESS: I wasn't with him that long
15 to notice that.

16 BY MR. ODOU:

17 Q. Okay. I just wanted to get your best
18 recollection of Maikel when you first met him.

19 What can you tell me about him?

20 A. Not very much. Just that he was his
21 friend, and they used to live together.

22 Q. Did Maikel ever come over to your house?

23 A. A few times.

24 Q. And did you notice anything about him?

25 You know, that he could or could not do anything, that

1 you remember?

2 MR. BARRON: Form of the question.

3 THE WITNESS: He walked with a limp.

4 BY MR. ODOU:

5 Q. And did he ever tell you how he got the
6 limp?

7 A. Yes.

8 Q. What did he tell you?

9 A. He said he was in some kind of an accident
10 in Cuba, that I don't recall what it was, that put him
11 in a wheelchair for a while.

12 Q. And since you're a nurse, did he ask you
13 about any kind of advice or anything like that?

14 A. No.

15 Q. Anything else that you can recall -- I'm
16 sorry.

17 Anything else that you can recall about
18 Maikel?

19 A. Specifically, no.

20 Q. Okay. His friend Yuniel, what do you
21 remember about him, if anything?

22 A. I remember he was also living with him at
23 the time.

24 Q. He was living with Rolando?

25 A. Yes.

1 Q. And was Yuniel also a friend of Rolando's
2 from Cuba?

3 A. Yes.

4 Q. And do you know what kind of work either
5 Maikel or Yuniel did, if any?

6 A. I don't recall either of them working at
7 the time.

8 Q. Okay. Do you also know Rolando's friend
9 Giovanni Ricardo Mondeja?

10 A. No, I don't know who that is.

11 Q. So his last name is Ricardo Mondeja,
12 M-o-n-d-e-j-a. I may have butchered that.

13 Not familiar to you?

14 A. No.

15 Q. Okay. Have you ever helped Rolando with
16 any of his legal issues?

17 A. Once in a while, he gave me a paper to
18 translate. I would translate it.

19 Q. Has he asked you to translate anything for
20 the documents in this case, that you know of?

21 A. No, not for this case.

22 Q. Rolando has had a couple of other cases.
23 I just want to briefly ask you a little bit about that.

24 Do you know anything about him having an
25 issue with a reckless driving incident?

1 A. I remember him getting a ticket for it.

2 Q. And what do you recall about that, if
3 anything?

4 MR. DRUMMOND: And this is Craig Drummond.

5 I object as to anything about a reckless
6 driving ticket under the Schlatter, S-c-h-l-a-t-t-e-r,
7 decision. It's a complete invasion of privacy, and
8 it's not admissible or relevant in this case. My
9 client is a passenger. But that is my objection.

10 Again --

11 MR. BARRON: Join.

12 MR. DRUMMOND: -- this is Craig Drummond.

13 THE COURT REPORTER: Wait.

14 Who joined?

15 MR. BARRON: Jason Barron for the
16 plaintiff. Join.

17 BY MR. ODOU:

18 Q. You can answer. I'm sorry.

19 A. All I can recall is that he got a ticket.

20 Q. You were with him at the time?

21 A. No.

22 Q. Okay. And he also had an issue where he's
23 under probation.

24 Do you know anything about that?

25 A. Yes.

1 Q. What can you tell me about that, briefly?

2 A. Just that he got in a fight with another
3 guy.

4 Q. That other guy that he got in a fight
5 with, that's not somebody who lived at your house, was
6 it?

7 A. No.

8 Q. What did Rolando tell you about the
9 accident we're here to talk about today?

10 A. What did he tell me about the accident?

11 Q. Yeah. You guys were supposed to go out to
12 dinner that night, and he had called you and said that
13 he had been in an accident.

14 What else did he say?

15 A. He canceled the plans because he had --
16 because he was stuck waiting for police to get there,
17 so (unintelligible).

18 Q. What time did he call you?

19 A. I don't remember.

20 Q. Do you remember if it was in the morning
21 or at night?

22 A. I don't remember.

23 Q. At the time that he called you, do you
24 believe he was waiting for the police to come?

25 A. That's what he said.

1 Q. And do you know where he was going?

2 A. No.

3 Q. Do you recall that his friends were with
4 him?

5 A. At the moment, he said that he was with
6 them.

7 Q. And do you know where they were going?

8 A. No.

9 Q. Do you know what he and his friends were
10 going to be doing that day?

11 A. No, I didn't.

12 Q. I'm sorry.

13 You didn't know that day what he and his
14 friends were going to be doing?

15 A. No.

16 Q. Did you learn after that day what he and
17 his friends were going to be doing?

18 A. I didn't really ask.

19 Q. Did you ask him how he was after the
20 accident?

21 A. Yes.

22 Q. Do you remember what he told you?

23 A. His back and his neck were hurting a lot.

24 Q. And did you give him any advice as to what
25 to do?

1 A. No. He already had an appointment to see
2 the chiropractor and to go to the doctor.

3 Q. And do you know how he got those
4 appointments?

5 A. I don't recall at the moment.

6 Q. Did he ask you for any recommendations as
7 to any doctors per se?

8 A. No.

9 Q. Did he tell you how the accident happened?

10 A. All I know is that he -- they were
11 rear-ended.

12 THE COURT REPORTER: I didn't get that.

13 BY MR. ODOU:

14 Q. Rear-ended?

15 There was a noise when you were answering,
16 and the court reporter didn't hear that.

17 Did you say rear-ended?

18 A. Yes.

19 Q. What did he tell you about being
20 rear-ended?

21 A. That they were hit from behind.

22 Q. Did he say by who?

23 A. No.

24 Q. Did he tell you anything else about that
25 accident?

1 A. No.

2 Q. After the accident in July of 2016, were
3 you in a car that was involved in another accident with
4 Rolando?

5 A. Yes.

6 Q. What happened?

7 A. We were going to go shopping, and we got
8 rear-ended.

9 Q. How did the accident happen?

10 A. We were at a stoplight, and the light
11 turned green. Then we started to go, and then traffic
12 in front of us stopped, and then the truck behind us
13 hit us.

14 Q. What kind of truck was it?

15 A. It was, like, a dump truck.

16 Q. It was a dump truck?

17 A. Yeah.

18 Q. Did it have a name on it?

19 A. I can't recall the name. I just remember
20 it was blue.

21 Q. And were you injured in the accident?

22 A. Yes.

23 Q. What did you injure?

24 A. My shoulder.

25 Q. Anything else?

1 A. No.

2 Q. Was Rolando injured?

3 A. Yeah.

4 Q. What did he injure?

5 A. I think he said that his neck was hurting,

6 and I don't recall which arm it was for him was

7 hurting, as well.

8 Q. And at the time of that accident, were you

9 in a Jaguar?

10 A. Yes.

11 Q. That was Rolando's car?

12 MR. BARRON: I'm going to interpose an

13 objection real quick. I know this is discovery. You

14 can go ahead, Counselor. If you could just give me a

15 continuing objection as to the materiality of this

16 entire line of questioning, I'd appreciate it.

17 THE COURT REPORTER: I didn't know who

18 that was.

19 MR. ODOU: I'm sorry. The --

20 MR. BARRON: Jason Barron for the

21 plaintiff.

22 MR. ODOU: I didn't understand the

23 objection. The phone cut out.

24 BY MR. ODOU:

25 Q. Let me ask you this --

1 MR. BARRON: You're asking about an
2 accident that happened after this one, so I'm objecting
3 that it's wholly immaterial to this proceeding subject
4 to a later motion in limine, but you can continue. I'm
5 just making the objection for the record.

6 MR. ODOU: Thank you. The phone cut out.
7 I appreciate that clarification.

8 BY MR. ODOU:

9 Q. Rolando injured his -- or told you that
10 his neck and -- and I'm sorry. I didn't get what else
11 he had injured in that accident in the Jaguar.

12 A. I don't recall which arm was hurting him
13 during that accident, but I know his neck was hurting
14 him.

15 Q. And did you or Rolando go to get any
16 treatment?

17 A. Yes. I had physical therapy.

18 Q. What about Rolando? Where did he get
19 treatment?

20 A. He went to the same place I did. He also
21 got physical --

22 Q. What was the name of that?

23 A. I don't recall.

24 Q. Where was it?

25 A. In Las Vegas.

1 Q. Where in Las Vegas?

2 A. Off of Maryland.

3 Q. Near Sunset Hospital?

4 A. No.

5 Q. Maryland and what?

6 A. I don't recall the cross street. I don't

7 recall.

8 Q. Was it near the hospital?

9 A. Which hospital?

10 Q. Sunrise.

11 A. It was farther out north, yes.

12 Q. Do you remember the name of the physical

13 therapist?

14 A. I don't recall.

15 Q. Do you know if Rolando ever made a claim

16 for that accident?

17 A. Yes.

18 Q. And who did he make that claim with?

19 A. Steven Parke Law.

20 Q. Do you know if Rolando treated with a

21 doctor named Serru, S-e-r-r-u?

22 A. Yes.

23 Q. And that was from this accident with the

24 Jaguar?

25 A. No. That's his primary physician.

1 Q. You don't remember the name of the
2 physical therapist that you or Rolando treated with
3 from the Jaguar accident?

4 A. No, I don't recall.

5 Q. Do you believe that Rolando caused that
6 accident by slamming on his brakes?

7 MR. BARRON: Form of the question.
8 Assumes facts. Wholly lacks knowledge. Immaterial to
9 the proceeding.

10 THE COURT REPORTER: Is that Mr. Barron
11 again?

12 MR. BARRON: Yes, sir.

13 THE COURT REPORTER: Okay.

14 BY MR. ODOU:

15 Q. You can answer.

16 A. I don't recall. I wasn't really paying
17 attention to that. I was doing something on my phone
18 at the time.

19 Q. Did you later believe that he caused the
20 accident by slamming on his brakes?

21 MR. BARRON: Lacks foundation. Asked and
22 answered. Immaterial. Calls for speculation, as well.

23 BY MR. ODOU:

24 Q. You can answer.

25 A. When the police arrived, the driver that

1 hit us said it was his fault.

2 Q. Said it was Rolando's fault?

3 A. No. That it was -- the driver that

4 rear-ended us, he said it was his fault.

5 Q. The dump truck driver?

6 A. Yes.

7 Q. Did you ever believe that Rolando

8 intentionally caused that accident?

9 MR. BARRON: Lacks foundation. Calls for
10 speculation. Asked and answered.

11 BY MR. ODOU:

12 Q. You can answer.

13 A. No.

14 Q. The accident that we're here to talk about
15 today from July of 2016, did you ever believe that that
16 accident happened on purpose?

17 MR. BARRON: Calls for --

18 MR. DRUMMOND: This is Attorney Craig
19 Drummond. We're doing it on the phone because we lost
20 Wi-Fi. We're trying to get back on.

21 I object. It's complete speculation.

22 MR. BARRON: Objection is joined.

23 THE COURT REPORTER: Who was the last
24 object -- you have to state your name.

25 MR. BARRON: Provide your good-faith

1 basis --

2 THE COURT REPORTER: You have to state
3 your name.

4 MR. BARRON: Provide your good-faith basis
5 for the question. She wasn't even (unintelligible).

6 This is Jason Barron. It assumes facts. Lacks
7 foundation. Calls for speculation.

8 BY MR. ODOU:

9 Q. You can answer the question.

10 A. I don't recall. I don't have evidence for
11 that.

12 Q. Did you ever believe that?

13 MR. BARRON: Objections restated.

14 THE WITNESS: What do you mean?

15 BY MR. ODOU:

16 Q. I just mean, did you ever believe that,
17 perhaps, Rolando and his friends had planned to be in
18 this accident?

19 MR. DRUMMOND: This is Craig Drummond.

20 I object as to that. It's also now
21 argumentative. She's -- you're asking somebody to
22 speculate about something they were not there to give a
23 personal opinion. It is complete argumentative.

24 MR. BARRON: Lacks foundation. Calls for
25 speculation. Join.

1 THE COURT REPORTER: Was that Mr. Barron
2 the last time?

3 MR. BARRON: Yes, sir.

4 BY MR. ODOU:

5 Q. Ms. Espinoza, you can answer.

6 A. I don't know how (unintelligible) that
7 question.

8 Q. I'm sorry. The phone glitched out.

9 You had asked me to help you with the
10 question that I was asking, so I will try to rephrase
11 it, and I would imagine the attorneys will make their
12 objection, and then you can answer.

13 My question was -- that you've asked me to
14 rephrase, which is: Did you ever believe that Rolando
15 and his friends had planned to be in an accident?

16 MR. BARRON: Speculation as phrased.
17 Lacks foundation.

18 THE COURT REPORTER: Is that Mr. Barron
19 again?

20 MR. BARRON: Yes.

21 THE COURT REPORTER: Okay.

22 BY MR. ODOU:

23 Q. You can answer, if you (unintelligible).

24 A. I don't know.

25 Q. Did you have any reason to believe that?

1 MR. BARRON: Asked and answered.
2 Speculation. Lacks foundation. Lacks a good-faith
3 basis.

4 BY MR. ODOU:

5 Q. You can answer.

6 A. I don't think so.

7 Q. Did you write an e-mail to Todd Jones,
8 expressing concern about this accident?

9 A. Yes.

10 Q. And what did you say in that e-mail, that
11 you can recall?

12 A. I don't recall.

13 Q. Why did you send an e-mail to Todd Jones?

14 MR. BARRON: Counsel, has that e-mail been
15 produced, as required, into evidence prior to any
16 discovery of this sort, and that's sub rosa?

17 BY MR. ODOU:

18 Q. You can answer the question.

19 MR. DRUMMOND: I also object. We,
20 actually, requested prior to this -- prior to this, we
21 requested all correspondence related to this deponent,
22 so I'm really surprised that there is correspondence
23 that's not been produced as a 16.1.

24 BY MR. ODOU:

25 Q. You can answer the question.

1 MR. BARRON: It also has to be produced
2 prior to any deposition as to the sub rosa, so this is
3 incompetent evidence subject to a motion in limine.

4 Ms. Espinoza, you can answer.

5 THE WITNESS: I don't recall.

6 BY MR. ODOU:

7 Q. You don't recall why you sent the e-mail?

8 A. No.

9 Q. At the time that you sent the e-mail, did
10 you concern -- did you have a concern that Mr. Herrera
11 and Mr. Acosta-Perez had just come from Cuba and that
12 they had planned to pick a truck and be in an accident?

13 MR. BARRON: Same objection. I'm also
14 going to ask in good faith that that e-mail is present
15 and be read into the record in light that it wasn't
16 produced in discovery in contravention directly to
17 Discovery Bulla's recommendations and the law in this
18 state for producement [sic] of impeachment evidence.
19 So I'm going to ask it be read into the record.

20 MR. DRUMMOND: And this is Attorney Craig
21 Drummond.

22 I also believe this is wholly improper,
23 since we asked for the correspondence related to this.
24 This would be a statement from a witness, which would
25 be an immediately discoverable item under 16.1, so I'm

1 surprised that we have now people playing games with
2 this, and I'm stating that for the record. Thank you.

3 MR. BARRON: Join. We asked for the same
4 thing on initial production. It is 16.1. It's
5 required to be produced.

6 THE COURT REPORTER: Was that Mr. Barron
7 the last time?

8 MR. ODOU: Counsel, you're making speaking
9 objections, and I --

10 That was Mr. Drummond first and then
11 Mr. Barron second.

12 Counsel, you're making speaking objections
13 that are influencing the witness. Certainly, you have
14 your objections for the record, and certainly, we can
15 have a meet-and-confer following the deposition as to
16 where to go from here, but I would like to get the
17 witness's answer.

18 MR. BARRON: And we were requesting you
19 read into the record whatever you have. They're not
20 objections. We're making a record for a subject -- for
21 a motion in limine, possibly a motion for sanctions.

22 MR. DRUMMOND: It's not a speaking
23 objection when we have evidence that's being discussed
24 that's not been properly disclosed. That's not a
25 speaking objection. That is counsel playing games, and

1 this honestly should be continued --

2 MR. ODOU: There you go. That's the
3 speaking part.

4 MR. DRUMMOND: -- until you produce all
5 correspondence. And that is my request. My request is
6 that you continue it until you produce what you are
7 supposed to produce. That is my request for the
8 record. Thank you.

9 MR. ODOU: That's fine.

10 BY MR. ODOU:

11 Q. Ms. Espinoza, do you understand my
12 question, or do you need me to rephrase it?

13 A. You can rephrase it.

14 Q. At the time that you wrote the e-mail, did
15 you have a concern -- or a belief, rather, that Rolando
16 had planned to be in an accident with his friends?

17 A. I don't recall.

18 Q. Okay. Let me read you the first part of
19 your e-mail, because we're not all in the same room
20 together, and I can't show it to you.

21 The e-mail is dated April 28, 2019, and
22 you state, "My name is Nancy Espinoza. I was in a
23 relationship with Rolando Bessu Herrera for the past 3
24 years and a friend of Maikel Acosta-Perez. Both were
25 fresh from Cuba and where in the same condition they

1 claim this accident caused or worsen." And then

2 there's a couple of dashes, and you put "wrong."

3 What did you mean by that, that they were

4 in the same condition when they came from Cuba?

5 A. They already had problems.

6 Q. The e-mail continues.

7 "First of all, the accident was planned,

8 and they picked that truck and intentionally slammed

9 there brakes due to the rabbit in front of them

10 slamming their brakes and then fleeing the scene."

11 Why did you have that belief that there

12 was a rabbit?

13 A. I overheard a conversation, and that's

14 what they were talking about.

15 Q. Mr. Herrera was talking to someone else?

16 A. Yes.

17 Q. Who was he talking to?

18 A. I don't recall.

19 Q. Was it on the phone, or was it in person?

20 A. On the phone.

21 Q. The e-mail continues.

22 "Second" -- and there's a misspelled word.

23 It should be "they" -- "already had those conditions

24 prior to the accident. I'm not sure of Maikel seeing a

25 doctor. However" -- "prior. However, Rolando Bessu

1 had just started seeing Doctor Serru," S-e-r-r-u, "on
2 Eastern Avenue for the same complaints and problems
3 prior to the accident. Why am I giving you this
4 information? Because it's wrong and these are why our
5 costs of insurance are so high in Nevada...

6 "Rolando Bessu repeated this scam" --
7 "this scammed again" -- sorry -- "with his own car and
8 me as a passenger. I was disgusted and appalled he
9 made me part of a scam and didn't want to be part of
10 it. He used Steven Parke Law with that, so" -- "with
11 that one. You can see how similar the cases are...

12 "I am willing to be a witness and help in
13 any way for finder's fee, which will save your company
14 a lot of money then paying out those that don't deserve
15 it. Thank you for your time. I added a case number so
16 it's easier to look them up."

17 Do you recall sending that e-mail?

18 A. Yes.

19 Q. And that was from you, correct?

20 A. Yes.

21 Q. Other than the conversation that you
22 overheard Rolando having on the phone, were there any
23 other times when you heard him talking to anybody about
24 this case possibly being a setup?

25 A. I don't recall.

1 Q. The call --

2 MR. DRUMMOND: This is Attorney Craig
3 Drummond.

4 I'm going to further object. It's a
5 nonproduction of this subject e-mail, and from what I'm
6 understanding, which I've never seen it, we're now just
7 talking about an extortion. Therefore, you may want to
8 read somebody her rights -- or at least give somebody
9 some information related to that, if that's what you're
10 alleging in this e-mail. So I think we could have
11 addressed that with the judge, but from what I'm
12 hearing, I'm very concerned about this e-mail.

13 And the further fact that it's never been
14 produced, we couldn't have dealt with this before this
15 deposition, and I don't think it's fair to go ahead and
16 ask --

17 MR. BARRON: Join.

18 MR. DRUMMOND: -- somebody like that
19 unless they're informed of their rights.

20 Thank you, Counsel.

21 MR. BARRON: Join. I'm going to ask for a
22 2.34 by the week's end before we file a motion on order
23 shortening time to preclude this bad-faith deposition
24 and probably move for sanctions.

25 THE COURT REPORTER: Is that Mr. Barron?

1 MR. ODOU: You made your record. That's
2 fine.

3 That was Mr. Barron, correct.

4 MR. BARRON: Yes, it is.

5 BY MR. ODOU:

6 Q. The phone call that you overheard, can you
7 tell us approximately when that was?

8 A. I don't remember.

9 Q. Were you aware when you met Rolando that
10 he is a baseball player?

11 A. When I met him, he didn't play baseball.

12 Q. So after you met him, he started playing
13 baseball?

14 A. Yes.

15 Q. And who does he play for?

16 A. Some team in Las Vegas, here.

17 Q. And does he still play for them?

18 A. I don't know.

19 Q. When was the last time that you recall him
20 playing baseball?

21 A. At the beginning of the year.

22 Q. Of 2020?

23 A. Yes.

24 Q. Okay. I am going to provide, after the
25 deposition is over, a copy of the e-mail that will be

1 Exhibit 2 to the deposition, only because we're doing
2 this remotely and there's no way for me to figure out
3 how to attach it.

4 Ms. Espinoza, thank you very much for your
5 time today. That's all the questions that I have.
6 Some of the other attorneys on this videoconference
7 have an opportunity to ask you questions, so I would
8 appreciate if you bear with us.

9 A. Okay.

10 MR. BARRON: I have nothing until the
11 judge examines the rules on the impropriety here,
12 regardless of what you produced today, so that's my
13 position.

14

15 EXAMINATION

16 BY MR. DRUMMOND:

17 Q. This is Attorney Craig Drummond. I
18 represent Rolando.

19 Let me go ahead and get my video so we can
20 see. I'm sorry. It's kind of a weird time doing this.

21 But let me ask you this: There was a
22 bunch of questions related to your opinion related to
23 the incident for which we're here today.

24 You recall those questions, and there were
25 a bunch of lawyer objections during that? Do you

1 recall those questions?

2 A. Do I recall the questions that were asked?

3 Q. Yes. And this is -- just so that the
4 record is clear, we're dealing with -- I'm going to get
5 the actual date here -- the July 12, 2016, incident.

6 Do you remember that -- those questions
7 about it?

8 A. Not all of them.

9 Q. Well, counsel asked you -- let me ask you
10 this: There were some questions about this e-mail that
11 I've never seen, and I guess, apparently, you were
12 giving information to the defense counsel back in April
13 of 2019, so a year ago, related to the collision of
14 July 12th, 2016, with Mr. Perez-Acosta and Bessu
15 Herrera.

16 (Unintelligible) some information to
17 defense counsel about that?

18 A. I sent the e-mail out of skepticism. We
19 had just broken up, so I don't have any evidence on it.
20 I just sent it on pure skepticism out of a conversation
21 I heard.

22 Q. So if I were to tell the judge that you
23 were not at the actual July 12th, 2016, collision, is
24 that correct?

25 A. Yes, I was not there.

1 Q. Okay. And you've not seen a video of it
2 or some sort of firsthand account where you're able to
3 actually see what happened in the collision, correct?

4 A. Correct.

5 Q. And this issue about the incident
6 potentially being staged or something like that, would
7 you agree that that's just complete speculation that
8 occurred at the time when you had broken up with my
9 client, Mr. Bessu Herrera? Would that be correct?

10 A. Yes.

11 Q. I don't have any further questions, ma'am.
12 Thank you very much.

13

14 FURTHER EXAMINATION

15 BY MR. ODOU:

16 Q. Ms. Espinoza, just a follow-up on what
17 Mr. Drummond just asked you. You had indicated that
18 you had heard a phone conversation -- or part of a
19 phone conversation Mr. Herrera had.

20 Was there more than one phone
21 conversation?

22 A. That was the only one I ever
23 (unintelligible) an accident.

24 Q. Had you overheard multiple phone
25 conversations that Mr. Herrera had talked to people

1 about --

2 MR. BARRON: Asked --

3 MR. ODOU: Let me ask the question. Let

4 me ask the question.

5 BY MR. ODOU:

6 Q. Had you --

7 MR. BARRON: Spit it out.

8 BY MR. ODOU:

9 Q. -- heard multiple conversations that

10 Mr. Herrera had on the phone with other people, saying

11 that this was a setup accident with a rabbit involved?

12 MR. BARRON: Form of the question. Lacks

13 foundation --

14 THE WITNESS: No, I don't --

15 MR. BARRON: -- calls for speculation.

16 THE COURT REPORTER: I didn't get the

17 answer.

18 BY MR. ODOU:

19 Q. You don't recall?

20 A. I don't recall.

21 Q. Okay. Had you made a complaint to the

22 Department of Insurance and gotten no response from

23 that complaint?

24 A. Yes.

25 Q. Had you told them that you had overheard

1 this phone conversation?

2 A. I said I had speculated, and if they can
3 do an investigation.

4 Q. Your complaint, was it in writing, or was
5 it over the phone?

6 A. In writing.

7 Q. And did you fill that out on the Internet,
8 or did you mail something in?

9 A. In the Internet.

10 Q. Did you have -- do you have a copy of that
11 complaint?

12 A. No, I do not.

13 Q. Again, Ms. Espinoza, we appreciate your
14 time today. Unless Mr. Barron or Mr. Drummond have any
15 other questions, I think we might be done, but let me
16 just double-check with both of them.

17

18 FURTHER EXAMINATION

19 BY MR. DRUMMOND:

20 Q. Ms. Espinoza, this is Craig Drummond
21 again.

22 Sorry to keep belaboring this point, but
23 this phone conversation, you only heard part of it,
24 right?

25 A. Yes.

1 Q. And then you made some speculation and
2 assumptions based upon this, but you, again, only heard
3 part of it, right?

4 A. Yes.

5 Q. Okay. I don't have any further questions,
6 ma'am. Thank you very much for coming here today.

7 MR. BARRON: I have a quick --

8 BY MR. DRUMMOND:

9 Q. I'm sorry to --

10 MR. BARRON: I have a quick question.

11 BY MR. DRUMMOND:

12 Q. Well, we can ask you more.

13 MR. DRUMMOND: Go ahead, Jason.

14

15 EXAMINATION

16 BY MR. BARRON:

17 Q. Ms. Espinoza, it's Attorney Jason Barron.

18 Excuse my hat on backwards. If you hear a bird, it's
19 my bird in the background.

20 I just got a quick question for you.

21 Have you heard of Mr. Salais? Do you know
22 who that is?

23 A. Salais?

24 Q. Yes, ma'am.

25 A. No.

1 Q. Okay. Do you know the identity of the
2 truck that drove in the back of my client's car, by
3 chance, in this case?

4 A. No, I don't.

5 Q. Do you know if my client, Mr. Acosta, was
6 driving or the passenger?

7 A. I don't recall.

8 Q. Okay. And this later-in-time accident
9 where you allege that coplaintiff Bessu was in an
10 accident with you, you testified earlier that you don't
11 know how that accident happened; is that correct? You
12 were on your cell phone, right?

13 A. I was on my cell phone when it happened.

14 Q. Okay. And Bessu was driving at that time,
15 correct? This is a later-in-time accident, right?

16 A. Yes.

17 Q. And in this accident, the issue in this
18 case, was he driving or a passenger; do you know?

19 A. He was driving.

20 Q. He was driving in this case?

21 A. In the case where I'm involved, he was
22 driving.

23 Q. No. The case where my client was
24 involved.

25 A. Oh, no, he was not driving.

1 Q. He was not driving. Okay.

2 Do you know where he was seated in the
3 car, by chance, either my client or Bessu Herrera?

4 A. He had mentioned he was in the back.
5 That's all I know.

6 Q. Okay. And do you know if Mr. Salais -- I
7 understand that you don't know who he is.

8 Do you know what a deposition is?

9 A. Yes.

10 Q. What's a deposition, to your
11 understanding, ma'am?

12 A. What we're doing now.

13 Q. Okay. And you're under oath in a
14 deposition, correct?

15 A. Yes.

16 Q. And you understand if you lie under oath,
17 you can be held to the penalty of perjury. That means
18 you can get in trouble.

19 Do you understand that?

20 A. Yes.

21 Q. Okay. And you've given your best
22 testimony today, under oath; is that correct?

23 A. Yes.

24 Q. Okay. And you've given the whole truth
25 and nothing but the truth, correct?

1 A. Yes.

2 Q. Okay. And in the accident at issue in
3 this case, the one that occurred in 2016, you do not
4 know how that accident occurred, correct?

5 A. I was not there.

6 Q. Okay. And in terms of you reporting this
7 to whomever you did and writing e-mails to whomever you
8 did, you did that based on speculation, correct?

9 That means lack of firsthand knowledge.

10 Is that your testimony today, under oath?

11 A. Yes.

12 MR. ODOU: I'm going to interpose an
13 objection. Argumentative and intimidating the witness.

14 MR. BARRON: No, it's not. She's under
15 oath. It's the law.

16 BY MR. BARRON:

17 Q. Is that your testimony today, ma'am? You
18 were speculating at the time, correct?

19 MR. ODOU: I'm going to --

20 THE WITNESS: Yes.

21 MR. ODOU: I'm going to interpose an
22 objection. Intimidating the witness and argumentative.
23 My objection stands. We can take that up later.

24 BY MR. BARRON:

25 Q. Is that your testimony, ma'am? You're

1 speculating, correct?

2 MR. DRUMMOND: (Unintelligible) objection.

3 MR. ODOU: I'm going to interpose an
4 objection. Asked and answered. She's answered your
5 question twice now. This is the third time you've
6 asked it.

7 MR. BARRON: It's called cross of now an
8 adverse witness.

9 BY MR. BARRON:

10 Q. Is your testimony today that what you
11 testified to in terms of the 2016 accident speculation?

12 MR. ODOU: Asked and answered.
13 Argumentative. Intimidating the witness.

14 BY MR. BARRON:

15 Q. You can answer, Ms. Espinoza.

16 A. Yes.

17 Q. Okay. And the depo -- I'll represent to
18 you Mr. Salais has had his deposition taken, as well,
19 under oath.

20 And you have no idea what he testified to
21 in his deposition in terms of how this accident
22 occurred, correct?

23 A. No, I don't.

24 MR. ODOU: Asked and answered.

25 ///

1 BY MR. BARRON:

2 Q. Do you know somebody named Mr. Takahashi,
3 I believe?

4 He works for Trench Shoring Company.

5 Before I brought up that name today, had
6 you ever heard that name?

7 A. No.

8 Q. Okay. So you're not aware there was an
9 internal investigation done by Trench Shoring, wherein
10 they found Mr. Salais, the driver of the car, at fault
11 for this accident? Are you aware of that or not?

12 A. No.

13 Q. I have no other questions. Thank you.

14

15 FURTHER EXAMINATION

16 BY MR. ODOU:

17 Q. Ms. Espinoza, the conversation that you
18 had -- or the conversation that you overheard, was
19 Rolando talking about somebody called "The Mexican,"
20 who set up the accident?

21 A. I think that --

22 MR. BARRON: Assumes facts.

23 THE WITNESS: -- that's who he was talking
24 to.

25 ///

1 BY MR. ODOU:

2 Q. He was talking to somebody called
3 "The Mexican," but you don't know who that is; is that
4 correct?

5 A. Correct.

6 Q. Thank you.

7

8 FURTHER EXAMINATION

9 BY MR. DRUMMOND:

10 Q. Ms. Espinoza, this is Craig Drummond.

11 So is there just one e-mail that you sent,
12 or are there more than one e-mail?

13 And I'm talking about to defense counsel.

14 MR. ODOU: I'm sorry.

15 Was that a question for the witness or for
16 me?

17 I'm sorry.

18 MR. DRUMMOND: It's for Ms. Espinoza.

19 BY MR. DRUMMOND:

20 Q. Ms. Espinoza, was there just one e-mail
21 that you sent, or was there multiple e-mails or
22 exchanges back and forth?

23 A. There was multiple exchanges.

24 Q. Okay. And do these exchanges continue
25 after you asked them to provide you money?

1 A. Yes.

2 Q. Okay. So they continued to engage in
3 you -- after you asked to provide information for
4 money, this law firm continued to have a back-and-forth
5 with you; is that accurate?

6 A. Yes.

7 Q. Okay. And this was done -- were you in
8 Nevada the whole time, and this law firm, did you
9 understand they were actually in California?

10 A. I was in Nevada, yes.

11 Q. So you were in Nevada.

12 And wherever you were having this
13 exchange, do you know which state they were in, or you
14 just know it was via e-mail?

15 A. It was via e-mail.

16 Q. Did they ever pay you?

17 A. No.

18 Q. Did they ever say they would pay you?

19 A. No.

20 Q. But you had clearly asked them for money.

21 Do you agree with that?

22 A. Yes.

23 Q. And after that, they clearly asked you for
24 more information, correct?

25 A. Yes.

1 Q. And who was the person you were having
2 this exchange with? What was his name or her name?

3 A. Jones.

4 Q. Mr. Jones?

5 A. Yes.

6 Q. And you're aware that this was involving
7 an ongoing civil lawsuit in Nevada, correct?

8 A. Yes.

9 Q. And you were trying -- or they were asking
10 you information so they could potentially not have to
11 pay money in the case, correct?

12 A. Yes.

13 MR. ODOU: Objection. Calls for
14 speculation.

15 BY MR. DRUMMOND:

16 Q. I don't have any further questions, ma'am.
17 Thank you very much.

18

19 FURTHER EXAMINATION

20 BY MR. ODOU:

21 Q. Ms. Espinoza, just a follow-up on that
22 e-mail.

23 The e-mail Mr. Jones sent you back
24 indicated to you that he could not pay you; isn't that
25 correct?

1 A. Yes.

2 Q. Thank you.

3 MR. DRUMMOND: And since we're off the
4 record, I'd like to stay on the record, with the
5 witness gone, and do a 2.34, please.

6 UNIDENTIFIED SPEAKER: Are we ready to go
7 off the record or --

8 THE COURT REPORTER: I don't know who is
9 talking.

10 BY MR. ODOU:

11 Q. I do not have any further questions.

12 Ms. Espinoza, let me just make sure that
13 Mr. Barron does not have any further questions.

14 MR. BARRON: I do not. I'd like to stay
15 on the record. I do have a court call here coming up
16 soon, so we can --

17 Craig, do you think we have time?

18 The 2.34 has to be meaningful, so I want
19 to make sure that we have it pinned down before we --

20 MR. DRUMMOND: It's going to take one
21 minute.

22 THE COURT REPORTER: Hold on.

23 MR. BARRON: -- before we move forward
24 with our motion.

25 THE COURT REPORTER: Hold on. This is the

1 court reporter. Hello. I don't know who's talking,
2 okay? And we're on the video record.

3 MR. DRUMMOND: Sure. This is Attorney
4 Craig Drummond.

5 I'm asking as soon as we dismiss the
6 witness -- I believe she's been dismissed by counsel,
7 who called her. I'm asking to stay on and do a new
8 transcript on a 2.34 real quick.

9 BY MR. ODOU:

10 Q. Ms. Espinoza, you can hang up. Thank you
11 very much for your time today.

12 THE COURT REPORTER: Can we go off the
13 video record right now?

14 This is the court reporter.

15 Can we go off the video record for a
16 second here?

17 THE VIDEOGRAPHER: Okay. We are now going
18 off the record at 11:13 a.m.

19

20 (Whereupon the deposition
21 was concluded at 11:13 a.m.)

22

23

24

25

1 DEPOSITION ERRATA SHEET

2

3 Our Assignment No. 5395071

4 Case Caption: Perez-Acosta vs. Salais

5

6 DECLARATION UNDER PENALTY OF PERJURY

7

8 I declare under penalty of perjury that I

9 have read the entire transcript of my deposition taken

10 in the captioned matter or the same has been read to

11 me, and the same is true and accurate, save and except

12 for changes and/or corrections, if any, as indicated by

13 me on the DEPOSITION ERRATA SHEET hereof, with the

14 understanding that I offer these changes as if still

15 under oath.

16 Signed on the _____ day of _____,

17 20____.

18

19

20 NANCY ESPINOZA

21

22

23

24

25

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
64

DEPOSITION ERRATA SHEET

1

2

3 Page No. _____ Line No. _____ Change to: _____

4

5 Reason for change: _____

6 Page No. _____ Line No. _____ Change to: _____

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8 Reason for change: _____

9 Page No. _____ Line No. _____ Change to: _____

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11 Reason for change: _____

12 Page No. _____ Line No. _____ Change to: _____

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14 Reason for change: _____

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17 Reason for change: _____

18 Page No. _____ Line No. _____ Change to: _____

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20 Reason for change: _____

21 Page No. _____ Line No. _____ Change to: _____

22

23 Reason for change: _____

24 SIGNATURE: _____ DATE: _____

25

NANCY ESPINOZA



800.211.DEPO (3376)
EsquireSolutions.com

NANCY ESPINOZA
PEREZ-ACOSTA vs JAIME ROBERTO SALAIS

April 22, 2020
65

DEPOSITION ERRATA SHEET

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17 Reason for change: _____

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20 Reason for change: _____

21 Page No. _____ Line No. _____ Change to: _____

22

23 Reason for change: _____

24 SIGNATURE: _____ DATE: _____

25

NANCY ESPINOZA



800.211.DEPO (3376)
EsquireSolutions.com

EXHIBIT C

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Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702 251 4100 ♦ FAX 702 251 5405

1 **SLWD**

Joel D. Odou

2 Nevada Bar No. 7468

Nicholas F. Adams

3 Nevada Bar No. 14813

Wood, Smith, Henning & Berman LLP

4 2881 Business Park Court, Suite 200

Las Vegas, Nevada 89128-9020

5 Telephone: 702 251 4100

Facsimile: 702 251 5405

6 jodou@wshblaw.com

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7 Attorneys for Defendants, Tom Malloy

8 Corporation d/b/a Trench Shoring Company and

Jaime Roberto Salais

9 Todd A. Jones, Esq.

10 MOKRI VANIS & JONES, LLP

2251 Fair Oaks Blvd., Suite 100

11 Sacramento, California 95825

Tel.: (916) 306-0434/Fax: (949) 226-7150

12 tjones@mvjllp.com

13 Attorneys for Defendants, Tom Malloy

14 Corporation d/b/a Trench Shoring Company and

Jaime Roberto Salais

15
16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18
19 MAIKEL PEREZ-ACOSTA, individually,
20 ROLANDO BESSU HERRERA, individually,

21 Plaintiffs,

22 v.

23 JAIME ROBERTO SALAIS, individually,
24 TOM MALLOY CORPORATION, aka/dba
TRENCH SHORING COMPANY, a foreign
25 corporation, DOES I through V, inclusive, and
ROE CORPORATIONS I through V,
inclusive,

26 Defendants.

Case No. A-18-772273-C

Dept. No.: 28

**DEFENDANTS, TOM MALLOY
CORPORATION D/B/A TRENCH
SHORING COMPANY AND JAIME
ROBERTO SALAIS' EIGHTH
SUPPLEMENTAL EARLY CASE
CONFERENCE LIST OF WITNESSES
AND PRODUCTION OF DOCUMENTS
PURSUANT TO NRCP 16.1(A)(1)**

DEFENDANTS' EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS PURSUANT TO NRCP 16.1(A)(1)

Defendants TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY and JAIME ROBERTO SALAIS ("Defendants"), by and through their counsel of record, Todd A. Jones, Esq. of the law firm of Mokri Vanis & Jones, LLP., hereby make the following supplemental disclosures pursuant to Nevada Rule of Civil Procedure ("N.R.C.P.") 16.1 as follows (additions in **bold**):

PRELIMINARY STATEMENT

Defendants have not fully completed their investigation of the facts of this case and discovery has not yet been completed. Defendants have not completed their preparation for trial. Defendants reserve the right to supplement these disclosures as additional facts become known.

I. LIST OF WITNESSES

1. Maikel Perez-Acosta
c/o THE 702 FIRM
400 S. 7th Street, Suite 400
Las Vegas, NV 89101
(702) 776.3333

This individual is a Plaintiff in this matter and is expected to testify about the facts and circumstances surrounding the subject incident and purported damages as alleged in plaintiffs' complaint.

2. Rolando Bessu-Herrera
c/o THE 702 FIRM
400 S. 7th Street, Suite 400
Las Vegas, NV 89101
(702) 776.3333

This individual is a Plaintiff in this matter and is expected to testify about the facts and circumstances surrounding the subject incident and purported damages as alleged in plaintiffs' complaint.

///

///

///

- 1 3. Jaime Roberto Salais
 2 c/o Mokri Vanis & Jones, LLP.
 3 8831 West Sahara Avenue
 4 Las Vegas, NV 89117
 (702) 880-0688

5 This individual is a Defendant in this matter and is expected to testify about his or her
 6 knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in
 7 plaintiffs' complaint.

- 8
 9 4. Person(s) Most Knowledgeable
 10 TOM MALLOY CORPORATION d/b/a TRENCH SHORING COMPANY
 11 c/o Mokri Vanis & Jones, LLP.
 12 8831 West Sahara Avenue
 Las Vegas, NV 89117
 (702) 880-0688

13 The Person(s) Most Knowledgeable for Defendant TOM MALLOY CORPORATION d/b/a
 14 TRENCH SHORING COMPANY is/are expected to testify about his or her knowledge of the subject
 15 incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

- 16 5. Yuniel Villegas-Gonzalez
 17 Address unknown at this time
 Phone number unknown at this time

18
 19 It is believed this individual is/was a witness and is expected to testify about his or her
 20 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 21 plaintiffs' complaint.

- 22 6. Jeovanny Ricardo Mondeja
 Address unknown at this time
 Phone number unknown at this time

23
 24 It is believed this individual is/was a witness and is expected to testify about his or her
 25 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 26 plaintiffs' complaint.

27 ///

28 ///

7. Person(s) Most Knowledgeable
 Andrew Mitchell, D.C.
 Meadows Chiropractic
 3441 W. Sahara Ave., Suite B-7
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

8. Person(s) Most Knowledgeable
 Capanna International Neuroscience Consultants
 716 S. 6th Street
 Las Vegas, NV 89101

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

9. Person(s) Most Knowledgeable
 Desert Radiologists
 P.O. Box 95291
 St. Louis, MO 63195

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

10. Person(s) Most Knowledgeable
 University Medical Center
 1800 West Charleston Boulevard
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

///

///

///

///

11. Person(s) Most Knowledgeable
 EMP of Clark
 4535 Dressler Road N.W.
 Cincinnati, OH 45264

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

12. Person(s) Most Knowledgeable
 Southwest Medical Pharmacy
 620 Placid Street
 Las Vegas, NV 89119

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

13. Person(s) Most Knowledgeable
 Advanced Orthopedic
 8420 W. Warm Springs Road, Suite 100
 Las Vegas, NV 89113

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged in plaintiff's complaint.

14. Person(s) Most Knowledgeable
 Stephen A. Holper, M.D.
 3233 W. Charleston Blvd., Suite 202
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

///

///

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15. Person(s) Most Knowledgeable
 Surgical Arts Center
 9499 West Charleston Boulevard, Suite 250
 Las Vegas, NV 89145

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

16. Person(s) Most Knowledgeable
 Dr. Kaplan
 Western Regional Center for Brain & Spine Surgery
 2471 Professional Court
 Las Vegas, NV 89128

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and Plaintiff's injuries or alleged damages, if known, as alleged in plaintiff's complaint.

17. Person(s) Most Knowledgeable
 Steinberg Diagnostic Medical Imaging
 P.O. Box 39600
 Las Vegas, NV 89133

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

18. Person(s) Most Knowledgeable
 ASP Cares
 501 S. Rancho Dr., Suite G46
 Las Vegas, NV 89133

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

19. Person(s) Most Knowledgeable
 Gobinder S. Chopra, M.D.
 6410 Medical Center Street, Suite A-100
 Las Vegas, NV 89148

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge

1 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
2 complaint.

3 20. Person(s) Most Knowledgeable
4 Interventional Pain & Spine Institute
5 851 S. Rampart Blvd., Suite 100
6 Las Vegas, NV 89145

7 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
8 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
9 complaint.

10 21. Person(s) Most Knowledgeable
11 Pueblo Medical Imaging
12 100 N. Green Valley Pkwy., Suite 130
13 Henderson, NV 89074

14 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
15 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
16 complaint.

17 22. Person(s) Most Knowledgeable
18 Wellcare Pharmacy
19 1050 Wigwam Pkwy., Suite 100
20 Henderson, NV 89074

21 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
22 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
23 complaint.

24 23. Person(s) Most Knowledgeable
25 Alain Coppel, M.D.
26 Nevada Comprehensive Pain Center
27 1050 Wigwam Pkwy., Suite 100
28 Henderson, NV 89074

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
complaint.

///

24. Person(s) Most Knowledgeable
 Nevada Surgical Suites
 2809 W. Charleston Blvd., Suite 150
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

25. Person(s) Most Knowledgeable
 Shadow Emergency Physicians
 1000 River Road, Suite 100
 Conshohocken, PA 19428

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

26. Person(s) Most Knowledgeable
 Desert Springs Hospital
 2075 E. Flamingo Road
 Las Vegas, NV 89119

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

27. Person(s) Most Knowledgeable
 Las Vegas Pharmacy
 2600 W. Sahara Ave., Suite 120
 Las Vegas, NV 89102

It is believed that this/these individual(s) is/are expected to testify about his or her knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs' complaint.

28. Person(s) Most Knowledgeable
 Oasis Counseling
 2360 W. Horizon Ridge Pkwy., Suite 120
 Henderson, NV 89052

///

1 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 2 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 3 complaint.

4 29. Person(s) Most Knowledgeable
 5 Centennial Hills Hospital
 6 6900 N. Durango Drive
 7 Las Vegas, NV 89149

8 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 9 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 10 complaint.

11 30. Person(s) Most Knowledgeable
 12 CVS Pharmacy
 13 One CVS Drive
 14 Woonsocket, RI 02895

15 It is believed that this/these individual(s) is/are expected to testify about his or her
 16 knowledge of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in
 17 plaintiffs' complaint.

18 31. Person(s) Most Knowledgeable
 19 Babuk Ghuman, M.D.
 20 Nevada Spine Clinic
 21 7104 Smoke Ranch Road
 22 Las Vegas, NV 89128

23 It is believed that this/these individual(s) is/are expected to testify about his or her knowledge
 24 of the subject incident and plaintiffs' injuries or alleged damages, if known, as alleged in plaintiffs'
 25 complaint.

26 32. Reynold L. Rimoldi, M.D.
 27 Nevada Orthopedic & Spine Center
 28 7455 W. Washington Ave., Suite 160
 Las Vegas, Nevada 89128
 702.258.5540
 702.258.5530

///

1 Dr. Rimoldi is expected to testify as a medical expert in his field of practice regarding
2 causation of Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA's alleged
3 injuries, the nature of their injuries, their medical progress, the reasonableness and necessity of their
4 past treatment and the reasonableness and necessity of any future treatment.

5 33. Brian K. Jones, MSBE, P.E., CXLT, ACTAR
6 American Bio Engineers
7 6905 W. Charleston Blvd., Suite 110
8 Las Vegas, Nevada 89117
9 702.395.6768
10 844.882.6110

11 Mr. Jones is expected to testify as an accident reconstruction/biomechanical specialist/forensic
12 expert in his field of practice regarding causation as it relates to Plaintiffs MAIKEL PEREZ-ACOSTA
13 and ROLANDO BESSU HERRERA's alleged injuries.

14 34. Nancy Espinoza
15 2995 E. Sunset Rd., Unit D117
16 Las Vegas, NV 89102

17 It is believed this individual is expected to testify about her knowledge of the subject incident
18 and plaintiff Rolando Bessu-Herrera's injuries and alleged damages as alleged in plaintiffs' complaint.

19 Any witness identified or disclosed in this action.

20 Any witness whose name or identifying information appears on any document produced by
21 any party to this litigation.

22 Any person most knowledgeable for any legal entity whose name or identifying
23 information appears on any document produced by any party to this litigation.

24 Defendants reserve the right to supplement or amend this witness list.

25 Defendants reserve the right to supplement or amend its NRCP 16.1 Disclosures.

26 **II. LIST OF DOCUMENTS PRODUCED**

27 1. Copy of Plaintiff's Summons and Complaint, filed on April 4, 2018, attached hereto
28 and bated stamped as TMC000001-TMC000010;

2. Copy of vehicle damage appraisal for plaintiff's 2010 Ford Focus allegedly involved in the
subject accident, attached hereto, and bated stamped as TMC000011-TMC000032;

3. Defendants' Answer to Plaintiffs' Complaint, filed on May 8, 2018, attached hereto and bated stamped as TMC000033-TMC000043;

4. Copy of Milestone Insurance Incident Report, attached hereto, and bated stamped as TMC000044-TMC000046;

5. Copy of two (2) still photographs of the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000047-TMC000048;

6. Copy of four (4) still photographs of plaintiff's 2010 Ford Focus allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000049-TMC000052;

7. Copy of Trench Shoring Company insurance card and DMV registration for the 2014 Isuzu Flatbed Truck allegedly involved in the subject accident, attached hereto, and bated stamped as TMC000053-TMC000055;

8. Copy of Trench Shoring Company insurance policies, attached hereto, and bated stamped as TMC000056-TMC000161;

9. Copies of documents received via subpoena from Advanced Orthopedic & Sports Medicine, bated stamped as TMC000162-TMC000179;

10. Copies of documents received via subpoena from ASP Care Pharmacy, bated stamped as TMC000180-TMC000184;

11. Copies of documents received via subpoena from Desert Radiologists, bated stamped as TMC000185-TMC000195;

12. Copies of documents received via subpoena from Interventional Pain & Spine Institute, bated stamped as TMC000196-TMC000351;

13. Copies of documents received via subpoena from Meadows Chiropractic, bated stamped as TMC000352-TMC000383;

14. Copies of documents received via subpoena from Pueblo Medical Imaging, bated stamped as TMC000384-TMC000392;

15. Copies of documents received via subpoena from Southwest Medical Pharmacy, bated stamped as TMC000393-TMC000409;

///

1 16. Copies of documents received via subpoena from Steinberg Diagnostic Medical
 2 Imaging, bate stamped as TMC000410-TMC000430;

3 17. Copies of documents received via subpoena from Surgical Arts Center, bate stamped as
 4 TMC000431-TMC000432;

5 18. Copies of documents received via subpoena from University Medical Center, bate
 6 stamped as TMC000433-TMC000441;

7 19. Copies of documents received via subpoena from Western Regional Center for Brian &
 8 Spine Injury, bate stamped as TMC000442-TMC000490;

9 20. Copies of documents received via subpoena from Centennial Hills Hospital, bate
 10 stamped as TMC000491-TMC000683;

11 21. Copies of documents received via subpoena from CVS Pharmacy, bate stamped as
 12 TMC000684-TMC000693;

13 22. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
 14 TMC000694-TMC000727;

15 23. Copies of documents received via subpoena from Las Vegas Pharmacy, bate stamped
 16 as TMC000728-TMC000731;

17 24. Copies of documents received via subpoena from Meadows Chiropractic, bate stamped
 18 as TMC000732-TMC000805;

19 25. Copies of documents received via subpoena from Nevada Comprehensive Pain Center,
 20 bate stamped as TMC000806-TMC000874;

21 26. Copies of documents received via subpoena from Nevada Spine Clinic, bate stamped as
 22 TMC000875-TMC000889;

23 27. Copies of documents received via subpoena from Nevada Surgical Suites, bate
 24 stamped as TMC000890-TMC001044;

25 28. Copies of documents received via subpoena from Wellcare Pharmacy, bate stamped as
 26 TMC001045-TMC001048;

27 29. Copies of documents received via subpoena from Western Regional Center for Brain
 28 & Spine, bate stamped as TMC001049-TMC001153;

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law
2881 BUSINESS PARK COURT, SUITE 200
LAS VEGAS, NEVADA 89128-9020
TELEPHONE 702.251.4100 ♦ FAX 702.251.5405

1 30. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
2 TMC001154;

3 31. Copies of documents received via subpoena from EMP of Clark County, bate stamped
4 as TMC002013-TMC002015;

5 32. Copies of documents received via subpoena from University Medical Center, bate
6 stamped as TMC002016-TMC002388;

7 33. Copies of documents received via subpoena from Dr. Albert Capanna, bate stamped as
8 TMC002389-TMC002393;

9 34. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
10 TMC002394;

11 35. Copies of documents received via subpoena from Steinberg Diagnostic Medical
12 Imaging, bate stamped as TMC002395;

13 36. Copies of documents received via subpoena from Oasis Counseling, bate stamped as
14 TMC002396-TMC002399;

15 37. Copies of documents received via subpoena from Pueblo Medical Imaging, bate
16 stamped as TMC002400-TMC002412;

17 38. Copies of documents received via subpoena from Shadow Emergency Physicians, bate
18 stamped as TMC002413-TMC002478;

19 39. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
20 TMC002479;

21 40. Copies of documents received via subpoena from Desert Radiologists, bate stamped as
22 TMC002480;

23 41. Copies of documents received via subpoena from Pueblo Medical Imaging, bate
24 stamped as TMC002481;

25 42. Copies of documents received via subpoena from Oasis Counseling, bate stamped as
26 TMC002482-TMC002484;

27 43. Copies of Jaime Roberto Salais employee and training documents, bate stamped as
28 TMC001627-TMC001774;

1 44. Copies of the insurance claims files in connection with the July 12, 2016 motor vehicle
 2 collision, bates stamped as TMC001775-TMC001996;

3 45. Copies of all documents pertaining to the vehicle involved in the subject accident, bates
 4 stamped as TMC001997-TMC002012;

5 46. Copy of Jaime Roberto Salais Nevada Driver License, bates stamped as TMC002485;

6 47. Copies of Dr. Reynold Rimoldi's CV, Expert Testimony List, Fee Schedule, and
 7 Plaintiffs' IME Reports, bates stamped as TMC002486 – TMC002521;

8 48. Copies of Brian Jones' CV, Testimony List, Fee Schedule, Report and Calculations,
 9 bates stamped as TMC002522 – TMC002588;

10 49. Copy of Trench Shoring Company's 2015 Employee Handbook, bates stamped as
 11 TMC002589 – TMC002666;

12 50. Image of team "Cuban Missiles" bates stamped as MC002667;

13 51. Video: "Cuban Missiles (02.21.20)" bates stamped as TMC002668;

14 52. Video: "Cuban Missiles vs. Blue Jays (02.04.19)" bates stamped as TMC002669;

15 53. Video: "Cuban Missiles vs. Criollos" bates stamped as TMC002670;

16 54. Video: "Cuban Missiles v. NES" bates stamped as TMC002671;

17 55. Video: "Estamos En Los Playoffs (09.28.19)" bates stamped as TMC002672;

18 56. Video: "Fuerza Missiles (09.21.19)" bates stamped as TMC002673;

19 57. Video: "Jugada Cerrada (09.18.19)" bates stamped as TMC002674;

20 58. Video: "Lo Que Viene (11.22.19)" bates stamped as TMC002675;

21 59. Video: "Missiles (Resumen 2da Liga) (07.06.19)" bates stamped as TMC002676;

22 60. Video: "Missiles 2020 (01.04.20)" bates stamped as TMC002677;

23 61. Video: "MVP Celebration al Estilo Missiles (12.02.19)" bates stamped as
 24 TMC002678;

25 62. Video: "Resumen 5to Juego (08.15.19)" bates stamped as TMC002679;

26 63. Video: "Team Cuban Missiles" bates stamped TMC002680;

27 64. Video: "Una Historia de Amor Impossible (01.22.20)" bates stamped as
 28 TMC002681;

65. Image of “MVP's Game #9 Jose A. Garcia” bates stamped as TMC002682;

66. Michael Allen Fryar’s Curriculum Vitae, identified as Bates numbers TMC002667-TMC002670;

67. Michael Allen Fryar’s Fee Schedule, identified as Bates numbers TMC002671;

68. Michael Allen Fryar’s Testimony List, identified as Bates numbers TMC002672 through TMC002675;

69. Michael Allen Fryar’s Report on Maikel Perez-Acosta, identified as Bates numbers TMC002676 through TMC002755;

70. Michael Allen Fryar’s Report on Rolando Bessu-Herrera, identified as Bates numbers TMC002756-TMC002801;

71. Correspondence regarding Insurance Fraud, Trench Shoring Case dated April 28, 2019, identified as Bates numbers TMC002802-TMC002804.

Redactions may appear on disclosures. Defendants have worked diligently to comply with SRCR 2 and redact "restricted personal information" from the documents disclosed. Further, to the extent redactions relate to a claim of privilege, a log pursuant to NRCP 26(b)(5)(A) is available upon request.

Defendants specifically reserve the right to further supplement their list of witnesses and documents as discovery is ongoing. Further, Defendants specifically reserve the right to utilize any additional witnesses and/or documents named or produced by any other party in this matter regardless of whether that party is ultimately dismissed from this matter prior to trial.

III. EXPERT WITNESSES

1. Michael Allen Fryar
 InQuis Global, LLC
 999 Lake Hunter Circle, Suite A
 Mt. Pleasant, SC 29464
 843.352.9418

Mr. Fryar is a life care plan expert expected to testify as a rebuttal witness regarding Plaintiffs MAIKEL PEREZ-ACOSTA and ROLANDO BESSU HERRERA’s claimed life care plan, work life expectancy, and occupational rehabilitation and retraining as a result of the alleged injuries sustained from the subject of this litigation, as well as regarding the deficiencies of the expert opinions of

1 Plaintiffs' experts, Lora White and J. Matthew Sims, as set forth in their reports.

2 These Defendants reserve the rights to add, amend or delete expert witnesses in this
 3 matter.

4 These Defendants reserve the right to call any expert witness identified by any other party to
 5 this action whether or not such party remains a party at the time of trial.

6 These Defendants reserve the right to depose and call at the time of trial any and all experts
 7 designated by any other party in this case including non-retained treating physicians.

8 These Defendants reserve the right to name and call such additional witnesses should it
 9 become necessary following the deposition testimony of various expert witnesses involved in matter.

10 These Defendants reserve the right to call expert witnesses for the purpose of rebuttal or
 11 impeachment as necessary.

12 These Defendants reserve the right to call any and all other witnesses who may have relevant
 13 knowledge of the facts and circumstances surrounding the allegations contained within Plaintiffs'
 14 Complaint.

15 These Defendants reserve the right to utilize any and all witnesses named by any other party to
 16 this action.

17 Defendants further reserve the right to call any witness or expert witness named or deposed by
 18 any other party in this case.

19 **IV. COMPUTATION OF DAMAGES**

20 Pursuant to NRCP 16.1(a)(1)(C), plaintiff is to provide a computation of any and all categories
 21 of damages he is seeking.

22 Defendants have not yet asserted any claims for damages against any other party in this
 23 litigation. Defendants reserve their right to assert any such claims they may have against any other
 24 party to this litigation. Defendants further reserve the right to supplement, amend, and/or modify this
 25 category of damages as discovery continues in this litigation and additional facts
 26 become known.

27 **V. INSURANCE AGREEMENTS**

28 Pursuant to NRCP 16.1(a)(1)(D), Defendants identify the following insurance policy(ies): Old

1 Republic Insurance Company, Policy No.: MWTB 307814

2 Based on investigations and upon information and belief, the Old Republic Insurance
3 Company Policy MWTB 307814 is subject to all reservations of rights as stated within the policy.
4 Defendant Tom Malloy Corporation d/b/a Trench Shoring Company does not have any excess or
5 umbrella insurance policies applicable to this matter

6 **VI. RESERVATION OF RIGHTS**

7 Defendants have attempted in good faith to set forth information presently and reasonably
8 available to them that may be relevant to the subject matter. Defendants preserve, without waiver, all
9 objections to production and admissibility. Defendants further reserve all applicable privileges,
10 confidentiality, or other protections that may apply to documents or witnesses listed by other parties.

11 April 23, 2020

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14 By /s/ Nicholas F. Adams

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Wood Smith Henning & Berman, LLP and that on this 23rd day of April, 2020, I did cause a true and correct copy of the foregoing **DEFENDANTS, TOM MALLOY CORPORATION D/B/A TRENCH SHORING COMPANY AND JAIME ROBERTO SALAIS' EIGHTH SUPPLEMENTAL EARLY CASE CONFERENCE LIST OF WITNESSES AND PRODUCTION OF DOCUMENTS PURSUANT TO NRCP 16.1(A)(1)** to be served upon each of the parties listed below via electronic service through the Court's Odyssey File and Service System.

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