

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID GARVEY, M.D., an
individual.

Petitioner,

vs.

THE FOURTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA ex rel. THE COUNTY OF
ELKO, AND THE HONORABLE
KRISTIN N. HILL,

Respondent,

and

DIANE SCHWARTZ, individually and
as Special Administrator of the Estate
of DOUGLAS R. SCHWARTZ,
deceased,

Real Party In Interest.

Supreme Court No. Electronically Filed
Sep 23 2021 09:14 a.m.
District Court No. : Elizabeth A. Brown
Clerk of Supreme Court

**APPENDIX OF EXHIBITS TO PETITION FOR
WRIT OF MANDAMUS – VOLUME 7 OF 13**

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866)]; [VOLUME 11 (PAGES 867-959)]; [VOLUME 12 (PAGES 960-1093)]; [VOLUME 13 (PAGES 1094-1246)]

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EXHIBIT 4

1 IN THE FOURTH JUDICIAL DISTRICT COURT
 OF THE STATE OF NEVADA
2 IN AND FOR THE COUNTY OF ELKO

3
4 _____
DIANE SCHWARTZ, individually)
and as Special Administrator)
5 of the Estate of DOUGLAS R.)
6 SCHWARTZ, deceased,)
7 Plaintiff,)
8 vs.) NO. CV-C-17-439
DAVID GARVEY, M.D., an)
9 individual; BARRY BARTLETT,)
an individual (Formerly)
10 Identified as BARRY RN);)
CRUM, STEFANKO & JONES LTD,)
11 dba RUBY CREST EMERGENCY)
MEDICINE; PHC-ELKO INC. dba)
12 NORTHEASTERN NEVADA REGIONAL)
13 HOSPITAL, etc., et al.,)
14 Defendants.)
15 _____)

16 DEPOSITION OF DIANE SCHWARTZ
17 LAS VEGAS, NEVADA
18 VOLUME 1

19
20 REPORTED BY:
21 KENDALL D. HEATH
22 NEV. CCR NO. 475
23 CALIF. CSR NO. 11861
24 JOB NO.: 2959290
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1	IN THE FOURTH JUDICIAL DISTRICT COURT	1	APPEARANCES OF COUNSEL (Cont'd):
2	OF THE STATE OF NEVADA	2	For the Defendant
3	IN AND FOR THE COUNTY OF ELKO	3	Reach Air Medical Services:
4	DIANE SCHWARTZ, individually)	4	
5	and as Special Administrator)	5	KIRTON McCONKIE
6	of the Estate of DOUGLAS R.)	6	BY: JAMES T. BURTON, ESQ.
7	SCHWARTZ, deceased,)	7	Key Bank Tower
8	Plaintiff,)	8	36 S. State Street
9	vs.) NO. CV-C-17-439	9	Suite 1900
10	DAVID GARVEY, M.D., an)	10	Salt Lake City, Utah 84111
11	individual; BARRY BARTLETT,)	11	jbarton@kmclaw.com
12	an individual (Formerly)	12	
13	Identified as BARRY RN;)	13	For the Defendant
14	CRUM, STEFANKO & JONES LTD,)	14	Ruby Crest Emergency Medicine:
15	dba RUBY CREST EMERGENCY)	15	
16	MEDICINE; PHC-ELKO INC. dba)	16	CARROLL KELLY, TROTTER,
17	NORTHEASTERN NEVADA REGIONAL)	17	FRAZEN, McBRIDE & PEABODY
18	HOSPITAL, etc., et al.,)	18	BY: GERALD L. TAN, ESQ.
19	Defendants.)	19	8329 W. Sunset Road
20		20	Suite 260
21	Deposition of DIANE SCHWARTZ, Volume 1, taken	21	Las Vegas, Nevada 89113
22	on behalf of Defendants, commencing on	22	(702) 792-5855
23	Wednesday, January 23, 2019, at 10:15 a.m. at	23	gltan@cktfmlaw.com
24	the offices of Lewis Brisbois Bisgaard &	24	
25	Smith, 6385 South Rainbow Boulevard, Suite	25	
	600, Las Vegas, Nevada, taken before Kendall		
	D. Heath, Nevada Certified Court Reporter,		
	Certificate No. 475.		
	Page 2		Page 4
1	APPEARANCES OF COUNSEL:	1	APPEARANCES OF COUNSEL (Cont'd):
2		2	For the Defendant
3	For the Plaintiff:	3	Northeastern Nevada
4	CLAGGETT & SYKES LAW FIRM	4	Regional Hospital:
5	BY: JENNIFER MORALES, ESQ.	5	
6	4101 Meadows Lane	6	HALL PRANGLE & SCHOONVELD, LLC
7	Suite 100	7	BY: TYSON DOBBS, ESQ.
8	Las Vegas, NV 89107	8	1160 Town Center Drive
9	(702) 655-2346	9	Suite 200
10	jmorales@claggettlaw.com	10	Las Vegas, Nevada 89144
11		11	(702) 889-6400
12	For the Defendant	12	depo@hpslaw.com
13	David Garvey, M.D.:	13	
14	LEWIS, BRISBOIS, BISGAARD &	14	
15	SMITH, LLP	15	
16	BY: DANIELLE WOODRUM, ESQ.	16	ALSO PRESENT:
17	ALISSA BESTICK, ESQ.	17	James "Jacy" Watt, Starr Adjustment Services
18	6385 South Rainbow Boulevard	18	
19	Las Vegas, Nevada 89118	19	
20	(702) 893-3383	20	
21	Danielle.Woodrum@lewisbrisbois.com	21	
22		22	
23		23	
24		24	
25		25	
	Page 3		Page 5

1	INDEX	1	answers you're giving are under penalty of perjury.
2	EXAMINATION	2	Do you understand that?
3	WITNESS PAGE	3	A Yes.
4	DIANE SCHWARTZ	4	Q Also if you don't understand my question,
5	By Ms. Woodrum 7	5	just ask for clarification or tell me you don't
6	By Mr. Burton 126	6	understand. If you answer my question, I'm going to
7	By Mr. Tan 138	7	assume that you understood it.
8	By Mr. Dobbs 142	8	A Yes.
9	Further By Ms. Woodrum 156	9	Q If you could answer with a yes or no, audible
10	By Ms. Morales 159	10	responses. As you can see, we have a court reporter
11		11	who is taking everything down today and that will the
12		12	make the record clearer and easier to understand.
13	EXHIBITS	13	Okay?
14	Exhibit Description Page	14	A Okay.
15	Exhibit A Notes from personal journal 89	15	Q If you need a break during the deposition,
16	Exhibit B Interview with Widow Diane Schwartz 100	16	let me know. You can take a break at any time if you
17		17	need to use the restroom, get something to eat, talk
18		18	to your attorney, just go ahead and let me know. The
19		19	only caveat is, if I've asked you a question, I'd ask
20		20	that you answer the question before we take a break.
21		21	We'll go ahead and take breaks. Usually, we
22		22	take a break every hour, so just to -- it can get kind
23		23	of tedious if we don't.
24		24	Do you understand the difference between an
25		25	estimate and a guess?
Page 6		Page 8	
1	Las Vegas, Nevada	1	A Yes.
2	Wednesday, January 23, 2019	2	Q So today I don't want you to guess. But if
3	-o0o-	3	you have a basis to provide an answer by giving an
4	(Prior to the commencement of the deposition,	4	estimate, I'd ask that you go ahead and do that.
5	all counsel present agreed to waive statements by the	5	Okay?
6	court reporter pursuant to Rule 30(b) (4) of the	6	A Okay.
7	NRCP.)	7	Q At the end of your deposition, in about 30
8	Thereupon,	8	days, you'll receive a copy of the transcript, and at
9	DIANE SCHWARTZ,	9	that time you can make changes to the deposition
10	called as a witness by the Defendants	10	transcript if you would like.
11	was duly sworn, examined and testified as	11	Just keep in mind if you make any substantive
12	follows:	12	changes to your deposition, those can be commented on
13	EXAMINATION	13	at trial and could affect your credibility. So, for
14	BY MS. WOODRUM:	14	instance, if you were to change a yes answer to no
15	Q Good morning, Ms. Schwartz.	15	answer, that might be a substantive change that at
16	I introduced myself off the record. My name	16	trial could affect your credibility.
17	is Danielle Woodrum, and I represent Dr. Garvey in	17	If it's something like changing a spelling or
18	this lawsuit. I imagine before we start today, you've	18	something like that, that's fine, that's okay.
19	had a chance to go over the rules of a depositions	19	What did you do to prepare for your
20	with your attorney, but I'll just go through them real	20	deposition?
21	quickly.	21	A I just met with my attorney and --
22	First important thing you need to remember is	22	Q And I don't want to know anything you talked
23	the oath you just took is the same that you would take	23	with your attorney about.
24	if you were sitting in the courtroom, so it's	24	A Okay.
25	important for you to tell the truth and remember the	25	Q Other than meeting with your attorney, did
Page 7		Page 9	

1 you talk to anybody else about your deposition	1 BY MS. WOODRUM:
2 today?	2 Q You read through the medical records?
3 A I didn't talk about things that would take	3 A Yeah, the ones from the DA's office.
4 place at the deposition, but I told my kids, yes, that	4 Q Other than the records from the hospital in
5 I would be coming to my deposition.	5 Elko, were there any other medical records contained
6 Q So you told your kids you were going to be	6 within those records?
7 deposed, but you didn't discuss what you were going to	7 A No.
8 testify about at your deposition; is that fair?	8 Q Did you review any medical records for Reach
9 A Right.	9 Air?
10 Q Did you review any documents to prepare for	10 A No.
11 your deposition?	11 Q Any of the EMS records?
12 A With my attorney.	12 A No. Well, I don't know where the records
13 Q What documents did you review?	13 came from the DA.
14 A Well, mostly just, what do you call those --	14 Q You just reviewed what was in the DA --
15 discovery. Just stuff that I had told her	15 A Yeah, yeah.
16 personally.	16 Q I'm going to ask a bit of background
17 Q So your discovery responses?	17 information. When I refer to your husband today, you
18 A Yeah.	18 understand I'm referring to Doug Schwartz; correct?
19 Q Did you review any medical records?	19 A Yes.
20 A I don't really have too many. I honestly	20 Q Okay. Is it okay if I call him Doug during
21 came just to answer your questions.	21 the deposition?
22 Q At any time have you ever reviewed any of	22 A Yes.
23 your husband's medical records?	23 Q When did you and Doug meet?
24 A Yes.	24 A Like the date?
25 Q What medical records did you review?	25 Q The time period.
Page 10	Page 12
1 A I reviewed the ones that I got from the DA's	1 A The time period, during Christmas break in
2 office.	2 1980.
3 Q Were those from the hospital in Elko?	3 Q Christmas break. Was that a break from
4 A Yes. And I also reviewed some that Elite	4 school?
5 Investigations sent me. That's the only ones I've	5 A Yes, I was in college.
6 seen.	6 Q Where were you in college?
7 Q When did you review the records you got from	7 A Ricks College in Idaho.
8 the DA's office?	8 Q Was Doug also attending Ricks College?
9 A Clearly back in -- when did I review those?	9 A No.
10 Probably two years ago.	10 Q Was he in school?
11 Q How about the records you got from Elite	11 A No.
12 Investigations?	12 Q Did Doug attend college ever?
13 A Probably about the same time I got them,	13 A Yes.
14 about the same time.	14 Q Where did he attend college?
15 Q When you were reviewing those records, was	15 A Idaho State university.
16 there anything in the records that you disagreed	16 Q Did he receive a degree?
17 with?	17 A Yes.
18 MS. MORALES: Objection; form. Overbroad.	18 Q What was his degree in?
19 THE WITNESS: I really didn't have a	19 A Corporate training and finance.
20 judgment. I just read what was there. I have to say	20 Q Was that a bachelor's degree?
21 I did read through those this last summer now that I'm	21 A Yes.
22 thinking about it when I was preparing for -- what do	22 Q Did he receive anything beyond a bachelor's
23 you call the inter -- the stuff I got ready for you	23 degree?
24 guys. I did read through them again, I just	24 A No.
25 remembered.	25 Q Any further education beyond the bachelor's
Page 11	Page 13

1 degree?
2 A No.
3 Q What about you, did you receive a degree from
4 Rick's College?
5 A No.
6 Q What did you study there?
7 A Just general.
8 Q When did you both get married?
9 A July 31st, 1981.
10 Q Where did you get married at, what city?
11 A In Idaho Falls, Idaho.
12 Q Did you and Doug have any children
13 together?
14 A Yes.
15 Q How many children?
16 A Five.
17 Q What are their names starting with the oldest
18 first.
19 A The oldest is Audrey, A-u-d-r-e-y, and then
20 we lost a son, Michael, and then D.J. or Doug Jr., and
21 Mitchell and Taylor.
22 Q How old is Audrey?
23 A She's 36.
24 Q What's her date of birth?
25 A September 3rd, 1982.

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1 Q Is he married?
2 A Yes.
3 Q What's his spouse's name?
4 A Ashley.
5 Q Does she use the last name Schwartz?
6 A Yes.
7 Q Do they have any children?
8 A Yes.
9 Q How many children do they have?
10 A Two.
11 Q What are their names?
12 A Sophia and Harper, and they're expecting
13 another baby in March.
14 Q And how old is Mitchell?
15 A 30.
16 Q Is Mitchell married?
17 A Yes.
18 Q What's his spouse's name?
19 A Audra.
20 Q Does she use the last name Schwartz?
21 A Yes.
22 Q What's Mitchell's birthday?
23 A October 17th, '88.
24 Q Does Mitchell have any children?
25 A Yes.

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1 Q Is she married?
2 A Yes.
3 Q What's her husband's name?
4 A Kasey, K-a-s-e-y, Davis.
5 Q Does Audrey use the last name Davis?
6 A Yes.
7 Q Do they have any children?
8 A Yes.
9 Q How many children do they have?
10 A Five boys. She's busy.
11 Q What are the boys' names?
12 A Hunter, Stockton, Carter, Lincoln, and
13 Cooper.
14 Q Where does Audrey live?
15 A She lives in Logandale, Nevada.
16 Q And Michael is the son you lost?
17 A Yes.
18 Q How old was he when he passed away?
19 A At birth.
20 Q What year was that?
21 A 1984.
22 Q And D.J., how old is D.J.?
23 A He's 32.
24 Q What's his date of birth?
25 A August 25th, '86.

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1 Q What are those children's names?
2 A Two girls, Olivia and Myla, M-y-l-a.
3 Q And finally Taylor?
4 A He's 25.
5 Q And his date of birth?
6 A August 23rd, 1993; and he's not married.
7 Q What's your current address?
8 A It's 986 East 4485 South, that's Washington,
9 Utah.
10 Q How long have you been at that address?
11 A Since May.
12 Q May of 2018?
13 A May 25th, 2018.
14 Q Prior to that where were you living?
15 A Logandale.
16 Q Do you recall your address in Logandale?
17 A 2477. They only have PO boxes as far as mail
18 delivery. 2477 Adobe Wells Drive.
19 Q What dates did you live at that residence?
20 A We built that house in 2005.
21 Q When you moved to Washington, did you sell
22 that house?
23 A No. My daughter lives there. I just sold it
24 to her Friday, closed on it.
25 Q So Audrey lives there currently?

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1 A Uh-huh.
2 Q When you were living in Elko, you continued
3 to own the home; correct?
4 A Yes.
5 Q Did you rent it out during that time?
6 A Uh-huh.
7 Q To Audrey?
8 A No, just other tenants.
9 Q Did you own your home in Elko?
10 A Yes.
11 Q What was the address of that home?
12 A 736 Westcott Drive, Westcott. Two Ts.
13 Q What dates did you live at that?
14 A June of 2013 until October of 2016.
15 Q And then prior to that, you lived at the
16 Logandale Adobe address; correct?
17 A Yes.
18 Q Did you sell your home in Elko when you moved
19 back to Logandale?
20 A Yes.
21 Q When did you sell that home?
22 A Well, it actually closed November of 2016.
23 Q Did you purchase the home in Washington?
24 A Yes.
25 Q Are you currently working?

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1 in a row, two or three days in a row.
2 Q What's your average income from that?
3 A It varies a lot from that. I can't even tell
4 you. Probably 700 to 1500 depending how much I
5 work.
6 Q Does that include also the income you receive
7 from doing hair at home?
8 A Probably.
9 Q Any other employment?
10 A Uh-uh.
11 Q When you were living in Elko, I guess it was
12 actually not Elko; it was Spring Creek; is that
13 correct?
14 A We actually lived in Spring Creek.
15 Q Is that located next to --
16 A Elko.
17 Q Elko, okay.
18 A Yes.
19 Q If I say Elko, you understand what I'm
20 talking about, when you lived in Spring Creek --
21 A Yes.
22 Q So I'm sorry, I don't recall if I asked -- so
23 were you working when you lived in Elko?
24 A Yes.
25 Q How often were you working?

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1 A Yes.
2 Q What do you do for work?
3 A I'm a cosmetologist.
4 Q How long have you been in that line of work
5 for?
6 A 10 years.
7 Q Where did you receive your training for
8 cosmetology?
9 A St. George, Utah.
10 Q Do you work for someone or are you privately
11 employed?
12 A I am privately employed, but I do work at a
13 salon.
14 Q So you rent a booth?
15 A Uh-huh.
16 Q What salon do you rent from?
17 A The Hair District in Logandale. I just go
18 four days a week, then I work from my home. I have a
19 saloon in my home at St. George.
20 Q How far is that from Logandale to
21 Washington?
22 A About 80 miles.
23 Q You do that four days a week?
24 A No. I just go four days a month. I just go,
25 yeah, a couple times a month, and work for a few days

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1 A I worked probably three to four days a
2 week.
3 Q Was that as a cosmetologist?
4 A Yes.
5 Q What was your income at that time?
6 A Probably closer to 1700 a month.
7 Q Before you moved to Elko, when you were
8 living in Logandale, did you work at that time?
9 A Yes.
10 Q And where did you work then?
11 A At a salon called Shears.
12 Q Shears? Approximately what date did you work
13 at Shears?
14 A As far as how many days a week or --
15 Q Time frame.
16 A 2009, I believe. Might have been 2010,
17 January, I don't remember. I'd have to figure it out,
18 until we moved to Spring Creek, 2013.
19 Q So from approximately 2009, 2010 to 2013 you
20 worked at Shears?
21 A Yes.
22 Q What was your average monthly income at that
23 time?
24 A Probably 17 to 2,000. I'd have to look back
25 at my taxes.

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1 Q Prior to Shears, where were you employed?
2 A With the Clark County School District. I
3 substitute taught.
4 Q What time frame did you substitute teach
5 from?
6 A I think I started in 1998 and through
7 probably 2008 when I went back to school.
8 Q How often would you substitute teach?
9 A Probably once or twice a week then. I did
10 long-term teaching too. I taught music at the
11 elementary school, and I taught band at the school,
12 stuff like that.
13 Q What was your average monthly income while
14 you were doing the substitute teaching?
15 A No idea. It varied so much depending how
16 much I worked.
17 Q Are you still licensed to substitute teach in
18 Clark County?
19 A Not in Clark County.
20 Q Anywhere else?
21 A I renewed my license because I thought about
22 subbing when I moved to Elko in 2013. It's only good
23 for five years, so probably not.
24 Q Was Doug employed at the time of his death?
25 A Yes.

Page 22

1 Q Where was he employed at?
2 A He was the CEO for Elko Federal Credit
3 Union.
4 Q How long had he held that position?
5 A For two years.
6 Q Had he been the CEO for two years?
7 A Yes. Well, actually, he been the CEO for two
8 years, but he worked for them three years and three
9 months, longer than that.
10 Three years -- he started January 7th, 2013
11 and passed on June 23rd of '16. So whatever that
12 is.
13 Q What was his position prior to being the
14 CEO?
15 A They hired him as the executive vice
16 president. They knew the CEO was quitting, so they
17 brought him in.
18 Q And that's why you moved from Logandale to
19 Elko?
20 A Yeah. The CEO was retiring, so we went there
21 in preparation for that.
22 Q Was it somewhat anticipated he would
23 eventually becoming the CEO when you moved there?
24 A Yeah, the board members.
25 Q What was his salary at the time of his

Page 23

1 death?
2 A 150.
3 Q Was that a base salary or does that include
4 any type of bonus?
5 A That was a base salary. No, wait -- let's
6 see, they started out different. Well, at one point
7 he was 142, then 150. I'd have to think. He'd get a
8 bonus of 5- or 10,000 usually at the end of like a
9 year.
10 Q Other than the 5- to 10,000 bonus, and his
11 base salary, was there any other type of compensation
12 that he received from Elko Federal Credit Union?
13 A As far as his actual income or retirement?
14 Q Income.
15 A No.
16 Q What about retirement?
17 A There was a retirement plan set up that he
18 had signed a contract for to stay with them for 10
19 years, and then it would mature in that length of
20 time.
21 Q So he had signed a contract if he stayed with
22 Elko Federal Credit Union for 10 years, he'd get some
23 type of retirement?
24 A Yes.
25 Q Do you know what type of retirement it was?

Page 24

1 A I don't, but I have the contract and the
2 paperwork. I submitted it to my attorney.
3 Q Do you know how much?
4 A I don't know a number, just because it
5 started with 750,000 in the account, but at the end I
6 don't know what it was supposed to end up with.
7 Q Do you know if he didn't stay a full 10
8 years, was it prorated?
9 A I don't know for sure.
10 Q Was it your and Doug's plan to stay there for
11 10 years?
12 A Yes.
13 Q Did he have insurance through Elko Federal
14 Credit Union?
15 A Yes.
16 Q Who was the insurer?
17 A McMullen.
18 Q That was his health insurance was through
19 McMullen?
20 A McMullen handled the credit union's health
21 insurance policies as well as life insurance.
22 MS. MORALES: I'll just object to the whole
23 line of questioning for collateral sourcing, but you
24 can go ahead.
25 ///

Page 25

1 BY MS. WOODRUM:
2 Q Did he have health insurance and life
3 insurance?
4 A Yes. And I don't remember who his health
5 insurance was. It was -- I guess I should have
6 refreshed that. I don't remember.
7 Q It's okay. I should have said at the
8 beginning --
9 A Anthem. I think it was Anthem.
10 Q I should have said at the beginning, if at
11 some time during the deposition you remember something
12 that I asked you about earlier or something comes to
13 mind, just go ahead and let me know.
14 Did he have life insurance through Elko
15 Federal Credit Union?
16 A Yes.
17 Q What was the amount of life insurance he
18 had?
19 A Double his salary.
20 Q Was it somewhere close to 300,000?
21 A Yes, with a double indemnity on accidental
22 death.
23 Q Did you receive a payment from the life
24 insurance company?
25 A Yes.

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1 Q What amount did you receive?
2 A I think it was 580.
3 Q When did you receive that?
4 A May of 2017.
5 Q I think I saw in some of the records from
6 Elko Federal Credit Union that they had considered
7 continuing to pay you Doug's salary until the life
8 insurance kicked in. Did that ever happen?
9 A No, they didn't pay me -- they paid me
10 until -- let's see. I thought it was only three
11 months, to be honest. I thought it was through August
12 after he died.
13 Q So from the time of his death through August,
14 you received a check from Elko Federal Credit Union?
15 A Yes.
16 Q Was it for Doug's regular salary?
17 A Yes.
18 Q So the amount that he would have received
19 every month?
20 A Yes.
21 Q Do you recall what that amount was?
22 A Not right off.
23 Q Do you have an estimate?
24 A Between 7 and 8,000.
25 Q Did you receive any other type of gifts or

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1 payments from Elko Federal Credit Union after his
2 death?
3 A They gave me -- I want to say they gave me
4 10,000 towards his funeral.
5 Q Anything else?
6 A No.
7 Q Prior to his employment with Elko Federal
8 Credit Union, where was Doug employed?
9 A He worked -- he was the CEO of Moapa,
10 M-o-a-p-a, Valley Federal Credit Union.
11 Q How long did he have that position for?
12 A For 19 years.
13 Q Of those 19 years, was he the CEO that entire
14 time?
15 A Yes.
16 Q What was his reason for leaving?
17 A Basically with the economy crash, his credit
18 union merged with America First Credit Union, so he
19 needed a new job.
20 Q Where was Moapa Valley Credit Union located,
21 or where did he work out of?
22 A He worked out of their Overton administrative
23 office in Overton, Nevada.
24 Q Where is Overton, Nevada in relation to
25 Logandale? Are they close?

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1 A Yeah, about six miles apart.
2 Q When he left Moapa Valley, what was his
3 salary?
4 A I don't know an exact. I know it was between
5 probably 175 and 200, which included bonuses and
6 housing and car allowance.
7 Q That was included in the 175 --
8 A Yeah, uh-huh.
9 Q Did he have any type of retirement plan
10 through Moapa Valley?
11 A Yes.
12 Q What type of retirement plan did he have?
13 A I don't know. I don't know if I ever knew,
14 but he kind of lost that with the whole merge, so ...
15 Q So when you say "he lost it," are you not
16 entitled to any retirement that he has from Moapa
17 Valley?
18 A Not now, no.
19 Q Are there any type of retirement plans that
20 Doug had that you'll receive funds from?
21 A No.
22 Q Did he have any type of 401(k) at Elko
23 Federal Credit Union?
24 A Yeah, but it had started fresh from there, so
25 it was, I think 30,000.

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1 Q What happened to that at the time of his
2 death?
3 A I have it in an IRA.
4 Q Did he have any life insurance other than the
5 insurance he had through Elko Federal Credit Union?
6 A No.
7 Q Other than the life insurance payment, have
8 you got paid any other type of death benefit, like
9 through Social Security?
10 A No, not through Social Security.
11 Q Have you applied for any type of death
12 benefit through Social Security?
13 A No.
14 Q What about worker's compensation?
15 A Yes, I have worker's compensation.
16 Q Are you currently receiving worker's
17 compensation?
18 A Yes.
19 MS. MORALES: Objection, form; collateral
20 source.
21 BY MS. WOODRUM:
22 Q Do you receive monthly payments?
23 A Yes.
24 Q What amount?
25 A Well, let me look --

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1 they would be entitled to that money.
2 Q Do you know if workers' comp has a lien in
3 this lawsuit?
4 A I don't believe so.
5 Q Have you notified them of this lawsuit?
6 MS. MORALES: Objection, form.
7 THE WITNESS: I have not.
8 BY MS. WOODRUM:
9 Q What is your understanding of why you're
10 entitled to worker's compensation?
11 A My husband was leaving a business meeting, a
12 monthly business meeting where he basically was there
13 to pay for the meal, and pay for the things -- it was
14 just a monthly meeting they had every month.
15 Q So he was working at the time of the
16 incident?
17 A Yes.
18 Q Prior to his employment with Moapa Valley
19 Credit Union, do you recall where Doug worked?
20 A He worked for Idaho Central Credit Union in
21 Pocatello, Idaho.
22 Q Was he always employed with a credit union or
23 some type of financial institution?
24 A Not always, but from 1982 on.
25 Q What did he do at Idaho?

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1 MS. MORALES: Just object to this whole line
2 of questioning so I don't have to keep interrupting
3 you; collateral source. Just reserve the right.
4 THE WITNESS: 3697.04.
5 BY MS. WOODRUM:
6 Q So \$3,697.04 a month?
7 A Yes.
8 Q When did you start receiving those
9 payments?
10 A Well, I think it was September or October of
11 2016. And I do believe they prorated it back to the
12 death.
13 Q So at some point you received payments for
14 whatever was left in June, July, August, then you
15 started receiving monthly payments?
16 A Yes.
17 Q How long are you entitled to those payments
18 for?
19 A I think the rest of my life. But I'm not
20 sure if I still continue to get them if I remarry;
21 that's something I need to clarify.
22 Q Do you have any understanding of, if you were
23 to recover in a lawsuit, if those payments would go
24 away?
25 A If I sue the third-party, then that money --

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1 A 1983 on, probably more so. In Idaho Central
2 he was an executive vice president over lending and
3 collections.
4 Q What dates was he at Idaho Credit Union?
5 A 19 -- October of '87, I do believe, until
6 December of 1993.
7 Q Why did he leave that position?
8 A We moved -- well, because we were getting
9 ready to take the job at Logandale.
10 Q Was it just a better job, better
11 opportunity?
12 A Yeah.
13 Q To your knowledge, was Doug ever fired from a
14 job?
15 A No.
16 Q So other than the worker's compensation that
17 we've discussed and the income you get from your
18 cosmetology business, do you receive any other type of
19 income?
20 A No.
21 Q Do you have any type of retirement account?
22 A No.
23 Q Do you currently live alone?
24 A Yes.
25 Q How was Doug's health prior to his death?

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1 A It was fine.	1 Q So through Christmas?
2 Q Would you consider him in good health?	2 A Uh-huh.
3 A Yes.	3 Q Where was he hospitalized at?
4 Q Did he have any chronic health conditions?	4 A Dixie Medical Center in St. George, Utah.
5 A Well, he had recently taken -- started taking	5 Q Did he have any long-term complications from
6 high blood pressure medicine.	6 that?
7 Q So medicine to treat high blood pressure?	7 A Not really.
8 A Yes.	8 Q When you say not really --
9 Q I saw in some of his medical records that he	9 A I mean, he didn't -- nothing that affected
10 complained of frequent headaches; do you recall	10 his life. I mean ...
11 that?	11 Q Did he monitor his blood pressure?
12 A Yeah.	12 A He actually was given a machine that very
13 Q Was he taking any type of medication for	13 occasionally he'd use.
14 that?	14 Q When he would take his blood pressure, do you
15 A No. Just like a Tylenol or Excedrin Migraine	15 know what it would typically be?
16 is actually what he would take.	16 A No.
17 Q Would you say that you are the person most	17 Q Did he write it down ever?
18 knowledgeable about Doug's health condition?	18 A Not that I recall.
19 A I would assume so.	19 Q I saw in some of your journal entries, you
20 Q Other than hypertension and headaches, any	20 mentioned that you are a member of the LDS Church; is
21 other health problems?	21 that correct?
22 A No.	22 A Yes.
23 Q Had he ever had any surgeries?	23 Q Doug also?
24 A No.	24 A Yes.
25 Q Had he been in any other car accidents	25 Q Sounds like you guys played a pretty active
Page 34	Page 36
1 ever?	1 part in that church?
2 A No.	2 A Yes.
3 Q Any injuries as a child?	3 Q That Doug served as a counselor in the bishop
4 A No.	4 prior -- or at the time of his death?
5 Q Any broken bones ever?	5 A Yes.
6 A Not that I'm aware.	6 Q Can you explain what that means?
7 Q Did he have a regular physician, a primary	7 A Well, you have a bishop of each ward, then
8 care physician?	8 they have a counselor that serves with them to just
9 A Well, when we moved to Spring Creek, he kind	9 help manage whatever goes on in the ward. So he was
10 of started going to Dr. Whimple for just his	10 the first counselor.
11 hypertension and the few headaches that he had.	11 Q What were his responsibilities? Were there
12 Q Did he have a primary care at Logandale?	12 any specific responsibilities?
13 A He usually just went to the urgent care.	13 A He kind of oversaw the youth, like the 12 and
14 Don't have a lot of options in Logandale.	14 up programs. He wasn't over the actual programs, but
15 Q Was he ever hospitalized?	15 he kind of -- and lots of other stuff. I couldn't
16 A He was in, let's see, 2011, December.	16 even begin to tell you.
17 Q Why was he hospitalized?	17 Q About how many hours a week did he spend
18 A He had a rupture close to his -- in his	18 doing those types of duties?
19 esophagus, close to his -- the opening of his stomach.	19 A Well, besides three hours of church, probably
20 I don't know.	20 couple of hours a week, maybe more -- three, two to
21 Q How did he rupture his esophagus?	21 three.
22 A He swallowed a Dayquil, yeah.	22 Q Was that a voluntary position, so to speak?
23 Q How long was he hospitalized for that?	23 He wasn't paid for it?
24 A 12 days, from December 19th until whatever	24 A He was not paid.
25 that is.	25 Q Did you have a role in the church at that
Page 35	Page 37

1 time?
2 A Yes.
3 Q What was yours?
4 A I actually was a first counselor in the young
5 women's organization, and other things. That was my
6 main calling.
7 Q That was also a voluntary calling?
8 A Yes.
9 Q About how many weeks did you spend doing
10 church activities at the time of Doug's death?
11 A How many weeks?
12 Q Sorry. Hours a week?
13 A Hours a week, probably six.
14 Q Do you continue to be active in your church
15 committee?
16 A Yes.
17 Q Do you have a different calling now?
18 A Yes.
19 Q What do you do now?
20 A I direct the choir.
21 Q About how many hours a week do you spend on
22 that?
23 A Probably just one, probably, choir
24 practice.
25 Q And that's a voluntary position also?

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1 Q Who is Danny Benson?
2 A If I am remembering his title correctly, he's
3 the chief financial officer at Elko Federal Credit
4 Union. He was there for the meeting as well.
5 Q Where was the meeting at?
6 A Well, what was standard, they'd have a board
7 meeting at the credit union, then they'd all go to a
8 place to eat dinner afterwards. It was kind of their
9 way of compensating the board for their service. This
10 particular night, and most nights, it was held at a
11 restaurant called Machi's in Elko.
12 Q When they would go to Machi's, would they
13 typically drive? Walk?
14 A They would all drive there and park across
15 the street in the parking lot.
16 Q Do you recall approximately what time you
17 received the call from Danny Benson?
18 A I don't remember the exact time, but it seems
19 like it was between 8:00 and 8:30.
20 Q Did anyone else call you to tell you about
21 the accident?
22 A No.
23 Q Did you talk to Doug at that time?
24 A No.
25 Q Were you at home?

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1 A Yes.
2 Q So when did you first learn that Doug had
3 been involved in a car accident?
4 A Do you want me to answer like the date, the
5 time, or are you wanting to know how I received the
6 information?
7 Q So how did you find out?
8 A Danny Benson called me on the phone.
9 Q What day was that?
10 A June 22nd, 2016.
11 Q And you said it was Danny Benson?
12 A Yes.
13 Q And what do you recall Mr. Benson saying to
14 you?
15 A He said, I don't want to alarm you, but
16 Doug's been hit by a car, but he's okay. They're
17 assessing his injuries, and then he just told me that
18 the ambulance was there and they were going to take
19 him to the hospital.
20 Q So your understanding is when Mr. Benson
21 called you, he was at the scene of the accident?
22 A Yes.
23 Q Do you recall anything else about that
24 conversation?
25 A Not really.

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1 A Yes.
2 Q Was anyone at your home with you?
3 A Yes.
4 Q Who was home with you?
5 A I was baby-sitting my four grandsons. My
6 daughter and her husband were in Thailand on a wedding
7 anniversary trip.
8 Q Did any of your grandsons talk to Mr.
9 Benson?
10 A No.
11 Q Did you tell any of your grandsons what Mr.
12 Benson told you?
13 A All I said was Grandpa got hit by a car, but
14 he's okay, and I'm going to go to the hospital and
15 meet him.
16 Q Did you have to find somebody to watch the
17 grandkids?
18 A I didn't. At the time my oldest grandson
19 was -- let's see how old was he? Well, he's 16 now,
20 so I was thinking he was like 12 at the time. So I
21 just left him with the little ones. And then later
22 that evening one of my friends, Karen Patton, came and
23 stayed with them.
24 Q How soon after getting the call from Mr.
25 Benson did you leave to go to the hospital?

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1 A Probably 15 minutes.
 2 Q And you said you went directly to the
 3 hospital, right? You didn't go to the scene of the
 4 accident?
 5 A No, I went directly to the hospital.
 6 Q How far of a drive from your home was it to
 7 the hospital?
 8 A Probably 15 minutes, maybe 20. 15, 20. I
 9 actually saw the ambulance coming up the street as I
 10 got to the stoplight to turn in towards the hospital
 11 and assumed it was him.
 12 Q When you saw the ambulance, did it have
 13 lights and sirens?
 14 A No.
 15 Q Did you ever confirm that was the ambulance
 16 that he was in?
 17 A Yes.
 18 Q How did you confirm that?
 19 A Because it turned right in front of me, and I
 20 turned and followed it to the emergency room doors
 21 exit -- entrance.
 22 Q Between the time that you got the call from
 23 Mr. Benson and the time that you arrived at the
 24 hospital, other than your grandsons, did you talk to
 25 anyone else?

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1 Q After they took Doug in the hospital, what
 2 happened next?
 3 A They put him in a room and just started
 4 assessing his injuries.
 5 Q When you say they started assessing his
 6 injuries, do you know who was assessing his
 7 injuries?
 8 A The nurse. There was a couple nurses in
 9 there, and one in particular -- I don't know who she
 10 was for sure; I don't know her name.
 11 Q So somebody seemed to be the main nurse in
 12 charge?
 13 A Yes.
 14 Q And other nurses helping her out?
 15 A Yes.
 16 Q How do you know they were nurses?
 17 A I assumed.
 18 Q They didn't tell you; you just kind of
 19 assumed based on what they were doing?
 20 A Yes. And they mentioned something about the
 21 doctor was on the way or something, that's why I
 22 assumed they were nurses.
 23 Q Did you ever meet the doctor?
 24 A Yes.
 25 Q How long between the time that they took Doug

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1 A No.
 2 Q So you didn't let anyone else know that Doug
 3 had been involved in a car accident?
 4 A No.
 5 Q Did you talk to the paramedics or EMTs?
 6 A No. I just got out of the car just as they
 7 were pulling him out of the back of the ambulance, and
 8 just -- I walked in with them.
 9 Q Did you talk to Doug at that time?
 10 A Yes.
 11 Q Was he lucid?
 12 A He was very coherent. "Oh, there's my wife."
 13 Just held my hand, was really glad I was there.
 14 Q So he didn't seem to be confused at all?
 15 A No.
 16 Q At that time, did he tell you what had
 17 happened?
 18 A No. He apologized.
 19 Q What did he say when he apologized?
 20 A "Sorry, this happened."
 21 Q What did you say to him when he apologized?
 22 A "It's okay. It's not your fault."
 23 Q And you said you never talked to the
 24 paramedics about what happened?
 25 A No.

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1 into the E.R. and started assessing him until the
 2 doctor got there?
 3 A 15 minutes -- 15 to 30 minutes.
 4 Q Were you concerned at all about the time it
 5 took the doctor to get in to see him?
 6 A Not really because they were helping him.
 7 Q And he seemed okay to you?
 8 A Yeah.
 9 Q And he was able to talk to you?
 10 A Yes.
 11 Q And he wasn't short of breath at all?
 12 A No.
 13 Q And he continued to not be confused?
 14 A No.
 15 Q During the time that the nurses were
 16 assessing him, did you make any phone calls?
 17 A No.
 18 Q So then you said about 15 to 30 minutes
 19 later, the doctor came in. Did you talk to the
 20 doctor?
 21 A Yes.
 22 Q And did Doug talk to the doctor also?
 23 A Yes.
 24 Q Tell me what you recall about your
 25 conversation with the doctor.

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<p>1 MS. MORALES: Objection; form. Overbroad as 2 to time. 3 BY MS. WOODRUM: 4 Q When he first came in. 5 A When he first came in, I didn't really talk 6 to him then. He started to ask Doug questions about 7 what had happened to him. 8 Q Do you remember any specific questions that 9 he asked? 10 A Yes. 11 Q What specific questions did he ask? 12 A He asked him his name, where he was, if he 13 remembered what happened, how old he was, where he 14 lived. He was trying to assess if he had any kind of 15 head injury, basically. And he asked him just a few 16 random questions like that, like informational-type 17 questions, asking him who the president of the United 18 States was, and Doug was answering them all 19 correctly. 20 Q When he asked what had happened, do you 21 recall what Doug said? 22 A He said, "I guess I got hit by a car," but he 23 said he didn't remember actually being struck, that he 24 woke up in the street. 25 Q Did he say what his last memory was before he</p>	<p>1 A I didn't know that until we were in the 2 emergency room with Doug. 3 Q Was Mr. Benson present while the E.R. doctor 4 was questioning him? 5 A He also followed the ambulance to the 6 hospital and got out and walked in with us as well. 7 And he did end up coming into the little cubicle. 8 Well, it wasn't a cubicle, but into that space. 9 Q Do you recall if he was there when the doctor 10 first came in? 11 A If I remember right, I think he was. 12 Q Do you recall the doctor's name? 13 A Dr. Garvey. 14 Q Had you ever met Dr. Garvey before? 15 A No. 16 Q Had you ever been to the E.R. at Elko 17 before? 18 A No. 19 Q Back to the first encounter with Dr. Garvey, 20 so he asked some informational questions to assess 21 sounds like whether Doug had any type of confusion or 22 head injury. After that, what happened? 23 A So then they started -- he and the nurses 24 started to just ask where he hurt, you know. Like do 25 you hurt here? Do you hurt here? Where do you hurt</p>
<p>1 recalled waking up in the street? 2 A He just remembered walking across the street, 3 and that was all he remembered until he woke up. 4 Q So he was hit while he was walking, correct, 5 not driving? 6 A Yes. 7 Q Was that the first time that you learned that 8 he was walking across the street when he was hit? 9 A It was while I was waiting for the doctor to 10 come in, Danny Benson told me. 11 Q Did Doug ever tell you that he was actually 12 walking across the street when he was hit? 13 A He didn't tell me, Danny told me. Danny 14 said, because when he called me, he said he got hit by 15 a car in front of Machi's, so I assumed he was in his 16 truck because that's where they parked was in the 17 parking lot. I wasn't super concerned because I 18 assumed he was in the truck. Can't go very fast in a 19 one-way street. 20 Then Danny said, "No, he actually got struck 21 by the car while he was walking across the street," 22 which was the first time I knew and, of course, I was 23 shocked. 24 Q But you didn't learn that information until 25 after you were in the hospital?</p>	<p>1 the worst? And Doug just said, "I really just hurt 2 kind of here, like on my right side cavity." 3 Q And you're kind of pointing to your right -- 4 A Yeah. 5 Q -- chest area. 6 A Yeah. So they touched his arms, "Do you have 7 any concerns?" I just remember that actual wording 8 because of what Doug ended up saying, which was kind 9 of comical. "Do you have any concerns? Do you have 10 any concerns? Do you have any concerns," as they 11 moved down his body. Then he stopped and just said, 12 "Just the economy." 13 Q So his concern was the economy? 14 A Yeah. 15 Q So they would go touch different areas of his 16 body, kind of starting at the head and moving down and 17 asked if he had any concerns? 18 A Yes. 19 Q At any point did he say that hurts 20 anywhere? 21 A Just his chest cavity on his right side. 22 Q Did he complain of any difficulty 23 breathing? 24 A No. 25 Q At this time was he clothed? Was he wearing</p>
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1 a gown?
 2 A Yes, he had his clothes on still. They had
 3 cut his pants on his one leg or had they taken them
 4 off? No, they had cut them because I seen them, and
 5 he was bugged about that because he liked those pants.
 6 And he was asking where his Ed Manellin (phonetic)
 7 shoes were. He said, I like those shoes, don't lose
 8 my shoes.
 9 Q Did he have any visible injuries?
 10 A The only ones that really were visible, he
 11 had a little scrape on his head. I do believe it was
 12 his left, because I was standing on his left as he was
 13 laying, and then his right knee was scraped.
 14 Q Did any of those scrapes require stitches?
 15 A No. They were more scrapes than cuts.
 16 Q Did you ever see his right chest area?
 17 A I don't recall if I did, actually.
 18 Q So you wouldn't recall if there were any
 19 bruising there?
 20 A No.
 21 Q So after the doctor and nurses asked him if
 22 he had any concerns by touching different areas of his
 23 body, what happened next?
 24 A Well, from all they could tell, was that you
 25 know, they didn't see that he had any broken bones

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1 attested to it. He said as long as he ever known
 2 Doug, he never seen him drink alcohol at the
 3 meetings.
 4 Q Did other board members drink alcohol at the
 5 meeting?
 6 A Yes, frequently.
 7 Q So back to the doctor and the nurses'
 8 examination. After they checked his body and they
 9 said they were going to do some scans, did they say
 10 anything else about what the plan was?
 11 A Not at this point.
 12 Q At that point, did they tell you anything
 13 about what his injuries might be or how extensive they
 14 were?
 15 A No, because they didn't know.
 16 Q Did you have any individual conversation with
 17 the doctor at that point?
 18 A Not before the results of the MRI.
 19 Q So at that time he was mostly just talking
 20 with Doug?
 21 A Yeah, mostly.
 22 Q And when the police officer came in, did he
 23 talk to the doctor at all?
 24 A I'm sure he could have. I don't remember if
 25 they had a conversation.

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1 like in his arms or legs that they could tell, so they
 2 decided to schedule an MRI to see how extensive his
 3 possible internal injuries were.
 4 Q Do you know what parts of the body they
 5 intended to do that on?
 6 A I think just the chest -- the body, the
 7 actual body, because that's the only place he really
 8 complained of pain.
 9 Q Do you know if they intended to scan his head
 10 to check for any bleeding?
 11 A I don't think so, but I don't know for a
 12 fact, but it doesn't seem like they did.
 13 So the police officer also came in just close
 14 to the time that the doctor came. Actually, he might
 15 have even been there before the doctor, because he --
 16 it seemed like he came in shortly after we did.
 17 Q Did the police officer watch while they were
 18 examining him?
 19 A Yes. And he also asked questions because he
 20 wanted to see how much my husband had possibly to
 21 drink that night, especially with being a hit and run.
 22 They needed to start investigating the situation.
 23 Q Had your husband had anything to drink that
 24 night?
 25 A He never drank, consumed alcohol; and Danny

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1 Q Did he talk to the nurses, the police
 2 officer?
 3 A Well, not really. The only one thing that I
 4 do remember about the police officers, Doug was at one
 5 point, he started saying that he felt nauseous. They
 6 were asking him how much he eaten and drank that
 7 night, so he told them he just ate a steak and baked
 8 potato and salad, and had several refills of soda or
 9 couple refills of soda. And he was also complaining
 10 that he needed to go to the bathroom. So they were
 11 trying to help him. They were like, "Hang tight, and
 12 we'll let you relieve yourself in a minute."
 13 So the police officer when Doug started
 14 complaining about being nauseous was trying to find
 15 some kind of a pan he could throw up in, if he had to.
 16 Q Did he find some type --
 17 A Yeah, he just found a pan and just sat it
 18 next to the bed.
 19 Q Did Doug ever throw up?
 20 A No. It subsided.
 21 Q Do you recall the police officer's name?
 22 A I want to say Shane Daz, but I might be
 23 wrong. I'm probably wrong. I should have reviewed
 24 all this stuff, sorry.
 25 Q About how long between the time that the

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1 doctor left until they took Doug to go get the tests
2 that they ordered?
3 A I don't know. Maybe 30, 45 minutes. It's
4 hard to judge, but we just waited in there and visited
5 and stuff until they hauled him down.
6 Q That was you and Mr. Benson?
7 A Pretty much. And just the nurses that were
8 kind of in and out.
9 MS. MORALES: When you get to a good place to
10 stop.
11 MS. WOODRUM: Sure we can stop now.
12 (Break taken.)
13 BY MS. WOODRUM:
14 Q So we were talking about the first encounter
15 with Dr. Garvey when Doug went for some testing, and
16 you continued to talk with the nurses and Mr. Benson
17 during that time; correct?
18 A Yes.
19 Q About how long was Doug gone to get the
20 testing for?
21 A Let's back up there, because when you asked
22 me that, I was thinking how long we waited until the
23 test.
24 Q I may have asked it that way, I apologize.
25 So you waited about 30 --

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1 A 30 minutes or so -- 30, 40 minutes before he
2 actually left. So we were all waiting in there.
3 Q So Doug continued to talk with you?
4 A Uh-huh.
5 Q And the nurses?
6 A Uh-huh.
7 Q And Mr. Benson?
8 A Yes. Then he asked me to call someone to
9 give him a blessing.
10 Q Someone from your church?
11 A Yes.
12 Q Did you call someone?
13 A I didn't know who to call because they were
14 all gone on a trip. So he told me to call John
15 Patton. So John Patton and a man named Parry Wilson
16 came to the hospital and -- about the time they
17 arrived, we were all walking down the hall to the MRI
18 room. So they actually gave him a blessing while we
19 were in there waiting, right before the MRI.
20 Q And that was John Patton and Parry Wilson who
21 gave the blessing?
22 A Yes.
23 Q Was there something that happened that made
24 Doug want to ask for the blessing at that time?
25 A No, it was just something that he wanted.

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1 Q This all happened in the MRI room?
2 A The actual blessing, yes.
3 Q If the medical records say that he actually
4 had a CT scan, would you have any reason to dispute
5 that?
6 A I don't know what all they did, actually,
7 because after they gave him the blessing, I left the
8 room, and Parry Wilson left the hospital, but John
9 Patton stayed. He's also a physician. He just
10 stayed, wanted to be there for me for moral support.
11 Q Is John Patton, would you consider him a
12 friend?
13 A Yes.
14 Q What type of physician is he?
15 A I believe he's a podiatrist, I'm not
16 positive. A foot doctor.
17 Q Yeah, a foot doctor. How long was Doug in
18 the MRI room?
19 A I don't know. Maybe -- I don't know. While
20 he was in there, I called my kids and told them what
21 had happened. So it seemed like an hour-ish or so. I
22 don't know.
23 Q Did you call all of your children?
24 A All but my daughter Audrey because she was in
25 Thailand.

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1 Q What generally did you tell your kids?
2 A I told them that he had been struck by a car,
3 and explained that he literally had been struck, but
4 that he was okay, and that they were just doing some X
5 rays to see like what was happening for sure, and not
6 to worry about it and panic and stuff.
7 Q At that time, none of your children lived in
8 Elko; correct?
9 A No.
10 Q What was the closest any of your children
11 lived in Elko?
12 A At that time I had a son that lived in Las
13 Vegas, my daughter was in Logandale. I think my son
14 Mitchell was in Idaho, and my youngest son Taylor was
15 going to school here at UNLV, so he was here too.
16 Q You said Audrey was in Thailand. Is that why
17 you had called the four boys?
18 A Yes. So I couldn't reach her.
19 Q Did you try to reach her?
20 A No.
21 Q When you were waiting for Doug to return from
22 the MRI room, where did you wait at?
23 A Mostly just kind of in the E.R. hallway next
24 to the room where they had had him in.
25 Q At that time it was Mr. Patton and Mr. Benson

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1 who were with you?
2 A Well, they weren't with me the whole time,
3 but they did stay at the hospital the whole time.
4 When I was making my phone calls, I was just standing
5 by myself, and I think John Patton was talking to the
6 doctor at one point, and Danny Benson was just kind of
7 wondering. I don't know.
8 Q So they were at the hospital but not
9 necessarily with you the whole time?
10 A Right. They did stay with me the whole time
11 once we were in the E.R. waiting room, but before
12 that, they weren't with me the whole time.
13 Q You said John Patton talked to the doctor; is
14 that correct?
15 A I saw him behind the counter talking to him
16 at one point.
17 Q Do you know if John knew Dr. Garvey?
18 A I do not know if he knew him.
19 Q Did he discuss anything with you what
20 Dr. Garvey told him?
21 A No.
22 Q Did you ask him?
23 A No.
24 Q Did John offer any opinion as to what he
25 thought Doug's condition was?

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1 A No.
2 Q Did he say, "I think he'll be all right"?
3 A No.
4 Q Did you ask him?
5 A No. He wasn't his doctor.
6 Q Do you have any type of medical training?
7 A No.
8 Q Does anyone in your family?
9 A No.
10 Q Other than, I guess, Dr. Patton, do any close
11 friends have medical training?
12 A No. Just we do have some doctor friends, but
13 ...
14 Q Doctor friends in Elko?
15 A Uh-huh.
16 Q Who --
17 A Well, the doctor friends we had in Elko were
18 John Patton and Paton Whimple, who is the same doctor
19 that my husband went to. He was the bishop, actually,
20 of our ward at the time.
21 Q Did you call Dr. Whimple at any time --
22 A No.
23 Q -- at any time while he was in the
24 hospital?
25 A No.

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1 Q If you go ahead and let me get out my full
2 question before you answer, it will be easier on our
3 court reporter here and I'll try to do the same.
4 A Okay.
5 Q Once the test results came back from
6 radiology, did Dr. Garvey discuss those with you?
7 A Yes.
8 Q You and Doug?
9 A Yes.
10 Q What did he say about the test results?
11 A He told me that Doug -- he had broken ribs
12 and some were in multiple places.
13 Q Did he discuss any other injuries?
14 A He said, as far as they could tell, it didn't
15 like he had any other injuries.
16 Q Did he ever discuss collapsed lung or
17 pneumothorax?
18 A He said that they wanted to -- what they
19 decided to do based on the results was to put a chest
20 tube in to start preventing any fluid buildup in his
21 lung.
22 Q Did Doug agree to the chest tube?
23 A Yes.
24 MS. MORALES: Objection; form.
25 ///

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1 BY MS. WOODRUM:
2 Q And you didn't have any objection to a chest
3 tube being placed?
4 A I didn't have an objection to a chest tube.
5 Q Because you would want Doug to receive the
6 best medical care; is that correct?
7 A Right. So Dr. Garvey said -- explained kind
8 of in detail -- I just remember this pretty clearly --
9 just said that in these type of situations when you
10 have broken ribs, bruising occurs and you start
11 getting a lot of fluid buildup on the lung. So what
12 they wanted to do is put a chest tube in so they could
13 prevent that fluid from causing pressure on the lung
14 and causing the lung to collapse.
15 Q At this time was a transfer to University of
16 Utah discussed?
17 A Close to that time, he said he was going to
18 call the hospital there, and he felt like they could
19 just handle the situation probably a little bit better
20 than the Elko hospital could.
21 Q Did he give any specifics as to why
22 University of Utah could handle the situation
23 better?
24 A Not really.
25 Q Did you agree with the transfer to University

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1 of Utah?
 2 A Yes, because I didn't -- I figured they knew
 3 what they were doing.
 4 Q Again, you would want your husband to have
 5 the best medical care?
 6 A Right.
 7 Q And did Dr. Garvey ever say that the reason
 8 he wanted to put a chest tube in is because he was
 9 going to be transferred via air to University of Utah?
 10 Was that one of the basis for doing the chest tube?
 11 A Not the basis I could tell. I just thought
 12 he wanted to do it just to help him in the moment, or
 13 you know, whether he left or not, but I don't ...
 14 Q So it's fair to say that you don't know
 15 whether or not the fact he was going to be transported
 16 by air had anything to do with Dr. Garvey's
 17 recommendation for a chest tube?
 18 A Right.
 19 Q Did Doug have any difficulty breaking while
 20 he was in the E.R.?
 21 A No.
 22 Q Do you remember him receiving any type of
 23 oxygen while he was in the E.R.?
 24 A No.
 25 Q He didn't have anything in his nose?

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1 A No.
 2 Q Did he ever have a face mask on?
 3 A No.
 4 Q Do you recall him seeing a respiratory
 5 therapist?
 6 A No.
 7 Q If the medical records indicate about an hour
 8 before they started intubated him, he was wearing a
 9 face mask for oxygen, would you say that medical
 10 record is wrong?
 11 A Well, I waited in the E.R. waiting room for
 12 quite some time, wondering why it was taking so long
 13 to put the chest tube in. So I have no idea what
 14 happened after I left. But during the time I was
 15 there, he did not have any type of oxygen.
 16 Q Do you recall what time you left the cubicle
 17 or room he was in to go wait outside while they did
 18 the chest tube?
 19 A I don't recall the exact time, but I know I
 20 was calling my kids around 9 something, 9:30
 21 something, and it was after that.
 22 Q Did you send any text messages to anyone at
 23 that time?
 24 A I don't recall that I did.
 25 Q Other than your children and Dr. Patton, and

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1 I forget the other gentleman who came with him?
 2 A Danny Benson -- or Parry Wilson.
 3 Q Parry Wilson.
 4 A So I called Karen Patton, that's the person I
 5 called, which is John's wife, and asked, because I
 6 didn't have John's phone number. So I called Karen,
 7 and that's why she ended up going and staying with my
 8 kids because I had reached out to her.
 9 So then she told John, and John arranged with
 10 Parry. I didn't talk to Parry. I didn't talk to
 11 Parry.
 12 Q Other than Karen and your children and Mr.
 13 Benson, did you talk to anybody else during the time
 14 that he was -- that Doug was in the E.R.?
 15 A No.
 16 Q When you left the room for the chest tube to
 17 be placed, was it your understanding at that time that
 18 Doug would be transferred to University of Utah?
 19 A Yes. They told me I could go with him if I
 20 wanted, but I said I couldn't because I had my
 21 grandkids, but that coincidentally I was going to be
 22 taking them to Salt Lake the next day to their other
 23 grandma's, so I would just meet them there the next
 24 day.
 25 Q How far of a drive is it from Elko to Salt

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1 Lake?
 2 A Four hours.
 3 Q I think I saw in the records that Doug had
 4 flight insurance; is that correct?
 5 A Yes.
 6 Q What was the reason for purchasing that?
 7 A They had come to the credit union and just
 8 presented their plan of what they offered, and he
 9 thought, Well, gosh, we live clear out here. It might
 10 be a smart thing to have just in case. You never
 11 know.
 12 Q What did that cost, do you know?
 13 A I don't recall.
 14 Q Did that insurance -- strike that.
 15 Did Dr. Garvey ever discuss intubation while
 16 you were present?
 17 A Yes.
 18 Q What did he discuss?
 19 A Right before I left to go to the E.R. room,
 20 he said, "And we might intubate him, just in case he
 21 needs it to keep his airway open on the flight."
 22 Q So was your understanding that Dr. Garvey was
 23 concerned that since he had these injuries and he was
 24 going to be flying, he wouldn't want him to be
 25 intubated on the flight if that were to become an

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1 issue?
2 MS. MORALES: Objection.
3 THE WITNESS: Really don't know what his
4 reasoning was.
5 BY MS. WOODRUM:
6 Q Did he discuss any of the risks of intubation
7 with you?
8 A No.
9 Q Did he discuss any alternatives?
10 A No.
11 Q Is it fair to say that at the time you left
12 the room, you weren't sure whether or not Doug would
13 be intubated or not, you were just aware it was a
14 possibility?
15 A Yes.
16 Q Were you asked to leave the room before they
17 started the chest tube?
18 A Yes, because they said they needed to sedate
19 him to put the chest tube in. And they just told me
20 to wait in the E.R. and they would let me know when he
21 was on the flight.
22 Q Was he sedated at all when you were in the
23 room?
24 A No.
25 Q So the sedation began after you left?

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1 A Yes.
2 Q So since you weren't in the room, you have no
3 knowledge whether or not Dr. Garvey further discussed
4 intubation with Doug after you left the room?
5 A Correct.
6 Q And do you have any reason to believe that
7 Doug would have said he didn't want to be intubated?
8 A I have no idea what he would have said to
9 him, so I can't answer that.
10 Q In your opinion, at the time you left the
11 room, Doug was lucid and would have been able to make
12 his own medical decisions?
13 A Yes.
14 Q How long were you -- after you left for the
15 chest tube and eventually intubation, how long were
16 you waiting in the waiting room?
17 A Not even really sure. A good hour and a half
18 I would say, or more.
19 Q Prior to leaving the room, were you given any
20 estimate of time how long you should expect it to
21 take?
22 A I thought they just said it would just take
23 like 30 minutes or so.
24 Q When the 30 minutes came and gone, were
25 you -- did you get nervous at all?

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1 A No. We did discuss it, because Danny stayed
2 with me and so did John. They wouldn't leave. They
3 said, "We don't want to leave you here alone, and
4 we'll wait until we know he's on the flight."
5 But it was John that started questioning it
6 because he said, "My wife had a chest tube couple of
7 times, and it only took about 30 minutes, if that. I
8 wonder why it's taking so long." And I didn't even --
9 honestly, I didn't even question it at all. I just
10 was kind of like, well, maybe something was going on.
11 I wasn't concerned at all.
12 Q Could you hear anything that was going on in
13 the E.R.?
14 A No.
15 Q Was there any type of page overhead you heard
16 during that time?
17 A No.
18 Q When was the first time that somebody came
19 out and talked to you from the hospital?
20 A From the actual hospital?
21 Q Or doctor? Doctor or hospital.
22 A Well, there was a man that came out. He just
23 left because of all the commotion that was going on,
24 but it didn't register to me he was talking about
25 Doug. I assumed someone was in an emergency situation

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1 had shown up at the E.R.
2 Q Do you know that man's name?
3 A I have it in the file, and I don't recall it
4 right now.
5 Q Do you know what his role was?
6 A Well, he was -- apparently, he was studying
7 to be a nurse or was a nurse, but he was friend of
8 Danny's. When he saw Danny, he just said hi, to him
9 and he said, "We decided to come back with all the
10 commotion that's going on back there. We decided
11 we'll come back another time."
12 And I had no idea they were talking about my
13 husband, and I never even really thought they would
14 have been.
15 Q And you said there was more than one?
16 A He and his daughter came out.
17 Q Was he working at the time?
18 A No. He was waiting for her. She had come
19 in -- he was waiting in the little -- on the curtain
20 on the other side apparently where Doug was.
21 Q So his daughter was a patient that was
22 waiting?
23 A That was my understanding.
24 Q Because of what was going on, it was taking a
25 long time and he decided to leave?

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<p>1 A Yeah. He said, "With everything going on 2 back there, we're just going to come back another 3 time." 4 Q Did he give any specifics? 5 A Not at that time. He did talk to Danny later 6 when he found out what had happened. He was kind of 7 shocked. "Oh, my gosh, I didn't know that was your 8 boss," basically. 9 Q Did you ask any questions about what he meant 10 by the commotion going on back there? 11 A No. 12 Q You just assumed it was somebody else? 13 A Didn't even register to me that he was 14 talking about Doug because when I left him, he was 15 fine. 16 Q And then did you talk to anybody else? Did 17 anybody else come out of the E.R. and talk to you? 18 A No. I finally stepped in to go to the 19 bathroom, and when I came back, John Patton was gone 20 and Danny said, "They came and got John." I was 21 thinking, Okay, that's weird. 22 So just within a minute or two, a nurse and 23 Dr. Garvey and John all walked out of the doors and 24 wanted to talk to me, so I walked over to them. 25 Q What did they say to you?</p>	<p>1 A He disappeared. I never saw him after that. 2 Q The nurse, do you know who the nurse was? 3 A I don't know. There was a couple ladies in 4 there. 5 Q Did anybody from the hospital stay with you 6 after they took you into that room? 7 A Just the nurse. And it seemed like there 8 might have been two ladies, and John Patton stayed 9 with me. And Danny, I don't know where he went after 10 that. 11 Q Did anybody else come to the hospital? 12 A No. 13 Q About how long did you stay in the room 14 before you left the hospital? 15 A Well, while I was in there, John said, "We 16 need to call some people." So I was trying to hold my 17 phone, which I couldn't even hold my phone to open it 18 up, but he made some phone calls for me to my kids. 19 Q Is John the one who let your children know? 20 A Yes. 21 Q Was he able to reach Audrey? 22 A Yes. He also called my brother and two 23 really close friends. 24 Q What is your brother's name? 25 A Mathew Edlefsen, E-d-l-e-f as in fox,</p>
Page 70	Page 72
<p>1 A Sorry. I wasn't expecting this. Dr. Garvey 2 said, "I'm sorry, we you lost him." And at first I 3 was kind of confused like what are you talking about? 4 I actually knew what he meant, but I couldn't 5 understand it in my head. He repeated it again. He 6 said, "I'm sorry, we lost him." I just looked at him 7 like, What are you talking about? 8 And he said -- he explained to me what 9 happened. He said, "We decided to intubate him, and 10 he vomited, and aspirated, and we couldn't clear his 11 airway. And we worked on him for about 35 minutes and 12 he went into cardiac arrest and died." 13 Q Did he say anything else? 14 A Not really, because at that point I kind of 15 lost it. 16 Q Do you need to take a break? 17 A No. So John Patton kind of grabbed me. And, 18 of course, I was wailing. That's the best word I can 19 use. And then I kind of buckled, so they were yelling 20 like, "Get a wheelchair for her, and take her out of 21 here. Take her in that room." 22 So I just went in the other room with them 23 and tried to wrap my head around what just happened. 24 Q Did you have any further conversations with 25 Dr. Garvey?</p>	<p>1 s-e-n. 2 Q Who were the close friends? 3 A Van Burtenshaw and Todd Robinson. 4 Q Did either Van or Todd live in Elko? 5 A Van Burtenshaw lives in Idaho, and Todd 6 Robinson lived in Overton, Nevada. 7 Q Did you have any family in Elko? 8 A No. 9 Q Did you call anyone yourself? 10 A No. 11 Q Did the hospital offer you any sort of 12 sedative or medication to help you? 13 A They did, but I didn't want to take it, then 14 finally I took something. I don't remember what it 15 was. 16 Q Do you recall around what time it was that 17 you took it? 18 A I want to say I went in there about 1:30 or 19 one o'clock-ish in the morning. I don't know, between 20 1:00 and 1:30. 21 Q When you said you went in there? 22 A In that room with them. 23 Q I know you testified earlier at some point 24 Karen Patton went to your house with the boys. Do you 25 know around what time that was?</p>
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<p>1 A I don't. I want to say it was probably 2 around 9:00, 9:30. It was probably soon after I 3 called her, have her talk to John. 4 Q Did you ever talk to Dr. Garvey again? 5 A No. 6 Q Since the date of the death, have you ever 7 talked to Dr. Garvey? 8 A No. 9 Q You said that the gentleman who came out with 10 his daughter later talked to Mr. Benson; is that 11 correct? 12 A Yes. 13 Q Did Mr. Benson tell you about that 14 conversation? 15 A He did. 16 Q What did he tell you? 17 A He said that he told them that everybody -- 18 there was just a lot of commotion, everybody was going 19 crazy. And he said, I could hear them yelling 20 something about "this machine is not working, get that 21 other machine." That's about all he told me, that it 22 was -- they were frantic. 23 Q Do you know when he said "this machine isn't 24 working" or he said somebody said "this machine wasn't 25 working," what machine he was talking about?</p> <p style="text-align: right;">Page 74</p>	<p>1 A She said if -- yeah, she said that, yes. 2 Q And do you know why she said that? 3 A Well, just because she said, "I could hear 4 everything that was going on back there." That's all. 5 That's all he told me. I don't know anything else. 6 Then he tried to talk to her later about it 7 some more to find out some information, and she 8 wouldn't talk to him and there was like a guard on 9 her. 10 He tried to call her later, he told me, and 11 she wouldn't accept his calls. At that point it was 12 kind of the end of it. 13 Q You said there was a guard on her? 14 A That's what he said. 15 Q Like a physical person guarding her? 16 A Yes. 17 Q Did he try calling her at the hospital? 18 A I don't -- from my understanding, from what 19 he told me, it seems like he just said he had tried to 20 find her later and talk to her about it, expound on 21 what she meant or why she said that, but she wouldn't 22 talk to him. 23 Q Do you know when the conversation she had 24 with him occurred? 25 A It was while I was in the other room where</p> <p style="text-align: right;">Page 76</p>
<p>1 A It sounded like a suction machine or 2 something, that's all I know. 3 Q Why do you think it sounded like a suction 4 machine? 5 A Well, from what Danny said after they had 6 their conversation. Danny is the one who mentioned 7 something about that, that's all I know. I don't know 8 any details. 9 Q So Danny mentioned something about a suction 10 machine not working? 11 A If I remember right, suction machine. 12 Q Do you know if Mr. Benson talked to anybody 13 else at the hospital what happened? 14 A He told me right before he left, the lady 15 that was sitting at the E.R. administration desk, I 16 guess you could say admittance desk, she said, "I 17 could hear everything that was going on back there, 18 and if I were her, I'd sue the crap out of this 19 hospital." That's all I know. 20 Q Do you know that lady's name? 21 A I think it was Carmen, but I didn't know at 22 the time, I've just since found out. But I should 23 have looked through my stuff. 24 Q So Carmen told Mr. Benson that if he were 25 you, she would sue the crap out of the hospital?</p> <p style="text-align: right;">Page 75</p>	<p>1 they had taken me. 2 Q Do you know if he initially approached her, 3 or if she approached him? 4 A I do not know. 5 Q Did Mr. Benson tell you about any other 6 conversations that he had with anybody at the 7 hospital? 8 A No. 9 Q Did Mr. Benson have any conversations with 10 Dr. Garvey outside your presence? 11 MS. MORALES: Objection; calls for 12 speculation. 13 THE WITNESS: Not that I know. 14 BY MS. WOODRUM: 15 Q Did you witness any conversations between Mr. 16 Benson and Dr. Garvey in your presence? 17 A No. 18 Q Do you know if Dr. Patton, John Patton, had 19 any conversations with anybody at the hospital after 20 Doug's death? 21 A No. 22 MS. MORALES: Calls for speculation. 23 THE WITNESS: I do not know if he did. He 24 was with me almost the entire time after the incident, 25 because he stayed in the room with me, made the phone</p> <p style="text-align: right;">Page 77</p>

1 calls, then they finally let me go see Doug, and he
2 came in the room with me there too. Then he took me
3 home from the hospital in his vehicle -- actually, in
4 my vehicle. He drove me home.
5 BY MS. WOODRUM:
6 Q After you got home, what happened? What did
7 you do?
8 A I talked to Karen, his wife briefly, and
9 thanked her for coming, and I went to bed. It was 4,
10 4:30 in the morning by then.
11 Q Were you alone then with the children?
12 A Yes. Well, I don't know if Karen stayed,
13 honestly. She might have stayed. I don't even know
14 after that what happened.
15 I went to bed and woke up the next morning,
16 and there were several of my friends from church at my
17 house.
18 Q What time did you wake up?
19 A It was probably around 7, 7:30. One of our
20 really close friends came into my bedroom and he just
21 knelt by the side of my bed.
22 Q What was his name?
23 A Ken Jones.
24 Q Who else was at your house?
25 A Marie Johnson, and her daughter, Melody

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1 Walthers. It kind of seems like Stephanie Davis might
2 have been there.
3 Q Were these all people from your church?
4 A Yeah. They were all friends as well.
5 Q Did they kind of take over with things at the
6 home and the grandchildren?
7 A Yes.
8 Q Did your kids come into town?
9 A Later that day.
10 Q All of them -- I guess Audrey was in
11 Thailand?
12 A She didn't, just my boys.
13 Q Did Audrey leave Thailand?
14 A Yes.
15 Q How soon was she able to make it back?
16 A She actually came, I believe, on Saturday.
17 This was Wednesday -- yeah, it took a while. It was
18 hard for them to get home.
19 Q Did your boys stay with you during that
20 time?
21 A Yes.
22 Q On the day after?
23 A Yes. I guess -- what day is the 23rd?
24 Thursday? I think the accident happened Wednesday,
25 the accident happened on Wednesday, and they came on

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1 Thursday, then she finally got there Thursday -- I
2 mean Saturday, excuse me.
3 Q When was the funeral?
4 A We had a memorial service in Spring Creek on
5 Monday evening, and then the funeral took place
6 Friday, the following Friday in Logandale.
7 Q I think I read it was a big turn out?
8 A Yes.
9 Q About how many people attended?
10 A Well, the memorial service, hundreds. It
11 filled the chapel clear back through the whole
12 overflow into the cultural hall, and then the same
13 thing in Logandale. He was involved in a lot of
14 stuff, so was I, so we had a lot of friends.
15 Q Did you have any out-of-pocket expenses
16 related to the funeral?
17 A Not really because I also had a donation from
18 America First Credit Union of \$6,000.
19 Q I think you said earlier that the Elko Credit
20 Union paid \$10,000?
21 A Yes.
22 Q Did you get any workers' comp funds for the
23 funeral?
24 A I think.
25 MS. MORALES: Objection, form. Collateral

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1 source.
2 You can answer.
3 THE WITNESS: 10,000. I was blessed, I
4 guess.
5 BY MS. WOODRUM:
6 Q Was he buried in Logandale?
7 A Yes.
8 Q At the time of his death, were Doug's parents
9 alive?
10 A His mother is alive.
11 Q She's still alive?
12 A Yes.
13 Q How old is she?
14 A She's 79, I think. 79 or 80.
15 Q How's her health?
16 A It's pretty good.
17 Q Do you maintain a relationship with her?
18 A Yes.
19 Q Where does she live?
20 A Nampa, Idaho. N-A-M-P-A.
21 Q About how often do you talk with her?
22 A Not that often, really. Several times a
23 year.
24 Q And Doug's father was deceased at the time?
25 A Yes.

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1 Q How old was he when he died?
2 A He was 59.
3 Q What's his cause of death?
4 A Emphysema.
5 Q Was he al smoker?
6 A Yes.
7 Q Did Doug ever smoke?
8 A No.
9 Q Does Doug have any siblings?
10 A Yes.
11 Q How many siblings?
12 A A half brother and two other brothers.
13 Q What are his brothers' names?
14 A His half brother is Lyle Schwartz, and Robert
15 and Farin, spelled F-a-r-i-n.
16 Q Robert and Farin, is their last name
17 Schwartz?
18 A Yes.
19 Q Half brother, do they have the same father?
20 A Yes.
21 Q Where does Lyle live?
22 A Idaho Falls, Idaho.
23 Q And Robert?
24 A He lives in Moscow, Idaho, outside of Moscow,
25 Idaho, and Farin lives in Meridian, Idaho.

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1 because the providers at the hospital, the nurses and
2 doctor may have messed up somehow?
3 MS. MORALES: Objection, form. Overbroad;
4 vague and ambiguous.
5 THE WITNESS: So you're asking me when I
6 finally decided that I might want to pursue a lawsuit?
7 BY MS. WOODRUM:
8 Q Not when you necessarily decided you wanted
9 to pursue a lawsuit, but when you started thinking
10 maybe I should see if somebody messed up when they
11 were taking care of Doug?
12 MS. MORALES: Objection; form. Overbroad as
13 to provider.
14 THE WITNESS: Dr. Garvey pretty much told me
15 that things went wrong, so I knew that right from the
16 start, I guess. I knew that because they intubated
17 him, then he vomited and aspirated. I knew that
18 because he told me.
19 BY MS. WOODRUM:
20 Q When you were told by Mr. Benson that Carmen
21 at the hospital had said she would sue if she were
22 you, is that when you first starting thinking you
23 should sue?
24 A No, it was long after that.
25 Q What started you thinking maybe you should

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1 Q Do you talk to them at all?
2 A Yes.
3 Q About how often do you talk to Lyle?
4 A Lyle, very seldom. I haven't talked to him
5 since the funeral, actually. He never lived with
6 them, so you know, they weren't super close. But I
7 talk to the other two probably five times, six times a
8 year, or text frequently -- I should change that. We
9 text occasionally, not frequently, but I talk to their
10 wives.
11 Q When did you first think that something may
12 have gone wrong at the hospital?
13 A Honestly, when I came out from the bathroom,
14 and they said, they came and got John, started to
15 wonder, wonder what happened.
16 Q When did you first start to suspect there may
17 have been some negligence on the part of the doctor
18 and hospital and nurses?
19 A Well, honestly I didn't suspect anything. I
20 didn't see why there would have been anything gone
21 wrong. It wasn't until Dr. Garvey explained to me
22 what actually happened that I knew something went
23 wrong.
24 Q I guess what I'm getting at, when did you
25 think maybe you should look into filing a lawsuit

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1 sue?
2 A To be honest, it was 10 and a half months
3 later. And I just couldn't get the thought out of my
4 head one day. I just kept hearing in my head, you
5 need to call an attorney today, so I did finally.
6 Q Other --
7 A I hadn't even looked into it.
8 Q That's 10 and a half months after the
9 incident is when you first contacted an attorney?
10 A Uh-huh.
11 Q I saw in your journal entries or in some of
12 the discovery that you had said that in the community,
13 there was talk that maybe something had happened that
14 wasn't quite right at the hospital, so to speak. Do
15 you remember hearing any gossip about what had
16 happened?
17 A No. Actually, no one had a clue. Anyone I
18 ever talked to thought he had either died soon after
19 he got to the hospital or he had internal bleeding
20 there.
21 MS. WOODRUM: Want to go off the record for a
22 second?
23 (Break taken.)
24 BY MS. WOODRUM:
25 Q Back on the record after a lunch break. You

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1 understand you're still under oath?
 2 A Yes.
 3 Q We discussed earlier that your husband was
 4 hit while he was walking across the street; correct?
 5 A Yes.
 6 Q Do you know the name of the driver of the
 7 vehicle that hit him?
 8 A Yes.
 9 Q What was his name?
 10 A Daniel Vaseu, V-A-S-E-U.
 11 Q My understanding is that Mr. Vaseu left the
 12 scene of the accident?
 13 A Yes.
 14 Q Did you know Mr. Vaseu prior to this
 15 incident?
 16 A No.
 17 Q Have you ever spoken with Mr. Vaseu?
 18 A No.
 19 Q You mentioned a DA file regarding Mr. Vaseu
 20 earlier. Was he prosecuted related to this
 21 accident?
 22 A Yes.
 23 Q Do you know what the charges were?
 24 A They charged him with felony hit and run
 25 causing injury or death.

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1 kind of person he was.
 2 Then I said, I hope some day you'll show
 3 through your actions that you can make up for what
 4 happened, and I forgave him.
 5 Q Did you tell him you forgave him?
 6 A Yeah.
 7 Q Do you forgive Dr. Garvey for what his role
 8 is or what you see his role is in the case?
 9 MS. MORALES: Objection, form.
 10 THE WITNESS: I don't hold malice to what
 11 happened at the hospital. Things happen, mistakes are
 12 made.
 13 BY MS. WOODRUM:
 14 Q When you say you don't hold malice about what
 15 happened at the hospital, are you including Dr. Garvey
 16 in that?
 17 A Yes.
 18 MS. MORALES: Same objections.
 19 BY MS. WOODRUM:
 20 Q Fair to say you forgive Dr. Garvey just like
 21 you forgive the man who hit your husband?
 22 A Yes. I do want him to be held responsible
 23 for what happened, though.
 24 Q Do you have -- without discussing anything
 25 you've talked with your lawyer about, do you have any

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1 Q Did he go to trial on those charges?
 2 A No. He pled guilty, and they had a hearing
 3 sentencing.
 4 Q Did you attend the hearing?
 5 A Yes.
 6 Q Do you recall how long he was sentenced
 7 for?
 8 A He was sentenced to eight to 20 years; eight
 9 years, no possibility of parole.
 10 Q Was he charged with drunk driving?
 11 A Well, what I just said. Felony hit and run
 12 causing injury or death. However, during the hearing
 13 they did prove through records and a text from him
 14 that evening, 15, 20 minutes before the accident that
 15 he was drunk.
 16 Q Were you given a chance to speak at the
 17 hearing?
 18 A Yes.
 19 Q What did you say?
 20 A I said that I wasn't asking for anything in
 21 particular, but that I was leaving that in the DA's
 22 hands, and that I wanted him to know a little bit
 23 about my husband that he so thoughtlessly left lying
 24 in the street. And I told him about my husband's
 25 life, a little bit, some of the stuff he did and the

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1 plans to sue Mr. Vaseu for wrongful death?
 2 A No.
 3 Q Why is that?
 4 A Because I believe he -- it was his doing that
 5 put him in the hospital, that I never felt like it was
 6 because of what he did that he died.
 7 Q Can you explain that to me?
 8 A Well, I just feel like because of the
 9 intubation and things that took place at the hospital,
 10 that's why he died, not because of broken ribs that
 11 were caused from the accident.
 12 Q I'm going to go ahead and mark as Exhibit A
 13 this document in your discovery, responses you
 14 identified as notes from your personal journal.
 15 (Defendant's Exhibit A was marked for
 16 identification.)
 17 MS. MORALES: Do you have another copy?
 18 BY MS. WOODRUM:
 19 Q Do you recognize these notes?
 20 A Yes.
 21 Q These are notes from your personal journal?
 22 A Yes.
 23 Q Did you review these prior to your
 24 deposition?
 25 A No.

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<p>1 Q Do you recall when you made these notes?</p> <p>2 A These particular notes was last July.</p> <p>3 Q What was the reason you made these notes?</p> <p>4 A To give my attorney information what happened</p> <p>5 that day. Some I had already recorded on my laptop</p> <p>6 through my journals still, and some of them I wrote.</p> <p>7 I think I included both. Some I wrote specifically</p> <p>8 for her, then some I had already started and written</p> <p>9 earlier, like soon after it happened.</p> <p>10 Q So the ones you started, you said soon after</p> <p>11 it happened. Do have an estimate as to what time you</p> <p>12 made those notes?</p> <p>13 A I started making those notes probably</p> <p>14 November 2016.</p> <p>15 Q What was the reason you made those notes?</p> <p>16 A Because I wanted to document what happened</p> <p>17 that night and remember it.</p> <p>18 Q Do you regularly keep a personal journal?</p> <p>19 A Not regularly, but I do catch up on events</p> <p>20 that happened in my life.</p> <p>21 Q Is that something you keep on your laptop?</p> <p>22 A I have a handwritten one, and probably in the</p> <p>23 last 10 years I probably keep it on my computer more</p> <p>24 so.</p> <p>25 Q Have you made any handwritten notes related</p> <p style="text-align: right;">Page 90</p>	<p>1 that were created in November 2016 that don't appear</p> <p>2 here?</p> <p>3 A Well, not just then. Maybe it started then,</p> <p>4 then I would add to it, lot of Sunday afternoons I</p> <p>5 continued on and added to it, but I don't see that</p> <p>6 here. So it's basically the same thing, but just ...</p> <p>7 Q Have you had a chance to review this</p> <p>8 recently?</p> <p>9 A No, I haven't read through it since I gave it</p> <p>10 to her. I don't like dwelling on it all the time.</p> <p>11 Q And I know you just said you don't like</p> <p>12 dwelling on it, but I'm going to ask you if you can</p> <p>13 read through it now and let me know if there's any</p> <p>14 changes that you would like to make or anything that</p> <p>15 you see in here that may be inaccurate.</p> <p>16 MS. WOODRUM: We can go off the record for a</p> <p>17 second.</p> <p>18 (Break taken.)</p> <p>19 (Witness reviewing document.)</p> <p>20 BY MS. WOODRUM:</p> <p>21 Q So you just read through the document we</p> <p>22 marked as Exhibit A, and you don't see anything you'd</p> <p>23 like to change?</p> <p>24 A No. I didn't read through like these,</p> <p>25 though, I put information that -- I think these were</p> <p style="text-align: right;">Page 92</p>
<p>1 to the events at the hospital?</p> <p>2 A No. I've done it all on my laptop.</p> <p>3 Q Does the document in front of you include all</p> <p>4 the notes that you've made regarding the incident that</p> <p>5 are on your laptop?</p> <p>6 A Yes.</p> <p>7 Q You haven't made any additional notes since</p> <p>8 July when you printed this?</p> <p>9 A Not to my knowledge.</p> <p>10 Q You said July of last year, so since July</p> <p>11 2018?</p> <p>12 A Yes.</p> <p>13 Q Are you able to differentiate looking at this</p> <p>14 what notes you made specifically to give to your</p> <p>15 attorney versus what notes you made closer to the time</p> <p>16 of the incident?</p> <p>17 A I think this particular part was all that I</p> <p>18 had done in July.</p> <p>19 Q When you say "this particular part," can</p> <p>20 you --</p> <p>21 A Well, this that you gave me was all that I</p> <p>22 did in July. But I was thinking that I had given,</p> <p>23 copied the other journal that I had done earlier, but</p> <p>24 I don't see it here.</p> <p>25 Q So you think there may be additional notes</p> <p style="text-align: right;">Page 91</p>	<p>1 their inputs, not mine.</p> <p>2 Q A couple of follow-up questions I had on</p> <p>3 those. At one part, it would be on the fourth page --</p> <p>4 I know these aren't numbered. The top of the page,</p> <p>5 "They let me know that Doug had broken five ribs," on</p> <p>6 the same page?</p> <p>7 A Yeah.</p> <p>8 Q If you go down to the second paragraph that</p> <p>9 says, "I wasn't sure why that was necessary because he</p> <p>10 has his other lung, which was just fine, and he wasn't</p> <p>11 struggling at all to breathe."</p> <p>12 What are you talking about there?</p> <p>13 A I'm talking about I didn't understand -- this</p> <p>14 is after the fact, so as I looked back, I couldn't</p> <p>15 understand why they needed to intubate him in the</p> <p>16 first place.</p> <p>17 Q And your reasoning for not understanding why</p> <p>18 he needed to be intubated is because he wasn't</p> <p>19 struggling to breathe?</p> <p>20 A Yes.</p> <p>21 Q And only one lung was affected?</p> <p>22 A Yes.</p> <p>23 Q But that wasn't a question that you had at</p> <p>24 the time of the incident; that was only in retrospect</p> <p>25 that you thought that?</p> <p style="text-align: right;">Page 93</p>

1 A I actually did think that when the doctor
2 told me they might intubate him, because I thought
3 why? He's fine. But he's the doctor and the
4 professional and not me. I just assumed if that's
5 what they chose to do, he would, you know ...
6 Q And you assume that the doctor would have
7 your husband's best interest in mind when he made that
8 decision?
9 A Yes.
10 Q And you go on to say that, "I thought about
11 questioning the doctor, but I'd done that once before
12 and I was chastised for it by Doug, so I didn't say
13 anything."
14 When had you been chastised for questioning a
15 doctor before?
16 A When one of my kids broke his arm.
17 Q Tell me about what happened then.
18 A Well, they were going to put a cast on his
19 arm, and when he was wrapping it, it looked like he
20 was wrapping it really tight. Of course, this is my
21 son, and I was all worried they were going to cut the
22 circulation off his arm. So I said, "Are you sure
23 you're not doing too tight?" And Doug looks at me,
24 "Oh my gosh, come on. He's the doctor." And he was
25 kind of irritated that I would say anything.

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1 So I just thought I better keep my mouth shut
2 because Doug was sitting right there, and I didn't
3 want him to be annoyed with me for asking the doctor.
4 Q It sounds like Doug was the type if a doctor
5 made a recommendation to him, he was going to listen
6 to it. Is that fair to say?
7 MS. MORALES: Objection; form. Overbroad;
8 calls for speculation.
9 THE WITNESS: Not necessarily. I really
10 don't know what was in his mind.
11 BY MS. WOODRUM:
12 Q Then you go on to write, "Come to find out
13 later the doctor was supposed to go over the possible
14 risks and have us sign a consent form. This he did
15 not do."
16 When did you find that out?
17 A After the E.R. -- after the -- how do I
18 explain that.
19 After I heard the results from when I had
20 hired an attorney and it goes, you know, to the review
21 board to even see if there's a lawsuit, and apparently
22 he's the one who had mentioned that. So that came to
23 light then for me, that that was one of the things
24 that he picked you up on that I should have signed.
25 We or he should have signed some kind of release for

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1 that.
2 Q When you talk about the review board, are you
3 referring to an affidavit by a Dr. Kenneth Scissors?
4 A I believe that was his name.
5 Q When did you review that affidavit?
6 A I don't know if I ever actually read it
7 through or my attorney told me.
8 MS. MORALES: Let's not talk about anything I
9 told you.
10 BY MS. WOODRUM:
11 Q So you're not sure one way or the other if
12 you actually reviewed the affidavit of Dr. Scissors?
13 A Correct.
14 Q When did you first decide to look into making
15 a worker's compensation claim?
16 A Probably within weeks after the accident.
17 Mostly because I was kind of perturbed with my husband
18 for being there that night, because my grandkids were
19 there, and I was taking them to Salt Lake the next
20 day, and I asked him for the first time ever if he
21 would just go to the board meeting and come home and
22 not go to the dinner. And he said, he goes, "Well, I
23 can't do that. I pay for the meal, I have to be
24 there."
25 Q How would he pay for the meal? Was it a

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1 company credit card?
2 A Yes. So, of course, after the fact, I was
3 thinking in my mind, why did you go? I told you not
4 to go. You wouldn't even been there if you had just
5 come home like I wanted you to.
6 You go through stuff like that in your mind
7 when that happens. I knew he was basically there
8 because of work, so I just asked Craig Stevens at the
9 credit union if that was something that I should look
10 into.
11 Q Did anybody at the credit union assist you
12 with making the claim?
13 A No. I actually just got the information of
14 who it was with, who the workers' comp was with.
15 Q Was there any particular -- strike that.
16 Who was the worker's compensation through?
17 A I think it was called First Comp.
18 Q Was there anybody at First Comp, like a
19 claims representative that you worked with on this
20 claim?
21 A Well, I went to the credit union. I do
22 believe it was Craig who filed it at the credit union,
23 and then First Comp had hired a nonpartisan company to
24 come and speak with me. And I believe the name of
25 that company was Elite Investigations out of Reno,

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1 Nevada. And I can't remember her last name, but
2 Jennifer, I do believe was her name, came to my home
3 and spoke with me.
4 Q What do you remember about your conversation
5 with Jennifer?
6 A Really, just talking about the fact that --
7 she just asked questions as far as, why he was there,
8 was this an ongoing thing, or was it just like
9 once-in-a-while type thing, just trying to get as much
10 information about why he was there in the first place,
11 and if it was actually work related, those kinds of
12 things.
13 Q When you say "why he was there," you're
14 talking about at the dinner?
15 A Yes.
16 Q So they were trying to make a determination
17 sounds like whether the dinner was part of his job?
18 A Yes.
19 Q Sounds like they ultimately made a
20 determination that it was?
21 A Yes, because they did this every single
22 month, and he always was the one who paid for the meal
23 through the credit union's account or whatever.
24 Q Do you know if he was the only one that was
25 authorized to use that credit card?

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1 A I don't believe so. I think Craig Stevens
2 and Danny Benson also were authorized.
3 Q What's Craig Stevens' job at the credit
4 union, or what was his job at the time?
5 A He's a vice president over something.
6 Q At the time you talked with Jennifer from
7 Elite Investigations, were you planning on filing a
8 lawsuit for medical malpractice at that time?
9 A No.
10 Q Did Jennifer suggest that you did?
11 A She's the first one that gave me a heads-up
12 that something didn't look right.
13 Q And how did she give you that heads-up? What
14 did she say?
15 A She just said that it looked like they could
16 have used the wrong medications, that there's certain
17 medications that you give a patient when you do an
18 intubation that helps paralyze the muscles or reflexes
19 so you don't vomit. From what she could tell, she
20 didn't know if they used the correct medication to
21 prevent that.
22 Q Do you know if Jennifer had any type of
23 medical training?
24 A I don't know. I do know she does a lot of
25 investigations for medical-type things.

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1 Q Did she tell that you she had learned that
2 information --
3 A No.
4 Q - about the medications?
5 A No, just from her investigation. I don't
6 know, she may have, but I don't recall what, what it
7 would have been.
8 Q Did you ever provide any type of written
9 statement to Elite Investigations?
10 A Not that I'm aware of.
11 Q Did you ever provide any type of written
12 statement to worker's compensation?
13 A Not that I'm aware of, I just answered their
14 questions, and they wrote my answers.
15 Q Have you ever reviewed the worker's
16 compensation file?
17 A No.
18 Q I'm going to go ahead and mark as Exhibit B a
19 document entitled "Interview with Widow Diane
20 Schwartz" from MLB Investigations.
21 (Defendant's Exhibit B was marked for
22 identification.)
23 BY MS. WOODRUM:
24 Q Have you ever seen this document before?
25 A No.

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1 Q I'll represent to you that this was contained
2 in the workers' comp file that was produced by your
3 attorney. If you -- or it may have been actually
4 produced by my office, and it's an summary of an
5 interview you had with the representative from Elite
6 Investigations.
7 If you want to just go ahead and read through
8 this statement, and let me know if there's anything in
9 the statement that you disagree with.
10 (Witness reviewing document.)
11 BY MS. WOODRUM:
12 Q So you've had the chance to read through the
13 document marked as Exhibit B?
14 A Yes.
15 Q Do you see anything in this document you
16 disagree with?
17 A No.
18 Q Is this an accurate transcription of your
19 interview with Elite Investigations?
20 A Yes.
21 Q Anything you recall from the investigator
22 from Elite Investigations that's not included in this
23 summary?
24 A Not that I'm aware of.
25 Q You can turn to, it's marked at the bottom

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1 Schwartz 00197, that page.
 2 A Yes.
 3 Q If you go to the second paragraph, seven
 4 lines up from the bottom, it says, "She stated that
 5 she was not sure what had happened, but there was talk
 6 and speculation in the community that the hospital had
 7 not done a proper job with Schwartz's medical care."
 8 Do you recall making that statement to the
 9 investigator?
 10 A I didn't.
 11 Q So --
 12 A I didn't know what was going on in the
 13 community. That could be because -- no, actually, I
 14 never said that because I didn't know what the
 15 community was saying. She may have found that out.
 16 Q So you never knew of any talk or speculation
 17 in the community about the hospital not doing a proper
 18 job with Schwartz's medical care?
 19 A No.
 20 Q Then if you go to the next page marked
 21 Schwartz 00198, go down to the third line -- I'm
 22 sorry, the very end of the second line, it says, "As
 23 far as she knew, the public defender's office in Elko,
 24 as well as the prosecutor's office in Elko, had the
 25 death certificate, but we're not releasing it at this

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1 intubation because of blunt force trauma?
 2 MS. MORALES: Same objection; calls for
 3 medical opinion.
 4 THE WITNESS: If I'm just answering that from
 5 my observation, he wasn't in duress, so I didn't see
 6 why that was necessary, but I'm not an expert.
 7 BY MS. WOODRUM:
 8 Q Do you have any reason to dispute if the
 9 medical records state that he had a pneumothorax, that
 10 is not true?
 11 MS. MORALES: Same objection; calls for
 12 speculation for medical opinion.
 13 THE WITNESS: I don't know what that is
 14 exactly.
 15 BY MS. WOODRUM:
 16 Q If the medical records state he had partially
 17 collapsed lung, do you have any reason to dispute
 18 that?
 19 MS. MORALES: Same objections.
 20 THE WITNESS: Well, he had another lung, so
 21 ...
 22 BY MS. WOODRUM:
 23 Q Going back to that same paragraph we were
 24 just on, "To this day she still does not know what
 25 actually happened to her husband while at the hospital

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1 time due to the pending charges against Daniel Vaseu."
 2 Did you ever see the death certificate?
 3 A I finally did after 10 and a half months.
 4 Q And do you recall what the cause of death
 5 was?
 6 A It said blunt -- blunt force trauma due to
 7 vehicle accident, which I should have fought because
 8 that's not why he really died.
 9 Q Why do you say you should have fought that?
 10 A Well, I didn't even know you could. I'm just
 11 saying I probably should have, looking back.
 12 Q Because you don't believe that he had died
 13 from blunt force trauma?
 14 A No.
 15 Q What's your basis for saying that, other than
 16 discussions you may have had with your attorney?
 17 A Well, reading the medical records, I know it
 18 was because of the intubation. Obviously, blunt force
 19 trauma put him in the hospital.
 20 Q Do you have any reason to dispute that he
 21 required intubation because of blunt force trauma?
 22 MS. MORALES: Objection; form. Calls for
 23 speculation, for medical opinion.
 24 BY MS. WOODRUM:
 25 Q Do you have any reason to believe he required

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1 and is eagerly awaiting for the coroner's report." Is
 2 that an accurate statement?
 3 A At that particular time. This was long
 4 before I read any medical records at all.
 5 Q And were you ever able to obtain the
 6 coroner's report?
 7 A I don't think I ever did see it.
 8 Q Did you ever speak with the coroner?
 9 A Well, I called once because I was really
 10 confused as to why it was taking so long, to get it,
 11 but they didn't give me really any information.
 12 Q Other than that one call to the coroner's
 13 office, did you ever speak with anybody again?
 14 A No.
 15 Q Did anybody ever discuss the coroner's report
 16 with you other than your attorney?
 17 A No.
 18 Q You said this is the first time that you were
 19 maybe alerted to something that wasn't right that
 20 happened at the hospital; is that correct?
 21 MS. MORALES: Objection; form. Overbroad;
 22 vague and ambiguous.
 23 THE WITNESS: Well, not necessarily, because
 24 Dr. Garvey told me what happened, so I knew right then
 25 that things didn't go right because of the

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1 intubation.	1 A Never.
2 BY MS. WOODRUM:	2 Q Ever seek marital counseling?
3 Q I'm going to jump back for a second. We were	3 A No.
4 talking earlier about the hearing for Daniel Vaseu and	4 Q Neither of you had any previous marriages;
5 you said you made a statement, victim impact	5 correct?
6 statement; correct?	6 A No.
7 A Yes.	7 Q How would you describe Doug as a father?
8 Q Did anybody else make a statement at that	8 A He was a great father. He had a great
9 hearing?	9 relationship with his kids and spoke with them
10 A My son.	10 frequently. He was the great adult parent. I was the
11 Q Which son?	11 great baby's parent, so we worked together.
12 A D.J.	12 Q What do you mean by the great adult parent?
13 Q Anyone else?	13 A He just had a way with talking to my kids
14 A And his brother -- well, my son D.J. also	14 about stuff that they needed or problems, concerns,
15 read a letter from my son, his brother Robert, who was	15 supported them in every way possible.
16 not able to attend.	16 Q Is he the parent they would kind of call when
17 Q Did Audrey attend?	17 they had a problem?
18 A Yes.	18 A My boys mostly probably more than my
19 Q Did she make a statement?	19 daughter. She would probably call me more than him,
20 A No.	20 but not necessarily, because I had a real close
21 Q And Mitchell?	21 relationship with them too, but they did kind of rely
22 A He did not attend, but my son Taylor did.	22 on my husband for a lot of their male support, I
23 Q I'm sorry, I have them mixed up.	23 guess.
24 A Mitchell didn't want to be there. It was too	24 Q How often would he talk to D.J.
25 hard. He didn't want to face it at that time.	25 A Well, I do know that he would call the kids
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1 Q Did you think that the sentence Mr. Vaseu got	1 quite frequently to and from work because it would
2 was fair?	2 take about 30 minutes to and from work, and he would
3 A Well, I didn't ask for anything, I just let	3 call them a lot and talk to them, but you'd have to
4 them do it. Sometimes I actually feel bad he got that	4 ask them how often that was.
5 long a of sentence, even though I put him there, I	5 Q Any one child he was more close to than
6 didn't feel like he caused his death, he was charged	6 others would you say?
7 with his death. He was charged with a felony hit and	7 A I wouldn't think so, but he did have a
8 run causing injury or death.	8 special bond with Taylor because Taylor liked rodeo
9 Q How was your relationship with Doug prior to	9 stuff like him, but he coached the kids in sports. He
10 his passing? Would you consider it a good	10 coached D.J. and Taylor in football, and Mitchell in
11 relationship?	11 basketball when he was in middle school. He was
12 A Absolutely.	12 varsity coach at the high school, just a volunteer.
13 Q What kind of things did you enjoy to do	13 Q What other things did he do with them when
14 together when you had free time?	14 they were younger?
15 A We liked to get on the Ranger and go out to	15 A Watch sports. I don't know, just be with
16 dinner, go to movie, spend time with friends, watch	16 them.
17 sports, just be together.	17 Q One of your boys was in college at the
18 Q Did you travel?	18 time?
19 A Yes, we traveled a lot. I guess I should	19 A Yes.
20 have included that. We loved to travel.	20 Q Taylor?
21 Q Did you have any vacations planned?	21 A Uh-huh.
22 A We had just gotten back, actually, the week	22 Q Were you guys paying for his college?
23 before to Nashville.	23 A Actually, he was going to UNLV when Doug
24 Q Did you ever have any times of separation	24 passed away, and Taylor actually had a scholastic
25 during your marriage?	25 scholarship and a rodeo scholarship. As far as the
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1 actual school, we weren't supporting him, but we were
 2 supporting him like through room and board and food
 3 and stuff like that.
 4 Q How much were you giving him a month for room
 5 and board?
 6 A I couldn't tell you. Doug pretty much took
 7 care of that.
 8 Q After Doug's passing, did you continue to
 9 support him with room and board?
 10 A Yes.
 11 Q How much were you giving him then?
 12 A Probably 3- to \$600 a month.
 13 Q Where did he live? Was he in the dorms?
 14 A No. He lived with some friends at a couple
 15 locations.
 16 Q Has he graduated?
 17 A He transferred to BYU Idaho, and he has just
 18 probably over a year left at school.
 19 Q What's he studying?
 20 A Business agriculture.
 21 Q Are you providing him support now for
 22 school?
 23 A I have been.
 24 Q About how much a month?
 25 A Up until just recently -- off and on because

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1 financial support?
 2 A No, not that I can recall.
 3 Q Were any of your children beneficiaries to
 4 any type of life insurance policy for Doug?
 5 A I didn't know they were, but actually they
 6 were awarded some money, yes.
 7 Q Where was that money from?
 8 A It was through State Farm; it was through
 9 Daniel Vaseu's insurance.
 10 Q How much were they given?
 11 A I don't know actually, the amount.
 12 Q Did you receive anything?
 13 A I did initially. I received a hundred
 14 thousand, then part of that went to workers' comp, and
 15 part of it went to hospital bills, and part of it went
 16 to pay the attorney, then I got a portion.
 17 Q How much was left over after those bills?
 18 A I honestly don't remember the exact number,
 19 but I think it was around 30,000ish, but I could look
 20 that up for you.
 21 Q Were the hospital bills paid out of that
 22 money you got from State Farm?
 23 MS. MORALES: Objection; form. Collateral
 24 source; irrelevant.
 25 THE WITNESS: What was left after the bills,

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1 sometimes he'll work for a while, and he'll use his
 2 money for a while when he's between semesters and
 3 stuff like that, then he'll say I need some help. I
 4 don't know if I can tell you how much a month
 5 necessarily. \$300 or \$600 paying for books, so it's
 6 sporadic. I can't tell you exactly in numbers.
 7 Q Before his death, were you and Doug
 8 supporting any of your other children financially?
 9 A No.
 10 Q Were any of them giving you any type of
 11 financial support?
 12 A No. Sometimes we would give Mitchell a
 13 little help because he had been going to school too
 14 and recently gotten married, and sometimes we'd help
 15 him a little bit.
 16 Q How often would that happen?
 17 A I can't tell you because Doug kind of did it.
 18 I'd have to look back on statements and stuff like
 19 that.
 20 Q Since Doug's passing, have you provided any
 21 of your children other than what we talked about with
 22 any financial support?
 23 A Say that again.
 24 Q Since Doug has passed, have you provided any
 25 of your children other than Taylor with any type of

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1 part of it went to pay the balance.
 2 BY MS. WOODRUM:
 3 Q Do you recall how much that was?
 4 A I don't.
 5 Q What about --
 6 A I could get that information, though.
 7 Q And the workers' comp, was that to reimburse
 8 workers' comp?
 9 A Yes, because anything I get from the third
 10 party basically goes to workmen's comp.
 11 Q Do you recall how much of that 100,000 you
 12 reimbursed the workers' comp with?
 13 A I don't recall right off, but I could find
 14 out.
 15 Q Is there a reason that your children aren't
 16 parties to this lawsuit?
 17 A Mostly because I didn't even know that they
 18 could be, because they were adults, so I just assumed
 19 the fact that they were adults, it really didn't apply
 20 to them. I don't know; never done this before.
 21 Q In your responses to discovery, you listed
 22 quite a few witnesses that I want to go through. Some
 23 of them we've already talked about their roles, so
 24 we'll get through that rather quickly, but there's
 25 some I don't believe we talked about.

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1 The first one is Danny Benson, and we talked
2 about his role pretty thoroughly today. Is there any
3 other conversations that you've had with Mr. Benson
4 about the incident other than what we've already
5 discussed today?
6 MS. MORALES: Objection, form; overbroad.
7 THE WITNESS: Not that I know of.
8 BY MS. WOODRUM:
9 Q Did you ever discuss with Mr. Benson that you
10 were going to file a lawsuit?
11 A I'm sure I told him that I might.
12 Q Do you remember what he said?
13 A No, I don't.
14 Q The next was John Lemich -- am I saying that
15 correctly?
16 A Can I see?
17 Q L-E-M-I-C-H. He was the one at the bottom of
18 that statement.
19 A I've never talked to John. He's the owner of
20 Machi's. I don't really know him. I knew Doug knew
21 him pretty well because they were in there so often,
22 but to this day, the only conversations I've ever had
23 with him was just to give me condolences at the
24 memorial services. He came, but I've never discussed
25 anything ever with him regarding what happened or

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1 anything.
2 Q The next is Raymond Eugene Connelly. Do you
3 know that name?
4 A No, I don't.
5 Q Janet Baum?
6 A If I remember correctly, she might be on the
7 board of directors of the credit union.
8 Q Did you ever discuss the accident with her?
9 A No. What was name before her?
10 Q Raymond Eugene Connelly.
11 A No. He might have been on the board too. I
12 don't know who that is.
13 Q Tom Ballew, B-a-l-l-e-w?
14 A Don't know who that is.
15 Q Craig Stevens?
16 A Craig Stevens is one of the VPs at the credit
17 union.
18 Q Did you discuss the incident with him?
19 A Yes.
20 Q Tell me about that conversation.
21 A Well, he's the one that I went in and talked
22 to about the workmen's comp, and I definitely told him
23 how things transpired that night, because I was so
24 distraught at the time, you know. I went in and
25 talked to him, wondering what I should do, or if I

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1 should file workmen's comp, et cetera. So, yes, I did
2 have a conversation with him.
3 Q Did you discuss filing a lawsuit with him?
4 MS. MORALES: Objection; form. Overbroad;
5 vague and ambiguous.
6 THE WITNESS: I actually did ask him
7 whether -- I asked him about it because I said if I do
8 decide to, I don't even know who I would talk to.
9 BY MS. WOODRUM:
10 Q Did he give you any recommendation about who
11 to talk to?
12 A He did actually. He said he knew -- it was
13 him that actually told me to call the attorney's
14 office, I mean, gave me an idea of an attorney to call
15 because I asked for his opinion.
16 Q And when you say you asked for his opinion,
17 do you mean you asked for his opinion about whether or
18 not you should sue for medical malpractice?
19 A No. I asked his opinion -- I asked him if he
20 would happen to know an attorney that would deal with
21 that.
22 Q Did he offer any opinion about whether or not
23 you should sue for medical malpractice?
24 A Not really. He had no idea what transpired
25 that night other than what I told him.

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1 Q Was the name of the attorney he referred to
2 you Ms. Morales?
3 A No. It was Craig, the other attorney in
4 their office, Kidwell.
5 Q Is that an attorney in Elko?
6 A Yes. Kidwell and Gallagher. He thought that
7 Craig dealt with malpractice, but Craig apparently
8 dealt with workmen's comp type stuff, so when I called
9 their office, they said, well, he's not really. The
10 one you would talk to, you would probably want to talk
11 to Barbara Gallagher.
12 Q When did you call their office?
13 A Toward the end of May. I don't know the
14 exact day, to be honest.
15 Q May of 2016?
16 A No, May 2017.
17 Q Any other conversations with Craig Stevens?
18 A Not really.
19 Q After you had that initial conversation with
20 him about worker's compensation, did he help you, kind
21 of shepherd through the claim at all?
22 A No. He just gave me the information as to
23 who it was and -- you know, what's interesting, I
24 don't remember whether he filed -- yeah, they filed it
25 at the credit union; so he just asked me the pertinent

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1 questions based on the form, and then he submitted it.
2 I didn't really do it.
3 He actually didn't think they'd do anything
4 about it, to be honest. He thought it would be a big
5 fight, but they were really good about it.
6 Q Why did he think it would be a big fight?
7 A He just assumed, usually it would be that
8 they weren't that easily going to a okay, here you go.
9 So ...
10 Q Jenna Johnson?
11 A Jenna Johnson? I do not.
12 Q Shawn Daz?
13 A Shawn Daz, I think that's the police
14 officer.
15 Q Other than the involvement we talked about
16 with Mr. Daz earlier, is there any other conversations
17 that you had with him?
18 A No.
19 Q So you didn't have any conversations outside
20 the hospital?
21 A No. I only saw him that one day at the
22 hospital, and he was asking Doug quite a few
23 questions, he was asking me a few, but mostly just
24 asking Doug what had happened, and then he left.
25 Q John Patton, we've discussed his role

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1 earlier. Any other conversations that you had with
2 John Patton?
3 A Well, I've talked to John many times --
4 Q About the incident?
5 MS. MORALES: Objection. Form; overbroad;
6 vague and ambiguous.
7 THE WITNESS: I can't recall if I did or
8 didn't, honestly. I probably have talked to him a
9 little bit because I've seen him a lot since.
10 BY MS. WOODRUM:
11 Q Did you ever discuss filing a medical
12 malpractice with John Patton?
13 A What?
14 Q Did you ever discuss filing a malpractice
15 with him?
16 A No, that was a private matter.
17 Q Do you know if John Patton talked to anybody
18 at the hospital after the incident happened?
19 A Not to my knowledge.
20 MS. MORALES: Objection, form; calls for
21 speculation.
22 THE WITNESS: Only time I talked to him was
23 way early on. He was behind the desk talking to the
24 doctor a brief minute, and that's the only time I paid
25 attention to what he was doing at the hospital other

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1 than when he was with me.
2 BY MS. WOODRUM:
3 Q Parry Wilson?
4 A Parry was the one who came to give a
5 blessing, but as soon as it over, he left. He didn't
6 talk to anybody that I know of, and I have honestly
7 never even seen him since or talked to him since.
8 Q Cory Lucero?
9 A For some reason I was thinking he was the
10 friend that came out of the E.R., but I can't
11 remember.
12 Q The one with the little --
13 A The girl, the daughter. I should have
14 reviewed who these people were for sure, but that was
15 last summer so ...
16 Q Amber Miller?
17 A From my understanding, Amber Miller was the
18 nurse that reached out to a friend of mine and said
19 that I should get all the doctors and nurses' notes as
20 soon as possible. She was, from what I understand,
21 she was a nurse on staff that night.
22 Q Did she say why you should get all the doctor
23 and nurses's notes soon as possible?
24 A I didn't talk to her; she just talked to this
25 friend, and she just said because there were things

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1 that happened at the hospital, and she wanted me to
2 get them soon as possible so that -- yeah, she
3 actually did say take them to a malpractice
4 attorney.
5 Q What was name of your friend that she talked
6 to?
7 A Marie Johnson. She did not -- from what I
8 understand, she did not personally talk to. She knew
9 somebody that knew Marie really well, and she said
10 will you get this message to Marie, and I don't know
11 who the other person was.
12 Q So there was some intermediary that talked to
13 Marie Johnson?
14 A Yes, because she said she wanted to stay
15 anonymous, but, of course, she's not anonymous now.
16 Q Did you ever try to talk to Amber Miller?
17 A No.
18 Q Does the recommendation that came through
19 Marie Johnson from Amber Miller play a part in your
20 decision to sue?
21 MS. MORALES: Objection; form. Overbroad.
22 THE WITNESS: No. It sparked an interest as
23 to what happened. Marsha would say that.
24 BY MS. WOODRUM:
25 Q Then the next person identified was Marie

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1 Johnson. So what did Marie Johnson say in as much
2 detail as you can remember about this conversation?
3 A What I told you.
4 Q That you should get all the doctors and
5 nurses's notes together as soon as possible?
6 A And take them to a malpractice attorney.
7 Q And take them to the malpractice attorney.
8 When did that conversation occur?
9 A Probably a couple months after he passed
10 away.
11 Q And your relationship with Marie, she's a
12 close friend, you say?
13 A Well, she was the Relief Society president at
14 the time and a friend as well, because ...
15 Q Is the Relief Society the woman's
16 organization in your church?
17 A Yes.
18 Q Patton Whimple?
19 A Paton.
20 Q Paton Whimple, that was the primary care
21 physician; correct?
22 A Yes, and he was the bishop of our ward and a
23 close friend.
24 Q Did you ever talk to Dr. Whimple about
25 whether or not you should sue for medical

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1 malpractice?
2 A No. But he did mention to me that he thought
3 I should get the records. He didn't say do anything
4 with them or anything. He just said, "I really think
5 you should get the records."
6 Q How did that conversation come about?
7 A I actually was at church, and he just called
8 me in the bishop's office and just said that. Because
9 he was a physician, he didn't want to say anymore.
10 Q But he initiated the conversation?
11 A Yes.
12 Q So you never asked him should I get the
13 records, he on his own volition told you to?
14 A Yes.
15 Q And has he ever discussed it with you any
16 further?
17 A Nope.
18 Q Todd Robinson?
19 A Todd Robinson is one of Doug's best
20 friends.
21 Q How long were Doug and Todd friends for?
22 A We met he and his wife in about 1994, '95.
23 We started to just spend a lot of time with their kids
24 and our kids, and I was friends with his wife as
25 well.

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1 Q What's his wife's name?
2 A Denise.
3 Q Where do they live?
4 A They live in Overton, Nevada.
5 Q Do you continue to have a close friendship
6 with them?
7 A Yes.
8 Q Debbie Geng?
9 A G-e-n-g?
10 Q Correct.
11 A Debbie Geng was basically his vice president
12 at Moapa Valley Federal Credit Union and a very close
13 friend as well.
14 Q Does she have any knowledge about the
15 incident and what happened at the hospital?
16 A No.
17 Q So is her --
18 A I'm not even sure why she's on there other
19 than she worked with Doug for 19 years. She might be
20 on there because I had to go to her to get -- I called
21 her about getting the pay stubs and stuff from the
22 credit union for this investigation.
23 MS. MORALES: Can we take a break soon?
24 MS. WOODRUM: We can take one now.
25 (Break taken.)

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1 BY MS. WOODRUM:
2 Q Did you mention earlier that Doug engaged in
3 rodeos?
4 A Yes.
5 Q Did he participate in rodeos?
6 A Not professionally. He was a roper, header
7 just for fun, and he would go to roping and stuff.
8 He'd win sometimes. But he also ran the Clark County
9 Fair and Rodeo for about 20 years.
10 When I say "ran," he was the chair, the
11 director, whatever.
12 Q Was there any type of donation from the Clark
13 County Fair and Rodeo?
14 A Not to my knowledge.
15 Q Was there any type of Go Fund Me or crowd
16 raising type of --
17 A No.
18 Q -- fund-raiser?
19 A No.
20 Q Any other donations other than what we've
21 already talked about?
22 A No, not that I'm aware of.
23 MS. WOODRUM: That's all my questions. I'll
24 let the other attorneys go ahead, if I have any
25 follow-up.

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<p>1 EXAMINATION</p> <p>2 BY MR. BURTON:</p> <p>3 Q Hi, Ms. Schwartz. I'm James Burton. I</p> <p>4 represent Reach Air in this case. I'm going to be</p> <p>5 brief, and I'm going to bounce around a little bit</p> <p>6 because a lot of questions have been asked.</p> <p>7 You testified earlier, and the records</p> <p>8 indicate, that your husband had an ulcer on the bottom</p> <p>9 of his esophagus, 2011. Do you remember that?</p> <p>10 A Yes.</p> <p>11 Q Do you know if that was disclosed to</p> <p>12 Dr. Garvey or the hospital when your husband was hit</p> <p>13 by the car?</p> <p>14 A Not to my knowledge.</p> <p>15 Q As I mentioned, I represent the flight crew.</p> <p>16 Do you recall meeting any of the flight crew in the</p> <p>17 hospital the night your husband was hit?</p> <p>18 A I saw them coming in just about when I was</p> <p>19 leaving.</p> <p>20 Q Meaning when you were leaving --</p> <p>21 A Just in the room my husband was in.</p> <p>22 Q Prior to them doing the chest tube or</p> <p>23 intubation?</p> <p>24 A Yes.</p> <p>25 Q Did you speak with either one of them?</p> <p>Page 126</p>	<p>1 After your husband passed away and you went</p> <p>2 in to view his body, do you recall there being a chest</p> <p>3 tube in his chest?</p> <p>4 A Honestly, when you say like in the side, like</p> <p>5 an actual chest tube, all I remember about going in</p> <p>6 there was they said you can't touch him anywhere</p> <p>7 except basically his left arm, and I do remember</p> <p>8 seeing a tube. I do believe either in his mouth or</p> <p>9 nose, and because I was on his left side, it almost</p> <p>10 seems like I remember seeing a tube on this side, but</p> <p>11 honestly, I was so out of it kind of, that I don't</p> <p>12 really know exactly what was going on with all the</p> <p>13 tubes.</p> <p>14 Q I remember your testimony where you said your</p> <p>15 husband had never consumed alcohol.</p> <p>16 A Yes.</p> <p>17 Q Do you have any reason to understand -- let</p> <p>18 me back up.</p> <p>19 Some of the folks that were in the room said</p> <p>20 the room smelled like alcohol, the treating room. Did</p> <p>21 you smell alcohol in that room?</p> <p>22 A No.</p> <p>23 Q Some of the folks in the room also said, and</p> <p>24 this will come out when others are deposed, when your</p> <p>25 husband vomited, that it smelled like alcohol. Do you</p> <p>Page 128</p>
<p>1 A No.</p> <p>2 Q Have you ever spoken with either one of</p> <p>3 them?</p> <p>4 A No.</p> <p>5 Q Do you have an understanding as to what</p> <p>6 specifically -- I'll represent to you there were two</p> <p>7 flight crew members there.</p> <p>8 Do you have an understanding what either one</p> <p>9 of them did specifically in treating your husband in</p> <p>10 the emergency room?</p> <p>11 A I don't know what they did exactly. I</p> <p>12 understood now, from --</p> <p>13 MS. MORALES: Nothing that we discussed.</p> <p>14 THE WITNESS: No. I understand now that one</p> <p>15 of the flight nurses was the one who actually did the</p> <p>16 intubation, which kind of surprised me, but I didn't</p> <p>17 know that until long after it happened.</p> <p>18 BY MR. BURTON:</p> <p>19 Q Was your husband actually given a chest tube,</p> <p>20 or was he prepared for a chest tube?</p> <p>21 A I have absolutely no idea what they did.</p> <p>22 Q I know a lot of this -- it's not lost on me</p> <p>23 or anyone in the group, a lot of these questions are</p> <p>24 personal, and I can assure you I was uncomfortable</p> <p>25 asking some of them, as I know you are answering them.</p> <p>Page 127</p>	<p>1 have any reason to understand that?</p> <p>2 A I've never heard that before.</p> <p>3 Q To your knowledge, your husband never drank</p> <p>4 alcohol before?</p> <p>5 A Never. And Danny said he never witnessed him</p> <p>6 drink any alcohol that night. Never heard that</p> <p>7 before, but interesting.</p> <p>8 Q With respect to the intubation, and I just</p> <p>9 want to make sure the record is clear, and I know you</p> <p>10 talked about it earlier, to your knowledge, you don't</p> <p>11 know one way or the other whether or not your husband</p> <p>12 consented to intubation?</p> <p>13 A I do not know if he signed any papers or</p> <p>14 consented, no.</p> <p>15 Q Do you know if there was ever a discussion</p> <p>16 between your husband and a medical professional about</p> <p>17 intubation?</p> <p>18 A I do not know. If it took place, it was</p> <p>19 after I left the room.</p> <p>20 Q Is your journal that you keep, you keep on a</p> <p>21 laptop at home?</p> <p>22 A Yes.</p> <p>23 Q Tell me what you did as you look through to</p> <p>24 find the entries that are relevant to this case?</p> <p>25 A Tell you what I did? Like what do you mean?</p> <p>Page 129</p>

1 Q How did you search for and determine what to
2 provide to your attorneys?
3 A I only had written one particular one about
4 the incident, so I knew exactly where it was.
5 Q Was it kept in the same spot -- I assume you
6 have other journal entries?
7 A I think I just listed that -- I don't even
8 know what I entitled it.
9 Q As a separate document?
10 A Yes.
11 Q So it's not part of a regular --
12 A No.
13 Q -- journal?
14 A No.
15 Q After your husband passed away and you were
16 informed that he had died, did you see the flight crew
17 members again?
18 A No.
19 Q So I assume, because you didn't see them, you
20 didn't speak with them either?
21 A No.
22 Q Have you ever spoken with either of the
23 flight crew members?
24 A No.
25 Q Do you know what their names are?

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1 A For an autopsy.
2 Q Do you know how many days his body was in
3 Reno?
4 A I do believe a week, because it seemed
5 like -- maybe I don't know exactly when Brian Redmon
6 from the mortuary went -- I know he came to Las Vegas
7 to pick it up from the airport, or they flew it down.
8 I know it was -- so the funeral was Friday. I don't
9 know exactly what day he came and picked it up, but I
10 know it was there Thursday. So probably Tuesday or
11 Wednesday, but I don't know for sure.
12 Q Do you know if that autopsy report has been
13 produced or -- "produced" is a lawyer fancy word we
14 use. Do you know if it's been provided to the
15 defendants' counsel in this case?
16 A I'm pretty sure it was.
17 Q There's an expert report that was attached to
18 the complaint from Dr. Scissors. Have you seen that
19 report?
20 A No.
21 Q Have you ever had a conversation with
22 Dr. Scissors?
23 A No.
24 Q In some of your interrogatory responses --
25 and again that's the fancy word for question -- you

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1 A No.
2 Q Do you know if in your -- in some of the
3 records, it talked about releasing to the coroner.
4 You remember how you had that discussion with counsel,
5 releasing your husband's body -- or getting a
6 coroner's report, sorry. Do you remember having that
7 discussion --
8 A With?
9 Q -- with Ms. Woodrum. Do you recall having
10 that discussion with Ms. Woodrum about the coroner's
11 report?
12 A Just now today?
13 Q Yeah, during the deposition. Let me ask my
14 question.
15 Do you know if your husband -- if an autopsy
16 was performed?
17 A Yes, an autopsy was performed.
18 Q Walk me through, when your husband's -- let
19 me back up. Has that report been provided to you?
20 A I honestly don't know if I have that
21 report.
22 Q Do you know where your husband's body went
23 when it left the hospital after he passed away?
24 A They either drove or flew him to Reno --
25 Q For an autopsy?

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1 talk about, or you list lost wages and lost future
2 earning capacity. Are you familiar with those
3 numbers? I'm not going to ask you but --
4 A Yeah, I'm familiar.
5 Q How did you come up with those numbers? I
6 don't want you to tell me any conversations you had
7 with your attorneys, but how did you determine those
8 numbers?
9 A I actually never talked to my attorney about
10 those numbers. Basically what I did is, I just did a,
11 okay, this is how much he's making now based on the
12 fact he signed a contract that he'd work for 10 years.
13 I don't think I even added inflation, honestly.
14 Q So it's just the remainder of that 10-year
15 contract with the credit union?
16 A Yeah, that's kind of what I estimated it.
17 Q The 201,000 approximately lost wages -- you
18 had two numbers: Future income, which was 704,000 and
19 201,000 in lost wages. What's the difference between
20 those two numbers? How did you differentiate the two
21 numbers?
22 A Not exactly sure what you're asking me.
23 Q So you have a lost wages, a past lost wages
24 line item is \$201,270, and then you have a future
25 earning capacity --

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1 A I think what that was up to the point I was
2 doing that particular interrogatory based on what he
3 would have made up to that point, which was July of
4 2018, that's how much money I would have had, had he
5 still been alive.

6 And based on what was left of the 10-year
7 contract would have been the rest of the money. I
8 think that's how I figured that out.

9 Q In your journal entry, you talk about the
10 drugs were not given to eliminate his gag reflex. Do
11 you remember that?

12 A Yes.

13 Q What's the basis for your understanding he
14 wasn't given drugs to eliminate the gag reflex?

15 A Based on Jenna tell me what she had observed
16 when she read through the hospital records from Elite
17 Investigations. So it wasn't anything that I read
18 myself, I was just basing that on what she had.

19 Q And any subsequent review of the medical
20 records -- I realize you're not a nurse or doctor, I'm
21 not trying to trick you. I'm just curious if you know
22 what drugs were given, or if there were drugs given to
23 him prior to his intubation?

24 A I do not know what they were.

25 Q Is your opinion still that he was not given

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1 done it, so when I found out it was the flight nurse,
2 I actually was kind of surprised, because I thought if
3 he would have had an emergency, why couldn't they have
4 done it on the plane, if need be? So I really was
5 always confused why he did it in the first place.

6 Q Was your concern that he did it in the first
7 place or did it improperly?

8 A A little of both actually, because I couldn't
9 understand why they intubated him in the first place
10 based on what I was seeing taking place that night and
11 the condition that Doug was in, and the fact he was
12 breathing fine and he was okay, that kind of stuff.

13 But then I just wondered if he did do it
14 improperly, or why after he'd attempted the first
15 time, why they went and continued to do it, tried a
16 second time.

17 Q Do you know or do you have an opinion as to
18 whether or not the intubation was done improperly --
19 the intubation was done by Barry Barlett, I'll tell
20 you that. He's one of the flight crew members -- by
21 Mr. Bartlett. Do you have any idea if he did the
22 intubation improperly?

23 MS. MORALES: Objection; calls for medical
24 opinion.

25 THE WITNESS: I have no idea whether he did

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1 drugs to eliminate his gag reflex?

2 A Well, based on the report I read, I can't
3 even tell because I'm not an expert.

4 Q Fair enough. You have a variety of different
5 claims that you have asserted, and again I realize
6 you're not a doctor. I also realize you're not an
7 attorney, so I'm just asking your personal opinion,
8 not a legal conclusion.

9 Obviously, there are multiple parties that
10 are here. If you can, what specifically are you
11 alleging that Reach Air, which is, again, my client,
12 the ambulance service to cause your husband's death?

13 MS. MORALES: I'll just put an objection on
14 the record for legal conclusion and calls for
15 speculation.

16 THE WITNESS: Well, basically, I always
17 thought that Dr. Garvey did the intubation because he
18 was the doctor at the E.R.

19 MS. MORALES: Sorry, nothing we talked about
20 either; so whatever you know outside of our
21 discussions.

22 BY MR. BURTON:

23 Q To be clear, none of my questions are
24 intended to elicit attorney-client.

25 A I always assumed it was Dr. Garvey that had

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1 it correctly or not.

2 For me, I couldn't understand why they would
3 do it knowing he just ate a big meal, that was my
4 biggest problem with the whole thing. They all knew
5 he just had a big meal, and the potential risk of
6 intubation is vomiting, so that is probably the
7 biggest reason why I thought they should have been a
8 little smarter about it.

9 BY MR. BURTON:

10 Q How did you know that vomiting was a
11 potential risk of intubation?

12 A Not really sure, actually.

13 Q Do you recall if anybody at the hospital
14 indicated you that that was a risk of intubation?

15 A No. I think just after the fact, and it
16 could have been something that Jenna had said, and
17 logic.

18 Q You testified earlier that you were informed
19 that your husband would need to be sedated before the
20 flight. Do you remember that?

21 A Well, they said he needed to be sedated to
22 put the chest tube in.

23 Q Who said that to you again?

24 A Dr. Garvey.

25 Q At that time, do you recall Dr. Garvey saying

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1 anything about he needed to be sedated for
2 intubation?

3 A No.

4 Q I think counsel asked if -- and I apologize
5 again if some of these are repetitive -- if Dr. Garvey
6 explained any alternatives to intubation to you?

7 A No.

8 Q Do you know if there were any alternatives to
9 intubation to secure an airway?

10 A No. I mean, I guess a trach or something
11 possibly.

12 (Court reporter asks for clarification.)

13 THE WITNESS: Telling you right now, I guess
14 a tracheotomy could.

15 MS. MORALES: I'll lodge a late objection as
16 to it calls for expert medical opinion.

17 MR. BURTON: Give me 30 seconds. Again, Mrs.
18 Schwartz, I'm sorry, generally sorry we're here. I
19 appreciate your professionalism. I don't have any
20 further questions.

21 THE WITNESS: Thank you.

22 EXAMINATION

23 BY MR. TAN:

24 Q Just a few questions. I represent a business
25 entity called Crum, Stefanko & Jones, Ltd.

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1 really kind of at the door of the room where Doug's

2 over here waiting in the hallway to leave, he said,

3 "Oh, by the way, we might intubate him." So I said,

4 "Why would you do that?" He said, "Well, we just want
5 to make sure he has a clear airway on the airplane
6 just in case."

7 So I was like, Okay. That seems weird to me.

8 I wasn't going to argue because he's the professional,
9 so I left.

10 Q And those were statements made by
11 Dr. Garvey?

12 A Yes. And he wasn't talking to Doug about it
13 right then. He just was solely talking to me.

14 Doug was probably like from me to you away,
15 10, 12 feet.

16 Q Was that the only conversation that you were
17 present for with Dr. Garvey talking about
18 intubation?

19 A Yes.

20 Q During that conversation, did Dr. Garvey tell
21 that you he needed to be authorized by Ruby Crest
22 before he did that intubation?

23 A No.

24 Q After the intubation, and after Doug's death,
25 are you aware of any -- let me ask this: Are you

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1 Prior this lawsuit, you ever heard that
2 business before?

3 A No.

4 Q They go by the name Ruby Crest Emergency
5 Medicine. Prior to this incident, have you heard that
6 entity before?

7 A No.

8 Q I'm just going to refer to it as Ruby Crest.
9 Would you understand what I'm talking about?

10 A Yes.

11 Q You were present for some conversations with
12 Dr. Garvey and Doug talking about the possible
13 intubation; is that right?

14 MS. MORALES: Objection; form. Misstates her
15 testimony.

16 THE WITNESS: Can you rephrase that?

17 BY MR. TAN:

18 Q Were you present for any conversations
19 between Doug and Dr. Garvey about the possible
20 intubation?

21 A No. As I was leaving the room, when he told
22 me that I needed to leave because they were going to
23 put the chest tube in and put him under, that I
24 couldn't stay in there when they did that.

25 As I was leaving the room, and I was standing

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1 familiar with the word "ratified" or "ratification"?

2 A Not really.

3 Q For our purposes, let's say it means, say an
4 employee does something, and it's sort of -- do you
5 have any understanding what "ratification" means?

6 A Well, a little bit.

7 Q What's your understanding of ratification?

8 A Like I don't even know if I'm right, but they
9 need like authorization from -- I don't know.

10 Q It's like an authorization after the fact.

11 A Okay.

12 Q Are you aware of any statements and
13 communications or any other indications that Ruby
14 Crest had ratified the intubation of Doug?

15 A No.

16 MS. MORALES: Objection; form, ambiguous --

17 THE WITNESS: I'm not saying if they did or
18 didn't. I don't know of any.

19 BY MR. TAN:

20 Q Did you have any conversation with any of the
21 flight crew?

22 A No.

23 Q And I know we're getting into very personal
24 information, but do you have any plans to remarry
25 sitting here today?

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1 A Not with anyone in particular at this time.
2 I would love to if I found the right person.
3 MR. TAN: I appreciate that. That's all the
4 questions I have.
5 EXAMINATION
6 BY MR. DOBBS:
7 Q Ms. Schwartz, my name is Tyson Dobbs. I
8 represent Northeastern Regional. I'm going to move
9 down here so we're not screaming across the table.
10 I'm going to jump around a little bit too.
11 You testified earlier that Dr. Whimple, is he
12 your husband's primary care physician?
13 A Yes.
14 Q And he was also the bishop in your ward?
15 A Yes.
16 Q So he was or is, not just a family practice
17 physician; is that what he is?
18 A I don't exactly what his title is.
19 Q Do you know if he sees patients -- strike
20 that.
21 Does he see patients in a particular office
22 in Elko somewhere?
23 A As far as I know, he has an office there,
24 yes.
25 Q Do you know if he sees patients at

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1 Northeastern Regional?
2 A I do not know. I do know he's -- I thought
3 he was on the medical review board.
4 Q That was Dr. Whimple?
5 A Yes.
6 Q And the medical review --
7 A I thought. I don't know for sure if he was,
8 but that was my understanding that he sits on the
9 medical review board.
10 Q What did you understand the medical review
11 board to be?
12 A I have no idea other than what it says. I
13 just figured that he sat on that board to review some
14 of the medical records that would come through after
15 patients' care.
16 Q But do you know if he ever saw patients at
17 the hospital?
18 A I do not know.
19 Q What about Dr. Patton. He was there with
20 you --
21 A He was just there as a friend, but he
22 coincidentally happens to be a doctor. I do remember
23 while we were sitting in the E.R., though, I don't
24 think he spends a lot of time in the E.R. or that part
25 of the hospital. He's pretty much just his own doctor

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1 in his office. You know what I'm saying? I don't
2 think he spends a lot of time. He knew some of the
3 doctors, but I have no idea if he knew Dr. Garvey.
4 Q I just asked because in your statement I saw
5 somewhere it said something to the effect of John was
6 also a physician at the hospital. And John is that --
7 A John Patton.
8 Q You said he had a practice outside of the
9 hospital?
10 A I do believe he had his own office. I'd
11 never been to it.
12 Q But it's also your understanding that John
13 practiced in the hospital as well?
14 A He might have. I'm sure he did surgeries. I
15 don't know where he would have done them.
16 Q Had Doug ever been to -- and is it okay if I
17 call him Doug?
18 A Yes.
19 Q Had he ever been to Northeastern Regional
20 emergency department before?
21 A Not to my knowledge.
22 Q And I think you testified that you didn't
23 know Dr. Garvey before --
24 A Actually, you know what, he might have gone
25 for a headache, migraine one time.

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1 Q Do you recall when that was?
2 A I don't.
3 Q Do you have an estimation or approximation?
4 A Maybe a year, year and a half before the
5 accident.
6 Q And did you go to the hospital with him at
7 that time?
8 A Yes.
9 Q And --
10 A He just couldn't kick it, so he was hoping
11 they could give him something to kind of take the edge
12 off.
13 Q Was he seen by an emergency department
14 physician at that time?
15 A Yes.
16 Q And do you remember who it was?
17 A No.
18 Q Do you know if it was Dr. Garvey?
19 A No.
20 Q Could it have been?
21 A I have absolutely no idea who it was. He
22 mostly just was with the nurse.
23 Q Fair to say you don't have a recollection?
24 A No. I have no idea.
25 Q And you testified that you did not know

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1 Dr. Garvey before going to the hospital at the time
2 frame we're talking about; correct?
3 A I did not know him.
4 Q Do you know if Doug knew him?
5 A I do not know if Doug knew him, but I would
6 doubt it because he only been to the hospital the one
7 other time.
8 Q I just ask, Elko I image it's a smaller
9 community; right?
10 A Yeah. I didn't know very many people there,
11 honestly.
12 Q Did you have any understanding as to
13 Dr. Garvey's -- who his employer was at the time that
14 you came to the hospital?
15 A I had no idea.
16 Q And I want to know if you had formed any
17 belief about whether he was an employee of the
18 hospital or if he was an employee of a practice
19 group?
20 A I had no understanding at all other than -- I
21 assumed he worked for the hospital because he was
22 working in the E.R.
23 Q But you didn't have any information one way
24 or the other as to who he worked for?
25 A No.

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1 Q True?
2 A True, I had no idea.
3 Q So you hadn't formed any sort of opinion or
4 belief at that time as to whether or not he was an
5 employee of the hospital or employee of a practice
6 group or some other?
7 MS. MORALES: Objection; misstates her
8 testimony.
9 THE WITNESS: My understanding was he worked
10 for the hospital because he was at the hospital
11 working.
12 BY MR. DOBBS:
13 Q Do you recall when you arrived at the
14 hospital, did you ever -- do you recall filling out
15 paperwork?
16 A I know people brought me forms to sign
17 regarding just your standard stuff.
18 Q And I think I have at least one of those
19 forms. And I'm just going to show it to you real
20 quick.
21 Do you recall what time frame that was that
22 you were filling out the forms at the hospital?
23 A Probably within 30 or so minutes after we got
24 there.
25 Q So that was early on in the admission;

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1 right?
2 A Yes, yes.
3 Q What I handed you is, it's called a "Consent
4 for Services and Financial Responsibility." You see
5 that?
6 A Uh-huh.
7 Q At the bottom right-hand corner we've got
8 Bates numbers. And the Bates numbers on this are the
9 page numbers, and this one is NEN000030, and it goes
10 through NEN40.
11 I just wanted to, if you could, turn to
12 page 32 of that document. Right there.
13 A Uh-huh.
14 Q Before I go on, do you remember signing this
15 record?
16 A No. Obviously I did, but ...
17 Q And you say obviously you did. Why do you
18 say that?
19 A Because it's my signature, but I mean, you
20 just sign papers when they bring them.
21 Q That's what I wanted to know. Is the
22 signature on page 32, is that indeed your signature?
23 A Yes.
24 Q But you don't have a recollection of actually
25 signing this document?

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1 A Well, not really, but just, yeah,
2 obviously.
3 Q You remember signing documents, but you don't
4 remember specifically this record?
5 A And I don't remember specifically any of the
6 what they were. I just signed them because they told
7 me to.
8 Q You recall if you reviewed them?
9 A More than likely they probably just said a
10 few things, and so I said okay.
11 Q If you could turn to page 31. If you look at
12 paragraph 10, do you see that?
13 A Yes.
14 Q It says "Relationship between hospital and
15 physicians, other healthcare providers." You see
16 that?
17 A Yes.
18 Q Then under that it says -- correct me if I'm
19 reading it wrong -- the second sentence -- "Most
20 physicians and surgeons providing services to me,
21 including radiologists, pathologists or emergency
22 physicians, anesthesiologists, hospitalists and others
23 are independent contractors and not employees or
24 agents of the hospital." Did I read that correctly?
25 A Yes. It says "most," so it's hard to say

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1 which ones were and which ones weren't.
 2 Q You pointed that out, yes.
 3 My question is, this document is something
 4 that you signed at the hospital; correct?
 5 A Yes.
 6 Q And other than this record, you didn't have
 7 any information about Dr. Garvey's employment status;
 8 correct?
 9 A I did not have any knowledge.
 10 Q So this would have been the only record that
 11 you had within your possession at the time that had
 12 any indication about what Dr. Garvey's employment
 13 status could be; true?
 14 MS. MORALES: Objection; form.
 15 THE WITNESS: I had no idea.
 16 BY MR. DOBBS:
 17 Q But this is the only thing that would have
 18 indicated --
 19 A As far as I know, this is the only thing I
 20 would have signed, but I didn't know it was there.
 21 Q But Dr. Garvey, he didn't say to you --
 22 A No. He did not say anything about that to
 23 me.
 24 Q Earlier there was some, I believe you
 25 testified that Danny Benson mentioned to you that he

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1 meant as to whether they weren't able to get the
 2 suction or --
 3 A I don't have any idea. All I know, he just
 4 told me that, which kind of sparked my interest as to,
 5 okay, what the heck happened in there?
 6 Q And this was a couple of days after the
 7 hospitalization?
 8 A Yeah, probably.
 9 Q So you didn't have any conversations
 10 regarding a suction machine not working at the time
 11 you were at the hospital?
 12 A No.
 13 Q Is that true?
 14 A And still don't know if that is even true.
 15 Q But you didn't have any conversations,
 16 correct, at the hospital?
 17 A No.
 18 Q Is that correct? It's a double negative.
 19 A Yeah.
 20 Q I guess I should ask you, did you have any
 21 conversations at the hospital regarding --
 22 A No, I did not. And I have not read that in
 23 anything. I do not know if that's even the case --
 24 Q Okay.
 25 A -- and I didn't believe it just because he

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1 overheard somebody say something about a suction
 2 machine not working?
 3 A Yes.
 4 Q Do you recall when you had that conversation
 5 with Danny Benson?
 6 A I do believe it was within the next day or
 7 two, because I had to go to the credit union or
 8 something, and he mentioned it to me, if I remember
 9 correctly. I think it was at the credit union.
 10 Q And who was it again that he believed had
 11 told that to him?
 12 A It was the friend that came out of the
 13 emergency room that said he was going to bring his
 14 daughter back.
 15 Q And do you recall that friend's name? I
 16 don't know if you said it earlier or not.
 17 A I don't remember. I did put it on the
 18 information, but I can't remember his name. Tony
 19 something, maybe.
 20 Q So this was something that Danny Benson had
 21 heard from Tony, and then he was then telling you?
 22 A Yes.
 23 Q You didn't hear it firsthand; correct?
 24 A I did not hear it firsthand.
 25 Q And you didn't have any details about what he

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1 said it; I just heard that.
 2 Q Okay.
 3 A But I did want to find out if that was
 4 true.
 5 Q Did you do anything to find out?
 6 A No. I read through the records, but not
 7 looking specifically for that, just ...
 8 Q And I think we've discussed several of the
 9 conversations you had with Danny Benson about what the
 10 administration clerk or whoever it was said about
 11 filing a lawsuit; correct?
 12 A What are you asking me?
 13 Q Do you remember that conversation?
 14 A Yes, but I'm not sure what you're asking me.
 15 Q Let me get there. Are there any criticisms
 16 -- strike that.
 17 Besides your conversations with Danny Benson,
 18 did you have any discussions with any hospital staff
 19 members that you understood to be a criticism of the
 20 treatment that your husband received?
 21 A No, other than the nurse that contacted
 22 Marie, but I didn't speak with her myself. They were
 23 all very helpful that night.
 24 Q The staff members?
 25 A Yes.

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1 Q That brings me to my next question. Outside
2 of the criticisms that you have regarding the
3 intubation and the care provided by either the
4 Dr. Garvey or the flight crew that did the intubation,
5 do you have any direct or independent criticisms of
6 the hospital nursing staff or other personnel?
7 MS. MORALES: Objection; form. Calls for
8 legal conclusion; overbroad; vague and ambiguous.
9 BY MR. DOBBS:
10 Q I'm just asking for your personal --
11 A Do I have issue with any of the treatment I
12 saw taking place that night personally?
13 Q Besides Dr. Garvey and the flight crew.
14 A I felt like they were very caring and took
15 really good care of him from what I witnessed
16 firsthand.
17 Q When you arrived at the hospital, I believe
18 you stated you had to wait a little bit for Dr. Garvey
19 to arrive?
20 A Well, when we got into the room, the nurses
21 were there first and just started assessing his needs.
22 And, to be honest, I don't know how long it took him,
23 because I was just -- it could have been 15 minutes,
24 it could have been 30. I don't know. It was not
25 immediate, but it wasn't like a really long time. I

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1 didn't feel like I was wondering where the doctor was
2 or anything like that.
3 Q When you say you were -- when I heard you say
4 that you were waiting for him to arrive, it wasn't
5 that he wasn't at the hospital; was it?
6 A I'm sure he was there somewhere. I wasn't
7 concerned or wondering where's the doctor. I was just
8 trying to give an idea about how much time passed
9 before he actually came into the room -- 15 minutes,
10 maybe. I don't know.
11 Q Thank you.
12 A Maybe 30, I don't even remember, honestly.
13 We were just talking. The nurses were there before
14 him is all.
15 Q And we did talk about the -- earlier you
16 discussed that Danny Benson had the conversation with
17 the, the person at administration that said you should
18 sue; right? You remember that?
19 A Yes.
20 Q You stated he tried to go back to talk to her
21 and there was a guard on her?
22 A Well, that's what he said. I have no idea,
23 actually. I mean, it's just -- I tried to talk to
24 her, but I heard there was a guard on her the rest of
25 the night. I don't know if that's true or not.

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1 That's all I heard.
2 Q What did you understand "a guard on her" to
3 mean?
4 A I just understood it to mean, if that is the
5 case, that somebody was there trying to make sure she
6 didn't talk about what happened that night and what
7 she heard. Just somebody that stayed right there by
8 her to make sure she didn't talk about what happened
9 that night. That's all I know. That's just my
10 assumption.
11 Q So best to ask Danny about that, I guess?
12 A Yes.
13 MR. DOBBS: I think that's all the questions
14 I have.
15 MS. WOODRUM: I have a few more follow-ups.
16 FURTHER EXAMINATION
17 BY MS. WOODRUM:
18 Q Did you ever see Doug eat anything while he
19 was in the hospital?
20 A He did not, to my knowledge.
21 Q So the last time he ate was when he was at
22 Machi's?
23 A Yes.
24 Q That would have been before 8:30 when you got
25 the call about the accident; correct?

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1 A Yes.
2 Q And, so he hadn't eaten anything between the
3 time that he ate at Machi's and the time he was
4 intubated several hours later?
5 A Not to my knowledge.
6 Q So when you said he had just eaten a big
7 meal, you're talking about the meal several hours
8 earlier at Machi's?
9 A When he left, he had just finished eating.
10 Q Do you have a Facebook account?
11 A Yes.
12 Q Do you have Instagram?
13 A Yes.
14 Q Any other social media?
15 A No.
16 Q Have you posted anything about the care and
17 treatment that was provided?
18 A No.
19 Q Anything about this lawsuit?
20 A No.
21 Q What's your Facebook name?
22 A Diane Schwartz.
23 Q What about Instagram?
24 A Gosh, I set it up so long ago, I don't even
25 know. Probably just Diane Schwartz. People find me

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1 somehow.
2 I never use it, I never get on either one of
3 them, to be honest.
4 Q Why did you move from Logandale to
5 Washington?
6 A That's a good question. When you're in this
7 situation, your life changes, and I just didn't want
8 to live there anymore. I just wanted to live where
9 there's lot more things to do and easier access to
10 stores. I'd always kind of wanted to live there, so I
11 did.
12 Q So just kind of a change of scenery?
13 A Yeah.
14 Q Was your and Doug's plan to retire back to
15 Logandale after he finished in Elko?
16 A Actually, we did have a home there still, but
17 I don't know we would have gone back to it for sure.
18 There or probably St. George, Utah.
19 Q And the plan was for Doug to work the 10
20 years at the credit union, and then retire?
21 A Yes.
22 Q So he didn't plan to work beyond the ten
23 years?
24 A Well, he did talk about, once he retired, he
25 kind of wanted to work on the corporate training part

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1 that information from someone else; correct?
2 A Yes.
3 Q And as you sit here today, you don't know if
4 that's true or not?
5 A I do not know if that's true.
6 Q And you've reviewed the medical records, at
7 least some of the medical records from the hospital in
8 this case; right?
9 A Yes.
10 Q And when you reviewed those medical records,
11 did you see any documentation about there was any
12 problems with the suction machine?
13 A No, I did not.
14 Q So, as you sit here today, you still don't
15 know if there was a problem with the suction
16 machine?
17 A Correct.
18 MS. MORALES: I have no further questions.
19 MS. WOODRUM: That's all.
20 (Court reporters requests order for
21 transcripts.)
22 MS. WOODRUM: We would like a full,
23 condensed, and e-trans with all exhibits.
24 MR. BURTON: E copy with exhibits.
25 MR. TAN: E-trans with exhibits.

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1 of it, and go to -- just be either, what do you call
2 it? When you go to their training meetings, a
3 facilitator at training meetings for different
4 institutions, mostly credit unions because he was
5 really good at that. And instead of hiring someone at
6 the credit union, he always just kind of did it.
7 Q Would that be like an independent contractor
8 kind of position?
9 A Yes. He would have liked to have done that.
10 He talked about that a lot where he hoped that he
11 could be a facilitator for training meetings.
12 Q How would you describe Dr. Garvey's
13 demeanor?
14 A I didn't really notice him that much, to be
15 honest. I was more worried about Doug. I mean, he
16 was pleasant. I didn't have an issue with him.
17 MS. WOODRUM: That's all I have. Thank you.
18 MS. MORALES: I just have a couple questions.
19 EXAMINATION
20 BY MS. MORALES:
21 Q You were asked earlier about the conversation
22 or discussion that you had regarding the suction
23 machine; do you remember that?
24 A Yes.
25 Q And I believe you testified that you heard

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1 MR. DOBBS: E-transcript with exhibits for me
2 as well.
3 MS. MORALES: E-trans and full, please.
4 We'll reserve signature.
5 (TIME NOTED: 3:55 p.m.)
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I, DIANE SCHWARTZ, deponent herein, do
declare under penalty of perjury that I have read the
foregoing transcript; that I have made any corrections
as appear noted, in ink, initialed by me, or attached
hereto; that my testimony as contained herein, as
corrected, is true and correct.

Executed this ____ day of _____,
20____, at _____,
(City) (State)

DIANE SCHWARTZ
Deponent

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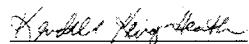
REPORTER'S CERTIFICATE

I, the undersigned, a Certified Shorthand
Reporter of the State of Nevada, do hereby certify:
That the foregoing proceedings were taken
before me at the time and place herein set forth; that
any witnesses in the foregoing proceedings, prior to
testifying, were duly sworn; that a record of the
proceedings was made by me using machine shorthand
which was thereafter transcribed under my direction;
that the foregoing transcript is a true record of the
testimony given.

Further, before completion of the
proceedings, review of the transcript [] was []
was not requested.

I further certify I am neither financially
interested in the action nor a relative or employee of
any attorney or party to this action.

IN WITNESS WHEREOF, I have this date
subscribed my name.
Dated: February 6, 2019


NV. CCR NO. 475
CALIF. CSR NO. 11861

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EXHIBIT 5



Inc. Date: 06/23/2016
Run #: IFT
PCR #: 16-14083

REACH Air
Santa Rosa, CA 95403
DISPATCH
800-332-1292 ADMIN

Prehospital Care Report - Critical Care

Medical Record #: 000330967

Patient Information		
Name: SCHWARTZ, DOUGLAS	Age: 58 Years	D.O.B: 06/02/1958 (mm/dd/yyyy)
Address: [REDACTED]	Gender: Male	SSN: [REDACTED]
[REDACTED]	Weight: 90.718 KG / 200.00 LB	Race:
Country:	Phone: [REDACTED]	Ethnicity:
	Pediatric Color: Not Applicable	Study: Not Applicable
Billing Information		
Payment Method:	Work Related? No	
Call Type and Location	Call Disposition	Response Times
Call Type: Interfacility Transfer (Unscheduled)	Disposition: Treated, Transported	Run #: IFT
Vehicle Dispatch Location:	Resp. Mode: No Lights or Sirens	Call Sign: REACH58
Dispatch Reason: Auto vs. Pedestrian	Destination: University of Utah	Vehicle #: N271SM
Resp. Mode: No Lights and Sirens	Healthcare, 50	1st Resp. Arr.:
Service Level: Critical Care Transport	Medical Drive, Salt	PSAP:
Unit Role: Non-Transport	Lake City, UT 84132	Disp. Notified: 23:36
Urgency: Immediate	Dest. Determ.: Specialty Resource	Unit Disp.: 23:41
Response: Interfacility Transfer (Unscheduled)	Center	Standby Date/Time:
Location: Health Care Facility (clinic, hospital, nursing home)	Diverted From:	Enroute: 23:45
Facility: Northeastern Nevada Regional Hospital	Dispatch Delay:	At Scene: 23:55
Address: 2001 Errecart Boulevard	Turn Around Delays:	At Patient: 23:57
Elko, Elko, NV 89801		Depart: 01:39
		Arrive Dest: 01:40
		In Service: 01:41
Unit Personnel		
Crew Member	Level of Certification	Role
Lyons, Ronnie (RL)		
Bartlett, Barry (BB)	EMT-Paramedic	
EMS Scene Information		
Number of Patients: Single	Mass Casualty Incident: No	
Level of Service Provided: Critical Care Transport		
Referring EMS Agency:	Other EMS or Public Safety Agencies on Scene:	

History of Present Illness

AUTO vs PEDESTRIAN ACCIDENT: At app. 2200 hours this date Mr. Schwartz and his family were enjoying an evening out and had finished dinner at a local restaurant. As they departed he was struck by an automobile and the driver fled the scene of the accident. Mr. Schwartz arrived at NNRH where he was evaluated by Dr. Garvey and REACH 58 was summoned at 2345 for transfer to the University of Utah hospital for trauma services.

REACH team arrives at 2357 to find Dr. Garvey speaking with the receiving physician by phone. Dr. Garvey reports Mr. Schwartz has an approximate 10% pneumothorax on the right side of his chest with a flail segment but is tolerating it well at this time. The receiving physician has recommended Mr. Schwartz be intubated with chest tube placement pre-flight. We arrive bedside to find Mr. Schwartz talking with his family as Dr. Garvey assembles his team and equipment. The procedure is explained to the pt. and family and the family is escorted from the room. Dr. Garvey has invited the REACH team to assist along with his staff in this process. The team includes a respiratory therapist, app. six ER nurses, one paramedic as well as both REACH attendants.

A procedural time out is completed, Dr. Garvey is sterile and ready for chest tube placement and Paramedic Bartlett is at the head of the bed for the initial attempt. The BVM, C-Mac, intubation gear and suction are at the ready and 180 mg's Ketamine and 90 mg's Rocuronium are both drawn up from REACH stock and verified by another nurse at the foot of the bed. The transport monitor is placed and 90% oxygen saturation will be the cut-off reading to stop and reoxygenate. Mr. Schwartz is pre-oxygenated to 99% and with staff in place around the bed the sedative and paralytic are pushed at 0018 hours with a 60 second pause for effect. Once the drugs take effect Paramedic Bartlett opens the airway at 0020 and places the C-Mac device resulting in copious amounts of emesis and large food chunks fulminating from the mouth and nose.

Intubation is immediately stopped and the airway suctioned, which promptly plugs the suction tubing and yankauer tip. Over the course of the next 13 minutes Mr. Schwartz vomits several more times and numerous attempts are made at clearing / maintaining the airway and reoxygenating him with the BVM on high flow oxygen. ET tube placement is attempted again at 0023 and 0033, both unsuccessfully. In addition to the factors that are making this procedure very difficult (airway contamination, difficulty in keeping the suction devices flowing, difficulty in getting a good facial seal and very stiff bagging effort) his airway is reportedly very inferior / anterior making it a challenge to visualize. Cric pressure and POCPOM are provided several times with little to no benefit. Paramedic Bartlett attempts several tooled and digital intubations, all of which are unsuccessful.

Dr. Garvey steps in to attempt intubation three separate times and he too is unsuccessful due to the factors at hand. Mr. Schwartz loses pulses at 0035 and CPR is initiated for app. one minute and pulse is restored. The airway is again suctioned and a king airway placed from ER stock. BVM bagging remains very difficult and shortly afterward the king is removed after becoming plugged by emesis and food particles. A third suction unit is placed in play and vital signs at this time are 225/136, 119 and 47% on high flow oxygen. Intubation attempts continue with various size ET tubes, stylets and bougie introducers and airway adjuncts at 0040, 0044 and 0047 hours. The emesis is almost continuous and proving very difficult to keep cleared. At 0050 hours his oxygen saturation is ~50%. 0052 unsuccessful attempt, airway suctioned and oxygen sat is 55%. 0053 unsuccessful attempt and the airway suctioned, several operator changes. 0054 vital signs 221/148, 122, 42% with bagging and suctioning at every opportunity. A cricothyrotomy is discussed and the kit prepared.

Mr. Schwartz is becoming abdominally distended and a 16 french NG tube is attempted, once in each nare, and will not pass resulting in epistaxis. Facial seal remains a challenge due to the emesis and wet face. An oral OG placement attempt is also unsuccessful and abandoned. Staff in the room are watching his vital signs on the monitor and keeping the crew up to date on changes. At 0058 hours his oxygen saturation is 68% and the third operator is again in place as efforts to reoxygenate are minimally effective and bagging effort is very high. Cric airway is being prepared, however, the bagging pressure results in his trachea moving with each bag effort and will necessitate the need to stop bagging in order to make the attempt. 0102 vital signs are heart rate of 122 and oxygen saturation of 75%. After another unsuccessful intubation attempt the cric is initiated by Dr. Garvey and Paramedic Bartlett at 0106. The guidewire and dilators are placed however the ET tube is very difficult to advance into the trachea. As advancement is attempted it begins filling up with emesis, is pulled and replaced two additional times with the same results. Pulses are lost at 0117 and CPR resumes. Emesis continues and additional suction units and methods of airway clearance are discussed.

0120 the monitor is displaying asystole, CPR is ongoing with ER staff and at 0122 a pulse of 52 is noted on the monitor. CPR continues, gastric distension is increasing and cannot be evacuated. 0125 CPR ongoing by ER staff and at 0128 we note a oxygen saturation reading of 64% on the monitor. 0129 pleural decompression needles are placed in both the right and left upper chest cavities with no results and no air escape. 0133 hours CPR is stopped and Mr. Schwartz is pronounced deceased. The AOC on call for REACH, Mr. Jeff Cress, is updated on our outcome and the crew is released from the ER after assisting the ER crew in clean up duties.

Medication Administered

Time	Crew	Medication	Route	Site	Dose/Rate	Con.	Response	Progress Notes	PTA
00:18	RL	Ketamine	Intravenous		180MG			180 mg's Ketamine SIVP for sedation. Dose verified by ER nurse.	No

Crew Signature

Crew Member		
I acknowledge that I have provided the above assessments/treatments for this patient.		
<input type="checkbox"/> I Agree	<input type="checkbox"/> I Disagree	<input type="checkbox"/> Not Applicable
Ambulance Crew Member Statement		
My signature below indicates that, at the time of service, the patient was physically or mentally incapable of signing, and that none of the authorized representatives were available or willing to sign on the patient's behalf.		
<input type="checkbox"/> I Agree	<input type="checkbox"/> I Disagree	<input type="checkbox"/> Not Applicable

Patient Name: SCHWARTZ, DOUGLAS

Signature



Printed Name Ronnie Lyons

Date

Reason Pt. Unable to Sign

Crew Signature

Crew Member

I acknowledge that I have provided the above assessments/treatments for this patient.

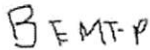
☒ I Agree☐ I Disagree☐ Not Applicable

Ambulance Crew Member Statement

My signature below indicates that, at the time of service, the patient was physically or mentally incapable of signing, and that none of the authorized representatives were available or willing to sign on the patient's behalf.

☒ I Agree☐ I Disagree☐ Not Applicable

Signature



Printed Name Barry Bartlett

Date

Reason Pt. Unable to Sign

EXHIBIT 6

When and Where Event Occurred

WHEN AND WHERE THE EVENT OCCURRED

Event Date	06-23-2016
Time (00:00) use military	01:33
Site	Northeastern Nevada Regional Hospital
Department	Emergency
Unit	Main Department
Specific Location	Patient Room
Patient room number/location	Bed 12

Person Affected Details

DETAILS OF THE PERSON AFFECTED BY THE EVENT

Person Affected MRN	330967
Encounter/Account #	6139781
Person Affected First Name	DOUGLAS
Person Affected Middle Name	
Person Affected Last Name	SCHWARTZ
Suffix	
Person Affected Date of Birth	06-02-1958
Person Affected Admission Date	06-22-2016
Discharge Date	
Person Affected Gender	Male
Person Affected Race	White
Person Affected Preferred Language	
Person Affected Street 1	
Person Affected Street 2	
Person Affected City	
Person Affected State	
Country	United States
Person Affected ZIP	
Person Affected Phone #	
Person Affected Alternate #	
Attending Physician	
Attending Physician Service	

Injury Details

PLEASE PROVIDE INFORMATION ABOUT THE INJURY

Nature of Injury	• Other
Location of Injury on Body	Traumatic, unsuccessful intubation resulting in patient death.
Treatment Provided	Yes

Parties Involved / Notified / Witnesses

CLICK ADD TO ENTER PARTIES INVOLVED / NOTIFIED / WITNESSES IN THE EVENT

Party Involved / Notified / Witnesses

ITEM 1

PERSON INVOLVED / NOTIFIED / WITNESSES

Role in Event	Involved Party
Classification of Party	Physician
Physician Service	
Party Involved Name	Dr Garvey
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

ITEM 2

PERSON INVOLVED / NOTIFIED / WITNESSES

Role in Event	Involved Party
Classification of Party	Registered Nurse
Party Involved Name	Sue Olson, RN
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

ITEM 3**PERSON INVOLVED / NOTIFIED / WITNESSES**

Role in Event	Involved Party
Classification of Party	Registered Nurse
Party Involved Name	Donna Kevitt
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

ITEM 4**PERSON INVOLVED / NOTIFIED / WITNESSES**

Role in Event	Involved Party
Classification of Party	Registered Nurse
Party Involved Name	Cindy Fus
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

ITEM 5**PERSON INVOLVED / NOTIFIED / WITNESSES**

Role in Event	Involved Party
Classification of Party	Other (please specify)
Other Classification of Party	ER Tech
Party Involved Name	Nancy Abrahams
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

ITEM 6**PERSON INVOLVED / NOTIFIED / WITNESSES**

Role in Event	Involved Party
Classification of Party	Respiratory Therapist
Party Involved Name	Tom Evers
Dept	
Party Involved Employee ID	
Phone #	
Date	
Time	
Party Involved Notes	

Privacy Statement

PRIVACY STATEMENT

This is a confidential and privileged quality assurance and patient safety work product document. It is protected from disclosure by the provisions of the Patient Safety and Quality Improvement Act (42 CFR Part 3) and other state and federal laws. Unauthorized disclosure or duplication is prohibited.

End of Form
